United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 91st CONGRESS, FIRST SESSION

SENATE—*Wednesday, November 26, 1969*

The Senate met at 10 o'clock a.m., and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

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

Lord God of our fathers and our God, be with us in our work this day, and when it is done send us to our homes and our places of worship with the joy and wonder of Thanksgiving filling our souls.

O Thou giver of all good, we thank Thee for seedtime and harvest, summer and winter, night and day, food and clothing and shelter; for childhood and age, for youth and manhood, for Thy fatherly hand upon us in sickness and in health, in joy and in sorrow, in life and in death, and for the love that ever binds us to Thee. Help us to labor for that better day when all men share justly in the bounteous provisions of this earth. Be especially near the youth of this land, separated from home and parents, in the service of their country. Guard them in temptation. Strengthen them in moments of peril. Make them to know Thy nearness, and with hearts at peace give them the assurance of a grateful nation.

Above all we thank Thee for the heritage of freedom in the land the people rule.

"Long may our land be bright,
With freedom's holy light,
Protect us by Thy might,
Great God, our King."

Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., November 26, 1969.

To the Senate:

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

RICHARD B. RUSSELL,
President pro tempore.

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

THE JOURNAL

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, November 25, 1969, be dispensed with.

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

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

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

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

CAPT. JOHN N. LAYCOCK

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 525.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 497) for the relief of the estate of Capt. John N. Laycock, U.S. Navy (retired).

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 497

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the estate of Captain John N. Laycock, United States Navy (retired), formerly of Derry, New Hampshire, the sum of $170,000, which sum shall be considered a payment in consideration of a transfer by the estate of Captain John L. Laycock, United States Navy (retired), of property consisting of all substantial rights to a patent within the meaning of section 1235 of the Internal Revenue Code of 1954, in full settlement for the usage by the United States during and subsequent to World War II of certain pontoon equipment patented by him (United States numbered 2,480,144), and for losses incurred by the said Captain John N. Laycock as a result of the United States having made such pontoon equipment, and the patent thereto, available to other nations contrary to the license agreement entered into between the United States and the said Captain John N. Laycock: *Provided,* That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 532), explaining the purposes of the measure.

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

PURPOSE

The purpose of this legislation is to pay to the estate of Capt. John N. Laycock, U.S. Navy (retired), formerly of Derry, N.H., the sum of $170,000, which sum shall be considered a payment in consideration of a transfer by the estate of Capt. John N. Laycock, U.S. Navy (retired) of property consisting of all substantial rights to a patent within the meaning of section 1235 of the Internal Revenue Code of 1954, in full settlement for the usage by the United States during and subsequent to World War II of certain pontoon equipment patented by him (U.S. No. 2,480,144), and for losses incurred by the said Capt. John N. Laycock as a result of the United States having made such pontoon equipment, and the patent thereto, available to other nations contrary to the license agreement entered into between the United States and the said Captain Laycock. The bill provides for a limitation of 10 percent on attorney fees.

STATEMENT

During the second session of the 90th Congress, this committee had before it for consideration S. 2896, for the relief of the estate of Captain Laycock, which provided for the payment of $10,282,648. This committee on September 11, 1968, reported S. 2896 with an amendment reducing the amount of payment to $170,000. The instant legislation is identical to S. 2896 as amended. S. 2896 was passed by the Senate on September 12, 1968, but action was not completed in the House of Representatives prior to the adjournment of the Congress.

This committee in reporting S. 2896, stated that the purpose of the amendment was to accord to the claimant an amount believed to be in keeping with the losses resulting from the action of the U.S. Government in its dealings with foreign nations in regard to the Laycock patent. The sum of $170,000 is considered a reasonable payment, since the income to Captain Laycock would have been substantially higher if he had been paid on

the basis of the standard royalty rate for the use of a patent. The amendment also provided that the transaction is to be regarded as the transfer of property consisting of all substantial rights to a patent. The payment, thus will be taxed on a capital gains basis in accordance with section 1235 of the Internal Revenue Code of 1954. This procedure is in accordance with the treatment of the case of Frank B. Rowlett, Private Law 88–358.

Although the Department of the Navy opposed S. 2896, as originally introduced, it recognized the obligation of the Government to provide appropriate reimbursement to Captain Laycock for the losses incurred by him as a result of action by the U.S. Government.

The report of the Department of the Navy states in part:

"However, compensation should be low in keeping with what appeared to be customary procedures in the lend-lease cases. One percent of the cost of manufacture by the British would be a reasonable guide. This would amount to $96,000—$121,000, based upon production of 32,056 units at an estimated cost of $300 to $380 per unit."

A copy of the Navy report on S. 2896, is attached hereto and made a part hereof.

The report of the General Counsel of the Department of Commerce indicates that it would defer to the views of the Department of Defense as to the desirability of the enactment of this legislation. Its report was directed to S. 840 of the 90th Congress, a companion bill to S. 2896. A copy of the report of the Department of Commerce is attached hereto.

The sponsor of this legislation, Hon. Norris Cotton, has submitted the following review of the history of Captain Laycock and the pertinent facts relating to this legislation. Documentary evidence in relation to this history is contained in the files of the committee.

John N. Laycock served in the U.S. Navy from 1910 to 1945, when he was retired, because of physical disability. A graduate of the Naval Academy in 1914, he was also a recipient of a bachelor's degree in civil engineering from Rensselaer Polytechnic Institute in 1917.

Navy landing pontoons

The basis for the claim made in S. 497 was the invention and development by Captain Laycock of the N.L. (naval landing) pontoon. Gear standardized, sectional, prefabricated, steel pontoons played an important role in all of the amphibious operations in World War II and the Korean conflict. In the reef-ringed Pacific Islands, in Asia, in the Aleutians, in North Africa, and in Europe these were an essential part of the landing operations and contributed greatly to their success. Today they are an integral part of amphibious equipment of the armed services. They are also being used for civilian purposes in locations where it is impracticable to transport conventional floating barges, cranes, pile drivers, and the like.

The standard pontoon units are hollow steel boxes 7 feet by 5 feet by 5 feet with interior stiffeners and with connections for bolting to assembly angles. These boxes with the angles, bolts, wedges, and other fittings can be assembled in the field with a minimum of equipment to form barges, piers, floating cranes, floating dry docks, and many other structures.

The pontoons are first assembled into strings using the longitudinal connecting angles and the strings are then connected transversely to form the barges, piers, or other desired structures. The strings were designed as box girders, 5 feet high, 7 feet wide and of the desired length up to a maximum of 175 feet.

The pontoons, angles, and fittings are well proportioned so that the assemblies can withstand rough seas and the rigors of warfare. The pontoons are interchangeable and the bolted connections are easily assembled and disassembled. Damaged units are easily repaired or replaced.

Before the availability of Bailey Bridges, strings of pontoons, as box girders, were used as highway bridges in some advanced areas.

This equipment was conceived, designed, and brought into production and use by Capt. John N. Laycock. Before World War II Captain Laycock was in charge of the War Plans Section of the Bureau of Yards and Docks of the Navy Department at Washington, D.C. At that time, Navy planners were keenly aware that the preservation of peace in the Pacific was in jeopardy. It was increasingly evident that open conflict might be forced by Japan. In such an event, the main theater of operations probably would be in the island-studded waters of the Central and Western Pacific. To win this conflict, it would be necessary to establish military, naval, and air bases on these undeveloped and primitive islands, far from our factories and supply centers. There were few harbors on these islands and most of these could not accommodate larger vessels. Major amphibious landings were indicated.

These landings and the support of the Armed Forces required barges, piers, floating cranes, floating drydocks, and many other such craft. The construction of these could not be handled by the already overloaded shipyards. It was, therefore, necessary that a new type of floating equipment be invented and developed. It was also important that this new craft be built in shops other than shipyards, of standard materials and shapes, readily fabricated.

This problem was solved in a unique and ingenious manner by Captain Laycock with his Navy landing pontoons. In making models of his early studies, Captain Laycock used cigar boxes and wood members. His work has been signalized by the Columbia Broadcasting Co. in its "Navy Log" television program of February 23, 1957, entitled "Cigar Box John." Captain Laycock is "Cigar Box John."

The steel pontoon boxes have sides and bottoms of 3/16-inch plate, and tops of 5/16-inch checkered plate, all stiffened by welding to the inside, T-ribs of split deep I-beams. The tops or deck is designed to carry heavy highway loads. The plates are edge welded to corner angles for stiffness and water tightness.

Each pontoon box is fitted with pipe connections so that it may be used for storing and transporting liquids or so that it may be flooded and unwatered in the operation of a floating drydock. Many of these pontoons on motor trucks were used as tank trucks or as road sprinklers.

Special pontoons with rounded ends were used on the ends of barges to reduce propulsive resistance. Outboard motors of unprecedented size were developed as propulsion units for these barges.

The first pontoons were built by the Pittsburgh-Des Moines Steel Co. near Pittsburgh. After minor changes and adjustments, principally to facilitate shop work, tests were conducted in the Ohio River. These tests were of a 50-ton barge, a PT boat drydock and a seaplane ramp. The tests were eminently successful. There followed immediately a demand for these pontoons to help build lend-lease bases in Britain. Commercial production was, therefore, started on a large scale. This production was greatly expanded when the United States entered World War II. Shipments of the pontoons into the Pacific were started with the first armed forces. The Navy landing pontoons were successful from the start and soon the demand for them became insatiable. It is estimated that before the close of the war about 500,000 pontoon boxes had been produced. The cost of these with their fittings, side angles, and accessories was approximately $250 million.

Shipments to the combat area were made in the holds and on the decks of ships and even in strings hung on the sides of ships. Attack vessels carried double strings of pontoons hung on their sides and released them when approaching the enemy beaches so that they would serve as causeways for troops and equipment to land.

All Seabee units were trained in the assembly of pontoon structures, but even untrained Army and Marine forces had no difficulty in assemblies using the handbooks prepared for the purpose. These Navy landing pontoons became the workhorses in all of the invasions and assaults in the Pacific. This was also the case in Europe, in Sicily, and at Normandy. The invasion of Sicily would not have been practicable without the Navy landing pontoons. In Normandy, armies of men and thousands of tons of material moved on these pontoons. Moreover, the Inchon landing in Korea made great use of these same pontoons.

The versatility of the assemblies produced a myriad of different results, depending on the skill and ingenuity of the troops. Here is a partial list:

Antisubmarine net tenders and gate vessels. Barges and lighters, 50 to 500 tons capacity. Bridges, floating and abutment supported. Buoys.

Causeways to provide passage between ships and shore either floating or grounded.

Dredges.

Drill barges.

Floating cranes, crawler mounted, 5 to 20 tons and 75-ton rigid boom cranes.

Floating workshops, storehouses, and magazines.

Ice breakers.

Oil barges.

Pile drivers.

Piers.

Seaplane ramps and docks.

Sprinklers.

Tanks.

Tug boats.

Warping tugs with heavy anchors and winches.

Wharves, floating and grounded.

In addition to the television program, mentioned above, many articles have been published describing the Navy landing pontoons and the vital role that they played during military operations. A few appearing in the public press are the following:

The Military Engineer, February 1944, "Innovation of Amphibious Warfare."

Engineering News-Record, April 20, 1944, "Seabee Pontoons for War and Postwar."

Saturday Evening Post, April 29, 1944, "Slickest Trick of the War."

Sunday Chronicle, London, England, July 16, 1944, "Navy's Magic Box.."

Saturday Evening Post, December 30, 1944, and January 6, 1945, "Miracle in the Pacific."

Steel Construction Digest, July 1944, "Steel Pontoons Pave the Way for Invasion."

The Navy landing pontoons are also being used for peacetime projects and will be continued to be so used wherever isolation and difficulty of access makes a portable, prefabricated structure advisable. For example: Civil Engineering for May 1947 has a cover picture and an article on the use of these pontoons in connection with the construction of a dam on the Missouri River near Garrison, N. Dak. In the issue for August 1947 of Civil Engineering there is a cover picture and an article describing the use of these pontoons in constructing a Maine turnpike. Life in 1952 illustrates a "House at Sea" being moved from one part of Maine to another.

Newsweek in the issue of October 17, 1949, carries an article entitled "Rensselaer's 145 Years" and lists the six outstanding accomplishments of graduates of the Rensselaer Polytechnic Institute. Included in these accomplishments are Captain Laycock's Navy landing pontoons.

Legal ramifications of the invention

At the time Captain Laycock invented the N.L. pontoon—and there has never been any dispute as to the fact that he was the in-

ventor—the plans and specifications were classified as secret in order to protect this valuable discovery for the United States. Pursuant to the statute then in effect (35 U.S.C. 68, now 28 U.S.C. 1498), the United States had the right to use the invention of an employee of the Federal Government without making payments therefor, although the inventor could patent the invention and thereby receive compensation for use of the invention by private parties, including foreign governments.

In that Captain Laycock's invention was placed in the secret category (pursuant to 35 U.S.C. 42), there was no opportunity at that time for sale of the rights under the invention to private or foreign sources. However, on August 12, 1943, Captain Laycock filed application in the U.S. Patent Office for a patent (Serial No. 498,284), which patent was eventually granted on August 30, 1949, Patent No. 2,849,144.

Captain Laycock also filed for letters patent in the United Kingdom on August 12, 1943, resulting in the granting of Letters Patent No. 600455. Patents were similarly obtained in Australia, by application on August 12, 1943 (Patent No. 129996), and in Canada on November 19, 1943, Letters Patent 475592. These foreign applications were filed with the knowledge, consent, and even approval of Captain Laycock's superiors in Navy, who recommended such steps in order to protect his rights. (These foreign patent applications were also protected by secrecy laws.)

The U.S. patent was provided to Captain Laycock without charge, pursuant to 35 U.S.C. 45, now 35 U.S.C. 266, but Captain Laycock had to pay all fees and charges, including legal costs, in obtaining the foreign patents. In addition, Captain Laycock paid renewal fees on the foreign patents for several years.

On July 12, 1943, Captain Laycock, prior to filing application for letters patent, entered into a license agreement with the United States—on a standard Government license form—whereby, in consideration of the sum of $1, Captain Laycock granted to the United States: "* * * a nonexclusive, irrevocable, and nontransferable license to make and use and have made for its use devices embodying said invention * * * solely for all governmental purposes, anywhere and at any time the Government may see fit, and to sell devices embodying said invention as provided by law; the foreign rights and all other U.S. rights being expressly preserved."

Shortly thereafter, the United Kingdom made request for the plans and specifications for the pontoon gear invented by Captain Laycock, pursuant to the Lend-Lease Act (22 U.S.C. 411 et seq.), and a bilateral agreement between the United States and the United Kingdom, signed August 24, 1942 (Executive Agreement Series 268). The request was for a license (free of cost) with power for the United Kingdom Government to grant sublicenses to any United Kingdom firms selected by it for the manufacture in the United Kingdom (including any past manufacture) for war purposes only of N.L. pontoon equipment based on the U.S. patent application and any British patents or patent applications owned by Captain Laycock.

Apparently there was more than a little concern in our Government over the request, with particular regard to the protection of Captain Laycock's rights and interest. Based upon an opinion of the Comptroller General to the Secretary of the Navy, dated February 23, 1944 (but never published or made available to Captain Laycock), it was determined that the request by the United Kingdom could be granted, and the information, plans and specifications were made available to, and employed by, the United Kingdom.

It should be noted that the Judge Advocate General of the Navy had assumed in his opinion (par. 11) that Captain Laycock's rights would be protected under section 7 of the Lend-Lease Act, and that the Comptroller General made a like assumption.

In like manner, N.L. pontoon gear were produced in Australia.

Following the cessation of hostilities in World War II, Captain Laycock sought a civilian market for his patent, both in the United States and overseas. He contacted likely manufacturers of such equipment—many of whom had produced the pontoons for the Government or for its Allies—and also sought customers for such pontoons. At the same time he sought information from the Government regarding the use to be made of the pontoons then in existence. Laycock desired to protect his interest and the requests he made upon the Government were not unreasonable.

Rather than aiding Captain Laycock, and attempting to protect his rights in his patent, the Government rebuffed his every effort. Untold thousands of N.L. pontoons in usable condition were sold by the United States as surplus commodities, without any compensation to Captain Laycock. These surplus pontoons glutted the private market in the United States and overseas. In short, there was no private market within which Captain Laycock could sell or distribute the pontoons or the patent rights. During the following several years Captain Laycock sought some compensation from the Government, based on the value of his invention to the Government, the breach of the license agreement by providing pontoons and the plans and specifications to other nations, and the callous destruction of his commercial rights by the manner in which the Government handled the sale of pontoons following the war, but his every effort ended in frustration. His was a battle with a bureaucracy, which he fought valiantly, but to no avail. It was only after he had been buffeted from pillar to post by the various departments and agencies where he sought restitution did he turn to me for help.

At the same time Captain Laycock was seeking relief from his own Government, he was also pursuing payment for the use of his invention by the United Kingdom and Australia—where pontoons had been manufactured and used. In correspondence with British Admiralty, continuing over several years, he appeared close to receiving compensation for the use made of his patent. These negotiations were abruptly concluded, however, when the United States granted a license to the United Kingdom, "to make, use, and have made between July 12, 1943, and September 2, 1945, for use in the war effort, devices embodying" Captain Laycock's invention. This license, in direct contravention of the terms of the license granted to the United States by Captain Laycock, was granted to the United Kingdom on March 17, 1953—long after such production had been concluded, but in time to excuse the United Kingdom from any sums owed to Captain Laycock. After receiving the license, British Admiralty advised Captain Laycock that 32,056 pontoons had been manufactured in Great Britain.

Negotiations with Australia proved to be equally frustrating—though there was not a retroactive license granted by the United States.

Thus, despite the unquestioned value of Captain Laycock's patented invention to the United States—in saving untold lives and materials of tremendous value—and to its allies in World War II and the Korean conflict, the unquestioned breach of his license with the United States, and the total destruction of the foreign and private rights in his patents, he never received compensation for his efforts. This was indeed cavalier treatment for a man who served his Nation well.

Compensation

S. 2896, as originally introduced in the 90th Congress, called for compensation to the estate of Captain Laycock in the amount of $10,282,648.

The amount of this claim was determined by Captain Laycock, as of August 1966, as follows:

(*a*) At the end of World War II, the Government designated about one-fifth of its stock of N.L. pontoons as surplus, and offered for sale 100,000 pontoons. These pontoons were offered for, and purchased at, $45 each.

(*b*) The value of the scrap metal in each pontoon was $20, but the cost of cutting the pontoons into commercial scrap was $20. Since there was a demand for the pontoons, it must be assumed they were wanted for commercial use. Captain Laycock subtracted the scrap value of $20 from the sale price of $45, and set the commercial value of his patented invention at $25.

(*c*) One hundred thousand pontoons at $25 each would total $2,500,000. This was the amount received by the Government in excess of the scrap value of the pontoons sold. To this Captain Laycock added interest at 6 percent per annum since 1947, amounting to $5,063,000, which when added to the $2,500,000 gives a total of $7,563,000.

(*d*) The British Government acknowledged the manufacture of 32,056 N.L. pontoons under Captain Laycock's patents. The value assigned to each, as on the pontoons produced domestically was set at $25. Using the value for 2,000 pontoons provides the sum of $800,000. Interest on $800,000 at 6 percent per annum for 21 years equals $1,919,648. The total indebtedness based on Birtish use of the patents amounts to $2,719,648. By its lease to the United Kingdom, the United States proscribed collection from the United Kingdom.

(*e*) The total of the claims, with interest, against the United States for the value received from its sale of the 100,000 pontoons and the manufacture and use of pontoons by the United Kingdom amounted to $10,282,648.

As stated above, this was the amount of the claim as determined by Captain Laycock. However, approximately 500,000 N.L. pontoons with fittings and hardware were produced in the United States at a cost of $250 million. The Federal courts have found a just royalty rate to be (depending on the circumstances involved) within the range of 3 to 5 percent of the cost of the items produced under the patent. Using a royalty rate of 4 percent, this would produce a claim of $10 million. In like manner, the United Kingdom manufactured and used over 32,000 N.L. pontoons. Assuming a like cost of $500 per pontoon (without including fittings and other hardware), the cost of production would be $16 million, and a royalty rate of 4 percent would provide $640,000. And, Australian production of 4,731 N.L. pontoons was at a cost of $1,900,000, and a royalty rate of 4 percent would produce $76,000.

Moreover, the Federal courts have allowed for compounded interest in patent cases at 4 and 5 percent per year, as a part of the just and reasonable compensation to the patent holder.

Conclusion

The Government of the United States has always honored its obligations—moral and legal. While it is recognized that Captain Laycock was in the U.S. Navy, and thus a Government employee, at the time he invented the N.L. pontoon, the commtitee is advised that much of the design and indeed the very idea of the pontoon were developed by Captain Laycock working nights, weekends, and while on leave from the Navy. Yet, the law has historically given to the Government so called shop rights in the inventions of its employees. Such "shop rights" do not render the remaining rights in the patent holder valueless, nor do they provide an excuse for the Government violating its lease agreement with Captain Laycock, failing to protect and compensate him under the Lend-Lease Act, receiving unjust compensation based on his invention, or destroying his own rights to profit commercially on his

invention. (The United Kingdom, while also taking "shop rights" in inventions of its (citizen) employees, did arrange for special remuneration for their contributions—something the United States did not provide.)

The N.L. pontoon was of incalculable value to the United States and its Allies in World War II, in Korea, and up to the present date. "The Navy's Steel Pontoons," reprinted from Compressed Air magazine, September 1945, provides an insight as to the value of the pontoon during World War II and the high esteem in which it was held by the military. Captain Laycock personally explained the operation and use of the pontoons to Prime Minister Winston Churchill at the White House. The British commanders at the invasion of Sicily termed the pontoons the "sine-qua-non" for victory, and Lord Louis Mountbatten referred to them as "these miraculous American pontoons."

Possibly the most telling indication of the value of the pontoons was that attributed to them by the Germans in World War II. Captured German intelligence reports demonstrated the importance of these pontoons, their various uses and capabilities, to the allied military operations. The Germans apparently spent some time in studying their operations, and were well aware of the fact that it was Captain Laycock who had invented them. Finally, after the war, General Jodl acknowledged how devastating their use had been in Sicily, and how the invasion caused the greatest consternation and dismay at the German High Command.

That Captain Laycock's contributions to the war effort were indeed significant is indicated by his receipt of the Legion of Merit and the Gold Star in lieu of the second Legion of Merit, based upon his invention and development of the N. L. pontoon.

In consideration of this claim the committee is impressed with the substantial and extensive use of the invention of Captain Laycock and believes that his estate should be reimbursed for the unauthorized use of his invention by the U.S. Government when it licensed the British and Australian Governments to produce and use Captain Laycock's invention. As heretofore expressed in the license agreement with the United States, foreign rights were expressly reserved to Captain Laycock.

The committee desires to make it clear that no part of the amount involved is in the form of a gratuity to Captain Laycock but is a full and complete settlement for the use of his patent by foreign nations, contrary to the licensing agreement. However, the committee does want to express its opinion that Captain Laycock's contribution to the war effort was exceedingly important, as expressed in the publications noted previously in this report.

On the basis of all of the foregoing, the committee recommends that the bill, S. 497 as amended, be considered favorably.

EXECUTIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar, beginning with Calendar No. 690.

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, as requested by the Senator from West Virginia.

AMBASSADOR

The bill clerk read the nomination of Lewis Hoffacker, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Cameroon to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and affirmed.

UNITED NATIONS TRUSTEESHIP COUNCIL

The bill clerk read the nomination of Sam Harry Wright, of the District of Columbia, to be the representative of the United States of America on the Trusteeship Council of the United Nations.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

U.S. ATTORNEY

The bill clerk read the nomination of Bert C. Hurn, of Missouri, to be U.S. attorney for the western district of Missouri.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

The bill clerk read the nomination of George M. Low, of Texas, to be Deputy Administrator of the National Aeronautics and Space Administration.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

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

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

LEGISLATIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I move that the Senate resume the consideration of legislative business.

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

ORDER FOR RECOGNITION OF SENATOR GOODELL

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the close of routine morning business today, the able junior Senator from New York (Mr. GOODELL) be recognized for 10 minutes.

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

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. McGEE, from the Committee on Post Office and Civil Service, with an amendment:

S. 2325. A bill to amend title 5, United States Code, to provide for additional positions in grades GS–16, GS–17, and GS–18 (Rept. No. 91–561).

BILLS INTRODUCED

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

By Mr. TOWER:

S. 3185. A bill to extend Federal group life and health insurance benefits to Federal employees in the Canal Zone who are not citizens of the United States, and for other purposes; to the Committee on Post Office and Civil Service.

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

By Mr. BOGGS:

S. 3186. A bill to clarify the status of funds to the Treasury deposited with the States under the act of June 23, 1836; to the Committee on the Judiciary.

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

By Mr. GOODELL (for himself, Mr. BAYH, Mr. BROOKE, Mr. CASE, Mr. HARTKE, Mr. JAVITS, Mr. MONDALE, Mr. NELSON, Mr. PROUTY, Mr. RANDOLPH, and Mr. SCHWEIKER):

S. 3187. A bill to assist State and local criminal justice systems in the rehabilitation of criminal and youth offenders, and the prevention of juvenile delinquency and criminal recidivism by providing for the development of specialized curricula, the training of educational personnel, and research and demonstration projects; to the Committee on Labor and Public Welfare.

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

S. 3185—INTRODUCTION OF A BILL TO EXTEND HEALTH BENEFITS AND LIFE INSURANCE COVERAGE TO NONCITIZENS EMPLOYED BY U.S. AGENCIES IN THE CANAL ZONE

Mr. TOWER. Mr. President, I introduce for appropriate reference a measure designed to extend health and life insurance benefits to cover noncitizens employed by U.S. agencies in the Canal Zone. At the present time, Mr. President, these workers are being denied these benefits when Americans working in the same jobs would be granted them. This not only creates two classes of workers, it also creates hardships for the nonincluded workers. These people have the same health and estate planning problems as others, if not more so, and yet they are denied the aid of group programs that has become so essential for providing adequate medical and insurance benefits. In order to remedy the existing inequities, I have proposed this legislation.

Another reason commending passage of this measure is to improve the general standard of living in the Canal Zone. Americans living in the area live on a fairly high plane from others. This measure would help dissolve existing inequities and show the people of this sovereign part of the United States that they can enjoy the equal protection of the Government, wherever it might be. We have always maintained that the Constitution and its guarantees follow the flag. We should move with alacrity to provide

these benefits to the noncitizens working in the Canal Zone.

The PRESIDING OFFICER (Mr. CRANSTON in the chair). The bill will be received and appropriately referred.

The bill (S. 3185) to extend Federal group life and health insurance benefits to Federal employees in the Canal Zone who are not citizens of the United States, and for other purposes introduced by Mr. TOWER, was received, read twice by its title, and referred to the Committee on Post Office and Civil Service.

S. 3186—INTRODUCTION OF A BILL TO CLARIFY THE SURPLUS REVENUE ACT OF 1836

Mr. BOGGS. Mr. President, in 1836 the Government of the United States found itself in an unusual position. It had a surplus in its Treasury of $42,468,859.97, and it did not know what to do with it.

After considerable discussion, the Congress decided to set aside $5 million as a reserve and to allocate the remaining $37,468,859.97 to the then 26 States comprising the Union, payable in four installments.

Three installments, totaling $28,101,644.91, were distributed before the Nation was caught in a financial squeeze and the remainder of the surplus retained in the U.S. Treasury.

The money was distributed as follows:

New York received $4,014,520.71; Pennsylvania, $2,867,514.78; Virginia, $2,198,427.99; Ohio, $2,007,260.34; Kentucky, North Carolina, and Tennessee, $1,433,757.39 each; Massachusetts, $1,338,173.58; Georgia and South Carolina, $1,051,423.09 each; Maine and Maryland, $955,838.25 each; Indiana, $860,254.44; Connecticut and New Jersey, $764,670.60 each; Alabama, New Hampshire, and Vermont, $699,086.79; Illinois and Louisiana, $477,919.14; Mississippi, Missouri, and Rhode Island, $382,335.30; and Arkansas, Delaware, and Michigan, $286,751.49.

Most States did one of four things with this money. Many invested in banks or railroads; many built schools; many devoted it to public works, and some further distributed it to local governments.

The State of Delaware, for example, used most of the money to buy 51 percent interest in the Farmers Bank of the State of Delaware. That stock, bought for $180,000, now is worth an estimated $7.2 million. Some States profited as greatly from the windfall; some show little for it.

Most States have long forgotten the windfall, and, indeed, the Federal Government has paid little heed to it.

It must be pointed out, however, that the money was not distributed as a gift, but rather as a loan. It is subject to recall at the summons of Congress.

The State of Delaware recently realized that it maintains this debt and has been forced to enter it as a liability on the State's ledger books. There is no evidence that the debt ever will be recalled, but its presence causes a needless confusion in the account keeping of Delaware and other States.

The U.S. Department of the Treasury carries the distribution as a memorandum asset account.

The Honorable Russell W. Peterson, Governor of Delaware, has asked me to introduce legislation which would void the right of the Congress to recall the distribution. The Treasury has said it would not object to such legislation.

Approval of such legislation, while not affecting the fiscal status of any of the States or of the Federal Government, would clear up a confusing situation which has prevailed since the distribution.

Mr. President, I introduce, for appropriate reference, a bill to clarify the status of funds of the Treasury deposited with the States under the act of June 23, 1836.

I ask that the bill, a letter from Governor Peterson, and a relevant article by Bob Schwabach of the Wilmington Evening Journal be printed in the RECORD at this point.

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

The bill (S. 3186) to clarify the status of funds of the Treasury deposited with the States under the act of June 23, 1836, introduced by Mr. BOGGS, was received, read twice by its title, and ordered to be printed in the RECORD, as follows:

S. 3186

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) any funds of the Treasury which were deposited with any State under section 13 of the Act of June 23, 1836, (5 Stat. 55) shall be considered to have been a grant to such State for the purpose of providing for the general welfare of the United States. Any certificate of deposit issued by any State for such funds which is held by the Secretary of the Treasury shall be cancelled.

(b) The last proviso of section 13 of such Act is hereby repealed.

The material submitted by Mr. BOGGS, is as follows:

STATE OF DELAWARE,
EXECUTIVE DEPARTMENT,
Dover, November 6, 1969.

Hon. J. CALEB BOGGS,
U.S. Senate,
New Senate Office Building,
Washington, D.C.

DEAR CALE: It has recently come to our attention that the State of Delaware received $286,751.49 from the proceeds of the Federal Surplus Revenue Act of 1837.

This money was invested by the state, mostly in stock in the Farmers Bank of the State of Delaware. We have recently learned, however, that this money was not an outright gift by the Federal government, but a loan. It now appears that we must carry the total as a liability on the state's books, even though there is practically no chance that the Federal government will ever recall the debt. The act in question distributed a total of $37 million among the then 27 states of the Union.

It would be most helpful if you would offer a bill in the Senate which would excuse the states of their debt resulting from the 1837 act.

We will soon send you complete information on the history of Delaware's share of the money. As you may suspect, the total has appreciated greatly over the years.

Sincerely,

RUSSELL W. PETERSON,
Governor.

FIRST STATE PROSPERED ON 1837 LOAN FROM U.S. SURPLUS: DELAWARE, 25 OTHER STATES, CHERISH FISCAL TIME BOMB

(By Bob Schwabach)

A financial timebomb has been quietly ticking away in the treasuries of 26 states, including Delaware, for 132 years.

In 1837 the federal Treasury had a surplus of more than $40 million revenues and Congress decided that the sensible course was to lend it to the 26 states—all there were in the Union at that time.

It's a long fuse but still aglow.

Delaware's share of the "windfall" was $286,751.49 and the state used a large chunk of that to buy shares in the Farmers Bank of the State of Delaware—the same shares which the state still holds.

The legislation which permitted the deposits to the 26 states said clearly that the monies were a loan, not a gift. Now, though hardly anyone remembers the loan, the money is still recallable if Congress should ask for it, and it may even be recallable with accumulated interest.

Sen. J. Caleb Boggs, R–Del., said last night that he is definitely considering the presentation of a bill to void the right of Congress to ever recall the loan. Such a bill would be for the relief of all 26 states, not just Delaware.

Boggs said he had put his legislative assistant to work researching the loan shortly after being informed of it by the News-Journal papers a few weeks ago.

Sen. John J. Williams, R–Del., was unavailable for comment.

Rep. William V. Roth Jr., R–Del., said last night that, in his opinion, "as a practical matter it is unlikely that the loan would ever be recalled."

The 26 states that owe the money, Roth said, would hold a majority in the Senate and probably in the House as well.

A state budget analyst is now tracing all the investments and transfers that the loan has gone through in 132 years so that the state will be prepared in the event of a recall to account for the funds. Officials in the budget department were unaware of the long-standing debt obligation until informed of it about three weeks ago by a News-Journal reporter.

The story of that loan and sister loans to the other states begins in 1836 when the U.S. Treasury discovered the surplus of nearly $42 million.

The surplus had been building for years and in the absence of a national debt the argument was raised in Congress that the money should be returned to its rightful owners, the people.

Those arguments prevailed and an act of that year decreed that the money should be divided among the states on the basis of their representation in Congress. Some senators and representatives wanted the distribution to be a gift but the majority, wishing to be prudent, decided that it should be a loan, to be available for recall in a time of national emergency or whenever Congress chose.

New York received the largest amount, $4,014,520.17, and Delaware, Arkansas and Michigan received equally the smallest shares. In all, $37,468,859.97 was loaned out.

Delaware used $180,000 of its share to purchase 5,000 shares of stock in the Farmers Bank.

The bank has done well in the past 132 years and these 5,000 shares have now grown to about 225,000 worth $7.2 million. In addition, each of the shares pays a $1 annual dividend, so that each year's dividends alone now equal more than the initial investment.

The fortunate purchase of those shares leaves Delaware as one of only two states to have used the loan profitably—Vermont is the other one—and far beyond all the states in the return it has gained.

No state, even Delaware, which has been

the most prudent and successful with the money, could repay the loan with interest if recalled.

The prevailing rate on Treasury loans in 1837 was 5 per cent. At that rate Delaware would have to repay about $150 million, which is almost the entire state budget.

What happened to the rest of the loan Delaware received is still being researched, but in preliminary form here's how it went:

The state used $80,793 to buy bonds in the Philadelphia, Wilmington and Baltimore Railroad and the New Castle and Wilmington Railroad. Both lines are now defunct, but before they went under the state cashed in its bonds in 1881 and made a nice profit. The money was put into the Permanent School Fund.

The state loaned $5,000 to Sussex County to build the Sussex County Courthouse. That loan was repaid and the money put in the school fund.

The state used $20,958.49 to buy stock in the Smyrna Bank and the National Bank of Delaware. Some of that stock was sold and the money put in the school fund; the remainder still in stock is worth more than the original investment.

Dividends from Farmers Bank stock also went into the school fund, and because of the loan and amazingly good management, Delaware had no school tax until this century.

Other states have not been so prudent. Most of the states in the South and Midwest dissipated their loans in a very few years. The New England and Middle Atlantic States were more careful but bad luck combined with bad management took only a little longer to reduce their shares to virtually nothing.

Calls to the treasurers of most of those states revealed that few state treasurers had even heard of the 1837 loans let alone kept an accounting of it.

A high treasury official in Maryland did not know of the state's obligation and when informed said he had no intention of making provisions to pay it. In Pennsylvania, officials took the matter more seriously and expressed real fear that should Congress recall it the state would be thrown into bankruptcy. (Pennsylvania received nearly $3 million.)

New York and New Jersey, while they no longer have the initial loan funds, carry the debt as a liability on their budgets and stand willing to repay it out of the General Fund if called upon. New York has carried an exact account of all transactions of the loan for every year since 1937.

Through all the examinations of what the other states have done or failed to do with their share of the 1837 surplus it is clear that Delaware emerges with great credit. It would be very hard to find a money manager today, even among the new breed of highly sophisticated professionals, who would feel confident of investing profitably over a period of 132 years.

INTRODUCTION OF S. 3187—THE CRIMINAL OFFENDER CORRECTIONS EDUCATION ACT OF 1969

Mr. GOODELL. Mr. President, like the Roman god Janus with its two faces, one facing forward, the other backward, the Congress has frequently enacted significant legislation in the field of education, then refused to appropriate sufficient funds to bring its goals to reality.

In 1965, the Congress established the National Teacher Corps. It was created to attract to the teaching profession highly motivated and specially trained young people to work effectively with underprivileged students in city slums and areas of rural poverty.

Originally sponsored by the distinguished junior Senator from Wisconsin (Mr. NELSON) the Teacher Corps has done a remarkable job. It has been extraordinarily successful in devising new and imaginative approaches to the problems of learning among the disadvantaged in our society, who have been unable to respond to conventional educational approaches.

The program is structured to attract college graduates and others with a minimum of 2 years of college to an internship, lasting 1 to 2 years. Interns function in teams within local schools, under the control of local school systems.

They are enrolled simultaneously at a participating university, where they undertake intensive training and study for their specialized teaching role. The program results in teacher certification for participating corpsmen and in an appropriate degree for those who qualify.

Despite its success, the Teacher Corps has had a long and difficult struggle to survive. Congress has consistently failed to appropriate sufficient funds to achieve the broad goals of the original legislation. Nevertheless, the Corps does have the full support of President Nixon.

On October 20, 1968, Mr. Nixon said:

> We will seek to create a National Teacher Corps which will bring carefully selected college and high school students into action as teachers in core city schools.

In his proposed education budget for fiscal year 1970, the President endorsed the full $31 million Teacher Corps budget recommended by President Johnson.

In addition to its primary mission, the Corps has undertaken a very significant and successful pilot effort to improve the education and reduce the recidivism of adolescents and young adults who have been sentenced to correctional institutions. The intent of this demonstration project was to build upon the 3 years of Corps experience in which universities used the Teacher Corps to test—and then adopt—new programs of teacher education.

School systems have effectively used the Teacher Corps to help introduce and then adopt new curriculums, specialized instruction and new staffing patterns.

Similar reforms are now urgently needed in specialized teacher training and curriculums development for use in correctional institutions, juvenile detention facilities, and community delinquency intervention programs. Once again, the Teacher Corps has successfully demonstrated its ability to initiate such reform, but again it has not had sufficient funds available to fully develop this program.

On September 18, I introduced in the Senate a $1.1 billion comprehensive crime control program, including S. 2919 the Criminal Offender Rehabilitation and Crime Control Act of 1969. Title III of that bill, "Corrections Education Services," provides for a continuation, on a permanent basis of the Teacher Corps corrections education program. The title also, in an unrelated program, would authorize the Commissioner of Education to make grants for research relating to the academic and vocational education of antisocial, aggressive, and delinquent persons, including juvenile delinquents, youth offenders, and criminal offenders.

Today, on behalf of myself, Mr. BAYH, Mr. BROOKE, Mr. CASE, Mr. HARTKE, Mr. JAVITS, Mr. MONDALE, Mr. NELSON, Mr. PROUTY, Mr. RANDOLPH, and Mr. SCHWEIKER, I am reintroducing these provisions as a separate bill, in order that they might be brought to the particular attention of those, in and out of the Congress, who are concerned about the special education needs of youth offenders, juvenile delinquents, and predelinquent adolescents.

The pilot programs in the field of corrections education carried out successfully by the Teacher Corps have had the following objectives, which would be continued under my bill:

First. To encourage colleges and universities to establish and expand specialized programs to train education personnel to work with juvenile delinquents, predelinquents, youthful offenders, and other criminal offenders in penal institutions and community corrections facilities.

An interdisciplinary approach to the problems of corrections education, including study in the fields of criminology sociology, and psychology would be coordinated within our schools of education.

Training would be sufficiently broad to prepare teacher-interns in the specialized area of corrections education and to meet university and State requirements for degree preparation and certification. It is hoped that a permanent curriculum offering at universities throughout the Nation can be developed.

Second. To encourage and assist correctional and penal institutions to provide improved education programs for those placed in their charge, in the hopes of insuring that young offenders reenter society with a better chance to assume normal, productive lives.

Third. To encourage dedicated young people to make education in the corrections field a permanent career choice through the development of such special training and new opportunities for service.

Fourth. To complement the efforts of other Federal, State, and local agencies to provide better education programs for juvenile delinquents and youthful offenders.

During the past year the Teacher Corps has conducted three corrections education programs and one pilot project in the States of New York, Illinois, Connecticut, and Georgia. The Corps was assisted in the development of these projects by the Joint Commission on Correctional Manpower and Training, the National Council on Crime and Delinquency, and the VERA Institute of Justice, as well as several other highly regarded experts in the field.

The first corrections education program began at Rikers Island, N.Y., in August 1968. In September 1969, the

highly respected VERA Institute of Justice prepared an evaluation of this project.

It reported that—

In terms of the educational accomplishments of the program, an indication of success is provided by the number of juvenile and youth offenders who took and passed the high school equivalency examination. For the year, 31 of 72 who took the examination passed.

This is a good percentage, given the low level of proficiency at which many inmates started and the fact that Teacher Corps placed no restrictions on which inmates could take the examination.

Further, at least 10 inmate-participants in the school have been placed in college programs for the coming academic year.

In addition to such objective accomplishments of the program, there were less tangible, but equally significant achievements of other kinds. For any rehabilitation program to be successful, it must begin by changing the offender's self-image and give him an opportunity to see himself as a potentially productive person.

The most exciting thing about the Teacher Corps project was that this kind of attitudinal change seemed to occur in so many of the approximately 190 inmates enrolled in the program during the two sessions from September 1968 to June 1969.

The Teacher Corps interns were successful in establishing rapport with the inmates by showing interest in their ideas and treating them as equals. Classroom discussions involved broad participation and were articulate and sophisticated. Many inmates told us that this was the first educational experience in which they felt that teachers gave them credit for being able to think and contribute worthwhile ideas.

The inmates' enthusiasm is probably a result of several factors. The interns are not too different in age from the inmates and thus shared many values common to young people, which cut across social and economic barriers.

Further, the curriculum included topics that were relevant to the problems of Negroes and Puerto Ricans in an urban environment today. Also, because the ratio of teachers to students was low, about 1 to 6, interns were able to devote a significant amount of time to private tutoring, which allowed inmates to move at their own pace.

This impressive evaluation by the VERA Institute reflects the significant potential of this program.

In the State of Illinois, six interns are teaching and working with predelinquents in a delinquency intervention program in the Carbondale Community High School. Six additional interns are supplementing the education staff of the Pere Marquette Camp for delinquent boys, which is operated by the Illinois Youth Commission.

The project is directed by Mr. Charles Matthews, director of the Center for the Study of Crime, Delinquency and Corrections at Southern Illinois University. Teacher Corps interns are receiving their professional training at this institution. The superintendent of public instruction for Illinois has approved the training experiences as qualifying requirements for teacher certification.

In Connecticut, 20 members of the Teacher Corps are serving in an education program in the school of the Cheshire Reformatory and in Somers Prison, where they are introducing new curricula and teaching techniques. While serving at Cheshire, interns are enrolled as graduate students in the Department of Education at the University at Hartford.

The Connecticut Department of Education has established a classification of correctional education specialist, and graduates of the program will be so certified.

In Georgia, seven Teacher Corps interns are teaching basic and vocational education subjects, and providing counseling at the Buford Prison near Atlanta. They are enrolled in a 2-year graduate degree program at the University of Georgia. Buford is a small prison which has been converted to a special education and training institution for 180 young offenders.

Mr. President, in addition to these programs, there are a significant number of corrections educations proposals which have been submitted to the Teacher Corps by various organizations and universities in several States. At the present time, Teacher Corps funding for these programs is not available. Although they have not been finally approved for inclusion in the Teacher Corps corrections program, they demonstrate the broad and innovative potential for effective action in the new field of corrections education.

A proposed corrections education program at the University of Southern California would utilize 60 Teacher Corps interns, 12 teams of five persons each. These interns would be enrolled in a program focused on the causation of delinquency and the particular educational needs and problems of delinquent youth. They would seek to determine when and how the delinquency pattern begins to develop. They would rotate through both public school and correctional institution experiences.

At the completion of the program, interns would be certified to teach, with the special qualification to work with delinquent and predelinquent youths and programs in both school and community facilities.

This project would have the support of the university's school of public administration and its delinquency control institute. Dr. E. Kimberley Nelson, the distinguished former director of the Task Force on Delinquency for the President's Commission on Crime and Delinquency, a member of the staff of the school, would bring a broad prospective of experience in the field of juvenile delinquency control to the program.

At Sacramento State College, a proposal contemplates the use of 36 Corps members in six teams of six each. Each team will be composed of leadership personnel and teacher interns at three levels: undergraduate, graduate—or Teacher Corps—and post graduate or team-leader training, so that the program will culminate in both BA and MA, dependent upon entry level of intern.

A proposed program at the University of Massachusetts would enroll inmates of prisons as teachers for correctional institutions on an experimental basis. They would also be awarded released time to study at the University of Massachusetts.

A project proposed at the University of Minnesota would put teams of Teacher Corps interns into an adult prison and a youth school.

Another proposal submitted to the Teacher Corps by the VERA Institute of Justice in New York contemplates adding a Teacher Corps Corrections Education component to its current youth offender rehabilitation program, utilizing Fordham University's School of Social Service to assist its development.

Cooperating with VERA in this undertaking would be the New York criminal court system, the Bronx criminal court, the New York State Crime Control Council, the central Brooklyn model cities project, the Youth Aid Division of the New York City Police Department, the New York City family court and the New York City Board of Education.

The Center for the Study of Metropolitan Problems at the University of Missouri at Kansas City has also submitted a proposal. Cooperating with the proposed correction education program would be the School District of Kansas City, Mo.; the Institute for Community Studies, Kansas City; and the Juvenile Court Services, Kansas City Judicial District.

At the University of Oregon, interns for the Teacher Corps correction program would be recruited from there projects at the university that make college study available to blacks, Indians, and Mexican-American migrants. These recruits would be undergraduates and gain experience in local schools and correctional institutions. In the second year a career opportunities program component would be added to the present proposal.

Cooperating agencies would include the Lincoln County Schools; Portland School District; Oregon Correctional Institute, Salem; Skipworth Detention Home, Eugene; and Portland Correctional Agencies.

The city and county of Denver in cooperation with the University of Colorado and Denver University has also proposed a corrections education program.

Other innovative corrections education proposals have been submitted to the Teacher Corps by Florida Atlantic University, Boca Raton, Fla., and Sam Houston State University, Houston, Tex.

A primary goal of the former proposal is to handle corrections education and other delinquency rehabilitation efforts in the community, rather than in correctional institutions.

The development of the latter proposal would be assisted by Dr. George G. Killinger, director of the State-funded institute of contemporary corrections and behavioral sciences at the university. Cooperating agencies would include the Texas Department of Corrections, Texas Youth Council, Juvenile and Adult Probation Departments, Texas Board of Pardons and Parole—Adult; Texas Education Agency, and Boards of Education in Houston, Dallas, Fort Worth, and San Antonio.

Mr. President, on any given day, the corrections component of our criminal justice system is responsible for approximately 1.2 million offenders in prisons,

jails, juvenile training schools, and probation and parole organizations. About 100,000 of these persons are released from confinement each year into a society which has been quite content to keep them out of sight.

Up to 75 percent of these persons again commit serious crimes and return to confinement. Thus for a great many offenders, corrections does not correct, and this failure is directly and crucially related to the high incidence of street crime in the Nation today.

The Teacher Corps corrections education program seeks to contribute to the solution of this problem—the enormously complicated process of criminal offender rehabilitation.

It is clear that the Congress must undertake comprehensive, broad based reform of our entire corrections system. The Teacher Corps, however, has made a promising beginning toward the solution of one important aspect of that larger problem. It deserves the support of us all.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

The bill (S. 3187) to assist State and local criminal justice systems in the rehabilitation of criminal and youth offenders, and the prevention of juvenile delinquency and criminal recidivism by providing for the development of specialized curriculums, the training of educational personnel, and research and demonstration projects, introduced by Mr. GOODELL (for himself and other Senators), was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 3187

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 "Criminal Offender Corrections Education Act of 1969".

FINDINGS AND DECLARATION OF POLICY

SEC. 2. The Congress hereby finds and declares that (1) there are critical shortages of adequately trained educational personnel to provide relevant remedial, basic and secondary educational training, including literacy and communications skills, for juvenile delinquents, youth offenders and adult criminal offenders; (2) the quality of programs of vocational and academic education furnished to persons detained in State and local corrections systems must be improved in order to enhance the possibility of rehabilitation of such persons; (3) there is a need for joint efforts between State and local educational agencies and departments of corrections, and local institutions of higher learning to develop special curriculums and educational programs, including guidance and counseling, for such persons; and (4) there is a need for research and demonstration projects relating to the academic and vocational education of juvenile delinquents, youth offenders and adult criminal offenders.

TEACHER CORPS CORRECTIONS EDUCATION PROJECTS

SEC. 3. (a) Section 513 of the Higher Education Act of 1965 (subpart 1 of Part B of the Education Professions Development Act) is amended by striking out "and" in paragraph (6) thereof, by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon and the word "and", and by adding after paragraph (7) the following new paragraph:

"(8) to enter into arrangements, through grants or contracts, with State and local educational agencies, correctional institutions, detention centers, training schools, and any other appropriate public or private nonprofit agencies to provide members of the Teacher Corps to carry out projects designed to meet the special educational needs of juvenile delinquents, youth offenders and adult criminal offenders, and persons who have been determined by a State or local educational agency, court of law, law enforcement agency, or any other State or local public agency to be predelinquent juveniles."

(b) Section 511(b) of such Act is amended by—

(1) striking out "and $56,000,000 for each of the succeeding fiscal years and prior to July 1, 1971, respectively" and inserting in lieu thereof the following: "$60,000,000 for the fiscal year ending June 30, 1970, $64,000,000 for the fiscal year ending June 30, 1971, and $68,000,000 for the fiscal year ending June 30, 1972,";

(2) by adding at the end thereof the following new sentence: "Of the sums appropriated pursuant to the preceding sentence for the fiscal year ending June 30, 1970, $4,000,000 shall be available only for the purpose of carrying out paragraph (8) of section 513(a), for the fiscal year ending June 30, 1971, $8,000,000 shall be available only for that purpose, and for the fiscal year ending June 30, 1972, $12,000,000 shall be available only for that purpose."

(c) Section 517A of such Act is amended by inserting "(1)" after the word "includes" and by inserting before the period a semicolon and the following: "and (2) includes any State or local educational agencies, correctional institutions, detention centers, training schools, and any other appropriate public or private nonprofit agencies conducting projects under paragraph (8) of section 513(a)".

