SENATE—*Friday, April 25, 1969*

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

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

Almighty God, whose children we are, whose will we seek to discover, and whose work we would do, we give Thee hearty thanks for the noble succession of unselfish patriots who in high and humble places, counting not their lives dear unto themselves, consecrated their gifts to the service of their generation, and won for their age a better world. Suffer not this race of the dedicated public servants to become extinct. Breed in each generation the legions of selfless servants of the common good as shall move each age nearer to Thy perfect kingdom.

O Lord, wilt Thou renew us each day in the things of the spirit. Spare us from idolatry of the past or fear of the future. Give us a good conscience in the use of power and in the management of money. Open our minds to learn and open our hearts to love that our work here may be to Thy glory and to the advancement of Thy kingdom.

Through Jesus Christ our Lord. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, April 22, 1969, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

EULOGIES TO THE LATE SENATOR E. L. BARTLETT, OF ALASKA, AND REPRESENTATIVE ROBERT A. EVERETT, OF TENNESSEE

Mr. JORDAN of North Carolina. Mr. President, I am calling to the attention of the Senate membership that the closing date for eulogies to the late Senator, E. L. Bartlett, of Alaska, and Representative Robert A. Everett, of Tennessee, has been set for Friday, May 2, 1969. This has been set as the cutoff date for all insertions that will make up the compendiums of eulogy to these two Members of Congress who, but for their untimely passing, would now be serving in the 91st Congress.

ORGANIZED CRIME—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT

The VICE PRESIDENT laid before the Senate the following message from the President of the United States received on April 23, 1969, under the authority of the order of the Senate of April 22, 1969, which was referred to the Committee on the Judiciary:

To the Congress of the United States:

Today, organized crime has deeply penetrated broad segments of American life. In our great cities, it is operating prosperous criminal cartels. In our suburban areas and smaller cities, it is expanding its corrosive influence. Its economic base is principally derived from its virtual monopoly of illegal gambling, the numbers racket, and the importation of narcotics. To a large degree, it underwrites the loansharking business in the United States and actively participates in fraudulent bankruptcies. It encourages street crime by inducing narcotic addicts to mug and rob. It encourages housebreaking and burglary by providing efficient disposal methods for stolen goods. It quietly continues to infiltrate and corrupt organized labor. It is increasing its enormous holdings and influence in the world of legitimate business. To achieve his end, the organized criminal relies on physical terror and psychological intimidation, on economic retaliation and political bribery, on citizen indifference and governmental acquiescence. He corrupts our governing institutions and subverts our democratic processes. For him, the moral and legal subversion of our society is a life-long and lucrative profession.

Many decent Americans contribute regularly, voluntarily and unwittingly to the coffers of organized crime—the suburban housewife and the city slum dweller who place a twenty-five cent numbers bet; the bricklayer and college student who buy a football card; the businessman and the secretary who bet illegally on a horse.

Estimates of the "take" from illegal gambling alone in the United States run anywhere from $20 billion, which is over 2% of the Nation's gross national product, to $50 billion, a figure larger than the entire Federal administrative budget for fiscal year 1951. This wealth is but one yardstick of the economic and political power held by the leaders of organized crime who operate with little restriction within our society.

Organized crime's victims range all across the social spectrum—the middle-class businessman enticed into paying usurious loan rates; the small merchant required to pay protection money; the white suburbanite and the black city dweller destroying themselves with drugs; the elderly pensioner and the young married couple forced to pay higher prices for goods. The most tragic victims, of course, are the poor whose lack of financial resources, education and acceptable living standards frequently breed the kind of resentment and hopelessness that make illegal gambling and drugs an attractive escape from the bleakness of ghetto life.

BACKGROUND

For two decades now, since the Attorney General's Conference on Organized Crime in 1950, the Federal effort has slowly increased. Many of the Nation's most notorious racketeers have been imprisoned or deported and many local organized crime business operations have been eliminated. But these successes have not substantially impeded the growth and power of organized criminal syndicates. Not a single one of the 24 Cosa Nostra families has been destroyed. They are more firmly entrenched and more secure than ever before.

It is vitally important that Americans see this alien organization for what it really is—a totalitarian and closed society operating within an open and democratic one. It has succeeded so far because an apathetic public is not aware of the threat it poses to American life. This public apathy has permitted most organized criminals to escape prosecution by corrupting officials, by intimidating witnesses and by terrorizing victims into silence.

As a matter of national "public policy," I must warn our citizens that the threat of organized crime cannot be ignored or tolerated any longer. It will not be eliminated by loud voices and good intentions. It will be eliminated by carefully conceived, well-funded and well-executed action plans. Furthermore, our action plans against organized crime must be established on a long-term basis in order to relentlessly pursue the criminal syndicate. This goal will not be easily attained. Over many decades, organized crime has extended its roots deep into American society and they will not be easily extracted. Our success will first depend on the support of our citizens who must be informed of the dangers that organized crime poses. Success also will require the help of Congress and of the State and local governments.

This Administration is urgently aware of the need for extraordinary action and I have already taken several significant steps aimed at combating organized crime. I have pledged an unstinting commitment, with an unprecedented amount of money, manpower and other resources to back up my promise to attack organized crime. For example—I have authorized the Attorney General to engage in wiretapping of organized racketeers. I have authorized the Attorney General to establish 20 Federal racketeering field offices all across the Nation. I have authorized the Attorney General to establish a unique Federal-State Racket Squad in New York City. I have asked all Federal agencies to cooperate with the Department of Justice in this effort and to give priority to the organized crime drive. I have asked the Congress to increase the fiscal 1970 budget by $25 million, which will roughly double present expenditures for the organized crime effort.

In addition, I have asked the Congress to approve a $300 million appropriation in the 1970 budget for the Law Enforcement Assistance Administration. Most of these funds will go in block grants to help State and local law enforcement programs and a substantial portion of this assistance money will be utilized to fight organized crime. I have had discussions with the State Attorneys General and I have authorized the Attorney General to cooperate fully with the States and local communities in this national effort, and to extend help to them with every means at his disposal.

Finally, I have directed the Attorney General to mount our Federal anti-organized crime offensive and to coordinate the Federal effort with State and local efforts where possible.

ASSISTANCE TO STATES AND LOCAL GOVERNMENTS

Through the Law Enforcement Assistance Administration, and other units of the Department of Justice, the Attorney General has already taken some initial steps:

1) A program is being established so that State and local law enforcement people can exchange recent knowledge on the most effective tactics to use against organized crime at the local level.

2) The Justice Department is furnishing technical assistance and financial help in the training of investigators, prosecutors, intelligence analysts, accountants, statisticians—the professional people needed to combat a sophisticated form of criminal activity.

3) The Justice Department is encouraging municipalities and States to reexamine their own laws in the organized crime area. We are also encouraging and assisting in the formation of State-wide organized crime investigating and prosecuting units.

4) A computerized organized crime intelligence system is being developed to house detailed information on the personalities and activities of organized crime nationally. This system will also serve as a model for State computer intelligence systems which will be partially funded by the Federal Government.

5) We are fostering cooperation and coordination between States and between communities to avoid a costly duplication of effort and expense.

6) We are providing Federal aid for both State and local public information programs designed to alert the people to the nature and scope of organized crime activity in their communities.

These actions are being taken now. But the current level of Federal activity must be dramatically increased, if we expect progress. More men and money, new administrative actions, and new legal authority are needed.

EXPANDED BUDGET

There is no old law or new law that will be useful without the necessary manpower for enforcement. I am therefore, as stated, asking Congress to increase the Fiscal Year 1970 budget for dealing with organized crime by $25 million. This will roughly double the amount spent in the fight against organized crime during Fiscal Year 1969, and will bring the total Federal expenditures for the campaign against organized crime to the unprecedented total of $61 million. I urge Congress to approve our request for these vital funds.

REORGANIZATION OF THE CRIME EFFORT

I have directed the newly appointed Advisory Council on Executive Organization to examine the effectiveness of the Executive Branch in combating crime—in particular organized crime.

Because many departments and agencies of the Executive Branch are involved in the organized crime effort, I believe we can make lasting improvement only if we view this matter in the full context of executive operations.

FEDERAL RACKETEERING FIELD OFFICES

The focal center of the Federal effort against organized crime is the Department of Justice. It coordinates the efforts of all the Federal agencies. To combine in one cohesive unit a cadre of experienced Federal investigators and prosecutors, to maintain a Federal presence in organized crime problem areas throughout the Nation on a continuing basis, and to institutionalize and utilize the valuable experience that has been gained by the "Strike Forces" under the direction of the Department of Justice, the Attorney General has now established Federal Racketeering Field Offices in Boston, Brooklyn, Buffalo, Chicago, Detroit, Miami, Newark, and Philadelphia. These offices bring together, in cohesive single units, experienced prosecutors from the Justice Department, Special Agents of the FBI, investigators of the Bureau of Narcotics and Dangerous Drugs, the finest staff personnel from the Bureau of Customs, the Securities and Exchange Commission, the Internal Revenue Service, the Post Office, the Secret Service and other Federal offices with expertise in diverse areas of organized crime.

The Racketeering Field Offices will be able to throw a tight net of Federal law around an organized crime concentration and through large scale target investigations, we believe we can obtain the prosecutions that will imprison the leaders, paralyze the administrators, frighten the street workers and, eventually, paralyze the whole organized crime syndicate in any one partieular city. The Attorney General plans to set up at least a dozen additional field offices within the next two years.

FEDERAL-STATE RACKET SQUAD

Investigations of the national crime syndicate, La Cosa Nostra, show its membership at some 5,000, divided into 24 "families" around the Nation. In most cities organized crime activity is dominated by a single "family"; in New York City, however, the lucrative franchise is divided among five such "families."

To deal with this heavy concentration of criminal elements in the Nation's largest city, a new Federal-State Racket Squad is being established in the Southern District of New York. It will include attorneys and investigators from the Justice Department as well as from New York State and city. This squad will be directed by the Department of Justice, in conjunction with a supervisory council of officials from State and local participating agencies, who will formulate policy, devise strategy and oversee tactical operations. Building on the experience of this special Federal-State Racket squad, the Attorney General will be working with State and local authorities in other major problem areas to determine whether this concept of governmental partnership should be expanded to those areas through the formation of additional squads.

NEW LEGISLATION

From his studies in recent weeks, the Attorney General has concluded that new weapons and tools are needed to enable the Federal Government to strike both at the Cosa Nostra hierarchy and the sources of revenue that feed the coffers of organized crime. Accordingly the Attorney General will ask Congress for new laws, and I urge Congress to act swiftly and favorably on the Attorney General's request.

WITNESS IMMUNITY

First, we need a new broad general witness immunity law to cover all cases involving the violation of a Federal statute. I commend to the Congress for its consideration the recommendations of the National Commission on Reform of Federal Criminal Laws. Under the Commission's proposal, a witness could not be prosecuted on the basis of anything he said while testifying, but he would not be immune from prosecution based on other evidence of his offense. Furthermore, once the government has granted the witness such immunity, a refusal then to testify would bring a prison sentence for contempt. With this new law, government should be better able to gather evidence to strike at the leadership of organized crime and not just the rank and file. The Attorney General has also advised me that the Federal Government will make special provisions for protecting witnesses who fear to testify due to intimidation.

WAGERING TAX AMENDMENTS

We shall ask for swift enactment of S. 1624 or its companion bill H.R. 322, sponsored by Senator Roman Hruska of Nebraska and Congressman Richard Poff of Virginia respectively. These measures would amend the wagering tax laws and enable the Internal Revenue Service to play a more active and effective role in collecting the revenues owed on wagers; the bills would also increase the Federal operator's tax on gamblers from $50 annually to $1000.

CORRUPTION

For most large scale illegal gambling enterprises to continue operations over any extended period of time, the cooperation of corrupt police or local officials is necessary. This bribery and corruption of government closest to the people is a deprival of one of a citizen's most basic rights. We shall seek legislation to make this form of systematic corruption of community political leadership and law enforcement a Federal crime. This law would enable the Federal Government to prosecute both the corruptor and the corrupted.

ILLEGAL GAMBLING BUSINESSES

We also shall request new legislation making it a Federal crime to engage in an illict gambling operation, from which five or more persons derive income, which has been in operation more than thirty days, or from which the daily "take" exceeds $2000. The purpose of this legislation is to bring under Federal jurisdiction all large-scale illegal gambling operations which involve or affect inter-state commerce. The effect of the law will be to give the Attorney General broad latitude to assist local and state government in cracking down on illegal gambling, the wellspring of organized crime's financial reservoir.

This Administration has concluded

that the major thrust of its concerted anti-organized crime effort should be directed against gambling activities. While gambling may seem to most Americans to be the least reprehensible of all the activities of organized crime, it is gambling which provides the bulk of the revenues that eventually go into usurious loans, bribes of police and local officials, "campaign contributions" to politicians, the wholesale narcotics traffic, the infiltration of legitimate businesses, and to pay for the large stables of lawyers and accountants and assorted professional men who are in the hire of organized crime.

Gambling income is the life line of organized crime. If we can cut it or constrict it, we will be striking close to its heart.

PROCEDURAL LAWS

With regard to improving the procedural aspects of the criminal law as it relates to the prosecution of organized crime, the Attorney General has been working with the Senate Subcommittee on Criminal Laws and Procedures to develop and perfect S. 30, the "Organized Crime Control Act of 1969." As Attorney General Mitchell indicated in his testimony on that bill, we support its objectives. It is designed to improve the investigation and prosecution of organized crime cases, and to provide appropriate sentencing for convicted offenders. I feel confident that it will be a useful new tool.

DEVELOPMENT OF NEW LAWS

Finally, I want to mention an area where we are examining the need for new laws: the infiltration of organized crime into fields of legitimate business. The syndicate-owned business, financed by illegal revenues and operated outside the rules of fair competition of the American marketplace, cannot be tolerated in a system of free enterprise. Accordingly, the Attorney General is examining the potential application of the theories underlying our anti-trust laws as a potential new weapon.

The injunction with its powers of contempt and seizure, monetary fines and treble damage actions, and the powers of a forfeiture proceeding, suggest a new panoply of weapons to attach the property of organized crime—rather than the unimportant persons (the fronts) who technically head up syndicate-controlled businesses. The arrest, conviction and imprisonment of a Mafia lieutenant can curtail operations, but does not put the syndicate out of business. As long as the property of organized crime remains, new leaders will step forward to take the place of those we jail. However, if we can levy fines on their real estate corporations, if we can seek treble damages against their trucking firms and banks, if we can seize the liquor in their warehouses, I think we can strike a critical blow at the organized crime conspiracy.

Clearly, the success or failure of any ambitious program such as I have outlined in this Message depends on many factors. I am confident the Congress will supply the funds and the requested legislation, the States and communities across the country will take advantage of the Federal capability and desire to assist and participate with them, and the Federal personnel responsible for programs and actions will vigorously carry out their mission.

RICHARD NIXON.

THE WHITE HOUSE, *April 23, 1969.*

POSTAL RATE INCREASES—MESSAGE FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT

The VICE PRESIDENT laid before the Senate the following message from the President of the United States received on April 24, 1969, under the authority of the order of the Senate of April 22, 1969, which was referred to the Committee on Post Office and Civil Service:

To the Congress of the United States:

The Post Office Department faces a record deficit in Fiscal Year 1970, one which will reach nearly $1.2 billion. This unhappy fact compels me to recommend to the Congress that it increase postal rates for first, second, and third class mail.

The increases that I am proposing will reduce the postal deficit in Fiscal Year 1970 by over $600 million. If rates were not raised, that sum would have to be added to the already considerable burdens of our taxpayers. But if these recommendations are adopted, the costs of postal service will be borne more adequately by those who use the service most.

That is the way it should be if the Post Office is to become an example of sound business practices. That is also what the law requires. The Postal Policy Act stipulates that postal rates should produce revenue which is approximately equal to the cost of operating the postal establishment—after the costs of such special public services as the Congress may designate are deducted. It is in accordance with both general principle and specific law, then, that I make the following recommendations:

1. First class mail—I propose that the rates for letters and postcards be increased one cent, to seven and six cents respectively, on July 1, 1969. Air mail postage rates would remain unchanged.

2. Second class mail—The rates for newspapers and magazines which circulate outside the county in which they are published would go up by 12 percent on July 1, 1970. This increase would constitute an addition to the 8 percent increase for second class mail which is already scheduled to take effect on January 1 of next year.

3. Third class mail—Bulk rates are already scheduled for increase on July 1, 1969. I suggest that there be a further increase on January 1, 1970, so that the overall level at that time would be some 16 percent above present levels. Further, I recommend that the minimum single piece third class rate be increased by one cent on July 1, 1969.

I regret the need to raise postal rates. I can suggest, however, that these increases can help our country achieve two important goals. First, the proposal can help in our efforts to control inflation by bringing federal revenues and expenditures into better balance. Secondly, rate increases will make it easier for the Postmaster General and his associates to provide better postal service. After carefully reviewing the fiscal 1970 Post Office budget submitted by the previous administration, we have been able to achieve reductions of net outlays equal to $140 million. A comprehensive review of all postal operations is now underway; modern management techniques are being introduced and efficiency is being increased.

Further improvements will take time—and during that time it is essential that financial pressures should not impair or reduce available services.

I would add one further comment: this Administration is determined that the cycle of greater and greater postal deficits and more and more rate increases will be broken. The only way to break that cycle is through effective, long-range reforms in the way the postal system operates. Some of these reforms can be implemented by the Postmaster General; others will require Congressional action. We will be submitting specific proposals for such reform to the Congress within the next forty-five days.

Postal reform will not be achieved easily; there are always many obstacles to even the most necessary change. But we remain confident that we can, with your cooperation, move boldly toward our three goals: better postal service, improved working conditions for all employees, and a reduction of the recent pressure for frequent increases in postal rates.

Proposed legislation to effect the revenue increases which I have recommended here will be sent to the Congress shortly.

RICHARD NIXON.

THE WHITE HOUSE, *April 24, 1969.*

MESSAGES FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT—NOMINATIONS

Under the authority of the order of the Senate of April 22, 1969, the Secretary of the Senate, on April 23, 1969, and April 24, 1969, received messages in writing from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received on April 23 and 24, 1969, see the end of the proceedings of today, April 25, 1969.)

EXECUTIVE REPORT OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under the authority of the order of the Senate of April 22, 1969, the following favorable executive report of a nomination was submitted:

On April 24, 1969:

By Mr. ALLOTT, from the Committee on Interior and Insular Affairs:

Brantley Blue of Tennessee, to be a Commissioner of the Indian Claims Commission.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session,

The Vice President laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(For nominations this day received see the end of Senate proceedings.)

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

By Mr. LONG, from the Committee on Finance:

Dorothy A. Elston, of Delaware, to be Treasurer of the United States;

Robert C. Mardian, of California, to be General Counsel of the Department of Health, Education, and Welfare; and

Lewis Butler, of California, to be an Assistant Secretary of Health, Education, and Welfare.

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

L. J. Andolsek, of Minnesota, to be a Civil Service Commissioner;

Henry Lehne, of Massachusetts, to be an Assistant Postmaster General;

Ronald B. Lee, of Maryland, to be an Assistant Postmaster General; and

Frank J. Nunlist, of New Jersey, to be an Assistant Postmaster General.

By Mr. RANDOLPH, from the Committee on Public Works:

Ralph R. Bartelsmeyer, of Illinois, to be Director of Public Roads; and

Stewart Lamprey, of New Hampshire, to be Federal cochairman of the New England Regional Commission.

MESSAGE FROM THE HOUSE

A message from the House, by Mr. Hackney, 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. 514. An act to extend programs of assistance for elementary and secondary education, and for other purposes; and

H.R. 4600. An act to amend the act entitled "An act to incorporate the National Education Association of the United States," approved June 30, 1906 (34 Stat. 804).

The message also announced that the House had agreed to a concurrent resolution (H. Con. Res. 216) extending to Harry S. Truman, 33d President of the United States, best wishes on his 85th birthday, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the bill (H.R. 3832) to amend title 10, United States Code, to provide the grade of general for the Assistant Commandant of the Marine Corps when the total active duty strength of the Marine Corps exceeds 200,000, and it was signed by the Vice President.

HOUSE BILLS REFERRED

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

H.R. 514. An act to extend programs of assistance for elementary and secondary education, and for other purposes; to the Committee on Labor and Public Welfare.

H.R. 4600. An act to amend the Act entitled "An Act to incorporate the National Education Association of the United States", approved June 30, 1906 (34 Stat. 804); to the Committee on the Judiciary.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

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

The VICE PRESIDENT. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar.

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

The VICE PRESIDENT. The nominations on the Executive Calendar will be stated.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The bill clerk read the nomination of of Harold B. Finger, of Maryland, to be Assistant Secretary of Housing and Urban Development.

The VICE PRESIDENT. Without objection, the nomination is considered and confirmed.

INDIAN CLAIMS COMMISSION

The bill clerk read the nomination of Brantley Blue, of Tennessee, to be a Commissioner of the Indian Claims Commission.

The VICE PRESIDENT. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of certain nominations which were reported earlier today.

The VICE PRESIDENT. Without objection, it is so ordered. The nominations will be stated.

TREASURER OF THE UNITED STATES

The legislative clerk read the nomination of Dorothy A. Elston, of Delaware, to be Treasurer of the United States.

The VICE PRESIDENT. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The legislative clerk read the nomination of Lewis Butler, of California, to be an Assistant Secretary of Health, Education, and Welfare.

The VICE PRESIDENT. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Robert C. Mardian, of California, to be General Counsel of the Department of Health, Education, and Welfare.

The VICE PRESIDENT. Without objection, the nomination is considered and confirmed.

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

The VICE PRESIDENT. Without objection, it is so ordered.

LEGISLATIVE SESSION

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

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

The VICE PRESIDENT. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR MANSFIELD

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may be recognized for not to exceed 10 minutes during the period for the transaction of routine morning business.

The VICE PRESIDENT. Without objection, it is so ordered.

PRESIDENT'S MESSAGE ON ORGANIZED CRIME

Mr. DIRKSEN. Mr. President, I want to give complete encouragement and support to the rather fortright representation and presentation by the President on the subject of organized crime.

I think it was Lord Acton who said long ago that "power tends to corrupt. And absolute power tends to corrupt absolutely." Even in a free country there can develop that kind of corrupt power; and it becomes corrupt and corrosive and corrupts whatever it touches. Our forefathers took heed of Lord Acton's warning, and they established a government of limited powers, with checks and balances.

But now, nearly 200 years later, we find a government within our system which has no checks and recognizes no balances. Its members are governed by a false sense of loyalty and by a constant fear of violent reprisal. The philosophy of this government within a government is to use any means necessary to increase its power and wealth.

If by now there are those who do not know what I am referring to, I am referring to La Cosa Nostra. This vast empire has extended its influence to many areas outside of those for which it is noted.

Labor unions, private enterprise, local government, and our financial institutions have all been infiltrated by its corrupt influence.

Unfortunately, our constituents are often not aware of the influence that organized crime has on everyday life. It is time that we made them aware, for, as Charles W. Eliot once said:

In the modern world, the intelligence of public opinion is the one indispensable condition of social progress.

Once a citizen is aware of the fact that when he lays down a $2 bet somewhere, or on a number, he helps to buy heroin which is used to ruin the lives of our youth, he may be less likely to make what at one time seemed to be a relatively harmless and insignificant wager.

With the support of the public, coordinated efforts of Federal and local law enforcement can lift the black hand of organized crime from the Nation's heart. I urge full support of the President's program as set forth to this Congress.

It is time that we close the door on organized criminal activity in this country, and we had better begin today.

With further reference to the President's message on organized crime, on Monday next I am quite sure that the Senator from Nebraska (Mr. HRUSKA), as the author, and others, as cosponsors, will introduce the legislation dealing with gambling.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. DIRKSEN. Mr. President, I ask unanimous consent that I may proceed for an additional 3 minutes.

The VICE PRESIDENT. Without objection, it is so ordered.

THE PROPOSED POSTAL RATE INCREASE

Mr. DIRKSEN. Mr. President, the previous administration's Post Office Department budget, submitted last January, called for raising the cost of mailing a letter from 6 to 7 cents, plus an extra penny for postcards. That administration did not, however, seek additional revenue from those flooding the mails with advertising circulars or from the publishers of magazines and newspapers.

I am pleased, Mr. President, that President Nixon recognized in his postal revenue proposal that it is not fair to ask those sending letters to bear the entire rate increase.

In addition to asking for a 1-cent increase in first-class mail, the President has proposed increases for bulk third-class mail and magazines and newspapers. Including increases to be implemented for these two classes of mail within the next 8 months, their rates would be lifted from 16 percent to 20 percent above today's levels. These amounts are comparable to the 16⅔-percent rise being asked for letter-mail postage.

With the Post Office Department facing the biggest deficit in its history, President Nixon felt that all of the major classes of mail users should help trim the $1.2 billion postal deficit expected in fiscal year 1970. On an annual basis, the President's postal revenue proposal will yield about $636 million.

Mr. President, if we support the principle that those using the mail should pay for its services, we have no choice but to revise postal rates and avoid this huge deficit in the postal service. The alternative is an increased burden which must be borne by all the taxpayers.

ISRAEL

Mr. RIBICOFF. Mr. President, Israel is a miracle in the modern world.

Though surrounded by enemies, deluged by a torrent of immigrants, and slighted in the blessings of natural wealth, Israel has not only survived, she has prospered.

The reason is singlefold: Israel has harnessed her one outstanding attribute—a people who are strong, steadfast, patient, talented, and determined to succeed.