RESEARCH AND DEMONSTRATION PROJECTS IN CORRECTIONS EDUCATION SERVICES

SEC. 4. (a) The Commissioner of Education (hereinafter referred to as the Commissioner), is authorized to make grants to State and local governments, State and local educational agencies, public and nonprofit private institutions of higher learning, and other public and nonprofit private, education, or research agencies and organizations for research or demonstration projects, relating to the academic and vocational education of antisocial, aggressive, or delinquent persons, including juvenile delinquents, youth offenders, and adult criminal offenders Such projects should seek to develop criteria for the identification for specialized educational instruction of such persons from the general elementary and secondary school age population. Special curriculums, and guidance and counseling programs should also be developed. All projects shall include an evaluation component. Such grants shall be made in installments, in advance or by way of reimbursement, and on such conditions as the commissioner may determine.

(b) The Commissioner is authorized to appoint such special or technical advisory committees as he may deem necessary to advise him on matters of general policy relating to the education of persons intended to be benefited by this section, and shall secure the advice and recommendations of the Director, Bureau of Prisons, of the Director, Office of Juvenile Delinquency and Youth Development, the Director of the Teacher Corps, the head of the National Institute of Law Enforcement and Criminal Justice, the Administration of the Law Enforcement Assistance Administration, and such other persons and organizations as he, in his discretion, deems necessary before making any grant under this section.

(c) Members of the committee appointed under this section who are not regular full-time employees of the United States shall, while serving on the business of such committee, be entitled to receive compensation at rates fixed by the Secretary of Health, Education, and Welfare, but not exceeding $75 per day, including traveltime; and, while so serving away from their homes or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of persons in the Government service employed intermittently.

(d) There is authorized to be appropriated to carry out the purposes of this section the sum of $3,000,000 for the fiscal year ending June 30, 1970, and the sum of $5,000,000 for each of the two succeeding fiscal years.

ADDITIONAL COSPONSORS OF BILLS

S. 2004 AND S. 2524

Mr. DOMINICK. Mr. President, on behalf of the Senator from Illinois (Mr. SMITH), I ask unanimous consent that, at the next printing of S. 2004, to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for renewal of broadcast licenses, and S. 2524, to adjust agricultural production, to provide a transitional program for farmers, and for other purposes, the name of the Senator from Illinois (Mr. SMITH) be added as a cosponsor.

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

SENATE RESOLUTION 291—SUBMISSION OF A RESOLUTION URGING THE NEED TO REACH A MULTILATERAL AGREEMENT RELATING TO A PRECISE CONTINENTAL SHELF BOUNDARY

Mr. PELL. Mr. President, today I submit a sense-of-the-Senate resolution calling attention to the urgent need to reach multilateral agreement on the location of the Continental Shelf boundary for the purposes of the 1958 Geneva Convention on the Continental Shelf.

The need to clarify this international boundary issue is evident from the Geneva Convention's anachronistic definition of the term "Continental Shelf" as referring to "the seabed and the subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 metres or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of said areas."

Mr. President, the key phrase in this definition is "to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of said areas." This open-ended aspect of the definition is commonly referred to as the "exploitability test" of the Continental Shelf Convention.

While this so-called test was totally irrelevant prior to the exploitation of seabed mineral resources in water depths approaching 200 meters, the advances now being made in applied marine technology are in turn giving prominence to

it. Thus, the net effect of our rapidly developing marine technology coupled with the unfortunate wording of the convention is to create an "elastic" Continental Shelf boundary—in the sense that, as exploitation occurs at greater and greater depths, each coastal State's Continental Shelf boundary expands accordingly and assumes automatically a location at that depth contour at which exploitation was undertaken last. Carrying the exploitability test to its logical conclusion, some law of sea experts maintain that a complete division of the seabed and the ocean floor could be effected—at least from a legal standpoint—given the present wording of the Geneva Convention.

Although such a contention would, I think, be difficult to justify in view of the legislative history accompanying the Continental Shelf doctrine, and particularly in view of the recent decision handed down by the International Court of Justice in its North Sea Continental Shelf judgment, we must, nevertheless, recognize the fact that neither the convention nor its history provide the clarity needed to indicate either where the shelf boundary is or what the appropriate considerations are for determining its location. In short, the Geneva Convention on the Continental Shelf must be revised for the purpose of determining the location of this boundary—which is after all fundamental to the application of the convention itself.

The need to revise the Continental Shelf Convention has been underscored by many who are concerned with the orderly and peaceful development of seabed mineral resources—not the least of whom has been the Presidential Commission on Marine Sciences, Engineering, and Resources. The Commission delivered its 2-year study in January of this year, and with respect to the boundary issue, it recommended that the United States take the lead in pressing for a revision of the Shelf Convention for the purpose of reaching multilateral agreement on the establishment of a precise continental shelf boundary. The resolution which I am offering today seeks to implement this recommendation, and I ask unanimous consent that it be printed at this point in the RECORD.

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

The resolution (S. Res. 291), which reads as follows, was referred to the Committee on Foreign Relations:

S. RES. 291

Resolution expressing the sense of the Senate on the urgent need to reach a multilateral agreement on the establishment of a precise Continental Shelf boundary for the purposes of the Geneva Convention on the Continental Shelf

Whereas the Commission on Marine Science, Engineering and Resources after two years of intense and exhaustive study warned, "Unless a new international framework is devised which removes legal uncertainty from mineral resources exploration and exploitation in every area of the seabed and subsoil, some venturesome governments and private entrepreneurs will act to create faits accomplis that will be difficult to undo, even though they adversely affect the interests of the United States and the international community." and

Whereas said Commission recommended "the United States take the initiative to secure international agreement on a redefinition of the 'continental shelf' for purposes of the Convention on the Continental Shelf." and

Whereas the Convention on the Continental Shelf, in accordance with Article XIII, may be opened for revision at the request of a contracting party five years after said Convention's entry into force, and such five year period expired on June 10, 1969: Now, therefore, be it

Resolved, That it is the sense of the Senate that, without further delay, the President should present in writing to the Secretary-General of the United Nations a request that the Convention on the Continental Shelf be reopened for the purpose of establishing a precise continental shelf boundary.

Mr. PELL. Mr. President, in asking my colleagues to support this resolution, I think it is worth bearing in mind that, with the issuance in 1945 of the Truman proclamation on the Continental Shelf, the United States acted unilaterally to assert its jurisdiction over the resources of the Continental Shelf adjacent to our Nation. Other nations followed our lead, and there can be little doubt that the 200-mile claims of some Latin American countries—notably Chile, Ecuador, and Peru—find their origin in our 1945 unilateral declaration. For example, Dr. Carl Auerbach who chaired the International Panel of the Marine Commission made this point in testimony before the Subcommittee on Ocean Space in July of this year:

After the Truman Proclamation laid claim, on behalf of the United States, to the mineral resources of our continental shelf, to Latin American countries which do not have a continental shelf to speak of, and so do not have easily accessible mineral deposits off their shores, took the position that if the United States could claim valuable mineral resources that happen to lie off its shores, they could claim valuable living resources which happen to be found off their shores. And indeed, from a moral or equitable point of view, it is difficult to see that their claims are less worthy than ours.

As a result of the numerous incidents which we have had with these countries and in view of the growing prospects for similar difficulties with other nations, I should hope that we would now move to try to correct this situation—a situation which we unwittingly helped to foster. And here I would add that, unless we move immediately in the direction of reaching multilateral agreement on the Continental Shelf boundary issue, unilateral action may well undermine any future attempt to restrict within reason the offshore claims of the world's coastal states.

Time is growing short. Already, for example, Saudi Arabia and Sudan have issued competing unilateral claims to the recently discovered Red Sea mineral deposits; Indonesia is leasing major portions of the Java Sea, with the last reported lease in this area encompassing 37 million square acres; and according to a New York Times article of August 28, 1969, Japan's reported discovery of oil in the East China Sea is expected to lead to significant jurisdictional problems involving both Taiwan and mainland China.

Here it might be well to point out that there is general consensus that each littoral state has exclusive jurisdiction over seabed mineral resources out to a depth of 200 meters or to a distance of 50 nautical miles. But there is no firm consensus that these limits should be designated as the limits of the Continental Shelf for the purposes of the Geneva Convention; nor is there any consensus as to where beyond these limits the boundary might be located.

Mr. President, with the United States having taken the lead in asserting unilaterally its jurisdiction over offshore mineral resources, I think it would be most fitting that this country should now take the lead in calling for a revision of the Continental Shelf Convention—as provided for under article XIII—in order to try to reach a multilateral consensus on the seaward limits to which such jurisdiction extends.

Mr. President, as my colleagues know, I have frequently spoken on the ocean space issue, and I have introduced legislation aimed at providing a general legal framework for the exploration and exploitation of seabed resources. In pursuing this objective, the executive branch has consistently labeled my legislative proposals as "premature." But in view of the full-scale consideration now being given this issue within the United Nation, I think it is fair to say that these proposals are "premature" only in the sense that they resolve those issues which the executive branch has been unable to resolve.

In August of 1968 during the United Nations consideration of the so-called seabed item, the United States endorsed and has since reaffirmed the interrelated principles:

(1) There is an area of the seabed and ocean floor and the subsoil thereof, underlying the high seas, which lies beyond the limits of national jurisdiction.

(2) Taking into account relevant dispositions of international law, there should be agreed a precise boundary for this area.

The resolution which I am offering today can only serve to enhance our posture in the support of these principles. Its sole purpose is to move us one step closer to resolving this international boundary issue through the appropriate international forum. I hope my colleagues will recognize the sense of urgency attending the Continental Shelf issue and will give this measure their full support.

TAX REFORM ACT OF 1969—AMENDMENTS

AMENDMENTS NOS. 311 AND 312

Mr. TOWER. Mr. President, I send to the desk two amendments, which I ask be printed.

The PRESIDING OFFICER (Mr. CRANSTON in the chair). The amendments will be received and printed, and will lie on the table.

Mr. TOWER. The remarks which follow apply to the two amendments I have just sent to the desk, as well as to the real estate amendments I submitted yesterday.

The real estate industry appears to have been disproportionately hard hit

by the pending tax reform legislation. If this bill passes as reported by the Finance Committee, substantial changes will be effected in depreciation deductions for persons who own and operate all classes of revenue-producing properties; this will be compounded by the imposition of new, and much more stringent, recapture provisions when the property is sold. Real estate development has undoubtedly shown a most radical adjustment from our recent anti-inflationary monetary policies; additionally, it has suffered extreme setbacks from high interest rates, overburdening labor costs, material price rises, and general appreciation of land. Yet, our response has been to create more limitations in this area by increasing taxes upon existing properties and further restricting transferability by stringent recapture provisions.

Present law permits the use of double-declining-balance or sum-of-the-years-digits methods of depreciation for all types of new depreciable real estate construction. These accounting processes permit the developer to utilize accelerated depreciation offset during those early years of greatest cash flow and aid him in recouping some of his initial finance and startup charges. As time passes, innovation and use cause real estate improvements to become slowly obsolete and less functional; other factors remaining the same, as this occurs rents should be decreased. During this period of decreased rent, allowable depreciation also is reduced. Although he is denied the above methods of depreciation, a purchaser of a used building now may utilize the 150 percent declining balance method of depreciation on previously depreciated property. This again reflects the gearing of depreciation to eventual decreases in cash flow.

Under the proposed legislation, we would eliminate accelerated depreciation for all purchasers of existing building and limit them to the use of straight line method. Builders and developers of new commercial and industrial facilities would be allowed to utilize the 150 percent method; housing construction would be afforded the use of any of the accelerated modes now approved by Treasury.

The other major change regarding real estate taxation which is brought about by this legisation, is the modification of the recapture provisions and the reclassification of real property into three categories for tax purposes. Presently, there is 100 percent recapture of any gain on the sale of improved property as ordinary if a sale is made within the first year of purchase. Thereafter the amount to be recaptured is proportionately reduced until at the end of 10 years; a transfer after that time is taxed at capital gains rates rather than as ordinary income. The new provisos retain this method for taxing sales of certain low- and moderate-income housing projects; all other housing is taxed with full recapture of accelerated depreciation over the straight line method for the first 10 years, complete capital gains treatments is obtained in 18 years 4 months. Commercial and industrial sales will be taxed upon all depreciation taken above straight line.

I believe that these recapture provisions as well as the depreciation changes are extremely detrimental. Investments are made on the basis of the amount of yield realized for the risks involved. Since depreciation is directly related to real estate investment yield, then it would follow that any decrease in depreciation results in a decreased overall value of the investment. Therefore, if the risk remains the same, and depreciation decreases, then an increased yield must be accomplished through other means, or else the participants will withdraw from this type investment. Some would contend that by leaving the depreciation provisions for housing unchanged and reducing acceleration in other fields, much of the money going into commercial and industrial construction will be diverted into housing. This is certainly an invalid assumption; there is no reason to believe that if an investor for any reason leaves the field of commercial real estate, he is going to go into housing; he is just as likely to go into raw land, the stock market, franchises, or a myriad of other businesses.

We are continually striving to improve inner-city living conditions and to alleviate the ghetto problem; this legislation will merely compound the problem by increasing the value of older buildings and driving new businesses into the suburbs where land costs are less. The new communities aspect of housing will be severly thwarted if necessary commercial facilities cannot be constructed to provide the convenience which we demand from an urban environment; and many fear the far reaching effects which this legislation most likely will produce upon urban development programs.

Perhaps the greatest failing of this reform stems from the fact that it will not accomplish its desired end, that is to raise substantially more tax dollars. The Treasury estimates that the increased recapture taxes and denial of accelerated depreciation on used buildings will produce an additional $350 million in tax revenue by 1979, but these estimates are based upon the assumption that there will be equivalent exchanges of property after the passage of this legislation which is designed to create barriers to both buyer and seller. The actual results will be less building, less sales, and less revenue than projected.

Other changes in the tax status of real property will still call upon that industry to pay an additional $700 million in Federal taxes over the 10 years. I have said before that if we must have tax reform, I am opposed to any industry carrying more than its fair share; I truly believe that we are asking the real estate industry to do this.

It would be innately fairer and wiser to retain the 150 percent declining balance depreciation as it presently applies to both new and resold depreciable realty. I would, however, suggest that we adopt recapture provisions which provide for recapture of all gain in excess of straight line depreciation for the first 5 years after acquisition of a property—instead of 12 months, as presently provided—and thereafter decrease the recapture by 1 percent per month until at 13 years and 4 months there is no realization of ordinary income upon a sale. I certainly feel that a property held for over 13 years should be due capital gains treatment. The industry has told me, and their testimony has reflected, that real estate wants to carry its fair share of the tax burden, but it is incumbent upon us to assure that this industry carries no more than this fair share. Unless these amendments to this act are adopted, we have placed this onerous burden squarely upon our real estate industry.

AMENDMENT NO. 313

Mr. DOMINICK. Mr. President, on behalf of myself and Senators RIBICOFF, GOODELL, HARTKE, ALLEN, BAKER, BAYH, CASE, COTTON, CANNON, DOLE, HART, HOLLINGS, INOUYE, MURPHY, PACKWOOD, PROUTY, THURMOND, and TOWER, I send to the desk an amendment designed to provide some much needed help to the lower and lower middle income taxpayer who is shouldering the ever-increasing burden of providing higher education for himself or his children.

This amendment is similar to the legislation which I introduced earlier this year which was cosponsored by 43 Senators, and to the amendment which was adopted by the Senate in 1967. The amendment would provide a tax credit of up to $325 to any taxpayer who paid the tuition fees, and book costs for himself or any other student at any institution of higher learning offering courses above the 12th grade including business, trade, or vocational schools.

The credit would be computed on the first $1,500 of such expenses for each student in the following manner:

One hundred percent of the first $200.
Twenty-five percent of the next $300.
Five percent of the subsequent $1,000.

This means that the greater proportion of this tax credit would be received by those going to the lower cost institutions.

The available credit would be reduced gradually by subtracting from the credit 2 percent of the taxpayer's adjusted gross income in excess of $15,000. No credit would be available to a taxpayer whose adjusted gross income equaled $31,250 or more.

The financial help which this amendment would provide to students and their families is long overdue, and I hope that when our amendment is brought up for debate it will be passed by an overwhelming majority, so that this time the action of the Senate can be sustained in the conference committee. The last time it was adopted, it was not accepted by the conference committee, largely because of House opposition, and as a result we have to try this again.

I think I should say at this time that I have been working on this matter for the last 15 years, if not more. I think the form of the amendment that we have now is reasonable and good. It is an effort to try to allow taxpayers to use some of their own gross earnings to fulfill a national policy of providing the opportunity for higher education. It is for that reason that I have decided, together with

the other cosponsors who have been such a help in this matter, to press this amendment on the pending tax bill. I will bring up the amendment some time next week.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

Mr. TOWER. Mr. President, I am pleased to join once again with the many Senators who have for so long urged the provision for a tax credit to absorb some of the costs of education. Since the beginning of my tenure in this body I have worked for the enactment of legislation which would provide such a tax credit. The costs of higher education have risen enormously in recent years and the necessity of providing quality education to an ever-increasing number of students has never been so great. The present amendment would provide a tax credit of up to $325 to any taxpayer paying tuition and fees of a student at any institute of higher learning. I have always contended and still contend that an income tax credit would be a most efficient means of providing Federal assistance to institutions of higher education. Under this plan the taxpayer's money for education expenses would never leave his control. His money would not be sent to Washington and then only partially sent back to his schools with Federal strings attached, but would be paid by him directly to the institution of his choice. Moreover, this approach circumvents the church and state issue altogether while still providing support to denominational institutions.

This measure would certainly be of great benefit to the individual taxpayer sending his children to college and faced with the ever-rising costs of tuition and fees, but it is also a means of channeling greatly increased funds into educational facilities without bureaucratic interference and redtape. Thus we can provide support to our institutions of higher learning in all their diversity—and diversity is of vital importance in the maintenance of freedoms so cherished in our national life. Public institutions and private, secular and religious—all will benefit from the enactment of this amendment to the ultimate enrichment of all our people.

AMENDMENT NO. 314

Mr. HART. Mr. President, I send to the desk an amendment intended to be proposed by me, to the Tax Reform Act, H.R. 13270, and ask that it lie on the table and be printed.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

Mr. HART. Mr. President, this amendment would be a substitute in part for section 903 of the Senate version of H.R. 13270, which relates to the tax deductibility of treble damage payments and the exclusion from gross income of part of the judgment received by the private plaintiff in such actions.

Following the Government's prosecution in the electrical equipment manufacturers cases some 2,000 treble damage suits were filed. Some of the defendants in these suits requested the Internal Revenue Service to rule on the deductibility of the treble damage payments. In 1964 the Internal Revenue Service in ruling 64–224 permitted defendants in such private antitrust actions to deduct in full the treble damages as ordinary and necessary expenses of doing business. The ruling goes far in frustrating the enforcement of the Sherman Act by private action. It also relieved the violators of a large part of the penalty assessed by section 4 of the Clayton Act. In effect, it also shifted the tax burden from those who violate the Sherman Act to the public.

In this session, the distinguished Senator from Louisiana (Mr. LONG) introduced S. 2631 which would reverse the ruling, but only in private antitrust cases after the Government has obtained criminal convictions. I introduced S. 2156 which would reverse the deductibility ruling without regard to any prosecution or lack of prosecution by the Government.

Both bills were referred to the Finance Committee which adopted S. 2631 as part of section 903 of the tax bill. The amendment I now offer would reverse Revenue ruling 64–224 as proposed in S. 2156, and exclude from gross income a part of the sum recovered by an injured party.

Section 4 of the Clayton Act provided for suits by persons to recover for economic injury resulting from violation of the antitrust laws. The actual damages were tripled as a penalty to discourage antitrust violations. It also was intended by Congress that this would induce enforcement of the antitrust laws by private action. Section 4 was not made dependent in any way on whether the Government filed either a civil or a criminal case. To have done so would have defeated in large part the very purpose of enforcement by private action against restraints and monopolization of trade as an additional enforcement arm of the law.

It is obvious that the greatest need for private enforcement is in those cases where the Government does not prosecute criminally as it does not in a majority of cases filed. My amendment would restore the full effectiveness of section 4 of the Clayton Act. It also would place the tax burden where it belongs and give that revenue to the Government.

My amendment would also reinstate the inducement to plaintiffs to enforce the national policy against restraints and monopolies, as was believed to be the law until a tax decision in 1955, by permitting them to exclude from gross income two-thirds of the judgment received. The two-thirds represents the penalty on antitrust violators imposed by the Congress when it enacted the Clayton Act.

Adoption of this amendment would insure the Government's collection of justified revenues, place the tax burden where it rightfully belongs and be of tremendous value in encouraging the private enforcement of the antitrust laws.

I would hope that the Senate will see fit to adopt this amendment.

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

The ACTING PRESIDENT pro tempore. The amendment will be received and printed, and will lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 314) is as follows:

AMENDMENT NO. 314

On page 514, line 18, strike all after "TRUST LAWS.—" to page 515, line 16 and insert in lieu thereof the following:

"No deduction shall be allowed under subsection (a) for two-thirds of any amount paid or incurred on any judgment entered against the taxpayer or in settlement of any action by reason of anything forbidden in the Sherman Act (Act of July 2, 1890, c. 647, 26 Stat. 209, as amended) brought against the taxpayer under section 4 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914 (38 Stat. 731; 15 U.S.C. 15), by reason of anything forbidden in the antitrust laws."

On page 517, after line 22, insert the following:

"(d) (1) Part III of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by inserting at the end of part III the following new section:

"'SEC. —. TREBLE DAMAGE PAYMENTS RECEIVED UNDER THE ANTITRUST LAWS.—Gross income does not include two-thirds of any amount received during the taxable year on any judgment entered for treble damages or in settlement of any action by reason of anything forbidden in the Sherman Act (Act of July 2, 1890, c. 647, 26 Stat. 209, as amended) brought by the taxpayer to recover treble damages under section 4 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914 (38 Stat. 731; 15 U.S.C. 15), by reason of anything forbidden in the antitrust laws.'

"(2) The amendment made by paragraph (1) shall be applicable only with respect to amounts received after the date of the enactment of this Act."

AMENDMENT NO. 315

TAX-DODGE FARMING

Mr. METCALF. Mr. President, the report of the Committee on Finance includes as a part of its discussion on tax-dodge farming the following observation:

The utilization of these advantages by high income taxpayers is not merely a theoretical possibility. In recent years, a growing body of investment advisors have advertised that they would arrange a farm investment for wealthy persons. Emphasis is placed on the fact that aftertax dollars may be saved by the use of "tax losses" from farming operations. (report, page 96)

When I testified before the committee on September 22, I discussed the specifics of some of the advertising that had come to my attention in this area. Included in my testimony is a document entitled "An Introduction to Cattle Ownership and Its Benefits" prepared by Oppenheimer Industries, Inc.—Hearings, part 4, pages 2712–14. As a part of that brochure, Oppenheimer Industries gives an example of a $225,000 break-even transaction where the taxpayer clears a tax profit of $85,000. This is exactly the sort of advertising that the committee is referring to in its report.

Also included as a part of my testimony is a portion of the prospectus of Black Watch Farms titled "Statement of Tax Shelter"—pages 2718–19.

The day before I testified, an ad ap-

peared in the Sunday edition of the Washington Post from the Chateau Briand Ranches, Inc., offering managed breeding herds of purebred Charolais cattle as tax sheltered programs exclusively for the high-bracket investor. I have now obtained a copy of their prospectus.

Mr. President, so that other Senators may have the benefit of still another example of the type of enticement being offered to prospective clients of cattle management firms, in advance of voting on my amendment I ask unanimous consent that the portion of the prospectus entitled "Federal Income Tax Consequences" be printed at this point in the RECORD.

Without objection, the described portion of the prospectus was ordered to be printed in the RECORD, as follows:

FEDERAL INCOME TAX CONSEQUENCES

Under present law, the owner of livestock held for breeding purposes is entitled to a combination of substantial tax advantages (if the owner uses the cash method of accounting) which are not available with respect to most other types of investments.

Expenses incurred for feeding and maintenance of breeding cattle generally will be deductible, in the year incurred, from nonfarm income for Federal income tax purposes. They may be deducted as either "trade or business" expenses, or expenses incurred in connection with "the management, conservation, or maintenance of property held for the production of income," depending on whether a particular investor is deemed to be engaged in the cattle business. Furthermore, if an investor is deemed to be a cattle dealer, such expenses are deductible as part of the cost of goods sold. It must be noted, however, that a deduction for such expenses may be disallowed if it is determined that such expenses are not "ordinary and necessary" to the trade or business or to the production of income, or if it is determined that the investor was engaged in the program primarily as a sport, recreation, or hobby, with no prospect of realizing any profits.

As the above described tests of "ordinary and necessary", "trade or business", "hobby", and "dealer" are legal tests based upon all the facts and circumstances, varying with each investor, no opinion is expressed as to whether the expenditures are deductible against ordinary income. Instead it is recommended that each investor consult his tax advisor, as to the tax consequences.

When cattle are purchased, and therefore have a cost basis, section 167 of the Internal Revenue Code of 1954, as amended (the "Code"), permits the owner of breeding cattle to deduct from non-farm income the cost of such cattle by depreciating such cost over the useful life of the cattle, assuming that such cattle do not constitute inventory in the hands of the owner. In addition to the depreciation deduction permitted under section 167, the owner may elect under section 179 to deduct in the first year of use an additional 20% of the cost of cattle having a useful life of at least six years, subject to the restriction that such an election may only be made with respect to property having an aggregate cost of $10,000 (or, in the case of a married couple filing a joint return, $20,000). The depreciation allowance is available irrespective of whether the owner is in the "trade or business" of farming, if the breeding stock is deemed property held for the production of income.

The basis for depreciation would be the capitalized costs of the animal less a reasonable amount for salvage value. The guidelines established by the Internal Revenue Service provide that cattle held for breeding purposes may be depreciated over a period of seven years from the time the animal is first used for breeding purposes. While the guidelines are not mandatory, any departure from them must be substantiated by the taxpayer who claims a shorter useful life. By proper election, the investor may use the declining balance method of depreciation of cattle held for breeding purposes beginning at a rate twice the rate which would apply under the straight line method of depreciation, if such method is employed when such animal is first used for breeding purposes.

Depreciation does not begin until the depreciable asset is placed in service. Ordinarily, an animal held for breeding is not placed in service until it matures enough to be used for such purpose. The seven-year guideline probably starts when the animal first becomes useful for breeding. In the case of the Charolais heifer, it is not generally mature for breeding until it is 15 to 18 months old.

It should be noted that if all deductions attributable to a trade or business of the taxpayer exceed the gross income from such trade or business by $5,000 in each of five consecutive taxable years, then his income must be recomputed for those years under section 270 of the Code. The general effect of such a recomputation is to limit losses from the trade or business to $50,000 in each of the five years involved.

Gain on the sale of livestock held for breeding purposes will be taxable at capital gains rates if it is "properly used in the trade or business" of the taxpayer, and is held for 12 months or more. If breeding cattle are sold for the purpose of culling the breeding herd or pursuant to a dispersal sale of the entire herd, the gain, if any, may still qualify for favorable capital gains treatment. Net losses on such livestock in any taxable year would, if incurred, be considered ordinary losses, and would thus be deductible in full, and not subject to the $1,000 limitation on the deductibility of capital losses from ordinary income. The depreciation recapture rules of section 1245, subjecting the taxpayer to ordinary income treatment up to the amount of depreciation deducted, are presently inapplicable to sales of livestock. The investment credit is not applicable to livestock.

The foregoing description of the tax effects is predicated on the assumption that herd purchasers will be deemed to be in the trade or business of breeding and raising cattle. There is, however, no published ruling to this effect which would apply to a cattle investment program, and since the determination of a taxpayer's trade or business is a question of fact, the Internal Revenue Service apparently will not issue an advance ruling. In the event the Internal Revenue Service were to take the position that herd purchasers are not in the trade or business of farming, the cattle would constitute "capital assets", as that term is defined in section 1221 of the Code, thereby making applicable the $1,000 limitation on the deductibility of capital losses from ordinary income. At the same time, such a position on the part of the Internal Revenue Service would render applicable the six month holding period requisite to long-term capital gains treatment, in lieu of the 12-month holding period presently required in the case of livestock held for breeding purposes and used in the taxpayer's trade or business. Such a position would also render inapplicable the limitation on farming losses of $50,000 in five consecutive years, described more fully above, but would not affect the taxpayer's right to deductions for depreciation, feeding, and care. (It would, however, have the result of altering the taxpayer's adjusted gross income, a factor used in computing the limitations on medical and charitable deductions).

There can be no assurance that the tax effects described herein may not be changed by Congress. The advantages accruing to owners have long been the object of criticism on the part of the Treasury Department and certain Congressmen. The House of Representatives has recently passed H.R. 13270, the Tax Reform Act of 1969, which contains provisions which substantially affect a number of the tax considerations described above so that ordinary income might be realized in situations where capital gains rates would currently apply. The Act would also establish a presumption against profit expectation under certain circumstances so that losses currently available might not be deductible.

The foregoing analysis is not intended as a substitute for careful tax planning. Accordingly, the Company strongly recommends that each potential purchaser consult his own tax advisers in order that the effects of a purchase of cattle hereunder may be determined with specific reference to his own tax situation and any changes in the applicable law.

Mr. METCALF. Mr. President, I submit an amendment, intended to be proposed by me, to House bill 13270, and ask that it be printed and lie on the table.

The PRESIDING OFFICER. The amendment will be received and printed and will lie on the table.

ADDITIONAL COSPONSORS OF AMENDMENT

AMENDMENT NO. 304

Under authority of the order of the Senate of November 25, 1969, the names of Mr. MONDALE and Mr. Moss were added during the adjournment of the Senate, as additional cosponsors of the amendment No. 304, submitted by Mr. GORE (for himself and other Senators) to the bill (H.R. 13270) to reform the income tax laws.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, November 26, 1969, he presented to the President of the United States the enrolled 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.

NOTICE OF HEARING

Mr. HRUSKA. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, December 2, 1969, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nomination:

Clarence M. Coster, of Minnesota, to be an Associate Administrator of Law Enforcement Assistance, vice Wesley A. Pomeroy, resigned.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Mississippi (Mr. EASTLAND), chairman; the Senator from North Dakota (Mr. BURDICK), and myself.

NOTICE OF HEARING ON S. 2306

Mr. JORDAN of North Carolina. Mr. President, I wish to announce that the Subcommittee on Agricultural Research

and General Legislation of the Committee on Agriculture and Forestry will hold a hearing on S. 2306 Monday, December 8 in room 324, Old Senate Office Building, beginning at 10 a.m. The bill provides for the establishment of an international quarantine station and would permit the entry therein of animals from any country and the subsequent movement of such animals into other parts of the United States for purposes of improving livestock breeds. All those interested in testifying on the bill should contact the committee clerk as soon as possible.

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. BURDICK. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Robert W. Rust, of Florida, to be U.S. attorney for the southern district of Florida for the term of 4 years, vice William A. Meadows, Jr.

John Henry Schneider, of Virginia, to be an Assistant Commissioner of Patents, vice Gerald D. O'Brien, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Wednesday, December 3, 1969, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ECONOMIC CONVERSION HEARINGS, SENATE LABOR AND PUBLIC WELFARE COMMITTEE, DECEMBER 1 AND 2, 1969

Mr. EAGLETON. Mr. President, Senator YARBOROUGH has asked me to announce that he will conduct hearings of the full Labor and Public Welfare Committee on December 1 and 2 to consider problems of economic conversion.

I share Senator YARBOROUGH'S view that it is an appropriate time for the Senate to begin looking into problems of transforming those elements of our economy, presently dependent upon defense spending, to peacetime activities. Many of us have repeatedly made known our views on the need for ending the Vietnam war and establishing a system of national priorities that places greater emphasis on meeting our pressing domestic needs. There is a corresponding responsibility to inquire into the problems of economic dislocation that will inevitably result from a reduction in military spending and to prepare now to deal with those problems.

Both Senator YARBOROUGH and I agree that a subject of this magnitude will require us to hear the views of a great many people who will directly and indirectly be affected. Accordingly, these 2 days are the beginning of what we hope to be a most productive series of hearings.

The following are the witnesses that will appear at the first set of hearings next Monday and Tuesday:

Dr. Warren L. Smith, professor of economics, University of Michigan; former member of the Council of Economic Advisers.

Seymour Mehlman, Columbia University.

Dr. Wilfred Lewis, Jr., National Planning Association, Washington, D.C.

Walter P. Reuther, cochairman, Alliance for Labor Action, president, UAW.

Archibald S. Alexander, former Assistant Director, U.S. Arms Control and Disarmament Agency.

Nat Goldfinger, AFL–CIO.

ORDER OF BUSINESS

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

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

The bill clerk proceeded to call the roll.

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

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

A STEP IN THE RIGHT DIRECTION

Mr. PROXMIRE. Mr. President, yesterday President Nixon announced that the Nation will never engage in germ warfare, will destroy its stockpile of bacteriological weapons, and will limit research in this field to defensive weapons. We can all applaud this action as a step in the right direction. The world can breathe a sigh of relief knowing that the Nation has placed its prestige and power behind the forces that are attempting to rescue the world from the calamity of biological warfare. For, as we are all aware, if germ warfare is ever unleashed, no one will be the winner. This Pandora's box cannot be closed. So, it is with great appreciation that I thank the President today for the momentous step that he has taken.

In his announcement of this major decision, the President also said that he would ask the Senate to ratify the 1925 Geneva accord that prohibits its signers from first using poison gas. This accord has been signed to date by 88 nations. Although this Nation has never formally approved the accord, we have repeatedly stated that we would never be the first to employ such weapons in warfare. In recognizing the leadership responsibility this Nation has in the eyes of the world, the President thought it important that this Nation not only affirm its convictions through rhetoric, but also enter into an international agreement with other nations of like mind on this issue.

Furthermore, the President went one step further than the Geneva accord to state that this commitment against the use of poison gas would encompass a restriction against incapacitating chemicals as well. This broadening of the interpretation of the accord is obviously a dramatic means of demonstrating the determination of this Nation in alleviating the possibility of this form of war ever occurring.

I strongly believe that the President's decision to ask the Senate to immediately consider and ratify the Geneva accord points to the importance of affirming on an international level a national conviction. It is for this reason that I have continued speaking on the floor of the Senate day in and day out asking for the ratification of the Human Rights Conventions on Political Rights for Women, on Forced Labor, and on Genocide. Our Nation has affirmed these most basic rights on the national level. For their fullest importance, however, they must be affirmed on an international one.

Several Presidents have acted in the past. They have been unanimous in asking the Senate to agree, because only this body stands in the way of ratifying these conventions.

THANKSGIVING DAY

Mr. AIKEN. Mr. President, the first Thanksgiving Day was designated as a day to express thanks to the Creator for providing the New England colonies with a bountiful harvest.

And every year since then, the people of our country have recognized that this day is the time to express our gratitude for the good things which may have occurred since the last Thanksgiving Day.

Some years it has been difficult to find enough to be thankful for.

This year we are especially blessed with the many things which have occurred since November 1968.

I will enumerate only a few of them.

The war in Southeast Asia is waning with the withdrawal of our troops running ahead of schedule at this time.

The United States and Russia have simultaneously signed the Nonproliferation Treaty giving added hope for the prevention of widespread war in the future.

Our meeting with the Russians at Helsinki is off to a good start giving promise of still further progress to be made in our campaign against the scourge of war.

Our relations with Japan have been greatly improved by the proposed settlement relating to Okinawa.

President Nixon has outlawed germ warfare on behalf of the United States and will ask the Senate to ratify the Geneva Protocol of 1925.

We can be very thankful that because of the change in direction of our foreign policy, people seem to be more at ease and optimistic the world over.

And then we can give thanks for the fact that our six astronauts, four of whom actually walked on the moon, have all returned safely home.

And finally, the fact that we have so much to be thankful for on this Thanksgiving Day should give us strength and spirit to meet the challenges which still lie before us.

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

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

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. Presi-

dent, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following bills on the general orders calendar: Calendar Order Nos. 550, 551, 552, and 555.

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

ROBERT C. SZABO

The bill (S. 1678) for the relief of Robert C. Szabo was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1678

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Robert C. Szabo of Riverdale, Maryland, a retired supply clerk at the wholesale stamp window in the Washington, District of Columbia, post office, is hereby relieved of all liability for repayment to the United States of the sum of $4,326.16, representing the amount of a postage deficiency in his fixed credit account, the deficiency having been incurred in making exchanges of postage stamps following enactment of the Postal Revenue and Federal Salary Act of 1967, which provided for increased postal rates.

SEC. 2. (a) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the said Robert C. Szabo the sum of any amounts received or withheld from him on account of the deficiency referred to in the first section of this Act.

(b) No part of any amount appropriated in this section shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined any sum not exceeding $1,000.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–555), explaining the purposes of the measure.

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

PURPOSE

The purpose of this legislation is to relieve Mr. Szabo of a $4,326.16 liability to the Government for the shortage disclosed in his fixed credit account during an audit at the Washington, D.C., post office between February 26 and March 1, 1968.

STATEMENT

The Post Office Department has no objection to enactment of this legislation.

In its report to the Committee on the Judiciary under date of October 3, 1969, the Department states:

Mr. Szabo, the stamp supply clerk at the wholesale stamp window of the post office, had an assigned fixed credit totaling $347,770. As a result of the enactment of Public Law 90–206 (Postal Revenue and Federal Salary Act of 1967) authorizing increased postal rates, numerous requisitions for new stamp stock were received by Clerk Szabo. Stock at the old postage rate was exchanged for stock at a new rate, causing an influx in work that necessitated assignment of several temporary clerks to verify the count of redeemed stamps. During the first 2 weeks after the new rate became effective, $136,806.48 worth of obsolete stock was redeemed. Also, there was a shortage of new stamp stock in the metropolitan area which required that Mr. Szabo visit the Accountable Paper Depository to obtain stamps for his unit as soon as they were available.

This was the first time that exchange of stock was made incident to an increase in postal rates. The short span of time between enactment of Public Law 90–206 and its effective date did not allow post offices sufficient time to adequately staff and supply their offices to handle the increased workload. Consequently during this period the operating conditions, under which Clerk Szabo was required to perform these increased duties, were extremely difficult. Furthermore, Mr. Szabo's work record with the Post Office from 1941 was satisfactory. On this basis, the Department recommended to the General Accounting Office that credit be allowed for the $4,326.16 shortage in Clerk Szabo's fixed credits. The request for credit was disallowed.

The General Accounting Office found that Mr. Szabo could furnish no explanation of how the shortage occurred, and that no explanation was found in the investigation conducted by the Post Office inspectors. The Comptroller General's report stated that "an accountable officer of the Government is an insurer of the public funds (or accountable paper such as postage stamps, etc., here involved) in his custody and is excusable only for loss due to acts of God or the public enemy. This liability is unaffected by lack of negligence on the part of the accountable officer, or the absence of evidence that he misappropriated the funds or that the loss resulted from his fault."

In view of the unusual circumstances in existence at the time this shortage occurred, and in consideration of Mr. Szabo's long and satisfactory work record, the Department has no objection to relief bill S. 1678.

The committee, after reviewing the facts of this case, concurs in the conclusions of the Post Office Department, and accordingly recommends that favorable consideration be given to S. 1678.

REIMBURSEMENT OF CERTAIN PERSONS FOR AMOUNTS CONTRIBUTED TO THE DEPARTMENT OF THE INTERIOR

The Senate proceeded to consider the bill (S. 19) to reimburse certain persons for amounts contributed to the Department of the Interior, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That (a) the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Carlsbad Chamber of Commerce, Carlsbad, New Mexico, the sum of $3,300 as reimbursement for amounts contributed on or after December 15, 1968, to the Department of the Interior for the purpose of employing personnel necessary to keep Carlsbad Caverns National Park, New Mexico, open to the public every day of the week for the period of December 24, 1968, through May 1, 1969.

(b) The Carlsbad Chamber of Commerce, Carlsbad, New Mexico, shall identify any person who contributed for this purpose, determine the amount so contributed, and reimburse said individual in such amount so far as possible from funds authorized by this Act.

(c) The Carlsbad Chamber of Commerce, Carlsbad, New Mexico, shall furnish to the Department of the Interior a report showing the disbursements of the appropriation herein provided for within six months after the enactment of this Act.

Mr. MONTOYA. Mr. President, I wish to thank the distinguished majority leader, my good friend and colleague, Senator MANSFIELD, for expeditiously bringing this bill before the full Senate for a vote. This bill, S. 19, which I introduced on January 15, 1969, has been languishing far too long. It is a noncontroversial measure. It is a most worthy measure. It is a most judicious measure.

Without recounting all the details in their entirety, Mr. President, permit me to recall for my colleagues the action taken approximately a year ago to the day by the Department of the Interior which resulted in the closing down of all national parks and monuments for 2 days a week. This action was taken as an economy move, but in some instances, as pointed out on various occasions, the move was one of false economy. I say this because in the case of Carlsbad Caverns National Park, Carlsbad, N. Mex., the park was a moneymaking operation. To close it down for 2 days a week meant that the Federal Treasury would be denied the profits for those 2 days. This seemed utter folly and I sought to intervene. Unfortunately, the Park Service decision stood and Carlsbad Caverns, along with all the other national parks and monuments throughout the country were closed for 2 days a week during the period of December 24, 1968, and May 1, 1969. The caverns were closed for a total of 36 days during this period.

Regrettable though it was that the Federal Treasury should lose profits during the 2 days a week that the Carlsbad Caverns were to remain closed, this was but one of the complications presented by the Park Service's action. More devastating and crippling was the effect that the closing of the caverns had on the community of Carlsbad and the State of New Mexico, both of which rely heavily on tourism for income.

When I was unsuccessful in my efforts to have the Carlsbad Caverns Park remain open a full 7 days a week, I was able to work out an arrangement with the Park Service whereby private contributions would be made to the Park Service to permit them to hire two additional employees for 2 days a week. This, the Park Service explained, would permit them to have sufficient personnel on board to keep the Carlsbad Caverns open 7 days a week. The Carlsbad Chamber of Commerce came to the rescue and was able to collect a total of $3,200 in contributions, the amount which the Park Service indicated it would need to keep the Caverns open 7 days a week.

I wish to stress, Mr. President, that the $3,200 was contributed without any strings attached and no promise or hope of remuneration. I wish to stress this point, Mr. President, because I feel it is noteworthy that those individuals who contributed did so out of a community spirit and not because they felt they had a sure investment. However, despite this fact, as I stated in intro-

ducing the bill on January 15, 1969, to reimburse them:

I think it ill behooves this Congress to sit idly by and watch while a few citizens scrimp and scrape to come up with the necessary financing to keep a national park open so that it can continue to return revenues to the Federal treasury, to the State of New Mexico, and to the local citizens affected. This is a national park and a national responsibility.

I believe that this statement summarizes the justification for passage of S. 19. However, let me insert at this point in the RECORD a letter from Under Secretary of the Interior Russell E. Train in response to questions I raised of the Secretary. In short, the letter indicates that during the 36 days that the Carlsbad Caverns were kept open by private contributions, total expenses amounted to $4,820—of which $3,200 were covered for by private contributions—and total revenue received amounted to $21,787.50. The Federal Treasury has been enriched by almost $22,000 because of the private contribution of $3,200. If we reimburse the $3,200, plus $100 for interest, the Federal Treasury will still profit approximately $18,500 it would not have profited otherwise. What more justification do we need?

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

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 23, 1969.

Hon. JOSEPH M. MONTOYA,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MONTOYA: This is in further reply to your letter of June 5 requesting information concerning Carlsbad Caverns National Park, New Mexico. We are pleased to furnish the following data, tabulated in the same order in which the questions appear in your letter:

"Total number of days that the Carlsbad Caverns were kept open as a result of private contributions between the period Dec. 25, 1968, and May 1, 1969, 36.

"Total amount of such contributions made available to the National Park Service, $3,200.00.

"Any expenses which the National Park Service has incurred as a result of keeping the caverns open on those 2 days a week in question that the NPS would not have incurred anyway had the caverns remained closed."

The contributions from private citizens were used to pay additional employee salaries required to keep the park open	$3,200.00
Additional expenses that would not have been incurred had the park remained closed (primarily utilities, transportation, and supplies)	1,620.00
Total additional expenses	4,820.00
The total revenues received for those 2 days a week during the above-mentioned time period	21,787.50

Your continuing interest and support of the programs of this Department are greatly appreciated. We hope this information will be helpful to you.

Sincerely yours,
RUSSELL E. TRAIN,
Under Secretary of the Interior.

Mr. MONTOYA. Mr. President, I am greatly distressed that it has taken this long to bring this measure before the Senate. I have had the fullest of cooperation from the Senate Judiciary Committee. Unfortunately, however, they did not receive the Departmental report until August 19, 1969, although it had been requested on February 7, 1969. Other unavoidable delays have also contributed to delay of this proposal by Congress. Let us not delay any longer. I ask for the support of my colleagues in the Senate and also call upon our colleagues in the House to give prompt attention and approval to S. 19.

In short, Mr. President, S. 19 merely provides that the $3,200 contributed by private individuals plus $100 interest be reimbursed by the Secretary of the Treasury to the Carlsbad Chamber of Commerce for their distribution to contributing individuals. This is a fair measure and I ask for your support.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–556), explaining the purposes of the measure.

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

PURPOSE OF AMENDMENT

The purpose of the amendment is to authorize the payment to the Chamber of Commerce of Carlsbad, N. Mex., for the reason that it was prime recipient of the designated fund and therefore should be the agency for the disbursements of such fund.

STATEMENT

According to information received from the sponsor of S. 19, Senator Montoya, the Park Service had been forced to close down all national parks and monuments on 2 days a week due to the employee limitations imposed by the Revenue and Expenditure Control Act of 1968.

The Carlsbad Caverns, located in Carlsbad N. Mex., relies heavily upon the tourism to the caverns. The area was already depressed as a result of the closing of the potash mines, so that tourism was the major source of revenue.

Senator Montoya indicated that after weeks of discussion with National Park Service officials, the Secretary of the Interior, and the President, he was finally able to work out an agreement whereby the Carlsbad Caverns were to be reopened on a full 7-day weekly schedule provided that local citizens would come up with private contributions to pay the extra personnel costs. Accordingly, the Chamber of Commerce of Carlsbad raised $3,200 on which they had to pay $100 interest in order to keep the caverns open from December 25, 1968, through April 30, 1969. The caverns were kept open on 37 days during which they would otherwise have been closed. According to Senator Montoya, this information was supplied by the Carlsbad Chamber of Commerce which spearheaded the effort to keep open on a full schedule this particular national park.

The chamber of commerce compilation shows that during the 37 days mentioned, the Federal Government took in the sum of $22,264.50 and the Federal Treasury has been enriched by this amount. If the chamber of commerce is reimbursed in the sum of $3,300, it will leave a net gain of nearly $19,000 in the Federal Treasury.

While it is clear that there was no agreement between the U.S. Government and the people of Carlsbad for a return of their investment, it appears to the committee in all equity that this claim should be considered favorably, particularly in view of the fact that as a result of their action, the Federal Government has obtained for the Treasury nearly $19,000 it would not have otherwise received.

The Department of the Interior report indicates that the Department would defer to Congress as to whether, in retrospect, those circumstances are such as to justify repayment of the donated funds. The committee after a review of the foregoing and keeping in mind the fact that the city of Carlsbad obtained certain revenues to its businesses from the operation of the caverns, believes that with the addition of $19,000 to the Federal Treasury due to such operation, that those parties investing their moneys to keep such caverns open should be reimbursed to the extent accorded in this legislation.

The amendment was agreed to.

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

J. BURDETTE SHAFT AND JOHN S. AND BETTY GINGAS

The bill (H.R. 9906) for the relief of J. Burdette Shaft and John S. and Betty Gingas was considered, ordered to a third reading, read the third time, and passed.

INTEREST RATE INCREASE ON U.S. SAVINGS BONDS

The bill (H.R. 14020) to amend the Second Liberty Bond Act to increase the maximum interest rate permitted on U.S. savings bonds was considered, ordered to a third reading, read the third time, and passed.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on November 25, 1969 the President had approved and signed the act (S. 1072) to authorize funds to carry out the purposes of the Appalachian Regional Development Act of 1965, as amended, and titles I, III, IV, and V of the Public Works and Economic Development Act of 1965, as amended.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. METCALF) 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.)

THE FINANCIAL STATEMENT OF SENATOR MOSS

Mr. MOSS. Mr. President, in accordance with a practice I adopted several years ago and have followed faithfully, I am again making public disclosure of my income and assets. My statement of last year appears in the CONGRESSIONAL RECORD, volume 114, part 5, pages 6112–6113. I have not observed a specific anniversary date but have managed to make my statement on approximately an annual basis.

The statement that I file this year is not appreciably different from what it was last year. During the course of the year, I sold my home in Chevy Chase, Md., and purchased a home in the District of Columbia. There is a slight difference in the value of the two homes, which shows up on the statement, but everything else is much the same. I have practically no income beyond my Senate salary and my assets are so very modest that some Senators may wonder why I make this information public. I do so because I feel that all public officials owe it to their constituents to report to them at regular intervals their full income and assets.

Last year the Senate adopted a disclosure-of-assets rule but then provided that the "disclosure" not be made public. It is filed away in a sealed envelope. I then expressed my displeasure at a system that thwarted the very purpose for which it was supposedly installed. What can the constituents learn about the economic income and assets of a Senator if the facts and figures remain sealed in an envelope held by a Senate custodian? In the Senate, we require executive appointees to disclose their assets and income. I think that Members of the Senate and House owe it to their constituents to do this as a self-imposed regulation.

Because I believe in this course, I ask unanimous consent that my financial statement be printed in the RECORD. I should add that my wife has no income or earnings separate and apart from mine; therefore, the accounting applies to us both.

Financial statement, Nov. 26, 1969

ASSETS

Average checking accounts, Riggs	$1,000.00
Lot in Holladay, Utah	750.00
Lot in Salt Lake City, Utah	8,000.00
1965 Ford	600.00
Five shares stock—Standard Oil of California	250.00
One share stock—ATT	50.00
Savings account—Oriental	700.00
Equity—house in Washington	39,300.00
Equity—house in Salt Lake City	10,500.00
Total	61,150.00

LIABILITIES

Mortgage—house in Salt Lake City	20,500.00
Mortgage—house in Washington	6,700.00
Loans—insurance policies	4,400.00
Notes—personal	12,500.00
Total	44,100.00

AMERICAN LEGION SUPPORTS PRESIDENT

Mr. DOLE. Mr. President, I am pleased to note every day a growing number of Americans voicing their support of President Nixon's efforts to bring about an honorable and just peace in Vietnam. It has just come to my attention that the national executive committee of the American Legion has approved a resolution strengthening and updating the American Legion's position on the war in Vietnam, and pledging their support to our President. I ask unanimous consent that the text of this resolution be printed in the RECORD.

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

RESOLUTION No. 2

(Support the position of the President of the United States for an honorable and just peace in Vietnam)

Whereas, A unified people is an absolute necessity for any nation to fight a war or to bring about a peace with honor; and

Whereas, There exists a vocal and militant minority in our land who oppose the Vietnam War and who create disunity in our nation, thereby endangering the lives of our fighting men, and prolonging this conflict; and

Whereas, The President of the United States in a TV broadcast on November 3, 1969, did outline his position for a peaceful solution of the Vietnam War and appealed to the silent majority for their support; and

Whereas, The American Legion is confident that a vast majority of the American people support any move for a just and honorable peace consistent with the security of our country; now, therefore, be it

Resolved, by the National Executive Committee of The American Legion assembled in Minneapolis, Minnesota, November 10 and 11, 1969, that we support the position of the President of the United States for an honorable and just peace of the Vietnam War consistent with the continued maintenance of the security of our country; and be it further

Resolved, that Departments and Posts of The American Legion in cooperation with its American Legion Auxiliary proclaim their support and initiate programs which will reassure our fighting men of public support, and which will indicate to the enemy and to the militants and revolutionaries our resolve for a peace with honor; and be it further

Resolved, that each Post and each Unit be urged to circulate pledges of support for the President's position in Vietnam consistent with our nation's security; that signed pledges be forwarded to The American Legion's Washington Office on a definite date (to be determined by the National Commander) for delivery to the President and to the Congress.

THE ALASKA NATIVE LAND ISSUE

Mr. MONDALE. Mr. President, an extremely significant issue that will soon come before the Senate involves the efforts of the natives of Alaska to secure a final and just settlement of their rights to their ancestral lands. A series of articles published recently in the Anchorage Daily News covers in considerable detail the complex aspects of the Alaska native land issue. I found the series to be highly informative. I ask unanimous consent that the articles be printed in the RECORD.

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

[From Anchorage Daily News, Nov. 9, 1969]

THOSE NATIVE LAND CLAIMS HEAD FOR A CLIMAX

This is a crucial month in the history of Alaska.

By its end the United States Ninth Circuit Court of Appeals will have heard the land freeze case.

And for the first time in 102 years a Senate Interior Committee will seriously address itself to the still unresolved question of compensation for Native land rights.

On November 13 the Interior Committee will begin a series of "mark-up" sessions designed to produce a bill acceptable to the state, the Native people, the federal government, and Congress. The House Interior Committee, following its historic October visit to Alaska, is expected to wait for the Senate before considering legislation.

Because the present and future welfare of the Native people is at stake, because Alaska land is involved, and because efforts for a generous settlement test our social and moral sensibilities, it is important that all Alaskans have a clear understanding of the issues.

For our part, we are creating a team of reporters in Washington and Alaska to cover this story. We believe concentrated team reporting is required because it now appears that an "information gap" exists between what the facts are and what Alaskans are being led to believe.

This information gap has been fed by exaggerated, hysterical, racist reactions to some of the proposals advanced by the Native leadership. That there should be such a gap at all is passing strange, for the facts speak for themselves, and Alaskans should and can know them. It is therefore preposterous to suggest that there is some sort of conspiracy afloat to keep the Native proposals . . . or any proposals . . . from the people of Alaska. Anyone wishing relevant material can get it for the asking.

We hope informed Alaskans will want to avail themselves of this prime source material, including:

The Legislation: bills and amendments reflecting the Federal Field Committee's recommendations, the Interior Department's amendments, and the AFN proposals. (Write Senators Stevens and Gravel or Congressman Pollock or buy the October 10 edition of the Tundra Times which most land claims "experts" and its 6000 Alaskan subscribers know reprinted the AFN bill in full.)

Alaska Natives and the Land: the monumental study of the Natives' plight (Available at the Federal Field Committee, Hill Building, Anchorage.)

The House Interior and Insular Affairs August–September 1969 Hearings: this indispensible volume contains legal briefs and in-depth statements of all positions. (Write Congressman Pollock).

The Senate Interior and Insular Affairs Hearings Part I. (April 1969) and Part 2 (August 1969): same as the House hearings, very useful studies. (Write Senators Stevens and Gravel).

Legal Memorandum Supporting the Native Proposal: the case for legal rights and the overriding royalty as presented by some of America's most distinguished lawyers. (Write AFN, 1689 C Street, Anchorage).

Legal Memorandum Supporting the State's Position: the case against legal rights and the override as analyzed by G. Kent Edwards and W. C. Arnold. (The former's position is included in the House hearings, the latter's appears sporadically in the Anchorage Times).

Native Alaska: Deadline for Justice: AFN brochure receiving national distribution. (Write AFN, as above).

The Tundra Times: the Native newspaper which deserves a greater circulation among non-Native Alaskans. (Box 1287, Fairbanks, Alaska, 99701).

Not every Alaskan can be conversant with all the above material. But reviewing a few or even one of these sources (The House hearings are as good a start as any) provides a useful framework by which to interpret for oneself the legislative effort. Moreover consideration of these materials can only serve to elevate discussion of the land claims to the level of rational, informed dialogue. And that's where the discussion belongs.

Informed debate is true to the Alaskan spirit. And it can only help all of us join together in reaching a satisfactory understanding and resolution of the most crucial question in the State.

[From the Anchorage Daily News, Nov. 10, 1969]

THE MORAL CASE FOR THE NATIVE CLAIM

Few will argue that the United States government does not have a moral obligation to

reach an equitable settlement with Alaska's Native people.

While most thinking Alaskans will acknowledge this self-evident fact, there are some Alaskans who seriously question the legal basis for the Natives' case. There is little hesitation to accept the moral argument, on grounds that if it is a moral obligation, and not legal, there need be only a modest, even token, settlement.

By seeking any peg on which to hang a cheap settlement—or avoid one altogether—these Alaskans seek to perpetuate an ill-conceived, inequitable arrangement which has reduced a once proud, land oriented people to second class citizenship. It is at once astonishing and saddening to see the moral underpinning of the Native's case perverted to such an end.

We suspect that many Alaskans are weary of reading how bad things are in the villages; how depressing is the Natives' plight. But like it or not, this is a crucial consideration against which Congress and all concerned Americans will weigh the Native claims.

Bear in mind that this is the last major Indian land settlement Congress will act upon; that Alaska's Natives comprise a substantial percentage of the American Indian population; and that many citizens are finally realizing that our treatment of the first Americans is a shameful blot on our nation's history.

The Alaskan Native story had its beginning thousands of years ago with the settlement and use of the great land by Eskimos, Indians and Aleuts. It records a flourshing culture, an exciting history, and an incredible ability to persevere. It proceeds through colonization by Russia and the purchase of that Russian colony by a young America in the name of manifest destiny.

And the story embraces an acknowledgement by the U.S. Congress in 1884 of the Natives' right to his lands, but postponing to some future date the conveying of title to those lands.

As the Federal Field Committee report again and again shows, it was the white man who brought disease to the Native community; it was the white man who introduced ideas alien to the Native culture; it was the white man who invaded and destroyed age-old hunting and fishing resources. The Native family was subjected to stresses, strains and discontinuities beyond bearing.

At the same time, because it was believed "best," efforts were made to deny the Native his culture, extinguish his language, and sever him from his past. Why? In the confident assumption that the Native was inferior and that this was the only way he could move forward.

Well-motivated or not, this policy imposed by the federal government and sanctioned by Alaskan citizens, has led to the deplorable conditions so apparent today . . . no land holdings, poor education, bad health, malnutrition, limited expectations—and hopelessness.

We know now through science and medicine that what has happened to the Native could have happened to any of us. The Native has problems today not because he is Native, but because he is human.

The extraordinary thing is that the Natives have been able to organize and press for the redemption of Congress' old pledge. They seek some part of their now taken lands, and through the land they seek the dignity and the self-respect which their heritage demands, and our constitution guarantees.

They present their treatment as a test of America's conscience at a time when many in this state will share in an unprecedented economic boom brought on by the discovery of vast wealth in traditional Native lands.

They seek justice.

And we believe that justice for the Native lies not merely in the vindication of his legal rights. More than that, justice is the recognition that the moral claims are real, that for too long Congress, Americans and Alaskans have denied the Natives a chance to share as Americans in the progress of our state and nation.

THE LEGAL BASIS FOR THE NATIVE CLAIMS

The difficulty in understanding the legal issues behind the Native land claims controversy lies in the appearance of complexity.

Quite properly in presenting their case to Congress and the courts, the Natives have buttressed their position with case law, statutes, and legislative history. Unfortunately for most Alaskans this has obscured the fact that Native claims involve fundamental principles and an argument which, when stripped of its legal jargon, proceeds in simple logical fashion.

As understood by most lawyers the legal framework by which to judge the issue is as follows:

The Natives have used and occupied much of the lands of Alaska since time immemorial. This creates what's known as aboriginal title.

Aboriginal title exists even if the land claimed is not the site of a permanent camp, is only used on a seasonal basis for a subsistence, is used for traveling to subsistence, is claimed jointly with another Native group, or by a village, or supports a small Native population. Moreover even if there is no productive purpose to the land if it lies within a larger area controlled by Natives, then it too, is held under aboriginal title.

And with aboriginal title goes all surface, mineral and water rights.

Historically, it has been the policy of Congress and the courts to respect and protect the Indian's use and occupancy of the land over which he exercises dominion. On the other hand it has also been recognized that Congress has the right to extinguish aboriginal title.

Unless Congress acknowledges the aboriginal title by statute and provides some mechanism for compensation, extinguishment does not give rise to any compensable rights. This was the holding of the Tee-Hit-Ton case where in 1955 the Supreme Court said that Congress had not yet recognized aboriginal title as a Fifth Amendment property right protected against government taking or extinguishment.

But the Court in Tee-Hit-Ton did describe the right of aboriginal occupancy as "a right of occupancy which the sovereign grants and protects against intrusion by third parties."

By so doing the Supreme Court once again acknowledged another long line of Indian law precedent. Against third parties aboriginal title is still good unless extingushed by the United States even when applied to the grant of public lands to a state. And this right had been held judicially enforceable.

In any case, if Congress extinguishes title, it's necessary to arrive at some measure of compensation. In the Tlingit and Haida case of last year, the ninth circuit said that the measure was to be the time of taking; the standard to be fair market value; and the value to be the same as if the land was held in fee simple and not the value to its primitive occupants relying upon it for subsistence.

With this in mind consider the two legal aspects of the Native land claims issue:

The Natives claim much of the state under aboriginal title. The prestigious Federal Field Committee for Development Planning in Alaska, in its authoritative study, Alaska Natives and the Land, has said that "the aboriginal Alaska Native completely used the biological resources of the land, interior and contiguous water in general balance with their sustained human carrying capacity . . ."

And in the key sentence in its study of Native land rights, the Federal Field Committee concluded that "Alaska Natives have a substantial claim upon all the lands of Alaska by virtue of their aboriginal occupancy . . ." (Emphasis in original.)

To be sure the Field Committee report was not designed to be tested as a legal document. But it reflects thousands of hours of careful work and study and comports with those few cases concerning use and occupancy of Alaska Natives.

The natives, however, are not seeking at this time to assert their rights to aboriginal title against the United States. Since, apparently no legislation has acknowledged Native rights to compensation (legislation has noted aboriginal title), Tee-Hit-Ton, unless overruled, would seem to bar a direct suit.

Instead the Natives are seeking a traditional legislative settlement which would in effect transfer their aboriginal title into fee simple for some lands, and compensate them for renouncing justifiable claims to other lands. Such an approach is consistent with the Congressional policy of extinguishment through negotiation.

The Natives argue that a legislative settlement is in everyone's interest, since their aboriginal rights are still good against the state and can block its efforts to select public lands. (Remember, unextinguished aboriginal rights are protected against third parties.)

This, finally, gets around to the second aspect of the claims—the land freeze. There are procedural issues in the land freeze case, any one of which could support a decision. But the heart of the matter is land rights.

The case asks: did Congress in the Statehood Act give the State the power to extinguish aboriginal title subject to subsequent legislation? Or is the State a third party against which the Native land rights are good in every respect?

All this goes back to two provisions in the Statehood Act. In one the State disclaims all right and title to land which may be held by the Natives. In another the State is allowed to select lands for itself.

The question is whether Congress knew the State would select lands claimed by the Natives and thereby meant for the State to extinguish title, or whether Congress meant that any State selection of Native land would not extinguish title until Congress got around to doing so.

The government and the Natives say Congress did not extinguish title; the State says it did. And the land freeze rests on the outcome.

This then is the legal background of legislation and litigation against which the Native claims are proceeding. We think there is merit in the Natives' claim of aboriginal title to much of the State. And we suspect, though it is a close question, that the Ninth Circuit Court of Appeals will maintain the land freeze.

But our principle purpose in presenting all this is not to take sides. We want to see spelled out clearly and simply exactly what's happening. As we have said time and time again this is too vital an issue to be discussed irrationally and by the uninformed.

HOW THE LAND CLAIMS BILLS COMPARE

There are three pieces of Native land claims legislation before the Congress of the United States. And for the first time in 102 years injustices that have been visited upon the First Alaskans seems headed for resolution.

The Alaska Natives call it a "deadline for justice." And that's what it is, because the land freeze—which offers the Natives muscular leverage—runs out at the end of 1970, unless it is extended.

The freeze was first imposed by former Secretary Stewart Udall over the violent objections of the then Governor of Alaska, Walter J. Hickel. As the price for his own

confirmation as Secretary of the Interior in the Nixon Cabinet, Mr. Hickel agreed to an extension of the freeze through 1970.

The freeze will be lifted, of course, when the claims controversy is settled by the Congress. And that's why—after 102 years—it's described as a "deadline for justice."

Here are the three bills:

S. 1830. The Federal Field Committee's thinking about a proposal as prepared at the request of Senator Jackson and introduced by Senators Jackson, Stevens and Gravel.

HR. 13142: The Department of the Interior's proposal introduced by Congressman Pollock.

HR. 14212: The Natives' proposal introduced by Congressman Pollock and introduced in the Senate as an amendment to S. 1830 by Senators Stevens and Gravel.

The State has not formally produced a bill, although Governor Miller has commented on some aspects of these proposals.

As we pointed out in an editorial Sunday, any Alaskan can get a copy of these bills by writing the state's Congressman or Senator. Since then, the Federal Field Committee has published a Comparative Analysis, prepared by its very able staff counsel Esther Wunnicke. Add it to the list of recommended reading we published Sunday.

A careful review of Mrs. Wunnicke's analysis and the legislation leads to one surprising conclusion.

A broad consensus on the framework for a legislative settlement has already been reached. The similarities between the proposals far outweigh the dissimilarities.

THE LAND

For example, all proposals recognize the right of the Natives to certain lands in Alaska. The question is how much and with what type of title.

Interior's bill calls for restricted title in the Native villages of 12 million acres (no gas or oil rights) selected at the same time the state picks its 103 million acres. The Field Committee would grant fee simple title with full mineral rights as well as hunting and fishing protection, to 5 million acres. The Natives seek 40 million acres of fee simple title with mineral rights in the proposed regional development corporations.

THE CASH

All bills recognize that justice calls for compensating the Native in cash for lands taken and claims renounced. Again the issue is how much.

The Interior proposal says $500 million over 20 years without interest. (Alternatively this could be considered a dollar for each acre claimed, or $340 million with interest over 20 years). The Field Committee would guarantee a federal payment of $100 million with a ceiling of $1 billion, contingent on Federal oil and gas royalties and the opening up of Naval Petroleum Reserve Number 4 on the North Slope, all paid out over 10 years without interest.

The Natives ask $500 million ($1.50 an acre) paid over 9 years at 4 per cent interest, and a 2 per cent residual royalty on gross revenues from Federal lands to which Native title is extinguished.

SUPERVISION

All bills acknowledge the failure of previous Indian settlements which more often than not squandered the economic benefits of a cash-land settlement through individual payouts. The proposals contemplated Native development corporations. The questions revolve around composition duration, and federal supervision.

All three bills call for as a beginning procedure, a commission which will oversee land selection and enroll Native Alaskans.

The Interior bill projects an Alaska Native Development Corporation governed by nine directors, five of them Presidential appointees and four elected by the Native stockholders to manage and invest funds for 20 years. The Field Committee proposes a statewide Native Development corporation governed by an 11-man board, four of them Presidential appointees, four Native representatives, and a three-man enrolling commission. Staggered terms result in a Native majority in three years.

The Native bill proposes a three-tiered corporate structure. A statewide 12 man group would distribute 95 per cent of its funds to 12 regional corporations, proportionate to regional population. Each regional corporation, in turn, would distribute 80 per cent of its funds to the village corporations, proportionate to village population. Mineral proceeds to which regional corporations acquire patent go 50 per cent to the acquiring corporation and 50 per cent proportionally to all regional corporations.

The state at different times has supported revenue sharing, a fair distribution of lands and money to the Natives, and the regional corporation concept. Recently, however, Governor Miller expressed the view that the issue should go to the Court of Claims (where it could be brought up for years). He also suggested state selection of lands around and for Native villages, and a cash contribution to the Native corporations to be appropriated by the legislature.

The differences in these settlement proposals . . . the Governor's statement excepted . . . are differences of degree. Of course, there are a lot of degrees between 5 million and 40 million acres. But apparently a floor has been set.

No one really expects that the final result will be all that any party wants. The point is that the legislative process is now at work.

And key to that process in our pluralistic society is compromise. If there is going to be a settlement, then everyone is going to have to give.

To use a familiar metaphor: Both the Natives and the Governor recognize that their positions most likely outline the dimensions of the ball park. It is in that ball park that the settlement will be made.

The Natives are willing to play the game and stake their clear rights against a legislative settlement. We think that it's in the best interests of all Alaskans that their recourse to the legislative process continues to have everyone's support.

At the same time we think Alaskans should involve themselves in this process and we believe they can best involve themselves by first knowing the facts.

That's what this series of expository editorials is all about.

Another word about the Natives bill: whether some Alaskans realized it or not, it honors former Supreme Court Justice Arthur Goldberg to call H.R. 14212, "The Goldberg Bill." If enacted, the land claims settlement will be an historic achievement, a legislative benchmark.

But the fact is that the AFN proposal is the Natives bill. As most knowledgeable followers of the issue know, many of the substantive proposals, including the overriding royalty, were generated by the Native leadership and their local advisors.

And as anyone traveling in the bush lately knows, the bill's provisions have wide support.

Referring to the legislation as "Goldberg's Bill" disguises the fact that this is what the Natives want. And it is ridiculous for a disdainful few to imply that a distinguished American of broad public vision is craftily trying to foist the legislation upon the Natives or upon all Alaskans.

WHAT THE 2 PERCENT ROYALTY IS ALL ABOUT

There's more confusion about the natives' 2 percent override proposal than any other issue surrounding the land claim's problem.

Like many of the other issues, this one has been shrouded in legalisms and clouded by charges which exploit racial fears. While it seems complex, we think it is vital that Alaskans understand the override and weigh what the Alaskan Natives are going up against what they proopse in exchange.

The 2 percent royalty override really applies to the gross value of minerals developed from federal, and after selection, state oil and gas leases.

Presently under the Federal Mineral Leasing Act there is a 12½ per cent royalty on minerals (oil and gas) from federally leased public lands. This is split 90–10 in favor of the state. On state lands the state takes the full 12½ per cent.

The proposed override would increase the royalty cost to developers of federal and state mineral leases in Alaska by about 2 per cent. (The state could, of course, reduce its share to maintain royalty revenues at 12½ percent, but we doubt it would ever do this.)

Some argue that this higher royalty will make the cost of Alaskan federal and state oil and gas leases noncompetitive. It's hard to imagine this happening in view of the exploration and development costs the oil companies are already prepared to incur to tap the state's vast riches.

In any case, the petroleum industry generally is willing, when it scents oil, to lease outer continental shelf and American Indian lands at the higher 16½ precent figure. And most Alaska lands involve Indian claims.

Other Alaskans are concerned because they see "hundreds of billions of dollars" going into Native pockets.

To be sure it may be reasonable to question a 2 per cent grant in perpetuity. But we doubt if even Alaska's mineral resources are so great . . . measured by "forever" . . . that they could yield such extravagant sums.

And if they ever did, Alaska and every Alaskan would be so fantastically wealthy that it wouldn't make any difference. Most Alaskans, we suspect, would be grateful that the Natives had relinquished their legitimate claims for what would be, on that scale, a modest price.

But let's look at the figures: In order for the override to bring the Native $100 billion, lands to which the Natives have aboriginal title must produce $5 trillion worth of gross valued minerals. And while the Natives are getting their share, the state is taking in five to six times as much. That's $500 to $600 billion on royalties alone.

This figure does not include the state's share from the present severance tax which would add another 200 billion dollars or so. Any substantial raise in the severance tax could lift the Alaska return to a level which would make Kuwait look like Appalachia.

The state argues that the grant of such a royalty, on public land, would be unconstitutional. The state insists that such a grant would constitute an amendment to the Mineral Leasing Act, which was incorporated into the Statehood Act, which in turn was incorporated into the Alaska Constitution.

Moreover, the state does not recognize that the Congress is impowered to impose a royalty on state selected lands not subject to the Mineral Leasing Act.

The Department of the Interior says that the Mineral Leasing Act can be amended with respect to federal lands remaining in Alaska after state selection. But the department does not concede that the Natives' share can be imposed on any of the 103 million acres the state might select.

The Natives say that the Mineral Leasing Act can be amended, and argue that no compact exists between the United States and Alaska. Thus any lands selected by the state can also be covered by the overriding royalty if Congress so determines.

THE NATIVE CLAIMS ISSUE IS A TEST OF CONSCIENCE

The Daily News has undertaken this week's seven-part expository series of editorials to narrow the information gap which has led many Alaskans away from the central issues of the Native land claims problems down the dark trail of half truths and racial fears.

Our effort has been directed at elevating the discussion, by non-Natives and Natives alike, the high road of informed concern.

The legislative process is fundamentally one of compromise and accommodation. It requires time and patience. Yet we are distressed to discover that at an early stage in the proceedings some positions are regarded as absolute, when in fact there is ample opportunity for reasoned debate and modification of rigid attitudes.

The raising of the settlement floor from the Federal Field Committee's proposal to the Interior Department's bill attests to that.

The tragedy of the barrage launched at the Natives' proposals is their polarizing effect. This works not only on those reacting to a proposal but on its proponents as well. The final price is the loss of a climate of accommodation.

This bleak process can be stopped if we all try to make a serious effort to understand what's happening. A starting point is the legal and moral issue.

Most Alaskans can see the moral case for settlement with their own eyes, without ever visiting the bush. They can compare Native life to our affluence and growing promise of wealth. The extent to which this is persuasive depends on the prodding of an active conscience. It should penetrate the federal government's problem.

Like it or not, Alaskans have accepted, participated in, and benefited from a system which has destroyed a peoples' culture and heritage. Had Alaskans or our fellow Americans refused to go along with the government's treatment of the Natives or had the white man actively pressed for an earlier settlement, there would be no confrontation today.

But we didn't.

The legal case requires some time and study. To us the Natives' claim of aboriginal title to much of Alaska, confirmed by the findings of the Federal Field Committee, seems valid. Lawyers say that while Congress could extinguish aboriginal title and leave the Natives uncompensated, this procedure is generally not followed. And unextinguished aboriginal title has always been considered good against third parties.

The Natives argue that the state is a third party here, and that Native claims are good against it. The state says the Statehood Act allowing state land selection extinguished their title.

These arguments figure in the land freeze case which was argued Friday before the Ninth Circuit Court of Appeals. And they will necessarily be weighed by Congress in reviewing the scale of compensation asked, and the royalty override.

Without reiterating these points (see Installments 3, 5 and 6) we think the legal and moral case comes out on the side of the Native claims.

Accordingly we support a fair and generous settlement not only because we're persuaded by the Natives' case but also because we think it will be good for Alaska. Because:

Settlement allows the Native to face the future as the master of his own destiny, with the dignity and respect his heritage and our Constitution demands.

It will lift the land freeze and let Alaska get on with its development.

It demonstrates that Alaska and America are willing to do the moral and honorable thing for the forgotten American.

Finally, through education, better health, job training and economic developing, a settlement will significantly improve the Native's lot. Lifting a quarter of the state up from poverty levels will benefit all Alaskans enormously.

In the end, the real question here has to be one of degree: How much land, money, override and supervision can make a viable legislative package which will equitably resolve the problem once and for all?

That is why we think the Natives are right in seeking an override, or revenue sharing. It's not enough for a people to renounce valid and extraordinarily rich claims, only for their children to see undreamed of wealth taken from their lands.

(Among other contributions the Federal Field Committee has made to the resolution of this issue, was the vision to see the importance of giving the Native people a continuing share in the wealth of their renounced lands.)

As for land and money, we believe it should be sufficient to meet the above criteria, as well as to provide an adequate base for future self-development. We're glad that the floor between government and Natives is narrowing here.

Specifically, we think the Native figures of $500 million and 40 million acres are not unreasonable. We recognize, however, that there is room to give. And the Natives recognize it, too.

The same bargaining stance applies to the mechanism for implementing a settlement. Regional corporations may be one answer, but at the price of the override or significant land grants, they may not.

The legislative process, involving such choices, will test the Natives' pride, cohesive spirit and judgment. Decisions of great future consequence will have to be made . . . now.

But the Native is not the only one being tested by the decision to seek a legislative settlement. The American system, the American code of ethics is being tested, too.

And after all this is over we'll have to share the same land, breathe the same air, walk the same earth. As Alaskans. As brothers.

TAX TREATMENT OF PENSION AND PROFIT SHARING PLANS

Mr. SMITH of Illinois. Mr. President, all of us are in favor of tax reform. None of us want it to come at the expense of smaller taxpayers.

Therefore, I want to indicate to the Senate my intention to offer next week an amendment to the tax reform bill to relieve the effort of section 515 of any qualified pension or profit-sharing plan that should be taxed as ordinary income at the time of receipt should a taxpayer elect to receive his benefits as a lump-sum distribution. The appreciated value of the taxpayers and employers contributions would continue to receive capital gains treatment.

Under present law the entire lump-sum distribution exclusive of the taxpayer's own contribution which is taxed each year receives capital gains treatment. If a taxpayer elects to receive his pension or profit-sharing benefits on an annuity basis the installments distributions are treated as ordinary income in the year received. The reason for my amendment is to protect the many thousands of small taxpayers who receive lump-sum distributions from pension and profit sharing and so-called thrift plans. They look to these plans as a method of providing a nest egg upon their retirement. It seems to me totally unfair to attack these retirement nest eggs of small income taxpayers with a rather substantial tax increase the first year of their retirement.

Furthermore, under the proposal of the Finance Committee, a 5-year forward-averaging system was adjusted. This 5-year forward averaging system is actually subject to the legal interpretation that larger taxpayers would actually have a tax reduction under several plans of employers in my State.

The Finance Committee version, in other words, very possibly provides tax reform in reverse. The House-passed version hits small taxpayers too hard. Therefore, I want to advise the Senate that I intend to offer an amendment to section 515 of the bill next week and I would certainly hope that my colleagues would support this amendment.

The Finance Committee has already removed sections of the House-passed bill dealing with deferred executive compensation. I believe very strongly that the many small taxpayers who are members of qualified pension and profit-sharing and thrift plans are entitled to similar consideration.

GERM WARFARE BAN RENEWS CALL FOR RATIFICATION OF 1925 GENEVA ACCORD

Mr. BAYH. Mr. President, yesterday, President Nixon took a decisive and important step when he announced that the United States will never engage in germ war and that it will destroy its bacteriological stockpile.

The significance of the President's position cannot be stressed too much. As the President said, the use of bacteriological weapons "has been repugnant to the conscience of mankind." And it is time, past time that the United States took a position in the control of such weapons of destruction. The President's announcement is, indeed, a step toward sanity in a world that has too often focused on ways of destroying itself.

The President's announcement also comes at a time when it is especially necessary that the United States set and maintain a climate for the arms control talks currently being held between the United States and the U.S.S.R. in Helsinki. Though the President's words do not directly affect these talks, they do say to the Russians and to the world that the United States is not merely paying rhetorical lipservice to peace but is willing to take decisive and immediate action to reduce tension.

In August of this year, I joined my distinguished colleague, the senior Senator from Indiana, VANCE HARTKE, in a Senate resolution asking the President to submit the Geneva protocol of 1925 to the Senate for ratification. Yesterday the President said that he intends to ask the Senate to ratify the 1925 Geneva accord.

Today I join with Senator HARTKE and the President in urging the U.S. Senate to ratify this Geneva protocol of 1925.

Although the United States introduced the CBW protocol at Geneva and has endorsed its purpose over the years, it has been the only major power not to ratify the protocol.

The Geneva protocol is now binding on 62 nations, including every nuclear power, and member of the NATO and Warsaw pacts except the United States. The United States has continually been discredited at international discussions for our failure to ratify this treaty.

I would hope that the Senate would listen to the President and would support him by ratifying the Geneva protocol.

Americans are continually talking about man's humane treatment to his fellow man; yet we alone of the major powers have refused to sign a document which asks nations of the world not to engage in the horrors of a chemical and biological war. It is time we take a right and responsible position for ourselves and for the world and ratify this treaty.

CHEMICAL-BIOLOGICAL WARFARE

Mr. WILLIAMS of New Jersey. Mr. President, the announcement by President Nixon that the United States will bar germ warfare and destroy its stockpile of bacteriological weapons deserves our sincere praise and the thanksgiving of the American people. His further proposal that our Government commit itself against the first use of lethal gas—as well as incapacitating chemicals—places the responsibility squarely upon the Senate to take up the Geneva Protocol without delay upon resubmission by the administration.

The President's decision to limit American bacteriological warfare programs to research on defensive measures offers the promise that this gruesome anachronism is on the way to being eliminated. The President rightly described such weapons as being "repugnant to the conscience of mankind." The global consequences of the employment of bacteriological agents bear no relationship to the objectives of military conflict and clearly demonstrate the ultimate insanity of war.

It remains to be seen what interpretation will be given by the Defense Department to "defensive measures." Our Government has long held that CBW programs were solely for defensive purposes. Moreover, clarification is needed of a statement of Col. Lucien Winegar, deputy commanding officer at Fort Detrick, Md., that it would be "fair to assume" that Detrick will continue to produce dangerous organisms that could be used offensively, since any defense against biological weapons involves production of harmful agents that are potentially available to an enemy—Washington Post, November 26, 1969.

With regard to chemical warfare, the Senate must investigate whether the present use by U.S. forces in Vietnam of a concentrated form of tear gas and defoliants would be in violation of the 1925 Geneva Agreement. A statement by a White House source that it would not be necessary to relinquish these agents reportedly has been strongly disputed by many of the present 88 signatories of this protocol.

Almost 4 months ago I joined Senate colleagues in offering a resolution—Senate Resolution 228— urging the President to resubmit the 1925 Geneva Protocol against CBW for the Senate's advice and consent to ratification. I said then that the United States must put itself on record, formally and through the proper international documents, as opposing the first use of these terrible weapons. The then-current viewpoint of the Secretary of Defense, which I strongly opposed, was that the United States must continue to develop its CBW forces simply to keep up with other nations. The same logic has been applied to our nuclear forces, most recently to defend the development of ABM and MIRV—which could result in an uncontrolled arms race that will threaten the continued existence of mankind.

Let us hope that the President's announcement reflects a deeper insight, a new wisdom that can start the nations of the world on the road to a genuine peace. The control and reduction of the weapons of our mass destruction is the all-important first step, and requires that calculated initiatives be taken by the United States, possessing the greatest military power the world has known.

VETO POWER OF GOVERNORS OVER THE OEO LEGAL SERVICES PROGRAM

Mr. MONDALE. Mr. President, on November 13, 1969, more than 80 deans of law schools throughout the United States signed a statement in opposition to the Senate amendment giving Governors a veto over OEO's legal services program. It is their fear that this amendment would not only interfere with traditional independence of the legal profession, but would also have a detrimental effect on legal education.

I am particularly proud of the fact that the organizer of this petition was Dean William B. Lockhart, of the University of Minneosta Law School. Dean Lockhart, who is serving as president of the Association of American Law Schools, has been one of the most outspoken advocates of quality legal services for the poor.

Since law school deans play such a major role in the training of future lawyers, I think that Senators should know of their strong opposition to any effort to cripple the legal services program. I therefore ask unanimous consent that their petition and names be printed in the RECORD.

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

STATEMENT OF LAW SCHOOL DEANS

We concur with the resolution adopted on October 18, 1969, by the Board of Governors of the American Bar Assocation and the action of the Judicial Conference of the United States at its meeting on November 1, 1969, and voice our opposition to the amendment to S. 3016 which would give State governors a veto over legal services programs.

As law school deans we are concerned with the possibility of interference with the attorney-client relationship and the traditional independence of the legal profession. We are especially concerned with the effect that this amendment may have on legal education and the development of a sense of professional responsibility among law students to participate in programs providing meaningful legal services to the disadvantaged.

NOVEMBER 13, 1969.

Samuel H. Hesson, Albany Law School, Union University.

B. J. Tennery, Washington College of Law, American University.

Willard H. Pedrick, Arizona State University College of Law.

Ralph C. Barnhart, University of Arkansas School of Law.

Robert F. Drinan, S.J., Boston College Law School.

Paul M. Siskind, Boston University School of Law.

Edward C. Halbach, Jr., Univ. of California School of Law, Berkeley.

Edward L. Barrett, Univ. of California School of Law, Davis.

Arthur M. Sammis, Univ. of California, Hastings College of Law.

Robert K. Castetter, California Western School of Law of the U.S. International University.

Clinton E. Bamberger, Jr., Catholic University of America School of Law.

Phil C. Neal, University of Chicago Law School.

William F. Zacharias, Chicago-Kent College of Law.

Samuel S. Wilson, University of Cincinnati College of Law.

James K. Gaynor, Cleveland-Marshall College of Law, Cleveland State University.

Howard R. Sacks, University of Connecticut School of Law.

James A. Doyle, Creighton University School of Law.

Robert B. Yegge, University of Denver College of Law.

Robert G. Weclew, De Paul University College of Law.

Brian G. Brockway, University of Detroit School of Law.

A. Kenneth Pye, Duke University School of Law.

Ben F. Johnson, Emory University School of Law.

William Hughes Mulligan, Fordham University School of Law.

Adrian S. Fisher, Georgetown University Law Center.

Robert Kramer, National Law Center, George Washington University.

Lindsey Cowen, University of Georgia School of Law.

Lewis H. Orland, Gonzaga University School of Law.

Derek C. Bok, Harvard University Law School.

Malachy T. Mahon, Hofstra University School of Law.

Paul E. Miller, Howard University School of Law.

Albert R. Menard, Jr., University of Idaho College of Law.

John E. Cribbet, University of Illinois College of Law.

Cleon H. Foust, Indiana University, Indianapolis Law School.

David H. Vernon, University of Iowa College of Law.

Lawrence E. Blades, University of Kansas School of Law.

William Lewis Matthews, Jr., University of Kentucky College of Law.

William L. Lamey, Loyola University School of Law, Chicago.

Leo J. O'Brien, Loyola University School of Law, Los Angeles.

Marcel Garsaud, Jr., Loyola University School of Law, New Orleans.

Edward S. Godfrey, University of Maine School of Law.

Robert F. Boden, Marquette University Law School.

William P. Cunningham, University of Maryland School of Law.

Frederick D. Lewis, University of Miami School of Law.

William B. Lockhart, University of Minnesota Law School.
Patrick D. Kelly, University of Missouri—Kansas City, School of Law.
Robert E. Sullivan, University of Montana School of Law.
Henry M. Grether, Jr., University of Nebraska College of Law.
Thomas W. Christopher, University of New Mexico School of Law
William H. Angus, State University of New York at Buffalo School of Law.
Robert B. McKay, New York University School of Law.
DeJarman LeMarquis, North Carolina Central University School of Law.
Robert K. Rushing, University of North Dakota School of Law.
John Ritchie, Northwestern University School of Law.
Eugene N. Hanson, Ohio Northern University College of Law.
Ivan C. Rutledge, Ohio State University College of Law.
Ted Foster, Oklahoma City University Law School.
Eugene F. Scoles, University of Oregon School of Law.
Jefferson B. Fordham, University of Pennsylvania Law School.
John J. Murphy, St. John's University School of Law.
Richard J. Childress, St. Louis University School of Law.
Joseph A. Sinclitico, Jr., University of San Diego School of Law
William J. Riegger, University of San Francisco School of Law.
Leo A. Huard, University of Santa Clara School of Law.
John P. Loftus, Seton Hall University School of Law.
James B. Adams, University of South Dakota School of Law.
Dorothy W. Nelson, University of Southern California Law Center.
Bayless A. Manning, Stanford University School of Law.
Richard T. Dillon, Stetson University College of Law.
Robert W. Miller, Syracuse University College of Law.
Harold C. Warner, University of Tennessee College of Law.
W. Page Keeton, University of Texas School of Law.
Richard B. Amandes, Texas Tech University School of Law.
Karl Krastin, University of Toledo College of Law.
Samuel D. Thurman, University of Utah College of Law.
John W. Wade, Vanderbilt University School of Law.
Harold G. Reuschlein, Villanova University School of Law.
Monrad G. Paulsen, University of Virginia School of Law.
John E. Howe, Washburn University of Law.
Hiram H. Lesar, Washington University School of Law.
Charles W. Joiner, Wayne State University Law School.
Paul L. Selby, Jr., West Virginia University College of Law.
Spencer L. Kimball, University of Wisconsin Law School.
Frank J. Trelease, University of Wyoming College of Law.
Louis H. Pollak, Yale Law School.

HOUSING NEEDS OF SENIOR CITIZENS

Mr. EAGLETON. Mr. President, the distinguished Senator from Utah (Mr. Moss) recently spoke to the convention of the American Association of Homes for the Aging in St. Louis. His address included a thorough analysis of the housing needs of our senior citizens, the problems encountered in meeting these needs, the inadequacy of government programs in this area, and suggestions for future constructive action by private groups and government officials to meet the housing, health and welfare requirements of our senior citizens.

Senator Moss has served with distinction on the Special Committee on Aging and is currently chairman of the Subcommittee on Long-Term Care. Thus this message merits serious attention by all of us concerned with the well-being of our senior citizens. I ask unanimous consent that his remarks be printed in the RECORD.

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

(By Senator FRANK E. MOSS, Democrat, of Utah)

FUTURE TRENDS IN LONG-TERM CARE

My friends of the American Association of Homes for the Aging. It is a pleasure for me to be here at this Eighth Annual Convention and Meeting. As you know, I have participated in your programs before but I feel particularly honored to be asked to be your keynote speaker.

At this convention today we turn our attention to the future. We hope to identify problems and consider solutions. We seek to improve the programs and institutions serving our senior citizens.

The primary emphasis of my speech today will be problems in the area of long-term care. That these problems are important is obvious from the facts.

The National Council of Senior Citizens reports that there are some 25 thousand nursing homes in this country. Ninety percent of these homes are operated for profit and they house about a million Americans.

Since the inception of medicare's extended care provisions there has been a tremendous expansion of these facilities. Medicaid paid for $1.1 billion in nursing home care last year and medicare added another $500 million.

Two out of every three dollars received by nursing homes reportedly comes from state or federal taxes.

Nursing homes are a recent development in the field of medical care. There are some excellent homes such as the St. Joseph's Manor in Trumbull, Connecticut, and Golden Acres in Dallas, Texas. Nursing homes, however, have a bad image, possibly because statistically 25 percent of their patients die within six months after admissions.

Nursing homes have become big business. They provide emploment for thousands of people. They merit the solicitous concern of shareholders, doctors, druggists, ambulance drivers, and food and linen services.

I am here to tell you of the government's interest. Simply stated it is: the highest standard of care for the elderly at the lowest possible cost.

RESTORATION OF THE 202 DIRECT LOAN PROGRAM

Before proceeding with my discussion of the needs in the area of long-term care, I would like to spend a few moments discussing the section 202 program. As you know, this section provides direct loans at low rates of interest to non-profit organizations providing homes for the elderly.

There has been some difference of opinion as to the status of this program and I will give you a report in some detail.

Early in the year the administration indicated its policy against direct loans by the Government. It was said that these loan programs place the Government into competition with private money-lending establishments.

But the 202 program had been one of our most effective and efficient housing programs. Non-profit sponsors had learned the procedures and had begun to develop a sizable volume of projects until the program was sharply interrupted by a housing and urban development policy which in effect required conversion of all 202 projects to section 236 financing upon completion. This abrupt termination was the result of a misunderstanding of the 1968 legislation which authorized section 202 sponsors to convert to section 236 on a *voluntary* basis, not on a *mandatory* basis.

Little if any accurate information was given about the deletion of the 202 program. An inquiry to housing and urban development still brings the response that the program is alive but that the use of section 236 is *encouraged* because the appropriations for section 202 have been extinguished. Significantly, in the recently announced reorganization of that department, the 235 and 236 programs were cited as coming under the jurisdiction of the assistant secretary for housing production and mortgage credit, but no mention was made of the 202 program.

Congress responded to the public outcry that followed the decision to delete the 202 program. Congress reaffirmed and clarified its support of the direct loan program in the strongest language possible in the 1969 housing bill. The conferees have not yet reached agreement but the house bill authorized $150 million for the coming year while $80 million a year for three years was authorized in the Senate for the 202 program.

I count this as an important victory even though we must still work hard to insure that Congress follows up on its authorization with the requisite appropriations.

So much for 202. If my address seems fragmented it is because I wish to touch several points without unduly extending the length of my talk.

MODEL CITIES FUNDS CUT AND THE NEED FOR DEMONSTRATION NURSING HOMES

I very much regret the $215 million dollar cut in model cities funds this year. The New York Times reported this cut in terms of a slow-down and stretch-out of the program.

In our recent hearings on the usefulness of the model cities program to the elderly, I questioned the administration's representative about the cuts. Mr. Robert Baida, deputy for model cities and Government relations had this to say:

"I believe that the cut is really more apparent than real . . . Now with respect to the charge that there has been a slow-down or stretch-out of the program, the administration must take a certain responsibility for the length of time in reviewing the model cities program."

I suggest that the cut in model cities funds was both apparent *and* real. I firmly believe that State and local officials should be able to rely on the information and commitments that they receive from the Federal Government without equivocation.

Let me also suggest that the innovation that has been the hallmark of the model cities program should be utilized to advantage within the sphere of long-term care.

Private and non-profit homes have always been the leaders in the field of providing improvements in the care of the aged. I would hope that it is possible to build a number of demonstration or model nursing homes to develop techniques that can be employed in future homes.

NEED FOR PROPER REGULATIONS FOR HIGHER STANDARDS OF SKILLED CARE

As we continue to list the needs that exist in the area of long-term care, I would immediately ask for effective regulations in implementation of my amendment to Title XIX of the Social Security Act.

As you will recall, last June the Department of Health, Education, and Welfare announced their so-called interim standards,

purportedly, to implement my amendment. While the intent of my amendment was to raise the standards of care in our skilled nursing homes, the effect of the interim regulations was clearly to lower standards below the former level.

The battle lines were quickly drawn and I was grateful to have the American Association of Homes for the Aging represented at our hearings. Dr. Egger's statement was precise and informative.

The next step in the chronology was the report of the special task force on skilled nursing home care. This task force was set up under the social and rehabilitation service of the Department of Health, Education and Welfare to weigh all the evidence. The content of this revised report has not been made public. I do have good information that indicated that the report finds in favor of the stricter enforcement of present legal standards.

With the hope of having the latest information at my fingertips, I have sent Secretary Finch the following telegram and I want to read you his reply.

"NOVEMBER 10, 1969.

"Hon. ROBERT H. FINCH,
"Secretary of Health, Education, and Welfare, Washington, D.C.:

"I am addressing the American Association of Homes for the Aging on November 17, and I need the latest word on the following:

"1. What action has been taken on the report of the task force on skilled nursing home care?

"2. What plans have been made by the Department for implementation of regulations to comply with my amendment to title XIX concerning higher standards applicable to patients in skilled nursing homes?

"FRANK E. MOSS,
"U.S. Senator."

It is important for us to remember that the interim regulations once published in the Federal Register are the law of the land. The interim regulations have had the effect of law for six months now. Surely, it is time they were replaced with more adequate standard regulations.

We must be ever vigilant to insure the highest quality of care at the lowest cost to those who must spend extended periods of time in our skilled nursing facilities.

THE NEED FOR SHELTER CARE FACILITIES

I call for the expansion of the FHA-Nursing Home program to include shelter care facilities. We have housing programs in this country which are keyed to those of our elderly who are independent and ambulatory. We have a growing number of facilities for those who need intensive care. We have a definite need for the kind of facilities that were envisioned by the Montoya amendment to the housing bill that passed the Senate on September 23.

By supplying these personal care services we would aid many thousands of Americans who live in near independence. A personal care program also makes sense economically. It reduces the number of people making unwarranted trips into hospitals and skilled nursing homes.

The House deleted the shelter care provision from its bill. I have strongly urged that the Senate insist on its amendment to the bill in conference with the House.

THE NEED TO IDENTIFY AND DEFINE DIFFERENT LEVELS OF LONG-TERM CARE

I call for a common agreement by all parties concerned on the identification and definition of different levels of long-term care.

There is presently hopeless confusion in the field of long-term care on terminology. This problem has serious consequences for communications between interested groups. It has been called to my attention that in the State of Wisconsin, to cite one example, there exist 12 different levels of nursing home care. The resulting problem of classifying patients is obvious. I would suggest that we agree on three or at the most, four basic classes of service.

On related points, I would favor giving "spell of the illness", a medical, rather than an insurance definition. I would also stress the need for agreement on the patient to staff ratio and the ratio of personnel to supervision.

Agreement is also needed on accounting methods and auditing procedures to protect Federal funds. Careful check should be made of receipt and disbursement of drugs and the opportunities for fraud should be minimal and subject to vigilant surveillance.

THE NEED FOR CONTINUITY BETWEEN MEDICARE AND MEDICAID

There are many reports of substandard facilities and care under medicaid. Many States and counties have consistently placed title 19 patients in substandard nursing homes in order to save money.

The Department of Health, Education, and Welfare audits recently revealed that there were at least 227 substandard homes receiving title 19 money in California under the State's medi-Cal program.

Certainly we can agree that title 19 patients have the same right to first rate medical and nursing services as persons under title 18.

FUTURE NURSING HOME ADMINISTRATORS SHOULD BE LICENSED PROFESSIONALS

I call for more professionalization in the field of nursing home administration. At the present time only 10 percent of nursing home administrators have training for the job.

I call for strict compliance with the Kennedy amendment of 1967 that requires licensing of nursing home administrators.

I am told that Secretary Finch has approved the report of the National Advisory Council on Nursing Home Administration which was charged with the responsibility of developing guidelines. Reportedly, these guidelines will be published in the Federal Register in the near future.

TRAINING PROGRAMS FOR NURSING PERSONNEL ARE URGENTLY NEEDED

I call for Federal financial support of State training programs to provide personnel for our nursing homes. The nursing home industry has proven that it can construct 70 to 80 thousand beds a year, some 2 to 3 nursing homes every day. Competent nurses and assistants must be found who have a genuine interest and concern for older people.

Another factor which complicates the shortage of personnel is the very high turnover rate which the Department of Labor estimates is as high as 71 percent for registered nurses and 60 percent for all nursing personnel.

TRUTH IN ADVERTISING IN THE NURSING HOME FIELD AND FULL DISCLOSURE OF CONTRACT TERMS TO PROSPECTIVE RESIDENTS OF NURSING HOMES

I call for truth in advertising in the nursing home field. The St. Petersburg Times has carried reports of applicants who enter homes in belief that their quarters will be equipped as described in the brochure. Much to their chagrin, they find that their home has no air conditioning or that it does not offer the promised recreation or physical therapy.

Sick and helpless people need legal protection. Many today sign form contracts which are what we call in the law, contracts of adhesion. Once these forms are signed the elderly often find themselves bound by unfortunate consequences. They should be made to understand what they are signing. They should know what services are to be provided and what are not.

NEED TO BROADEN THE SCOPE OF MEDICARE AND TO MINIMIZE RISING COSTS

I call for broadening the scope of medicare, certainly, eye glasses and dental care are essential. In 1967 only some 35 percent of medical costs of the elderly were covered by medicare. For the elderly themselves and for the Federal Government we must do what we can to limit rising medical costs. Essentially the weapons to be used here are unscheduled inspections, audits on a random basis and close monitoring of claims to avoid duplication.

I am distressed by the fact that medical costs in the past four years have risen twice as fast as in previous years.

ENFORCEMENT IS NEEDED OF THE LAW REQUIRING DISCLOSURE OF MANAGEMENT AND OWNERSHIP OF NURSING HOMES

Since my amendment in 1967 the law requires that the name of any one with the 10 percent interest in a nursing home be publicly disclosed. The Department of Health, Education and Welfare has been lax in telling States how to comply with the law.

As a result, the abuses of hidden ownership continue to exist. There are reports of doctors with substantial financial interests. Stocks are currently listed in the names of family and friends. In this setting there are always charges of conflict of interests. Most often mentioned is the case where a doctor sits on a utilization review committee and is charged with the responsibility to decide the institutional tenure of patients under medicare and medicaid. It has been implied in such cases that the doctor has a direct financial interest in keeping patients in the nursing facility.

There are always reports of nursing home owners hiring their own construction firms to build a particular home in question. They also hire linen and cleaning services in which they have a direct financial interest. This leads to the charge that the home has paid exhorbitant prices for construction and services.

Clearly, the opportunities for abuse are multiplied by the creation of nursing home chains. The profit motive is inherent in their existence.

COMPLIANCE WITH FIRE REGULATIONS

Nursing home inspections should determine if there is compliance with the requirement of life safety code of the National Fire Prevention Association as required by law.

ELDERLY NOT IN NEED OF PSYCHIATRIC HELP SHOULD BE RELEASED FROM MENTAL HOSPITALS, NURSING HOMES SHOULD DEVELOP PSYCHIATRIC SERVICES

Twenty-six percent of the people in our mental institutions are confined for the singular reason that they are poor. In St. Elizabeth's Mental Hospital in Washington, D.C., there are at least 462 people over age 70 who could be released. We can no longer tolerate this waste of humanity and resources.

It has also been estimated by the public health service that some 55 percent of the people in nursing homes are mentally impaired.

Certainly there is great confusion as to just what constitutes mental illness within the sphere of geriatrics. Without attempting to settle that argument, the signs are clear that in future nursing homes will be handed more responsibility in the area of psychiatric counseling and services.

NEED TO IMPROVE THE IMAGE OF NURSING HOMES WITH EMPHASIS ON REHABILITATION

I find it essential that we do everything possible to improve the image of nursing homes. With improved services this should follow automatically. Still we must dispel the notion that all nursing homes are a kind of purgatory.

We must come to grips with the fact that good nursing home care is expensive. We must be willing to pay the price for the high standards that we seek. Still, our goal should remain the highest standard of care for the lowest possible price.

Nursing homes of the future must be more than a place where the ill go to wait out their remaining years. The emphasis of the future must be *rehabilitation*. Patients

should be returned to society as early as possible. The goals of the nursing home should be to discharge to independent living the maximum number of its residents. Terminal storage of elderly patients must be eliminated.