This week marks the 21st anniversary of Israel. There is much to celebrate.

From a nation of some 600,000 people, her population has now reached almost 3 million.

Israelis are celebrating the recovery of fertile green fields from the yellow sands of the desert.

Their nation is a haven for the persecuted who have come to establish new lives. And their pride in living in the new Israel is reflected in the new cities, farms, factories, and roads—in the vibrant economy they have built on the face of their land.

All of us marvel at this noble experiment in statehood which already has so many remarkable achievements to her credit.

Yet we know that this—Israel's 21st anniversary year—is also a time of sad thoughtfulness.

For the remarkable Israelis fought a victorious war to bring peace, and still there is no permanent peace. Instead, hostilities break out almost every day.

It is our solemn hope that finally a just settlement and lasting peace will come to the Middle East.

For the state of Israel teaches of human courage, strength of will, vitality, and self-sacrifice. The commitment of her people to meaningful values gives promise for the future. There cannot be too much of that in the world today.

Mr. President, I am pleased to announce that the following 46 Senators have joined with the Senator from Pennsylvania (Mr. SCOTT) and me in signing the following statement which expresses our strong support for meaningful efforts to establish permanent peace in the Middle East: Senators ALLOTT, BAYH, BENNETT, BIBLE, BROOKE, BURDICK, BYRD of West Virginia, CASE, COOK, COTTON, CRANSTON, GOODELL, GORE, GURNEY, HARRIS, HART, HARTKE, HOLLAND, JACKSON, JAVITS, MAGNUSON, MATHIAS, McGEE, McGOVERN, McINTIRE, METCALF, MILLER, MONDALE, MOSS, MURPHY, MUSKIE, NELSON, PERCY, PROXMIRE, SAXBE, SCHWEIKER, STEVENS, TYDINGS, WILLIAMS of New Jersey, YOUNG of Ohio, YARBOROUGH, PASTORE, KENNEDY, GOLDWATER, MONTOYA, and PELL.

The statement reads as follows:

On the occasion of Israel's 21st birthday, we offer our congratulations to the people of Israel on their progress: the absorption of more than 1,250,000 refugees and immigrants; the reclamation of the land; the development of their economy; the cultivation of arts and sciences; the revival of culture and civilization; the preservation and strengthening of democratic institutions; their constructive co-operation in the international community.

On this 21st anniversary we express our concern that the people of Israel are still denied their right to peace and that they must carry heavy defense burdens which divert human and material resources from productive pursuits.

We deeply regret that Israel's Arab neighbors, after three futile and costly wars, still refuse to negotiate a final peace settlement with Israel.

We believe that the issues which divide Israel and the Arab states can be resolved in the spirit and service of peace, if the leaders of the Arab states would agree to meet with Israelis in face-to-face negotiations. There is no effective substitute for the procedure. The parties to the conflict must be parties to the settlement. We oppose any attempt by outside powers to impose halfway measures not conducive to a permanent peace.

To ensure direct negotiations and to secure a contractual peace settlement, freely and sincerely signed by the parties themselves, the United States should oppose all pressures upon Israel to withdraw prematurely and unconditionally from any of the territories which Israel now administers.

Achieving peace, Israel and the Arab states will be in a position to settle the problems which confront them. Peace will outlaw belligerence, define final boundaries, and boycotts and blockades, curb terrorism, promote disarmament, facilitate refugee resettlement, ensure freedom of navigation through international waterways, and promote economic co-operation in the interests of all people.

The United Nations cease-fire should be obeyed and respected by all nations. The Arab states have an obligation to curb terrorism and to end their attacks on Israel civilians and settlements.

We deplore one-sided United Nations Resolutions which ignore Arab violations of the cease-fire and which censure Israel's reply and counter-action. Resolutions which condemn those who want peace and which shield those who wage war are a travesty of the United Nations charter and a blow at the peace.

The United States should make it clear to all governments in the Near East that we do not condone a state of war, that we persist in the search for a negotiated and contractual peace, as a major goal of Americn policy.

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

Mr. RIBICOFF. I am pleased to yield to the distinguished coauthor of the statement.

Mr. SCOTT. Mr. President, I am very happy, indeed, that the distinguished Senator from Connecticut has called to the attention of the Senate a statement expressing the sentiment of nearly one-half of the Members of this body. I am sure there are many other Senators who share in this feeling that there should not be a peace imposed upon the parties. This is not to say that the good offices and good will of all nations should not be exerted to end this conflict.

That this conflict should be ended is, of course, the aspiration of all men and women of good will everywhere.

There is a great difference between imposing peace and searching for suggestions and conclusions which might

aid the parties to come together at the peace table. But there can be no peace, in my opinion, unless and until the Arab States recognize the State of Israel and sit down at the conference table for discussions. There is a need for settlement; there is a way for settlement; what we need is the will.

I thank the Senator from Connecticut.

MORALITY AND PORNOGRAPHY

Mr. MILLER. Mr. President, columnist Donald Kaul, of the Des Moines Register, usually writes with tongue in cheek, poking fun at those who take themselves too seriously. But in the Sunday Register of April 13, Kaul was deadly serious in assessing the issue of morality and pornography as it exists today.

I think that his column merits attention and I ask unanimous consent to have it printed in the RECORD.

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

OVER THE COFFEE: MODERN-DAY SODOM

(By Donald Kaul)

Either New York is really getting crummier or I'm getting old; maybe both.

Although I've never lived in New York, I've always considered myself a New Yorker-in-exile. Like many Midwesterners of my generation, I've been thrilled by the city's skylines and energized by the excitement of its streets.

Whenever somebody would start to say "New York is a nice place to live but . . ." I'd interject a "P h f f t t t !" or equally appropriate comment.

But now . . . I'm not so sure.

New York didn't seem quite so glamorous this trip. The sordidness, filth, corruption, decay and noise—my God, the noise—have reached a level that makes the city virtually uninhabitable.

Take Forty-second street. Forty-second street, around Broadway, has long been the dirty movie capital of the United States, the Mecca of creeps, but the perversion represented on that street today has reached truly astonishing proportions.

On Forty-second street a foot fetishist is considered straight. The scene is enough to make the Tijuana chief of police blush.

Homosexuals, transvestites, drug addicts, male and female prostitutes, sadists, masochists, pushers, voyeurs—all walk the street there, many of them hand in hand.

Above their heads blink gaudy movie marquees, bearing titles like "Body Lust" and "Party Girl." The stores are almost without exception smut shops, with hard-core pornography displayed in the windows and promises of harder stuff to be found inside.

A British visitor, asked to comment on Forty-second street recently, said:

"It's the last 27 minutes of the Roman Empire."

And there are those who think his watch was running a little slow.

There is more degenerate activity to be found on a single block of that street on a given night than you could discover in the whole of Des Moines.

"Well," you say, taking the sophisticated view, "it's a zoo; a kind of moral leper colony. Creeps have to live, too, and it's better to have them all in one place."

But they're not all in one place. The disease is spreading throughout Manhattan.

You walk uptown on Broadway or the Avenue of the Americas—up into the mid-50s around Rockefeller Center, the Time-Life Building—and you are accosted by hordes of hookers.

Crowds of young girls—some of them couldn't be any more than 16—jam the doorways along the respectable-looking business district, offering themselves to passing men. The going price is $25.

In the evening a lone man on the street will be approached 10 or 12 times in a single block. In the morning—9:30, say—it's not so bad. You'll only have to resist the charms of three or four pants-suited maidens,

You go to Greenwich Village. You can't go as long as three minutes without some long-haired punk asking you for a handout. Occasionally, the punk will not want a quarter; he'll want to sell you drugs.

It is unhealthy to indulge in the hypocrisy that such things as prostitution, drug addiction and perversion don't exist, but it is no less damaging to have them shoved down your throat day after day.

You are forced to learn to ignore it or go crazy. Some New Yorkers do one thing, some the other.

New York is still an exciting city; corrupt, but exciting. It's a catalogue of all the vices and virtues to be found in our culture.

I certainly wouldn't presume to advise anyone not to live there.

I mean, if you liked Sodom and Gomorrah, you'll love New York.

W. EARL HALL—NOTED IOWA EDITOR

Mr. MILLER. Mr. President, W. Earl Hall, one of Iowa's most noted editors, died on April 12. While making his newspaper, the Mason City Globe-Gazette, a newspaper of quality and distinction, he also served well his community and State. His efforts on behalf of safety won him the coveted Dr. C. C. Criss award; he served on the State board of regents and was named "Layman of the Year" by the Iowa State Education Association in 1960. Earl was active in the American Red Cross and the American Legion.

A newspaperman his entire life, he was a man of untiring energy who always considered himself a reporter, not an editor. He once said:

It's my basic reasoning, kind sir, that anybody who can report can step down into that lower category of writing editorials if need be. A corollary to this is that I think of myself as a reporter rather than as an editor . . . basically.

W. Earl Hall was a credit to his profession, his community, his State, and his Nation. No greater praise could be accorded any man. I ask unanimous consent that the following articles relating to Mr. Hall be printed in the RECORD:

First. "Coworkers Laud Hall," Mason City Globe-Gazette, April 12.

Second. "Friends and Acquaintances of W. Earl Hall Pay Tribute," Mason City Globe-Gazette, April 14.

Third. "W. Earl Hall, Reporter," Mason City Globe-Gazette, April 14.

Fourth. "W. Earl Hall," Fort Dodge Messenger, April 14.

Fifth. "He Served His State," Des Moines Register, April 15.

Sixth. "Earl Hall Had 'A Lifetime of Fun,'" a column by editor Robert Spiegel, Mason City Globe-Gazette, April 16.

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

[From the Mason City (Iowa) Globe-Gazette, Apr. 12, 1969]

COWORKERS LAUD HALL

"Earl was one of the great editors of our day," said Ray N. Rorick, who succeeded W. Earl Hall as publisher of the Globe-Gazette. "He brought the Globe-Gazette a long way in his years as head of its news and editorial staff.

"His absence will be felt in circles far wider than the normal circulation of a newspaper our size. He was known throughout the state and the nation, not only as a newspaperman but also for his work in education, the Red Cross, National Safety Council and American Legion.

"We at the Globe-Gazette feel a great personal loss."

"There is no way to measure the debt Iowa owes to Earl Hall," said Philip D. Adler, Davenport, president of Lee Enterprises, Inc., of which the Globe-Gazette is a division. "He was Iowa's crusading spokesman for more than a generation, a powerful personality as Globe-Gazette editor and a great leader in civic affairs.

"He was a landmark editor among all the Lee newspapers, a newspaperman who gave tremendous amounts of his time to teaching and inspiring others.

"His lifelong friendship with Virgil Hancher (former president of the University of Iowa) made him one of the outstanding contributors to and alumni of the University of Iowa.

"There is no civic enterprise in Mason City and North Iowa that has not benefited by Earl Hall's life and work. The American Red Cross, the American Legion, the Mason City Chamber of Commerce and the North Iowa Band Festivals will mourn him.

"I mourn him as a friend to whom I have constantly turned for counsel and help. His patriotism and personality have left a deep impression on Iowa history."

[From the Mason City (Iowa) Globe-Gazette, Apr. 14, 1969]

FRIENDS AND ACQUAINTANCES OF W. EARL HALL PAY TRIBUTE

Tributes to the late W. Earl Hall have come from across the state and nation as those with whom he was associated in a variety of endeavors received word of his death.

Composer Meredith Willson of Brentwood, Calif., native of Mason City and longtime friend of Earl Hall, said:

"If ever there was an irreplaceable man, it was Earl Hall. Utterly sincere, always willing to be involved; his family, his fellow men, his friends, all came first with Earl.

"His life was a succession of kindness for others. As a patriot, and as one constantly concerned, he had no equal.

"Earl Hall will never die. There is enough love for him in the hearts of those left behind to sustain him through an eternity of eternities."

Don Johnson, West Branch, former national commander of American Legion, was a freshman at Iowa State University and Mr. Hall was a member of the State Board of Education when they first met. He said:

"Earl was a familiar sight when I became active in the Legion, and he contributed considerably at all the Legion meetings, he attended," said Johnson.

"I have a particular regard for him, because he was the speaker at the kickoff meeting when I began my campaign for national Legion commander.

"I relied heavily upon the advice he gave me.

"More recently, he served so well as chairman of the committee for the Legion's 50th Anniversary. He had a unique knowledge of the Legion and a particular knack of being able to communicate to the public.

"His death is a loss, I'm sure, to Mason City and to Iowa . . . and it will leave a void in the Legion."

Carl Hamilton, vice president for information and development of Iowa State University and previously editor of the Iowa Falls Citizen, in which Earl Hall had a financial interest, said:

"Earl Hall was not a complex man, but he had so many interests and virtues that it now is difficult to separate them and decide

which seemed most meaningful to his friends.

"Let me speak as a longtime business associate. We kidded Earl, and he of course joined in the laughs regarding his seemingly almost total lack of knowledge of business matters. A balance sheet was almost a mystery to him. Why? Because he was overwhemingly interested in people and events and ideas and safety and sports and politics. With a boundless energy, carried along to the tune of a hearty laugh, he chose to focus on those things which he felt were going to make this a better place for his friends and those who were to follow.

We need more Earl Halls."

Mayor George E. Mendon said:

"Earl Hall was one of the outstanding citizens of Mason City. Anytime he was asked to do something for the city, he did it. It is a great loss to the community . . . a man of his caliber and ability."

Mendon recalled the first time he ran for mayor.

"Earl was a strong advocate of a city manager form of government," the mayor said. "We discussed the issue at length. Despite our opposite views, it made no difference in our personal relations. Earl always was a good backer and was a great help to me many times and in many things."

Paul F. Hill, general manager of the National Safety Council in Chicago, a friend and associate of Mr. Hall for some 40 years, said:

"One statement that Earl Hall frequently made was that nine out of ten drivers wanted to do the right thing, and that if each driver fully understood his responsibility for driving a motor vehicle, accidents could be reduced at least 50 per cent.

"Earl Hall was one of the real pioneer leaders in traffic safety. His inspiration and leadership will be greatly missed. No one has given more to the cause of reducing needless accidents than Mr. Hall."

Hill was with the Department of Public Safety and the Iowa Safety Council during the time Mr. Hall was president of the council. Mr. Hall was vice president of the National Safety Council from 1944 to 1948.

Alfred M. Gruenther, national Red Cross president from 1957 to 1964, said of Mr. Hall:

"He was always a great leader and we had a very high regard for him. Personally he had a tremendous amount of magnetism. We at national headquarters were very fond of him and extremely grateful, to him for his very fine service to the Red Cross," Gruenther said.

"He was always coming forward with new ideas for Red Cross service in an endeavor to be able to do a better job, and we relied very heavily on his advice."

Mr. Hall was a member of the Red Cross national board of governors from 1952 to 1955 and worked for Red Cross many years before that, as well as afterward.

Willis Patton, longtime Mason City friend and neighbor of Mr. Hall, said: "I never knew a guy who put so much energy into the things he did . . . that drove himself as constantly as did Earl Hall."

Patton's acquaintance with Mr. Hall went back to 1927 when they played handball at the newly opened YMCA.

"Earl had the most intense desire to win of anyone I've ever known, be it handball or any other endeavor.

"Physically, he did not look like a good handball player, but he was smart . . . as smart at handball as at anything else."

Patton recalled a time when he and Mr. Hall played handball with a fellow who was "careless at score keeping."

"The guy is crooked," Earl remarked.

"No," said Patton. "He is just like you, he wants to win."

"If that was true," replied Earl, "he would make a mistake in my favor sometimes instead of always in yours."

Patton accompanied Mr. Hall on a trip around the world in 1956–57.

"We were on the go constantly during that trip," recalled Patton. "I did the same things that Earl did, except he stayed up nights writing accounts of what we had seen and done:

"The trip included the Olympic Games at Melbourne . . . and about everything else. We went to Saigon when they told us we couldn't. We went to Cairo during the Suez crisis, when everyone else was being evacuated.

Patton remembers also that Mr. Hall never was afraid to state an opinion on any subject if he was asked.

"He always had a positive approach to the subject and you could take it or leave it," said Patton. "I admired his frankness."

Frederick B. Shaffer, one of the two surviving members of the Rusty Hinge Quartet, recalls that Mr. Hall "made up and announced every program the quartet sang for 40 years, starting in 1926.

"He was the backbone of the quartet, his initiative being as a public relations leader inviting people to visit Mason City.

"He was a great community song leader at any time and anywhere, especially for the Chamber of Commerce and American Legion."

Mr. Hall was a member of the Rusty Hinge Quartet since it started in 1921 and sang all over Iowa and parts of Minnesota for about 40 years.

Dr. Raymond F. Kunz (Sr.), surviving member of the group along with Shaffer, said Mr. Hall did most of the quartet's driving.

He was a good driver, said Dr. Kunz, calling attention to Mr. Hall's work with the national safety council.

"He was on the go all the time and so nice to other people," said Dr. Kunz. He recalled how Mr. Hall volunteered to take him to the University Hospitals at Iowa City. This was in connection with Dr. Kunz's arthritic hip.

Mr. Hall did it more than once, said Dr. Kunz. He cited one trip when it was snowing.

"He was the best friend I ever had," said Dr. Kunz.

Lester Milligan, retired Mason City Chamber of Commerce secretary, said:

"Earl Hall was a friend, counselor and fellow-worker from March of 1923 when I came to Mason City as secretary of the Chamber of Commerce.

"The Community Chest, now United Fund, was founded that summer and if editorial support for the first efforts were counted, he had as long a record as anyone in that endeavor. Later he was campaign chairman with excellent results under his leadership.

"He continued to work right up through the very last one, when he was a valued member of the Advance Division. He not only handled several cards, but he was so serious about it that when he lost $50 on one pledge, he added that much to his own already-generous giving.

"We worked together in many community promotions, including both "Music Man" affairs—1958 and 1962. He not only helped set those up with the Meredith Willsons, but was general chairman of the national marching band contest spectacular of 1962.

"He was a faithful member of the Chamber of Commerce Glee Club, predecessor of the present Barber Shop Chorus. The Rusty Hinge quartet began during Mason City's 75th anniversary celebration of 1928.

"Soon along came that series of Chamber annual meeting Christmas parties which packed the hotel year after year and the quartet and chorus were the vehicle for much of those programs.

"Earl had a fine bass voice, might easily have been a professional, had an excellent sense of pitch and rhythm and was a great song leader. It was my privilege to play piano for him many times and he gave unselfishly of time and talent for scores of groups and events.

". . . As one of our poets puts it, when a giant oak goes down from a storm there is left a great vacant space against the sky. And so it is today in Mason City."

Leslie G. Moeller, of the University of Iowa School of Journalism and formerly its head, said:

"Earl Hall was a man of high ideals, and a great believer in the principle of wide participation in public life by all citizens. His writing and speaking on public affairs, backed up by his actions, have helped to improve the caliber of living in his city, his state, and his nation.

"During 20 years as director of the University of Iowa School of Journalism, I found him to be not only a consistent and thoughtful supporter of improvements for his profession, but also a great inspiration to young people coming into the field of journalism.

SERVICES SET

Memorial services for W. Earl Hall, 72, longtime Globe-Gazette editor, 22 River Heights Drive, will be at 2 p.m. Tuesday at the First Congregational Church. The Rev. Robert L. Stone, pastor, will officiate. The organist will be Miss Marie VonKaenel. Ushers selected are Richard Dean, James R. Brown, Max Sowers and Willis O. Patton.

Private committal services will be in Elmwood Cemetery. The Major-Erickson Funeral Home is in charge of arrangements.

Mr. Hall died Saturday morning in a Mason City hospital.

Surviving are his wife, Ruth; one son, Reeves, Independence; two daughters, Mrs. Paul (Marjory) Hook, San Francisco, Calif.; Miss Nancy Hall, New York City; two brothers, Alvin Hall, Pomona, Calif.; Ernest Hall, Alberta, Canada, and seven grandchildren.

[From the Mason City (Iowa) Globe-Gazette, Apr. 14, 1969]

W. EARL HALL, REPORTER

The memory is of a white-haired man sitting at a typewriter, looking up keenly, head half cocked to the side.

Curious. Prodding. Questioning.

The memory is of tearsheets from the Globe-Gazette with a message written around the border (sometimes all four borders) in a familiar scrawl with the initials, W.E.H., at the end.

The memory is of a man who loved his job, his family and his country and couldn't understand anyone who didn't.

The memory is of a man who recognized no boundaries. He saw the newspaper's role extending beyond city limits, state boundaries, national boundaries. He knew that the events all over the world echoed and re-echoed in Mason City, Iowa. He reported those events; he interpreted them.

The memory is of a man who didn't like to lose, whether it was a struggle over a city-manager plan or a football game at Iowa City or a handball game at the YMCA. He saw little glory, or profit in defeat, but seldom dwelled on the misery of defeat. He was too busy looking for new combat.

The memory is of a personal editor, one of the last of that breed, casting a strong shadow on his paper and his community. He was a purist with the English language, written or spoken, and those who abused it heard from him.

The memory is of a man who loved to sing and could form a quartet or men's chorus or mixed group at the drop of a musical note.

Most of all, W. Earl Hall was a man who wanted to be remembered as a reporter, a title he valued more than any other.

The state of Iowa is better today because of W. Earl Hall, reporter . . . and editor. It has a better judicial system. It is better educationally. Its highways are safer. Its people can stand a little straighter, a little more proudly.

This is what Earl Hall wanted. This is what he achieved.

[From the Fort Dodge (Iowa) Messenger, Apr. 14, 1969]

W. EARL HALL

One of Iowa's great newspapermen died in Mason City Saturday.

He was W. Earl Hall, whose name, writings and civic zeal were known throughout the state.

Editor and publisher of the Mason City Globe-Gazette for 20 years prior to his retirement in 1963, Hall won state and national recognition with his hard-hitting, constructive editorials. He was an unwavering champion of his sector of the state and of the entire state. Iowan to the core, he wrote glowingly of the state and its assets at every opportunity but he constantly strove to remedy faults as he saw them or to suggest needed progressive moves.

His fellow newspapermen recognized his leadership with the Master Editor-Publisher award in 1946 but that was just one of his many honors. A close friendship with famous Meredith Willson enabled Hall to call upon that musical genius to visit Mason City on several occasions and to contribute to the success of the North Iowa Band Festival and other community programs.

Hall's efforts in behalf of safety won him the coveted Dr. C. C. Criss Mutual of Omaha $10,000 safety award in 1960. Always a leader in the field of education, he served on the Board of Regents and won the Iowa State Education Association's 'Layman of the Year' award.

He devoted a great deal of time and effort to the American Red Cross. He served in numerous volunteer leadership positions with the Red Cross and probably did more for that great humanitarian organization than any other newsman in Iowa.

Veteran of more national political conventions than any other Iowa newspaperman, Hall was himself discussed as a potential candidate for governor in the early 1950s. But he felt he could contribute more to his community and his state as a newspaperman—and it was here that his heart was, too.

He spoke as well as he wrote and through the years addressed numerous organizations, graduating classes and conventions.

His friends throughout Iowa and over the nation are saddened that W. Earl Hall has passed from the scene. He was one of Iowa's great journalists and, more than that, one of her outstanding citizens.

[From the Des Moines (Iowa) Register, Apr. 15, 1969]

HE SERVED HIS STATE

Iowa lost a notable son in W. Earl Hall, who died at 72 the other day. Iowa-born and educated, he ran the Mason City Globe-Gazette from 1920 to 1963, first as managing editor, then editor and finally as editor-publisher. He made it a newspaper of quality and distinction.

During that period he found time for all sorts of extra community chores, notably his long hitch on what is now the state Board of Regents and his long service in safety organizations. He was a World War I veteran, a commander of the Iowa American Legion, and took a tour as war correspondent in 1944.

His shock of white hair, his dynamic interest in people and issues, made him stand out in a crowd. His weekly "One Man's Opinion" was both a radio broadcast and a newspaper column. It ran for 20 years.

His retirement in 1963 was not from work, but from one set of chores to other more flexible ones—as editorial consultant to Lee Newspaper Enterprises, working with his son Reeves Hall on the Independence Bulletin-Journal, and other activities, as long as his health permitted.

[From the Mason City (Iowa) Globe-Gazette, Apr. 16, 1969]

EARL HALL HAD "A LIFETIME OF FUN"

(By Robert Spiegel)

W. Earl Hall was a writing man who could talk lucidly, forcefully, and, above, all interestingly. That is a rare combination.

The best way to remember Earl Hall, perhaps, is to turn to his final radio commentary—"One Man's Opinion"—that also was carried as a front-page column in the Globe-Gazette for 20 years.

That final commentary was on April 1, 1963.

Earl opened with these words: "I come now to the end of 20 years of once-a-week commentaries. The words I've spoken in these quarter-hour talks would fill at least 20 books of conventional novel length.

"Subjects have ranged from the love life of the honey bee to man's place in the scheme of things. I've really covered the waterfront . . . I have told not only all I know, but all I even suspect!"

Earl had a way of writing editorials that drove the reader to form his own opinion. It might be in the form of a critical question, demanding an answer, or in a set of neatly arranged arguments that provoked an opinion.

In his final commentary, Earl posed some questions for himself. In capsule form, here are his answers:

Peace?

"Not in modern times certainly and probably never have those who must do the fighting and the dying been responsible for our wars. The decision is made by those far removed from the fighting and the dying. In this I find the most compelling argument possible for a quest for lasting world peace through a system of enforceable law."

Establishment of a world peace organization, with enforcing power, involves risks. Are they too great?

"I ask only that this risk be set down alongside the ever-present risk attaching to following the same road that has led to two world wars within my own span of maturity."