CONCLUSION

To this point I have been concentrating on the *health* problems of our elderly. Obviously, these problems are extremely important. But there are two equally important areas of concern. First, the economic needs of our elderly. This is only to say that the elderly make up a large segment of the poor of this Nation. Second, I would mention the psychological needs of our aged. Our elderly suffer from a decreased sense of intrinsic worth; from a poverty of the spirit; from the very fact of being old in a youth-oriented society.

The *economic* needs can only be met by increased incomes. We must put the floor of decency under our entire economy. We must provide opportunities for part-time employment. We must increase social security benefits *more* than the administration's proposal of 10 percent. We must come to grips with guaranteed income problems.

The psychologican needs of the elderly require a reordering of the values of society. Our senior citizens are capable of playing an important role in our society. We should ask for their intellectual contribution to society. Experience is a gold mine which should not be closed and forgotten.

I believe that old age should be a time of satisfaction and reward. The struggle to survive should rest with youth. This is why I was pleased to see the State of Maryland purchase a luxury high rise apartment in the central city and make it available to the elderly at low rentals. I applaud Chicago's reduced fares for senior citizens on the subway and in movie theaters. I am pleased with the drug store chain in Salt Lake City and elsewhere, that provides medicines for the elderly at half price. I have called for reduced fares for our senior citizens on our airlines.

In closing, I would ask a question. What do we really mean when we say that America is the *richest* nation in the world? I raise the question only to suggest that our greatest resource is our people. Our wealth is our brain-power; the combination of energy and intellect. Using our brain-power we have been able to make unparalleled advances in the cause of mankind—science, transportation, education—even man on the moon. It is my belief that we can devote this same resource to solving the problems of our senior citizens.

So, the imposing question remains, why haven't we made greater efforts for our elderly in the past? Perhaps Allan Nevins had the answer when he wrote that the United States throughout its history has carried on its shoulders the grinning ape of complacency.

It does seem that the only obstacle that stands in the way of a more meaningful life for our senior citizens is our lack of resolve. There is no deficit of national resources; there *is* a deficit of national will.

I acknowledge the fact that the members of this gathering are the leaders in the field of care for the aging. I ask for your continued concern and continued effort. Let us do all that we can to insure to our elderly their fair share of American abundance, in respectful independence and full membership in our society.

COURT RULES THAT FARMERS HIRING ILLEGAL FOREIGN LABOR LIABLE FOR DAMAGES

Mr. MONDALE. Mr. President, as chairman of the Migratory Labor Subcommittee, I have seen firsthand the depressing effect on living and working conditions caused by the presence of foreign workers in agriculture. While some of these foreign workers are in the United States under some color of law, there have been an increasing number of foreign workers that enter this country illegally. They are called wetbacks, because many gain entry by swimming across the Rio Grande.

In an unprecedented decision a California court has ruled that domestic farmworkers have a right to prevent agricultural employers from hiring wetbacks in order to depress wages and working conditions, since the use of wetbacks to the detriment of local workers would be an unfair business practice. The suit follows the settlement of a previous action when a grower agreed to request that prospective agricultural employees offer proof of lawful status in the United States, such as an alien registration receipt card, commonly known as a green card, or a valid draft card, or a local drivers license.

Legal action undertaken by California Rural Legal Assistance on behalf of farmworkers punctuates the failure of the Government to effectively implement laws enacted by Congress for the protection of domestic labor. The immigration laws provide that alien workers shall not be imported if their use will have an adverse effect on domestic wages and working conditions—8 U.S.C. 1182(a)14. Consistent with controls on foreign labor, Congress prohibited directly or indirectly inducing illegal entry into the United States or harboring or concealing illegal entrants from discovery. However, a loophole exempts the employment of illegal entrants from the statute—8 U.S.C. 1324. This provision which has made it easy for illegal entrants to obtain employment both on the farms and increasingly in the cities, contributes substantially to the presence in the United States of perhaps as many as 400,000 aliens who entered illegally, have no right to be here, but who deprive low-income domestic workers of jobs. In the fiscal year ending June 30, 1969, the Immigration and Naturalization Service reported the apprehension of 151,000 illegal entrants, possibly only one-third of those aliens who escaped detection.

The use of wetbacks coincides with high unemployment and low wages. At the current rate of unemployment perhaps as many as one out of every six unemployed American workers could be out of work because of the use of illegal entrants. On the farms only one worker in eight works more than 250 days of the year, and average hourly earnings—$1.48—are at most one-half those prevailing in the industrial sector—$3.01.

In Sonoma County, Calif., a rich agricultural area where workers are challenging the employment of wetbacks, another group of workers covered by Federal and State minimum wage laws has brought suit against an employer charging that they were paid an average of 30 cents per hour on a piece rate to harvest pears and prunes. Applicants for farm labor jobs in the same county were double growers' requests for workers even at periods of peak utilization.

While illegal entrant use was formerly predominantly agricultural, current patterns show a dramatic shift to permanent low and semiskilled employment in industry and in the cities. Additionally the incidence of illegal alien labor has gradually spread from the Southwest to other areas of the country. In Los Angeles where the unemployment rate is about 5 percent compared with 3.5 percent nationally—August 1969—up to 4,000 illegal entrants are apprehended each month. Recent wetback apprenhensions in rural areas similarly reflect a shift in wetback employment to more permanent jobs such as wineries and light manufacturing. Wetbacks deprive American low-income workers of possibly $100 million every year.

The easy employment of Mexican nationals at wages ranging from five to 10 times the amount earned in Mexico has led to the development of a lucrative and sophisticated series of smuggling syndicates which extract up to $300 from Mexican workers to get them into the United States and find them work. These syndicates, which are feared by residents on both sides of the border, are not above resorting to bribery and violence and have been linked, by four Franciscan fathers working with Mexican nationals, to the marihuana traffic as well.

Because of the magnitude of the problem and the apparent disinterest in adequately enforcing the law, efforts at controlling the illegal entrant have been diligent but puny. Multiple returnees are permitted to leave voluntarily or are transported to the interior of Mexico at the expense of the U.S. Government. Smugglers are prosecuted but frequently plead guilty to a lesser offense, or receive a minimal sentence.

Law suits such as the Santa Rosa case could have some deterrent effect on the unlimited employment opportunities which wetbacks now have in the United States, in possibly requiring more responsible employers to request than Spanish-speaking males who seek employment provide some evidence that they are entitled to be in the United States. But only the repeal of the employment exemption—8 U.S.C. 1324—can provide law enforcement officials with an effective deterrent to the widespread use of illegal entrant labor.

Furthermore, Mr. President, this case illustrates the excellent service provided by California Rural Legal Assistance, and other legal service programs throughout this Nation, in bringing high quality legal service to the poor in order that their interests are adequately represented and laws designed for their protection are actually enforced.

It is important that poor people have the same administrative and judicial remedies that are available to, and exercised by, all Americans. Unfortunately, the ability of legal services programs to continue to provide these valuable and basic services to the poor is in jeopardy because of the regressive amendment recently adopted by the Senate. This case presents yet another example of why I fought to defeat that amendment. It is ironic that the existence of an OEO program is threatened merely because it is providing services that it is designed to offer, services that nonpoor Americans take for granted.

Mr. President, I ask unanimous consent that two articles, one from the Los

Angeles Times, and another from the Washington Post, that report this court case be printed in the RECORD, along with and article from the October 20, 1969, issue of the Nation.

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

[From the Washington Post (D.C.) Oct. 19, 1969]

CALIFORNIA FARMS WARNED ON HIRING WETBACKS

(By John Berthelsen)

SANTA ROSA, CALIF.—A Superior Court judge here has ruled that farmers are liable to punishment if they refuse to give jobs to American citizens while hiring illegal Mexican immigrants.

The victory is one step in a long fight by California Rural Legal Assistance Inc., an agency of the Office of Economic Opportunity, to stop the use of illegal migrants by farmers and growers. The ruling will enable other agricultural workers to obtain injunctions against employers using such poorly paid labor.

The decision may also have an effect on the long and bitter grape strike in California's central valleys. Leaders of the strike claim that growers have used illegal aliens as strikebreakers.

The decision was handed down late last week by Superior Court Judge Joseph Murphy. He rejected a move to block a $20,000 damage action against apple grower Donald Orr of Healdsburg, a town north of San Francisco. Orr's attorneys contended that laborers Eleno Riojas and Guadlupe Guitan had no right to bring the action, which accused Orr of employing illegal immigrants. Murphy ruled that the right was provided under the unfair business practices law.

Attorneys for the CRLA representing Riojas and Guitan also sought an injunction ordering farm employers to require prospective workers to show alien registration cards, draft cards or local drivers' licenses as legal proof of residence.

The judge rejected this bid, saying it was inappropriate since the working season was over. He added it was "not a determination on whether it should be ordered"—leaving the door open for similar injunctions during next year's growing season.

"The impact of this decision is going to send tremors throughout California agriculture," said the plaintiff's attorney, Sheldon Greene.

The Border Patrol estimates that as much as $100 million a year is being taken out of the United States by illegal workers. A total of 151,000 border-jumpers were caught between June 1968 and July 1969—63,000 of them in California, and 4,000 in Los Angeles alone.

[From the Los Angeles (Calif.) Times, Oct. 10, 1969]

ILLEGAL ALIEN EMPLOYERS LIABLE FOR PUNITIVE ACTION, COURT RULES—JUDGE SAYS DAMAGES ARE POSSIBLE UNDER CODE WHICH PROHIBITS UNFAIR BUSINESS PRACTICES AND COMPETITION

(By Harry Bernstein)

Growers and other employers who hire aliens illegally are liable for punitive damages under a law prohibiting unfair business competition, a California court has ruled.

Millions of Mexican citizens have illegally crossed the border since World War II, taking jobs that unions and other groups have complained should have gone to unemployed U.S. citizens.

When the illegal aliens are caught they are normally sent back to Mexico, but there is no punishment of either the alien or the U.S. employer.

However, Superior Judge Joseph P. Murphy ruled in Santa Rosa Thursday that punishment is possible under the state's civil code, which forbids unfair business practices and unfair competition.

By hiring an illegal alien the employer may be engaging in unfair business practices, he found, since the action could serve to depress wages or working conditions of U.S. citizens who want the job, too.

CASE FILED BY LEGAL GROUP

The case was filed by the California Rural Legal Assistance, a federally-funded war-on-poverty project.

Sheldon Greene, general counsel for CRLA, said the case is a class action on behalf of all farm workers.

(In a similar case last Aug. 28, Santa Clara County Superior Judge Joseph Kelly ruled that a mushroom-growing firm must refrain from hiring aliens illegally and open its employment records to the CRLA).

The judge said a final decision on whether the Orr Fruit Co. must pay any or all of the $20,100 damages sought by CRLA will be made after a hearing on the specific facts in the case.

But Greene noted that the unprecedented part of the decision is the court's ruling that the state law can be used, in effect, to punish employers who hire illegal aliens in competition with U.S. workers.

Greene said new Department of Immigration figures show that in the past year 151,000 illegal aliens were caught nationally, including 63,000 in California.

But for every one alien apprehended, it is estimated that another two are not caught, Greene added:

"We estimated that these aliens send $100 million a year back to Mexico. An employer could check on the status of his employes by simply asking to see a drivers' license, draft card or some other identification."

The Orr Fruit Co. denied knowingly using illegal aliens.

Greene said that "obviously the wetbacks don't come over to this country to see their Aunt Emma or visit Palm Springs. They come to get work, and if U.S. employers were stopped from hiring them, then the flood of wetbacks would stop."

(The illegal aliens became known as wetbacks because many of them swam across the Rio Grande to cross into this country.)

[From the Nation, Oct. 20, 1969]

OPERATION SISYPHUS: WETBACKS, GROWERS AND POVERTY

(By Sheldon L. Greene)[1]

San Francisco.

The *bracero* program died in 1968, after a long illness. Under its provisions, 4.5 million Mexican temporary workers were brought into the United States between 1942 and 1963 as supplementary farm labor. Officially terminated by Congress in 1963—long after the World War II labor shortage which it was intended to ease had ended—it finally trickled to a halt in August 1968 when Secretary of Labor W. Willard Wirtz denied a request by California tomato growers for 2,200 Mexican farm workers. He characterized this refusal of legal entry as "a historic step towards healing the migrant worker sore in California and in the entire United States." But current 1968–69 immigration records show the apprehension of 150,000 Mexican nationals who had entered the United States illegally, and the incidence of these wetbacks in American employment is perhaps triple the number caught. This would suggest that Secretary Wirtz's cure is at the most cosmetic.

Illegal entry by Mexican nationals has afflicted domestic low-income workers since World War II. In 1942, after Mexico had agreed to supply temporary workers under the *bracero* program, Texas farmers refused to meet agreed wages and working conditions. In response, Mexico for a time cut off the supply of workers, but U.S. Immigration authorities permitted thousands of Mexicans to cross the border illegally. They were then apprehended and "paroled" to Texas farmers, thus avoiding the terms of the international labor agreement. Farmers and border industries got cheap labor; domestic farm workers and El Paso garment workers and meat packers suffered wartime inflation but were forced to accept low wages if they wanted to work at all.

In 1954 the President's Commission on Migratory Labor studied the border labor problem and concluded: "The United States, having engaged in a program giving preference in contracting to those who had broken the law, has encouraged a violation of the immigration laws. Our government has thus become a contributor to the growth of an illegal traffic which it has responsibility to prevent."

That same year, the Justice Department launched Operation Wetback, a roundup of more than a million illegal entrants in an area stretching as far as St. Louis and Chicago. San Antonio alone harbored 331,000. The roundup seemed so successful that the Immigration and Naturalization Service stated optimistically in its 1955 report that it had ended the wetback problem. The boast proved premature.

The Border Patrol and the Investigation Section of the INS are diligent, outnumbered and outmaneuvered. The comparatively few illegal entrants who attempt to cross the natural, and for the most part barren, frontier on foot are easily spotted by the continual overhead observation of Border Patrol spotter planes; they are then picked up by ground patrols which run along exfoliated drag strips. Some few aliens risk their lives in airless car trunks and campers, or precariously flattened on a ledge beneath passenger cars. Such trips cost from $100 to $300. One recently ended in death by asphyxiation.

But for 70 to 80 per cent of the illegal entrants access is neither hazardous nor romantic. More than a million Mexican aliens carry visitors' permits. These salmon-colored cards, issued by the Mexican Government at a cost of about $80, authorize visits of seventy-two hours in an area not more than 25 miles from the border.

But the aliens, most of them, are not looking forward to a visit. The typical wetback meets an agent in Mexico who provides him with a routing or a contact. Once across the border, he is transported to a city, often Los Angeles, and there referred to a job. In some instances, the agents provide transportation by selling a group of wetbacks an automobile, in which they can better elude detection. Those who lack the cash are offered a "go now, pay later" plan under which the price of the car is deducted from future wages.

Once inside, the alien easily merges into urban or rural Chicago barrios. Anyone can get a Social Security card by filing an application; proof of legitimate entry or birth certificate is not required. Employers record the Social Security number and couldn't care less about the worker's status. It is a felony to induce an alien to enter the United States, to transport him or to harbor him from detection; but conservative legislators from farm districts have managed to exempt the employer of an illegal entrant from that chain of complicity, even when the employee is known to be a wetback.

Agriculture absorbs the bulk of the illegal entrants. During fiscal 1968, 38,950 of those apprehended were doing farm work. Wetbacks are preferred by most farmers because they are thought to work harder than Amer-

[1] *Mr. Greene is general counsel for California Rural Legal Assistance and a specialist in litigation challenging the employment of nonresident alien labor.*

icans and to complain less about conditions. The minimum wage for farm work in California is $1.65 an hour; wetbacks in labor camps are lucky to earn $1.35, not enough to live on in California but four times the Mexican minimum wage. The rich regions of California are dotted with the grim labor camps which formerly housed *braceros*. Wetbacks now live in many of them, hidden well off public roads on land posted against trespassing.

While most wetbacks seek farm work during the busy seasons, substantial numbers are kept on the year around, or find off-season jobs during the very periods when domestic farm workers, residents of the area, are unemployed and dependent on public assistance. Winter unemployment in farm regions runs as high as 16 per cent of the domestic labor force; in California alone idle farm workers require $15 million in public assistance. Ten thousand wetbacks were caught in the five states that make up the Southwest in February 1969. From this figure one can assume that from 10,000 to 40,000 low-income families were displaced from jobs by wetbacks during the winter months, at a cost in taxes and loss of domestic wages amounting to tens of millions.

Surveys show that the prevalence of wetbacks also depresses wage levels, and encourages employers to ignore the laws governing wages and working conditions. Union leaders find it difficult to organize in areas saturated with wetbacks. A nationally reported example is the stubborn resistance Cesar Chavez's United Farm Workers Organizing Committee has encountered in its efforts to sign contracts with the California table grape growers. Strikes are not a compelling argument with employers who can rely on Mexican nationals, and the union has been forced to organize a nation-wide consumer boycott of table grapes to achieve its purpose.

Displacement of local workers by wetbacks is no longer a predominantly rural problem, since illegal entrants increasingly gravitate to more permanent jobs in the cities. From 1,500 to 3,000 of them are caught each month in the Los Angeles metropolitan area. Recently, the Border Patrol uncovered a smuggling operation which specialized in supplying wetbacks for industrial jobs in Chicago.

Despite the seemingly impressive figures on apprehensions, the wetback problem is not being brought under control. The program is hampered from the start by a shortage of manpower and equipment. As one patrolman in the Stockton, Calif., area put it: "We stake out Route 99 and the smugglers hear of it and take another road. There aren't enough of us to cover all the main highways all the time." On any given day, approximately 300 officers are on duty in the five Southwestern states.

A more basic problem than the size of the Border Patrol is the ease of entry afforded by the visitor's card and the absence of administrative controls on its use. The zone of travel permitted by these cards (with no record kept of entry and departure) was recently reduced from 150 to 25 miles from the border and that is making it easier to tag violators en route to the big cities. Since the reduction, systematic road checks on approaches to Los Angeles have turned up hundreds of aliens with no residency documents.

However, Border Patrol officials complain privately of the Justice Department's failure to require fingerprints as part of the permit procedure. Lacking that identification, it is almost impossible to spot previous violators when they reappear at the border, and wetbacks who have been returned to Mexico reenter again and again, visitor's permit in hand. Also, since no record is kept as to when a seventy-two-hour visit begins, a Mexican who has eluded detection for weeks or months can depart unquestioned.

The very volume of violators has dictated an informal handling of those caught, and this also fails to discourage the increasing traffic. Illegal entry is a crime for which the violator may be prosecuted in the federal courts and formally deported by the INS. Reentry after such a deportation is a felony. But resort to these remedies is infrequent. The present policy is to allow the illegal entrant to leave voluntarily within three days of apprehension. Often he is permitted to get to the border on his own. Or he may be taken to a detention center in El Paso, Tex., or El Centro, Calif., to await bus transportation to the interior of Mexico at U.S. Government expense. Not only does the wetback get a free trip home but back wages are collected for him by Border Patrolmen. Voluntary return is likened by an INS administrator to a "game warden who discovers a hunter without a license and helps him carry the deer he's killed out of the park." Multiple returnees are seldom prosecuted and are formally deported only after the fourth, fifth or sixth entry, unless they are caught assisting other wetbacks to cross the border. A formal deportation procedure takes no more than fifteen minutes, and does not require the services of an attorney, but the INS claims that there are insufficient hearing officers to handle all the possible cases and that in any case deportation wouldn't stop the alien from trying again. Authorities do not even officially notify a grower when illegal entrants are found on his land.

United States attorneys and judges regard illegal entry as an economc crime of low priority and most Americans sympathize with the wetback, who is after all a very poor man trying to get ahead. Few jurists or juries appreciate the relationship between illegal entry and the plight of the domestic poor. Federal prosecutors have little time even for wetback smugglers, accepting only aggravated cases of prosecution. Despite the high apprehension rate in Northern California—3,500 in August 1968—there has been almost no prosecution of smugglers or transporters. Officials suggest that strict enforcement, involving due process for each alien, would choke court dockets, overburden U.S. attorneys and tie up patrolmen as witnesses. The more pessimistic add that extensive prosecution would ultimately fill the prisons to capacity—a line of reasoning not applied to marijuana cases. INS investigators are hampered by the taciturnity of wetbacks, who refuse to say how they entered the country or who helped them to do so. Aware that failure to cooperate will not land him in jail, the alien has no inducement to reveal what he knows of the smuggling operation.

Recent lawsuits brought in California by domestic farm workers against growers using wetbacks allege that such employment is an unfair business practice calculated to lower their wages, diminish their employment opportunity and force them to seek public assistance at the taxpayers' expense. While employment of illegal entrants is exempt from the legal sanctions against harboring wetbacks, farm workers charge that growers are nevertheless criminally implicated, since offering wetbacks employment and shelter from detection is aiding and abetting in the crime of illegal entry. This resort to self-help law enforcement by the poor is a reflection on the failure of the Justice Department to perform its duties.

The ambivalence of the INS in the area of illegal entry is striking. The search for violators is presistent but ineffectual, and it seems clear that more could be done. The service operates on a budget of $86,450,000, more than half of which is committed to the four states bordering Mexico. Detention and transportation of apprehended illegal entrants alone costs $1.6 million, yet no funds can be found to hire more hearing officers and increase the number of formal deportations. Nor is there money to increase the Border Patrol and investigation staff, despite increased illegal entry and the much heavier work load demonstrated by the higher apprehension rates.

An obvious need is the fingerprint identification of seventy-two-hour permit hodlers. INS officials argue that it would be impractical to match the fingerprints of apprehended wetbacks against those of 1 million cardholders. Yet the need to check at most 500 fingerprints a day, the ostensible average number of wetbacks caught in the peak months, is small compared to the FBI's work load of 32,000 identifications a day from a file of 15 million sets of prints.

The replacement of cards at four-month intervals would make it easier to revoke the cards of violators. A requirement that holders of the unlimited entry permit post a bond to secure observance of the terms of entry, a device authorized in related immigration laws, could be an effective deterrent. Other steps could be taken to provide more effective enforcement. A recent act which authorizes a federal magistrate to handle petty crimes could undoubtedly speed the prosecution of numerous smuggling offenses as misdemeanors. Formal deportation following the second illegal entry within two years, the power to assess administrative fines in lieu of prosecution (thereby attaching a portion of the wages earned), and even the right to confiscate the vehicle used in the transportation of illegal aliens, as is done in narcotics smuggling, would also discourage the border hoppers.

Important remedial legislation is before House and Senate. A bill to prohibit the intentional employment of a person illegally in the United States was introduced on March 26, 1969 by Sen. Edward Kennedy and Rep. Michael Feighan. The measure is cosponsored by nine Senators and twenty-three Representatives. But even if passed, it will not result in many prosecutions, since the present difficulties of proving smuggling will be compounded when the federal attorney must submit his case to a jury. However, the abrogation of the employment exemption, combined with occasional well-publicized prosecutions and stiff fines, should cure many employers of hiring wetbacks at bargain rates. Similarly, a bill introduced by Senator Mondale would amend the National Labor Relations Act to make it an unfair labor practice to employ aliens unlawfully present in the country, or to hire nonresident commuter aliens during a labor dispute. Any of these measures, applied for several years, would provide increasingly effective deterrence to illegal entry.

Even so, the problem of the wetback will remain as long as the Mexican-American border is open, the border economies remain interdependent, and American earnings are five to ten times the Mexican wage. But in our increasingly technological society, with its chronic unemployment among low-income unskilled and semi-skilled workers, it is a problem which cannot be ignored. The continued use of nonresident Mexican labor in border areas, a concession to the artificiality of the border, should be coupled with affirmative enforcement of wage standards and labor laws to provide domestic workers with earnings commensurate with living costs, at least equal access to jobs, and the freedom to bargain collectively.

Moreover, urban and rural areas distant from the border have no interdependence with the Mexican population and economy. Lack of enforcement in such places, except for the futile apprehension-return cycle, is really a subsidy to certain industries and subverts the Administration's policy to "move people off the welfare roles and onto the payrolls."

Despite the good record of the Border Patrol, administrative deficiencies in coping with the inflow of illegal entrants cannot

be explained entirely by a lack of imagination or a lack of funds. It is not pure fantasy to conclude that the policy of the Justice Department on illegal entry is to do just enough to avoid wholesale criticism, without arousing the serious anger of anti-union employers who favor an abundance of cheap labor.

TOWARD MORE ADEQUATE SOCIAL SECURITY—VI

Mr. WILLIAMS of New Jersey. Mr. President, as Congress prepares to make major decisions on improvements to our social security system, it becomes all the more important that Americans of all ages understand the economic pressures now burdening most older Americans.

For that reason, I am submitting information about such pressures for the pages of the RECORD; and today I will draw from statements presented at a meeting conducted in Hudson County, N.J., recently.

There, I called upon elderly residents, county and municipal officials, and others to tell what it means to be old and to live on a limited income in one of the urban centers of New Jersey.

There could be no doubt about the most pressing concern of those who testified. They want social security benefit levels that will be of real help to them as they cope with rising medical costs, rents or property taxes, and other costs of living. In a county where the average monthly social security benefit is $94 a month, the administration proposal for an across-the-board increase of 10 percent would not go very far. We need far more definitive action—of the kind proposed last week in S. 3100.

There can be no substitute for the grassroots testimony received at meetings such as that conducted in Hudson County. The message that came through in more than one statement was most vividly expressed by one participant who said:

> There are a lot of poor people in this Nation and county who also have lived a great number of years. And the sad truth is that many of those elderly have become poor by becoming old.

Mr. President, I ask unanimous consent to have included in this RECORD two newspaper stories—one from the Hudson Dispatch of Union City and one from the Jersey Journal of Jersey City—of October 13. The stories give highlights of a memorable and productive occasion. They are worthy of study as Congress turns its attention once more to vitally needed social security adjustments.

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

[From the Union City (N.J.) Hudson Dispatch, Oct. 13, 1969]

WILLIAMS ASSAILS NIXON BILL AS NOT CLOSING THE AGED GAP

Several hundred Hudson County senior citizens on Saturday attended Senator Harrison A. Williams "informal information session" on the eonomics of aging at Dr. Martin Luther King Jr. School, Jersey City.

Williams, who is chairman of the Senate Special Committee on Aging, is investigating the problems of the aging, especially the economic factors, throughout the country. Previous hearings have already been held in Washington, D.C.

In opening the session, Williams said that he wants the meeting to serve as a "clear call for action which will finally end the worsening retirement income crisis that plagues most older Americans today."

"And I want it to be a warning," Williams said, "to younger people, those now still in the labor force. They have a stake in resolving this problem because their own economic security in later years is now threatened by the same problems that face the elderly."

Williams said that he wouldn't burden the audience with statistics, but would tell them what the statistics mean.

PEOPLE POOR WHEN OLD

"They mean," he said, "that people who have maintained their independence all their lives find that they become poor when they become old. They mean that too often those elderly must make the cruel choice: food on the table or prescription drugs to ward off pain or collapse. They mean that the family home often becomes too expensive to maintain, even though apartments cannot be had at rents within the reach of people on fixed incomes.

"They also mean," Williams continued, "that hard-pressed sons and daughters of the elderly quite often try to help their parents, sometimes in secret."

Williams assailed the Nixon social security bill sent to Congress because the 10 per cent increase "will not even close the cost-of-living gap." He said that by April the cost-of-living will have risen 12 per cent over what it was when the last social security increases went into effect.

The senator also criticized the Nixon plan for failing to raise minimum benefits. He said that he and a group of congressmen are advocating a 15 per cent increase by Jan., 1970, and a 15 per cent increase in January of each of the following two years; and that, over the same three-year period, minimum benefits be raised from $55 to $103.

CALLS FOR QUICK ACTION

Conrad J. Vuocolo, director of tenant relations for Jersey City Housing Authority, said that a concentrated "plan of action must be placed into effect without delay."

In emphasizing the problems of the aging, Vuocolo said that Jersey City has a geriatrics clinic which has become nothing more than a "communicating office" where medical people tell the elderly that they must see their own physicians.

Vuocolo said that recreational fields for the "entire senior citizen population of Jersey City" receives less than $2,000 a year appropriation for arts and crafts. He criticized the state's Office on Aging for having a $30,000 budget to staff two referral offices which do nothing.

Vuocolo said that instead there should be created a program of "State Aid for the Elderly" and that communities like Jersey City should get a per capita grant from the state "for the problems of the elderly."

"If we are to serve our elderly," Vuocolo said, "who have indeed helped make America the great country that it is by raising many fine families; helped to build its railroads; sent their sons and loved ones to war; paid taxes for many years—federal and state agencies had better stop using their jawbone and start using their backbone."

WHELAN OPENS MEETING

Mayor Thomas J. Whelan opened the meeting by extending the city's greetings.

Dr. William Wilkinson, president of Jersey City branch, National Assn. for the Advancement of Colored People, also spoke.

Panelists were Mrs. Lillian Allen of Jersey City, Mrs. Christina Borneman of Hoboken, Clint Jaeger of Bayonne, John MacNab of Kearny, Mrs. Elizabeth Thompson of Jersey City, Mrs. India Edwards, director of Jersey City Office on Aging, and Michael Reilly, director of Hudson County Center on Aging.

Also, Mrs. Mary Johnson, director of Jersey City Meals on Wheels, Inc.; Mrs. Virginia Statile, director of Visiting Homemaker Service of Hudson County; Walter Lezynski, Jersey City health officer, and Walter Nicholl, Kearny health officer.

[From the Jersey City (N.J.) Jersey Journal, Oct. 13, 1969]

WILLIAMS BIDS UNITED STATES AID AGED

Senator Harrison A. Williams Jr., chairman of the U.S. Special Committee on Aging, said today that the biggest problems facing the elderly in Hudson County were nutrition and transportation. He added that both needs "should be taken care of by federal funds."

Sen. Williams made these remarks after listening to testimony of 16 Hudson County residents concerning the situation of the elderly in the area at an information session on the Economics of Aging, Saturday afternoon at the Martin Luther King School in Jersey City, where between 300 and 400 senior citizens had gathered.

The testimony was given by the directors of the various city and county organizations that deal with the elderly and by some of the county's senior citizens.

The witnesses emphasized the financial concerns of the elderly, especially that of drug and medicine bills, food costs and transportation.

"Our group is vitally interested in health," said Mrs. Lillian Allen, president of the Lillian Allen Senior Citizens Club. "We have to keep ourselves out of the hospitals. To do this we suggest neighborhood health clinics where retired doctors and nurses could work part-time to keep others aware of what their state of health was.

"And we could save 90 per cent of drug costs if we could buy them under the genetic name."

Clint Jaeger of Bayonne continued along the lines of medicine costs by citing cases of an 81 year old person he knew who received $658 annually and paid $396 rent leaving the rest for medicine and food; and another 69-year-old man who received $932 annually and paid the same amount for rent.

"The remainder is far too little to live on," he said.

The problem of malnutrition was outlined by Mrs. Mary Johnson, director of Meals on Wheels in Jersey City.

"Malnutrition and loneliness go hand in hand," she said. "The elderly scrimp and save to get a week's food supply out of one meal. I knew one woman who bragged when she got 6 cups of tea from one bag.

"We found one couple that were starving to death. When we brought them food, they started tearing into it like animals. Two weeks later, when our man brought them food he found that the food from the day before was left untouched, and the husband trying to wake the woman up. She had been dead for two days. The man died a few weeks later."

She brought out the fact that most of the elderly will not buy the food stamps because they feel that is accepting charity.

"We have to work to keep these people from becoming confined," said Mrs. Johnson.

Many of the witnesses discussed the need for lower bus fares.

"We're hoping for a crosstown bus in Hoboken," said Mrs. Christina Borneman. "I'm 12 blocks away from the shopping district. So I go to Union City where everything is close together."

Conrad Vuocolo, director of Jersey City Housing Authority tenant services, proposed

a program for the elderly similar to the welfare program for children.

"The city should get so much per capita," he said, "for geriatric centers, miniparks, arts and craft materials, reduced fares and the like. It's time for New Jersey to act."

Sen. Williams spoke against President Nixon's 10 per cent increase in social security saying that for most people it could be understood as "five trips from Hoboken to Jersey City a month."

He continued: "Congress' 10 per cent increase will not even close the cost-of-living gap. By next April, when the first checks would go out under the Nixon plan, the cost-of-living will be roughly 12 per cent more than it was when the last Social Security increases went to effect.

"The Nixon plan doesn't raise minimum benefits, and here is the greatest need. A single person now receiving $55 a month would receive only $61 a month under the President's proposal.

"What is true of minimum benefits is also true of the Nixon plan for automatic cost-of-living increases. Since most Social Security levels are inadequate, the Nixon plan would simply perpetuate inadequacy."

Mrs. India Edwards, director of the Jersey City office on aging, agreed with the Senator and remarked that it was time "dignity and aging joined forces for a better way of living."

BOXCAR SHORTAGE

Mr. DOLE. Mr. President, the Nation is today experiencing one of its worst shortages of boxcars of all time. It is made even more difficult by the extremely large wheat and feed grain crops this year, some of which is now sitting on the ground out in Kansas.

Almost daily I receive telephone calls from grain shippers and farmers calling attention to the desperate situation, and pointing out that thousands of bushels of grain sorghum are spoiling due to moisture conditions. Nearly all of this grain has been piled on wet ground, which further adds to the seriousness of the problem, and Kansans stand to lose thousands of dollars unless immediate remedial action is taken.

The railroads serving Kansas have made valiant efforts to keep abreast of boxcar requirements to meet their shippers' needs. Unfortunately, too often these cars are on the lines of other carriers in other parts of the Nation when they are most needed in grain areas such as Kansas. The Interstate Commerce Commission is striving to distribute the available supply of cars in an equitable manner. However, a long-range solution must be found—and soon.

I urge the Commission to direct their attention to increased per diem charges, as they sought and were given legislative authority to do. The time for study of this matter is long past, and the time for action is at hand.

Also, I would request that consideration be given by the carriers and the Commission to exploring the possibility of using other cars that may be available as a substitute for boxcars during this time of crises. Such utilization would alleviate in a small manner the immediate and urgent demand to get the grain moving.

I call upon all carriers and the Commission to cooperate in this effort to serve the public interest.

CRITICISM OF SENATOR PROXMIRE BY OIL INDUSTRY REPRESENTATIVES

Mr. McINTYRE. Mr. President, there has come to my attention a column published recently in the Oil Daily, attacking the distinguished Senator from Wisconsin (Mr. PROXMIRE) for his criticism of a meeting at the White House a short while ago between oil industry representatives and the President. I ask unanimous consent that this column be printed in the RECORD at the conclusion of my remarks.

The column charges the Senator from Wisconsin with being "a past master" when it comes to "smear and slur" of the oil industry. It suggests that he seeks to deprive the industry of its right to be heard on matters vitally affecting its interests.

Neither of these charges has the slightest truth to it. The Senator has been for several years a leader in the fight to establish sound national policies in the natural resource field. I have observed him in action throughout this period and have been pleased at many times to join him in his efforts. Neither he, nor I, would suggest at any time that the oil industry should not be heard in matters affecting its future. What provoked his criticism of this particular meeting, and what greatly concerned me as well, was the fact that it took place at a time when the task force evaluating our oil import quota system had announced a decision to complete its deliberations in private, seeing neither supporters or opponents of the import quota program. There seemed a grave danger, unless something was said, that only one of the two sides would be heard. It was perhaps because of the criticisms of the Senator from Wisconsin that this situation was avoided and that consumer representatives from New England and elsewhere had the same opportunity to make their views known. I congratulate the Senator from Wisconsin for once again speaking out at a critical time.

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

THE RIGHT TO BE HEARD

(By Keith Fanshier)

One of the best recent examples of the malice and ill-will held for the petroleum industry by a certain stripe of industry-baiting legislator is furnished in the latest outburst of Sen. William Proxmire, D-Wis. attacking the action of industry representatives in recently discussing industry problems with the President and with various governors.

For smear and slur, the doughty senator, in his long-continuing campaign against this industry, its policies and people, has become a recognized past master. With him, virtually everything in and about the industry can be and is bitterly criticized.

The latest Proxmire barrage is directed toward discussions with President Nixon by Michael L. Haider, outgoing chairman of the American Petroleum Institute and former chairman of Standard Oil Co (N J). These discussions were reported in The Oil Daily and other papers, with coverage of Chairman Haider's remarks about his conversation. Proxmire also attacked alleged exchanges between Frank Ikard, API president, and three oil state governors.

The traditions of the nation have been founded on the principles of free speech and a representative constitutional government. Certainly accessibility to elected government officials is a pertinent and important aspect of both things.

For some months, much misgiving had been aroused in the industry over the approach of the administration to petroleum issues, and policies. It was feared that the White House was unduly depending on the filtering of information on industry matters and problems through a system of a professorial staff—and that this could injure the country unless the administration were to have the benefit of specific contracts with the industry.

We personally believe it is a healthy sign not only for the industry but also the country that on vital matters of such stature as the health of the nation's leading source of energy, and to aid in establishment of truly informal government policies on petroleum matters generally, key industry people should have access to top government officials. This certainly would include the President, on matters of such urgency.

No amount of bull-dozing tactics by recognized industry enemies should deter members of this industry from exercising their rights to speak up in defense of their industry from misguided attacks, and to assure understanding by important governmental officials from the top right on down to the industry's situation. In fact, we doubt enough of it has been done in the past. We hope oilmen will go as far and as high as they can go in telling the industry's story. In doing so they should be guided more by the importance of industry needs and its continuing ability to serve the public than by any fear of ill-advised blasts by the corps of known petroleum industry critics.

The industry and its members have the right to be heard. They should exercise it to the full in these times of urgent industry need.

THE NATIONAL ENVIRONMENT

Mr. MOSS. Mr. President, the deterioration of the environment is of mounting concern to our Nation. This concern was a major consideration leading to the creation of the land and water conservation fund and to last year's overhaul of that legislation. The fund we believed was the solution to the problem of financing the acquisition of sorely needed outdoor recreation and park lands. But our program has been frustrated by shortsighted action on the part of the Nixon administration. "Starving the National Parks" is the title of a recent editorial in the St. Louis Post-Dispatch commenting on this action. I ask unanimous consent that it be printed in the RECORD.

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

STARVING THE NATIONAL PARKS

Another example of the growing subservience of Congress to the Presidency in matters requiring initiative is being played out these days in connection with the short-changing of the Land and Water Conservation Fund in the Nixon Administration budget.

The Administration is ignoring the express guarantee of Congress of $200,000,000 a year to the fund for five years beginning July 1, 1968, leading Chairman Aspinall (Colorado) of the House Interior Committee to express a "feeling of outrage" and Senator Nelson of Wisconsin to declare that "the precedent-setting effort in recent years to expand our national park system will face total collapse."

The Conservation Foundation, in an excellent summing up of the situation in its October Letter, reports: "All plans for new national parks and recreation areas are being stiffled, perhaps for four years. It's doubtful that there will be enough money to complete purchase of areas already authorized by Congress. And many state and local park and outdoor recreation areas are also in danger."

All this is being done in violation of Mr. Nixon's campaign promises. On May 16, 1968, Candidate Nixon said: "In cutting the budget, the President must set his own priorities. Among those that should escape the budget knife are appropriations for conservation . . . and for the preservation of natural resources." These, along with education, he then said, are the "growth stocks of America, which will net us the greatest long-term capital gains. Investments here are investments in our children, in the kind of country they will live in and in the quality of life they will lead. This is the last place for Americans to be miserly."

Yet this was one of the first places where Candidate Nixon, on becoming President, adopted a miserly course. Outgoing President Johnson had already cut the $200,000,000 for the fund by $46,000,000, and incoming President Nixon cut it another $30,000,000.

The ready and obvious remedy is for Congress to insist on appropriating all the pledged funds whether the Administration recommends them or not. But things are not that simple. Representative Julia Butler Hansen of Washington, chairman of the House Appropriations subcommittee which *approved* the requested amount of $124,000,000, commented that "we would be happy to appropriate the full $200,000,000 if we receive proper guidelines on how and where it is to be expended in a practical manner."

A properly organized and properly equipped Congress, denied guidelines from the President for the legislation it wants to enact, would acquire its own information, set its own guidelines, and make its decisions as an independent parliament.

Yet Congress has dawdled and been unable to make up its mind for several years now on proposed reforms which would have gone far to give it these very capabilities. If it is outraged sufficiently at being thwarted by the White House, perhaps it will be moved to adopt the improvements which can make it once again an equal branch of Government.

CAUSES AND PREVENTION OF VIOLENCE

Mr. HART. Mr. President, many Senators will already have heard, through news reports, of the contents of the latest report issued by the President's Commission on the Causes and Prevention of Violence.

Since I am a member of the Commission that wrote it, I cannot be openly admiring without risking self-congratulations. But I do hope that others in the Congress find its reasoning sound.

In order that the full text of the report, "Challenging Our Youth," may be readily available, I ask unanimous consent that its contents be printed at this point in my remarks.

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

COMMISSION STATEMENT ON CHALLENGING OUR YOUTH

MEMBERS OF THE COMMISSION

Dr. Milton S. Eisenhower, chairman; Judge A. Leon Higginbotham, vice chairman; Congressman Hale Boggs, Terence Cardinal Cooke, Ambassador Patricia Roberts Harris, Senator Philip A. Hart, Eric Hoffer, Senator Roman Hruska, Leon Jaworski, Albert E. Jenner, Jr., Congressman William M. McCulloch, Judge Ernest W. McFarland, Dr. W. Walter Menninger.

STAFF OFFICERS OF THE COMMISSION

Lloyd N. Cutler, executive director; Thomas D. Barr, deputy director; James F. Short, Jr., Marvin E. Wolfgang, co-directors of research; James S. Campbell, general counsel; William G. McDonald, administrative officer; Joseph Laitin, director of information; Ronald Wolk, special asst. to the chairman.

CHALLENGING OUR YOUTH

One key to much of the violence in our society lies with the young. Our youth account for an ever-increasing percentage of crime—greater than their increasing percentage of population. Arrest rates for violent urban crime are two to three times higher among youth aged 15 to 24 than among older groups in the urban population. The cutting edge of protest, and the violence which has sometimes accompanied it, has been honed largely by the young in the streets and on the campuses. In cities experiencing ghetto riots more than half of the persons arrested were teenagers and young adults. Most of the people involved in the violence during the Chicago Convention demonstrations in August of 1968 were under 25 years of age.

Violence by the young, as by persons of all ages, has multiple causes, involving many elements of personality and social environment. Some young people, even those raised in affluence, may rob for the thrill involved, others for what they hope will be material gain. A few maladjusted individuals may engage in wholesale killing; others may commit murder in a particular moment of rage or calculated coolness. Some may engage in violent forms of protest as a deliberate tactic; others may do so out of excitement and response to mob psychology.

Many of the young people in the nation today, however, are highly motivated by the ideals of justice, equality, candor, peace—fundamental values which their intellectual and spiritual heritage has taught them to honor. The youth of today have not been called on by their elders to defend these values by service in causes which young and old alike believe to be urgent and important, such as the war against the Axis powers or the struggle to end the depression of the thirties. Instead, they face the prospect of having to fight in a war most of them believe is unjustified, or futile, or both.

Moreover, they speak eloquently and passionately of the gap between the ideals we preach and the many social injustices remaining to be corrected. They see a nation which has the capacity to provide food, shelter, and education for all, but has not devised the procedures, opportunities, or social institutions that bring about this result. They see a society built on the principle of human equality that has not assured equal opportunity in life. With the fresh energy and idealism of the young, they are impatient with the progress that has been made and are eager to attack these and other key problems. A combination of high ideals, tremendous energy, impatience at the rate of progress, and lack of constructive means for effecting change has led some of today's youth into disruptive and at times violent tactics for translating ideals into reality.

At the same time, our urban slums abound with youths who have few opportunities to perform constructive roles of any kind. They often receive little help from social institutions, or from their equally disadvantaged parents. Too often, in fact, they have no father in the home to provide a male model for acceptable conduct. They are the last to be employed, and the first to suffer social injustices. Recognizing no stake in the values of an orderly society, they often turn to crime, either individually or in gangs. The highest crime rate in the nation is among these young people.

The nation cannot afford to ignore lawlessness, or fail to enforce the law swiftly and surely for the protection of the many against the depredations of the few. We cannot accept violent attacks upon some of our most valuable institutions, or upon the lives of our citizens, simply because some among the attackers may be either idealistically motivated or greatly disadvantaged.

It is no less permissible for our nation to ignore the legitimate needs and desires of the young. Law enforcement must go hand in hand with timely and constructive remedial action. In a position paper issued earlier this year, this Commission stated its view that students should be given a useful role in shaping the future of the university, as well as responsibility of working directly with faculty members and administrators to develop standards for acceptable student conduct and responses of the institution in the face of deviations from these standards. Whether in the inner city, in a suburb or on a college campus, today's youth must be given a greater role in determining their own destiny and in shaping the future course of the society in which they live.

Despite their increasing share of the highly educated population—indeed 18-year-olds are now better educated than were 21-year-olds when our nation was born—today's youth remain almost entirely disenfranchised. In 1950, two and a quarter million young men and women were attending college, as compared to the more than seven million today. In the same time span we have seen a decline in farmers and agricultural workers from eight million to less than four million. Yet, the latter exercise considerable political influence, while the growing college population remains excluded from participation in the electoral process. Political realities have changed while our laws and institutions lag behind.

Today only two of our states (Georgia and Kentucky) permit eighteen-year-olds to vote, and two others permit voting before the age of 21. Yet, in virtually every other respect, we expect that eighteen-year-olds behave and assume responsibility as adults. At that age, some are in college, and many are married with families and, along with others, are working taxpayers. In most states, eighteen-year-olds are treated as adults by the criminal law. We demand the ultimate service, the highest sacrifice, when we require them to perform military service. Many young men have become battle-tried veterans and some have died on the battlefield before they could vote. Their way of life—and, for some, even the duration of life itself—is dictated by laws made and enforced by men they do not elect. This is fundamentally unjust. Accordingly—

We recommend that the Constitution of the United States be amended to lower the voting age for all state and federal elections to eighteen.

Presidents Eisenhower, Kennedy, Johnson and Nixon and many elected representatives of both parties have expressed support for such an amendment. In the first session of the 91st Congress, 48 joint resolutions calling for the eighteen-year-old vote were introduced. And over the years, a number of states have raised the issue in popular referenda, but the results have been disappointing.[1]

Today's youth are capable of exercising the right to vote. Statistically they constitute the most highly educated group in our society. More finish high school than ever before and more of them go on to higher education. The mass media—television, news and interpretative magazines, and an unprecedented number of books on national and

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world affairs—have given today's youth knowledge and perspective and made them sensitive to political issues. We have seen the dedication and conviction they brought to the civil rights movement and the skill and enthusiasm they have infused into the political process, even though they lack the vote.

The anachronistic voting age-limitation tends to alienate them from systematic political processes and to drive them into a search for alternative, sometimes violent, means to express their frustrations over the gap between the nation's ideals and actions. Lowering the voting age will not eliminate protest by the young. But it will provide them with a direct, constructive, and democratic channel for making their views felt and for giving them a responsible stake in the future of the nation.

A significant focal point of dissent by the young has been the issue of draft reform. To many, the draft symbolizes the inflexibility of our institutions and all that is wrong with the government's treatment of the young. Further, the inequities of the system have been set in sharp relief by the reality of the on-going war that many youth believe to be immoral and futile. The "oldest-first" order of draft calls produces a period of prolonged uncertainty for young men that profoundly affects their education, career and marriage decisions—a condition which is made more unacceptable by the lack of uniform deferment and exemption standards and by the wide variation in the exercise of discretion by local boards. Draft reform will not take the sting out of student anti-war protest or other manifestations of student discontent, but it could go far to reduce the tensions and frustrations that now lead some young men to seek refuge abroad and others to destroy Selective Service records, burn draft cards, or disrupt induction centers.

A random lottery system which would subject all to equal treatment at age nineteen, would take the youngest rather than the oldest first, and would reduce the period of prime draft vulnerability from the present seven years to one year, appears to be the fairest and most promising alternative to the existing draft system. Undergraduate deferments would be continued, but with the understanding that the year of maximum vulnerability would come whenever the deferment expired. It would be far less disruptive in the lives of young men while fully consistent with national security needs. The President has recommended such a proposal to the Congress. We are pleased to note that the Congress has approved the random lottery feature.

We also strongly endorse the balance of President Nixon's proposal for reform of the draft system, which are similar to that recommended in 1967 by the Marshall Commission and the Clark Panel.[2] To the extent these proposals require further legislation, we urge the Congress to enact it.

Assuming the enactment of random selection system, however, the area of discretion for local draft boards is enormous and is likely to remain so.

We therefore urge that renewed attention be given to the recommendations of the Marshall Commission for building a greater measure of due process into the exercise of draft board discretion.

Youth should also be given a role on local draft boards.

We therefore recommend that in exercising his power to appoint the members of local draft boards, the President name at least one person under 30 years of age to each local board.[3]

II.

At present, the Selective Service System calls only about a third of the eligible young men for the draft each year. Reform of the system will not alter this, but by taking the youngest first and by reducing the period of uncertainty from seven years to one, it will free many young men to make firm decisions about their futures. The federal government should do much more to provide these young men, as well as other young men and women in all walks of life, with the opportunities for service to their communities and the nation. As the Peace Corps and VISTA experiences bear out, many young people are eager to assist the less fortunate to achieve social justice and willing to devote a part of their lives to tasks for which the major reward is the satisfaction of helping others.

We do not suggest that voluntary service of this kind should be an alternative to military service. Rather, we suggest that public service opportunities be made available, regardless of military service, to young men and young women, high school and college graduates, inner city, suburban, and rural youth—as justified by the nation's needs.

We are convinced that youth will grasp meaningful opportunities for attacking constructively the problems and injustices that, too often, now drive them to attacks aimed at the destruction of useful institutions, rather than at their reform. But we recognize their skepticism of government-sponsored programs and their increasing unwillingness to become involved in social action programs in which they have no voice. Consequently, we believe that a new and flexible approach to youth service opportunities is required, one that is tailored to individual talents and desires.

We urge the President to seek legislation to expand the opportunities for youth to engage in both full-time and part-time public service, by providing federal financial support to young people who wish to engage in voluntary, non-military service to their communities and to the nation.

We do not suggest the creation of another federally-administered program, or set of programs, comparable to the Peace Corps or VISTA. Instead we suggest that a large number of full- and part-time public service options be opened to youth—opportunities which the youths themselves can be expected to seek out and to improve upon, and which can be filled and administered at the local level if federal financial support is made available. We have in mind such possibilities as teaching and reading assistants, tutors and counselors in the elementary and secondary schools; hospital orderlies and nurses' aides; personnel for neighborhood service and recreation centers; auxiliary aides to local law enforcement and social service agencies; and many others.