Communism?

"Communism is as phony as a three-dollar bill. It never went anywhere on honest invitation. It could stay nowhere—not even Russia—if there was a free choice and a plausible known alternative."

Earl then predicted that living Americans will witness the burial rites "for this most loathsome ideology . . . if we of the free world remain strong economically, militarily and most important of all—spiritually."

Education?

"Education is an indispensable precedent to true self-government in the democratic pattern."

Too many causes?

"It may be said of me that I have been a sucker for causes . . . safety, Red Cross, Community Chest agencies, crippled children, cancer, Radio Free Europe, all of them. If I am so accused, I shall not be disposed to enter a denial . . . As I have given of my time, my effort and my means, I have always had the deep-seated conviction that I was receiving even more than I gave."

Any failures, Earl? (You could almost see the delight with which he went after that one).

"On the less serious side I haven't been able to make it known that it was Charles Dudley Warner, not Mark Twain, who said "everybody talks about the weather but nobody does anything about it."

Pause: "Nor have I been wholly successful in getting across the information even among some of my own associates—that the word is adDRESS, not ADdress."

Final words?

"My happiest memory is going to be about the thousands of stimulating letters from listeners and readers," Earl said in his final paragraph. "These have undergirded my well-defined conviction that human kind is mostly good and that our God-directed evolution is ever upward."

The same day the final One Man's Opinion appeared, Earl wrote a signed editorial on the retirement of Enoch A. Norem as associate editor. In it, he revealed the warmth of his friendship with Enoch—and, by this example, with many others.

"It is impossible to measure the imprint this remarkable man has had on the Globe-Gazette down through the years . . ." wrote Earl, along with other words of praise.

He sent me that editorial in Des Moines (this was prior to my employment) and, typically, wrote along the top of the tear-sheet: "This one was really from the heart."

I owe a great deal to Earl Hall. Without his recommendation, I wouldn't have been hired in 1963—something I wanted very much.

He interviewed me graciously, ignoring his personal wounds that came with leaving a newspaper after 43 years. It was always good talking with him—and getting his letters.

The letters were lively reading, sprinkled with facts and whimsy and even a little philosophy.

As a newspaperman, two paragraphs stay with me most clearly because I believed so strongly in what he had to say:

—"It's my basic reasoning, kind sir, that anybody who can report can step down into that lower category of writing editorials if needs be," wrote Earl. "A corollary to this is that I think of myself as a reporter rather than as an editor . . . basically."

—And, finally: "It's been a lifetime of fun, believe me."

I do believe that.

DAN TURNER, FORMER GOVERNOR OF IOWA

Mr. MILLER. Mr. President—

Dan Turner was one of those men who fought for their cause with courage. We are grateful to him.

Those words, appearing in the Des Moines Register of April 18, were written in memory of a former Governor of Iowa who passed way last week at the age of 92.

Dan Turner espoused causes back in the 1920's and 1930's which are still the stuff of headlines today; namely, water pollution, foster home care, farm price stabilization, graduated State income tax, conservation, and congressional redistricting.

Iowa became a better State because of his efforts.

I ask unanimous consent to have the editorial, entitled "Iowa's Courageous Reformer," printed in the RECORD.

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

IOWA'S COURAGEOUS REFORMER

"Our streams are rapidly degenerating into open sewers, receiving the waste drainage of private industry and municipalities. We must terminate this practice."

"The professional lobbyist . . . should be ejected from the presence of honest men . . . He is not interested in the well being of the people whom we represent."

"Rapid changes in industry have displaced hundreds of workers who must be given an opportunity to learn new lines of work in which they have no experience or training . . . The adult who had no opportunity of education . . . should have his chance."

The quotations could have come from today's newspaper. They are from the address delivered by Dan Turner of Corning upon his

inauguration as governor of Iowa on Jan. 15, 1931.

Dan Turner died Tuesday in a Corning hospital at the age of 92. He played an important part in the political history of the Middle West. His active public life spanned the history of "farm revolt" in America's heartland.

The farm-born demands for reform were boiling into the "Populist Revolution" of the prairies when Dan Turner was born near Corning in 1877. Twenty-six years later, as a young Iowa state senator under the Progressive Republican banner, he helped put such "populist" measures as primary elections and railroad fare regulation into the Iowa Code.

Providing foster home care instead of institutional care for children has been a major theme of Iowa social service reform in the 1960s. Young Senator Turner sponsored an Iowa foster home law 60 years ago.

In the 1920s, Turner and fellow Iowan Henry Wallace were among the "Sons of the Wild Jackass" pleading with their fellow Republicans for measures such as farm price stabilization. Wallace despaired after the 1928 Republican National Convention and supported Democrat Al Smith. Turner stayed in his party to carry on the fight.

Republican Turner was elected governor of Iowa in 1930 on a program which called for a graduated state income tax and corporation tax to replace state property tax (finally passed four years later) and state regulation of utility rates (not passed until 35 years later).

His inaugural address in 1931 included a call for establishment of a conservation commission to assure preservation of natural beauty and measures to promote child welfare, reorganize the executive branch of state government, establish municipal utilities, equalize property tax assessments and form congressional districts which were "compact and uniform in population." The issues have a familiar sound.

Governor Turner displayed courage. Though he had become a spokesman for the Iowa farmer, he used the National Guard to enforce a state law on tuberculosis vaccination for cows against eastern Iowa farmers who threatened defiance.

He retained his zest for causes. When the National Farmers Organization was born in the 1950s, Dan Turner at 78 was one of the organizers.

It may be difficult for members of this generation to conceive of that time when the prairies and small towns were widely viewed as the seedbed of radicalism rather than the bulwark of conservatism. Or of a time when "the East" was viewed by Midwesterners in both parties as the seat of entrenched conservative privilege rather than home base of the "liberal Establishment."

There was such a time. Men of the soil who stumped from courthouse square to courthouse square and did battle in the legislative halls added much to the leavening of democracy and equal rights which we now take for granted as part of our way of life.

Dan Turner was one of those men who fought for their cause with courage. We are grateful to him.

THE INSURANCE INDUSTRY RENEWS ITS BILLION DOLLAR URBAN INVESTMENT PROGRAM

Mr. PROXMIRE. Mr. President, on April 15, the life insurance industry announced a second billion-dollar investment program for the inner city. This second phase of the life insurance program follows the first billion-dollar investment program announced on September 13, 1967.

According to the reports of the life insurance industry, $900 million of the first $1 billion target has been committed or disbursed for specific projects in 227 cities in 42 States and the District of Columbia. The investment will result in providing 63,000 housing units for low- and moderate-income families and 30,000 permanent jobs for the residents of inner city areas.

The success of the life insurance program indicates the tremendous role which can be played by private enterprise in working with Government in helping to solve our pressing urban problems. The life insurance industry is to be congratulated for its farsighted efforts in helping to rebuild the inner city.

The additional $1 billion pledged by the industry for new projects indicates the continuing commitment of the industry to help rebuild the inner city.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement about the billion-dollar investment urban program by Francis E. Ferguson, chairman of the Joint Committee on Urban Problems of the life insurance industry and also president of the Northwestern Mutual Life Insurance Co., as well as a report on the billion-dollar program by the American Life Convention and the Life Insurance Association of America together with a breakdown showing the amount of funds committed or disbursed by city together with the number of housing units and jobs created in each city.

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

STATEMENT TO THE PRESIDENT BY FRANCIS E. FERGUSON

Mr. President, the Joint Committee on Urban Problems of the American Life Convention and the Life Insurance Association of America was created in the spring of 1967 to explore how the life insurance business could help in finding solutions to the problems that confront our cities.

On September 13, 1967 we announced at the White House that the life insurance business would divert one billion dollars from its normal investment channels to provide better housing and more jobs and community services for Americans living in urban core areas. These funds were pledged by individual life insurance companies for the types of projects not previously financed by most private investors, including insurance companies, because of their location or risk as compared to normal investment opportunities.

I can report to you today on the progress of the $1 billion investment program which began nineteen months ago. As of March 13, 1969, $900 million had been committed or disbursed for specific projects in 227 cities in 42 states, the District of Columbia and Puerto Rico. Of this amount, $681 million is providing 63,000 housing units, ranging from sizable rent supplement housing projects to single-family homes for low- and moderate-income families from the inner city. Another $219 million has been invested in job-creating enterprises and community services providing 30,000 permanent jobs for the residents of city core areas. In addition to the $900 million already committed for urban projects, another $100 million in funds for projects is currently under review by the participating life companies. Thus, this billion-dollar program has now reached virtual completion.

In our efforts to fulfill our pledge, we feel that we have gained valuable experience and insight. These investments have covered a wide range of urban projects from which we have learned many lessons. Those of us who have been personally active in this program share two basic beliefs:

(1) There is a need to seek continuing improvements not only in our own investment approaches to urban lending, but also in the administration and focus of Federal programs in the urban field.

(2) Any program, governmental or private, to improve the conditions in the cities requires the cooperation of the responsibile leadership of the community.

In September 1967 we acknowledged the enormous size of the task the nation faces in improving the quality of life of the people in our cities. The task today is no less challenging. In many ways, the growing awareness of social and physical inequities by those living in the cities have made the solution of these problems more compelling for all segments of our society, public and private.

With the virtual completion of our billion-dollar program, we are pleased to announce today that the life insurance business is pledging a second billion dollars of investment capital to finance improved housing, job-creating enterprises, and community services for the people of the city core areas. It is our hope that this second program will be of even greater value to the cities and to the nation, in view of the lessons and experience that the first nineteen months of this effort have provided us.

Approximately three-quarters of the funds we have already committed are being used for low- and moderate-income housing, which the remaining quarter has been for job creation and community services in the urban core. Although housing is of critical importance, we are hopeful that a larger proportion of the second billion dollar program can be devoted to the creation of new jobs for core area residents and to the development of minority business enterprise, since these are increasingly vital needs of our inner cities. Moreover, the dollars invested in job creation can obviously produce significant "multiplier effects" which go far beyond the initial amount invested. A new job created in the urban core not only means family income for the newly-employed worker, but allows him to pay the rent for better housing to upgrade his living conditions in the inner city. Thus, investments in job-creating enterprises help to improve housing conditions as well as the employment situation in the city core.

We believe that a great potential exists for assisting business development in the inner cities, if Federal programs can be adapted to meet the needs of minority business enterprise and the expansion of core area employment, and if loan guaranty programs can be developed or modified to attract more funds from private lending institutions. Where government resources are applied to guarantee loans or provide assistance for urban business development, they can produce another type of "multiplier effect" by enabling substantially greater amounts of private business captial to flow into these areas than the dollars of government support required to stimulate it.

In the housing field, further improvements in Federal programs are needed to smooth the way for more rapid development of low- and moderate-income dwellings for families in deteriorating core areas. We hope to work closely with Federal agencies to help make these programs more effective. As far as our own guidelines are concerned, we have learned the value of wider flexibility in the types of projects to be financed under our urban program, and the need to apply broader investment standards to meet the special problems of our cities.

The life insurance business has a vital concern with the health and stability of the cities. We are intimately bound up not merely with the economic condition of our urban centers but also with the physical and social

well-being of our fellow citizens who live there. We recognize that our life insurance urban program can produce a major impact on the condition of our cities only if it is part of a massive cooperative effort by other elements of the private sector, by government on all levels, and by the active participation of concerned citizens everywhere. Many groups in the private sector are alert to the urgency of the situation and the need for their involvement in substantial remedial efforts.

We are hopeful that the success we have had with our first billion dollar program, and our willingness to pledge a second billion dollars for the betterment of the cities, will produce a third type of multiplier, namely, the encouragement of even more groups in the private sector to take positive action toward meeting the problems of the inner cities.

We are confident that the various multipliers that have been noted can lead to the investment of much more than the second billion dollars we are pledging today. Many billions of dollars of private capital will be needed in the critical task of rebuilding the inner cities across the nation. We believe that proper adaptation and redesign of Federal programs in the urban field can stimulate the active involvement of builders, developers, labor groups and lending institutions in addition to the life insurance business in finding effective solutions to the challenging problems of our cities.

INVESTMENTS IN REPRESENTATIVE CITIES THROUGH THE $1,000,000,000 URBAN PROGRAM OF THE LIFE INSURANCE BUSINESS

[Status as of Mar. 13, 1969]

City	Committed or disbursed	Number of housing units	Jobs created or retained
Atlanta	$15,698,050	1,267	112
Baltimore	10,512,700	949	147
Birmingham	5,412,408	319	169
Boston	33,533,825	2,258	923
Chicago	72,827,440	4,798	4,747
Cincinnati	17,137,293	539	1,500
Cleveland	12,125,750	944	115
Dallas-Fort Worth	33,774,250	3,743	1,847
Denver	8,344,217	644	85
Detroit	30,841,304	2,258	1,090
Gary	6,565,687	565	29
Hartford	6,382,598	489	7
Houston	15,300,070	1,228	386
Indianapolis	6,504,684	573	98
Kansas City	7,432,350	304	146
Los Angeles	48,534,990	2,998	3,123
Louisville	5,485,369	363	513
Memphis	8,173,650	742	32
Miami	1,442,050	49	50
Milwaukee	15,556,250	988	229
Minneapolis-St. Paul	19,076,100	964	752
Nashville	13,555,400	1,267	(1)
Newark	31,180,700	681	3,128
New Orleans	7,506,500	506	394
New York City	52,093,850	3,153	705
Omaha	$3,387,700	399	525
Philadelphia	17,691,254	2,255	1,099
Phoenix	1,100,000	108	----------
Pittsburgh	3,868,167	346	----------
St. Louis	11,891,811	733	690
San Antonio	12,723,900	881	410
San Diego	10,037,700	746	----------
San Francisco-Oakland	18,598,050	885	176
Seattle	14,789,417	898	200
Washington, D.C.	12,568,750	763	204

[1] Unknown.

ONE BILLION DOLLAR URBAN INVESTMENT PROGRAM OF THE LIFE INSURANCE BUSINESS

EXAMPLES OF INVESTMENTS

1. Housing

A look at the urban housing investments by life companies reveals essentially three important areas of current activity:

(a) FHA rent-supplement housing projects which range in size from about $50,000 to $2½ million or more. These are 40-year mortgages with FHA insurance, under Section 221 (d) (3) to supply rental housing to low- and moderate-income families. The Federal government supplements the rentals by paying the difference between 25 percent of the family's income and the market rental for the project.

(b) FHA Section 203(b) insured and VA guaranteed mortgages on 1- 4-family houses for low- and moderate-income families, where the property is located in an older, blighted neighborhood in an inner city area.

(d) Noninsured loans on low- and moderate-income housing, either in the form of rental housing projects or 1- 4-family homes occupied by the owner.

These three areas by no means exhaust the possible investment approaches under the $1 billion program to channel funds into housing. Many other possibilities are open. For example:

$175,000 will finance the construction of a 26-unit apartment project for minority occupancy in the core area of Galveston, Texas. These will be two-story apartment buildings constructed by a new and unproven method which has promise as a means of providing low-cost housing. A three-bedroom apartment in this project will rent for $100 a month.

$473,000 will finance the construction of 44 apartment units in the core area of New Orleans, Louisiana, to be leased by the housing authority of New Orleans and subleased to lower-income minority families for $65 to $80 a month for three and four bedroom units in various locations in New Orleans. Properties range from 3-unit buildings to 8-unit buildings.

A bond issue of $3,298,000, in which several companies have participated, will finance a 586-bed dormitory and dining facilities at Knoxville College in the core area of Knoxville, Tennessee. Knoxville College is a Negro institution which is intimately related with the surrounding core area through civic projects, self-help programs and development of higher education facilities for the financially deprived. Its campus is surrounded by substandard housing, and the proposed new dormitory will enable students to move onto campus from the surrounding area.

A total of $408,500 will finance Negro ownership, operation and rehabilitation of 4 separate apartment buildings in the Boston area containing a total of 69 apartment units and 5 stores.

A conventional loan of $660,000 will finance the construction of 100 multifamily units for minority occupants in a blighted area of Winston-Salem, North Carolina. The project will be leased to the Winston-Salem housing authority at market rents and then sublet to low-income and elderly persons at approximately 40 per cent of the market rent. The rentals will range from $30 to $32 a month for a one-bedroom apartment.

$5,500,000 has been committed to purchase a group of about 375 loans by assignment from the Bank of Finance, a Negro bank near the Watts area of Los Angeles. There will be some 2- to 4-family dwellings in this group. These are economic waiver loans in the core area of Los Angeles and the owner-occupants will be from minority groups.

2. Job-creating enterprises and services

Funds for job-creating enterprises or service facilities are typically without government insurance or guarantee. These loans are being made to finance industrial facilities, hospitals and medical clinics, nursing homes, neighborhood shopping facilities and social service centers.

In each instance the loan qualified so long as the project provided jobs and/or essential services to low- and moderate-income residents of blighted areas within our cities.

Other examples of financing of services and job-producing enterprises are listed here:

MEDICAL FACILITIES

$6,000,000 has been disbursed to cover the expense of major improvements in the new addition to a hospital in the heart of the Avondale neighborhood of Cincinnati, Ohio, which was the scene of the 1967 riots. Approximately 400 jobs for nurses, practical nurses, nurses aides, kitchen help, dining room help, maids, janitors and maintenance men will be provided.

$350,000 will finance the rehabilitation of an addition to a medical clinic in the core area of Chicago, Illinois. The owners are practicing Negro physicians, and the staff and clientele are both drawn from the Negro community. Approximately 22 jobs will be provided in related health services.

$78,000 will finance a nursing home for Negro males and a day nursery for Negro children, located in the central core area of Louisville, Kentucky. Facilities are available to underprivileged aged Negro males and children of working parents at a very nominal cost.

$2,412,000 will finance a nursing home in the core area of Milwaukee, Wisconsin to be owned and operated by a group of Negro doctors.

$775,000 will finance a Negro owned, operated and occupied nursing home and convalescent center in metropolitan Detroit, Michigan. This is a 162-bed facility and approximately 75 jobs will be provided.

$460,000 will finance a medical office building within the hard core "riot area" of Los Angeles, California. This facility will provide additional office space that is greatly needed for doctors, dentists, laboratory technicians, pharmacists, etc. in this area.

$1,500,000 will finance a neighborhood health center near Meharry Medical College in the core area of Nashville, Tennessee. Meharry is one of the outstanding Negro medical institutions in the United States. The purpose of this facility is to provide comprehensive health services to eligible residents of a defined area of concentrated poverty. It is centrally located for the population to be served. Capital costs are to be covered by continuing grants from the Office of Economic Opportunities. The loan is guaranteed under FHA Title 11.

Loan commitments for commercial facilities include the following:

$1,000,000 to finance a shopping center, office and school complex to be owned and operated by Negroes in the core area of Philadelphia. This very unusual facility will not only provide needed shopping for a blighted area, but will also provide a school and on-the-job training for minority groups in merchandising.

$175,000 to help Negro entrepreneur build a new supermarket in the center of the Negro area of Dallas, Texas. The area is generally run down and in need of improvement. All employees of this market will be Negro.

$170,000 to finance rehabilitation of a movie theatre in the core area of Roxbury, Massachusetts, to be owned and operated by members of the Negro community and provide approximately 20 jobs for movie projectionists, stage hands, ushers, cashiers, maintenance men and concessionaires.

$85,000 to finance the rehabilitation of a burned-out store on Blue Hill Avenue in the core area of Boston, to be owned by BREAD, Inc., a newly organized publicly owned corporation which has sold stock to the Negro community and will establish in these facilities a new retail outlet. Approximately six jobs will be provided in the retailing of hardware, household goods, soft goods and furniture.

$160,000 to finance Negro ownership of store buildings in the Roxbury area of Boston. The owner will operate a beauty salon, boutique and beauty school, and lease out a barber shop. About 15 jobs for beauticians, instructors and retail clerks will be provided for Negro members of the community. It is anticipated that there will be an enrollment of 50 students in the beauty school.

A pledge of $100,000, the first by a large institution, to provide the financial leadership in underwriting the equity capital for New England's first bi-racial bank, located

on Blue Hill Avenue in Dorchester, Massachusetts. This bank is now also a mortgage correspondent and depository for the life insurance company involved, and its services are designed for residents and potential businessmen in the Roxbury area.

Industrial facilities funded under the program include the following:

$5,400,000 to finance an industrial plant and electronics and programming institute to hire and train minority persons. The location of this industrial facility is in the heart of the minority slum area on city renewal land in Minneapolis, Minnesota. There will be training and employment for at least 270 persons in the beginning and the programming institute will eventually have an enrollment of 900 persons, most of which will come from the core area.

$1,100,000 in a participation by two companies to finance an industrial plant in the core area of Minneapolis. 48 jobs will be provided in association with the National Alliance of Businessmen under their job training program. A large percentage of the employees will come from the city core area. The factory is located in the center of an older industrial and low-income residential area. Directly west of the subject is one of the largest public housing projects in Minneapolis, primarily occupied by Negroes.

Commitments have also been made for social service, educational or job-training facilities. For example:

$350,000 to construct new and expanded headquarters of a social service agency in the core area of Dallas, Texas. 478 jobs for office workers, warehousemen, clerks and repairmen will be provided in the complex comprised of offices, a warehouse, food kitchens, storage facilities, salvage and repair shops and retail stores for goods such as clothing, furniture, clean and press services, radio-TV, and durable goods, and a printing shop.

$120,000 to finance a new educational building for an established Negro congregation which has been located for 50 years in a sanctuary building at the site in the core area of Louisville, Kentucky. The proposed addition will provide for the expansion of a day nursery for the small children of working parents in the immediate vicinity. The facility will also allow an expansion of young people's activities in which this church has been most active.

$250,000 to finance a technical job-training school in the core area of St. Louis, Missouri. This remodeled building will be totally staffed by qualified professional instructors with its sole purpose being to train the hard-core unemployed into qualified para-hospital personnel who can then be removed from the relief rolls.

ANOTHER CREDIT CRUNCH?

Mr. PROXMIRE. Mr. President, we are faced with a possible repetition of the severe credit crunch experienced in 1966. Since early December, the Federal Reserve Board has been tightening the money supply; however, the restrictive policy, thus far, has had relatively little impact on bank loans to businesses. Despite the record high rate, corporations are planning to increase their planned expenditures for plant and equipment by a record 14 percent over last year's level.

Since interest payments by business firms are tax deductible, the effective aftertax rate on an 8-percent loan is only 4 percent for the average corporation. With prices increasing faster than 4 percent a year, it becomes obvious that the prudent corporation will plan to borrow all the funds it can get.

The impact of this corporate scramble for funds is felt by the home buyer, the small businessman, the consumer, the farmer, and by State and local governments. The smaller borrowers must stand in line and take what is left after large corporate borrowers have satisfied their demands.

Recently the U.S. News & World Report published an article concerning the impact of tight money and where it is hitting the hardest. The article said:

Some prospective home buyers are being priced out of the market as loan costs soar.

The article also reports:

State and local bond issues are being cancelled and spending projects are being deferred.

For small business firms, according to the article:

The squeeze is really on. Loans are being rationed nearly everywhere—with old customers standing the best chance of getting money.

However, the giant corporations still have access to needed credit.

This analysis by the U.S. News & World Report generally confirms the findings made by the Senate Banking and Currency Committee in its hearings during the early part of April on the impact of high interest rates on the economy. If we are to rely upon monetary policy for economic stabilization, we need to develop better methods for allocating the impact of tight money.

Mr. President, I ask unanimous consent to have printed in the RECORD the article on "The Credit Squeeze" in the April 21 issue of the U.S. News & World Report.

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

[From U.S. News & World Report, Apr. 21, 1969]

THE CREDIT SQUEEZE

A tightening up on money, ordered from Washington, now is reaching into homes in communities all over the U.S.

Families, businesses, government suddenly are finding out—many of them for the first time—what "tight money" really means.

Loans are being rationed. Borrowers are being carefully screened. All types of interest charges are soaring. As loanable funds dwindle, even some of those willing and able to pay the rates are being turned down.

Pressures, up to now, had been largely confined to big-city banks and borrowers. But recent moves by money managers have spread the effects of credit restraint to every corner of the U.S., to banks of all sizes.

BUT NO PANIC

Despite the tightening pinch, there's no sign of a money panic. Bankers are doing their best to take care of legitimate needs for credit.

Yet there's not enough money to go around. It's a tough—even desperate—time for many borrowers as loan money for a home, a small business, a community project begins to dry up.

For a look at the impact of the greatest credit shortage in years, staff members of "U.S. News & World Report" sought out lenders large and small around the nation.

The latest findings—

1. Banks in many places have slammed down their loan windows to anyone except old customers—and even these can't always get what they want.

2. Lenders look most favorably on consumer loans—for autos, appliances, home improvements. There's little, if any, cutback on these.

3. Mortgage credit generally is available—though at a steep 8 per cent or more. In States with rate ceilings below today's mortgage market, money is scarce, building is being hurt.

4. If you want money for a speculative project—in stocks, real estate, a risky business venture—forget it. Banks are likely to say, "No."

5. Businesses are not immune from the pinch for money, especially small and medium-sized firms and farms. Some spending plans of business are beginning to be scaled back.

6. Interest rates could move a notch higher. But, significantly, a number of bankers predict that rates may be nearing a peak and could begin to ease before many weeks go by.

Engineering today's severe money shortage is the nation's central bank—governed by the Federal Reserve Board, which is headed by William McChesney Martin, Jr. The money managers expanded the nation's money supply at a mere 2 per cent annual rate in the first three months of this year—down sharply from the 8 per cent expansion rate in the last three months of 1968.

Treasury Secretary David Kennedy, at the same time, has been pulling the Government's purse strings tight to help cool down the economy.

The aim of the Government is to halt inflation in this country that has reached an annual rate of more than 4 per cent in recent months.

As yet, signs that restraint is taking hold are few and far between.

A report on unemployment in March, released April 8, showed a slight drop in the number of people out of work—to the lowest level in 15 years. The drop was less than seasonal, so the rate of unemployment, seasonally adjusted, rose slightly. Economists still complained about "over-employment."

A GRADUAL COOLING?

Herbert Stein, a member of President Nixon's Council of Economic Advisers, said April 8 that the present policies of restraint on spending and credit will gradually cool the boom and bring "visible evidence" of a decline in inflation by the end of the year.

Bankers and economists surveyed by "U.S. News & World Report" generally agree with that assessment.

The broad view of the experts:

Now that the money squeeze has reached every nook and cranny of the country, people are going to pull back on their spending. When that happens, business will follow suit. The economy, then, will begin to slack off in its rate of growth. There will be a gradual easing in the pace of business with no actual recession—at least not in 1969.

To see how today's credit squeeze is already beginning to work, consider actual examples of what's happening to people and businesses trying to borrow money:

In San Francisco, a woman employed by the same firm for 20 years went to her neighborhood bank for a $750 loan to pay taxes and renew insurance on her home. Although she was a long-time customer of the bank, her request ran into delays as the bank debated making the loan. She finally got the money after being told by the bank that earlier loans still outstanding now made her a "borderline" case.

At Detroit's Michigan Bank, relates a loan officer, a group of men wanted to borrow $700,000 for less than a year to build a resort complex. They offered the bank a 9 to 10 per cent interest payment to get the money. Michigan Bank turned them down. Reason: They were "out-of-towners." The bank is making loans only to depositors.

"NO," TO NONCUSTOMERS

From a big Chicago bank:

"Almost without exception we are turning down requests for credit from noncustomers. We see it every day, people going from one bank to another trying to get money.

"Even our good customers are not able in many cases to get what they want. The other day we had such a customer ask for a $500,000 loan commitment and we had to get him to scale it down to $300,000."

It's in housing loans that you find the most problems right now.

From one of Chicago's biggest banks: "We have withdrawn from the home-mortgage field. Investing long-term money at 7 per cent—the State ceiling on mortgage loans—does not make sense in today's money market."

Adds another Chicago banker: "The real squeeze hits the individual interested in buying a home for $30,000 and under. Homes in that price range are moving very slowly. FHA and VA loans are almost out of the question because the seller must pay loan fees above the mortgage rate of up to 10 or 11 per cent, and is frequently unwilling or unable to do so."

FEARED: CREEPING DEATH

Michigan's 7 per cent ceiling on mortgage loans has "just about killed" the home-mortgage market, says a banker. In Maryland, builders say their industry faces a "creeping death" unless mortgage ceilings are raised from the present 8 per cent to 9½ per cent.

In Houston, where construction is a major force in the economy, the president of a medium-sized bank looks for a "credit crunch" within 60 days:

"Banks just don't have the money. We're definitely going to see a slowdown in construction."

Consumer loans—to finance automobiles, home furnishings, medical bills—still are available nearly everywhere for good customers with good credit ratings.

Consumer loans are favorites because they usually carry a fancy interest rate—roughly 13 per cent on a simple interest basis—and they are short-term.

Says William Schenk, president of Riverside National Bank, outside Los Angeles:

"We are concentrating on retail-type credit. Real estate loans tie up too much money for too long. We don't know what will happen to interest rates in the future, so we are staying with short-term credit."

From J. J. DeLay, president of the Huron Valley National Bank in Ann Arbor, Mich.: "We are making consumer loans at the same rate as five years ago."

Bankers, though, are flatly turning down loans that smack of speculation.

From Roy Reierson, senior vice president of New York's Bankers Trust Company: "New York City banks generally are trying to funnel new loans into so-called productive purposes. They are taking a much dimmer view of bank lending for speculative purposes whether it be in real estate, or bonds or in bank loans that are necessary parts of mergers, acquisitions or takeovers."

Outside Los Angeles, a banker says he has had to turn down old customers because of the money squeeze. He notes: "We have had several requests for money for future land development. We told them that we just didn't think this was the time for such speculation."

Business borrowers are feeling the pinch, too—except perhaps for giant corporations, which apparently can command what money they need.

AN EXTRA-HARD LOOK

The small businessman finds his banker taking an extra-hard look at the borrowers' financial statement. Loan use is scrutinized. If the banker thinks the businessman is building up inventories of goods excessively, or is adding to his plant capacity just to beat price rises, chances are the loan request will be scaled way back, or turned down.

Small businesses having the most trouble are those ranging from a one-man TV-repair operation to a small firm employing 20 people. "These businesses need working capital," says one banker, adding: "As interest rates keep moving up they are hurt because they operate on a fine margin. A one-point increase in loan charges is really hard on them."

From a Los Angeles banker: "Much as we dislike doing it, we just are having to tell businesses that they will have to slow down for a while."

For farmers, especially those having tough going, tight money brings desperate times. Says Thomas R. Smith, president of First National Bank of Perry, Ia.: "Marginal operations are getting left at the post. This tight-money situation will push the marginal farmer out even faster than in the past."

Bankers generally shy away from talk about "hardship" cases brought on by the money squeeze. As one San Francisco banker puts it:

"I know of no hardship cases. If people look long enough, they eventually find a lender. It's the price they have to pay for a loan that's the hardship."

On the brighter side, several bank economists see signs that sky-high interest rates may ease up in months ahead.

Explains Beryl Sprinkel, senior vice president of Chicago's Harris Trust and Savings Bank: "Interest rates are very near their peak. For the first time in many years we are doing something to cool this inflation."

For some time yet, however, borrowers can expect loans to be harder than ever to get—and very costly.

WHERE TIGHT MONEY IS HITTING HARDEST

Home buyers

Mortgage money growing scarcer in many areas. Interest charges keep moving up. Some prospective home buyers being priced out of the market as loan costs soar.

Consumers

Most banks still making auto, appliance, other consumer loans—though borrowers are being more carefully screened. Marginal credit risks being turned down most places.

Speculators

Flat refusal on loans for all types of speculative deals—in stocks, land, risky ventures.

Corporations

Giant firms still have access to needed credit. Yet many large companies are running into trouble getting loans for mergers, acquisitions, other projects that don't boost production.

States

Serious problems in raising money faced, as interest rates reach legal ceilings in many States. Bond issues being canceled, spending projects deferred.

Small firms

Squeeze is really on. Loans are being rationed nearly everywhere—with old customers standing best chance of getting money.

Farmers

Loans harder to get and costliest in decades. Farmers pinched for credit to buy equipment, supplies, working capital.

U.S. Government

Burden of carrying the national debt mounts as interest rates rise. Treasury's borrowing costs recently hit highest level since the Civil War.

Lenders

Difficult time for many, despite high income from interest. Money squeeze makes it difficult to meet needs of old customers. Depressed bond prices mean losses for banks as they sell bonds to raise lending money.

Bond investors

Owners of bonds have watched prices slump. For new investors, however, yields available on high-grade bonds are the richest in more than 100 years.

PROJECT MONEYWISE HELPS GHETTO CONSUMERS

Mr. PROXMIRE. Mr. President, the Bureau of Federal Credit Unions has been operating a highly successful program called Project Moneywise. The purpose of the programs is to train selected residents of the inner city in the techniques of wise credit management. Those receiving the training frequently become officers of low income credit unions in their neighborhood, thus passing on the knowledge they have acquired to the residents of the entire area.

In this way, the program obtains a maximum leverage and a maximum impact for a relatively small expenditure of funds. The training is conducted by a small team of highly professional credit experts operating out of the Bureau of Federal Credit Unions. The team conducts an intensive 4-week training course in credit management in various cities.

The most recent city to receive the training was Miami, Fla. The Miami Herald and Miami Times recently published a series of articles about the impact of the training program in the Miami area. The course material alerted the residents of the Miami area to a number of deceptive and unfair practices carried on by certain merchants in the area.

Mr. President, I ask unanimous consent to have the articles printed in the RECORD.

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

[From the Miami Herald, Apr. 2, 1969]

GHETTO RESIDENTS VICTIMS OF CREDIT GYPS

(By Peggy Blanchard)

The bedroom suite costs $750 to a Negro woman; $500 to her white friend.

For the dining room set, the Negro woman was told it cost so much. But after a quick credit check found her to be a good paying client, she was quoted another lower price.

These are facts of purchasing things in Miami's ghetto areas; of the poor trying to live on credit the way the rest of America does; of paying higher interest rates and carrying charges—additional fees that can almost double the price of any given article.

Operation Moneywise: Breadbasket, a Bureau of Federal Credit Unions educational project is now in session in Miami. Its goal is to teach ghetto residents about these credit problems. The three-week program meets daily at the Culmer Neighborhood Center to teach area leaders to teach others to be better consumers.

Poverty, explained course instructor Joseph Bellenghi, is a never-ending cycle. Born poor, receiving substandard education and poor training for jobs the poor simply pass the cycle on to succeeding generations.

Because the poor are poor, they are automatically excluded from purchasing at major stores—companies that base their credit ratings on the amount of income a potential client receives.

"Their income is so low that they have to go to stores that cater to them," said Bellen-

ghi, "stores that say no money down and $5 a week.

"They have to buy on credit. It's a way of life. And, they must take the goods available on the credit available. The merchant dictates the terms. The people are actually buying both credit and goods. They buy unknown brands but the brands are not important to them. The credit is.

"It's a seller's market. Prices go as high as possible. The merchant says to himself, 'this is a dangerous business so I had better get as much out of it as possible before the customer stops paying.' Often the payments last longer than the merchandise."

Consumer habits are so predictable they fall into distinct patterns with individualistic names.

The people who have to buy from ghetto stores because that's the only place they can get credit are called "captive consumers."

"They don't have a choice of where to buy. They need help in stretching the dollar so they will get the most out of their money. You can't tell people what they can buy, but in working with them you hope that they will recognize good consumer habits."

"Compensatory consumers" account for all those television antennas seen sticking out of ghetto housetops and for all those expensive cars in poor driveways.

"These people are immobile. They can't move up socially, educationally or economically but they are surrounded by people who have made it. So, they engage a little game with themselves and reach up to pluck one of these symbols of success. Having a big car, for instance, makes them feel good within themselves."

Giving the poor more money through poverty programs does not help them get out of the credit bind, said Bellenghi. Even with more money the same merchants get the business—this time because of habit.

"Most people know they are being taken, but they don't know by how much," he said. "We must separate buying merchandise from buying credit."

The Federal Credit Union, a division of the Department of Health, Education and Welfare, and the program's sponsor, provides one way to separate buying credit from buying merchandise. By participating in a savings program, credit union members are provided with a credit base to use in purchasing. With that foundation, they need to combine good consumer practices.

"You," Bellenghi told the 25 persons attending "will have to provide immediate returns from your work. Don't promise these people a cabin in the sky unless you deliver it. Don't promise an alternative to their current situation unless you have a practical, workable one to show them.

"You have to keep up their enthusiasm and motivations while trying to find alternatives to their credit and consumer habits."

[From the Miami Herald, Apr. 4, 1969]

MIAMIANS HEAR HOW CUSTOMERS TAKE BAIT—WILY ADS LURE GHETTO CONSUMER

(By Peggy Blanchard)

A special kind of advertising is aimed at the ghetto consumer.

It offers merchandise at extremely low prices to be paid for in small weekly amounts, and generally a free gift is thrown in with purchases made.

Some 25 Negro community workers now attending the three-week Project Moneywise: Breadbasket program at Culmer Neighborhood Center were told Wednesday that these ads don't mean what they say.

The low income consumer, said Federal Credit Union project instructor Joseph Bellenghi, is the victim of what's known as "bait and switch" advertising—advertising that offers one thing to lure consumers in, then switches to a more expensive product once the prospective buyer is within reach.

Take the Washington, D.C. ad (typical of any part of the country) which offered three rooms of carpeting for $115; $1.25 a week.

Aside from the small print that said up to 260 square feet of this carpeting was on sale for the $115 and that the three rooms mentioned in the estimate included a hallway or stairs, the ad promised a free gift with each sale.

The only way the consumer could contact the company was through a telephone number. A call brought a salesman to the door with his sample book under his arm.

The quality of merchandise on sale, he would tell prospective customers, really wasn't the best available. The consumer deserved better so the salesman would sell him a more expensive carpeting, installation and padding. And, said Bellenghi, the buyer would end up paying several times what he originally intended to spend.

"These companies want to send somebody to your house," said Bellenghi. "When they get there, they're nice to you, they treat you with dignity and, they're going to sell you something before they leave."

"Being nice" to the potential client, he said, is almost equivalent to making a sale in most low income areas.

The sales contract calls for weekly payments purposely. Whether the peddler comes to the home to collect or the purchaser visits a store to pay on the bill, that's 52 additional chances to sell him on something new. And, more often than not this consumer will buy something else from the same merchant during the time he's paying off one bill. Payments may go on forever.

There's not much that can be done about the low income buyer's plight. It's a situation of "let the buyer beware."

"But you should learn a lesson. Don't fall for the bait whether it is offered through a knock on the door or advertisement or telephone call. You're dealing with hardcore professionals and you're amateurs. You know very little of how to deal with this type. Stay away from them," Bellenghi said.

[From the Miami Herald, Apr. 7, 1969]

SHOPPING TOUR SHOWS PRICES UNIFORM IN MIAMI MARKETS

(By Peggy Blanchard)

Comparison shopping trips climaxed the first week of the three week Project Moneywise program at Culmer Neighborhood Center. The idea, said home economist Mary Jane Kaniuka, was to see if ghetto supermarkets were more expensive than middle class markets.

The results showed that supermarket prices were fairly uniform in the various Miami areas shopped.

"I don't think Miami provides as much contrast as many cities," said Mrs. Kaniuka. A price offender discovered through Project Moneywise research was Kansas City. Washington, D.C., another offender, has now evened its prices out over the city.

"It's my opinion that prices in Miami are somewhat higher than those in Washington," she said. "But there isn't much difference between the high and low income stores here."

The comparison shopping list included canned goods, milk, meat and staples. Each student was assigned a store. Both chain markets and neighborhood groceries were included.

Considerable savings, the excursion revealed, could be obtained by shopping chain stores and buying house brand merchandise. House brands are available in the same amounts and approximately identical quality as brand name items. But the prices, the group discovered, can run about half the cost of name brands.

Speaking of the difference in green beans, Mrs. Maniuka said, "do you think your family would care if served a house brand? All beans are stringy if you have a bad year. The brand doesn't make a difference."

Mrs. Kaniuka also suggested that food be purchased with an eye toward its use. Bacon, if used as a seasoning, can be purchased in "ends" just as well as in slices. Such a change could mean a saving of about 60 cents.

She had other suggestions. Included were:

Shopping chain stores.

Not shopping the day welfare checks come out because prices could be hiked for that day.

Shopping specials. Lists should be made out according to weekly menus planned to correspond to grocery advertisements.

[From the Miami Herald, Apr. 9, 1969]

GYP VICTIMS GAIN SHARPER EYE

(By Peggy Blanchard)

When one of the students attending Project Moneywise: Breadbasket decided she was gypped in a furniture purchase William O'Brien was delighted.

He wasn't pleased because she had been "taken" on credit and insurance rates. He was happy, however, that after a few classes she had learned enough to know her credit contract was costing more than it should.

O'Brien's business is to teach the poor the good and bad points of credit.

A former Bostonian, accountant O'Brien wears two hats around the U.S. Department of Health, Education and Welfare. He serves as assistant director of the Federal Bureau of Credit Unions and heads the Project Moneywise program.

It is Project Moneywise: Breadbasket that brings him to Miami. The three-week study of consumer problems is in session at the Culmer Neighborhood Center. About 25 area residents are enrolled in the training program designed to teach them to be community financial aides.

There are four different Project Moneywise programs in effect throughout the nation. Each deals with general consumer education with the emphasis on purchasing durable goods; the special problems of the welfare mother and the senior citizen; and, consumer education stressing food.

All programs are several weeks long. Between 20 and 25 Project Moneywise programs are scheduled each year. The subject taught depends on the agency sponsoring the session.

Now being funded by the Office of Economic Opportunity's Office of Emergency Foods, Moneywise must stress food.

"The prime purpose of these programs is to get the low income person out of the clutches of the loan shark, away from the high rate money lender and unscrupulous merchant," says O'Brien.

"By the end of the course, students are angry enough to ask what can be done about these things. Then, we tell them to teach consumer education to anyone who will listen.

"These programs have been tremendously successful," he says. "But they are not being given in enough places. This course should be given in every city of the United States.

"Government agencies attack the cycle of poverty. They give the low income worker more skills to get more money. But if they do this without any consumer education, that jump in funding will be funneled off to the unscrupulous merchant."

O'Brien feels he and the team of experts are fighting a never-ending battle. But where Project Moneywise has already been taught, a lesson, a refresher course should be given to pass on new information and keep volunteers' enthusiasm up.

The fate of Project Moneywise is in the hands of the low income volunteer attending the course. How well it will succeed is directly proportionate to the volunteers' interest and his capability to pass the word along.

"You need a guy this low income man

trusts," says O'Brien, "someone from his neighborhood; someone who can tell this guy that he's being taken, in his own language. That's the only way it will work."

Once the ghetto dweller is convinced he's being taken, Project Moneywise equips its volunteers with a way to lessen chances the low income man will fall into the same trap again.

The Federal Credit Union system is set up in individual neighborhoods. The poor put small sums of money in, then when funds are needed for purchases, the Credit Union supplies the money at low interest rates.

This allows the income buyer to escape credit rates offered by the high priced merchants who make their living by offering the poor man credit. It also allows him to go to downtown merchants and purchase the item at the lowest price possible.

[From the Miami Times, Apr. 4, 1969]

PROJECT MONEYWISE—BREAKFAST TO BEGIN

R. Ray Goode, executive director of the Greater Miami Coalition, will speak at the opening session of a three-week consumer education course called Project Moneywise—Breadbasket.

Classes will be held at Culmer Neighborhood Center, 490 NW 11th St., Miami.

Although inadequate income and low educational levels are readily recognized causes of poverty, lack of knowledge and information about the various programs to help disadvantaged citizens also contribute to the problem. Existing Federal and State food programs will be discussed, as well as ways to overcome the obstacles that prevent the participation of needy families. The agenda for Project Moneywise—Breadbasket emphasizes the importance of good nutrition, meal planning, food buying, and stretching the consumer dollar.

Thirty-five neighborhood leader participants, who were chosen because of their community activities, are expected to return to their neighborhoods and pass along the knowledge and information they have gained.

Project Moneywise—Breadbasket is sponsored by the Office of Economic Opportunity and conducted by the Bureau of Federal Credit Unions to help limited-income persons obtain the most from their money.

THE CONSTITUTIONAL CONVENTION BILL—TIME IS RUNNING OUT

Mr. ERVIN. Mr. President, nearly 2 years ago the country was shaken by the revelation that 32 States had called for a national constitutional amending convention. In the wake of that disclosure, and the many scare stories that were soon given great publicity, it was clear that some order and good sense had to be brought into the picture. In an effort to place this controversy on a more meaningful and intelligent level, I introduced S. 2307 in the last Congress. Later in the session, the Subcommittee on Separation of Powers held hearings on it. After the hearings the bill was revised, and I reintroduced it on January 24, 1969, as S. 623.

I warned at that time that the crisis was not over merely because it has been quiet for a year. Thirty-two of the 34 petitions necessary for Congress to call a convention have been filed. Many State legislatures are meeting this year. Already one, Iowa, has begun to consider adopting a petition. The State senate has already passed a resolution. All signs are that Iowa will be number 33. The time for action by the Senate is slipping away. If all 34 petitions are in before Congress acts on the bill, a difficult job will be made almost impossible.

We should not be deluded by the idea that Congress can ignore these State applications. The Constitution requires Congress to call a convention. This is explicit in article V, and we are beholden by our oaths to observe the Constitution—both the parts we like and the parts we wish were not included. Those who oppose article V, those who oppose the idea of an amending convention, those who oppose any change in the reapportionment decisions—all are bound by the Constitution just as those who favor this amendment and the idea of a convention. Article V was included in the Constitution for the specific purpose of affording the States an opportunity to seek amendments which the Congress refused to propose. To refuse to call a convention when the constitutional requisites have been met would be a direct violation of the Constitution's mandate. The Congress cannot shirk its constitutional obligation to act merely because of a disagreement with the end that these States seek.

The bill I have introduced will provide much needed guidelines for Congress and the States. It is carefully drafted and it represents the best efforts of lawyers and Constitution experts. It is not a partisan bill. It does not make it easier or harder to propose a reapportionment amendment. It is constitutional legislation—it seeks to give meaning to article V of the Constitution without favoring either side of this current controversy. Those who are in favor of a convention like some parts of the bill, and dislike others. Those who are against the convention also favor some provisions of the bill and oppose other provisions. But increasingly public opinion recognizes that the issues cannot be ignored. As evidence of this feeling, the Washington Post of Saturday, April 12, called for Senate action on S. 632. I ask unanimous consent that the editorial be included in the RECORD at this point in my remarks.

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

CONSTITUTIONAL CONVENTION BILL

The Iowa Senate did not create much of a stir the other day when it passed a proposal for a national constitutional convention, although (if the House should concur) Iowa would be the 33d state taking such action. If 34 states join in this petition, it is widely assumed that Congress would have to call such a convention. And some people fear that a convention initiated solely by the states might abolish the Bill of Rights, create an elected Supreme Court and critically curb the powers of the Federal Government.

This venture aroused a great deal of alarm two years ago when the 32d state resolution was passed. Since then much of the steam has gone out of both the drive for a constitutional convention and the opposition to it. One reason for this is the careful work done by Sen. Sam J. Ervin Jr., which makes it evident that Congress would not need to call a wide-open convention even if two-thirds of the states should seek constitutional changes under the unused portion of Article V.

Another factor is the passage of time. The first petitions to Congress to call a constitutional convention came from 12 states in 1963. The purpose behind them was to deny the Federal courts jurisdiction over state legislative apportionment cases. Most of the petitions since then have asked for a convention to propose an amendment which would permit one house of a state legislature to be apportioned by some standard other than population. Are the two groups sufficiently related to be joined together into a single demand upon Congress? Another question must be raised about the validity of four petitions which apparently have not been received by Congress. Then there is the question as to whether the early petitions are still valid six years after they were voted. Under the terms of the Ervin bill designed to guide the submission of such petitions, they would remain in effect only four years.

Whether or not 34 petitions are ultimately received Congress ought to take up the Ervin bill at the first opportunity. It would tell the states how to proceed in petitioning for a constitutional convention and how to elect their delegates if such a convention should be called. It would make Congress the sole judge of whether the states had complied with the requirements in any instance. More important, it would confine the convention to the specific problem raised in the state petitions and the congressional call and give Congress discretion to kill any proposed amendment on other subjects by not submitting it to the states for final ratification.

In our view this safety valve is both proper and essential. Senator Ervin has noted that when the framers adopted two methods of amending the Constitution, one to be invoked by Congress and the other by the states, they did not intend to make one superior to the other. They did not invite the states to junk the Constitution and write a new one in a convention called by themselves. Both Madison and Hamilton make clear that the conventions which the states might initiate were intended for the proposal of specific amendments only.

We think Congress would be well within its rights in passing a law to implement this understanding. If it does so, most of the fear that has been associated with state-initiated conventions will evaporate. As a matter of policy it is infinitely better for constitutional amendments to be approved first by Congress and then ratified by the states, so that the will of the Nation as well as that of the states will be expressed. But as long as an alternative amendment procedure remains in the Constitution, and it is not likely to be repealed, Congress has an obligation to provide sensible guidelines for its use and not to risk a constitutional crisis after petitions from two-thirds of the states have been laid at its door. This would be a good bill for Congress to get to work on while it is complaining that it has nothing to do.

Mr. ERVIN. Mr. President, the differences of opinion over my bill should be debated fully on the Senate floor. This bill is too important to be dealt with by ignoring it. I will spare no effort to get this bill considered by the Senate, because I believe we cannot and should not shut our eyes to the responsibilities the Constitution has imposed on us.

CLARK MOLLENHOFF ON THE OTEPKA CASE

Mr. DIRKSEN. Mr. President, Clark Mollenhoff, of the Des Moines, Iowa, Register, has been a very responsible reporter on the Washington beat for a great many years. When the Internal Security Subcommittee of the Senate Committee on the Judiciary got started on the so-called Otepka case nearly 6 years ago, Mr. Mollenhoff gave a good

deal of attention to it, and, in fact, his attention continued all through the hearings. He was really one of the men who stood by Otepka. He verified the documentation and sources; therefore, he was correct when he wrote and when he spoke.

Clark Mollenhoff went to the Freedoms Foundation at Valley Forge on April 19 of this year and made a speech which was devoted to the Otepka case. There he set it out—line, page, and verse—in a way that really nails the matter down. I think it should be made a part of the literature on the Otepka case. I ask unanimous consent that the speech be printed in the RECORD.

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

ADDRESS BY CLARK MOLLENHOFF

I call attention to the case of Otto F. Otepka and the case for moderation, patience and conscientious hard work on the seemingly impossible problems that face our society. I hope the six-year ordeal of Otto Otepka is nearly over, and that within a few weeks he will be busy at the Subversive Activities Control Board. I hope his term on the Subversive Activities Control Board will be marked by the same thoughtful and balanced actions that have characterized his approach to his six years of trial.