The service opportunities would be approved by a central federal agency. The authorizing statute should set general standards of agency approval, eligibility, and levels of compensation. The choice of the particular public service opportunity from the large approved list of public and private institutions and groups should be left to the volunteers, and the initiative, direction and control of the activities would remain entirely with the approved local entity.[4]

The program might be launched to recruit 100,000 young people each year for four or five years, as experience was accumulated. The eventual goal might be as high as 1,000,000 active youth volunteers in service at any given time, depending upon experience and developing national needs. As is now true for Peace Corps and similar existing programs, the compensation to be paid should be set at a student subsistence level and should not be financially competitive with other employment opportunities. As a special inducement, however, we recommend that completion of two years of full-time public service entitle the participant to educational assistance comparable to that available to veterans under the GI Bill of Rights, with lesser amounts of assistance for service periods between six months and two years.[5]

Voluntary public service could contribute to reduction of the large backlog of unmet social needs, and thus could be an important step toward a more humane reordering of national priorities. And youth service could signify to the young that our nation is committed to the achievement of social justice, as well as to military security.

III.

Young people in the inner city slums often grow up in a stultifying physical environment and in unstable or broken families. They face poverty and racial discrimination. They are trained in overcrowded and inadequate schools, and the failure of the educational process, added to residual racial prejudice, results in thwarted job opportunity. Forced by lack of money and racial exclusion to remain in the most deteriorated part of the city, the slum ghetto youth's sense of alienation and powerlessness is confirmed and reinforced by the lack of recreational, medical and social services in the community.

Even should his parents wish to leave the slum ghetto, non-ghetto neighborhoods that they can afford to move into are those that tend to be most resistant to them. The Fair Housing Act and the Supreme Court's 1968 decision in *Jones* v. *Alfred H. Mayer Co.* make it illegal to discriminate in housing sales or rentals, but community resistance and the slow process of case-by-case enforcement combine to retard the elimination of housing discrimination in fact. Thus many black parents who try to inculcate values supporting lawful behavior must stay in communities where their children are subjected to the destructive influences of slum life.

Only by a massive effort to improve life in our inner cities and to eliminate private barriers to the dispersal of racial groups beyond the inner city can we begin to root out the basic causes of crime and violence in these concentrated areas. As part of this large effort, we urgently need programs that can effectively intervene at the critical juncture in a slum ghetto youth's life when he is torn between the forces that may lead him into crime and those which may lead him into socially constructive pursuits.[6]

Reaching the alienated slum youth is not easy. To expect youth programs to succeed where parents and schools already have failed is to hope for a great deal. Yet recent experience gives reason for optimisim.

Several recently organized youth programs have reached directly into the street and gang culture to draw upon indigenous talent and leadership. In the past, many youth programs, devised and imposed by adults, were alien to the life-styles and problems of the youths they were disigned to help. They failed. Youth involvement in the planning and operation of programs characterized several new approaches that commanded the allegiance of the young. These innovative and strikingly successful youth programs may show the way to wider effort.

In Philadelphia, what began in 1966 as a film-making project for the Twelfth and and Oxford Street gang—with youths writing, acting, and filming a story depicting the life and death of a gang leader—has bloomed into a full-fledged corporation which is now involved in a wide range of community-oriented projects. Youths who were formerly "warlords," "ministers of defense," and "guardians of weapons" are now the directors of a successful non-profit corporation. Initial financial successes in film-making attracted further assistance from private and governmental sources. Today the Twelfth and Oxford Street Film Corporation owns three properties in the neighborhood (one of which

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has been renovated for rental to five low-income families in the community), several of its members are receiving training in housing rehabilitation from the Philadelphia Housing Corporation and in marketing and survey from Temple University's School of Business, and plans are now being developed for opening the Twelfth and Oxford Restaurant and a Teen Age Record Company, both of which will provide additional opportunities for on-the-job training and utilization of youth's talents and skills.

Throughout the program's three-year development, motivation has remained high, and delinquency rates among the Twelfth and Oxford group have declined. Due to the skill of adult leadership, youths are given genuine responsibility and a sense of fulfillment. Its success thus far is a striking demonstration that the negative influences of the ghetto can be broken; that when urban youths are given a fair opportunity to run their own affairs, to develop their potentials in meaningful pursuits, they can become important agents of community change.

The same ingredients of success are evident in another youth program, this one in Washington, D.C., Pride, Inc., which originally began as a modest summer work program for 1,000 inner city youth to clean up cluttered streets and exterminate rats, has now become a year-round operation with economic and manpower development as its central theme. Pride directors initially hired 21 street-corner leaders as recruiters. Within three days every job was filled and, since then, the organization has reached some of the city's most deprived and alienated youth. It operates a landscaping and gardening division which employs 30 young men and a gasoline station at which 15 youths are being trained, as well as a program for some 700 participants who work in cooperation with the D.C. Health and Sanitation Departments. Responsibility for supervision and administration of the clean-up programs in various parts of the city is delegated according to ability, and beginners work with the encouragement of knowing that there are possibilities for promotion.

Because Pride, Inc. is recruiting the most difficult of the hard-core unemployed, the organization has had to develop the capacity to deal with young men who are living in a state of crisis and to offer rudimentary supportive services in continuing education, orientation, recreation, health and legal services. On the whole, the results of Pride's efforts to date are good. Evaluations conducted on behalf of the Department of Labor, a major financial supporter of the program, showed that while 67 percent of Pride members had been arrested in the six months prior to joining the program, only 24 percent were arrested during a like period after joining.

Pride, Inc. and the Twelfth and Oxford Street program are by no mean unique. Across the country are other youth programs suited to the life-styles of those involved. Program ingredients vary; the key elements to success are the broadened perspective and increased confidence that come with the feeling of responsible participation by the young people.

A number of programs are carried on by residential centers for rehabilitation and treatment of wayward and delinquent youth. One long-established and remarkably successful program of youth rehabilitation, involving young men of high school age, is Boys Republic in Southern California. Many teenage boys, usually from broken families and in difficulty with the law, are offered by the courts the option of attending Boys Republic voluntarily (there are no guards) or being assigned to one of the State's youth rehabilitation institutions. Boys Republic receives ten times as many court-controlled applications for admission as it can accept, for its facilities and funds are limited. The youths who are accepted are intimately involved in all aspects of the operational program, including making of decisions affecting their lives, work and education. A substantial portion of the funds needed to maintain the institution is earned by the boys themselves who operate a large farm and manufacture and sell the famous "Della Robbia" Christmas wreaths. The amazing long-time record of this effort in rehabilitation is that ninety percent of the young men who attend the institution and voluntarily remain until they complete the rehabilitation program never again have trouble with the police.

Examples of some comparable non-governmental residential centers for youth rehabilitation are the Berkshire Farm for Boys, Children's Village, and Lincoln Hall in New York State. Of the many state-administered institutions, the Kansas Boys' Industrial School is exemplary.

Junior Achievement, 4-H Clubs, Future Farmers of America, the Boy Scouts, Girl Scouts, YMCA and YWCA, the Catholic Youth Organization, Boys Club, Police Athletic League, Chicago Area Project, and many other youth programs, some church-sponsored, are so well known as to require no comment by this Commission, save perhaps the reminder that all of these stress maximum responsibility by the young people themselves in deciding what is to be done, what policy will govern their actions, how the projects are to be conducted, what will be done with earned funds, if any, and all related questions and policies. Even so, existing programs reach only a fraction of our youth, ghetto youth least of all. This fact emphasizes the importance of the new Philadelphia and Washington, D.C. experimental projects which we have briefly described.

Experience has shown that as youths become involved in meaningful activities such as film-making, housing rehabilitation, landscaping, running a gas station, operating a farm, or making Christmas wreaths, their needs for further education and business skills become apparent to them. All the aspects of running a business or community project—accounting, advertising, financing, marketing, manufacturing, selling, law—can stimulate youths to seek training and advice. This is a solid foundation upon which to develop relevant education or job-training programs, to persuade drop-outs to complete high school, and even to guide the ablest and most highly motivated on to college.

Because some youth programs deal with the most deprived and alienated, special supportive services in drug rehabilitation, legal aid, and health care are sometimes essential. Although youth programs can go far to counteract the negative influences of the street culture, drug abuse, delinquency, and illness remain ever-present possibilities. To some extent existing community services can be reoriented to meet the special needs of youth. But it may prove necessary to establish supportive services linked directly to the overall program effort. With respect to health care, group health insurance might be made part of any youth program once underway.

We urge the President, the Congress, and the Federal agencies that normally provide funding for youth programs—notably the Office of Economic Opportunity, the Department of Labor, and the Department of Health, Education, and Welfare—to take the risks involved in support of additional innovative programs of opportunity for inner-city youth.

Imagination and flexibility are essential qualities which may be enhanced by greater involvement of young people in the operations of the granting agency.

IV.

Our main concern in this statement is to stress the importance of challenging the young people of the nation to become full partners in the enterprise of building a better society. But we must also add a word on one increasingly acute aspect of the present "generation gap"—the problem of drugs, particularly marijuana.

The development of drug subcultures among many of today's youth is particularly troubling to those who are older. Increased education about the physical and psychological hazards of the use of addictive drugs, LSD, the amphetamines and other dangerous substances is essential if the health of young people and their children is to be properly safeguarded. In addition, the older generation must answer, in good faith and on the basis of better knowledge, the question raised by many young people as to whether present proscriptions on marijuana use go too far.

The startling recent increase in marijuana use by many young people has intensified the conflict between generations and posed enormous problems in the enforcement of drug laws. Possession and/or use of marijuana is treated severely by the law. In most states such possession or use is a felony, whereas the use or possession of the more dangerous LSD is only a misdemeanor.[7] This lack of elementary logic and justice has become a principal source of frustration and alienation contributing markedly to youth's often bitter dissatisfaction with today's society. We believe that action must be taken to put the whole situation into rational perspective.

Scientific knowledge about marijuana remains sparse, but some of its pharmacological properties have been established: marijuana is not a narcotic or an opiate and is not addicting.[8] There is as yet no evidence as to the relationship it bears to the use of harder drugs.[9]

We recommend that the National Institutes of Health, working with selected universities, greatly expand research on the physical and psychological effects of marijuana use.[10]

The Congress should enact laws and appropriate adequate funds for this purpose. Much remains to be learned about the drug's psychological effects, particularly with respect to the expectation and personality types of users and the total emotional mood of the environment and the persons in it. Many experienced users have had at least one "bad trip" and some cases have been reported of extremely traumatic reactions to marijuana. It may be that marijuana use can be damaging to individuals with a history of mental instability or other personality disorders. Similarly, little is known about its possible psychological effects, including psychological dependency, on adolescents who are in the process of learning to cope with the demands of adult life. And we most assuredly need to know if marijuana users have a predisposition to use harder drugs.

Despite all existing evidence to the contrary, state and federal laws alike treat marijuana as a narcotic, and penalties for its sale and use in some states are extreme. In one state, the penalty is two years to life imprisonment for a first offense of possession. In at least two others, the penalty for an adult convicted of selling marijuana to a minor is death. According to the latest available Justice Department figures, the average length of sentence imposed for violation of state laws was 47.7 months. In 1967 the federal government made 706 arrests for marijuana offenses, as compared to the State of California alone which made 37,513 arrests, 10,907 of them juveniles under eighteen.

Erroneously classifying marijuana as a narcotic, this patchwork of federal and state laws, inconsistent with each other and often unenforceable on their merits, has led to an

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essentially irrational situation. Respect for the law can handly be inculcated under these circumstances. Since many of our youths believe marijuana to be relatively harmless and, yet, are faced with legal sanctions, they are led into a practice of law evasion which contributes to general disrespect for the law. Furthermore, enforcement of laws generally deemed harsh and unjust seem nonetheless to encourage police practices—*e.g.,* raids without probable cause, entrapment—which infringe on personal liberties and safeguards. The situation is reminiscent of the problems encountered in enforcement of Prohibition during the 1920's. The present harsh penalties for possession and use of marijuana are a classic example of what legal scholars call "overcriminalization"—treating as a serious crime private personal conduct that a substantial segment of the community does not regard as a major offense; prosecutors, judges and juries tend to moderate the severity of the statutory sanctions, and the resulting hypocrisy of all concerned diminishes respect for the law.

In view of the urgency of the marijuana problem, we believe that legislative reform of the existing marijuana penalty structure should not wait several years until further research is completed.

We recommend that federal and state laws make use and incidental possession of marijuana no more than a misdemeanor until more definitive information about marijuana is at hand and the Congress and State Legislatures have had an opportunity to revise the permanent laws in light of this information. (Pending further study, we do not recommend a similar reduction in the penalty for those who traffic in marijuana for profit.

Instead of the existing inequitable criminal penalties (including imprisonment) for mere possession and use of the drug, interim legislation might well provide only for civil penalties such as the confiscation of the drug and fines. If the interim legislation does provide for prison sentences, it should at least grant wide discretion to the trial judge to suspend sentence or release on probation.

We were heartened by the recommendation recently submitted to the Congress by several leading officials of the Executive Branch of the government—recommendations which seek immediate change in the provisions of federal law affecting drug use. Among other things, these officials indicated that use and incidential possession of marijuana should be declared to be no more than a misdemeanor.

The above recommendations should not, of course, be taken as suggesting either that we approve the use of marijuana, or that we favor any relaxation of society's efforts to discourage the use of the clearly dangerous drugs.

Expert testimony offered to this Commission indicates that the so-called hard drugs, such as heroin, do not in themselves make users prone to commit other crimes, but that the daily use of such drugs involves exorbitant costs; hence users often undertake lives of burglary and armed robbery in order to obtain funds for the continued purchase of drugs. Further, drug importation and distribution, like certain forms of gambling, constitute part of the life-blood of organized crime—an empire of its own, ruthless, rich, pervasive, corrupting, and skillful at avoiding the reaches of the law.

We cannot usefully add to all that has been written by other Commissions, the Department of Justice, and many State authorities about the need for stopping the importation of the hard drugs, and for vigorously prosecuting the traffickers in those drugs. Nor can we add to the urgent recommendations that have been made by others to eliminate from our society the empires of organized crime.

But we do most emphatically declare that classifying marijuana users with the users of the hard drugs is scientifically wrong, a wrong recognized by the young, a wrong that makes them contemptuous of the drug laws and to some extent of all law. They wonder why the federal and State Governments do not insist upon more widespread research to establish facts and to change laws in harmony with the facts as developed.

V.

In this statement we have stressed the importance of genuinely involving young people in the political process as well as in planning and carrying on useful social projects. In our view, the lack of such alternatives has contributed to the spread of young lifestyles which depend on drugs or which stress hustling, vandalism, robbery, and even murder.

In stressing such remedies, we do not mean to suggest that until they are provided, violent behavior by young people should be tolerated or excused. Violent and unlawful conduct must be controlled by vigorous law enforcement at the same time that measures to eliminate the basic causes of violence are vigorously pursued.

We add a final statement on the apparently growing antagonism between young and old.[11]

In a sense, our immortality is our children. Youth represent the next step for our society, since they are the population which will join us in determining our directions and implementing our hopes. Yet we are aware that our youth are at times unstable, unpredictable and engaged in a major struggle to find their place in the world as they assert their adult capacities, physically and emotionally, politically and socially.

The older generation is faced with the challenge of making available to young people adequate opportunities to participate meaningfully in coping with society's problems, and thus facilitating individual emotional growth and maturity. All too often, the society—parents, school and university administrators, law enforcement personnel, community leaders—become identified in the eyes of youth with obstruction and repression, inflexibly protecting the status quo against the "onslaught" of youth.

There are many things each citizen can do to help resolve these problems. The challenge will not be met by new laws alone, or new programs directed to work with problem youth. Each citizen has a responsibility to participate—indeed, only as there is an increasing commitment on the part of all citizens toward understanding the problems of one another can we expect violence to diminish.

Understanding might more readily be achieved by observing the following guidelines:

It is important to acknowledge openly the existence of problems between the generations when they occur. Too often, people are so threatened by conflict in opinions that they refuse to acknowledge a contrary view, and suppress that challenging view.

It is imperative for all parties to listen carefully and respectfully to one another, with sincere consideration for differing opinions or ideas. Listening is not an easily practiced art.

Stated issues are often a red herring. At times, the conflicts cannot be resolved until underlying causal issues are identified and dealt with.

The resolution of any conflict will be profoundly affected by the expectations of the adversaries. If leaders are perceived by youth as unreasonable and are approached with that expectation, the leaders are themselves provoked into being unreasonable, and vice versa.

All must acknowledge the inevitability of change. The older generation can wear itself out trying to fight the tide or it can turn the energy of youth to advantage for the benefit of all.

Resolution of conflict depends on finding areas of agreement. Instead of emphasis on differences, which promotes polarization, it is necessary to identify points in common, such as the fact that people seek a voice in determining their destiny and dignity as human beings.

As a society founded on the principle that every individual has certain inalienable rights and privileges, it is important to keep the value of the individual high, in spite of the population explosion and the complications of modern society. Youth are entitled to full respect as persons. Youth in turn must accord respect to persons they identify as the "older generation."

The older generation has difficulty in dealing with problems of young people because of its awareness that it has not yet created the perfect world. We don't like to be challenged, especially by our juniors. If we are to cope effectively with youth, we must courageously acknowledge our mistakes and recognize that our offspring may surpass us. Indeed, if we have been successful in our child-rearing, they certainly should surpass us. We must take extra effort to understand their criticism of our ways, and be pleased that these suggestions are coming from our most important products, our youth who will prove our ultimate worth.

The younger generation has the difficulties of its impatience and its assumption that all people of a certain age are the same. With all its defects—and today's youth are not the first to criticize those defects—constitutional representative government is still the best form that man has devised. Youth should acknowledge that there are still opportunities for individuals to leave their mark and to prompt change in an orderly manner within our system. At the same time, young people must be aware of the psychological fact that their inner pressures may prompt them to refight childhood battles, artificially appointing well meaning people to play the same adversary role in which a child's parents are cast.

The first step for all of us is to look at ourselves, and to deal understandingly with the problems and conflicts we have with others. It is easier to blame others, and to see violence as being caused by others. But we must look inward as well as outward to the causes and prevention of violence.

FOOTNOTES

[1] In referenda on November 4, 1969, voters in Ohio and New Jersey defeated amendments lowering the voting age to nineteen and eighteen, respectively. The unofficial Ohio vote was close: 51 percent against and 49 percent for. In New Jersey, unofficial results show the amendment defeated by a 3 to 2 margin.

Voting participation by 21 to 24 year-olds generally falls below the national average. Of the total population eligible to vote, 67.8 percent did so in the 1968 national elections, as compared to only 51.2 percent of 21 to 24 year-olds.

[2] *In Pursuit of Equity: Who Serves When Not All Serve?,* Report of the National Advisory Commission on Selective Service (Washington, D.C.: Government Printing Office, 1967); U.S., Congress, Senate, *Report of the Civilian Advisory Panel on Military Manpower Procurement,* H. Doc. 374, 90th Cong., 2d Sess., 1968. Our recommendations, of course, refer only to the present draft system and are intended to apply only so long as it continues. The question of whether the draft should be replaced for the long term by

a form of volunteer service in the armed forces is now under consideration by another Presidential commission.

[3] As suggested by Joseph A. Califano, Jr., in his book *The Student Revolution,* W. W. Norton & Co., Inc., New York, 1970. The Marshall Commission found that the average aged local board members was 58. One fifth of all the nearly 17,000 board members were over 70. While twelve were over 90, only one was under 30.

[4] One considerable virtue of the approach to youth service suggested here is that it involves a "market strategy" rather than a "monopoly service" strategy: the multitude of public and private agencies would have to compete for the services of the federally-supported youth workers by offering them meaningful, satisfying opportunities for achievement of desired goals; less successful, unrewarding programs would fail to attract volunteers and hence would not waste the public funds being committed to youth service. *Cf.* the discussion of the importance of market-type incentives for success in public programs in Moynihan, "Toward a National Urban Policy," *The Public Interest* (No. 17, fall 1969).

[5] Depending on the availability of funds, educational assistance could be limited on the basis of demonstrated need.

[6] Despite these criminogenic forces, studies show that a large number of ghetto youth never have a police arrest and only a small percentage become repeated offenders.

[7] A felony is a serious crime usually punishable by imprisonment for an extended period (under federal law for a year or more); a misdemeanor is a lesser offense punishable by fine or imprisonment of less than a year. In many states, a felony conviction results in a loss of voting rights, jury service, and the right to enter various professional occupations; a misdeameanor conviction does not.

[8] Addiction is a physiological and psychological dependence on a drug, with definite symptoms occuring when the drug is withdrawn.

[9] In testimony on October 14, 1969 before the House of Representatives Select Committee on Crime, Dr. Robert O. Egeberg, Assistant Secretary of Health, Education and Welfare for Health and Scientific Affairs, stated that "there is no scientific evidence to demonstrate that the use of marijuana *in itself* predisposes an individual to progress to 'hard' drugs."

[10] A similar provision is contained in H.R. 10019 by Rep. Edward Koch, N.Y.

[11] This statement is largely the work of W. Walter Menninger, M.D.

UNMET EDUCATIONAL NEEDS: THE REPORT OF THE NATIONAL ADVISORY COUNCIL ON EDUCATION PROFESSIONS DEVELOPMENT

Mr. MONDALE. Mr. President, recently the National Advisory Council on Education Professions Development issued an urgent report to Congress. The report documents and supports the belief which many Members of Congress have expressed about the Federal Government's failure to meet its responsibilities and commitments to education. This report makes a strong case to Congress to reorder our national priorities. I commend it to the attention of the Senate.

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

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

LEADERSHIP AND THE EDUCATIONAL NEEDS OF THE NATION

(Report of the National Advisory Council on Education Professions Development to the President and the Congress of the United States, October, 1969)

The National Advisory Council on Education Professions Development is charged with reviewing and evaluating programs of the Federal government which support the training and development of educational personnel. We come to Washington several times each year to review with those responsible for the administration of these programs the progress they are making in their efforts to provide the best teachers for our schools and colleges. We have just concluded one such meeting. We are deeply disturbed about what we find.

Everywhere the mood appears to be one of cutting back—withdrawing—seeing how little we can get along with; in short, a steady retreat from the bold plans the nation launched several years ago.

Specifics are not hard to come by. Only last week the U.S. Commissioner of Education pronounced the "right to read" for every youngster in the nation. At that very time, the Department of Health, Education, and Welfare was directing the Office of Education to cut $8 million of a $13 million program, a substantial portion of which was designed to improve the preparation of teachers of reading!

Just two months ago, the House of Representatives cut appropriations supporting the chief program of the Federal government for the preparation of college teachers. The 1969 appropriation of $70 million was reduced by $14 million.

In neither case has there been offered any compelling evidence to warrant such reductions.

But it is not only a matter of reduction in funds. There is also an absence of any bold planning to meet the problems of tomorrow. We have reviewed a recently-completed report recommending programs related to the training of educational personnel that should be undertaken by the Federal government. This report, a plan for the next five years, was prepared by one of several sub-groups of a Task Force on Education appointed by the Department of Health, Education, and Welfare. There are many worthy programs in this plan. We commend the Department for taking this kind of initiative in looking ahead. But we find the conception and scale of the plans no match for the needs. In fact, the so-called plans are timid and token. It would appear that instead of taking as a point of departure a searching inquiry into the needs of education and concluding with a determination of the resources required to meet these needs, this group was faced with an assumption of severe financial constraints and the necessity to fit its planning into this assumption.

In dramatic fashion, these decisions and actions add up to default on the proclaimed responsibility of the Federal government to act as a partner with the other levels of government in supporting the nation's educational enterprise. The Council believes strongly in this notion of partnership. We reject any suggestion of domination of the Federal government. But each partner must do its *share.* And when we find that the States have, in the last two years, increased their expenditures for higher education by 38% and for elementary and secondary education by 28%, and when we find that at the same time the Federal government is cutting back, we can conclude only that there is, in fact, a default of responsibility on the part of the Federal government.

Recently the House of Representatives voted a substantial increase in appropriations for education. We commend the leadership of both parties in this effort. But apart from this action—which has yet to be voted by the Senate and signed by the President—retrenchment is the only signal coming out of the Federal government at the present time. This signal creates a mood—a mood that is affecting the thinking and actions of those in the Federal agencies responsible for administering educational programs and of those in the field who are trying to provide new prospects for the young.

While we sit for two days as members of a Federal Advisory Council and read this signal and sense this mood, we bring with us a sense of another reality "out there"—as the principal of an elementary school in a ghetto, as a school board member in Oregon, as president of a university in Appalachia, as a graduate dean in a private university in New England, as a superintendent of schools in the fourth largest city in the nation, as a professor of physics in a Midwest university, as a guidance counselor in Arizona—as people from a variety of educational settings and various parts of the country. Here we read a different set of signals, sense a different mood.

Above all, we sense a worsening climate in American schools and colleges. While increased controls by school and university authorities may be necessary to check the activities of certain small destructive groups, we assert that present national conditions are deleteriously affecting the studies, the hopes, and the convictions of a wide and responsible segment of the educational community. A new and ugly cynicism and anti-intellectualism is infecting American education. Repressive measures will not arrest this trend, and may even accelerate it; positive and affirmative leadership promptly to end the war and to address forthrightly our domestic problems *can* do so. While these attitudes stem from the war and the disparity between the ideals of the nation and present realities, it is the judgment of this Council that, as Representative Brock and his colleagues so sensitively discerned, the source of much of the disquiet can be traced to fundamental inadequacies of education itself. The needed improvements and reforms will come about only if appropriate leadership is offered, leadership in the educational community and leadership in government, particularly—as we have noted earlier—from the national government.

Too many of our young are concerned by what they are *against*—the war, racism, poverty, corruption. They need, as have all youth in all times, to be *for* things, to have a star, a dream. While we recognize that such affirmative leadership is subtle, and will require politically difficult action, we feel that the growing dismay and cynicism of our youth could develop into a calamity of devastating proportions. The future college and school teachers—*the people of greatest concern to this Council*— are a centrally important group among our youth, and their disaffection can have serious effects in future years.

It would be unfortunate if our political leadership were to take the position that a response to the dissatisfactions of the past—or the yearnings for a different kind of future—must await the ending of the war, or some other development. It is now we must plan. It is now we must act. It is now that we must demonstrate, *mainly to ourselves,* that a nation which can take such just pride in its extraordinary achievements in the material realm is no less resourceful, no less vigorous, no less sacrificing in dealing with matters of the spirit.

Competent observers have noted a growing sense of purposelessness on the part of an influential segment of our student population—a feeling of these young people that it is not possible for our social institutions to cope with an increasing complexity.

If politics is the art of the possible, then our political leaders have a special opportunity to demonstrate to the young that the nation can envision a future of hope and that we can translate that vision to tangible policies and sensible priorities. We could do no better in this then to start with the field of education itself. More policemen in the schools is not a policy; it is an admission of failure.

If the Executive Branch feels that Congress has not moved in a fashion appropriate to the time, let it take leadership. If the Congress feels that the Executive Branch has not sensed the urgent need for a bold educational policy for the nation, let it provide the leadership. But let us have leadership.

NATIONAL ADVISORY COUNCIL ON EDUCATION PROFESSIONS DEVELOPMENT

Adron Doran, President, Morehead State University, Morehead, Kentucky.

Annette Engel, Director of Special Education, Roosevelt School District, Phoenix, Arizona.

Rupert N. Evans, Professor of Vocational and Technical Education, University of Illinois, Urbana, Illinois.

Susan W. Gray, Director, Demonstration and Research Center for Early Education, George Peabody College, Nashville, Tennessee.

Laurence D. Haskew (Chairman), Professor of Educational Administration, University of Texas, Austin, Texas.

E. Leonard Jossem, Chairman, Department of Physics, Ohio State University, Columbus, Ohio.

Marjorie S. Lerner, Principal, George T. Donoghue Elementary School, Chicago, Illinois.

Kathryn W. Lumley, Director, Reading Clinic, Public Schools of the District of Columbia, Washington, D.C.

Carl L. Marburger, Commissioner of Education, State Department of Education, Trenton, New Jersey.

Edward V. Moreno, Executive Secretary of the Mexican-American Commission, Los Angeles City School Districts, Los Angeles, California.

Lloyd N. Morrisett, President, Markle Foundation, New York, New York.

Mary Rieke, Member, Board of Education, Portland, Oregon.

Theodore R. Sizer, Dean, Graduate School of Education, Harvard University, Cambridge, Massachusetts.

Bernard C. Watson (Vice Chairman), Deputy Superintendent for Planning Philadelphia School System, Philadelphia, Pennsylvania.

Joseph Young, Executive Director.

THE BOXCAR SHORTAGE

Mr. PEARSON. Mr. President, I want to call to your attention a transportation crisis in the State of Kansas. The boxcar shortage is even more acute this fall than at any time since I have been a Member of the U.S. Senate.

My office nas received personal visits and dozens and dozens of telephone calls and letters about this crisis. I am advised by the Kansas City Board of Trade that in the States of Kansas and Nebraska there are some 22 million bushels on the ground, notwithstanding hundreds of elevators that are plugged and closed down. It would take some 11,000 cars to move the grain that is on the ground at this time. The harvest of corn, milo, and soybeans is creating a demand that the transportation industry has been and is unable to handle.

Recently, the Department of Transportation has awarded a research contract to develop methods, assessing the economical impact of railroad freight car shortages and for forecasting freight car demand on specific commodities.

We have studied this situation to death We know every year we are going to have a grain harvest. We are going to have a severe economic loss to the farmers and the dealers in the entire Midwest. These shortages affect other industries such as agriculture, livestock, mining, and lumber, and cause widespread unemployment, impede trade and commerce and cause fluctuations in supply, which impose added burdens on consumers.

The situation results from insufficient equipment of various types, improper utilization of the freight car fleet and the diminishing number of overall inventory. Also there is inadequate maintenance of those boxcars that are available.

The eastern roads retain cars in their service that are desperately needed in my State. Some of the other reasons that there are shortages is the overordering, particularly by eastern shippers, using boxcars for warehouses and the reluctance by the carriers to release the car as they believe that they are going to be able to utilize it for a more profitable run. These excuses by the carriers are not new, neither do they solve the problem. Almost 2 years to the date, November 16, 1967, I reported to you, Mr. President, that—

> This country has been plagued with a chronic freight car shortage. At one time or another all areas of the country have been affected by the problem and it has been more persistent and more serious for the grain and lumber producers and shippers of the midwest and northwest. . . .

At the same time that this statement was made, there was an additional statement made by the railroad industry that it was doing all it could to improve freight car utilization.

The regular shippers have been complaining about this problem for years. The matter that seems to bother me is not only the severe economic loss that we may have this year, but it appears I will be back at this time again next year making a similar statement to you.

The transportation industry needs to be stimulated by the Interstate Commerce Commission so that these peak period demands can be met. Certainly, I have heard the rebuttal that few industries can afford to equip for these peaks and that the financial position of the railroad does not allow it to acquire needed equipment. The fall of the year is a peak period in the Midwest. The crop harvests are difficult to schedule because they do depend on unknown elements, such as the weather. Volume shipments of stored grains are sometimes not made at times that might be convenient because of such things as market, price, and similar consideration. More and more grain is moving by truck at a higher cost of about 5 cents a bushel.

This appears to be a case where everybody is talking about it, but nobody is doing anything about it.

When hearings were held before the Freight Car Shortage Subcommittee of the Committee on Commerce on April 23, 1965, in Kansas City, Kans. We had the same song. We stated at that time:

> The precipitous decline in our national freight car supply, especially in the number of plain boxcars, has reached alarming proportions. Not only is the inadequate supply of freight cars constricting the growth of important industries and causing severe nationwide losses to producers, shippers and consumers, but also it is eroding our transportation capability to move essential military traffic during emergencies.

This statement could be applied today, at this place, and at the rate we are going; we could make the same statement next year at the same time, at the same place.

This month the railroads requested another rate increase of 6 percent, and this increase was granted by the ICC. The industry states that they will be coming in shortly to request another rate increase. It has been estimated that the 6-percent rate increase would result in additional revenues to the industry of $600,000,000. Mr. President, the railroads of this Nation play a vital role in its commerce. In 1968 the railroads moved about 745 billion ton miles of freight or almost 41 percent of all intercity freight in the United States. With the addiional $600 million, it would appear to me that investments could be made by the industry in additional equipment.

The specter of a nationwide railroad strike is hanging over our heads the first part of next week. Needless to say, this will further compound our problem.

Mr. President, we must insist that the Congress, the Interstate Commerce Commission, and railroad management and labor cooperate so that the number of freight cars essential to the Nation's needs be increased without further delay.

TOWARD MORE ADEQUATE SOCIAL SECURITY—VII

Mr. WILLIAMS of New Jersey. Mr. President, much lipservice is given in this Nation to the so-called golden years of senior citizens and yet there is ample evidence to show that the later years in the lives of millions of Americans are bitter, poverty-ridden, and demoralizing.

In its forthcoming debate on social security legislation, Congress should be fully informed as to the consequences of inadequate income for most of the 65 plus people of this Nation.

The U.S. Senate Special Committee on Aging—in its publications and hearings this year on "The Economics of Aging"—is doing much to provide such information to individuals of all ages in this Nation.

But, helpful as testimony by "the experts" can be, there is no substitute for direct commentary by those Americans most directly affected by our national failure to assure adequate retirement income for most of our elderly citizens.

For that reason, I have conducted several informal sessions in my own home State of New Jersey to hear from the elderly and from those who work with them.

The story is similar in the cities and in the suburbs: in one way or another, rising costs are riddling retirement income.

Recently, in Middlesex County, I heard from individuals who reside primarily in residential areas outside of urban centers. I was told that many of them pay more than half their meager incomes for property taxes, and that rising health costs threatened much of what remained. I heard eloquent testimony about the shortage of alternative housing for those who are finding that it costs too much to live in the house in which they may have raised a family and in which they lived the greater part of their lives.

Such testimony should not be ignored. It should receive careful consideration in Congress and elsewhere. So, I ask unanimous consent to have printed in the RECORD a news article from the Sunday Home News, of New Brunswick, N.J., of October 19. It gives many of the major statements made at the session in Middlesex County; and it also makes it clear, I think, that Congress must act as quickly as possible to raise social security benefits as the first of many legislative initiatives needed to establish true economic security for the elderly.

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

[From the New Brunswick (N.J.) Sunday Home News, Oct. 19, 1969]

ELDERLY SAY THEY'RE "ROBBED"

(By Gordon D. Sharp)

EDISON.—Middlesex County's senior citizens yesterday told a U.S. Senate committee hearing they are being robbed of their "golden years" by price-gouging and high housing costs, proving that when it comes to demands for social justice there is no generation gap.

The senior citizens complained particularly of supermarket pricing practices, high cost of housing and medical care, rising real estate and school taxes and the lack of relief for their woes from the federal government.

U.S. Sen. Harrison A. Williams, D-N.J., chairman of the Senate Special Committee on Aging, told the gathering in Roosevelt Hospital Annex auditorium their views would be used to prepare legislation aimed at helping them. In some cases, legislation is already in the hopper, he said.

The hearing was attended by about 175 elderly persons, many of them representatives of senior citizens organizations throughout the county. A number of them acted as panelists in the morning-long program, conducted by Williams and Rep. Edward J. Patten, D-Middlesex.

Patten said the tendency in Congress is to keep standards low in nursing homes for the elderly, in order to keep costs down. On the other hand, he said, it is practically impossible to build low-cost senior citizens housing because local zoning laws call for higher building standards.

"The government is building housing for $600 per family in Vietnam, but you couldn't build the same housing here," said Patten.

Freeholder Director George Otlowski, chairman of the health and social services committee of the freeholder board, told Williams the elderly often lack money for necessary drugs, eyeglasses and dentures, "and the squeeze is getting greater everyday."

Otlowski said senior citizens are not going to get the help they need until the governor and state legislature broaden the tax base, because the homeowner can no longer carry the load.

Dr. Man Wah Cheung, superintendent and medical director at Roosevelt Hospital, said that even current medical benefits and Medicare programs are often exhausted in long-term illnesses. "The situation is critical and will become intolerable in a very few years," said Dr. Cheung.

Thomas E. Hamilton, executive director of the Middlesex County Office of Aging, painted an equally dark picture. "If you think we have problems now in the field of aging, just wait until the next century," said Hamilton.

Joseph Lewis of Laurence Harbor, past president of the Senior Citizens Association of Madison Township, said the Nixon administration must work to bring the inflationary spiral under control. He said the $80 reduction on real estate taxes for those senior citizens earning over $5,000 was of little help. He said approximately 40 per cent of those over 65 in the county have to sell their homes and go on welfare.

Many of the elderly present complained bitterly of the way grocery stores and supermarkets allegedly mark up prices on the third day of each month when social security checks arrive in the mail. Patten said markups were a traditional practice, but suggested the senior citizens call a conference to examine pricing practices.

Williams said bus companies would be well-advised to make their vehicles available to the elderly at half price to make it easier for senior citizens to reach hospitals and shopping centers.

The chief panacea urged by the senior citizens themselves was an increase in social security. The auditorium wall was pasted with signs reading "Maintain Self-Respect, Raise Social Security" and "Raise Social Security Now, It Doesn't Take Long to Starve."

Williams said the information provided by the hearings participants would be used "to educate the Congress" on the legitimate needs of the nation's senior citizens.

ADIRONDACK COMMUNITY COLLEGE STUDENTS PROTECT OUR NATIONAL CHRISTMAS TREE

Mr. GOODELL. Mr. President, today marks the arrival in the city of Washington of the national Christmas tree. I am proud to say that this year it is a 65 foot Norway Spruce from the Adirondack region of New York State.

The lighting of the fully decorated tree by President Nixon on December 16 will culminate many months of hard work by many concerned citizens of Warren County, N.Y. The tree was actually selected by the National Park Service early this fall. The selection was kept secret so that souvenir hunters could not spoil its natural beauty prior to its arrival in our Nation's Capital. When the selection was finally announced 1 month ago, a group of students from Adirondack Community College organized a 24-hour guard around the tree so that no harm could come to it. Significantly, these students also organized a local program for the October Vietnam moratorium. The students regarded their vigil as an expression of patriotism inasmuch as they were guarding a national symbol to be used during the coming Christmas season.

In order that their good work be better known to my colleagues, I ask unanimous consent that the following article of November 7, 1969, in the Schenectady Gazette, be inserted in the RECORD.

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

STUDENTS ON CONSTANT GUARD—NATIONAL CHRISTMAS TREE VIGIL

(By Don A. Metivier)

GLENS FALLS, N.Y.—"Last month I was called a 'Communist' and now I'm a patriot," said Charles Paul, president of the student council at Adirondack Community College.

Paul was an organizer of a Moratorium Day march from the college campus, three miles to Glens Falls city park. He also organized a special "honor guard" of more than 200 students from the college who are on duty 24 hours a day protecting the 1969 National Christmas Tree.

The 65-foot Norway spruce will be felled Nov. 21 and transported to Washington, D.C., to stand in the White House ellipse. President Nixon will light it Dec. 16.

The students, many of whom marched in the moratorium parade to protest the Vietnam war, contend their vigil around the tree is merely, "the other side of the coin," to express love of country.

Thousands have visited the tree's site in Crandall Park. Television stations have filmed Christmas programs in front of it.

Paul said while the guards watch for any who might willfully damage the 70-year-old tree, the biggest problem is souvenir hunters. "Everybody wants a branch," he said.

The students gather around a bonfire in the evenings and have held club meetings and songfests at the site.

Paul said many persons called the students un-American and Communists when they marched in protest of the war, but he said the students really "love this great country," and wanted to show their feelings by guarding the tree.

Dr. Charles Eisenhart, president of Adirondack Community College, said: "If anyone wanted a practical demonstration of the civic concern of American youth, here it is."

Police from Glens Falls, the Town of Queensbury, Warren County Sheriff's Department and state police drop by regularly to back up the honor guard.

"We get a chance to talk with these kids," one local officer related, "and we all are getting to know one another much better. They are doing a fine job."

Chief of Police James E. Duggan said: "They are polite, firm and doing a job for all of us who want to see that beautiful tree stand in Washington."

PRESIDENT NIXON'S PEACE INITIATIVES

Mr. PEARSON. Mr. President, the President acted boldly and decisively yesterday in his initiatives for control of chemical and biological weapons of war. Not only has he committed our country to a firm renunciation of all offensive methods of biological warfare, but he has acted to place before the Senate an international agreement to prohibit the use of "poisonous or other gases" and "bacteriological methods of warfare."

This agreement, the Geneva Protocol of 1925, was originally negotiated and submitted to the Senate for its advice and consent to ratification during the administration of President Calvin Coolidge. Even before that time Secretary of State Charles Evans Hughes had successfully urged adoption of similar language in the Washington Treaty of 1922.

While the United States has never ratified the protocol, it is fair to observe that the original American initiatives in this field have helped lead to the contemporary situation, one in which 83 governments, including all NATO and War-

saw Pact countries except ourselves, have ratified the protocol.

Through past administrations since World War II we have held a declared policy of support for the principles of the protocol. Finally, the initiative has been taken to nail down this policy for all the world to see and understand.

This is a sign, and a most timely one, that this Nation is maturing in its comprehension of world politics. It is also a sign that we are prepared to seek, through negotiation, a broader and more specific international agreement based on the British draft treaty on biological warfare. It is more than a gesture because it sets us firmly on a course that leads to open government-level discussions of the hard problems of chemical and biological warfare.

Mr. President, the initial outcome of this executive initiative will be determined here in the Senate. In his statement yesterday, President Nixon made reference to incapacitating chemicals, saying our policy of no first use has been extended to these agents. It would be my hope that a considered discussion of this new policy will take place before the Senate moves to act on the question of ratification. It is only reasonable that we define our terms and the extent of our willingness to renunciate gas warfare, as we go about the business of ratification. The American people, as well as those of the other signatory countries, will be the beneficiaries of a considered, undramatic approach to this matter in the Senate.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

ORDER FOR RECOGNITION OF SENATOR GOODELL VACATED

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the previous order under which the able Senator from New York (Mr. GOODELL) was to be recognized for 10 minutes at this point be vacated.

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

TAX REFORM ACT OF 1969

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Chair lay before the Senate the unfinished business, Calendar No. 547, H.R. 13270.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The BILL CLERK. A bill (H.R. 13270), the Tax Reform Act of 1969.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will resume the consideration of the bill.

Mr. GORE. Mr. President, the amendment which I and several of my distinguished colleagues offer to raise the personal exemption for each taxpayer and dependent from $600 to $1,000 affords to the Senate a basic choice in the type of tax relief which it wishes to extend to the people. That choice is between a tax reduction by way of changing tax rates with respect to personal income, on the one hand, or tax reduction by way of raising the personal exemption, on the other.

The provisions of the pending tax reform bill in many respects constitute a significant step in achieving a higher degree of fairness in our tax system. There are, however, provisions in the committee bill that require change if the pending bill is to achieve effective tax relief and true tax reform.

I have filed my individual views which set forth in some detail these areas where the Senate should strengthen the bill. But I speak specifically at this time to the amendment to raise the personal exemption.

Before doing so, I should like to make one further comment about the pending tax bill. It has two broad features—one, tax reform; and, two, tax relief.

The tax reform provisions in general seek to lessen the favoritism of certain provisions in our tax law, thus bringing in additional revenue by requiring that people and organizations that, in the view of the committee, are not now bearing a fair share of the tax burden will be required by law to do so.

As I shall indicate later, and as I have already indicated in my individual views in the committee report, the committee bill falls short of perfection in this regard, although I must say that the bill is commendable in many, many respects.

I wish to take this opportunity to compliment the distinguished chairman of the committee upon his diligence and his effective leadership in bringing this stupendous bill to the floor of the Senate.

The chairman of the Finance Committee was steadily on the job through weeks of hearings and weeks of executive sessions in the consideration of the bill.

I wish also, Mr. President, to express my personal pleasure at being able to serve with the committee in the consideration of the pending bill. I do not believe that at any time in my years in Congress in either House have I seen a committee with fuller attendance over such a long period of time, working with diligence and intensity, and yet upon frequent occasions demonstrating a fellowship and sense of humor that relieved the tension and bound us closer together.

I could, if time permitted, regale the Senate with some of these experiences, but more serious business is at hand. Suffice it to say that I have found my work on the Finance Committee pleasant and rewarding. For this I am grateful to the chairman and to all members of the committee.

I believe the fairest and most effective means of providing tax relief is to increase the personal exemption. I propose to increase the present $600 personal exemption to $1,000 per person. This increase will be phased in over a 4-year period by increasing the exemption by $100 per year. The personal exemption would be $700 in 1970, $800 in 1971, $900 in 1972, and $1,000 in 1973 and thereafter, thus bringing the total personal exemption for each taxpayer and each dependent to $1,000.

To insure that no person in poverty will be subjected to tax, my amendment also provides a $1,000 low-income allowance. This step will also provide great simplification, since it will replace both the present standard deduction and general standard deduction when fully effective.

This proposal—the increase in personal exemption and the low-income allowance—replaces all the tax reduction provisions in the House bill for individuals as approved by the Finance Committee, except that a new rate schedule similar to that provided by the committee for single persons would be retained.

I have felt for a long time that the provisions of the existing law place an undue burden upon unmarried taxpayers. I think the provision adopted by the Finance Committee is an improvement over that which was approved in the House of Representatives.

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

Mr. GORE. I yield.

Mr. LONG. Mr. President, the Senator might prefer that this interruption appear at the conclusion of his remarks, and if that be the case, I wish he would so indicate.

Mr. GORE. I think it would be fine here.

Mr. LONG. I thank the Senator for the kind comments he made about the chairman and about the committee. I also thank the Senator for his diligence and his study of this bill. He has devoted a great deal of attention to it, as his remarks reflect.

I think this is the first time in the consideration of a major piece of legislation that the hearing record of a bill is not on the desks of Senators. The reason is they are too large and therefore the hearing record is beneath the desks of Senators.

In the 5 weeks that we conducted the hearings, with an agreement with the leadership that we would try to order the bill reported to the Senate by October 31, we used all the shortcuts available to us. We imposed a 10-minute limitation on all witnesses, with the staff summarizing their statements for us. We also imposed limits on ourselves in our questioning, as the Senator well knows.

So we have here six volumes of hearings, and one is yet to be supplied. We have 6,182 pages of testimony and evidence presented to us through volume 6, and I suppose that when the seventh volume is received, the total may well go beyond 7,000 pages.

We had good attendance at the committee sessions to hear these witnesses. Often we had a quorum of the committee sitting, and in some instances the full committee was present, hearing witnesses who presented their views on the provisions of the bill that affected them. In the time available to us, I think we have done the very best we could.

The Senator has an amendment that, of course, will merit very serious consideration by the Senate. It is my under-

standing, from hearing the Senator describe it, that this is not precisely the amendment he offered in the committee. I believe he had a phaseout in his amendment for all years. At least, it differs with respect to single persons. The Senator offered an amendment in the committee and gained a substantial vote for it. Am I correct in assuming that he did not have the single-persons provision in the amendment he offered in the committee?

Mr. GORE. The Senator is in slight error. I did include, as I recall, the provision for a single taxpayer. There is one change in the amendment I propose here. The low-income allowance in the amendment which I offer on the floor of the Senate is $1,000, while the one I offered in the committee was $1,100. It seemed to me and to my staff, as we worked on comparative tables, that if the personal exemption were raised to $1,000, then a low-income allowance of $1,000 would offer the maximum amount of equity.

Mr. LONG. The point I have in mind is that the Senator has further refined the proposal he offered in the committee, so what he now offers to the Senate goes beyond what he offered at the time the committee voted.

Mr. GORE. There is the minor difference I noted. With respect to what I offered in the committee, the amendment lost in the committee by an 8-to-8 tie. So it comes to the Senate after having had careful consideration in the committee and after having been approved by the same number as disapproved; but, because of the parliamentary situation, a tie vote loses for the proponent.

Mr. LONG. As the Senator knows, in the consideration of this measure we did not have the time to give as much detailed consideration to the various alternatives available to us as we would have liked. We did the best we could in the time available to us. But we did the best we could to arrive at the best approach. I think the amendment offered by the Senator that provided for an $850 exemption failed on an 8-to-8 vote. Six teen members of the committee were in the room at that time.

Mr. GORE. The Senator is correct. When I offered the amendment in the committee to raise the personal exemption to $1,000, it received a substantial vote, but by no means near a tie vote. It was the $850 provision on which the tie vote was achieved.

Mr. LONG. It was not my impression that the amendment offered by the Senator in the committee contained the provision, which the committee looked upon with favor, that a single person would pay no more than 20 percent more in taxes than a couple would pay on the same amount of taxable income. I believe that is in the Senator's present proposal. Am I correct?

Mr. GORE. The Senator is correct.

Mr. LONG. I was not of the impression that that was in the amendment offered in the committee, although it may have been.

Mr. GORE. The Senator's memory may be superior to mine. I thought it was included. It is included now. I know that the Senator, the chairman of the committee, agreed with this provision in the committee. In fact, I think we adopted almost unanimously this provision with respect to single taxpayers, did we not?

Mr. LONG. I believe that is correct.

This appears to be one of those provisions the logic of which becomes more and more compelling with the passage of time. When it was first suggested, because it did involve a very substantial revenue loss, those of us who were managing the measure felt that the revenue loss was more than could be permitted at that time.

But the logic of the argument on behalf of single persons living alone has become more and more compelling to those of us who have heard it over a period of time.

Mr. GORE. I thank the Senator. I should like to borrow the language which the distinguished chairman of the committee used, that with the passage of time the logic in behalf of a provision which has so much justice becomes so compelling. Would the Senator mind if I use that same language to increase the personal exemption?

Mr. LONG. As long as the Senator is saying it.

Mr. GORE. Mr. President, this illustrates the fine and enjoyable fellowship that existed between all members of the Committee on Finance during this long, difficult, and arduous task. I thank the Senator.

Mr. President, the personal exemption is designed to provide a certain amount of tax-free income with which a person can feed, clothe, house, and educate his family. No one can deny that the present $600 exemption is inadequate; at least, I do not know of anyone who would deny it. I must qualify that and say that in the executive session of the committee the spokesman for the Treasury Department undertook to say that the $600 exemption was all that could be warranted. My reply to the distinguished Secretary was, "I do not believe a single mother in America will agree with you."

I say that now. Who can live on $50 a month? Who can support a wife with $50 a month? Who can feed, clothe, educate, and care for the health and welfare of a child on $50 a month? I do not hear any Senator asserting that. I have not found any father or mother who is willing to assert that. Again I ask the question: Who can live on $50 a month? Again I ask the question: Who can support a dependent for $50 a month? Yet $600 for a 12-month period is all that is permitted under present law. That is all that will be permitted under the pending bill—$50 a month. That is the committee bill; that is the present law; that is the House bill.

The amendment which I offer would increase this amount to $1,000. For a family of four, the amount of tax-free income permitted through the personal exemption under present law and under the committee bill is less than it was in 1940. Yet the cost of living has gone up and up and up since then. The cost of living is almost three times as great as it was in 1940. Yet the personal exemption for a family of four is less than it was then.

Mr. President, it is time to restore the personal exemption to a level that will achieve its intended purpose. I believe that the $600 exemption is the most out-of-date provision in the tax law. It is now time for the Senate to change it, and the Senate has an opportunity to change it because the amendment is being offered as a substitute for other provisions in the tax bill, other provisions that will reduce revenue to the U.S. Treasury. That was not true of an amendment offered on Monday of this week to raise the personal exemption to $1,200. It was not offered as a substitute for any other provision in the bill, but rather as an addition to the provisions in the bill.

My amendment, on the other hand, affords a clear-cut choice for the Senate between providing tax relief by way of raising the personal exemption, on the one hand, and tax relief by way of rate changes, on the other.

Mr. President, the proposal for a $1,000 personal exemption and a $1,000 low-income allowance standard deduction is superior, in my opinion, to the tax reductions adopted by the Committee on Finance by an 8-to-8 vote, for these reasons. First, it is simple and easily understood by all taxpayers. Every taxpayer would know what his personal exemption is. When Senators travel to their States, I firmly believe they will find every taxpayer well aware of the unfair and inadequate present $600 personal exemption.

The personal exemption is designed to provide for a taxpayer and for his dependents a minimum income for existence before the Federal income tax is levied upon that income. This is called the personal exemption. This exemption is available for every taxpayer, rich and poor alike. The greater the number of dependents, the larger the amount of exemption. I think the people who need tax relief most—and this will bear repetition because it is true—are those with the largest number of dependents to support.

Mr. President, this situation is typified by the man with a big mortgage on a little house, filled with children.

Second, some 11.5 million taxpayers will be removed from the tax rolls by my amendment, compared with only 5.5 million people to be removed by the committee bill.

All the taxpayers who would be removed either by my amendment or the committee bill are in or are barely escaping the poverty level of income.

There was once a feeling that everyone who had any substantial income should pay Federal income taxes. Rightly or wrongly, we have advanced beyond that point until now many persons are suggesting a negative income tax; that is, that those who have less than a set standard of income, whatever that might be in the minds of those who propose a negative income tax, would receive a payment from the Government instead of making a payment to the Government. I do not wish to discuss the merits

or demerits of that proposal, but refer to it only as a step in the governmental or sociological development of thought along this line. At least, it seems to be a widely held view now that people in the throes of poverty should not be required to pay a tax upon their income, meager as it is.

(At this point Mr. ALLEN took the chair as Presiding Officer.)

Thus, rightly or wrongly, the committee bill and my proposal would remove several million persons from the tax rolls. My proposal would remove a larger number because it provides greater relief for larger families. Let us recognize that many of the larger families are in the poverty or near-poverty income levels.

Third, the amendment provides greater tax relief to low- and middle-income taxpayers. A typical family of 4 with $7,500 a year in wage income would receive a tax reduction of $262 under the proposed amendment compared with only $36 under the committee bill.

A taxpayer with a wife and 2 children, earning an income of $7,500 a year, is not poverty stricken. He now pays a substantial tax. I would not remove him from the tax rolls, nor would the committee bill, nor would present law.

How much would this taxpayer pay under present law? $562. Under the committee bill he would still be required to pay $516. Under my proposal he would pay $290.

I respectfully submit that with the high cost of living today, a man with three dependents and an income of $7,500 a year will be hard pressed to pay a tax of $290.

I submit that this example illustrates the tax reduction provided by the amendment which I offer. More than 50 percent of the tax reduction provided by my amendment would go to people with incomes from $7,000 to $15,000. Compared with this, the committee bill would extend only about one-third of its tax relief to taxpayers in this group.

This illustrates again the difference. The committee bill provides with reasonable equity and justice, I think, tax relief for people in the lowest income brackets. It provides too much relief, in my view, for people in the high-income brackets. But for the people in the lower and the low-middle income groups, it provides very little relief. This is the group that needs relief most of all.

To illustrate the point: The rate change in the committee bill is only 1 percentage point in the bottom bracket, a tax reduction of from 14 percent to 13 percent. Yet the rate cut in the higher brackets runs to 8 percentage points. What is the justice of giving a 1 percentage-point cut on the small incomes and an 8-percentage-point cut on the large incomes? Is that equity?

Fourth, the proposed amendment is more progressive than the committee approved rate reductions, since a smaller percentage of the tax relief goes to the upper brackets, a point I have just illustrated. The biggest defect in the tax reduction provisions of the committee bill is the schedule of proposed rate reductions, one example of which I have already cited. These rate reductions are a further step in making our tax system more regressive instead of more progressive.

The top bracket under present law is 70 percent for incomes over $100,000. Under the committee bill, however, the top marginal rate is reduced to 65 percent of the amount of income over $200,000.

Not only is the top rate lowered by 5 percentage points, but the brackets are also changed so that, for example, incomes between $100,000 and $200,000 receive a rate reduction ranging from 6 to 8 percentage points.

Such a step, in my opinion, is unjustified, regardless of whether the personal exemption is increased. I would not vote for this kind of rate change even without a substitution of the personal exemption, because it seems to me it is undemocratic. When one couples this with the 1964 cut in the top rate from 91 percent to 70 percent, progressivity in the upper brackets has been sharply curtailed. Indeed, if the committee bill passes unchanged as to the rates, there will be very little progressivity in our tax laws beyond the $50,000 adjusted gross income level.

(At this point Mr. CRANSTON assumed the chair as Presiding Officer.)

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

Mr. GORE. I yield.

Mr. LONG. Mr. President, it would seem that we ought to keep in mind that when reductions in rates are being made, one can look at that situation in any one of several ways. When one cuts a tax rate from 14 percent to 13 percent, while he is only reducing it by one point, at the same time he is making a one-fourteenth reduction since 14 points of tax are being reduced by one point.

I think the Senator will find that if a 70-percent tax rate is reduced by one-fourteenth, it is reduced by 5 percentage points. This is the reduction in the bill and this shows that we are in this regard at least making a uniform reduction. Because we are multiplying by a greater number the points—70 instead of 14—in order to receive the same percentage reduction, the number of points of reduction is higher.

I am sure the Senator is well aware that the most attractive provisions in the bill as reported by the committee concern the low-income taxpayer. They relate to the fact that the bill includes a low-income allowance, an increased minimum standard deduction, one of the more expensive provisions in the bill, and also includes an increase in the standard deduction, phased so as to move from a 10-percent standard deduction up to a 15-percent standard deduction. Even the increased standard deduction does not affect those in the high income tax brackets, because in most cases they find it to their advantage to itemize deductions.

Mr. GORE. Mr. President, I realize that percentages often give an appealing picture, but a housewife cannot spend percentages at the grocery store. I was speaking to a women's meeting in Knoxville a few days ago, and a woman stood up and asked, "How can Senators refuse to raise the personal exemption?" I said, "I hope they will not." She said we Senators ought to have to go to the grocery store now and then. Perhaps we should adjourn one day next week, take our grocery baskets, go to the grocery store, and see what we can buy with percentages.

One percentage point at the bottom will not buy one potato or anything else. Indeed, what would 1 percentage point mean to a man who owes $500 in taxes? Practically nothing.

Mr. LONG. Well, if the Senator will——

Mr. GORE. Let me continue just a moment. The Senator has touched me at a sensitive point.

The House bill that came to this body would give to a typical taxpayer with a $10,000 taxable income, who had three dependents, a tax reduction of $57 a year. It would give to the president of General Motors—who last year had the highest compensation in salaries, bonuses, and so on—a tax reduction of $116,000 a year, primarily because of a 50-percent maximum tax rate on earned income. That is what percentages give you. But he will not take the percentage figure to the market. He will take the dollars to the bank or leave them in the bank. But what does it mean to a man who has a wife and two children to have that saving of $57 a year? The cost of living has increased more than that this year.

With reference to the percentage business, when we start cutting taxes to a flat percentage, we are hitting the little people.

I must let the RECORD be plain. The Senate committee improved the House bill in this regard. The Treasury had recommended and urged cutting the top bracket on earned income from 70 to 50 percent, and the House, I think, made a great mistake in agreeing.

The Finance Committee, partly at my urging, struck that provision out. I congratulate the committee. If it should be permitted to stand, Congress in one 5-year period, will have cut the top bracket from 91 to 50 percent on all except investment income—almost cutting the top bracket in half. That would destroy progressivity in our tax system.

Many people believe that we have a graduated income tax; that the more one's income, the more he pays in taxes. There will be very little progressivity left if the committee bill is adopted, except in the lower brackets.

Just let me illustrate this. Under the committee bill, the marginal tax rate would double between $500 of taxable income and $10,000 of taxable income. Ah, Mr. President, that is gradualism, that is progressivity—a 100-percent increase in the rate of tax from $500 to $10,000!

But then what do we do when we get above $100,000 of taxable income? From $100,000 to $200,000, the increase under the committee bill will be only 5 percentage points; 100 percent between $500 and $10,000; 5 percent between $100,000

and $200,000. Oh progressivity, a democratic system of taxation, according to the bill—percentages!

I say again: The housewife cannot meet the high cost of living with percentages.

Now I yield to the Senator from Louisiana.

Mr. LONG. I should like to stay with the point I originally made with the Senator from Tennessee; namely, that when one is talking about a percentage tax reduction in the rates, one can gain a misleading impression on tax justice and equity, depending upon how he looks at it. One way it looks a certain way; the other way it looks different.

I submit to the Senator that if we were in a position where we had to consider a tax increase instead of a decrease—and the Finance Committee had brought in a measure to that effect—whereby we were adding 1 percentage point to everybody's tax rate, starting with the fellow who had a 14-percent rate, it would be an increase to a 15-percent rate. Then we would increase the rate of the next fellow, who had the 15-percent rate, to 16 percent. The one who had a tax rate of 16 percent then would have his rate increased to 17 percent. The one who is paying 70 percent would have his rate increased to 71 percent.

I suspect the Senator would be the first man on the floor—and I probably would be the second—to say, "That is not fair." This fellow with the 14-percent rate would have his rate increased by 1 percentage point, but his percentage increase would be about 7 percent; whereas at the 70-percent rate the 1-point percentage works out to be an increase of only 1 1/10 percent.

So both the Senator from Tennessee and I would be arguing that in justice and fairness the rate increase on the little fellow down at the bottom, at that point, would be 5 times as much as it was on the fellow at the top.

The Senator, of course, knows that the big appeal of the bill before us—and I have considerable sympathy for what the Senator is seeking to do—with regard to low-income people—is the low-income allowance, and also the increase in the standard deduction. Those are the most appealing things in the bill for the low-income people rather than the rate reduction.

As I understand, the bill does parallel what the Senator is seeking to do here with regard to the low-income allowance. I would also think that on the same basis he ought to look with favor on the standard deduction increase.

Mr. GORE. I thank the able Senator. Percentage calculations have some use, and I should like to present one translated into numbers of taxpayers.

Under the committee bill, 40 percent of the tax relief through rate reductions goes to people having taxable incomes of more than $20,000 a year. Mr. President, how can we justify that action, when only a very small percentage of our people have taxable incomes of more than $20,000 a year?

The amendment which I offer would provide some tax relief to people in this group—11 percent. Only 11 percent of the tax reduction from the personal exemption, if my amendment is adopted, will go to taxpayers having taxable incomes of more than $20,000 a year. But unless it or some other amendment is adopted, the committee bill will provide 40 percent of all personal tax relief as a result of rate changes to this high-income group.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a table which will show the comparative effects of the proposed amendment, the committee bill, and the present law with respect to taxpayers grouped by various classes of income.

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

TABLE 7.—INDIVIDUAL INCOME TAX LIABILITY—TAX UNDER PRESENT LAW AND AMOUNT AND PERCENTAGE OF CHANGE UNDER REFORM AND RELIEF PROVISIONS UNDER H.R. 13270 WHEN FULLY EFFECTIVE AND UNDER $1,000 PERSONAL EXEMPTION AND $1,000 LOW INCOME ALLOWANCE IN PLACE OF H.R. 13270 RELIEF PROVISIONS

Adjusted gross income class	Tax under present law [1] (millions)	Increase (+) decrease (−) from reform and relief provisions: H.R. 13270 Amount (millions)	H.R. 13270 Percentage	$1,000 personal exemption and $1,000 low income allowance Amount (millions)	$1,000 personal exemption and $1,000 low income allowance Percentage
0 to $3,000	$1,169	−$773	−66.1	−$957	−81.9
$3,000 to $5,000	3,320	−1,007	−30.3	−1,589	−47.9
$5,000 to $7,000	5,591	−948	−17.0	−1,947	−34.8
$7,000 to $10,000	11,792	−1,291	−10.9	−3,348	−28.4
$10,000 to $15,000	18,494	−1,907	−10.3	−3,662	−19.8
$15,000 to $20,000	9,184	−789	−8.6	−1,242	−13.5
$20,000 to $50,000	13,988	−1,013	−7.2	−1,123	−8.0
$50,000 to $100,000	6,659	−318	−4.8	−131	−2.0
$100,000 and over	7,686	+203	+2.6	+780	+10.1
Total	77,884	−7,843	−10.1	−13,219	−17.0

[1] As approved by the Senate Committee on Finance.

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

Mr. GORE. I yield.

Mr. LONG. Mr. President, to really reflect properly the tax burden paid by high-bracket taxpayers we need information about the tax increases on corporations. I am not referring so much to high-bracket taxpayers as to people who are making a lot of money. The Senator well knows the difference between the high-bracket taxpayer and someone making a lot of money. The one is paying a lot of taxes, and the other one is making a lot of money, even though he might not be paying any taxes at all.

To really reflect the burden properly, one has to take into account, on some basis, the biggest tax reform in the bill—the repeal of the investment tax credit. The Senator from Tennessee has been 100 percent consistent about the investment tax credit. He was against its ever being enacted to begin with, he was for its being suspended, he was against its being reinstated, and he has been for repealing it. I am one of those who was persuaded that this might be a great incentive—and I now believe perhaps it was too much of an incentive, in wartime in particular—for the construction of new plants. But let us look for a moment at the people who own the companies which have received the benefit of the investment tax credit. Make whatever reasonable assumption one wants to as to how much of the tax increase from the repeal of the credit is going to be passed along to the public in terms of prices, there still will be plenty left to reduce earnings and dividends. If we relate those effects to the taxpayers and group them by their income levels, we would see that most stock appears to be held by those earning above $20,000. I think it is clear that people making over $100,000 will have very heavy increases in taxes as a result of this bill, taking into account their share of the corporate increases. I am not saying there should not be a change of this type; I am just saying that there will be large increases for these people under the committee bill. But there would be even greater increases under the Senator's amendment. Even with regard to taxpayers making $50,000 and up, the tax reductions under the committee bill are not likely to be actual reductions for many of those people.

As a matter of fact, it is my understanding that when the investment tax credit repeal and other corporate changes are taken into account all taxpayers with incomes of $20,000 and over taken together instead of having a tax decrease will have an increase equal to 67 percent of the total reductions as a result of this bill. This assumes that three-quarters of the corporate tax increase will be borne by those who own the corporation, and that one-quarter of it will be passed along to the consumer.

One can make any one of a number of assumptions about who bears the corporate income tax; undoubtedly, some of it is passed on to the public, but I think most economists still think much of it, in the long run at least, is borne by the shareholders.

When you make the calculation I have in mind, taking into account the taxes borne by shareholders you will find that those with high incomes would have a very major tax increase as a result of this bill. Of course, when we speak in percentage terms, as the Senator is well aware, we will be putting a considerable number of people who are paying no income tax at all back on the tax rolls with this bill. And well we should. As a matter of fact, I still have some doubts whether we did it quite right. Maybe, we should tax those who are paying little or no taxes, even more. I believe the Senator has been thinking along those lines also.

Nevertheless, there is a very big tax increase in the bill as it now stands for

people with incomes of $20,000 and over, compared with those who are in the lower-income brackets. The rates themselves do not reflect it. But that is not all the bill does. One also has to take into account the fact that we are taxing sheltered income. In fact, I believe we are taxing nearly every phase of sheltered income, or almost every phase, that the Senator wanted to tax. Perhaps we are not taxing certain items as heavily as the Senator would like, but we are taxing them. Insofar as taxpayers who have considerable amounts of sheltered income are concerned, the reduction in rates in this bill does not begin to offset the increase in their taxes which will result from the other provisions of the bill.

Mr. President, I say that it does not begin to offset it. That is a relative term. It does not offset it; I will put it that way.

Mr. GORE. Mr. President, the geniality of the distinguished Senator is equalled only by his resourcefulness. He now makes a particularly ingenious argument based upon certain assumptions. The Senator starts out with the assumption that the individual taxpayers with more than $20,000 in income can have imputed to them a pro rata or percentage share of the taxes on corporations. With that ingenious imputation, he then arrives at the ingenious conclusion that the bill greatly increases the personal tax of the taxpayers in the high brackets.

I do not hear the suggestion that such a result, however ingeniously arrived at, is based upon unfairness. If people in the affluent elements of our society are required to pay more taxes as a result of the tax reform provisions of the pending bill, then it is assumed that this result flows from a conclusion on the part of the committee that, because of the provisions of tax favoritism in existing law, those individuals are not bearing their fair share of the tax burden at the existing rates.

Mr. President, to show how ingenious this argument really is, though, and how fallacious it becomes, the implication is made that because we have proposed tax reforms striking out some of the preferential and unfair tax loopholes, which will require certain individuals to pay some additional taxes, we, therefore, should now reduce the rates.

We start out, on the one hand, to require them to pay more taxes. Because we succeed in a limited way in doing that through tax reform, then the implication of the argument of the distinguished chairman is that we should therefore give it back to them through an unfair reduction in their rates.

I marvel at the resourcefulness of my distinguished chairman. When he is on my side, I take great reliance in his talents. When I have to cross swords with him, I am always wary.

Mr. LONG. Mr. President, one of the most effective advocates of the various reforms contained in the tax bill is Mr. Stanley Surrey. He thinks much along the same lines as I am thinking.

Mr. Surrey's argument has been pretty much the same as mine—that the tax rates should be reduced for people who are actually paying an income tax on all their income, but that it should be raised for people who are not paying an income tax on most of their income.

Mr. Surrey, as the Senator is well aware—and I am not sure that Mr. Surrey convinced the Senator from Tennessee, although I was thinking that way before I knew that Mr. Surrey was—felt that 50 percent of a man's income is plenty to collect from a taxpayer provided we are taxing him on all his income.

The Senator is well aware of the fact that the Treasury estimates that people who are making $100,000 and over are paying an effective rate of around 30 percent of their income if you take all of their income—both taxable and nontaxable—into account. They are not paying 57 percent, 67 percent, or 70 percent. They are paying about 30 percent. And the attitude of Mr. Surrey, as well as the attitude of the people in the Treasury Department in the present administration, is that the first order of business ought to be to find out who the people are who are paying less than say, 35 percent, on such large incomes and start to move them into the higher taxpaying brackets in a substantial way. Having done that, it seems to me that we ought to have a tax reduction on the rates for those who are paying a tax on all their income.

While the Senator does not buy the argument, he must admit that some experts who have very good credentials as tax reformers feel that the rates are too high if we make the other individuals pay taxes on all their income.

Mr. GORE. Mr. President, the able Senator has introduced the question of effective rates. I agree that there is a vast difference between the rate stated in the law and the effective rate paid, particularly in the higher brackets. Effective rate refers to the actual tax payment made compared to a person's total economic income.

I am glad the Senator introduced that concept because the Treasury has provided data which indicate that upon analysis the House bill, which the committee amended in some substantial and in some inconsequential ways, will provide a lower effective tax rate than the present law with respect to people in adjusted gross income brackets from $20,000 to $100,000.

I think I detect that the able chairman may be a bit surprised at that. However, this is our conclusion from the data supplied by the Treasury Department.

Mr. LONG. Mr. President, the Senator is not taking into account the tax increases in the corporate structure as a result of the repeal of the investment tax credit.

Mr. GORE. I do not think we should. I do not think we can impute to individual taxpayers a share of the corporate taxes. We can talk about present income and effective rates upon that income; and according to the Treasury data, the House bill will bring a lower effective rate on people in the $20,000 to $100,000 income range than present law. For persons who have adjusted gross incomes of more than $100,000 a year, the House bill will provide an increase in effective rate of only two points.

Mr. President, I have not yet been able to prepare comparable tabulations with respect to the committee bill. I think they will show similar results, but I will have those tabulations prepared by next week.

Frankly, I think this situation is outrageous. We have a bill that is hailed as the major tax reform bill in U.S. history. But it totally fails to achieve the purpose it started out to achieve. We have a culprit of the regressive rate changes that the bill contains, and the rate changes are the same in the House bill and in the Senate bill.

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

Mr. GORE. I yield.

Mr. LONG. Mr. President, the Senator may arrive at a different calculation than that available to us. However, the best information we have to show with respect to what the House bill would do in terms of percentage tax reductions is to be found on page 4 of the committee report. The Senator may quarrel with that information. However, would the Senator be willing to have that printed in the RECORD at this point? If he prefers not to do so, I shall not do it.

Mr. GORE. Mr. President, I am perfectly willing to have the Senator do that.

Mr. LONG. Mr. President, I ask unanimous consent that the tabulation appearing on page 4 of the committee report be printed in the RECORD.

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

Percentage tax increase or decrease from committee amendments

Adjusted gross income (in thousands):	
$0 to $3	−66.1
$3 to $5	−30.3
$5 to $7	−17.0
$7 to $10	−10.9
$10 to $15	−10.3
$15 to $20	−8.6
$20 to $50	−7.2
$50 to $100	−4.8
$100 and over	+2.6
Total	−10.1

Mr. LONG. Mr. President, that table indicates that there is an increase of 2.6 percent in the taxes of those with adjusted gross incomes of $100,000 and over. That does not take into account the repeal of the investment tax credit or any of the other corporate changes. These are left completely out of it. I think they ought to be considered as a part of the overall increase in the tax burden and who is paying it.

The committee report figures, it seems to me, to support the least argument I have made, would indicate that those with $100,000 and over do have a tax increase of 2½ percent, even without regard to the corporate changes.

Mr. GORE. At the same time, the proposal I make would bring about a percentage increase in taxes of 10.1 for those with adjusted gross income above $100,000. The House bill, 2.6 percent; my amendment, 10.1 percent. If the Senator will compare the two, it will show the result.

Effective rates are something about which I believe the American people may

not be adequately informed. It is generally and popularly believed that people with high incomes pay taxes at high rates. This is true in many instances. But in a great many instances, it simply is not true. The example is cited of a man in the real estate business who for 7 years had income of $7½ million. His effective rate of tax was only 11 percent because of tax privileges for real estate—about the same effective rate as is paid by a family of four with wage income of $10,000.

This is not right, Mr. President. We need to approach effective rates more vigorously. We are doing a good deal about that in the pending bill, and I compliment the chairman, the committee, and the House. I think we are making some rapid strides, but by no means enough.

I must rebel at the argument that because we are removing some of the tax preference provisions—"loopholes" is the common word used—thereby requiring high income people to pay taxes on their income in a more equitable way, we should then give them a rate cut. What is the point in adding to their tax burden on the one hand, and removing it on the other, if the object is to require people to pay a fair share of the tax burden?

I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, the point I have in mind is that a tax system should try to treat taxpayers in similar situations in the same way, and in this bill we try to equalize as among people making a lot of money. It has always seemed unfair to me, as between two people making $100,000, a half million dollars, or even a million dollars, as the case may be, that one would pay a great deal of tax, and the other would pay little or nothing. This is what is known as horizontal equity—namely, that at a given level of income, the tax burden on all the taxpayers at that income level should be approximately the same.

I believe I was the initial sponsor of the suggestion that we ought to have both a minimum and a maximum tax. I appeared before the Democratic platform committee at the last convention and advocated that general concept. Some people were paying altogether too much, because they were actually paying taxes on all their income, while others were paying little or nothing. We ought to have a minimum tax on those people who are paying very little and give some relief to those who are actually paying on all their income.

I believe that if we actually try to wed ourselves to a tax structure in which those who are making $100,000 a year or more are paying on all their income, or about the structure that we have here, a great number of people will simply say that if they cannot keep as much as half of what they make, they do not feel like taking the risk to go into new endeavors.

It is my feeling that if we do that, it will cost the workingman more than he can imagine at this time. It is the kind of thing that our good friends in the labor movement, who represent laboring people, do not like to discuss. It is like talking about outlawing featherbedding when you sit down at a bargaining table, and contend that it would benefit the workingman in the long run. They do not want to talk about it, because that discussion gets them away from what they want to talk about, which is higher wages and more fringe benefits.

The incentive necessary to encourage people who have the resources and the ability to go forward with new endeavors is something that I hope will never be removed from this economy. It is something that will become, in my judgment, a very severe problem if we get a tax structure that is as discouraging as it is in the highest brackets we have today, when people actually pay the excessively high tax rate in those brackets. That is why the argument is made that we should have a lower top rate but that we should tax more of the income that people are making. Call it closing loopholes or broadening the base, it is urged that the tax base should be increased and the top rate should be reduced.

In this bill, we are removing many so-called preferences from the tax law. In fact they are the main items making up the $6 billion of so-called tax reforms in this bill. I hope that in doing so we are not going to remove so much of the incentive that people will not go ahead with endeavors which will provide more opportunities and more wages—which will bring in additional taxes, as well as the taxes on the people who are creating these new endeavors—with the result that the economy and the Nation as a whole will be the loser.

The Senator has been most kind to yield to me, and if I continue trespassing on his time, he will not be able to complete his speech today. I thank him for his gracious kindness in yielding to me, and I assure him that I will try to resist the temptation to expand upon his remarks, at least until he gets well along into his well-prepared speech.

Mr. GORE. Mr. President, I hope the Senator will not be able to contain himself. He adds to the clarity of the issues. I agree with a good many of the sentiments which the able Senator has just expressed.

Mr. President, it is not that I wish to strike at the capitalistic system. I believe in it; I participate in it. I think it brings the greatest measure of fruitfulness of any system that man has yet devised. However, we have a Federal income tax law, the theory of which is that one pays taxes according to his ability to pay. The man with a large income can and should pay more than the man with a small income. It does not mean that we discourage a man from his acquisitive habits. If, instead of giving the president of General Motors a tax deduction of $116,000, he receives a reduction of $16,000, he will still be happy. But the fellow I am thinking about is the man trying to get off the bottom, with a big mortgage on a little house and a family of children, the man who pays more than he can bear. He is the man who needs tax relief, and it is for this group of people—not the lower and not the upper, but the middle-income group of people—for whom the committee bill does not make adequate provision, and it is to that group primarily that my amendment is directed.

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

Mr. GORE. I yield.

Mr. LONG. I thank the Senator. I shall not trespass on the Senator's time after this one remark.

Mr. GORE. I shall try to tempt the Senator further, and I welcome his comments.

Mr. LONG. I hope the Senator will not so stimulate me.

It is that same man the Senator is concerned about who also needs additional earnings. Every time someone is able to start some new endeavor, it enables that man to move from a job paying $2.50 an hour to $5 an hour, apart from the taxes involved. In other words, it is that man who, relatively speaking, will be the largest beneficiary.

All I am urging in considering our overall tax structure is that we should seek to provide justice among taxpayers at all income tax levels and to retain enough incentive in our economy that we do the maximum good for all, we should think in terms of employment, in terms of overall earnings of people, and in terms of the overall standard of living, as well as in terms of the justice of which the Senator was speaking.

Mr. GORE. I thank the able Senator.

In addition to ability to pay, we must also consider the needs in our society, the needs of the Treasury, the needs of the taxpayer, and the needs of his dependents.

I simply say that when we look at the matter objectively, we cannot justify a pitiful allowance of $600 upon which a taxpayer should provide the basic necessities of life; and, in my opinion, we cannot justify allowing only $600 for the cost of caring for a dependent.

Going back to the question of progressivity, taxing according to the ability to pay, I wish to say that our tax system has become steadily less progressive rather than more progressive since 1964. In 1964 the big cuts were given at the top. The top bracket was cut from 91 percent to 70 percent. That was not justified, in my view, when one takes into consideration either the needs of the taxpayers or the ability of the taxpayers to pay.

The rate-reduction provision of the pending bill would continue the process of lessening progressivity. Indeed, the rates are regressive. I think there should be no mistake about this. A reduction in progressivity is another way to increase the tax burden for the average taxpayer. Mr. President, the less we rely on the yardstick of taxation according to ability to pay, the more we approach a system of per capita tax payment, and this is about where we are arriving. When there is a 100-percent increase in progressivity from $500 taxable income to $10,000 taxable income and only 5 percent progressivity in rates from $100,000 taxable income to $200,000 taxable income—and less than that in terms of effective rates—then, we are striking at the heart of progressivity. This is not right; this is antidemocratic.

Mr. President, can you imagine a Democratic Congress, as the House did in its bill, in one 5-year period cutting the top bracket from 91 percent to 50 percent on earned income? I cannot, but that was the bill that came before us. Again, I wish to compliment the Committee on Finance on improving this matter.

The rate reductions in the pending bill, as has been clearly shown, benefit the wealthy far more than they do the middle-income taxpayers. These tax benefits for the wealthy, coupled with removal of the poverty level people from the tax rolls, place the middle-income taxpayer in a vise, and he is being squeezed and squeezed and squeezed from both ends of the economic scale.

My amendment would not deny or withhold tax relief from either the low income or the high income. It would provide some tax relief for both, but it deals far more equitably with the middle-income group.

I turn now to one other phase of the bill and to my amendment. The House bill that was approved by the committee contains an increase in the standard deduction from 10 percent of adjusted gross income or $1,000, to 15 percent or $2,000. The increase is effective over a 3-year period.

Mr. President, this step is intended to provide tax relief and tax simplification primarily for taxpayers in the range of $7,000 to $15,000. But the proposal to increase the standard deduction achieves tax relief for some taxpayers only at considerable cost in tax equity. The increase in the standard deduction will reduce taxes for a family living in an apartment, but it may not provide any tax relief for the family with the same income that is buying a home. Similarly, the provision has unfair results as between taxpayers who live in States that impose high income taxes and those who live in States having low income taxes. This provision of the bill produces a greater tax reduction for the family that already has the smaller combined Federal and State tax burden.

I think it is therefore clear that my proposal, when compared with the committee bill, is a far greater, more effective, and more easily understood method of tax relief. This is the virtue of my proposal. It is simple and easily understood. It does not require a lot of calculation. If the taxpayer has three children, he knows that he has a personal exemption of $1,000 for each of those children. He does not have to use a computer or hire a tax lawyer or an accountant. His wife knows about it, too. There is no provision in the tax law more widely understood and more easily understood than the personal exemption. Simplification should be a goal of tax reform.

Let me say a word about the revenue impact of the proposal that I make. It is sometimes said that we cannot raise the personal exemption because it will cost too much money. That is simply not true.

We did not hear that said when the Secretary of the Treasury asked the committee to cut corporation taxes by 2 percentage points, at a time when corporate profits are the highest in history.

We did not hear that said when the Treasury was pushing to cut the top brackets on earned income from 70 to 50 percent.

Indeed, we did not hear about it when the new loopholes were placed in the bill—to which I shall make further reference later.

No, Mr. President, it simply is not true. Even under the committee bill, the proposal that I make for 1970 would be almost in balance with the revenues that would be produced by the reform measures adopted by the committee.

In 1971, an entirely manageable revenue shortfall of $3 billion might be expected. It might not be that much.

Only last year, within one 6-month period, the Treasury erred in its estimates of revenue by $2 billion. So my proposal involves a manageable revenue shortfall for calendar 1971. My amendment would be virtually in balance for calendar 1970.

But no significant revenue shortfall at all need result if the Senate adopts even a part of the additional reforms I have suggested for consideration, most of them already in the House bill, and if the President will carry through on his intention to end the Vietnam war, or materially to reduce military spending. These reforms alone, would produce more than $5 billion in additional revenues to be added to the $6.6 billion raised by tax reform provisions in the committee bill.

Thus, I am offering a substitute for other provisions of the bill which themselves would lessen the revenue for the Government. For the next calendar year, let me repeat, the tax relief provisions which I propose, and the additional revenue from the tax reform measures already in the bill, will be virtually balanced. For the following year, the shortfall would be certainly manageable. Indeed, revenue and reductions might prove to be in balance.

In my opinion, this is as far as reliable estimates can safely be made. Even in the long range, we could reasonably anticipate $11.7 billion in additional revenue from reform to balance against the estimated $14.9 billion reduction in revenues from my proposal.

This longterm revenue shortfall is close to that resulting from the Finance Committee bill.

So you see, Mr. President, that this proposal meets the requirement of fiscal responsibility. If anyone should rise and say that this proposal is fiscally irresponsible, then he must acknowledge that the tax reduction in the bill are also fiscally irresponsible. I do not think either is fiscally irresponsible. I do think that the rate changes proposed in the bill are unjustifiable from the standpoint of social justice and are unsupportable from the standpoint of tax equity.

On the other hand, the case for raising the personal exemption from the present low, inadequate, unrealistic $600, or $50 a month, is compelling.

What argument can be made against it?

I ask again: Who can live on $50 a month?

Anyone who thinks he can try, let him take the market basket and go to the grocery store or, instead of letting his wife pay the rent, let him do that. And then let him pay the electric and gas bills.

We are talking here about the cost of living, about the ability to live, to make ends meet. This has become an increasingly severe problem for the American people, because the cost of living continues to rise.

I am not sure about the economic future of the country. I know of no one who pretends to be. But at least I see signs which lead me to think that we may be approaching that unusual economic phenomenon of a recession in the middle of inflation.

We had such a period in 1958. It just could happen again. I hope not. But, if we are to have continued increases in prices, if the cost of living continues to go up—I read only this week the predictions of the economic experts within the Government that this was to be our future—then, Mr. President, let us give tax relief where it is already needed most and where it will be needed even more if the cost of living continues to rise.

Since 1940 the cost of living has increased more than 2½ times. This fact impels us to seek to raise the personal exemption in the Federal income tax law. The forecasted trend upward in the cost of living increases the persuasive force of the argument for taking this needed step.

I hope that expenditures for the military can be reduced. I do not wish to inject the Vietnam war into the discussion; I do so only in passing to say that the withdrawal of U.S. forces from Vietnam, in whatever number it occurs, will reduce military expenditures; and to the extent that combat is reduced—and I hope it is reduced greatly—this will reduce the expenditure of ammunition, the wounding of men, the hospitalization of men.

It is estimated that the closing of military bases in our own country, which has already been announced, will save from $3 billion to $4 billion, so I read.

Where better could this saving be applied than to reduce the tax burden according to the number of one's dependents? In what other social area, by what other standard of social justice, would we arrive at a more equitable action?

This step, Mr. President, I have advocated for a long time. We could never in the past obtain the adoption of an amendment to increase the personal exemption, because it would be said that this would break the Treasury. Now we have a chance because it is offered as a substitute for measures that cost a substantial amount. So the choice before the Senate will be between tax relief, on the one hand, by changes in rates which will give 40 percent of the benefits to people having incomes of more than $20,000 per year, and, on the other hand, an increase in personal exemption which will give relief to those with the largest number of dependents.

Increasing the personal exemption to $1,000 and providing a $1,000 low-income allowance is the most effective means of tax relief for the average taxpayer.

I submit for the RECORD tables that

demonstrate the greater benefits accorded under my proposal for low- and middle-income taxpayers than are provided under the committee bill. Table No. 1 is a comparison of the increase in personal exemption with the low-income allowance.

I ask unanimous consent that there be printed in the RECORD at this point, seriatim, sundry tables which I send to the desk.

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

TABLE 1.—COMPARISON OF INCREASE IN PERSONAL EXEMPTION PROPOSAL TO H.R. 13270 LOW INCOME ALLOWANCE

Number in Family	Amount of nontaxable income allowed under present law	Amount of nontaxable income under low income allowance	Amount of nontaxable income under proposal 1970	1971	1972	1973
1	$900	$1,700	$1,700	$1,800	$1,900	$2,000
2	1,600	2,300	2,400	2,600	2,800	3,000
3	2,300	2,900	3,100	3,400	3,700	4,000
4	3,000	3,500	3,800	4,200	4,600	5,000
5	3,700	4,100	4,500	5,000	5,500	6,000
6	4,400	4,700	5,200	5,800	6,400	7,000
7	5,100	5,300	5,900	6,600	7,300	8,000
8	5,800	5,900	6,600	7,400	8,200	9,000

Note.—In addition, the increase in the personal exemption, coupled with the new low income allowance-standard deduction, provides more effective relief for low and middle income taxpayers than does the complex mix of provisions for tax reduction in the Committee bill.

TABLE 2.—COMPARISON OF INCREASE IN PERSONAL EXEMPTION PROPOSAL AND H.R. 13270—TAX ON FAMILY OF 4 (ASSUMES NONBUSINESS EXPENSES=20 PERCENT OF INCOME)

AGI	Present law	H.R. 13270[1]	Proposal[1]
3,000	0	0	0
3,500	56	0	0
4,000	112	65	0
5,000	230	200	0
7,500	552	516	290
10,000	924	868	620
12,500	1,304	1,228	1,000
15,000	1,732	1,636	1,380
17,500	2,172	2,056	1,820
20,000	2,660	2,508	2,260
25,000	3,708	3,492	3,260
50,000	11,060	10,452	10,340
100,000	31,948	29,692	31,020

[1] Provisions as effective for taxable years beginning in 1973.

TABLE 3.—COMPARISON OF INCREASE IN PERSONAL EXEMPTION PROPOSAL AND H.R. 13270 TAX ON MARRIED COUPLE WITH NO DEPENDENTS (ASSUMES NONBUSINESS EXPENSES=20 PERCENT OF INCOME)

AGI	Present law	H.R. 13270[1]	Proposal[1]
2,300	87	0	0
3,000	170	91	0
4,000	290	228	140
5,000	418	375	290
7,500	772	724	620
10,000	1,152	1,084	1,000
12,500	1,556	1,468	1,380
15,000	1,996	1,888	1,820
17,500	2,460	2,324	2,260
20,000	2,960	2,784	2,760
25,000	4,044	3,816	3,820
50,000	11,600	10,956	11,240
100,000	32,644	30,316	32,180

[1] Provisions as effective for taxable years beginning in 1973.

TABLE 4.—COMPARISON OF INCREASE IN PERSONAL EXEMPTION PROPOSAL AND H.R. 13270—TAX ON SINGLE PERSON[1] (ASSUMES NONBUSINESS DEDUCTIONS=20% INCOME)

AGI	Present law	H.R. 13270[1]	Proposal
900	0	0	0
1,700	109	0	0
3,000	276	180	145
4,000	424	344	310
5,000	576	524	500
7,500	998	930	900
10,000	1,480	1,358	1,350
12,500	2,022	1,826	1,840
15,000	2,638	2,334	2,360
17,500	3,334	2,882	2,920
20,000	4,096	3,470	3,520
25,000	5,800	4,766	4,870
50,000	16,322	13,218	13,840
100,000	41,394	36,290	38,730

[1] Provisions as effective for taxable years beginning in 1973.

TABLE 5.—COMPARISON OF DISTRIBUTION OF TAX REDUCTION UNDER PROPOSAL AND UNDER H.R. 13270 (CALENDAR YEAR 1969 LEVELS OF INCOME)

Adjusted gross income class	H.R. 13270 (millions)	$1,000 personal exemption and $1,000 low income allowance[1]
0 to $3,000	$781	$965
$3,000 to $5,000	1,001	1,583
$5,000 to $7,000	944	1,943
$7,000 to $10,000	1,286	3,343
$10,000 to $15,000	1,922	3,677
$15,000 to $20,000	806	1,259
$20,000 to $50,000	1,107	1,217
$50,000 to $100,000	464	277
$100,000 and over	657	80

[1] Provisions as effective in tax year 1973 and thereafter.
Note: Figures are rounded and do not necessarily add to totals.

TABLE 6.—COMPARISON OF NUMBER OF RETURNS MADE NONTAXABLE UNDER PROPOSAL AND UNDER H.R. 13270

Adjusted gross income class	H.R. 13270[1] (thousands)	$1,000 personal exemption and $1,000 low income allowance[1]
0 to $3,000	5,149	7,253
$3,000 to $5,000	405	2,168
$5,000 to $7,000	24	1,262
$7,000 to $10,000	8	683
$10,000 to $15,000	4	115
$15,000 to $20,000	2	7
$20,000 to $50,000		
$50,000 to $100,000		
$100,000 and over		
Total	5,592	11,490

[1] Provisions as effective in 1973 and thereafter.
Note: Figures are rounded and do not necessarily add to totals.

Mr. GORE. Mr. President, yesterday I placed in the RECORD letters from three Members of the other body, Representatives CHARLES A. VANIK, PETER W. RODINO, JR., and JOHN P. SAYLOR, two Democrats and one Republican. These gentlemen presented letters and petitions, which purported to bear the approval of considerably more than one-half of the entire membership of the other body, urging the adoption of an amendment to increase the personal exemption for each taxpayer and dependent.

I call special attention to the letter of Representative SAYLOR, a distinguished member of the Republican Party from the State of Pennsylvania, in which he characterizes his letter and support as being in the spirit of bipartisanship.

This, Mr. President, is how it should be.

The cost of living is high. The grocery bill is a burden. But it is not a partisan burden; it is something that all people must try to pay.

Like other Senators and Representatives, I have long advocated this form of tax relief. It is true tax reform. Why should it be treated as a partisan matter? I do not think it should be so treated. Yet, it is common knowledge that administration spokesmen are busy in the Halls of the Capitol right now trying to defeat this amendment.

This is regrettable and unjustified. True, fair tax treatment for the people who need tax relief the most, those having the largest number of dependents, will cost revenue. But so would the recommendations of the administration to reduce taxes on corporations from 48 to 46 percent. Indeed, this recommendation alone, which fortunately was rejected by the Finance Committee, would have cost $1.6 billion in revenue. The Secretary of the Treasury thought the Treasury could stand that. Oh, but he throws his hands up in holy horror when someone suggests raising the personal exemption for a child above $600. That becomes unwarranted.

This is not all that will cost revenue. There are some new loopholes in the bill which were recommended by the administration, loopholes which I propose to delete. These new loopholes would cost $720 million in revenue. And when the Treasury was urging that they be approved, there was no raising of hands in horror that these provisions would cost too much. But suggest raising the exemption above $50 a month for a man's wife, and then "fiscal responsibility" is a dramatic phrase. We are being fiscally responsible, but we are seeking to be fair.

Other proposals supported by the administration would cost hundreds of millions of dollars.

It was at the "sacrifice of San Clemente" that the administration appeased the Wall Street brokers by urging removal of the capital gains reforms; it was the administration which reversed its own Treasury officials to make the oil barons happy with the depletion provisions; it was the administration that instigated the cave-in to millionaires who give appreciated property to charity; it was the administration that completely reversed its own Treasury officials and proposed bigger loopholes for railroads than had been provided in the House bill; it was the administration which made the recommendations that gutted the House minimum tax provision, so as to render it a useless device; it was the administration that supported special tax rates for high-paid corporate executives.

So, too much politics has already been played with this bill. We should put an end to it now, in the interest of the average American taxpayer. But I will say that, to the extent that politics is involved, Mr. President, I am proud to be on the side of the politics of the people—

for they are the ones who will benefit from the increase in the personal exemption.

There has been a great deal of rhetoric about the need for tax reduction for small- and middle-income taxpayers. The time for action is now at hand. I hope the Senate will join in this proposal and support it, so as to provide fair and effective relief for the average American taxpayer.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MESSAGE FROM THE HOUSE

A mesage from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 944. An act 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;

H.R. 14227. An act 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

H.R. 14741. An act 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 message also announced that the House had agreed to the following concurrent resolutions, in which it requested the concurrence of the Senate:

H. Con. Res. 345. Concurrent resolution providing for printing as a House document "A Guide to Student Assistance"; and

H. Con. Res. 407. Concurrent resolution to authorize the printing as a House document the pamphlet entitled "Our Flag."

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled 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 it was signed by the Acting President pro tempore (Mr. METCALF).

HOUSE BILLS REFERRED

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

H.R. 944. An act 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

H.R. 14227. An act to amend section 1401a (b) of title 10, United States Code, relating to adjustments of retired pay to reflect changes in Consumer Price Index; to the Committee on Armed Services.

H.R. 14741. An act 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; to the Committee on Public Works.

HOUSE CONCURRENT RESOLUTIONS REFERRED

The following concurrent resolutions were referred to the Committee on Rules and Administration:

H. Con. Res. 345. Concurrent resolution providing for printing as a House document "A Guide to Student Assistance"; and

H. Con. Res. 407. Concurrent resolution to authorize the printing as a House document the pamphlet entitled "Our Flag."

BLOODLETTING IN IRAQ

Mr. JAVITS. Mr. President, early this month three more Iraqis were executed and other Iraqis have been sentenced to death, all for so-called political crimes. It is evident that despite protests from all corners of the civilized world the bloodletting in Iraq directed against members of that nation's Jewish remnant—and indeed of other religious faiths—now continues.

Midnight arrests, deprivation of personal liberties, torturing of prisoners, and public executions have shocked the conscience of civilized peoples; that the bloodletting has resumed, albeit quietly, impels the conclusion that public outcry must again be raised and strong protests lodged with Iraq. Earlier assurances that some of the Jewish remnant would be allowed to leave have now been seemingly forgotten and those remaining live in a state of constant terror in that unhappy land.

Iraq seems now to have become a police state. In a letter from a once-prominent Iraqi smuggled out of the country, it is poignantly written that "the days of injustice are very, very long." The writer goes on to say "I am afraid that the good days have gone for everyone and what remains is bad dreams." It is difficult to add to these words.

A recent letter in the New York Times by one of the several thousand Americans of Iraqi origin describes the fate of those left in Iraq who, for some reason—or for no reason—have aroused the displeasure of the authorities. I ask unanimous consent to have printed in the RECORD a letter to the editor of the New York Times written by R. R. Horesh, of Roslyn, Long Island, N.Y., dated October 15, 1969, and an article entitled "More Jewish Prisoners Reported Hanged in Iraq," written by Alfred Friendly, and published in the Washington Post of November 24, 1969.

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

FATE OF IRAQI JEWS

To the EDITOR:

As if their thirst for Jewish blood had not been satisfied even after the massacre of the two innocent Jews in September which followed the massacre of the nine innocent Jews in January, amongst them my brother, the Baath regime of Iraq has now turned to killing Jews by torture while under arrest. The latest two victims who were secretly killed in prison are David Zebaida, a 60-year-old building and road contractor, and Jacob Shohet, a 65-year-old religious teacher in the only Jewish school still open.

Both victims have relatives in the U.S. and Canada. They are ready to testify and give more details of the inhuman torture.

Over fifty heads of families, the most prominent among the Jewish community in Iraq, are now detained in prisons. It is feared some of them might have already been massacred.

What is most painful to me is the fact that while the horrible story is heard and repeated time and again, the civilized world protests every time too late, when the innocent victims are already massacred at the hands of the assassins of the Baath dictatorship who have transformed murder from a secret transgression into a publicly avowed Government policy.

Let everyone who has a conscience speak now. Let everyone who talks about liberty, freedom and civilization make his voice heard. Let them all tell the assassins that their crimes will not go unpunished.

The Jews of Iraq do not want their rights back; they do not want their confiscated properties back. All they want is their right to leave the country in which they are vilified and abused and, now, even murdered.

R. R. HORESH.

ROSLYN, L.I., *October 15, 1969.*

MORE JEWISH PRISONERS REPORTED HANGED IN IRAQ

(By Alfred Friendly)

JERUSALEM, November 23.—At least 11 more Jews imprisoned in Baghdad, in addition to the 11 whose hangings were announced by Iraq earlier this year, have perished in recent months, according to confirmed information here.

Four of them were hanged within the last month and the other seven were either killed in prison or died there of maltreatment or torture.

Newspaper reports from Beirut last Thursday and Friday, based on information from Baghdad, told of the recent, so far unannounced, execution of eight men, allegedly members of an Israeli espionage net. One name, that of a Jew, Naji Sa'ati, was given. It is known here that he was imprisoned soon after the end of the June, 1967, war and had not been heard of since.

Informed sources here have reason to believe that also among the group was a second Jew, his identity unknown, and a third and fourth—the brothers Meir and Sassoon Abraham Sassoon Abdo, aged respectively 63 and 59. On Aug. 18 an official Iraqi announcement named them as members of a spy network that supposedly had just been uncovered and that would be brought to trial.

But, like Sa'ati, the Abdo brothers had also been in prison for at least two years.

Israelis here familiar with the events say they had been informed of the eight executions well before the confirmatory reports surfaced last week in Beirut.

They also have the names of seven more Jews known to have died in prison in Baghdad in the last few months. It is not known, however, who was killed outright, who died of torture or who was a victim of the notoriously terrible prison conditions.

Last Jan. 27, Iraq announced the execution of 14 alleged spies of whom nine were Jews. Their deaths and the carnival display of the bodies outraged world opinion. Subsequently, 30 more executions have been officially published, including two more Jews and 13 Iraquis, all on Aug. 25.

Israeli analysts believe that Iraq has been deterred by adverse world reaction from making further public fanfare of its hangings. Its new technique, it is thought, is that

whenever the government has political scores to settle and wishes to make an end to adversaries it adds a few Jews to the group being hanged in order to pretend that the sentences were for espionage.

BLOODLETTING IN SONG MY

Mr. JAVITS. Mr. President, the Armed Services Committees of both the Senate and the House have now begun hearings on the alleged massacre by U.S. troops of unarmed civilians—including women, children, and infants—in the South Vietnamese village of Song My in March 1968. It is good that the hearings into this dreadfully shocking report have begun so promptly, and I ask unanimous consent that a letter I sent November 24 to Senator STENNIS, chairman of the Armed Services Committee, requesting an immediate hearing, be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. JAVITS. I am a lawyer, and I am well aware that the rights of the defendant already facing court martial charges, as well as of potential defendants, must be safeguarded; and I am well aware of the feelings for our troops involved in such an awful combination of guerrilla and conventional war, with so much controversy as to whether we ought to be there. But neither condition precludes the Congress from making a full-scale inquiry into the 18-month delay by the Army in acknowledging the details of the incident and in its own investigation. Nor should the protection of the rights of the defendants be considered as in any way inconsistent with our need to ascertain how those in authority could remain silent despite having knowledge of the alleged massacre. The statement yesterday by Representative GERALD FORD, as reported in the press, that "top Army officials knew about it, I know" is most disturbing in its implications and surely mandates a full inquiry by the Congress, as well as by the Department of Defense.

One thing should be made clear at the outset. There is no question of the patriotism or the gallantry of the thousands of American fighting men who have risked and given their lives with honor in Vietnam by seeking out alleged brutality and criminal acts wherever they exist and whoever be the defendants. The dignity of the U.S. armed services is at stake, as is the moral standing of our Nation throughout the world. We must prosecute alleged war crimes of our own soldiers with the same objectivity that was used in seeking out the war criminals of our enemies at the end of World War II; our country's standards of equal justice under law will tolerate not less.

EXHIBIT 1

NOVEMBER 24, 1969.

Hon. JOHN C. STENNIS,
Chairman, Senate Armed Services Committee, Washington, D.C.