I will not say that there were no moments of anger and bitterness for Otepka in the last six years, for I know there were many in his long and often frustrating battle with the big bureaucracy that is the State Department. But, Otepka managed to keep the bitterness to himself through most of the time, and he avoided the temptation to engage in a public name-calling contest that could have seriously damaged his case.

For the most part, Otepka confined himself to the recitation of the written record of the Senate Internal Security Subcommittee and the papers filed by his attorney, Roger Robb, in connection with his personnel litigation. Because he confined himself to the written reocrd he made it difficult for critics in the State Department to twist or distort his position by taking comments out of proper context. Because he kept meticulous records of his case and related matters, Otepka has been in a position to document the record of the activities of his tormentors.

Because of the care with which Otepka has proceeded the issues in his case have remained essentially the same as they were when the case started six years ago.

The State Department press office and other critics have found it difficult to create new side issues to distract from the basic case. In its simplest form this is the case:

The State Department political arm was trying to fire or demote Otepka because he told the truth under oath and produced three documents to prove he was truthful.

Otepka testified on lax security practices at the State Department and his testimony was flatly contradicted by a superior, John F. Reilly. This created a serious problem for someone had testified falsely under oath on a material matter dealing with State Department security.

Otepka was advised by the Senate subcommittee of the conflict in testimony indicating that either Otepka or Reilly had lied under oath.

Faced with that problem, Otepka said he could prove he was truthful and that his superior had told a false story. At the subcommittee's request, Otepka produced three documents:

1. A memorandum from Otepka to Reilly setting out the facts as Otepka had testified they were related to Reilly. It was initialed by Reilly.

2. A memorandum from Reilly to others setting out the information Otepka said he had conveyed to Reilly. This was signed by Reilly.

3. The personnel papers of a young woman. They contained no derogatory information. They were used to demonstrate how a case would be handled under normal circumstances.

Those documents were necessary to prove that Otepka was truthful. They dealt with a subject matter within the jurisdiction of the Senate Internal Security Subcommittee. None of those documents involved any national security secrets. Perhaps it would have been possible for Otepka to take those documents to his superior, Reilly, and obtain approval for delivering them to the Senate subcommittee for the purpose of proving that Reilly had given false testimony.

However, I do not believe it was unreasonable for Otepka to believe that he had a right to respond to the Senate Subcommittee request without clearing with Reilly. The Senate Subcommittee had the responsibility to find out who was telling the truth. Otepka had the information necessary to establish the truth and the right to prove his own veracity.

It was John F. Reilly who filed the charges of "insubordination" against Otepka for delivering the three documents to Congress. He also filed ten other charges that had to be dropped by the State Department after Otepka and his lawyer said they had evidence to prove that those charges were based on rigged evidence.

Reilly was in the group of officials who participated in the illegal and unauthorized wiretapping of Otepka's office telephone and the bugging of the State Department office. Reilly had a role in entering Otepka's office at night to ransack his desk and bore into the security safes to try to find grounds for firing Otepka.

This "get Otepka" drive failed to produce evidence but the pattern of harassment was the worst in police state tactics.

Reilly and others on two occasions lied to the Senate Internal Security Subcommittee in denying a knowledge of the eavesdropping on Otepka before they finally admitted it.

It was Reilly who filed the "insubordination" charge against Otepka to try to fire him. To me it was incredible that Secretary Rusk and other officials would permit Reilly to file the charges in the light of his pattern of "get Otepka" activity.

I started to work on the Otepka case in 1963 prior to the time Reilly filed the charges of "insubordination". I have followed it since then.

When I started work on this matter, I questioned Otepka extensively. I did not know him well then. I did not know if the facts he presented were accurate, nor did I know if there were other facts that might change the overall look of the case.

For weeks, and even for months, I was cautious about drawing any more than a few of the most limited conclusions on the Otepka case. Every investigation I made of Otepka's story demonstrated that he was accurate on the facts, and balanced in his perspective. In many respects he understated his case. Also, he was amazingly objective in viewing his own case, and in judgment about the men who were aligned against him. He had the restraint and judgment to draw lines between those who were actively engaged in illegal and improper efforts and those who seemed to be simply trapped into a position by carelessness or to present a united political front.

Despite the care with which Otepka related his case, I had difficulty in believing it was as one-sided as it appeared. I made every effort I could to determine if the facts were glossed over or omitted by Otepka or the Senate subcommittee. I questioned everyone I could at the State Department, up to and including Secretary of State Dean Rusk. Frankly, I did not want to believe the Kennedy Administration was either as incompetent or as cruel as it appeared to be.

In those first months, it was logical to ask if there was something in Otepka's record or his activities that in some manner justified the unusual methods used in the effort to get him. What crimes or suspicions of subversion could justify the use of wiretapping and eavesdropping on Otepka, the tight surveillance kept on his activities, and the ransacking of his office and security safes?

There was no hint from his critics that Otepka was believed in either subversion or crime.

Also, the other obvious question involved Otepka's rulings on security cases. I asked if there was any case showing that Otepka had been irresponsible in branding someone a security risk on the basis of flimsy or rigged evidence? No one could or would cite a case of irresponsibility or lack of balance in any Otepka evaluations.

Month after month I asked for the case against Otepka. In the end I concluded that there was nothing else against Otepka except the so-called "insubordination" in producing the documents for the Senate Subcommittee.

There were insinuations that Otepka was a "right-winger" who deserved no defense. At State officials hinted that Otepka was a "McCarthyite" but they shut this off fast when I asked them for specific details after explaining that Otepka did not know McCarthy, and recalling that Otepka had recommended clearance of a number of persons in controversial cases.

The undocumented State Department line apparently went over with some reporters. A few reporters wrote stories crediting the Kennedy Administration with taking a necessary step in disciplining Otepka to crush out "the last vestiges of McCarthyism" at the State Department. They gave no facts, but with this broad smear engaged in the worst type of McCarthyism against Otepka. I asked several if they had any facts linking Otepka to McCarthy. They had none.

I asked several of my colleagues if they knew that Otepka had recommended the clearance of Wolf Ladejinsky in 1954 at a time when Agriculture Secretary Benson was ruling that Ladejinsky was a security risk. Most of them did not.

I reviewed the Ladejinsky case in which the Benson decision became a great cause for liberals, and with good reason. Benson's decision was an arbitrary and irresponsible one, as was later established. I had a major newspaper role in correcting the Ladejinsky decision, but I had many helpers and editorial supporters in the liberal press.

I tried to demonstrate that the Ladejinsky and Otepka cases were similar. Both men were career public officials who were being persecuted by political decisions with all of the power of a cabinet office being used to enforce an unjust arbitrary decision.

The American Civil Liberties Union and other liberal groups rejected my efforts to stimulate their interest in the Otepka case. I argued that true liberalism demanded that Otepka, a conservative, should be defended as stoutly as Ladejinsky, a liberal, was defended.

For the most part that plea was futile, even though the ACLU did enter the case briefly to protest the proceedings in the State Department appeal.

The State Department hearing was a rigged political court to give Otepka a pro-forma hearing before Rusk ruled against him and demoted him from a $20,000 job to a $15,000 job.

Roger Robb, lawyer for Otepka, protested the hearing form, and sought witnesses to establish a frame-up of Otepka. His pleas were rejected by the hearings officer, and by Rusk.

My disappointment with the failure of

liberal organizations to come to Otepka's defense has been matched by my disappointment in some of my liberal press colleagues. We worked together on the Ladejinsky case, and they were eager to help. No amount of persuasion could move them to examine the even greater injustice of the Otepka case.

I realize the record of the Otepka case is voluminous and despite the reports of the Senate Internal Security Subcommittee has remained controversial. This did make it a difficult case to unwind, and it made it easy for State Department spokesmen to distort the record and to snip at Otepka from the protecting cover of anonymity.

There may be some malicious and intentional distortions by some segments of the press, but I prefer to hope that the mass of distorted reporting on the Otepka case was a result of carelessness and a lack of diligence on the part of overworked State Department reporters. Certainly, the voluminous record made reporters easy prey to the distorted State Department backgrounders.

I realize the broad range of direct and subtle pressures brought to discourage a defense of Otepka, for I met most of them at some stage from my friends in the Kennedy Administration. One put it crudely: "What are you lining up with Otepka and all those far-right nuts for? Do you want to destroy yourself?"

There were also the hints that I could be cut off from White House contacts and other high administration contacts if I continued my push for the facts in the Otepka matter.

When I tried to discuss the facts and the unanswered questions, there was no interest in either the facts or the merits. They simply wanted to shut off reporting and comments on an embarrassing subject.

Fortunately there have been a few people who have continued to work on the case and to report something besides the State Department versions. I would pay special attention to Holmes Alexander, Ed Hunter, Edith Roosevelt, and Willard Edwards.

I want to pay special tribute to Willard Edwards. His conversation with Richard M. Nixon, the Republican candidate, set the stage for the naming of Otepka to the Subversive Activities Control Board. Edwards reported that Nixon intended to see that justice was done for Otepka, and I had a later conversation with the then Candidate Nixon in which he confirmed his conversation with Willard Edwards and again expressed his interest in straightening out the Otepka case.

There was some disappointment that Secretary of State William P. Rogers did not take direct action to reinstate Otepka as well as several of Otepka's supporters who were victims of the political knife under the Kennedy and Johnson Administration. But, since there has been no change in the top legal, personnel and press jobs at the State Department, I guess it should not be surprising if Rogers received one-sided briefings and actions recommendations that represented anything but justice for Otepka.

I had believed that Secretary Rogers—a former congressional investigator of subversion and a former Attorney General—should be able to analyze the Otepka case. But, he has been busy with the affairs of dozens of alliances, and in the absence of other evidence, I prefer to think his unfortunate letter on the Otepka case was a result of the work of holdover subordinates.

Fortunately, President Nixon stepped in to make things right with a top level vindication of Otepka through the appointment to the Subversive Activities Control Board.

There have been some efforts to stir an anti-Otepka drive in the Senate on ground that Otepka's association with some John Birch Society members made him unworthy of the SACB appointment. This guilt by association technique ranks with the worst "McCarthyism". There is the possibility that some Senators may try to stimulate an anti-Opteka move and some will almost certainly vote against his confirmation. This is their right.

If any opposition Senators conduct the research necessary to properly discuss this case, I have an idea that they will back away from any direct confrontation because it would focus national attention on one of the most serious black marks in the Kennedy Administration. Any discussion of the case is certain to point up more vividly than at any time in the past the sordid story of eavesdropping, surveillance, safe-breaking and other police state methods used by the Kennedy administration in the "get Otepka" drive.

I have been sorely disappointed over the press handling of the Otepka case over the period of the last few years. In seeking to analyze the reasons, I have concluded that much of the fault must be in the superficiality of the news media in dealing with complicated controversial issues.

The superficiality that marked the coverage of the Otepka case can also be found in an examination of the rise of the late Senator Joseph McCarthy to a position of national prominence on a record that included the wildest irresponsibility. The press *made* Joe McCarthy through its initial superficial and noncritical handling of his irresponsibility. It was impossible for a reader to tell fact from general smear. In the same manner the press permitted anonymous State Department people to smear Otepka.

Only when the newspapers became alarmed and enraged in a careful investigation and study of the details of the McCarthy record was there a public understanding of McCarthy as the irresponsible rogue he was.

Unfortunately, the press engaged in what I am afraid is a characteristic over reaction on the issue of loyalty and security. The fact that Joe McCarthy was wrong in engaging in a general smear of public employees on charges they were disloyal or security risks *did not mean that there are no persons* in the United States Government *who are disloyal.* Yet, much of the press reacted in a manner that indicated there was no problem of loyalty and security and that anyone who suggested it was somehow off on a kick of "McCarthyism."

This type of an attitude is as destructive as are the equally irresponsible antics of a Joe McCarthy. It disregards the fact that there has been a constant problem of protecting national security interests. I assume there will be a problem until such time as the United States, the Soviet Union, and all of the other nations of the world can give effective guarantees that there will be no more spying. It is hardly necessary to add that I do not believe that there is any possibility of such a condition arising in the near future.

In the meantime, the government must try to manage a security program for the protection of our government and our people. The press must recognize this as a difficult problem with some inherent conflicts between personal liberty and general welfare. The system must be administered in a fair manner rejecting pressures to disregard security standards for political favorites and also the temptation to bar persons with otherwise fine records because of flimsy evidence or overly suspicious reasoning.

Since the press is our life line of information in a democracy, it is vital that newspapers learn how to deal with the major complex controversies of our age in a manner that enlightens rather than enflames the public. What I have said of this issue of security standards can also apply to our other major problems—

Obtaining a reasonable balance between the rights of defendants and the need for an orderly society through firm law enforcement.

Creating and maintaining the needed military-industrial complex without letting it control the nation or warp our institutions.

Establishing the rights of working men to bargain for fair wages and working conditions without permitting their leaders to destroy businesses, the government, or other institutions in our society.

These are only a few of the major problems that face our society today, but they are large enough and representative enough to demonstrate that the newspapers have a large responsibility. I hope they will learn from the past errors, and find a way out of the pattern of superficiality that has marred the past.

There would be no purpose in identifying those news organizations who through negligence or incompetence did not come to grips with the enormous wrongs of the Otepka case in the years that case has been pending. I was pleased with the general fairness of most of the coverage of the Judiciary Committee hearing on the Otepka nomination to the Subversive Activities Control Board. I hope that it means that there will be more thought to depth investigation and balanced coverage the next time such a case comes on the horizon.

THE SHOE INDUSTRY

Mr. DIRKSEN. Mr. President, when we contrived the Republican platform in 1968—and I had some hand in its preparation—we indicated that we would take a sensible and forward-looking position on the whole subject of foreign trade.

The Secretary of Commerce, the Honorable Maurice Stans, is on a trade mission to Europe at the present time. According to the reports I have seen, he is consulting with leading trade figures in various countries in Europe. I think this is a fine thing that the Secretary is doing, and I commend him for his efforts.

In that connection, I ought to call attention to the distressing situation that confronts the shoe industry of the country. I have more than a casual interest in it, because there are 42 shoe factories in the State of Illinois, they are located in 25 different cities, and, of course, their progress and their prosperity are contingent on the conditions that confront and beset the industry.

In 1968 we lost 22 percent of our domestic market to imported shoes. The shoe industry employes 230,000 people, and there are 1,100 factories scattered in some cities and towns in 40 States of the Union. The early figures for 1969 will indicate that 30 percent—which is getting close to one-third—of our entire domestic market is going to be surrendered to imported shoes unless something is done.

The key factor in all this problem is, of course, the wage scale. In the United States, the hourly wage scale is $2.62. In Japan, including fringes, it is $1.04. In Italy, it is 57 cents. In Spain, it is 55 cents. In Taiwan it goes as low as 15 cents an hour. These four countries sent 90 percent of all footwear sent to the United States last year.

Obviously, an industry which pays a wage of $2.62 to employees working in the domestic shoe industry cannot meet that kind of competition. They use identical equipment and raw material costs are not major cost items.

1968 imports amounted to 175 million pairs of leather and vinyl shoes. That is the equivalent of 64,200 jobs. Cut it as thick or as thin as one will, we have just exported over 64,000 jobs abroad. We get

to the wailing wall and make our lamentations about the ghettos and the conditions in the ghettos, and about the absence of work opportunity. This is the type of work that can be done by unskilled and semiskilled people. We are getting pretty close to the fringes of the ghetto. Perhaps we ought to think about doing something about it.

I earnestly hope that after Secretary Stans gets back to this country and makes his recommendations, we can get our teeth into the problem and see what we can do about a domestic industry that is being ground to the wall.

BASES IN SPAIN

Mr. FULBRIGHT. Mr. President, one of the most concise and perceptive analyses of the Spanish base affair, which has received much mention in the press recently, was that written by Mr. Ward Just and published in the Washington Post on April 24, 1969, entitled "The Bases Issue Seen From Spain." Mr. Just, a member of the staff of the Washington Post, is, as we all know, one of the most experienced newsmen on the American scene.

I ask unanimous consent that the article to which I have referred be printed in the RECORD.

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

THE BASES ISSUE SEEN FROM SPAIN

(By Ward Just)

No noncommunist country in Europe has been so isolated from what we are pleased to call the Free World than Spain. Barred from NATO, barred from the Common Market, reviled by liberals everywhere for the endurance of the Franco regime, Spain continues to look inward. Spasms of political reformation are followed by suppressions. The Spanish, anarchists at heart, plot long in cafes while the economy inches forward, the middle class grows, and memories of the war recede. She accommodates 19 million tourists a year (not a misprint), yet remains on the outside looking in—a condition which pleases many Spanish. Habitually distrustful of outsiders, Spain is now making her own evaluation of the four obsolete and obsolescent bases she leases to the United States. The lease, it seems, is not a one-way street.

In Congress and in the American press, the debate has centered around the Pentagon's role in negotiating the renewal. A secondary question has been the matter of alliance: do the bases, either in fact or in theory, commit the United States to Spain's defense? If they do, Senator Fulbright and others are arguing, then there ought to be a treaty. Treaties, as all the world must know, are ratified by the Senate. And no one here loves General Franco.

The quid pro quo most often mentioned is $150 million or so in military hardware, distributed to Madrid over the next five years in exchange for the leases. It is an old business, the "lease," for it requires the Spanish flag to fly over the bases and in language quite vague commits the United States to consult with the Franco regime if the bases are ever used. In fact, in the Lebanese crisis in 1958 and the Cuban missile crisis in 1962, the bases were "activated" with no prior notice to Madrid. That, according to a Spanish official here.

The core of the opposition to the bases (there are three Air Force bases, and one Naval base) here rests on two points: the first is that they are not militarily essential, either to the defense of Europe or the defense of the U.S., and the second is that they have the effect of propping up the Franco regime, now in its thirtieth year and bound to yield sometime soon. All this has had an extremely interesting effect in Madrid, which has its own split between liberal civilians and conservative generals. There is also something known as Spanish pride, which one trifles with at peril.

"We must not accept a 'dictat,'" said one recent editorial in *Ya*, a Madrid daily which reflects General Franco pretty much as Ronald Ziegler reflects President Nixon. "Anything but that, including the complete termination of the agreements renewed in 1963. Those agreements—as they were stipulated—have become too burdensome for us. Long range nuclear missiles have radically changed the situation from what it was when the agreements were subscribed. An alliance on equal grounds may be appetizing, but not the posture of an acolyte. We will not become a satellite country."

Going further: "Without adequate counter-measures against the dangers involved"—and here *Ya* means a signed treaty—"we believe that Spain should not renew the agreements with the United States. Analyzing the pros and cons of 15 years of 'agreements,' Spain has derived from them less advantages—many less—than the other side."

That last is arguable, since the bases have been at least one factor in the one-plus billion dollars in aid that has gone from the United States to Spain since 1950. But, as Spanish here put it, what kind of arrangement is it when the United States can rent land on which to emplace its weapons. Either there is a mutual security arrangement or there is not. As a Spanish Embassy official here puts it, it is "inadmissible" to lease the bases without regard "for the risks the arrangements would entail for Spain." Quite correct. It is not enough, as the Pentagon argues, that the mere presence of American troops is an effective guarantee. If that is the intent, then there ought to be a treaty. "The 'era of rentals' has ended," *Ya* said, a bit pretentiously but accurately enough.

There is probably no regime in the world that provokes such passion as that of General Franco. He is something of a relic, with his civil guards and his censored press, something of a sore thumb on the manicured hand of Europe, and no matter that his regime differs not a whit from some of the most eminent of America's allies. The Spanish Civil War, one of the great confused ideological struggles of all time, is still the benchmark of good guys versus bad for a good many people, here as in Europe. A number of Western observers in Spain have argued that the American presence, symbolized by the bases, has been helpful in nudging the regime from right to center. It is argued that the modest liberalization that has occurred is the result of American influence, and part of it the personal contact between the American military and the Spanish. Perhaps. It is a plausible argument.

With some heat, Spanish officials here and in Madrid categorically reject the notion that the bases, or the 10,000 Americans which now reside on them, would ever be used in the event of internal disorders in Spain. "Gratuitiously offensive," is the way one Spanish official here put it, "and detrimental to Spanish sovereignty."

One recalls the 1936 Spanish war, which became a laboratory for experimentation by the Soviet Union and Nazi Germany, among other nations. The test for the bases ought to be their use to the United States. If they are found to have no use, then they should be abandoned. If they are found to be essential to American or European security, then they should be negotiated, and the negotiations should be in the context of a treaty. But the Senate ought to look very carefully at the implications of a treaty now with Spain, as the Franco era draws to a close with no certain successor. If any people in the world have the right to work out their own affairs without interference it is the Spanish. It did not happen that way the last time.

THE UNWINNABLE WAR

Mr. FULBRIGHT. Mr. President, Mr. Henry Brandon has been for many years interpreting the American scene for the Sunday Times of London. He is intimately acquainted with the events and personalities of recent years, and has the advantage of greater objectivity about our affairs than many of our own observers. I believe that his account of the Wilson-Kosygin meeting and its significance for us and for the war in Vietnam is worthy of our attention.

I ask unanimous consent to have printed in the RECORD the article entitled "Hot Words on the Hot Line—the Unwinnable War, Part 2," written by Henry Brandon, and published in the London Sunday Times Weekly Review of April 20, 1969.

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

HOT WORDS ON THE HOT LINE—THE UNWINNABLE WAR, PART TWO

(By Henry Brandon)

(NOTE.—Downstairs at Chequers, Wilson stalled for time with Kosygin. Upstairs an American envoy held the phone out of the window so that Washington could hear the motor cycle escort preparing to take Kosygin away. It was a desperate last-minute bid for peace in Vietnam. It failed—with angry recriminations between Wilson and Johnson.)

Harold Wilson had great expectations of Premier Kosygin's visit to London in February, 1967. He hoped it would provide an opportunity for him to step on to the world stage as a mediator between the Americans and the North Vietnamese. He had known Kosygin for years, and felt he had something of a special personal rapport with him.

In Washington President Johnson was not only tired of volunteer mediators, but ever since Mr. Wilson had dissociated himself from the bombing of oil installations near Hanoi seven months earlier, he had ceased to be considered a robust ally. His self-appointed mission with Kosygin only aggravated the distrust.

Yet it was difficult for Johnson to say no to Harold Wilson: it would have been very awkward if it had become known that the United States would not try out such a special opportunity for peacemaking.

The chosen liaison man was Chester Cooper, a short, bushy-eyebrowed, slightly Chaplinesque member of Ambassador Averell Harriman's staff. He had "low visibility"; he would not be spotted by the Press. Thanks to his dry humour and his easy way with the British, he was well liked in London from his CIA days, between ten and twelve years earlier. He had the subtle mind needed for this task—yet, as it proved, he did not quite have the necessary White House influence.

Cooper had in fact just visited London, early in January, to brief the Prime Minister and George Brown, the Foreign Secretary, about the fruitless Polish peace feeler, "Marigold." On a visit to Moscow the previous November George Brown had transmitted, on behalf of the Americans, the so-called "Phase-A, Phase-B" proposal (which was to play such a pivotal part in the events of the next few days) to Hanoi via Moscow; excitable as ever, he was infuriated to learn from Cooper that he had not been the only one to do so.

Wilson was also annoyed that the Americans had not informed them sooner of the

Polish mission. The fact that the Americans were still not sure that the proposal had reached Hanoi via Warsaw was no real comfort to Brown.

Shortly before Kosygin's arrival, Harold Wilson asked Dean Rusk, the U.S. Secretary of State, whether Cooper could return to London to bring him fully up to date on the American negotiating position. Rusk agreed, and Cooper flew back to London on February 3. He was instructed to hold nothing back from the Prime Minister, and to provide a channel of communications with Washington.

Before he left for London, Cooper had seen three drafts of a letter from Johnson to Ho Chi Minh, along the lines of the Phase A-Phase B proposal. Phase A provided that under a prior secret agreement the US would stop the bombing "unconditionally." Phase B(i) provided that the North Vietnamese would stop the infiltration of men; Phase B (ii) that the US, as a corollary, would refrain from sending any additional troops to Vietnam. It was also understood that the US would agree to the first part of this agreement only if Phase B (i) was accepted in advance. The key to this proposal, the time lag between Phase A and Phase B, was vaguely a "reasonable period," understood to be from about ten days to no more than two weeks, in which Hanoi could determine that bombing had stopped under Phase A and not simply because of technical or weather conditions.

The President had not yet made up his mind to send this letter to Ho Chi Minh. It was a difficult decision: he had never before taken such an initiative. What Cooper did *not* know when he left was that a letter had finally been sent, but it was an uncompromising letter. It said the President would stop both bombing and further build-up of US forces but only after being assured that infiltration into South Vietnam had ceased.

The letter was delivered by the American Charge d'Affaires in Moscow to the North Vietnamese mission there on February 8. The idea, according to some, was to pre-empt the Wilson-Kosygin talks and to forestall the possibility, which the State Department suspected might be a probability, that Wilson would sign his name to Kosygin's formula—the old theme song that there could be talks if only the U.S. stopped the bombing. Others suggest a simpler motive. Negotiations by proxy are not a practical proposition. If there were to be negotiations, Johnson wanted to be the one to conduct them.

The Prime Minister was full of high hopes about his meeting with Kosygin. George Brown was less so, and Wilson's hopes sank when the Russians announced their delegation. It did not include Foreign Minister Gromyko nor a known Asian expert. It looked more like a goodwill than a business visit.