DEAR MR. CHAIRMAN: In view of the recent report of an alleged massacre of South Vietnamese civilians by an American soldier or soldiers which remained undisclosed since March 1968, I urge that the Committee on Armed Services consider immediate hearings looking into this matter.

I understand, of course, that there is now involved in the matter a justiciable criminal case, as the Army has announced today that one soldier will be tried by court martial for a capital crime; and I would not want to prejudice the rights of any defendant in any such case. The broader questions involved, such as the procedures of the Army in the case and the time-lapse, however, require full and expeditious public disclosure and can be answered without prejudice to any criminal prosecution.

In my judgment, hearings are particularly necessary at this time, because the basic attitude of the United States has been, historically, always to expose, rather than to suppress, the basic elements of our foreign relations and military operations. And further, the situation in the world today, with respect to the Vietnam war, requires that our efforts in behalf of peace not be undermined by undercurrents of partially-disclosed misconduct of any unit of our own forces.

The appointment today of an Army Officer to investigate another Army Officer's previous investigation of the misconduct of yet a third Army Officer will not, in my judgment, be sufficient to dispel the cloud of doubt now apparently hovering over the case.

Accordingly, our international posture and standing as a nation require an immediate and full Congressional hearing to disclose all facts surrounding this incident, and to account for the 18 month delay in the Army's action with respect to it.

With best wishes,
Sincerely,

JACOB K. JAVITS.

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

Mr. JAVITS. I yield.

Mr. DOLE. It is to Secretary Laird's credit that when he did hear this in April he started an investigation then; so, even though it had not been disclosed, it has been under investigation since April by the Secretary of Defense.

Mr. JAVITS. I am proud of that, and I was proud also of the heartbreak which Secretary Laird expressed, and the understanding which Representative FORD expressed of the trials of our troops. I think we must be careful not to make the least intimation of condemnation, but we must also be careful to make sure that nothing is concealed and nothing is done to impede full and complete justice.

I thank my colleague for his comments. They deserve to be heard. Every element of this matter deserves to be put before us, with deep understanding. But I think the basic fact that we will not in any way lend ourselves to suppression, and that we will administer, or at least help to administer, equal justice, must be emphasized.

CONSAD'S REBUTTAL

Mr. HANSEN. Mr. President, the senior Senator from Wisconsin inserted in the November 13 CONGRESSIONAL RECORD a reply by the CONSAD Research Corp. to a critique by the Mid-Continent Oil and Gas Association of an earlier CONSAD report. He seemed to think that the CONSAD rebuttal was a definitive response negating the value of the Mid-Continent criticism. On the contrary, the CONSAD response confirmed the basic thrust of the industry's criticism of CONSAD. I am submitting for the RECORD at the conclusion of my remarks a point-by-point analysis of the CONSAD rebuttal.

Before inserting this analysis, I would like to comment briefly on the main thrust of the Mid-Continent critique and CONSAD's reply thereto. Mid-Continent said that CONSAD actually answered the following question:

> In the event that percentage depletion were eliminated, what would happen to the level of reserves desired for a given level of production, *assuming that this level of production would continue?*

Here is what the CONSAD rebuttal says on this crucial point:

> The CONSAD study was aimed at determining the effectiveness of the special tax provisions in increasing the reserves *above those levels needed solely to support production.* (Emphasis added)

The CONSAD study simply purports to tell us whether percentage depletion stimulates the holding of any additional reserves over those technologically needed to support a particular level of production—and never mind whether it is economic for the industry to produce that level of output. Their study does not attempt to tell us what would happen to the level of U.S. petroleum production and reserves after the full effect of elimination of percentage depletion were felt. CONSAD has, therefore, admitted the truth of the basic Mid-Continent argument.

In my opinion, CONSAD's question is trivial. As has been amply demonstrated in the hearings of the Committee on Finance, the petroleum industry earns a below-average rate of return. Under these conditions, it is a matter of simple economic logic that an increase in tax cannot be absorbed by the industry in the long run. Hence, a tax increase will ultimately lead to a reduction in the level of production—and, accordingly, in the level of reserves—provided, of course, that the tax increase is not offset by a price increase. CONSAD assumed that there would be no price increase. Thus, by assuming no change in production, CONSAD has given us an answer to a highly hypothetical question which has little, if any, relevance in the real world.

Mr. President, the question of real significance to the national interest is not whether, at a particular level of output, somewhat less reserves would be held without depletion than with. The real question is how much less would be produced without depletion than with. How much would the overall level of activity in the industry ultimately decline if percentage depletion were eliminated? We can measure activity either by annual production or by the level of reserves required to support that amount of production.

I should like to call to the attention of the Senate two studies which did attempt to answer this kind of question. One was by Prof. Edward Erickson, who appraised past response of oil discoveries to changes in price. A recently updated version of his study estimated—on the basis of past response—that supply in the industry would ultimately change in proportion to a change in price. That is, a 27.5-percent decrease in price would ultimately cause a 27.5-percent decrease in production and reserves.

In testimony before the Subcommittee on Antitrust and Monopoly of the Senate

Committee on the Judiciary, the board chairman of an American Oil Co. revealed the results of a study by their geologists of future drilling prospects in the United States. The geologists estimated that supply in the industry would ultimately change considerably more than a change in price—about two-thirds more. Thus, a 27.5-percent decrease in price would ultimately cause about a 46-percent decrease in production and reserves.

It is not surprising that both of these answers far exceed the 3-percent reduction in desired reserves which CONSAD estimated for a particular level of output if that output were produced, since CONSAD did not attempt to determine how much would be produced.

Let me sum up, Mr. President. CONSAD did not evaluate the question they are widely believed to have evaluated, namely the ultimate long run effect on the industry of eliminating percentage depletion. Professor Erickson's independent study of the past shows a percentage decline in production equal to a percentage decrease in price. An exhaustive study of the future by experts from the petroleum industry shows an even larger decline based on an economic appraisal of the prospects expected to be available.

Mr. President, I hope that my review of the situation will put this controversy to rest once and for all. At this point I ask unanimous consent to have printed in the RECORD my comments on the CONSAD rebuttal to which I referred in my opening remarks. My analysis is presented in setting forth statements made in the CONSAD rebuttal in one column with relevant observations based on the Mid-Continent Oil and Gas Association critique of the original CONSAD report in the other column.

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

ANALYSIS OF CONSAD REBUTTAL OF CRITICISM OF EARLIER CONSAD REPORT PREPARED BY MID-CONTINENT OIL AND GAS ASSOCIATION

CONSAD statement No. 1: "The MC report is notably lacking in constructive criticism."

Comment No. 1: The MC report was constructive in that it attempted to point out the question that is relevant for public policy in this area. Beyond this, it attempted to point out the problems inherent in using the available industry data for scholarly empirical research. Under the circumstances, suggestions as to how to improve an analysis that was directed towards answering an irrelevant question could hardly be considered constructive.

CONSAD statement No. 2: "The inability of the MC report to find any serious fault with the CONSAD report conclusions after apparently concerted study only serves to increase the credibility of these conclusions."

Comment No. 2: At the time, it seemed to point out that whatever CONSAD's conclusions they were irrelevant since they answered an irrelevant question. Since that time, however, a number of researchers have addressed the relevant question and in general, their findings support the industry view that a significant change in percentage depletion would produce a substantial reduction in production and reserves.

CONSAD statement No. 3: ". . . the MC report indicates that extrapolation beyond the range of the data is justification for placing no credence in the results, then proceeds to extrapolate even further to illustrate the "inappropriateness" of CONSAD's model."

Comment No. 3: Extrapolation affects primarily the statistician's confidence in his results. Since CONSAD's analysis required it to extrapolate far beyond the range of historical data, there can be little statistical confidence in its precise statistical results. The question of the appropriateness of CONSAD's model has its roots in the logical structure of that model. Totally apart from questions of data, the model that CONSAD tested is inappropriate in part because it is not designed to exclude the possibility that the industry will want to hold reserves in the long run even if price is less than cost.

CONSAD statement No. 4: "The price change equivalent to the elimination of percentage depletion is about 35 cents (not 75 cents as stated in the MC report) which is a comparatively small extrapolation—the largest year-to-year price change in the data was 30 cents."

Comment No. 4: 27½% of $2.93 (CONSAD's assumed wellhead price) is $.81, but the net effect of percentage depletion is reduced somewhat by the 50% of net limitation and by the loss of cost depletion when percentage depletion is taken. Hence, about $.75 is correct.

CONSAD statement No. 5: "The CONSAD study was aimed at determining the effectiveness of the special tax provisions in increasing reserves above those levels needed solely to support production . . . If the intent of the special tax provisions is to encourage consumption of petroleum products by keeping prices below their free market levels, the CONSAD study offers no evidence as to the effectiveness of the tax provisions."

Comment No. 5: The principal point of the MC critique was the CONSAD's question, the question of the effect of depletion on the quantity of reserves the industry would want to hold for a given level of production, assuming that that level of production would be produced, is "basically trivial and is not the question that is relevant for public policy."

As noted in the MC report "The question of real public policy significance is one having two parts. First, what quantity of output would firms want to produce at various prices? And second, what level of reserves is implied by those levels of output?"

These questions have been addressed in a number of responsible studies. As CONSAD's statement implies, they were not addressed nor can they be addressed using the CONSAD methodology.

CONSAD statement No. 6: "The concluding statement in the summary says that 'The model used is especially subject to criticism because it is based on the improper assumption that industry exploration and development expenditures are not dependent on an adequate rate of return.' No such assumption is either explicit or implicit in the CONSAD models and such a statement implies a rather extreme lack of knowledge of the CONSAD report."

Comment No. 6: CONSAD's failure to recognize the rate of return implications of a model that allows for continued long run production even though price is less than cost implies a "rather extreme lack of knowledge" of (a) its model, (b) fundamental economic principles or (c) the real world.

CONSAD statement No. 7: "The results obtained from (CONSAD's) third model *did* substantiate the results of the first (or neoclassical) model."

Comment No. 7: Several comments are possible on this point: First, the neoclassical model (inadequately) answers an irrelevant question. If the third model substantiates the first it is not clear that CONSAD's case is advanced.

Second, even if the neoclassical model had been directed toward the relevant question there is no escaping the fact that the magnitude, rather than the direction of the response is the significant consideration. Since the third model is not statistically significant, it can offer nothing in the way of verification for the magnitudes shown by the first.

CONSAD statement No. 8: ". . . much of the MC report is devoted to specific criticisms of minor points concerning the other models discussed in the CONSAD report."

Comment No. 8: If a defense of thoroughness is necessary, the reason why the second and third models were criticized is that both appear to offer far more promise than the one which CONSAD used for its conclusions—and both received extensive treatment in the CONSAD report.

CONSAD statement No. 9: ". . . the MC report is somewhat erroneous in stating that the CONSAD report assumes perfect knowledge. The report does not assume this . . ."

Comment No. 9: Not only does the CONSAD neoclassical model assume perfect knowledge, it assumes that all petroleum reserves are homogeneous and that new reserves can be added simply by going to a warehouse and taking them down from the shelf.

CONSAD statement No. 10: "(the CONSAD model is credited to the Eisner article quoted in the MC report)."

Comment No. 10: The CONSAD neoclassical model adopts only Eisner's version of the production function. Additional problems common to the Jorgenson and Eisner studies are embodied and exacerbated in the CONSAD formulation.

CONSAD statement No. 11: "The MC report appears confused . . . where the CONSAD report is taken to task for using a 12:1 reserve ratio in the model."

Comment No. 11: The MC point was that since the CONSAD methodology was sensitive to technological change, and since CONSAD was (or should have been) aware that technology was changing, as evidenced by its references to changing reserve production ratios, CONSAD should have made some attempt to take changing technology into account or to qualify its conclusions accordingly.

CONSAD statement No. 12: "The MC report seems confused again on page 31 when it indicates that 'this approach leads CONSAD to compare the price of a full barrel of reserves with the cost of only a fraction of a barrel.'"

Comment No. 12: The MC critique noted that CONSAD appeared to have compared the price of a full barrel of reserves with the "user cost" of that same barrel spread out over the life of the well. CONSAD has yet to offer an explanation or justification for its strange and, in our view, inappropriate formulation.

CONSAD statement No. 13: "The use of 1968 data, which were obviously not available when the report was written . . . to illustrate the incorrectness of statements in the CONSAD report cannot be interpreted in any other way than as an obvious attempt to discredit the CONSAD report . . ."

Comment No. 13: Viewed somewhat less defensively, the use of 1968 data can indeed be used to "illustrate the incorrectness of statements in the CONSAD report . . ." In the first place, the CONSAD model assumes that the industry is in long-run equilibrium. If the 1968 data differ substantially from the 1966 data used in the CONSAD report, then clearly the industry was not in long-run equilibrium and CONSAD's model is inappropriate. In the second place, even if the model were somehow appropriate, the fact that the 1968 data differ from the 1966 data implies that the results, if valid for 1966, would not be valid for 1968, 1969, or for the 1970's—the period that is relevant for public policy. In short, conditions in the industry have changed dramatically since the CONSAD base years; hence, those years are of doubtful value for predicting the future.

THE HAYNSWORTH CODE FOR FEDERAL JUDICIAL NOMINEES

Mr. DOLE. Mr. President, article II, section 2, clause 2 of the Constitution empowers the President of the United States to nominate and, by and with the advise and consent of the Senate, appoint Judges of the Supreme Court and all other Federal courts.

On November 20, 1969, the Senate of the United States by a vote of 55 to 45 gave its advice but not its consent to the nomination of Judge Clement F. Haynsworth to be a Justice of the United States Supreme Court.

The action of the Senate on that date adds new dimensions to the "advise and consent" powers of the Senate in the confirming process of Federal judges. From here on it is not only necessary that any nominee for the Federal Bench must be well-qualified by education, experience, integrity, and judicial temperament, but he should also meet the newly imposed test of not having any "appearance of impropriety." The majority vote against confirmation implied that while Judge Haynsworth was not guilty of any impropriety, maybe there was the appearance of impropriety, or that he was not "adequate" for the times.

Is it not fair to suggest that in the future the Senate should apply the same rules to all future nominees for the Federal Bench as was used by the majority in denying Judge Haynsworth a seat on the Supreme Court.

Not only will all future nominations for the Federal judiciary have to be well-qualified by education, experience, integrity, and judicial temperament but they must also be free from any vague appearance of impropriety.

If a nominee to the Federal Bench has been sitting as a State or lower Federal court judge his entire record of decisions must be minutely examined with the view of determining whether he sat on cases in which he might have had some pecuniary interest or that he might have had a stock interest in one of the litigants before him, or that there could be any possible conflict of interest that he should have removed himself from hearing such a case. Furthermore, each nominee should be required to disclose every single possible financial interest that might or could have any bearing on any case over which he presided.

In the light of the Haynsworth vote before consent of the Senate be given to the confirmation of future Federal judgeship nominations, the nominees must make full financial disclosure to demonstrate that there could be no possible conflict caused by any financial interest in any corporation or business which might be affected by any decision of the sitting Judge.

If the nominee has not had prior judicial experience, then the Senate must examine his record as a lawyer and the cases that he handled during his practice which in any way would pose any possible conflict if he was called upon to sit on cases of former clients.

The Senate action on Judge Haynsworth sets up new guidelines which the Senate itself, the Judiciary Committee of the Senate, the Department of Justice and the President should take note. Henceforth the Haynsworth case shall stand as a precedent for the Senate to view most carefully any nomination to the Federal Bench submitted by the President of the United States. Obviously it is impossible to set up rigid ethical standards to measure each judicial nomination. Yet it appears that the Senate did just that on November 20, 1969.

As one Member of this body, I intend to follow the Haynsworth precedent on all future nominations and it would seem to me that the Members of the Senate who voted to deny Judge Haynsworth his seat on the Court should adhere to precisely those guidelines they imposed. These guidelines should apply equally to any nominee, irrespective of his political views or judicial philosophy.

MAJ. JAMES ROWE: ANOTHER GEN. EDWIN WALKER?

Mr. YOUNG of Ohio. Mr. President, in the person of Maj. James N. Rowe, the Army has another Gen. Edwin A. Walker. It will be recalled that he was the John Birch-"sap" in command of our soldiers in West Germany who was recalled to the United States, under circumstances which could be regarded in disgrace, for the reason that he went all out to indoctrinate soldiers under his command with the extremist right-wing propaganda of the John Birch Society and also with his segregationist views.

Now we have Maj. James Rowe ascending, or rather descending, to this unenviable position. While still in uniform and enjoying a favored assignment at the Pentagon, he has been assailing U.S. Senators seeking to bring an end to the immoral, undeclared major war we have been waging in Southeast Asia since 1963—the longest war in the history of our Republic and the most unpopular; also the bloodiest of all our wars except World War II in the total of priceless American lives lost in combat and our soldiers seriously maimed and permanently injured in combat.

Major Rowe, from his Pentagon sinecure, is issuing pronouncements questioning and assailing the patriotism of our colleague, the distinguished junior Senator from South Dakota (Mr. McGOVERN). He apparently is ignorant of the fact that in World War II, as a bomber pilot, GEORGE MCGOVERN challenged death in death's own domain in the skies above Austria and Germany. This puppet of the Pentagon propagandists, Maj. James N. Rowe, has the unmitigated effrontery to question the patriotism of a U.S. Senator who was decorated by his Government with the Distinguished Flying Cross for his heroism in World War II. I assert that Senator MCGOVERN's combat record in World War II exceeds tremendously the war record of his critic, Maj. James Rowe. Furthermore, it is astonishing that, according to published reports, Gen. William Westmoreland, Army Chief of Staff, knows of Rowe's activities and approves of them.

Reading the comment of Bernard D. Nossiter, Washington Post staff writer and an outstanding journalist whose professional integrity is beyond challenge, we learn that Major Rowe is not only engaging in the practice of making verbal attacks on the Members of Congress who have raised questions regarding our involvement in a civil war in South Vietnam, but he is also attacking editors of newspapers and magazines whose editorial comment has been against the war we are waging in Vietman and who have been urging deescalation and withdrawal of hundreds of thousands of our half million soldiers, marines, airmen, and naval personnel now stationed in Vietnam and Thailand and off the coast of Vietnam.

Mr. President (Mr. SYMINGTON in the chair), this fellow Rowe in recent weeks has filmed more than 20 television interviews and a number of radio tapes with Members of the other body. Then, these outlandish warhawk statements have been sent to television and radio stations in the districts of those Congressmen.

In addition, he has filmed a 30-minute television show for the Republican National Committee, presumably for showing in the districts of Representatives and in the home States of Senators whose integrity and patriotism have been assailed by this Major Rowe.

No doubt public relations men in the Pentagon are promoting these assaults on Senators and Congressmen, seeking to discredit them or to bring about their defeat in the 1970 elections. If Pentagon officials had any sense whatever, they should know that they cannot possibly intimidate U.S. Senators such as J. WILLIAM FULBRIGHT, chairman of the Committee on Foreign Relations, majority leader MIKE MANSFIELD, GEORGE MCGOVERN, three Senators specifically attacked by Rowe, or any other of a large number of Senators—including the distinguished senior Senator from Missouri, who is now presiding over this Chamber—and Representatives in Congress who have been speaking out loud and clear denouncing our involvement in what was termed "Lyndon's war" and now in the minds and hearts of many Americans, particularly those whose sons have been killed and wounded in Vietnam this year, is likely to be regarded as "Nixon's war."

This Army major has the unmitigated effrontery to denounce as disloyal the November moratorium, the broad-based demonstration for peace in Washington, on November 15. I participated in that moratorium march. I walked for 10 or 15 blocks, and I am proud to say that I was on the platform with my colleagues, Senators MCGOVERN and GOODELL, several Members of the House of Representatives, and others including my friends Leonard Bernstein, Dr. Benjamin Spock, and Coretta King, widow of the late Reverend Martin Luther King, Jr. We saw on the Mall and around the Washington Monument a huge assembly of at least 400,000 Americans, most of them young men and young ladies who had come by bus, train, automobile, and airplane from their homes and colleges to peaceably assemble and to petition their Government for a redress of grievances. They cried out in unison "Peace now." They listened to eloquent addresses by Coretta King, Wayne Morse, GEORGE MCGOVERN, and others, and most of all they sang and shouted in unison for "peace now."

Maj. James Rowe would do well to read the very first amendment to the Constitution of our country and cool off a whole lot. This was a peaceful demonstration in accord with the traditions of our Republic and entirely compatible with the first amendment of the 10 amendments which we affectionately term our Bill of Rights. These amendments—these rights for all Americans—were written in our Constitution on the demand of those patriots who had won the War for Independence and who denounced the Constitution as first drafted and as published in the gazettes of that time. As a result of this uproar of protest from patriots in the 13 Original States, this Bill of Rights was written in our Constitution nearly 200 years ago.

Apparently, Maj. James Rowe is ignorant of the fact that this massive peaceful demonstration has won the acclaim of all liberty-loving Americans. He is definitely off base in denouncing those who met in peace and proclaimed their yearning and hope for an end this year to the bloodletting of priceless lives of young Americans in a faraway small agrarian country, Vietnam, which is of no importance whatsoever to the defense of the United States.

It is my hope, Mr. President, that the temporary duty of this Maj. James Rowe in Washington will be immediately ended. I assert that his un-American denunciation of Members of both branches of Congress and of civilians throughout the country is a definite breach of the historic separation of the military from politics and the formation of public policy by the executive and legislative branches of our Government. It is a definite intrusion on the part of Army officers and officials in the Defense Department in civilian matters. This is contrary to constitutional principles and to American tradition. It should not be tolerated if we are to continue as a Republic of free men and women.

Also, perhaps the Secretary of the Army should consider whether Major Rowe's intemperate attacks on Members of Congress come within the purview of article 88 of the Uniform Code of Military Justice. It reads:

> Any commissioned officer who uses contemptuous words against the President, Vice-President, Congress, the Secretary of Defense, the Secretary of a Military Department, the Secretary of the Treasury, or the Governor or Legislature of any state, territory, commonwealth, or position on which he is on duty or present shall be punished as a Court Martial may direct.

Mr. President, what this fellow is doing in seeking to emulate what Gen. Edwin A. Walker did some years back is really threatening and almost terrifying. This is another manifestation of the arrogance and power of the military-industrial complex against which General Eisenhower, in his farewell statement to the American people as he left the White House, warned. President Eisenhower said:

> In the councils of government we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex. The potential for the disastrous rise of misplaced power exists and will persist. We must never let the weight of this combination endanger our liberties and democratic processes.

This was a somber warning to the American people of the power and arrogance of the military-industrial complex as a threat to our free institutions and our American tradition and way of life. This warning of President Eisenhower should be reread and heeded in the Pentagon. Then, Major Rowe should be silenced or assigned to some other post of duty. A tour in the Aleutian Islands or some post in remote Turkey might cause his mouthings to be silenced.

Gen. Edwin A. Walker, it will be recalled, following termination of his service in the Army for his attempts to indoctrinate youngsters in our armed forces under his command with the crazy notions of the John Birch Society—or "Birch-saps"—returned to civilian life and became a candidate for Governor of Texas. There were a number of candidates, 10 as I recollect, and ex-General Walker ran 10th. The next thing we read of him, he was on the campus of the University of Mississippi, allegedly seeking to prevent registration of James Meredith, a Negro, who had made application to be admitted as a student at the university law school and encouraging rioters who were assaulting U.S. deputy marshals who were seeking to maintain law and order in ending segregation at this university. Then, oblivion for him. So much for Gen. Edwin A. Walker. So let it be with Maj. James N. Rowe.

When we contemplate incidents such as those involving Walker and now Rowe, we know there is reason for Americans to be fearful that if our Republic were ever to be brought abruptly to an end, it would not be caused by some rag-tag Communists or ignorant radical left-wingers, but more likely by generals of our Joint Chiefs of Staff and fascist-minded leaders of our military-industrial complex suddenly taking over.

Mr. President, Major Rowe's recent outbursts, apparently made with the encouragement of the Chief of Staff of the Army and officials of the Defense Department, are another manifestation of the serious erosion taking place in the constitutional principle of separation of powers and in the constitutional balance that places the military under civilian control and direction. Every effort must be made to counteract the pressure of the generals and admirals who strive to override the decisions of their civilian supervisors and who encourage their subordinates to viciously attack Members of the Congress. The patriots who drafted our Constitution and Bill of Rights wisely provided that in the United States civilian authority should always be supreme over military. So be it.

ALLEGED KILLING OF CIVILIANS IN VIETNAM

Mr. PELL. Mr. President, when a great people loses its capacity for outrage, that people has permitted dry rot to start an erosion of the standards and principles which made that people great.

This is just what has happened recently. We hear of a massacre at Mylai of civilians, including old people and babies, and find relatively little public reaction or, except for Secretary Laird's response, outcry from our administration or from our people's representatives. I would hope it is because we are stunned, not because we don't care.

We accept the name "Pinkville" as being a perfectly proper designation of the little Vietnamese hamlet, showing our respect and regard for the Vietnamese people by not bothering to use the proper name. At least we have the civility not to call Moscow, "Redville."

We see newsclips of our South Vietnamese allies beating North Vietnamese prisoners on television on the same night of President Nixon's November 3 speech.

We know that we turn over our North Vietnamese and Vietcong prisoners of war to the South Vietnamese who use torture as a normally accepted method of prisoner interrogation.

These are all facts. Our acceptance of them are all elements of the dry rot that is creeping into the fabric of our national life.

And, this is one more reason why this war, based on incorrect premises, is wrong and should be ended as soon as possible.

JUDICIAL SALARY ADJUSTMENTS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 549, S. 3180.

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

The ASSISTANT LEGISLATIVE CLERK. S. 3180, a bill to adjust the salaries of judges in the Government of the District of Columbia.

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

There being no objection, the Senate proceeded to consider the bill.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–554), explaining the purposes of the measure.

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

LEGISLATIVE AND JUDICIAL SALARY ADJUSTMENTS

Purpose

This bill increases the salaries of the judges of the District of Columbia Court of Appeals, the District of Columbia Court of General Sessions, and the District of Columbia Tax Court as follows:

	Present salary	Proposed salary	Increase
Court of Appeals:			
Chief judge (1)	$29,000	$38,500	$9,500
Associate judges (5)	28,500	38,000	9,500
Court of general sessions:			
Chief judge (1)	28,000	37,500	9,500
Associate judges (22)	27,500	37,000	9,500
Board of Tax Appeal:			
judge (1)	27,500	37,000	9,500

There are six judges of the District of Columbia Court of Appeals, 23 judges in the District of Columbia court of general sessions, and one judge of the Tax Court of the District of Columbia. In its consideration of salary adjustments for Members of Congress and oth-

ers, the Commission on Executive, Legislative, and Judicial salaries decided that because of the language of section 225 of the Postal Revenue and Federal Salary Act of 1967, which specified that justices and judges of the United States would be considered by the Commission, the Commission did not have authority to recommend adjustments for judges in the government of the District of Columbia. The salaries of these positions, therefore, were not increased by the recommendations of President Lyndon B. Johnson earlier this year. The result is that judges of the District of Columbia courts are now paid salaries which are less than salaries of some legal officers in the District of Columbia government in grades 16, 17, and 18 and substantially less than the salary of the U.S. attorney in Washington, who is paid at level V of the executive salary schedule ($36,000).

Earlier this year, the Civil Service Commission recommended that salaries for these positions be increased. The committee has accepted the recommendation of the Civil Service Commission, but has increased the annual rate for these judges so that the historic relationship between the judges of these courts vis-a-vis Federal courts for the District of Columbia and the Tax Court of the United States will be restored. Judges of the U.S. district courts are now paid $40,000 per annum; salaries for judges of the District of Columbia Court of Appeals have been increased from $28,500 to $38,000; for judges of the court of general sessions from $27,500 to $37,000; and for the judge of the Tax Court of the District of Columbia from $27,500 to $37,000.

The cost of the bill is $285,000 a year.

The PRESIDING OFFICER. The bill is open to amendment.

If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3180

A bill to adjust the salaries of judges in the government of the District of Columbia

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 11–702(d) of the District of Columbia Code is amended by striking out "$29,000" and "$28,500" and inserting in lieu thereof "$38,500" and "$38,000", respectively.

(b) Section 11–902(d) of the District of Columbia Code is amended by striking out "$28,000" and "$27,500" and inserting in lieu thereof "$37,500" and "$37,000", respectively.

(c) The first sentence of the second paragraph of section 2 of the District of Columbia Revenue Act of 1937, as amended (D.C. Code, sec. 47–2402), is amended by striking out "$27,500" and inserting in lieu thereof "$37,000".

BOXCAR SHORTAGE

Mr. CURTIS. Mr. President, in speaking to the Senate the last couple of days on the boxcar shortage in Nebraska, I stated that there were approximately 10 million bushels of grain on the ground because the elevators were filled and no boxcars were available. I wanted my estimate to be on the conservative side. I find I was in error.

A high official in agricultural circles in Nebraska has made a survey. This survey has reached every nook and corner of the State that is involved in the car shortage. This survey shows that the actual figure is more like 40 million bushels of grain on the ground than 10.

Again I remind the Senate that the spoilage on this grain, in addition to all other hardships, will run about 5 or 10 percent. I wonder how many of the members of the Interstate Commerce Commission and their employees, and the officials and employees of the offending and law-violating railroads, would like to take a 10-percent cut in the light of rising costs?

The midwestern and western railroads have done their share in building new boxcars. Some of our larger eastern and southern railroads have not. They resort to a sort of sophisticated embezzlement. This is true of some shippers. When an offending railroad or some shippers get a car that originated in the Midwest or the West, they hold it overtime instead of returning it to the place where it is needed. They hold it because the daily charge for keeping a car is cheaper than building their own cars, if it is a railroad; and if it is a shipper, it is cheaper than building their own storage.

The act that was passed a few years ago and signed by President Johnson was intended to give the ICC authority not only to order these cars back, but to see that it is done. The ICC has proved itself to be spineless, indifferent, lacking both will and courage to do the right thing. This is not true of all members of the ICC. It is true of the Commission as a whole.

The offending railroads should be called on the carpet and ordered to do that which is right in this instance or else face whatever consequences the present law carries or future law might impose.

I am totally disgusted with the Interstate Commerce Commission. If they cannot regulate in the public interest, they should get off of the payroll and make a living in some other way. They might even try the hazards of farming.

EXECUTIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of William C. Black, of Texas, for the office of U.S. marshal for the northern district of Texas.

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

DEPARTMENT OF JUSTICE

The PRESIDING OFFICER. The nomination will be stated.

The assistant legislative clerk read the nomination of William C. Black, of Texas, to be U.S. marshal for the northern district of Texas.

The PRESIDINNG OFFICER. Without objection, the nomination is confirmed.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination.

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

LEGISLATIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ALLEGED KILLING OF CIVILIANS IN VIETNAM

Mr. DOMINICK. Mr. President, I want to start these remarks by saying I am glad the Senator from Missouri (Mr. SYMINGTON) is in the chair. He and I were briefed this morning on the horrible situation that is being alleged as having occurred in Vietnam—one that, if true, and proved to be true, is not only a blot on the country and the military but on humanity as a whole. Persons are charged with crimes—one with murder, and one with assault with intent to kill.

Yesterday I expressed my very strong feelings about the legal and judicial ramifications of the extensive pretrial publicity, particularly in a case as explosive and emotional in nature as this one. I referred to published interviews including an interview by CBS with one of the persons who will be a witness before the trial. I discussed it at some length on the floor, and then before the media.

I think what is overlooked often is a basic belief—which I share with most Americans, I believe—that the system of justice which we have in this country is one of the strong central fibers of our Nation's survival.

When that system is jeopardized by any means so that a person is unable to obtain a fair trial, or so that a witness is not informed of his own constitutional rights, then we have endangered the operation of one of the central elements in our national framework.

I have not commented on the accuracy of the reported facts. I have not repeated any of the interviews or so-called testimony. However, I wish to refer just a little bit today to the question of accuracy and full reporting, since some news media references to the statement yesterday of the military judge can hardly be considered as full and complete.

First, for purposes of the RECORD, I ask unanimous consent that the texts of the following items be printed at the conclusion of my remarks: First, a transcript of Military Judge Kennedy's courtroom statement in ruling on the issue of pretrial publicity; second, a CBS reply regarding my remarks yesterday and the CBS interpretation of the judge's statement, and third, a Washington Post article of this morning reporting on the judge's statement.

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

(See exhibits 1, 2, and 3.)

Mr. DOMINICK. Let us compare what the judge said, and what appears was said according to the CBS reply and Washington Post article.

The CBS reply last night to the discussions I had with them included the following:

It is worth noting that, at the pretrial session at Fort Benning, Georgia, Judge Lt. Col. Reed Kennedy said he felt that the news media was sincerely attempting to assist furtherance of the investigation of what happened at Mylai.

I do not wish to impugn the integrity of the media, but they left out a very crucial distinction made by the judge in the next sentence. The judge said:

As I understand the previous military press release, this case was under investigation. Thus, I can understand how responsible news media did not deem it improper to assist the military in furthering its investigation.

We are now past that stage of the proceedings. I agree completely with counsel that further news contact with witnesses and premature out of court disclosure of testimony would be in violation of law.

That portion of his statement was completely omitted from what CBS said last night.

The judge went on to say he was reluctant to issue an order to the media because he felt responsible news media is capable of policing its own activity and would self-impose sanctions to insure fairness of the upcoming trial.

I said yesterday in my discussion that I felt the media should police themselves in this matter, to assure the man would have a fair trial.

Here is the balance of the CBS interpretation of the judge's statement:

Judge Lt. Col. Kennedy made this observation (that the news media was assisting the investigation) when he rejected a United States Government motion to restrain the news media from further publicizing statements of witnesses, photographs, sketches or any other such matter which might be used as evidence. Judge Kennedy said such an order would be premature as well as unprecedented in civil and military law.

While it is true the judge did not directly order the news media to do anything, the CBS reply conveniently omitted any reference whatsoever to the real heart of the judge's statement. Here is what the judge said:

Therefore, I am declining the request of counsel today to issue a show-cause order. A reasonable time will be granted the news media to act in a responsible legal manner. *And, I am confident you will find that witnesses will not be contacted further by any responsible news agency.* The issue will be held in abeyance at this time, with leave to counsel to re-petition this court for relief at any later time.

In all candor and fairness, the Washington Post article reports a much more balanced version of the judge's statement.

Where, however, is any reference in the Post article to Judge Kennedy's key point—one which he twice repeated—regarding what he personally thought responsible news media would respect:

I am confident you will find that witnesses will not be contacted further by any responsible news agency.

An incomplete statement was given by CBS, but I can understand their limitations in terms of time. It does seem to me, however, that when quoting a judge's order, they ought to point out clearly the implication of it, which is that if witnesses continue to make statements and the media continue publishing them, which statements might have an effect on the fairness of the trial, the court is going to have to take some action to reverse the situation.

The judge's order regarding potential witnesses and his statement about pretrial publicity were announced between 3 and 3:30 p.m. on Tuesday. The news media was present.

Now, let us take a look at how pretrial publicity was treated by some of the news media last night and this morning.

Opinions will vary on what is responsible self-policing by the news media, but in view of the foregoing, I do not see how there can be any doubt about the expressed desires of the man sitting as military judge in the case.

On the Huntley-Brinkley show 2 hours after the judge had issued his order, Mr. Huntley and Mr. Brinkley came on with another witness. I do not know whether that witness was still in the service or not, and that is quite an important distinction. But this is what was said on Huntley-Brinkley:

At Fort Benning, attorneys for the Army and Calley asked the trial judge to stop public interviews of witnesses. The judge ordered potential witnesses not to talk, but some continued.

Then a witness was put on, and this particular witness—and I am not going to put this in the RECORD, because I do not want to participate in publication of this material—in effect said that he himself was involved in the massacre. If the man was, at that point, a member of the military, he is obviously subject to charges if these allegations are in fact proved true, upon investigation. If the man is not a member of the military, there are still, as I understand from counsel for the Army, at least two or three ways, which are now being considered, by which this person, or other persons, might be charged with a criminal action.

There are at the present time 24 people under investigation, nine of whom are still on active duty. Any one of those giving evidence or testimony which might implicate himself should, it seems to me, be forewarned by a lawyer as to what it might mean. He should have all the rights that any civilian would have before any court.

CBS charges:

As for the free press-fair trial issue raised by Senator Peter Dominick, Republican of Colorado—

Think of this, Mr. President—

it is the belief at CBS News that it is not applicable in this situation, inasmuch as Lieutenant William L. Calley, Jr., would not be tried by a civilian jury, but a board of professional soldiers who are disciplined to make their decision on the basis of military law.

Mr. President, I raise this question: I do not know how they interpret it, but since the right of a fair trial is a constitutional right of every citizen of this country, it would look as though CBS is saying if you are in the military, you waive your constitutional rights. This seems to me to be a pretty tough way to try to look at the situation, particularly when a man has been charged with a crime which is as heinous, as horrible and as terrible as this one. If there ever was a need for the right of a fair trial without having prejudice injected, this is one of those times.

I might also add that if it happens that publicity gets over the country to such an extent that potential military jurors are unable to say honestly that they have no feeling of bias one way or another on a case of this kind, it is entirely possible that the people who are charged cannot get a fair trial, and may, even though the facts might be proved to most people's satisfaction, find themselves freed because of the inability to obtain a fair trial.

What a miscarriage of justice that might be, if the facts are fully proved, as is required.

Mr. President, this same statement was put on a CBS news program last night. And I sincerely hope they will change this, because it has a very poor ring, I think, as far as the news media are concerned. And I still believe our networks are responsible if they really think about these problems.

Here is something that was said on the news last night:

CBS said tonight Meadlo was entitled to make his story known, if that was his decision, and that what it called free press—free trial issue raised by Dominick does not apply because Lt. Calley will be tried not by a civilian jury but by a military court.

Again, Mr. President, that is a strong indication that because one is a member of the military, he is deemed by the news service to have waived his right to a fair trial.

I cannot buy that. I do not believe that the news media mean that. I hope that they will correct the statement in any future broadcasts.

Mr. President, the country is facing a very serious situation. It is a situation which has international implication. It is a situation in which two men have already been charged with violent crimes, a situation in which 24 more are under investigation with the possibility that future charges will be filed, a situation in which at all time under our system, it seems to me, we should be operating on the principle that anyone charged with crime is innocent until proved guilty.

That is a constitutional right guaranteed to everyone, whether in the Senate, the military or anywhere else in this country. We should try to respect these constitutional rights as they have been set forth by the Supreme Court in civilian and military cases. The Court has strongly said over and over again that an atmosphere of prejudice created by wide publicity prior to a trial can be so

adverse that a person cannot get a fair trial and that therefore we cannot determine under our legal system whether a man is guilty or not guilty.

Mr. President, I made these statements over and over again last night. I might say I found out through a transcript that two media people, Tom Braden and Frank Mankiewicz, came out and implied that I did not care what might have happened in Vietnam, that I was only interested in protecting someone. I am not interested in protecting any individual. I am interested only in protecting the system of legal justice in our country.

And if we cannot take a position like that, even in an unpopular case, then I would say that the country is further down the road to ruin than I thought it was.

After the appearance I made last night on the media, I received a number of telegrams, some of them in favor of my position and some of them against.

I am really somewhat confused—and I think that is the best way in which to put it—by those who are against. What they say apparently is that they do not care whether anyone gets a free trial. They just want someone punished, already assuming that a man is guilty despite the confused facts and the contradiction of evidence and despite the fact that no one has yet put the responsibility firmly before the court to determine whether a man is in fact guilty of the crimes charged.

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

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

(See exhibit 4.)

Mr. DOMINICK. Mr. President, I am not trying to be difficult. I am not trying to make an attack on the press. I am not trying to restrict its freedom. What I am trying to do is to say that they have to balance their obligations. They have an obligation to present the news. However, they also have the obligation of preserving the rights of the people of this country under our system of justice.

It seems to me that any objective reporter looking at this situation would recognize this and try to strike some kind of balance. I do not think that balance has been struck to date. I am not sure it is going to be struck, but I am going to continue to talk to get them to see this in that light as long as I can.

Someone came up to me and wanted to know if this was part of a pattern, a Republican attack on the press. The only pattern is that I got up and looked at this program yesterday morning, knowing that a man was on trial for his life. I watched some of the show and watched a man spread a story around the country. He was not under oath. He was not subject to cross-examination. He was obviously in an emotional state. It seems to me, to say the least, to be prejudicial to our system of justice.

The interview last night on Huntley and Brinkley, immediately following the judge's recommendation asking that the networks police themselves, it seems to me, was a blatant disregard of that order.

I feel so sorry for the citizens who have made their statements in many cases, I am convinced, without knowing what their rights are and, in many cases, I am convinced, without knowing that they might be subject to charges themselves, and therefore, have jeopardized their own freedom.

Let us have them wait. And that certainly is what the order says which was entered by the judge in this case.

I will not read the entire order, but I will read a good deal of it here. This is the order that was issued yesterday, not the court's statement that I referred to before concerning the news media, but the order concerning the witnesses.

It is addressed to the trial counsel, both for the prosecution and for the defense.

It reads:

UNITED STATES VERSUS WILLIAM L. CALLEY

Order issued to Captain Aubrey M. Daniel III, Trial Counsel.

You are hereby directed to notify by the most expeditious means each known witness in this case that, pursuant to the order of this Court, he is directed not to discuss with or disclose to anyone any information or evidence he may possess concerning the alleged offense charged as occurring on or about 16 March, 1968, in the village of My Lai 4, Quang Ngai Province, Republic of Vietnam.

Each witness will be informed that he is authorized to discuss or disclose his information or real evidence to you, Mr. George Latimer, Major Kenneth A. Raby, and 1st Lt. William L. Calley, Jr. only.

From time to time, heretofore unknown witnesses may be uncovered by both sides. The Trial Counsel will, on his own, in the case of prosecution witnesses, or upon the request of the Defense Counsel, promptly notify each newly discovered witness of this prohibition against pretrial disclosure of his testimony.

Moreover, should any charges be added or modified so as to include additional witnesses not heretofore disclosed as potential witnesses in this trial, those witnesses will also be immediately informed of this prohibition against extra-judicial disclosure of his testimony or real evidence.

The notification to witnesses will also contain a provision permitting disclosure in any criminal proceeding other than the trial of Lt. Calley, provided such disclosure is made at a quasi-judicial or judicial hearing only.

Lastly, the Trial Counsel will deliver to this Court the name and address of each witness so notified.

It is so ordered this 25th day of November, 1969, at Fort Benning, Georgia.

REID W. KENNEDY,
Military Judge.

Following the issuance of that order, Huntley and Brinkley televised another witness. I would suggest that at the very least that person could find himself—if it had not been taped some time before—in trouble with the court already.

It further indicates, in my opinion, the complete disregard of the clear intent of that order by NBC and Huntley-Brinkley, especially when one reads the comments of the court concerning pretrial publicity by the news media, to which I have previously referred.

Mr. President, I want to say again that this whole situation really needs to be reviewed in some detail. I am not going to repeat what I said before. I have confidence in the responsibility of most of the major news media; but I am not a bit sure that, in their interest in getting an explosive story before the public, they have balanced this against what I hope also is their concern—that each person charged with a crime in this country shall receive a fair trial, as defined in our Constitution and as governed by our court system. If that right is ever broken down, we will have destroyed one of the central elements of our system of government. No one's freedom will be secure.

EXHIBIT 1

NEWS MEDIA

(Transcript of Military Judge Reid W. Kennedy. Re: Portion of joint motion by military prosecutor and defense counsel concerning pretrial publicity, Tuesday, November 25, 1969)

The news coverage you are talking about occurred for the most part before this case was sent to trial.

As I understand the previous military press release, this case was under investigation. Thus, I can understand how responsible news media did not deem it improper to assist the military in furthering its investigation.

We are now past that stage of the proceedings. I agree completely with counsel that further news contact with witnesses and premature out of court disclosure of testimony would be in violation of law.

On the other hand, I am reluctant to issue any show cause order immediately to prohibit publicizing the testimony of potential witnesses. I believe the responsible news media are capable of policing their own activity and will self-impose the necessary sanctions to insure that the fairness of these proceedings are not jeopardized. Therefore, I am declining the request of counsel today to issue a show cause order. A reasonable time will be granted the news media to act in a responsible legal manner. And, I am confident you will find that witnesses will not be contacted further by any responsible news agency. The issue will be held in abeyance at this time, with leave to counsel to repetition this court for relief at any later time.

EXHIBIT 2

NEW YORK TIMES, WEDNESDAY NOVEMBER 25, 1969—CBS REPLY

Following is a reply of the Columbia Broadcasting System to the attack on it by Senator Dominick for having broadcast the interview with Mr. Meadlo:

"C.B.S. News broadcast the interview with Paul Meadlo in the belief there was an overriding public need for full disclosure about what happened at Mylai, particularly in view of previous statements made by other eyewitnesses and then the statement issued by the Government of South Vietnam that nothing untoward had happened there.

"This South Vietnamese official position was then contradicted by the United States Army decision yesterday to try an American officer on charges of premeditated murder at Mylai.

"C.B.S. News believes that Paul Meadlo was entitled to make his story public if that was his decision, and having established to our satisfaction that Paul Meadlo was qualified to speak on the subject as a bona fide participant in that incident, we would be guilty of not reporting information to which the American public was entitled.

"As for the free press-fair trial issue raised by Senator Peter Dominick, Republican of Colorado, it is the belief at C.B.S. News that it is not applicable in this situation inasmuch as Lieut. William L. Calley Jr. would not be tried by a civilian jury but by a board of professional soldiers who are disci-

plined to make their decision on the basis of military law.

"It is worth noting that, at the pretrial session at Fort Benning, Ga., Judge Lieut. Col. Reed Kennedy said he felt that the news media was sincerely attempting to assist furtherance of the investigation of what happened at Mylai.

"Judge Lieutenant Colonel Kennedy made this observation when he rejected a United States Government motion to restrain the news media from further publicizing statements of witnesses, photographs, sketches or any other such matter which might be used as evidence. Judge Kennedy said such an order would be premature as well as unprecedented in civil and military law."

EXHIBIT 3

SILENCE ORDERED ON MYLAI—JUDGE ENJOINS WITNESSES IN MASSACRE CASE

(By Peter Braestrup)

FT. BENNING, GA., November 25.—A military judge today ordered all potential witnesses in the court-martial of an Army lieutenant charged with murdering Vietnamese civilians to remain silent about the case.

The judge, Lt. Col. Reid W. Kennedy, deferred decision on other requests from lawyers that he order the press to curb pretrial publicity about the case.

The accused officer is 1st Lt. William J. Calley Jr. He is charged with the murder of 109 Vietnamese during an operation at Mylai 4 Hamlet (also known as Tucong) in Quangngai Province on March 16, 1968.

The two restraining orders sought from Col. Kennedy were requested jointly by the government prosecutor, Capt. Aubrey M. Daniel III, and Calley's military counsel, Maj. Kenneth A. Raby, at an emergency 30-minute hearing here.

[Three legal experts agreed that Col. Kennedy's order silencing witnesses was highly unusual and expressed doubt that it could be enforced, especially in the case of prospective witnesses who are now civilians.

[Charles Schoefer, managing editor of the Selective Service Law Reporter, a Washington-based publication, cited the decision of the Supreme Court in the 1955 case of Toth v. Quarles holding that it is unconstitutional to hold anyone subject to the Uniform Code of Military Justice after the termination of his military service.]

The hearing came after 12 days of mounting worldwide publicity, including public statements and interviews by six former members of Calley's unit in Vietnam. No date has yet been set for Calley's trial by general court-martial. He was formally charged here yesterday, after a seven-month Army investigation.

Referring to the reported sale and publication of photographs of the alleged massacre by Ronald Haeberle, a former Army photographer in Quangngai, Raby said:

"It seems as if the evidence in this case is being auctioned off in the press."

Calley, 26, in well-pressed Army greens, with chest ribbons and blue four-starred Americal Division shoulder patch, accompanied Raby to the hearing.

It lasted less than 30 minutes in a bare courtroom in Building 5, a low, shabby Community Service center just across the pine-shaded street from the home of Maj. Gen. Orwin C. Talbott, Fort Benning's commander, who ordered Calley's court-martial.

The lieutenant, a short (5-foot 3-inch) man with carefully combed widow's peak, said nothing.

If convicted, he could be sentenced to death or life imprisonment.

It was here, the Army's sprawling 50,000-man training center for infantry officers and Vietnam replacements, that Calley 26 months ago earned his second lieutenant's commission after dropping out of Palm Beach Junior College.

Six months later, while Calley led an understrength platoon of Company C, 1st Battalion, 20th Infantry, 11th Brigade, came the alleged massacre in the enemy-controlled area, known as Pinkville, in Quangngai Province.

Company C's former commander, Capt. Ernest Medina, 33, is also now in a make-work job at Ft. Benning. His original plans for an Army-aided college education have been suspended pending the outcome of an investigation. On the advice of his counsel, Medina has refused to talk to newsmen.

Today, in decrying "prejudicial pretrial publicity," both Raby and Daniel said they had no desire to curb freedom of the press. But both contended that the volume and character of publicity to date, notably the public statements by known witnesses, left them no choice but to ask for an unprecedented court order to assure a fair trial.

"This is probably the only time the two of us will see eye to eye on anything," said Raby, referring to himself and Capt. Daniel.

Raby said, "All we're asking is that witnesses be allowed to come in court and testify first." He emphasized the "first."

In this connection, Raby cited the case of one witness, Sgt. Michael Bernhardt, who appeared here Sept. 5 at the opening of the pretrial investigation and then last week, gave his version of the March 16, 1968, events on television.

Sgt. Lawrence LaCroix, a member of Co. C, now at Ft. Riley, Kans., told The Post he was ordered not to talk about Mylai. "If you want to talk to someone about this, talk to Lt. Calley's lawyer, George Latimer. He's helping me out."

In passing, Raby chided Robert Jordan III, Army general counsel, for what he called a "brief dissertation" at a Pentagon news conference last Friday on the legal questions involved in military leaders' responsibilities for crimes committed by subordinates. "This fell far short of full discussion," Raby said, adding that it was one of the key issues in the case.

All told, the military judge, Col. Kennedy, today acted on three motions brought by Raby and Daniel.

He ordered that all present and future witnesses discuss the case only with the opposing lawyers and Lt. Calley. He ordered members of the court-martial panel to avoid "intentional" exposure to press, radio and television stories on the case. But he said he was "reluctant" to issue an order, as requested in Raby and Daniel's third motion, to the news media directing them to show why they should not be restrained from publishing interviews from witnesses and other materials in the case.

"I believe the responsible news media are capable of policing themselves," the judge said.

A "reasonable time" will be granted to news media "to act responsibly," the judge added, saying that meanwhile "this issue will be held in abeyance."

Army lawyers present at today's hearing said such a show-cause order would be unprecedented in the history of U.S. military or civilian jurisprudence, although the Supreme Court has overturned at least one lower-court verdict on grounds that publicity ruined chances for a fair trial.