Undaunted, the Prime Minister asked the American Ambassador in London, David Bruce, if Cooper could stay on for the duration of the Russian visit. The White House sceptically agreed. Walt Rostow, the President's Adviser for National Affairs, considered Cooper a dove and therefore an untrustworthy emissary.

Kosygin arrived on Monday, February 6, on the eve of the ceasefire in Vietnam over the Tet holidays: this gave special meaning to the timing of the visit. Wilson met him at the airport and as they rode into London Kosygin said that he wanted to discuss international problems including Vietnam. But, and Kosygin put special emphasis on it—only in *private*, not in plenary session.

Wilson was greatly encouraged. On Tuesday, when the talks began, he put forward the ingenious "Phase A-Phase B" proposal, under the impression, which Cooper shared, that this was still Johnson's policy.

Kosygin at first countered by restating Hanoi's known position. He suggested that an interview given by Hanoi's Foreign Minister to the Australian journalist, Wilfred Burchett, was a genuine attempt by Hanoi to get negotiations started, and that it represented a major concession. Talks could begin three to four weeks after a bombing halt.

Contrary to Washington's expectations, the Prime Minister loyally insisted that the best approach to negotiation was the Phase A-Phase B proposal and Kosygin reacted by saying it was "a possibility." Wilson held to his position until finally, on Friday, in private session with only two aides on each side present, Kosygin said, "You keep telling me about this two-phased proposal—put it into writing." The proposal seemed new to him though it had already been given to the Russians by George Brown when he met Mr. Gromyko in November.

For the first time the Russians were showing a real interest in getting involved in backstage peacemaking. Kosygin had also told Wilson explicitly that he was in touch with Hanoi, that he thought Hanoi was in a receptive mood, and that he was worried that if nothing happened the Chinese would again be able to assert their influence on the North Vietnamese.

The Chinese, said Kosygin were itching to send volunteers following the declaration agreed on in Bucharest the previous July and they, the Russians, were doing their utmost to prevent it. Kosygin also left the impression with his hosts that he was taking certain risks by facilitating communications with Hanoi because others in the Kremlin were afraid that failure of such an initiative would give Peking an opportunity to attack the Soviet Union for disloyalty to the North Vietnamese ally.

After lunch on Friday Chester Cooper and Donald Murray, then Asian expert in the British Foreign Office, sat down together and drafted a short memorandum setting out how it was proposed to give Kosygin the Phase A-Phase B offer. Around 4 p.m. Cooper sent the text to Washington, confident of immediate approval. After all, it was within the fairly loose instructions with which he had left Washington. The memo did, however, contain a sentence to the effect that nothing would be done until a reply was received.

Cooper was so sure of Washington's approval that when by 7 p.m. no reply had arrived, he decided to go to the theatre to see "Fiddler on the Roof." Harold Wilson was equally confident that the memo conformed to the American position; it had been drafted by Cooper, the special emissary, and he had discussed the whole matter with Ambassador Bruce almost every evening of the week. In addition Wilson was under the impression that Dean Rusk's approval had come in.

Harold Wilson, his copy of the memo in his pocket, went to the Soviet Embassy to attend an early evening reception in Kosygin's honour. At an appropriate moment he handed the draft proposal to the Russian who seemed confident that it might open the way to progress. When the Prime Minister later that evening met Bruce and Cooper, both were hopeful that the cause was advancing.

At least, they were until 10:30 p.m. Then Walt Rostow called Wilson direct on the "hot line" from Washington and told him, brusquely, that the terms originally presented were no longer on offer. Wilson was ordered, in no uncertain terms, to inform Kosygin of this forthwith. To Wilson, since then, Rostow has always been Johnson's "Rasputin."

What most perturbed the Johnson Administration at this point was that increasingly heavy enemy supplies were reported to be moving south and that troop concentrations had been spotted poised along the Demilitarised Zone. So that when the Cooper draft arrived in the Situation Room in the White House it aroused grave misgivings.

Wilson twice during the week had been asked by the President (through Cooper) to tell Kosygin that the increased infiltrations violated the current Tet truce, and should be stopped immediately; and he had done so. Kosygin had replied that he had no information on the violations and added that he did not believe Washington. He had not specifically confirmed that he had transmitted those warnings to Hanoi, but the Prime Minister assumed that he had done so.

The substitute formula that was now flashed over the teletype machine from Washington had more the quality of an ultimatum than an offer to negotiate. A time interval between Phase A and Phase B had become unacceptable to the President; and infiltration had to stop before he would halt the bomb. He "will" agree to halt the bombing only "as soon as" infiltration from the North "will" stop.

Walt Rostow, Defense Secretary Robert McNamara, even the President, sat that night redrafting the written terms to put to Kosygin in London. Rostow was insensitive to the theme; McNamara was inexperienced in diplomatic drafting; and the President, who focused for the first time on the intricate language was quite appalled by the concession to Hanoi entailed by the proposal Wilson had already put. At the same time no one in the White House realised quite what they were doing to Harold Wilson.

Hopping mad with embarrassment, Wilson had to send his private secretary that night to catch Kosygin, before his train left Euston for Scotland, to hand him the new message. Kosygin never returned to the Phase A-Phase B proposal again.

Later, at about 11 p.m., Wilson, still angry, got on to the President over the "hot line." Johnson repeated that his offer had been withdrawn. The Prime Minister complained bitterly about this abrupt volte face, and the "hot line" began to run at a higher temperature than usual.

The only explanation Wilson could see for this reversal, which had badly undermined his credibility with Kosygin, was that either he had not been kept properly informed or the hawks had won the upper hand, or somebody on the American side "didn't know their asses from their elbows." In reply, the President put all the emphasis on the gross breaches of the truce and the heavy movement of supplies south, which he and the Joint Chiefs of Staff thought endangered the security of American troops.

Walt Rostow, on the phone, had accused Wilson of precipitateness in handing the original memorandum to Kosygin before it had been cleared in Washington. This only made Wilson angrier, for he had every reason to believe that it represented the American position. Hadn't Cooper and Bruce, who both knew what it was all about and neither of whom could be called a fool, seen all the cables? It was not surprising that he had assumed approval of Cooper's message in Washington to be only a formality. (Cooper, too, became the target of Washington's ire, and was threatened with dismissal until it was found that he had not exceeded his instructions.)

WILSON DECIDES ON ANOTHER TACK

Undaunted by this embarrassing setback, Wilson decided on another tack: he drafted a new proposal for an extension of the bombing pause, conditional on Hanoi's agreeing to halt infiltration immediately. It was put into final form by Cooper and Sir Burke Trend, Secretary to the Cabinet, and transmitted to the White House on Sunday morning. It was to bring the crisis between London and Washington to an angry climax.

In Washington, as he met his advisers to decide how to reply, President Johnson was in one of his worst moods. He was annoyed by the whole Wilson attempt to negotiate with Kosygin, and he suspected him of having done so more in his own political in-

terests than Johnson's. Nor did he like negotiations by proxy, for it put his own good faith somehow into question. He complained that he always had too many volunteer intermediaries and negotiators.

At one point he asked rhetorically, "If you knew Harold Wilson's outlook would you want him to negotiate for you?" He did not want to be trapped into another "goddam pause," and snapped at those who pleaded for the extension by saying, for instance to Nick Katzenbach, the Under Secretary of State: "Nick or someone else is going to tell me . . . but I am not buying any of that"; or, "Bob McNamara got me involved in that 37-day pause and here he's going again. I wish I had not followed his advice the first time. . . ."

But some of those present had the impression that in fact they were debating a decision which the President had already taken. Johnson always became angry if he felt that he had to act on some peace feeler on a ten-to-one chance, and always felt that he was being conned into something. He usually agreed to take the chance, but it took him to the limits of his patience.

Cooper, meanwhile, had been installed that Friday in a hide-out on the second floor at Chequers, in a room once used as a prison. From there he had a direct telephone line to the White House. Down below, Wilson and Kosygin began their last meeting. George Brown, who in the last three days had offered his resignation about four times, was not present.

It began to get late and still there was no word of Washington's willingness to extend the bombing pause. Dinner was served specially slowly, and Wilson sat at the table secretly nursing his proposal, spinning out conversation about the Common Market and what it might mean to the Soviet Union.

Upstairs Cooper was getting impatient. He had promised Wilson an early reply, and Walt Rostow (who had been rude and impatient) became contrite and repeatedly promised one as soon as possible. By 10:43 p.m., when nothing new had come through Cooper called the White House again. Still no decision. Cooper called yet again, and got Rostow on the phone.

But downstairs they had long passed the coffee stage. Kosygin was ready to leave and Wilson could stall no longer. As he said goodbye he told Kosygin that he might have a message for him from the President, and suggested that it would be better if he did not go to bed immediately on arrival at Claridge's. The police escort revved up their motor-cycles and upstairs Cooper, in utter desperation, leaned from the window and held out the telephone receiver as far as he could so that Rostow, across the Atlantic, could gain a proper sense of urgency from the spluttering noise of the departing outriders.

Finally, at 11 p.m., Cooper was told that the President had agreed to delay the bombing resumption. The message was being drafted and would be awaiting Wilson on his return to 10 Downing Street. At 12:15 a.m. Wilson, Ambassador Bruce and Cooper met there to read it and decide what to do. Officially the Tet truce had ended some hours earlier on Sunday morning and the fact that the bombing had not yet been resumed meant that an unofficial extension was already in progress.

Johnson's message now confirmed an official extension till 10 a.m. Monday morning London time. That gave just enough time for Kosygin to leave London before the resumption of the bombing. He was scheduled to leave at 9:30 a.m. Johnson remembered how offended the Russians had been when he ordered the bombing of North Vietnam while Kosygin was in Hanoi, and at least wanted to avoid offending the Russian and the British Premiers.

As an extension it was disappointingly little but Wilson decided to tell Kosygin nevertheless. He and George Brown went to Claridge's at 1 a.m., armed this time with the message signed by Ambassador Bruce on the stationery of the American Embassy to authenticate it. Wilson wanted to insure against another misunderstanding with Washington.

The Russian leader's reaction to that after-midnight meeting at Claridge's was not encouraging. He interpreted the message as coming close to an ultimatum. Seven hours for Hanoi to reply, he felt, was too little. He said he would pass it on but, he added, he did not think it would be acceptable. It simply did not leave enough time. Wilson then offered to try for a further extension if he, Kosygin, on his part, would press Hanoi for an early reply.

Wilson left Claridge's at 2 a.m. By the time he returned after a few hours sleep to accompany the Russian visitor to Gatwick Airport he was able to inform him that Washington had agreed to another five hours' delay. Kosygin sounded depressed. He thought this still did not leave enough time for a reply and predicted that Hanoi would turn the offer down, especially since it could not afford to withhold completely all supplies from its forces in South Vietnam. Kosygin took off from Gatwick, there was no further word from him, and bombing was resumed.

The peace initiative had collapsed—not only for Wilson, but also for Kosygin.

There is indeed some reason to believe that the message of the extension of the truce was never transmitted from Moscow to Hanoi after Kosygin had forwarded it for retransmission to Ho Chi Minh. His colleagues must have decided that he had not done well enough and that it could only create embarrassment.

THE DILEMMAS THAT RUSSIA FACED

Yet to most of those involved in all the various peace feelers, this seems in retrospect perhaps one of the most significant for the Russian willingness to become involved.

Off and on the U.S. had tried hard to interest them, but they steadfastly refused, and simply repeated Hanoi's position, which was that an unconditional halt in the bombing would lead to negotiations. But Johnson was too soured by the failure of the 37-day pause to listen to that.

The Russians had their problems. There was clearly a great difference between their ignoring Fidel Castro and taking their own missiles out of Cuba, and what sway they could exercise over the North Vietnamese. Not only was their influence limited with Ho Chi Minh, but the Chinese too had their supporters in Hanoi's politburo.

The Russians let it be known in Washington that they had had only limited scope for maneuver, and were facing several dilemmas. They did not want to promise the Americans anything they were not sure they could deliver; nor did they want to give the impression that they were trying to force something down North Vietnamese throats or that they were letting down a Communist ally. They knew that the Chinese were only waiting to jump on them with propaganda accusing them of betraying the Communist cause.

They were also confused, just as Hanoi probably was, by the credibility gap that Johnson created for himself. In the beginning, the Kremlin probably accepted that he wanted to carry on in the Kennedy tradition. But as his position in Vietnam hardened, as he escalated the war, they came increasingly to mistrust him. They could not be sure whether, if they succeeded in starting negotiations, Johnson would not demand terms so unacceptable to Hanoi that they would be embarrassed. They were therefore very chary of helping Johnson, who, they suspected, wanted to attain at the conference table the victory he had failed to win on the battlefield.

The Russians worried that the war in Vietnam would lead to a confrontation with the U.S. As the North Vietnamese continued to hold their own and did not seek intervention by either themselves or the Chinese, they probably found some pleasure in seeing the American Goliath pinned down and embarrassed by the North Vietnamese David.

Gradually, as more Soviet arms were sent to Hanoi and as the Chinese not only cut down their own aid but tried to impede the flow of Russian supplies, Moscow's influence in Hanoi began to grow. This, plus the rising cost of Russian aid, may have persuaded Mr. Kosygin to his London overtures.

THE REASON FOR JOHNSON'S DISTRUST

Chester Cooper did his level best to advise the Prime Minister and to put pressure on the White House, but he clearly could not carry enough influence. Walt Rostow distrusted him, and that in turn meant that the President distrusted him; perhaps if someone of the stature of Cyrus Vance, the Deputy Secretary of Defence, a man whom the President trusted implicitly, had been sent to London, the outcome might have been different.

The President's distrust of Wilson may have been an even greater handicap. He was afraid that Wilson, in his eagerness to play the peacemaker (or, as Dean Rusk once put it, his hope of getting the Nobel Peace Prize), would give away some of the chips the President had been hoarding carefully. Johnson was not a man who let anybody else play with his own chips.

Wilson became a victim of his own good intentions and his ambitions as a peacemaker, and was rewarded with some uncharacteristically shabby treatment by the Americans. A chance to test the Russians in peacemaking was missed—and now no one will ever know how real that chance was.

The U.S. restarted the bombing and Hanoi Radio sounded as tough as ever, stubbornly reiterating North Vietnam's demand that the bombing had to be halted "unconditionally and for good." The ten-mile circle around Hanoi no longer remained bomb-free. Both sides hardened their positions. Hanoi disclosed the correspondence between Johnson and Ho Chi Minh; and a "war council" held by the President on Guam proved inconclusive.

The prospect of peace seemed more remote than for a long time. No reasonable basis for negotiations was in sight. In private President Johnson sounded more determined than ever to increase military pressure. "When the bullets get faster and hotter round my ears I get calmer." The Gallup Polls showed 67 per cent in favour of bombing North Vietnam and his own popularity rating down to 62 per cent, but the division among Americans had become more bitter, more emotional.

On March 28, U Thant disclosed that his proposal for a standstill truce in Vietnam as a first step towards peace negotiations had been approved by the United States and South Vietnam but rejected in Hanoi. All major peace initiatives from then on petered out, until two Frenchmen with direct access to Ho Chi Minh—Raymond Aubrac and Herbert Marcovich—went to Hanoi to sound out the prospects for negotiations.

The American intermediary between them and Washington was Harvard Professor Henry Kissinger (now President Nixon's adviser on National Security Affairs). Kissinger had been to Vietnam himself several times. He went out a moderate hawk and came back, having talked to the province chiefs, feeling that politically the Government was hardly viable. It was through Kissinger's contact with Marcovich that Aubrac an old friend of Ho Chi Minh, was enlisted in the mission. Kissinger had already acted as a consultant for three Presidents but was also someone the Administration could easily disown should things go awry.

KISSINGER'S OPTIMISTIC VIEW

The operation lasted several months. In his debriefing after the first contact, Kissinger put forward a mildly optimistic view. One who listened to this debriefing was the new Assistant Secretary for International Affairs at the Pentagon, Paul Warnke. Inspired by Kissinger's presentation, he and a member of his staff returned to their office and jotted down a possible new approach to negotiations.

They handed their brief memo to Robert McNamara, who liked it and took it to the President, who accepted it immediately. It became known as the San Antonio Formula because it was offered as a basis for negotiations by President Johnson in a speech in San Antonio.

The formula was a definite departure from the tough proposal the President had made in his letter to Ho Chi Minh. It allowed the North Vietnamese to continue infiltration, even after the bombing halt, *at the existing level.*

Through Kissinger this most conciliatory offer so far was transmitted for the first time to Hanoi. There was no doubt that Kissinger conducted the operation in the most professional manner, and that Aubrac had direct contact with Ho Chi Minh. At one point Chester Cooper went to Paris to offer proof that Kissinger spoke with the authority of the American Government. However, nothing came of the operation, and by September the effort was abandoned.

If nothing else the Kissinger mission at least resulted in the development of the San Antonio Formula. It was a conciliatory offer, and even though the signals that came back from Hanoi were unclear and didn't lead anywhere, it may nevertheless mark a turning point. It must have helped to impress at least some members of the Politburo in Hanoi that the U.S. was offering more than equitable terms for talks.

M'NAMARA GOES COOL ON BOMBING

The approved troop ceiling of 480,000 men had now been reached, and the President was considering requests for more. By early August the new maximum was 525,000. Because of Vietnam, Johnson had now become the most unpopular President since the second world war. And yet at the same time it was Vietnam that accounted for most of the strength he still had in the country. The doves were more vocal, but the hawks were equally strong. It was the hesitant people in the middle whose numbers suddenly had increased.

After my own visit to Vietnam that autumn, I was convinced that the cost in lives and money had to be reduced. It seemed to me that this was the only way to meet the growing public dissatisfaction in the U.S. I also believed that militarily the U.S. had achieved the kind of stalemate that made negotiations the next logical step.

In October, Townsend Hoopes, the Assistant Secretary for Air, produced for McNamara a 15-page document pulling together all the difficulties in the way of a military victory. It asked whether there was an ultimate ceiling to the number of men America could put in, and how the Chinese would react if the number reached one million. It laid out the growing threat to the dollar caused by the loss of gold and it analysed the increasing criticism among world opinion. It reflected the growing sense in the Administration that the U.S. was doing nothing in Vietnam but reinforcing weakness.

By then McNamara had gone publicly on record before the Senate Armed Services Preparedness Subcommittee that he was opposed to widening the range of bombing targets in the North, and that no level of bombing or direct air-strikes on population centres (which the U.S. considered immoral), would help win the war. He reflected the conclusion also contained in the Hoopes memorandum that air bombardment had never seriously impeded the flow of supplies, and the enemy in the South never suffered serious shortages because of the bombing.

For some inexplicable reason, no full evaluation of the bombing had been done up to then. Interest always was focused on how the U.S. could do better. And the objective always was how to make the enemy pay a higher price. As the war widened so the frustrations mounted, and the original purpose of preventing infiltration had been changed to "bomb them to the conference table."

The advocates of air power had always been bullish about what could be accomplished. They consistently claimed more than could be obtained. North Vietnam was not an industrial area, such as Germany in the second world war; it lacked vital targets, and so the damage that could be done from the air was limited.

Operational Air Force officers, of course, consider themselves a "can do" outfit. They will therefore never admit that they cannot accomplish what is asked of them. But it would be wrong to assume that the Air Force is a monolith; it too reflects a spectrum of opinion. It did the job it was asked to do with a remarkable fidelity to the very stringent ground rules.

It held to the specialty prescribed approaches to certain targets, for instance, although they were often the most dangerous approaches; and those who did not carry out their orders faithfully—as, for example, the pilot who dropped his bombs close to a Soviet ship in Haiphong Harbour—were severely penalised. The usual reply to critics of the ineffectiveness of air warfare maintained, as the Senate Military Preparedness Subcommittee did, that the Air Force was shackled, and if only it could bomb Haiphong Harbour the effects would be much more noticeable.

MILITARY VALUE AND POLITICAL COST

This, in effect, scathing criticism of McNamara aroused to his defence his fellow-rationalist McGeorge Bundy, who had by then left the White House to become President of the Ford Foundation. He, too, had now become doubtful of the effectiveness of military measures, however well executed, in a limited war. He took the Committee to task: "Nothing is less reliable than the unsupported opinion of men who are urging the value of their own chosen instrument—in this case military force. We must not be surprised, and still less persuaded, when generals and admirals recommend additional military action—what do we expect them to recommend?"

He warned that careful judgment was required between military value and political costs. The ideologists continued to hold fast, but the rationalists had had second thoughts. As McGeorge Bundy now confessed, "Grey is the colour of truth."

On September 29, the President revealed in San Antonio his new negotiating formula, which by then was already in the hands of Hanoi.

Just before Christmas General Westmoreland, the U.S. Commander in Vietnam, and Ellsworth Bunker, the Ambassador in Saigon, returned to the U.S. to sprinkle some optimism into everybody's ears. They both talked about "light at the end of the tunnel," but many suspected that Johnson was using them to set the right mood and tone for the Presidential election year of 1968.

And, in fact, it had been clear for some time that the war had become a stalemate. The word was resented in the Johnson Administration, but until the Tet offensive began in February, 1968, its use was accurate. The Tet offensive caught the U.S. forces off guard and proved how vulnerable they still were; but their counter-offensive, so to say, restored the stalemate. It did not restore, though, the lost confidence in the political and military assessments from Saigon.

THE ABM

Mr. MANSFIELD. Mr. President, the ABM debate symbolizes and encompasses more than a weapons system. The development of technology as applied to missile systems and other implements of war affect our chances for disarmament and tend to distort domestic priorities. They have great implications not only in the military field but in the fields of industry, labor, the universities, and politics and all these factors can be, and have been, without any prior determination and without any deliberate intent, developed into a partnership of enormous proportions.

Mr. President, I have nothing but the greatest respect for the military. I think they are doing their job with integrity, dedication, and patriotism. I have great respect for industry in this country. They are seeking business and achieving it. Sometimes I think perhaps they go to undue lengths. I have great respect for labor, too, but labor too often finds desirable the jobs which missile installations and other systems make available, the work pays well and often carries a good deal of overtime.

The universities have also been benefiting for some time. The latest figure I have indicates that last year, educational and nonprofit institutions earned $772 million in research contracts—$16 million more than in 1967.

For example, with no intention of impugning any university, but rather to note their excellence, I note from published news sources that the Massachusetts Institute of Technology is in 10th place in this field, with $119 million in Defense research contracts, and that the Johns Hopkins University, for example, is in 22d place with $57,600,000.

As far as the politics is concerned there are many of us in this Chamber, myself included, who must share a part of the responsibility, and a part of any blame, because when it comes to getting defense installations, missile or otherwise, for our States and into our areas, none of us have been shrinking violets. I think that ought to be made clear.

So what has developed along with the technological developments over the past two decades, is a military-industrial-labor-academic-political combination, and that development simply cannot be gainsaid.

To come back to the main theme of my remarks, I would note that the Pentagon's allegation, in defense of the ABM—Safeguard—system, is, in my opinion, predicated on its belief that the Soviet Union is developing a first strike capacity and that almost all our land-based missiles or at least a sizable portion of them would be destroyed on that basis.

It is well to reiterate and to emphasize that the second strike capacity is only in part predicated on the reaction of our land-based missiles and that we have, in addition, 41 Polaris submarines with 656 nuclear missiles and 646 nuclear armed strategic Air Force bombers.

At this point, I ask to have printed in the RECORD a table showing the increase from 1963 through 1968 on the part of the United States and the U.S.S.R. of ICBM—intercontinental ballistic mis-

sile—SLBM—sea-launched ballistic missile—and total missiles from these two systems. In addition, I would like on the same basis to include the number of intercontinental bombers. All this is public information.

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

	1963		1964		1965		1966		1967		1968	
	United States	U.S.S.R.	United States	U.S.S.R.	United States	U.S.S.R.	United States	U.S.S.R.	United States	U.S.S.R.	United States	U.S.S.R.
ICBM launchers	514	100	834	200	854	270	934	340	1,054	720	1,054	905
SLBM launchers	160	90	416	120	496	120	512	130	656	30	656	45
Total missiles	674	190	1,250	320	1,350	390	1,446	470	1,710	750	1,710	945
Intercontinental bombers	1,300	155	1,100	155	935	155	680	155	697	155	646	150

Mr. FULBRIGHT. Mr. President, will the Senator yield for a question?

Mr. MANSFIELD. I yield to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, with regard to this table, I merely wish to say that while the Senator has included, in the table which he has just asked to be inserted, I think, a very complete and very good table of the nuclear weapons, this by no means exhausts the capacity of this country to destroy any enemy or any antagonist, because we have enormous capacity in the field of chemical and bacteriological warfare agents, sufficient at least to duplicate the destructive capacity represented by the figures in the table the Senator has inserted.

I wish only to make the point that this table, with all of its impressive figures, by no means tells the whole story. The Russians, as do we, have, in addition, the further capacity to decimate populations.

Mr. MANSFIELD. Mr. President, the distinguished chairman of the Committee on Foreign Relations, the Senator from Arkansas (Mr. FULBRIGHT), is correct. And may I say that I have not even given all the information at my disposal relative to the number of warheads and the like, but I shall do so now.

It is my understanding, subject to verification, that in 1963 the approximate number of nuclear warheads was 7,844 for the United States and 755 for the Soviet Union and that by 1968 the figure was 6,556 for the United States and 3,295 for the Soviet Union.

I say that subject to verification; but I have a pretty good idea that what I have just stated is fact, and can well be proved.