EXHIBIT 4

HANOVER, N.H.,
November 25, 1969.

Senator PETER H. DOMINICK,
Senate Office Building,
Washington, D.C.:

Agree without qualifications your indictment of CBS Mike Wallace's repugnant interviews of Meadlo, also tonight CBS Stanton equally repugnant statement.

E. L. PALMER.

BEVERLY, MASS.,
November 25, 1969.

Hon. PETER DOMINICK,
Washington, D.C.:

Agree with you totally regards CBS broadcast about alleged massacre and young man interviewed. Please pursue this as we are unable to understand double standard; that is, prominent cases not discussed in public to avoid pretrial judgment and individual rights protected. What is difference in this case.

PAT HARMELING.

SANTA FE, N. MEX.,
November 25, 1969.

Senator DOMINICK,
Senate Office Building,
Washington, D.C.:

Hooray for you in today's newscast.

FRED MANG.

CAMP HILL, PA.

Senator PETER H. DOMINICK,
U.S. Senate,
Washington, D.C.:

Strongly support your criticism of television interview of Meadlo.

Mr. and Mrs. EDGAR I. KING.

DALLAS, TEX.,
November 26, 1969.

Senator PETER DOMINICK,
Senate Office Building,
Washington, D.C.:

We are with you Peter. A man should be tried in court not by building public clamor through TV and radio with questionable and unverified reports.

Mr. and Mrs. JAMES R. SHELDON.

DENVER, COLO.,
November 26, 1969.

Senator PETER H. DOMINICK,
Senate Office Building,
Washington, D.C.:

We agree heartily with your disapproval of Mike Wallace interview. War used to be war but now its show biz.

MARIAN E. OSTBERG.

LORAIN, OHIO,
November 26, 1969.

Senator PETER DOMINICK,
U.S. Senate,
Washington, D.C.:

Wallace's sensationalism interview of Meadlo is brash news media corruption. As a veteran I consider the interview an insult upon unfettering shame. We highly respect your stand.

VENNY J. VAROUSE.

HENDERSONVILLE, N.C.
November 26, 1969.

Senator PETER DOMINICK,
Senate Office Building,
Washington, D.C.:

Concur wholly your condemnation CBS Wallace interview.

J. E. FAIN,
Editor, Times News.

HILLSBOROUGH, CALIF.,
November 26, 1969.

SENATOR DOMINICK,
U.S. Senate,
Washington, D.C.:

One Republican former captain infantry appalled your response CBS report Meadlow report mass Vietnam murder. Are you unfamiliar Nuremberg Trials? These murders deliberate. What morals do you really represent for our country?

JOHN A. STEEL.

NEW HAVEN, CONN.,
November 25, 1969.

Senator PETER DOMINICK,
Senate Office Building,
Washington, D.C.:

Legal insensitivity and political defensiveness can not bring back to life South Vietnamese massacre victims.

HERBERT SAX, M.D.

HUGO, COLO.,
November 26, 1969.

Senator PETER DOMINICK,
Senate Office Building,
Washington D.C.:

Have just heard your recent statement regarding the Lieutenant charged with murder of Vietnamese citizens as usual I am in disagreement with your position and I totally disagree with your statement and your position on this matter having been a former infantry officer this alleged offense is inexcusable. I wish you to again recognize my disagreement with your position as my senatorial representation.

THOMAS L. NICHOLS.

TAX REFORM ACT OF 1969

The Senate resumed the consideration of the bill (H.R. 13270), the Tax Reform Act of 1969.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, immediately following the prayer and the disposition of the reading of the Journal on Monday next, there be a period for the transaction of routine morning business not to exceed 1 hour, and that statements made therein be limited to 3 minutes.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that following the period for the transaction of routine morning business on Monday next, the pending amendment offered by the able senior Senator from Louisiana (Mr. ELLENDER) be laid before the Senate and made the unfinished business before the Senate.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to vote not later than 3 p.m. on Monday, December 1, 1969, on the so-called Ellender amendment, No. 290, and that following the vote on the Ellender amendment, debate on the amendment by the Senator from Delaware (Mr. WILLIAMS), No. 291, be limited to 1 hour, to be equally divided and controlled by the Senator from Delaware (Mr. WILLIAMS) and the Senator from Louisiana (Mr. LONG). The understanding is that the vote on amendment No. 291 would then occur.

The PRESIDING OFFICER (Mr. BELLMON in the chair). Without objection, it is so ordered.

Mr. WILLIAMS of Delaware. Mr. President, who will control the time on the so-called Ellender amendment?

Mr. BYRD of West Virginia. Mr. President, I included nothing in my request with regard to controlled time on the Ellender amendment. The time would not be controlled.

Mr. President, I amend my previous unanimous-consent request to provide that when the amendment offered by the able senior Senator from Louisiana (Mr. ELLENDER) is laid before the Senate at the conclusion of the morning business on Monday next, the time be equally divided and controlled by the mover of the amendment, the senior Senator from Louisiana (Mr. ELLENDER), and the minority leader or whomever he may designate.

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

Mr. BYRD of West Virginia. Has the Chair presented the entire request?

The PRESIDING OFFICER. Yes.

Mr. BYRD of West Virginia. So that it is agreed that the vote will occur not later than 3 p.m. on Monday next on the so-called Ellender amendment.

The unanimous-consent request, subsequently reduced to writing, is as follows:

Ordered, That the Senate proceed to vote not later than 3 p.m. on Monday, December 1, 1969, on the so-called Ellender amendment (No. 290), with the time after the conclusion of the morning business to be equally divided and controlled by the Senator from Louisiana (Mr. ELLENDER) and the minority leader or their designees.

Following the vote on the Ellender amendment, debate on the amendment by the Senator from Delaware (Mr. WILLIAMS) (No. 291) be limited to one hour to be equally divided and controlled by the Senator from Delaware (Mr. WILLIAMS) and the Senator from Louisiana (Mr. LONG).

Mr. JAVITS. Mr. President, inasmuch as next week what many consider a very important amendment to the tax reform bill will be considered—to wit, the amendment on foundations—I thought it would be appropriate, so that my fellow Senators might have an opportunity to consider the question over the Thanksgiving Day recess, to put some concepts in the RECORD with respect to what we might expect.

The amendment I intend to propose will have one affirmative and one negative aspect which are critical.

First, the negative aspect. My foundation amendment will strike out that part of the bill which limits the life of private foundations to 40 years. In my judgment this is an absolutely arbitrary limitation, without any basis in law, reason or fact and raises some very serious questions.

The rule against perpetuities at the common law, which is very well known throughout the law of trusts and estates, generally deals with lives in being. The classic example is lives in being plus 21 years, that is, at least one life plus the minority of another life. Any skillful draftsman can create a noncharitable trust whose existence runs for far more than 40 years. But under the bill we have an absolutely arbitrary limitation of time upon the tax-exempt life of foundations which places an effective limit on their life—it should be observed that charitable trusts are traditionally exempt from the rule against perpetuities and that this tradition is hundreds of years old.

In view of that fact, and many others which flow from it, the general feeling has spread abroad to those who give and those who receive—and this represents a tremendous cross section of American life—that an enormous social overturn in our whole Nation is contemplated by the Congress. Should we enact many of the provisions of either the House or the Senate bill, or both on foundations, we are likely to have a very chilling effect of philanthropy and pluralism in our society and I consider this most serious.

Second, the affirmative aspect of my amendment. The subject of philanthropy and pluralism in our society is so serious to our society, in terms of voluntarism, for philanthropy, for education, for health, for many other causes, I believe that the matter is worthy of examination on the highest possible level. Therefore, my amendment would establish a Presidential commission, with a mandate to report within approximately 2 years—we will fix the date—in order to determine exactly what we ought to do about, first, the whole concept of philanthropy, pluralism and voluntarism upon which our society is based, and second, the question of giving and having exemption from the payment of taxes for what we consider to be highly desirable social purposes.

It is very interesting to me that the President, himself, in announcing the start of the national fundraising drive for the United Community Chests, struck a note which is what I would deeply hope is symptomatic of the true feeling in our country. The President characterized philanthropic activity as a sacred American tradition of private initiative which gives a freedom, a quality of innovation, a quality of competition in the marketplace of ideas and of accomplishments which is tremendously useful to our society.

I hope very much that the fundamental question before the Senate in respect of what we do about foundations and philanthropic giving will be whether or not what we do in the tax law is bound to destroy it in a material way and therefore likely to change the whole basis of our American society.

Mr. President, there is no question about the fact that the Senate has done a great deal through its committee to improve the House measure. I have pointed out what many of us consider to be the most difficult aspect of the Senate bill, which is the arbitrary life of private foundations.

Another area of question is the distinction made between foundations established by one or a small group of givers (what are now called private foundations), and those foundations supported by multiple and broad scale public giving. Whether or not that is the right standard or, whether we should look to performance as a standard, and what is done with money for which a charitable deduction is given, are serious questions.

Then, there is also a question concerning the requirement for income distribution of a mandatory nature. A 5-percent minimum payout of the assets annually for all practical purposes may be very much superior to the 40-year arbitrary provision in the bill. But also it may be entirely too rigid and deserving of much further relaxation than the Senate Finance Committee made of the House bill.

No question exists between me and other Senators similarly interested in

the matter about prohibitions on self-dealing, about increased disclosures and publicity, and other matters which time and experience have shown to be deserving of reform, and that is what this measure is, a tax reform bill. I hope the amendment I shall offer will be judged on the basis, not only of what is reform—even if there is an argument about the propriety of giving reform—but also as to how it deals with what strikes at the heart of the whole American system which allows philanthropic giving.

All of us who have raised money for philanthropic purposes and I know that I have and practically all other Senators have done so. This includes large giving in major fundraising drives of the Nation.

We know—I have been enough of a fundraiser to know—that the basis on which to build a structure of giving is the large giver. Without that base one finds it extremely hard to have any appreciable philanthropic contributions.

Mr. President, these are serious questions. However, beside the other areas to which I referred, there is also a serious question as to whether particular foundations or philanthropic enterprises shall be limited or restricted in the amount of a particular enterprise, they may own. I understand why we want to be careful to avoid control by foundations or philanthropic organizations of the operating enterprises, but I cannot see why we should have any particular concern about how much of those enterprises they own in the absence of the exercise of active control which prejudices charitable purposes. This also mitigates against substantial gifts. The practicality of getting the most for philanthropic purposes may dictate the absence of such a restriction which would cancel the possibility of getting the most for these highly desirable purposes.

Finally, I think we must be leery of allowing the inequities, the excesses, the abuses, which may have arisen—and we have far too little evidence on this—from changing the fundamental concept, which we have had in mind so long in this country; this concept has worked well; it has tended to ennoble our people, as well as to do highly desirable social things which our people eventually need to have done. We must be careful of restraints and restrictions so designed to deal with the excesses and abuses as to literally throw out the baby with the bath, and end what has been so fundamentally an element worthy of praise in the American system.

Next week and the week after major amendments to the tax reform bill will be forthcoming. I urge Senators to think during the Thanksgiving recess about this problem of foundations and philanthropic giving. If it is practical, I hope they are able to give some attention to the home community, hospitals, Community Chest, foundations, and other philanthropic activities which are recipients of this kind of giving, and also with givers themselves, large and small, in order to determine for themselves what should be done in the way of a fair effort to deal with the abuses and excesses, but at the same time, to be sure in the correction of doing that we are not jeopardizing a fundamental institution, philanthropic giving, which is an essential element of our society.

I hope Senators will be thoughtful in this matter. I have made these remarks in an effort to encourage them to do so in the next few days.

THE TAX BATTLE BEGINS

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled "The Tax Battle Begins," published in yesterday's Washington Daily News.

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

THE TAX BATTLE BEGINS

One of the chief purposes of taxation is to provide the money to keep government in business.

The Senate now begins debate on the so-called "tax reform act of 1969." As it left the House, this bill did not provide enough revenue to keep the Federal Government out of the red. As it goes to debate on the Senate floor, it has been modified, but still is far short of providing income to match the outgo.

The Senate Finance Committee, however, argues that the timetable of tax relief it has proposed, stretched over 10 years, would avoid any serious threat to balanced Federal budgets.

That would depend, of course, on whether the country's general economic growth would produce enough additional tax income to offset the rate reductions. The Finance Committee apparently is confident this will happen.

But some of the amendments to the tax bill to be offered on the Senate floor pose an immediate threat to the Government's budget balance.

Sen. Gore of Tennessee wants to raise the personal exemption in the income tax law from the present $600 to $1000 over the next four years. This, in itself, would cut the Government's income by an estimated $12 billion.

And this would come at a time when there finally is an Administration which seems determined to put an end to the everlasting string of Government deficits which have spurred inflation, pushed up interest rates and sent the national debt into orbit.

Sen. Gore claims his proposals are designed to "give the most tax relief where it is needed"—to low and middle income taxpayers. Well, some of us would be delighted to spend our money in our own way, instead of having the Government spend it for us.

But if it means more and bigger Government deficits, and increased inflation, as it surely would—then it would be cheaper to pay the taxes. The best thing the Government can do for the low and middle income people is to stop inflation—and creating more Government deficits is not the way to do it.

LETTER TO PRESIDENT NIXON WITH REGARD TO REVERSION OF OKINAWA TO JAPAN

Mr. HOLLINGS. Mr. President, yesterday I made certain remarks to the Senate regarding proposed negotiations and resulting agreement or treaty affecting Okinawa. In my judgment, Okinawa, bound by a treaty with the advice and consent of the Senate, could only be disposed of with the advice and consent of the Senate. In that regard, I addressed a letter stating my position to the President of the United States requesting his interpretation as to the responsibility of the legislative branch of Government in the disposition of Okinawa. I would ask unanimous consent that this letter be included in its entirety in the RECORD.

My main concern, Mr. President, is that the United States retain the uninhibited right for the launching of combat operations from the Okinawa bases. I feel this is necessary in order to fulfill our commitments to world peace. We do not want Okinawa as an island. We do not seek to control the people of Okinawa. We are vitally interested in maintaining friendly relations with Japan. Continued friendly relations cannot be maintained with misunderstanding, and as problems arise, we should seek to solve the problem rather than create others. Unfortunately, it is not easy to reconcile the domestic and political problems of Japan with the international commitments of the United States. This is not the fault of the United States. Some clear arrangement should be negotiated whereby the island and people of Okinawa can be returned to the Japanese and the military bases continue to operate without restriction. We do this in the enemy area of Cuba with the Guantanamo base. It seems that with friends in Okinawa our base problem could be negotiated.

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

NOVEMBER 25, 1969.

HON. RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I would appreciate your understanding as to the responsibility of the Legislative Branch of government in the disposition of Okinawa.

It appears that Okinawa, bound by a treaty with the advice and consent of the Senate, could only be disposed of with the advice and consent of the Senate. Accordingly, to reaffirm this requirement, the United States Senate recently enacted the Byrd Resolution expressing the sense of the Senate to this effect. Feeling still that you have adhered to this requirement in your talks with Prime Minister Sato, Senator Harry Byrd of Virginia has just commended the language of the Communique between the Prime Minister and yourself. And Senator Byrd commended you for recognizing this role of the Legislative Branch. However, I have just returned from Japan and a conference with Prime Minister Sato. It is my impression that Prime Minister Sato's view is best expressed in the *Japan Times* of November 11 in the article entitled "Sato Tells Opposition U.S. Will Okay Reversion Under 1972 Formula" in which the Prime Minister discounts the necessity for ratification of any agreement affecting Okinawa. Senator Byrd interprets the language under Section 6 of the Communique ". . . with necessary legislative support" as recognizing the necessity under the Constitution for ratification by the United States Senate. On the contrary, the use of the word "support" rather than "advice and consent" leads me to the conclusion that as long as substantial support is obtained you do not believe that a ratification by a two-thirds vote of the United States Senate is necessary. Specifically, I am sure you would receive substantial support for the return of Okinawa without the uninhibited right of launching combat operations from members of the Democratic leadership and the Foreign Relations Committee. But this does not constitute "advice and consent."

As a result of my discussion with our commanders in the Far East, I do not believe that we can fulfill our commitments with the restrictions of the 1972 formula. I believe our commitments in the Far East and to world peace transcend the domestic and political problems of Japan, the textile problems here at home and other considerations that have been confused into the "Okinawa question." I believe in the ultimate return of Okinawa, but not now.

Accordingly, I would like an opportunity to vote on any agreement or treaty made affecting Okinawa. Please tell me whether or not Senator Byrd is correct in his understanding. Please tell me whether or not you believe that I, as a Senator, have this right on the Okinawa question.

Most respectfully, I am,

ERNEST F. HOLLINGS.

THE PHILIPPINE HEARINGS

Mr. SYMINGTON. Mr. President, a recent column was critical of hearings held by the Senate Subcommittee on United States Security Agreements and Commitments Abroad of the Foreign Relations Committee with respect to our agreements with, and monetary payments to, the Philippine Government.

The Secretary of State has expressed to me his appreciation of the cooperation that was given the State Department by the subcommittee with respect to what should be deleted from the transcript of said hearings.

There is major discrepancy between the testimony of United States witnesses and subsequent statements by members of the Philippine Government as to how and where many millions of dollars given the Philippines by the United States were expended. This matter is being turned over to the General Accounting Office by the subcommittee in effort to ascertain the facts.

PENAL REFORM

Mr. BYRD of West Virginia. Mr. President, in the October–November issue of Trial magazine the cover story deals with the case for penal reform. In an editorial the magazine takes a very favorable stand on reform of our prisons. I invite the attention of Senators to the editorial entitled "Morally Right, Economically Sound." I also invite the attention of Senators to an article in the same magazine written by our colleague, the able senior Senator from Connecticut (Mr. DODD), entitled "Corrections Do Not Correct."

Mr. President, I ask unanimous consent that both the editorial and the article be printed in the RECORD.

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

[From Trial magazine, October–November 1969]

MORALLY RIGHT, ECONOMICALLY SOUND

At a time when the words Law and Order are steeped in controversy, in bitter emotion-filled debate, there is one facet of the crime problem in America on which experts are in solid agreement: our prison system is abysmal and our rate of recidivism (repeat offenses) is shocking.

We operate a revolving door; prisoners who enter, invariably are released more embittered against society and far better equipped for a continued life of crime. Eventually, the door opens again to readmit a majority of them.

Can we do anything to alleviate this problem?

Indeed we can.

But first, we must rid ourselves of some misconceptions. We must recognize that America has not been "soft" on criminals. The average length of sentence in America is much greater than that imposed in England or throughout Europe. We must learn that long sentences for most criminals are unnecessary and usually provide less protection to society than shorter ones.

The problems in rehabilitating one who has spent a major part of his life in prison are so profound that recidivism is almost assured. We must be willing to stop practicing custody and start practicing correction.

And above all, we must resolve to spend the time and the money required to develop suitable alternatives to incarceration, while at the same time, providing a prison system whose main function will be rehabilitation.

Included in this issue of TRIAL are articles from experts whose suggestions could bring many needed improvements. Senator Dodd, a member of the Senate Juvenile Delinquency Subcommittee, has introduced Senate Bill 2905 to provide a billion dollars of federal funds over a five year period to enable our states to set up better correctional systems for juveniles.

At present about 93% of the nation's juvenile courts have no separate juvenile facilities available for juvenile offenders. Confining them with hardened adult offenders produces juveniles whose next offense is almost always a more serious one.

Senate Bill 2905 deserves our support.

Various communities are introducing alternate methods of handling those accused of crime. The programs of the Vera Institute of Justice, set forth in this issue, should be studied by communities everywhere. The Model Sentencing Act of 1963, promulgated by the National Council on Crime and Delinquency, should be examined by every legislator and every trial judge in America. It logically attempts to create two categories of offenders—"dangerous" and "nondangerous"—and provides for longer sentences for the former to remove them from society. But for the "non-dangerous" ones, it recommends that the maximum sentence should be five years—with emphasis on training and rehabilitation. Other communities are demonstrating the value of work programs, particularly for youthful offenders or those found guilty of less serious crimes.

Closer relations should be developed everywhere with private agencies who are involved in retraining and rehabilitating prisoners. The work of Synanon with drug offenders and other malfunctioning persons demonstrates how effective the offenders themselves can be in helping others with similar problems.

Above all, we need to eliminate the attitude that one who wishes to stop the inhuman treatment of our prisoners, who is not satisfied with locking them up out of sight, is "soft," or an impractical "do-gooder."

We should indeed be concerned with the immorality of our past indifference.

We should also realize that it is bad business to continue developing criminals in our prisons. Rehabilitation, properly run with well trained, well paid experts who are given reasonable workloads, is expensive. So are separate institutions for juveniles and sufficient salary levels for prison guards to provide better personnel with less motivation for corruption.

But these programs are a lot cheaper than our present system of custodial care.

Paul W Keve, Commissioner of Corrections for Minnesota in St. Paul, stated in the August/September 1969 issue of *Judicature* that the cost of sending an offender to the Minnesota State Reformatory for Men is about the same as sending a student to Harvard. Further, the present expensive method results in over 70% of former inmates becoming repeat offenders.

Crime is our most serious social problem today. We can make inroads on this problem by an all-out program in which our efforts and our wealth will be devoted to the morally right and economically sound practice of reform and correction.

[From Trial magazine, October–November 1969]

CORRECTIONS DO NOT CORRECT

(By U.S. Senator THOMAS J. DODD, Democrat of Connecticut)

When the Senate Juvenile Delinquency Subcommittee began public hearings into the problems of juvenile institutions and prisons on March 3, 1969, it was our task to determine how well the country's training schools, reformatories and penitentiaries are handling and rehabilitating their inmates.

From preliminary investigations we suspected that the rehabilitation of confined offenders was inadequate.

We have now confirmed that inadequacy in full measure.

In fact, we have been told by experts that rather than rehabilitating the inmates, our institutions release "finely honed" criminals who are more disturbed, more deviant, more hardened, and more dangerous than ever.

Administrators of juvenile programs testified that it would be better if many of the delinquents were never apprehended because they deteriorate rather than improve under the guardianship of the state. The Subcommittee was given case histories of young people who entered juvenile institutions as simple truants and received enough criminality education to leave with attitudes of hardened felons.

And inmates themselves said that they actually look forward to renewing a life of crime, violence, and revenge upon release from confinement.

One of the most distinguished experts in this field suggested that perhaps the only solution was to ask judges not to commit offenders to institutions due to atrocious conditions.

The logical conclusion: we are probably giving better protection to the public by releasing offenders back into the streets rather than sending them to institutions where they become more dangerous and more crime prone.

Too long we have shut our eyes to what happens to confined offenders.

Too long we have deceived ourselves by fostering the belief that correctional institutions correct, that training schools train, and that rehabilitation centers rehabilitate.

Too long we have listened only to those "correctional experts" who told us what we wanted to hear.

Today, we are paying for this apathy and self-deception with a critical problem in the nation, much of which is fostered and encouraged in our penal institutions.

Let me tell you what we found in the Subcommittee's inquiry.

The first witness who testified, the district attorney from Philadelphia, told of widespread homosexuality and brutal homosexual attacks on inmates not only in Philadelphia's prisons but in prisons across the nation. His testimony has been confirmed by virtually every witness who has appeared since, no matter what part of the country they were from.

Other witnesses outlined the problems of suicide, torture, sexual exploitation and even murder that characterize our so-called correctional system.

We were told of tragic suicides among the 7,000 juveniles committed to the county jails in Minnesota, inmates going insane because of extensive confinement, month after

month, in isolation cells in Virginia, of inmates being tortured and burned to death in jail cells in Chicago, of sexually exploited young girls in New York's Youth House, where one young inmate had to deliver her own baby for lack of medical care and facilities.

The Subcommittee was also told of the brutal torture, beatings, and solitary confinement in the Ohio penitentiary and of even worse torture practiced in Arkansas.

While the reaction of Arkansas penologists was "so what else is new," I can report that since our hearings 19 persons have been indicted on 47 counts by a federal grand jury for brutality and excessive punishment perpetrated on the inmates of that state's penal institutions.

The Subcommittee was told of brutal beatings suffered by young boys in the juvenile institutions in Texas. Again, the administrators denied this. But one week after the hearings a guard named by our witness was fired for beating a young boy so badly he was confined to a hospital with a broken jaw.

There is evidence in our hearing record that prisoners have been murdered by the guard force or other inmates with no legal action taken, and evidence in the record submitted by competent investigators that 75% of the guards in some institutions are crooked and corrupt.

The public and the Congress find it hard to believe the horror stories that are enacted within prison walls because this society has for many years confused the concepts of punishment and rehabilitation. We have considered them as one and the same and we have believed that because of punishment, offenders leave the prison walls better citizens.

The truth is the public has been grossly mistaken in this belief. Offenders do not leave as better citizens.

We must, at long last, face the fact that punishment is not rehabilitation; that punishment cannot be confused with rehabilitation; and that the kind of treatment I have described above can in no way turn a criminal into a law-abiding citizen. When we treat men like wild animals we teach them to act like wild animals.

This is our posture today with respect to prison inmates.

Because of public apathy, because of lack of funds and because of the fear and shortsightedness of the public and the government, we practice custody rather than correction, we are preoccupied with security rather than treatment.

The institutions receive the social failures, the misfits and the psychologically disturbed offenders. These are men who come from the bottom of the heap of humanity, who are most difficult to understand and who, in turn, do not understand society. They are confused, frustrated and ridden with anxiety. It is often for these very reasons that they have turned to crime.

They have been punished enough by chance or circumstance or the social conditions in which they developed. These men need treatment and education and the kind of trained professional help that could enable them to adjust to life in the community.

Instead, we have gone in the other direction. We have placed the offenders under the charge of the least competent, the least trained, and the lowest paid personnel—the prison guards who often know only one means of controlling the inmate: brute force.

In most cases, from the guard to the warden, institutional personnel have been conditioned to prevent escape as the main justification for their being. This is a system that has developed for over 100 years—a system the public expects and demands. But it is a system that allows no experimentation with innovative programs.

In this regard let me quote from the testimony of one witness who appeared before our hearings:

We want dedicated, professionally trained individuals to work with these difficult cases, as long as they are willing to be hired for less money than comparable employment would offer them in beneficial, therapeutic settings, as long as the plant is drab and foreboding enough to remind them that they are to be punished and isolated.

We want experimental, innovative approaches utilized, as long as the program is in someone else's backyard. We will back them as long as there are no embarrassing incidents.

Why then should program administrators seek to be creative? Why should they not settle for custody and control instead of treatment? Why then should not the goal of institutions be a trouble free tour of duty rather than true attitudinal change on the part of young offenders?

Today we have custody of what has been called warehousing of offenders, but little else.

We have stood by and allowed the development of what I call the "correctional clique," who are willing to whitewash the prison story. These are men conditioned by the public's naive belief that once a criminal is out of sight behind the high wall, he can be put out of mind. These are men who have learned that the basic requirement asked of a warden is to run a "quiet place" and "keep the lid on." These are men who practice back scratching and protect one another against outsiders.

I do not want to judge them too harshly because there are brilliant and dedicated professionals among this group but most of them have been unable to improve conditions because the total system will not allow it. All of them are victims of inadequate support from the public, and all have run too long as a "quiet place."

The men who operate our institutions need help. They cannot run a quiet place forever under the present conditions, as evidenced by the jail and prison riots that occur periodically. The entire system needs to be overhauled.

The public may not understand this need. It certainly has not understood it in the past. The Congress may not want to understand it.

But nothing less than a major overhaul of our institutions can serve to protect the American people from the dangerous criminals that are released by today's kinds of institutions.

Crime is our most serious social problem today. There are over 400,000 offenders in our juvenile and adult institutions, and new offenders come in every day.

In the years to come there will be more such offenders. Statistics indicate a drastic rise in juvenile delinquency, a 60% increase in juvenile crime since the start of the 1960's.

Crime costs our society over $20 billion a year. Operating the criminal justice and correctional systems alone will cost $9 billion a year by 1975.

More public funds are needed to finance reform, to make certain that the billions we already spend in corrections, on the present system of institutions, are not wasted in making worse criminals out of prison inmates. We know today that over 70% of ex-inmates do repeat in new crimes.

In times past, you could send the offenders to isolated islands away from civilization. Today, we must deal with them in our urban society.

Over 90% of the offenders incarcerated will be released in a few years. If we neglect and abuse these men in institutions, thousands of them will again prey on the public, with increased hostility and violence.

Today our training schools and prisons are the "hotbeds" of criminality. It is in the institution where the dangerous and deviant criminals congregate. It is in the institutions where new knowledge in the methods and techniques of crime is passed on to the younger inmates. Thus it must be in the institutions where we try to turn back the threatening tidal wave of lawbreaking.

Because we have so long considered punishment the real answer to criminality, we have built the dungeons and the cell blocks and the high walls and the iron bars. The wardens and penologists have paid lip service to rehabilitation but they have not practiced it. I seek to change these institutions and to develop the kind of procedures that can achieve correction.

Let me explain some of the needs of our institutions and some of the problems faced by states and localities in meeting these needs. Over 100,000 juveniles are today detained in filthy jails with hardened adult offenders—contrary to every accepted correctional standard and in many cases contrary to state and local law. Why? Because there is no money to build detention homes for them. And no money to build regional detention homes for the use of several areas.

I consider it a crime against society to keep juveniles in the jails we have investigated; many of these children are not even delinquent. Their only crime is that they have been neglected or abandoned by their parents.

Yet, judges use the jails because 93% of the nation's juvenile courts have no separate juvenile detention facilities.

Overall, by 1975, the states and localities will need over a billion dollars for the construction and renovation of institutions. The need exists in the face of great financial difficulty already being experienced by most states and localities. State and local tax structures are stretched to the limit. Some cities face the problem of shutting down *schools* if more funds cannot be acquired.

Based on the findings of the Subcommittee's inquiries to date, I introduced a bill, S. 2905 on September 16, 1969, that would make available $1 billion in federal funds over the next five years for the improvement of state and local juvenile and adult training and correctional institutions.

It will call for a cooperative effort among all law enforcement, correctional and criminal justice agencies to help the juvenile and adult correctional systems.

The correctional field cannot extricate itself from its floundering condition without the kind of assistance I propose. Top experts have asked for, pleaded for, this kind of federal aid.

This is not simply a brick-and-mortar-type legislation. It is not simply paying federal funds to states and localities to build buildings. It is designed to improve the entire correctional system nationwide.

It will help eliminate the bastille-like penal institutions and the dungeons, many of which date back to the last century. It will enable the states to build new types of small, decentralized, community-based institutions. It will correct the lack of judicial review of the conditions under which offenders are kept in confinement. This bill will force the judges to be concerned with what goes on in the institutions in which they commit offenders.

I believe the cost of this legislation is small in comparison with the benefits that the law can achieve in cutting down recidivism among inmates. It is a small price to pay for reduction in our crime rates and for more effective control of the crime problem.

Above all, it is the humanitarian approach to one of the central problems of our time.

ALLEGED KILLING OF CIVILIANS IN VIETNAM

Mr. STENNIS. Mr. President, today the Armed Services Committee received a briefing from Secretary of the Army

Resor regarding the alleged massacre in South Vietnam in April 1968.

This was not the beginning of what is ordinarily called an investigation. It was a briefing by the Army for the committee and was within the pattern and the keeping of what has been planned all the while.

The Army had notified me, as chairman of the committee, that events of this nature had been reported to them—this was early in August—and that they had been sorting out and working on the facts. We agreed that they would continue and would make a report to the committee on those developments.

About the middle of October of this year, they reported back to me, as chairman of the committee, with certain pictures that they said they understood represented part of the events that had occurred; and then we had another understanding that they would continue with their investigation and report to the committee, which they did a few days ago. I arranged for the briefing today.

In order that Senators may be informed, as well as the press and the public, I asked Secretary Resor if he would have his statement sanitized, meaning, of course, put in a form that could be released, which he did. I now have a copy of that sanitized statement of his in my hand.

Also following the complete briefing—complete as of now—to the full committee, I issued a short press release reviewing the situation. I ask unanimous consent, Mr. President, that the statement of Secretary of the Army Resor, and my press release with the information on this matter, be printed in the RECORD.

There being no objection, the statement and press release were ordered to be printed in the RECORD, as follows:

STATEMENT BY HON. STANLEY R. RESOR, SECRETARY OF THE ARMY

Mr. Chairman and Members of the Committee: I deeply regret the occasion for this morning's visit. It is difficult to convey to you the feelings of shock and dismay which I and other civilian and military leaders of the Army have experienced as the tragedy of My Lai has gradually unfolded before us. I know you share these emotions and fully appreciate the gravity of this incident. I would like today to discuss the facts surrounding this occurrence and to outline for you the progress of our investigation. Unfortunately, as I have already informed the Chairman and Mr. Braswell, I can only spend a few minutes with you because of a prior commitment to appear before the House Armed Services Committee at 10:30. I have therefore arranged for Mr. Robert Jordan, the Army General Counsel, and General Stilwell, Deputy Chief of Staff for Military Operations, to remain here after my departure and answer your questions. I regret that I cannot spend more time with you today myself.

As you know, it is not normally the policy of the Executive Branch to disclose information pertaining to on-going investigations—especially when, as in the case here, new and perhaps conflicting evidence may come to light as the investigation continues. In addition, there has already been far too much comment in the press on matters of an evidentiary nature, and we are very concerned that prejudicial pretrial publicity may make it difficult to accord the accused in any prosecution a fair trial. We are taking every step to assure that the Government is not responsible for contributing to such publicity, and I must therefore refrain on this occasion from commenting directly upon the evidence.

With this caveat, let me now review the known facts concerning the tragic events which took place at My Lai (4) Hamlet, Son My Village, Quang Ngai Province, on March 16, 1968. My Lai (4) Hamlet is located in an area which is now and has been for several years under Viet Cong control. Intelligence reports indicate that it has been the traditional home of the 48th Local Force Battalion, considered one of the best Viet Cong battalions in the country. Although the area was within the Tactical Area of Operations of the 2d ARVN Division, U.S. Forces had conducted prior operations in the vicinity and had suffered moderate casualties, principally from mines and boobytraps. In March 1968, the 11th Infantry Brigade, a unit of the American Division, made plans to conduct an operation in this area, and a provisional task force known as Task Force Barker was assigned the operation. This task force, commanded by LTC Barker, was composed of three companies, drawn from two battalions, and designated A, B and C.

On the morning of March 16th, following a three-minute artillery preparation on its landing zone which is thought to have produced few if any casualties, Company C, commanded by CPT Medina and consisting of approximately 105 infantrymen, made a helicopter assault immediately west of My Lai (4). Company A simultaneously occupied a blocking position to the north, and Company B made a helicopter assault into an uninhabited area to the south. The 1st Platoon, commanded by 1LT Calley, led the advance and physically occupied the cluster of habitations that constituted the hamlet. Most of the buildings were then burned or otherwise destroyed. The operation terminated at approximately 6:00 p.m. on that day, and Task Force Barker was withdrawn.

The task Force commander's after action report for the entire operation indicated enemy losses as 128 killed; it made no mention of civilian casualties. Friendly losses were given as 2 killed and 11 wounded; however, the only U.S. casualty clearly attributable to the My Lai assault was one soldier who shot himself in the foot.

During the day, reports received from an Army helicopter pilot who had supported the operation suggested there might have been unnecessary killing of noncombatants at My Lai. As a result, the Brigade Commander was directed to conduct an investigation of the incident. During this informal investigation he interviewed the Task Force Commander and S–3, and the commanders of the two companies which had been in the immediate area. He also received some reports of unnecessary killing through Vietnamese channels. The Brigade Commander concluded that approximately 20 noncombatants had been inadvertently killed by preparatory fires and and in crossfires between friendly and enemy forces, and that the reports of unnecessary killing of civilians were merely another instance of a common Viet Cong propaganda technique and were groundless—a view apparently shared by the Vietnamese District Chief. He forwarded this finding to the Commanding General of the American Division. The matter was not brought to the attention of USARV or MACV Headquarters or the Department of the Army.

Over one year later, in early April 1969, the first suggestion that something extraordinary had taken place at My Lai reached the Department of the Army. At this time we received identical letters, dated 29 March 1969 and originally addressed to Secretary Laird and five Members of Congress, from a Mr. Ronald Ridenhour. In these letters Mr. Ridenhour, a former soldier who had heard rumors about a supposed atrocity from fellow soldiers, alleged that Task Force Barker had been assigned the mission of destroying My Lai and all its inhabitants. He went on to describe in considerable detail several instances of alleged murder which he believed had occurred there.

Upon receipt of these letters, the Army immediately initiated a preliminary inquiry, and on April 23, 1969 the Chief of Staff directed the Inspector General to conduct a full-scale investigation of the allegations made by Mr. Ridenhour. This investigation took place both here in the United States and in Vietnam, and involved interviews with 36 witnesses, ranging from the Commander of the 11th Infantry Brigade to riflemen who participated in the operation.

On August 4, 1969 the investigation was transferred to the Provost Marshal General. Since that date, criminal investigators have located and interrogated over 75 witnesses, 28 of whom are still on active military duty. They have also visited the site of the incident and interviewed local Vietnamese officials and former inhabitants of the hamlet who witnessed the alleged killings.

An Army combat photographer present at My Lai took a number of photographs, which he did not turn over to Army officials. We obtained copies of his slides in August of this year, and can show them to you this morning if you wish.

As you know, General Talbott, Commanding General, Fort Benning, has convened a general courtmartial to try 1LT Calley for the premeditated murder of 109 Vietnamese civilians. In addition, charges of assault with intent to kill 30 noncombatants have been filed against one of Calley's squad leaders, SSG Mitchell. An Article 32 investigation of the charge against Sergeant Mitchell is expected to get under way shortly, having been held up for some time by a defense request for time to obtain additional evidence.

A number of critical issues remain to be resolved. Primary among them is the extent to which the members of Company C were acting pursuant to orders from their company commander or higher headquarters when they destroyed My Lai's buildings and fired upon its unresisting inhabitants. This aspect of the case is being accorded a very high priority.

In addition, it is estimated that besides 1LT Calley and SSG Mitchell there are at least 24 former members of Company C, nine of whom are still on active duty, who must be deemed subjects of the continuing criminal investigation. The efforts of seven criminal investigators are currently focused upon the task of developing evidence concerning the actions of these men. It is estimated that several months may elapse before all of the allegations presently under investigation can be fully evaluated.

Finally, there is the question of the adequacy of the investigation of the incident which was conducted in Vietnam immediately after it occurred. Because this is an extremely important and sensitive aspect of our inquiry, General Westmoreland and I have decided that it should be severed from the rest of the investigation and handled separately at a very high level. We have therefore chosen LTG William R. Peers to head a small team whose mission will be to determine the adequacy of both the original investigation and its subsequent review. This action should not be taken as an indication that we believe that investigation to have been inadequate, but merely as a sign of our continuing determination that the matter be carefully and impartially explored.

Mr. Chairman, the story which has been unfolding before the public during the last fortnight, and which I have discussed briefly with you this morning, is an appalling one. I would like to add some personal comments to this chronology.

I have reviewed what we know of the incident at My Lai with a number of officers

who have served in Vietnam. It is their judgment—a judgment which I personally endorse and share—that what apparently occurred at My Lai is wholly unrepresentative of the manner in which our forces conduct military operations in Vietnam. Our men in Vietnam operate under detailed directives from MACV and other higher headquarters which prohibit in unambiguous terms the killing of civilian noncombatants under circumstances such as those at My Lai. During the last few years hundreds of thousands of American soldiers have participated in similar operations in Vietnam. I am convinced that their overall record is one of decency, consideration and restraint towards the unfortunate civilians who find themselves in a zone of military operations. Against this record, the events at My Lai are all the more difficult to understand.

Unfortunately, details concerning the matter did not come to our attention until a year after the events in question. Once we learned of the allegations, the Army immediately commenced an investigation which has already resulted in the filing of criminal charges against two individuals. In pursuing this investigation, and in referring the reports of investigation to responsible court-martial convening authorities, we fully appreciated that the disclosures which would inevitably follow would damage both the Army and the Government of the United States. Despite this, we pursued the only course of action which was consistent with our international obligations, our national policies, and the ethic of American military operations.

I hope that the information which I have presented to you this morning has given each of you a greater understanding of this matter, and that it has renewed your confidence in the Army's willingness and ability to pursue the investigation and attendant prosecutions to a satisfactory conclusion. I assure you that however great may be your dismay and sense of outrage that such a thing could occur in our Armed Forces, it could be no greater than mine, nor than that experienced by the thousands of loyal and brave officers and men who have labored so long and sacrificed so magnificently in search of the just peace we all seek in Vietnam.

PRESS RELEASE BY SENATOR JOHN C. STENNIS CHAIRMAN, SENATE COMMITTEE ON ARMED SERVICES

Senator Stennis today issued the following press release.

The Committee today received a briefing from Secretary of the Army Resor, Mr. Robert E. Jordan, General Counsel of the Army, and other officials of the Army on the so-called My Lai incident. The Chairman made the following observations:

1. If these allegations on the massacre of the non-combatant civilians, including women and children, are fully substantiated, it is indeed a shocking affair. It is contrary to every American idea of protection of the innocent even in the event of war.

It should also be noted that this incident was contrary to every rule and instruction the Army has issued in connection with the conduct of the South Vietnamese operation.

2. It is the intention of the Committee to release all available facts on this matter consistent with the protection of those individuals who have either been charged, or are under investigation in connection with this incident. The Committee would emphasize that court-martial charges have been preferred against two individuals, with a number of other persons under investigation. There is the duty, therefore, of protecting the rights of those individuals who are confronted with these serious criminal charges.

3. The Army for some weeks now has had this matter under a complete and thorough investigation and if these alleged events all took place the Chairman is at a complete loss to understand why such a lapse of time occurred before the highest authorities were apprised of the matter. On this point the Army is conducting a separate investigative effort to determine the reasons why slightly over a year elapsed before the details of this incident were made known to Army authorities in Washington.

4. Senator Stennis emphasized that he did not know of this matter until about two months ago when he received a very preliminary report from the Army indicating that they were undertaking a thorough investigation to ascertain the validity of these charges.

5. The Committee received from the Army today a complete briefing which brings up to date the available information on this matter. Except for certain privileged information the statement of Secretary Resor is being released at this time.

The Committee considers this tragic incident to be of utmost importance and gravity and intends to keep fully informed and follow this matter in close detail, at the same time exercising care in its release of any information which will prejudice the rights of those who are or may be accused.

6. This matter must be vigorously pursued by the Army. The Committee will expect that exposures must be made, not only of those who may be guilty of wrongdoing, but of any personnel, if any, in military or civilian channels who may have suppressed evidence.

Mr. STENNIS. Mr. President, as an additional paragraph, one might say, to the press release which I have just offered for the RECORD, let me say that the committee did not reach any decision to conduct whatever is ordinarily called an investigation. On the other hand, it did not reach a decision not to conduct such an investigation, but held the matter in abeyance until whatever trials are conducted—were completed, contemplating that they would be completed within a few months.

Mr. President, we will continue to follow this matter on behalf of the Senate, the Congress, and the people. We will keep vigilant on it. Then we can take such action as we think the facts justify.

Let me repeat the last point I made in my press release:

> This matter must be vigorously pursued by the Army. The committee will expect that exposures must be made, not only of those who may be guilty of wrongdoing, but of any personnel, if any, in military or civilian channels who may have suppressed evidence.

Mr. President, I repeat that for emphasis as being the general position of the committee.

An inferential charge has been made that there was a withholding of this matter by high officials in the Pentagon, or in the administration, last year. There is no evidence to support that, so far as I know. Secretary of the Army Resor, who was Secretary of the Army last year, and still is Secretary of the Army, stated to the committee that he had no knowledge of this matter whatsoever until April of 1969—about late March or early April of 1969.

When he tells the committee that, I know that he is telling the truth. I have always found him to be that kind of man.

Mr. President, I mention this only to clear up what is apparently a misunderstanding.

Those are the facts, insofar as the Secretary is concerned.

There is also a report that a helicopter pilot, who was supposed to have reported this matter, disappeared or was killed under suspicious circumstances the next day.

That report is without foundation, Mr. President.

The helicopter pilot in question, as I understand it, is very much alive. He is still in the Army.

I mention these points because they are just reports.

Mr. President, of course I am concerned about the seriousness of this matter. It is quite serious with all kinds of complications and implications involved. But I feel that we will get the facts, and when we do, the American people will know them.

PROGRAM FOR MONDAY NEXT

Mr. BYRD of West Virginia. Mr. President, in order that all Senators may have ample notice with respect to the program already outlined for Monday next, let me repeat that following the prayer and disposition of reading of the Journal, there will be a period for the transaction of routine morning business, not to exceed 1 hour. It may be less. Statements made during that period will be limited to 3 minutes.

Immediately following the transaction of routine morning business, the pending amendment, offered by the Senator from Louisiana (Mr. ELLENDER), will be laid before the Senate and made the unfinished business.

The time on the amendment will be equally divided and controlled between the author of the amendment, the Senator from Louisiana (Mr. ELLENDER), and the minority leader, or whomever he may designate.

The vote on the Ellender amendment will take place no later than 3 p.m. on Monday next.

Following that vote, the time on the amendment offered by the Senator from Delaware (Mr. WILLIAMS), amendment No. 291, will be equally divided and controlled by the author of the amendment and the able chairman of the Committee on Finance, the Senator from Louisiana (Mr. LONG), the time to be limited to 1 hour.

After the hour has expired, of course, it is understood that the vote will occur on amendment 291.

Mr. President, it was the desire of the distinguished majority leader, Mr. MANSFIELD, that an agreement be worked out today so that all Senators would be put on notice with respect to votes on Monday next.

So, now that we are assured of those votes, I want to express my appreciation for the cooperation of the chairman of the Finance Committee, the distinguished Senator from Louisiana (Mr. LONG), the author of the pending amendment, the distinguished senior Senator from Louisiana (Mr. ELLENDER), the author of amendment No. 291, the able senior Senator from Delaware (Mr. WILLIAMS), the able senior Senator from Nebraska (Mr. HRUSKA), and all other Senators who worked together to reach these agreements.

ADJOURNMENT TO 10 A.M. MONDAY, DECEMBER 1, 1969

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the provisions of Senate Concurrent Resolution 48, as amended, that the Senate stand in adjournment until 10 a.m. on Monday next.

The motion was agreed to; and (at 2 o'clock and 30 minutes p.m.) the Senate adjourned until Monday, December 1, 1969, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate November 26, 1969:

IN THE NAVY

Having designated Rear Adm. Evan P. Aurand, U.S. Navy, for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, I nominate him for appointment to the grade of vice admiral while so serving.

Lt. Comdr. Donald W. Stauffer, U.S. Navy, for appointment to the grade of commander while serving as leader of the U.S. Navy Band in accordance with article II, section 2, clause 2 of the Constitution.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 26, 1969:

AMBASSADOR

Lewis Hoffacker, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Cameroon, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

U.N. TRUSTEESHIP COUNCIL

Sam Harry Wright, of the District of Columbia, to be the representative of the United States of America on the Trusteeship Council of the United Nations.

U.S. ATTORNEY

Bert C. Hurn, of Missouri, to be U.S. attorney for the western district of Missouri for the term of 4 years.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

George M. Low, of Texas, to be Deputy Administrator of the National Aeronautics and Space Administration.

U.S. MARSHAL

William C. Black, of Texas, to be U.S. marshal for the northern district of Texas for the term of 4 years.

HOUSE OF REPRESENTATIVES—*Wednesday, November 26, 1969*

The House met at 12 o'clock noon.

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

It is good to give thanks unto the Lord, to show forth Thy loving-kindness in the morning and Thy faithfulness every night.—Psalm 92: 1, 2.

Almighty God, our Heavenly Father, on this Thanksgiving eve we come to give Thee the humble and hearty thanks of our hearts for Thy loving-kindness to us and to all men. Thy goodness has created us, Thy providence has sustained us, Thy patience has borne with us, and Thy love has redeemed us. May we reveal our gratitude to Thee and return Thy love by giving ourselves in greater service to our fellowmen, in deeper devotion to our beloved country, and by cheerfully cooperating with Thee in all things.

In Thy holy name we pray. Amen.

THE JOURNAL

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 9906. An act for the relief of J. Burdette Shaft and John S. and Betty Gingas; and

H.R. 14020. An act to amend the Second Liberty Bond Act to increase the maximum interest rate permitted on U.S. savings bonds.

The message also announced that the Senate agrees to the amendment of the House to a concurrent resolution of the Senate of the following title:

S. Con. Res. 48. Concurrent resolution to adjourn from November 26, 1969, until December 1, 1969.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2276) entitled "An act to extend for 1 year the authorization for research relating to fuels and vehicles under the provisions of the Clean Air Act."

AUTHORITY FOR CLERK TO RECEIVE MESSAGES FROM SENATE AND SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS DULY PASSED

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that, notwithstanding the adjournment of the House until Monday, December 1, 1969, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

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

There was no objection.

BIOLOGICAL WARFARE

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

Mr. ALBERT. Mr. Speaker, I believe most Americans, and indeed people throughout the world, applaud President Nixon's announcement yesterday that the United States would never engage in germ warfare. As the New York Times pointed out in an editorial in today's edition:

Unequivocal abandonment of bacterial weapons is especially gratifying, since this particular concept of warfare is as senseless as it is horrifying, disease germs being as great a threat to the user as to the enemy.

In my view, the announcement by the President, in which he also indicated that this country would renounce all but defensive uses of chemical warfare weapons, is convincing evidence that this country and its elected leaders clearly are working for peace for this Nation and for all men.

I agree with the distinguished minority leader that this action on the part of the administration could have a very beneficial effect on the strategic arms limitation talks which are now underway.

Also, Mr. Speaker, I would like to congratulate our distinguished colleague, the gentleman from New York (Mr. MCCARTHY), who has taken the lead in the Congress in bringing the dangers of biological warfare to the attention of the Congress and the press, and the people of our country.

BETHLEHEM STEEL CORP. AND THE ECONOMY

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

Mr. ROONEY of Pennsylvania. Mr. Speaker, the New York Times in its Sunday editions carried a report of an interview with Mr. Edmund F. Martin, chairman and chief executive officer of Bethlehem Steel Corp., and Mr. Stewart S. Cort, the corporation president.

Obviously, problems confronting the American steel industry represent problems of national importance and concern. Steel's problems are problems of the Congress.

Because Mr. Martin and Mr. Cort have outlined the extent of impact of foreign competition and imports on the American steel industry during the course of this interview, and have cited, too, the steel industry's extensive involvement in the conservation of our environment through costly pollution control facilities and equipment, I believe all of my colleagues will be interested to review their comments.

I include the New York Times article in the RECORD at this point:

BETHLEHEM SEES FEW SIGNS OF DIP

(NOTE.—Despite predictions and some evidence of a slowdown in the American economy, the Bethlehem Steel Corporation, the world's second largest steel producer, is enjoying a far better year than was expected earlier. It foresees only a minor decline in shipments for 1970.

(These observations were highlights of a broad-ranging discussion last week of the