Another aspect of the development, or in some instances, lack of development, of missiles is indicated by the fact that approximately $23 billion has been expended on missile systems planned, produced, deployed, and abandoned. Of that figure about $4.1 billion was spent on missiles which were abandoned in the research and development stage. I shall ask to have printed in the RECORD a list of major missile projects terminated during the past 16 years and not deployed; but before doing so, I wish to give full credit to the distinguished senior Senator from Missouri (Mr. SYMINGTON), who placed these figures in the RECORD on March 7, and thereby made them available to the rest of us.

I now ask unanimous consent that the list of terminated projects be printed in the RECORD.

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

Project	Year started	Year canceled	Funds invested (millions)
Army:			
Hermes	1944	1954	$96.4
Dart	1952	1958	44.0
Loki	1948	1956	21.9
Terrier, land based	1951	1956	18.6
Plato	1951	1958	18.5
Mauler	1960	1965	200.0
Total Army			399.4
Navy:			
Sparrow I	1945	1958	195.6
Regulus II	1955	1958	144.4
Petrel	1945	1957	87.2
Corvus	1954	1960	80.0
Eagle	1959	1961	53.0
Meteor	1945	1954	52.6
Sparrow II	1945	1957	52.0
Rigel	1943	1953	38.0
Dove	1949	1955	33.7
Triton	1948	1957	19.4
Oriole	1947	1953	12.5
Typhon	1958	1964	225.0
Total Navy			993.4
Air Force:			
Navaho	1954	1957	679.8
Snark	1947	1962	677.4
GAM-63 Rascal	1946	1958	448.0
GAM-87 Skybolt	1960	1963	440.0
Talos, land based	1954	1957	118.1
Mobile Minuteman	1959	1962	108.4
Q-4 Drone	1954	1959	84.4
SM-72 Goose	1955	1958	78.5
GAM-67 Crossbow	1957	1958	74.6
MMRBM	1962	1964	65.4
Total Air Force			2,774.6
Grand total			4,167.4

Mr. MANSFIELD. Mr. President, the following table shows the total investment for missile systems which have been deployed but are no longer deployed. These two sets of figures add up to a total of $23,053 billion:

[Cost in millions]

Army:	
Nike-Ajax	$2,256
Entac (Antitank missile)	50
Redstone	586
Lacrosse	347
Corporal	534
Jupiter	327
Total Army	4,100
Navy:	
Polaris A1	1,132
Regulus	413
Total Navy	1,545
Air Force:	
Houndog A	255
Atlas D, E, F	5,208
Titan I	3,415
Bomarc A	1,405
Mace A	328
Jupiter	498
Thor	1,415
Total Air Force	13,241
Grand total	18,886

[Cost in millions]

Plus missile systems terminated before deployment	$4,167
Total	23,053

In view of the fact that the estimated cost of the Safeguard system will increase considerably above the present approximate $8 billion—$6 billion plus for acquisition, construction, and deployment and $2 billion plus for research and development—that there are grave questions about the reliability of the system; that, inherent in the Safeguard proposal, is the start of a new phase of the arms race which could cost tens of billions of dollars; and in view of the fact that there are alternatives both of diplomacy and weapons technology which have yet to be considered, it seems to me that it is high time to put first things first.

First. I would suggest that on the basis of a number of Soviet diplomatic probes over the past several months suggesting a readiness to go forward on an arms limitation or freeze, a diplomatic reaction should be tried on our part which might lead to the setting of a time certain in the first part of June for negotiations to begin in earnest between the Soviet Union and the United States.

Second. In the meantime, research and development should be continued on the ABM system to determine more clearly the prospects of resolving the technical problems which have raised serious doubts about the effectiveness of this system.

Third. A year from now, we should know as a result of diplomatic initiatives as well as further research on the ABM whether there is a sound basis for going ahead with the building of an ABM system or for setting it aside entirely. In my judgment the Defense Department and the State Department have not yet provided the Senate with persuasive grounds for going ahead with the deployment of the ABM at this time.

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

Mr. MANSFIELD. I yield.

Mr. FULBRIGHT. Mr. President, I associate myself with the conclusions of the distinguished majority leader, the Senator from Montana. In presenting these facts to the Senate and to the public, he has rendered a great service. I hope that his suggestions will be taken most seriously.

I congratulate the Senator on his fine statement.

Mr. MANSFIELD. I thank the Senator.

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

Mr. MANSFIELD. I yield.

Mr. JAVITS. Mr. President, I have noted with deep interest the views of the Senator from Montana. They are most authoritative and have been well borne out under the auspices of the Senator from Arkansas and the Senator from Tennessee both in the principal committee and in the subcommittee.

I appreciate the feeling of the President of the United States upon this matter. But I think one thing needs to be made very clear—and I know the Senator from Montana will agree—that there is not one whit less feeling about the security and future of our country in the heart of the Senator from Montana, the Senator from Arkansas, and myself than there is in the heart of the most ardent advocate of the Safeguard or anti-ballistic-missile system.

There is no partisanship in this matter. I took this position before. The Senator from Arkansas, the Senator from Montana, and the Senator from Kentucky (Mr. COOPER) also took this position before President Nixon was even considered for the nomination of the Presidency of the United States.

I hope that these two factors may be made crystal clear by so authoritative a voice as that of the majority leader.

Mr. MANSFIELD. Mr. President, I appreciate the remarks of the distinguished senior Senator from New York. But I think he gives the Senator from Montana too much credit.

I not only appreciate what the Senator had to say, but I also agree with him. There are two sides to this question, maybe the proponents are right.

It is a matter of judgment. It is a matter of searching our consciences to try to find the truth on the basis of the best evidence available, and arriving at a judgment.

I honor the President for being responsible for a review of this system. I appreciate that he made a decided change in the system which he inherited—the Sentinel.

He faced up to his responsibility of exercising his best judgment on the basis of the facts. And what he has done, we in our individual capacities will have to do as well. It is a part of our responsibility as Senators from sovereign States.

I hope that recognition will be given to the fact that probes have been made by the Soviet Union and that the President himself, as well as the Secretary of State, have indicated that there is a very strong possibility that talks will get underway either late this spring or early this summer. We need only refer to Secretary Rogers' latest press conference.

I am somewhat disturbed at the question of priority. I think the key word is "balance"; that we must balance our foreign policy and our defense expenditures, on the one hand, with our domestic problems and needs on the other.

If we can achieve a balance on that basis, we shall all be further ahead than we would be if we were to place too much emphasis on the use of the word "priority" in one field or the other.

If we were to become the strongest nation in the world and were to spend all of the money that has been requested, of what good would it be? If our cities burned and our society were disrupted, our people became discontented and uneasiness were to spread throughout the land, of what good would it be?

That is why we cannot give either of these factors a priority, but, rather, ought to treat them, in effect, as a duality. That is why we must, in accommodation with the President and the executive branch, work to try to obtain a balance. We must face up to these matters which are difficult, but which cannot be avoided.

The matter must be considered, as the distinguished Senator has already said, on a nonpartisan basis.

It will do neither party any good to win a victory in this or in any other area if the country is the loser.

I have been especially pleased with the tone with which the debate on the ABM has developed in the Senate, not only this year but also last year. I have also been pleased with the lack of partisanship and the understanding on the part of the President and the executive branch of our responsibility and our reciprocal understanding.

Mr. JAVITS. Mr. President, I am grateful to the distinguished majority leader.

FOUR-STAR SCAPEGOATS

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed at this point in the RECORD an editorial entitled "Four-Star Scapegoats," published in the Wall Street Journal of April 24, 1969.

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

FOUR-STAR SCAPEGOATS

The "military-industrial complex" has become an increasingly fashionable bogeyman, and indeed the notion is spreading that the generals have created nearly all our national ills by running up defense spending and involving us in Vietnam. These problems are certainly serious, but making the generals scapegoats for them obscures the actual lessons to be learned.

The international climate being what it is, the garrison state remains a real enough long-term danger, though it ought to be plain that at the moment military influence is not burgeoning but plummeting. This long-run danger surely will not be solved by turning military officers into a pariah class, as much as that would please those intolerants whose personality clashes with the military one. The danger requires a far more sober diagnosis, and this would find that many of the present complaints should be directed not at the generals but at their civilian superiors.

We tend to agree, for example, with the complaints that the Pentagon budget is swollen. But it tells us nothing to observe that the officers press for more funds for their department; in this they are no different from any bureaucrat anywhere. Indeed, the same people who think the generals malicious for requesting large funds would find it quite remiss if, say, the Secretary of Health, Education and Welfare failed to make similar demands for his concerns.

Choosing among competing budget demands is the responsibility of civilians, in the Pentagon, at the White House and in Congress. Part of the current problem seems to be that in the ballyhoo about "scientific" management of the Pentagon, the old-fashioned unscientific Budget Bureau review was relaxed. More generally, it needs to be recognized that the problem of fat in the budget is due less to the generals' greed than to a want of competence or will in civilian review.

Much the same thing is true in Vietnam. There is plenty of room to criticize the generals' incoherent answer to the problems of limited war, but many of the most decisive mistakes were made by civilians.

Take the failure to understand the escalation of our commitment implicit in supporting the coup against Ngo Dinh Diem. After we had implicated ourselves in overthrowing the established anti-Communist government, we could not with any grace walk away without a real effort to salvage the resulting chaos. Reasons of both honor and international credibility left us vastly more committed than before, and it was almost solely the work of civilians.

Or take the fateful decision to have both guns and butter, made in 1965 when the U.S. part of the ground fighting started in earnest. It was a civilian—and in no small part political—decision to avoid mobilization, to build the armed forces gradually, to expand the bombing of North Vietnam at a measured rate, to commit the ground units piecemeal. All of this is in direct contradiction to the thrust of military wisdom. And if the generals did favor defeating the Communists, the little public record available also suggests they favored means more commensurate with that goal.

The point is not that the generals necessarily should have been given everything they wanted. The point is that the civilians decided to do the job on the cheap. They would have been wiser to listen when the generals told them what means their goal required, then to face the choice between allocating the necessary means or cutting the goal to fit more modest means. This discord between means and goals is in a phrase the source of our misery in Vietnam, and primary responsibility for it rests not on military shoulders but civilian ones.

Blaming the generals for these problems maligns a dedicated and upstanding group of public servants. More than that, it obscures the actual problem with the military-industrial complex itself. For the real long-term danger is that the garrison state will evolve through precisely the type of failing that led to fat in the budget and trouble in Vietnam.

For the foreseeable future an effective military force will remain absolutely essential to national survival. An effective force depends on generals who think and act like generals. If they worry about funds for defense and Communist advances in Asia, it is because that is what we pay them to worry about.

That the nation needs people to worry about such things certainly does release potentially dangerous forces that need to be controlled. The military's responsibility for controlling them is passive, to avoid political involvement, and our officer corps has a splendid tradition in that regard. The more difficult task of active control is essentially a civilian responsibility, and the modern world makes it a terrible responsibility. But make no mistake, civilian control depends squarely on the will and wisdom of civilian leaders.

This simple but crucial understanding gets lost in the emotional anti-militarism growing increasingly prevalent. What gets lost, that is, is the first truth about the actual menace of a military-industrial complex—the danger is not that the generals will grab but that the civilians will default.

Mr. MANSFIELD. Mr. President, while I do not agree with some of the observations which are contained in the editorial, I certainly agree that it is a mistake to vent our frustrations on the Nation's

military leaders. Like the rest of us, these leaders are trying to do their job for the Nation, with such wisdom and ability and special skills which they possess.

In particular, I am in agreement with the article's basic thesis. It is evident that civilian authority has been remiss in exercising adequate control over the military budget and for initiating foreign policies which result, in the end, in major military commitments. It is the responsibility of the President and his civilian agents and of Congress to exercise judicious management over the Military Establishment of the Nation. Together, it is our responsibility to decide carefully what to spend for military functions and for what purpose. If, indeed, as the article suggests, we were to wake up one morning and find ourselves living in a garrison state, the fault would lie not so much with the military but with the civilian authorities who had abdicated their responsibilities and permitted thereby the erosion of their constitutional responsibilities.

ADDRESS BY SENATOR MUSKIE AT BROWN UNIVERSITY

Mr. HART. Mr. President, I commend to Senators and the public at large the penetrating remarks by the able junior Senator from Maine (Mr. MUSKIE) at Brown University, Providence, R.I., on April 10, 1969.

As we debate the ABM question and indeed the whole philosophy of piling of military might on military might, we would all do well to consider this thoughtful message from our respected colleague.

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

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

REMARKS BY SENATOR EDMUND S. MUSKIE AT BROWN UNIVERSITY, PROVIDENCE, R.I., APRIL 10, 1969

For the last several years we have become frustrated by the despair in our cities and the neglect of urban problems. But we have reassured ourselves constantly that new programs would be initiated and more funds would be available as soon as the Vietnam War was over.

Several months ago I first said that I thought this assumption was unjustified. Already, the pressure from the military has mounted, and the President has recommended the deployment of the anti-ballistic missile system.

At the end of the Vietnam War—Defense spending will *not* decrease automatically.

Our national priorities will *not* be adjusted automatically.

And the domestic needs that demand a massive commitment of funds and energy will *not* be met automatically.

The decisions that the Administration, the Congress, and the people make in the next several months are not merely decisions for 1969, they are decisions for the Seventies.

These are not merely decisions about the best kind of weapons for us to have, they are decisions about the kind of society we want to have.

And these are not merely decisions which will determine the strength of our deterrence to nuclear attack, these are decisions which will determine the strength of the world's resistance to nuclear destruction.

These decisions will not wait until the end of the Vietnam War. They are being made now.

And if they are going to reflect any commitment to peace, to a sane defense policy, and to a just life for all Americans, they must be made on the basis of new thinking and new priorities.

Since achieving the role of a major power early in this century, our burdens of leadership have grown. For our own security and the security of the world, this country can never withdraw from its central responsibility for the preservation of peace.

However, this is a responsibility which we derive not from our military strength alone, or from a desire to exert undue influence on the lives of other nations, but from our superior size and our economic and technological strength.

It is not a responsibility we can avoid, but it is one which we can abuse.

Because this responsibility is so easily abused, yet so unavoidable, the ways in which we choose to meet it must be carefully attuned to our national goals.

Our goal is not military domination, but peace for ourselves and the rest of the world.

Our goal is not to equip each nation with the capacity to annihilate its neighbors, but to enable the peoples of all nations to exist in a world free of hunger, poverty, and ignorance.

Our goal must not be to take risks in pursuit of war, but to take them in pursuit of peace.

We must never forget that our options are limited by our responsibilities. Our every action is examined and re-examined, interpreted and re-interpreted. The more doubtful or less clear our intentions, the more risky our actions.

And we must not fool ourselves. Regardless of our motives, the Vietnam War has not enhanced our reputation as a nation of peace in a world sensitive to the dangers of war. We cannot afford to let our intentions be open to question.

Our resources also limit our options. They are not unlimited. As we face enormous demands on our economic strength in meeting world needs and our global commitments, our domestic society is undergoing the most severe test the nation has known.

We are in the midst of an urban crisis. And the nature of that crisis is that we have not yet decided whether we are at all prepared to make a commitment.

We have not concentrated enough resources in any one place at any one time to demonstrate what can be done to make the system work better for all of us. Our whole approach to the problems of urban and rural poverty has suffered from fiscal and institutional malnutrition. In too many cases we have whetted appetites without providing bread.

Under the circumstances, the decisions we make concerning our national security in the Seventies are more critical than any we have made in the past.

The ABM is only the first of these decisions, but the precedent set by this decision will have a great deal to do with the directions to which we will become committed.

The Administration's ABM proposal represents a major commitment of resources, away from other, vitally important national objectives—with a price tag made suspect by all our experience in weapons-building and by the system's own built-in momentum towards a new arms and cost spiral.

The ABM also represents an immediate commitment to apocalyptic diplomacy—bargaining that raises the ante without calling the bet. It represents another onset of quantum changes in the weaponry on which the precarious balance of mutual deterrence rests. It makes the balance of terror that much more terrible.

With one bold stroke, and the explicit threat it represents, the Administration has put the Soviet Union on the spot, forcing us both to continue to play the game which no one can win.

And no one seems very sure where the rules of this game will take us. We do not know what is proposed to be done within the so-called Safeguard program. The intimations to date have been confusing, contradictory, and ambiguous. The President has stressed his options to restrict the system, but the Undersecretary of Defense has justified the program in terms of full deployment and redeployment. This is terribly expensive uncertainty.

But these are only the short-range implications of this decision. What are its meanings in terms of long-range hopes for world peace and domestic justice?

When I cast my vote in the Senate in favor of the ratification of the nuclear nonproliferation treaty, I did not do so lightly. It was a prudent treaty which bought us precious time to gain control over our nuclear destiny.

The treaty established a working precedent of international inspection, and the signatories pledged themselves to pursue with urgency arms limitation agreements.

That treaty was the latest step in a long, agonizingly slow movement toward arms control and disarmament—a process that began with the test-ban treaty earlier in this decade.

We have reached a critical point in these efforts. We have recognized some of the limits and we have put up some stop signs. But stop signs are not enough; you only pause before you proceed to the next. We need some U-turns.

We have reached a point where we must decide whether we shall institutionalize the arms race and preserve it for our children, or whether we shall honestly try to turn back.

For the first time we are considering deployment of weapons whose dependability is questionable. We cannot know whether they will work.

And since the results of initiating serious arms control discussions are also in doubt, we are at the middle of an unusually balanced equation. On one side, risks in the direction of war; on the other, risks in the direction of peace.

Finally, the deterrent capacity of the ABM is so questionable and so slim, that we must wonder whether our view of national security has become so distorted that it is limited to weapons systems and overkill.

The illusion of national security offered by the ABM offers no sanctuary against hunger, poverty, and ignorance.

National defense is not an end in itself. An arms system or a deterrent force may protect us against armed attack, but they are useless against human neglect.

A broader definition of our national security is in order. Armed defense is no more the whole answer to problems of national security, than law and order is the whole answer to crime.

The American people make an investment in their national goals, and they rightfully expect that decisions concerning that investment will not be made from a narrow range of choices.

But as long as the military is responsible for all the choices in the field of national security, the range will continue to be narrow. Consider how many future Vietnams could be avoided by spending half as much money on aid to underdeveloped countries as we may spend on an ABM system.

Food and education are alternatives to weapons systems. They are more meaningful to a struggling nation than a missile, but our national security has never been defined that way.

As our concern over world poverty has grown, so has our military budget. But not our economic assistance. We will always have a military budget, but we must not allow it a life of its own.

We must control its objectives. But in 1969 we can see a pattern of defense spending developing which is similar to our experience after Korea. Within a few years of the end of that fighting, the Defense budgets were larger than they had been during the war.

Around the world, the credibility of our initiatives toward peace holds more promise than the size of our military budget.

Effective diplomacy is a more constructive force than sophisticated weapons systems.

But as long as decisions concerning our defense budget are made in the vacuum of the Defense Department, are accepted at face value by the Administration, and are ratified without pause by the Congress, we will continue to run the risk that alternatives to military spending in the interests of national security will never be considered adequately. And we will forever be forced to modify our foreign and domestic policies to fit our military commitments.

The choices we face for the Seventies are emerging. We cannot have both guns and butter in the manner which we have always thought possible. We simply cannot afford both.

This is not a new situation. We have not been able to afford the mixture for several years, but we have tried to manage both—without success at either.

And because of the budget pressure of Vietnam, many people have had to tighten their belts—belts that were too tight to begin with.

As long as these belts are tight—as long as we tolerate hunger and poverty in an affluent world, peace is threatened. And as long as peace is threatened, military spending will remain high.

Somehow we must find ways to break out of this vicious circle. As I see it, there is only one way to start, one option to exercise.

We must examine every request for military spending with a new skepticism, asking not whether there is a less expensive military substitute, but whether there is a more effective, non-military substitute.

We should not look to those who are skilled in war for the decisions which lead to peace. It is naive to expect the military to design the new directions we seek.

It is irresponsible for the public and the Congress to abandon its prerogatives of control. Yet these traditions are clearly threatened.

The ABM, chemical-biological weapons, and nuclear weapons are not the keys to peace.

Professor George Wald, a Nobel Laureate at Harvard, stated this very bluntly last month when he said: "There is nothing worth having that can be obtained by nuclear war; nothing material or ideological, no tradition that it can defend. It is utterly self-defeating. Atom bombs represent unuseable weapons. The only use for an atom bomb is to keep somebody else from using it. It can give us no protection, but only the doubtful satisfaction of retaliation."

We cannot eliminate risk from this world, but we can control its directions. We can make up our minds that the time has come when risks in the pursuit of peace hold more promise than risks in the pursuit of war.

But changing the direction of our efforts and the reactions of other nations will not be easy.

Congress is beginning to question the basis of our military posture and our foreign priorities. Our leaders are beginning to realize that our options are limited only by our willingness to broaden our perspectives. We think—

That trying to communicate with China will be more fruitful than isolating her;

That arms control is a more direct route to peace than arms development; and,

That hunger and poverty are more dangerous than Communism.

This progress and this skepticism will continue—if it is maintained by the support of an interested and concerned public.

Public pressure has made halting the deployment of the ABM possible, and public pressure can make it possible to rearrange our priorities and to pursue peace more vigorously and resolutely.

But this pressure will be no more automatic than reductions in military spending.

And its success is far from assured.

The employment of 10 percent of our workforce depends on the defense budget.

Almost 1000 cities and towns and millions of American citizens are caught in the military-industrial combine.

This is the other side of the nuclear deterrent. We have become intimidated by the economic strength of our military as we have intimidated others by the might of its weapons.

We are afraid—

That we can no longer say "no" to the budget requests of $80 billion and more;

That our economy might not produce housing as profitably as it manufactures weapons;

That we cannot find political solutions to political problems; and

That we are not even going to have the chance to try.

This tyranny of fear has no place in America. Instead of being one of the many nations maintaining the arms race, let us be the first nation to renounce that fear and take a first step out of the arms cycle.

But there is every chance that the public will relax with the end of the Vietnam War, believing that Gulliver's troubles are over.

But they will not be over. They will have just begun, unless we make the right decisions now.

So I plead with you, as college students who have been concerned about a war, to be equally concerned with the issues of peace.

Professor Wald put this very eloquently. He said: "Our business is with life, not death. Our challenge is to give what account we can of what becomes of life in the solar system, this corner of the universe that is our home, and, most of all, what becomes of men—all men of all nations, colors, and creeds. It has become one world, a world for all men. It is only such a world that can offer us life and the chance to go on."

This is an awesome challenge. But it is there, and we are the only creatures who can meet it.

OUR GREATEST NATIONAL PARK OPENS

Mr. DIRKSEN. Mr. President, on behalf of the distinguished Senator from Wyoming (Mr. HANSEN), I ask unanimous consent to have printed in the RECORD a statement entitled "Our Greatest National Park Opens" prepared by him, and a brief description entitled "This Is Big Wyoming," published by the Wyoming Travel Commission.

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

OUR GREATEST NATIONAL PARK OPENS—STATEMENT OF SENATOR HANSEN

I invite attention to a matter of interest to Americans throughout the 5 States and to foreign visitors, as well.

Our greatest national park, Yellowstone National Park, in Wyoming, will officially open to the public for the season on Saturday.

Yellowstone was the first National Park established in this country, and it has become the symbol throughout the world for the preservation of natural beauty. I urge every Member of Congress to plan a visit with his family to our great park this year, and to notify the people of his State that their park is open, because spectacular Yellowstone National Park is the property, of all the people of the United States.

Yellowstone's fame is such that it requires little discussion, but I shall place in the RECORD a brief description entitled "This Is Big Wyoming," from a Wyoming Travel Commission publication.

"Yellowstone, the first, is still America's largest and most fabulous national park. You will leave its two million acres with memories of Old Faithful obligingly erupting on schedule, of hundreds of other geysers surging forth in a violent thermal display of Nature's hidden power; of small bubbling mud volcanoes, hot springs and brilliant pools; petrified forests and limestone terraces, waterfalls and canyons and numerous lakes including Yellowstone Lake itself, 110 miles around and filled with trout. Over 200 species of birds and almost 60 species of mammals inhabit this vast area. Yellowstone's season is May 1 through October 31 and later, weather permitting. For further information on accommodations in the park, write: Yellowstone Park Company, Yellowstone National Park, Wyoming 83020."

TV STATEMENT BY SENATOR BYRD OF WEST VIRGINIA ON BILL TO CURB CAMPUS DISORDERS

Mr. BYRD of West Virginia. Mr. President, on April 23, 1969, I made a statement for television regarding Federal penalties for the disruption of federally assisted educational institutions.

I ask unanimous consent that the transcript of that statement be printed in the RECORD.

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

BILL TO CURB CAMPUS DISORDERS

The sinister event at Cornell University in which rebellious students armed with rifles, shotguns, and hatchets demanded concessions from the University administration, was an escalation in the reign of terror on American college campuses. An appropriate response, in my judgment, is demanded. Law-abiding American citizens are completely fed up with the trend toward revolution, anarchy, and chaos that has paralyzed some of our institutions of higher learning. I have, therefore, introduced a bill in the United States Senate, to provide fines up to $1,000 and imprisonment up to one year, for any person who interferes with or obstructs the operations of any Federally-assisted college or university, who occupies or destroys property in such an institution, or who otherwise interferes with the rights of faculty members to teach or the rights of students to study. Firm action is needed to counterbalance the molly-coddling of those who are destroying our educational institutions.

LEGAL ASSISTANCE TO FARMWORKERS

Mr. MONDALE. Mr. President, an article published in last Thursday's Miami Herald describes an application by the Florida Bar Association and Gov. Claude Kirk's office to the Office of Economic Opportunity for the legal services funds presently granted to South Florida Migrant Legal Services, Inc.

Attorneys with the South Florida Migrant Legal Services were instrumental in calling the attention of the Select Committee on Nutrition and Human Needs, of which I am a member, to malnutrition and hunger in the migrant camps in Florida. I have been impressed

with the caliber of the attorneys in the program and with what they have tried to do to improve the lot of migrant farmworkers. Perhaps they were too successful.

If the application of the Florida Bar Association to replace South Florida Migrant Legal Services is accepted by the Office of Economic Opportunity, legal assistance to farmworkers, although still present in name, will be greatly diminished in fact.

We must not turn programs intended for the poor into a mere facade in order to obtain the support of a local power structure. The news story from the Miami Herald indicates to me that such may be the fate of the migrant legal services program in Florida.

I ask unanimous consent that an article entitled "County Government Asks Funds to Replace Migrant Aid Unit," published in the Miami Herald of April 17, 1969, be printed in the RECORD.

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

COUNTY GROUP ASKS FUNDS TO REPLACE MIGRANT AID UNIT

(By Clarence Jones)

WASHINGTON.—Opponents of the controversial South Florida Migrant Legal Services Inc. got together here Wednesday with a counter-proposal and asked the Office of Economic Opportunity to finance their plan.

The formation of Six County Migrant and Legal Aid Inc. has the backing of bar associations in the six counties, the Florida Bar Association, Gov. Claude Kirk and Rep. Paul Rogers of West Palm Beach.

The counties included in the proposal are Palm Beach, Broward, Hendry, Glades, Lee and Collier.

Palm Beach Bar Association President Gavin Letts came to Washington personally to file the application for federal financing at OEO. With him was Buddy McWilliams, director of migrant affairs for Gov. Kirk.

Notice of the application was released by Rogers' office, and the president of the new corporation is Marshal M. Criser, current president of the Florida Bar Association.

The new group of attorneys wants to replace the present migrant service which has for the past two years sought out migrant workers with complaints then represented them in court action against farmers in the area.

Opposition to the migrant service boiled over last month when a group of U.S. senators toured migrant labor camps looking for signs of malnutrition and hunger. The lawyers financed by the poverty program had arranged the tour.

Both Rogers and Kirk were angered over the nationwide publicity that showed squalid living conditions in Florida.

IN DEFENSE OF PATRIOTISM

Mr. McCLELLAN. Mr. President, an industrialist and financier of my State, Mr. W. R. "Witt" Stephens, recently spoke to the student body at Harding College, Searcy, Ark. In his speech Mr. Stephens defended and emphasized patriotism and deplored the fact that it seems to be a vanishing virtue in today's world. He also reminded the students that freedom must not be taken as a license to overthrow or advocate the overthrow of the very government which promulgates and undertakes to perpetuate and make secure that freedom which is theirs to enjoy.

In his address Mr. Stephens pinpointed problems that are critical to the future security of our Nation. In addition, he proposed solutions to many of the problems he identified, I am in general accord with the dominant theme of his speech. We should have more advocates of true patriotism and devotion to our country.

There must be a revival of patriotism and a renewed dedication to the ideals and fundamentals upon which our liberties rest. Citizens of this country must again develop a proper respect for law and order and constituted authority, if our Nation is to survive. We cannot continue to allow our colleges and universities and other revered institutions that give vitality and strength to our Nation to be subjected to intimidation, coercion, and subversion as is presently happening at many of our highest and most revered institutions of learning.

I join with Mr. Stephens in admonishing and encouraging our young people to use their abundant energies to construct a better society, not to destroy the one we have.

I ask unanimous consent that Mr. Stephens' speech be printed in the RECORD.

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

IN DEFENSE OF PATRIOTISM

(Address by W. R. Stephens, at Harding College, Searcy, Ark., Apr. 8, 1969)

Dr. Ganus, Distinguished Guests of the Head Table, Students of Harding College, Ladies and Gentlemen:

It is a pleasure to share this evening with you and particularly with you young men and women, the hope of humanity. It is to you that I shall address the bulk of my remarks.

It was a privilege to be here today, Dr. Ganus, and to have the occasion to record some of my life's experiences and opportunities for your Library. I am grateful for the honor you bestow upon me tonight.

America by tradition has been a vibrant nation—blessed with strong, innovative people who have been dedicated to the ideals and beliefs set forth in the Declaration of Independence. It has been a nation built upon the sacrifice and the achievements of patriotic people. Until recently patriotism was a conviction in this nation—but today patriotism seems to be a vanishing virtue.

I consider myself most fortunate to have been born in this great country and in this blessed state. My parents were people of the soil. Throughout my lifetime I have known poverty as well as wealth. As my Father often remarked, "Poverty is nothing to be proud of or ashamed of, but it is certainly something to get shut of just as quickly as conveniently possible." I could have done this only in a free America.

The moral training imparted to me by my parents has contributed more to what success I have attained than any other influence. The opportunities present in a free, unfettered society made my achievements possible, but the love, the guidance and the understanding given by a patriotic American family have been the gifts that have sustained me the most. My father, who is 89, and my mother, who is 85, taught me to believe in and live by the teachings of God, with a respect for the views and rights of all. I thank God they taught me to appreciate the wisdom of age and the efforts and deeds of others.

The true strength of America lies in its beginnings and in its people, for people are its greatest asset. I think it rather interesting to compare the records of the United States and Mexico. America was founded by people who sought freedom of opportunity and freedom of worship. Mexico was founded upon a search for gold. Look at the history of the nations since their foundings, and no doubt should arise as to which goal has returned the greater yield.

America, dedicated to the dignity of man, has received bountiful blessing and today our nation, sprung from thirteen diverse colonies, has grown and flourished to where it is the strongest, most affluent country in the world, and its people enjoy the highest standard of living known to mankind.

Our growth as a nation has not come easily. It has fought for its existence virtually since its inception as thirteen separate colonies. First the Indians and the French, then the British during the American Revolution. In 1812 and 1813, we once again took on the British to show the world we had the right to the use of the seas. We fought against Mexican raids on our lands in 1846, and brother fought brother in the Civil War—in defense of what each felt the American ideals were. In 1898, we fought on behalf of the Cuban people, who were seeking freedom from the yoke of Spanish cruelty. You are all familiar with America's response to the Central Powers and to the Axis in the first and second World Wars. In 1950, we answered the invasion of South Korea by Communist forces and today we are involved in Vietnam. Throughout all of these conflicts America as a nation has responded with patriotic greatness to the call for defense of country and ideals.

Citizens have often been in disagreement and their dissent has been manifested in many ways over American involvement. Riots occurred during the Civil War.

Today America faces another paradoxical situation. On the one hand, we are a nation which sees itself wracked and divided over problems of poverty, riots, race, slums, unemployment, crime and the war in Vietnam. On the other hand, we are a nation which is clearly enjoying high prosperity, rapid economic growth, and a steady diffusion of affluence at a rate almost unimaginable a decade ago. This is our America, still with differences, still beset with problems, but the American goals of justice and freedom never change, and America will continue to exist as long as these ideals guide us. "Our Country, however bounded or described, to be cherished in all our hearts, to be defended by all our hands."

Never before in history have we witnessed the contempt shown by youths burning their draft cards—of 63,000 young men deserting the armed forces, or of youths leaving the country to avoid the draft and service for their country.

Youth is courageous, but courage is not inveterate objection; courage is not flaunting the Constitution. It may take real courage to accept a commitment or decision and live with it. Courage may mean honest compromise. True moral courage is intelligent, foresighted, reasonable, and it never appears except as a part of the greater entity called character. You young people are at a vital stage in your character development. You ultimately are the architects of your own character—your home, this college, your church, men around you, may strive to help develop your character, but they seek not to determine your character. That is your challenge and responsibility. Character is the diamond that scratches every other stone.

This moment, in this great America, half our population is now under 25 years of age. What an asset this can be for our country.

With cynicism, Mark Twain said, "What a shame youth is wasted on the young." I beg you—don't waste it.

Youth is imagination, youth is energy, youth is enthusiasm, youth is creativity, youth is impatience, youth is strength, youth is impassioned love of country, youth is dedication. Imagine what you can contribute. Do not hesitate to dream a new dream, but do not destroy the old until the new has been tested.

David, in his hour of greatest tribulation and sorrow—when he put his hands on the Ark of the Covenant—prayed not just for his people, but for his youth. He knew, as do we, that the souls of youth dwell in the house of tomorrow. As my father has often reminded me, "Be not the first to try the new, nor the last to bid the old adieu."

I have previously expressed my concern for that segment of our youth that has mistaken "freedom for license" and in so doing are not only destroying themselves, but misleading large groups of impressionable young people who are malcontent, aimless followers. This dissident minority, who believes that "freedom in politics is license to overthrow or advocate the overthrow of the very government that insures them their freedom," is completely ignorant of what freedom truly means. Freedom is a right of doing whatever the law permits. If a citizen could do what law forbids, he would no longer be possessed of freedom because all his fellow citizens would have the same power to disobey.

The right to dissent does not imply the denial of the rights of others. Those students who object to the Vietnam War or who advocate social justice and equal rights, have no license to attempt to cripple a great university such as Harvard or Columbia. Those who would oppose our participation in Vietnam exceed their rights when they threaten to disrupt the volunteer ROTC programs at our colleges and universities. I am appalled at the rationale and lack of courage of faculty and university leaders who, under the guise of academic freedom, downgrade "patriotic service" in defense of our country. The actions of universities in deprecating the ROTC programs make a mockery of patriotism.

Men who have fought in previous wars and those who stand guard today have and are giving of their youth, and often the most precious gift of all—life itself—to sustain the dreams of their forefathers and to preserve their own way of life and that of fellow humans seeking freedom. Would you youth let freedom die anywhere for fear of dying yourselves?

Americans who castigate our leaders, downgrade democracy and give solace and comfort to those who would destroy our way of life, fail to realize that the very leadership they criticize has met the challenge of 200 years most successfully. Today's youth has more bodily comforts, more intellectual advantages, more leisure for sports and pleasure, more exposure through communications to every view of life on this planet, even longer life expectancy. This generation will live nineteen years longer than those who have preceded them. They have been granted extra time to solve the problems of this nation and this world.

Much of youth today feel they seek a cause, a change, a way of life. What they really seek is power to influence decision which affect their lives. To do this, youth must earn this privilege. They must first become masters of themselves before they can be entrusted with the power that will affect the lives of others. The students at Rice University, who protested the hiring of a president by the University Board of Trustees, failed to give cognizance to the fact that those men who selected the new president had built the University. As students attending they had done nothing to increase the stature of Rice or to enhance it in any substantive way. Yet they wanted a voice in selecting the man who would administer that great University, and being denied that voice forced his withdrawal from the college.

Many years ago, in 1857, the eminent Thomas Babington Macauley, forecast the failure of the Democracy that Jefferson gave to this country. Macauley espoused his belief "that institutions, purely democratic must, sooner or later destroy liberty or civilization or both." He predicted famine, despoilation, and exploitation of the masses by a few wealthy. Twentieth Century barbarians would plunder and lay waste this republic as the Roman Empire was destroyed by the vandals in the Fifth Century. "Then a Caesar or Napoleon would seize the reigns of our government," he said. His fateful predictions have not yet come true, because he failed to credit the nobility of the human soul and the patriotism born in the American dream.

One does not need to look far to view the lives of great men who, laboring within the system, have wrought beneficial changes and continued realization to Jefferson's dream.

Both of Arkansas' last two Lieutenant Governors, the Honorable Nathan Gordon and Maurice Britt, won the Congressional Medal of Honor, the nation's highest award, fighting for the life and blood of their country.

Here in White County, you gave birth to the Honorable John E. Miller, who served his country in the United States Senate and who today serves as a United States Federal Judge, and has honored the democratic processes and the security we enjoy today.

Dr. George Benson, former president of the University and today still associated with you as head of the American Freedom Foundation, has been a bulwark of altruistic devotion, of continuing efforts to create a finer America and a great institution here. Today you enjoy the fruits of his labor.

Senator John L. McClellan and Kensett's own, the Honorable Wilbur D. Mills, are recognized among our nation's greatest leaders. Their whole lives have been devoted to the service of their country, without great recompense and often with unwarranted criticism for their concern for the welfare of their fellow citizens.

This nation could have no finer citizen than Searcy's Truman Baker, who has devoted so many years in service on the Highway Commission of this state. The fruits of his devotion and perseverance are enjoyed by us all.

I wonder how many days each of these men have added to Jefferson's dream and put off Macauley's prediction.

And so I would say to you youth—and to all youth—don't waste your most cherished asset. To grow old successfully is among life's most difficult tasks. How tragic should you ever be like Robert Frost's hired man—"Nothing to look backward to with pride, nothing to look forward to with hope."

BYPASSING THE LAW

Mr. THURMOND. Mr. President, certain accusations have recently been propagated that southern textile firms engage in hiring practices which discriminate against Negroes.

In response to those charges, an editorial, entitled "Bypassing the Law," was published in the State newspaper on March 31, 1969. The editorial points out that if bias in hiring in this industry exists, it is in violation of the Civil Rights Act, and that any grievances which exist may be redressed thereunder. Any such action would be heard in public, and a record would be produced.

The editor suggests that perhaps those leveling the criticisms know, or should know, that nearly 17 percent of South Carolina textile workers are Negroes, that 40 percent of all recently hired employees are Negroes, and that the public airing of the evidence would reveal these facts; and furthermore, that a public hearing could show that the Equal Employment Opportunity Commission has been demanding that textile firms hire Negroes simply because of race and simply to comply with some arbitrary quota arrangement.

The article terminates with the thoughts:

The suspicion refuses to go away that enemies of the textile industry have gone around to the back door because the front door is tightly shut.

Mr. President, because of the concern we have for the interest of this vital industry and due to the value of the author's comments, I ask unanimous consent that the editorial be printed in the RECORD.

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

BYPASSING THE LAW

Charges of job bias in the textile industry would be easier to believe were it not for the fact that such discrimination is against the law. Since it is against the law, the question has to be asked: How come the aggrieved job applicants haven't sought relief under the 1965 Civil Rights Act?

Instead, we find the move on to deny defense contracts to the accused textile firms, an action that can be taken without the need to hold a public hearing. If the Civil Rights Act were used, there would be a trial. The facts would become part of the public record. It is possible that this is precisely what the Equal Employment Opportunity Commission hopes to avoid?

Lack of a public record would have several obvious advantages, especially if textile firms are being urged to engage in reverse discrimination—that is, if they are being told to hire Negroes simply because of race. This is what the textile firms have said the EEOC demands; if they are right, the EEOC itself is in violation of the 1964 Civil Rights Act.

Title VII of that law—the title that governs employment practices—specifies that no employer can be required "to grant preferential treatment to any individual or to any group because of the race, color, religion, sex or national origin of such individual or group on account of an imbalance which may exist with respect to the total number of percentage of persons." In other words, textile firms cannot be made to juggle their employment policies so as to produce an "acceptable" ratio of whites and blacks.

This is what the law says. Witnesses who testified before Sen. Edward Kennedy's subcommittee last week suggested the opposite. Edward Sylvester, former head of the office that supervises contract compliance, brought with him employment figures for the two Carolinas. These statistics showed that Negroes made up 22 per cent of North Carolina's work force in 1966–67 and 39 per cent of South Carolina's during the same period.

"Yet," said Mr. Sylvester, "they comprise only 4 per cent and 5 per cent, respectively, in the textile industry."

It sounds shocking (though legal). Fortunately South Carolina's Senator Thurmond had some more recent figures that Mr. Sylvester had somehow overlooked. They showed that, at the present time, nearly 17 per cent of South Carolina textile workers are Negroes, and that Negroes account for 40 per cent of all employes recently hired. Confronted with this evidence of non-discrimination, Mr. Sylvester could only grumble that there was still room for improvement.

Indeed there is. But the need for improvement is not what the argument is all about. The charge has been made that textile companies are discriminating against Negro job applicants. Although this would be illegal, no legal charges have been brought. Instead, Washington is urged to deny government contracts to Southern textile mills, and the suspicion refuses to go away that enemies of the textile industry have gone around to the back door because the front door is tightly shut.

TV STATEMENT BY SENATOR BYRD OF WEST VIRGINIA ON CLOSING OF JOB CORPS CENTERS IN WEST VIRGINIA AND ELSEWHERE

Mr. BYRD of West Virginia. Mr. President, on April 16, 1969, I made a statement for television regarding the closing of Job Corps centers.

I ask unanimous consent that the transcript of that statement be printed in the RECORD.

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

BYRD CITES JOB CORPS COST

The high cost of operation was given as one of the main reasons for the closing of some of the Job Corps centers in West Virginia and around the country. I am told that it costs from $7,000 to $12,000 a year to train one enrollee. And, often the training has been for jobs that do not exist. Moreover, the dropout rate was high, and there have been serious disciplinary problems in some Job Corps centers. And then, too, there has been little if any real followup to determine whether or not the trainees have been able to secure employment following their graduation, and if so, how long they have stayed in the jobs. A new and smaller community-oriented center will be established for the Huntington-Ashland area, which may better serve the needs of those who will be enrolled in it. I would certainly hope so, because the performance of the Job Corps program up to now, for the most part, has been far from satisfactory.

ADDRESS BY SENATOR HATFIELD AT UNIVERSITY OF CALIFORNIA, RIVERSIDE

Mr. CRANSTON. Mr. President, on April 8, the distinguished senior Senator from Oregon (Mr. HATFIELD) delivered an address at the Riverside extension of the University of California.

Seldom have I seen such a perceptive diagnosis of this startling and troubling decade of the sixties. It began, under President John F. Kennedy, in a glow of optimism in our power to solve the persistent human and political problems which undermine human happiness. It ended in the morass of Vietnam, the alienation of our young people, and the sober realization that there is a stubborn dimension to human problems which defies statistics, and which can tragically distort our best-intentioned efforts.

The present campus unrest is in part an expression of disillusion with the discredited premise that technological progress holds the key to human well being. In part, it is the groping for a new language to speak to the spiritual and moral dilemmas which divide and isolate us.

Senator HATFIELD's remarks offer hope for reconciling these new needs with our cherished values. To do so will require the younger generation, and the generation now in power, to understand and use the built-in potential of our institutions for creative change. This is the genius and the guarantee of a healthy democracy.

I ask unanimous consent that Senator HATFIELD's speech be printed in the RECORD.

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

AN ADDRESS BY SENATOR MARK O. HATFIELD, UNIVERSITY OF CALIFORNIA, APRIL 8, 1969

The current decade began with an ambitious call to get this nation moving again. And we did begin to move. We set a goal of reaching the moon before the decade expired. The Peace Corps was established. Major civil rights legislation was passed by Congress. New programs for aid to the developing nations were initiated. The two super-powers agreed to ban the testing of nuclear weapons. In short, the decade of the 60's began with a surge of vitality and activism.

During those crusading years of vision and optimism, who would have predicted that the decade would end as it now is?

Before this decade began, the late President Eisenhower utilized the National Guard to enforce the order of the Federal Courts to desegregate the school system. The army went south to support equal rights for the blacks.

And now, as this decade ends, it is commonplace for armed forces to be called into our northern cities to quell the rebellious uprisings of black communities. Exactly one year ago, the nation's capital was a garrison, torn asunder by violence and hatred that was the expression of racial hostility. That was five years after the triumphant civil rights march on Washington that culminated in the passage of the civil rights bill and predictions of racial harmony and peace in its wake.

At the beginning of the decade, idealistic students and liberals migrated south during the summers to purge those areas of their racist social structures. By the middle of the decade, they had returned north, deciding to cleanse their own communities of the effects of racial bigotry. And by the end of the decade, they were finally looking within themselves, recognizing their own need for conversion.

The first President of the decade—a "liberal Democrat"—campaigned on the assertion that our nation was threatened by a "missile gap" and promised steps to insure our military security. As the 60's draw to a close, even retired marine generals warn about the extent of "militarism" in America.

When this decade opened, there were about 600 unknown military technicians in the obscure land of Vietnam. But part of our nation's movement in the early 60's was the creation of counter-insurgency forces—the Green Berets—to quell guerrilla warfare throughout the globe. Their first major test was Vietnam. This was the beginning of an unimaginable involvement of American troops which totals more than half a million as the decade comes to an end. The loss of American lives in Vietnam—perhaps the most startling event of the decade—now comes to more than 34,000.

Students, generally apathetic during the 50's, became activistic as the 60's began, and alienated as the 60's ended.

This decade has witnessed more creative programs, government crusades, legislative efforts, and massive appropriations than any previous time in our history. Yet, polarization, unrest, and turmoil have not been abated, but rather have grown far more severe.

Why have we found ourselves in this ironic, frustrating, and threatening condition? Where have all our well-intentioned efforts brought us? How have our benevolent social programs for both our country and the world failed?

Essentially, we have failed in our understanding of man. We have not discovered how to live with ourselves.

Our nation needs more than new programs; we even need more than restructured institutions. Fundamentally, we need revitalized, renewed people.

We have not adequately understood the nature of our problems. We have looked at only the outward, material aspects of society's ills. But the real issue is the alienation felt by growing numbers of people—alienation from both society's institutions and from themselves. People today are experiencing a profound sense of personal irrelevance; they feel that what they think, say, or do really doesn't matter to anyone and cannot change their situation.

Consider our large urban areas, for instance. It is commonplace to believe that the foremost need of urban areas is massive government programs to provide jobs, education, and housing for the residents. Some go even a step further and claim that restructured institutions—such as decentralized schools—are the necessary and essential actions required to solve the urban plight. The validity and urgent need of such measures is unquestionable.

Yet, the real urban crisis is a crisis of human relationships. The most fundamental issue is the deterioration of trust. The greatest need is the restoration of concern, dignity, and hope.

(Example—Watts study after riots showing that welfare workers were the second most resented people in Watts, the police being the first.)

There will never be a final solution to the urban crisis until the attitudes and commitments of individual people are transformed—until both black and white can overcome the indifference and hostility toward each other, and take those steps of risk toward authentic human relationships, establishing bonds of trust and compassion. The confrontation and self-searching inevitably involved will be far more difficult—but far more important—than the most ambitious programs for rebuilding the physical conditions of our urban areas.

There are many other examples of how the solutions to our contemporary problems must involve the change of people's attitudes and values. The dominance of unquestioned military spending in our federal budget is not likely to be curtailed, for instance, until people value the bonds of humanity more than the barriers of ideology. In order to insure a rational use of our natural resources, people must value their relationship to nature as much as their admiration of technology. The point I wish to enforce is not that government programs have been unimportant or useless; on the contrary, I have long been a supporter of aggressive government action to meet the challenges faced by our society. But I am convinced that the true solutions to our current problems require a far deeper degree of insight—one that will understand the human dimension and recognize the essential importance of changing people.

What is required at this point in history, then, is not new programs so much as new perspectives. We must learn to interpret the events of our day with greater comprehension and deeper wisdom. To begin, we must remold our image of man.

The technological revolution has profoundly affected our view of man. The temptation to judge man according to standardized, quantitative measures has never been greater. The methodology of science and technology convinces us that man, like any other phenomenon, can be objectively studied, analyzed, and measured by empirical scrutiny until he is fully understood and

completely predictable. Thus, man has become interpreted and understood through those aspects of his existence and can be easily and empirically measured.

But through this process, the passion and inner feelings of man lose their significance. The only things that count are the things that can be counted. Man's material conditions become more important than his personal experience.

Further, when social unrest or turmoil is observed, we then look for material solutions: Blacks in the inner city do not have enough money; impoverished nations of the world must simply increase their Gross National Product. When pure economic solutions do not pacify unrest, then we resort to the application of concrete force: The rebellious Vietnamese will be quelled by a sufficient number of bombs; turmoil in the cities will be halted by a massive show of strength.

But all the while, we have failed to understand the roots of man's passion, the pain of his alienation, the determination of his will, and the searching of his spirit.

We have believed the computer print-outs that have continually predicted a quick end to the Vietnam War; we do not understand what motivates the Vietnamese teenagers who stand on rooftop and shoot at our supersonic jets with World War II rifles. We are puzzled when countries like Nigeria and Pakistan—countries which we regarded as models of successful economic growth—are torn apart by internal violence. We are insulted and perplexed by Peru's defiant willingness to rupture harmonious relationships, embarrass us, and even risk the suspension of our benevolent aid.

And in our own society, when material prosperity and technological progress have reached unprecedented heights, we cannot account for the restlessness, the loss of faith, and the emptiness that so many feel; and we are confused by the frantic, exotic search by some for new forms of self-fulfillment and expression.

Some of you on our college campuses seem to understand best the plight of our time. You have led the call for new values, not just new appropriations. You have challenged the empty promises of hollow political rhetoric with the continuing, unabated realities of human suffering and misery. You have searched for a new life style, for deeper meaning and lasting commitments for your lives. You have rejected our society's hot pursuit of materialism and searched for a higher reality, for a more worthy and self-fulfilling existence. You have recognized the futility and injustice of the senseless war in Southeast Asia, and you have pleaded against the reliance on military might for the solutions to fundamentally human problems.

But while there is substantial unanimity on our campuses concerning the ills of our present society and the goals to be pursued, there is increasing discord concerning the means to be utilized.

The debates that rage in college dormitories today—arguments about violence and non-violence, confrontation and negotiation, revolution and evolution, freedom and responsibility—these touch upon the most important questions facing contemporary society. What is more, we are no longer engaged in a merely academic or theoretical consideration of these issues, but are confronted with live realities that compel us to make decisions and commitments.

The major portion of my professional life that has not been devoted to political activity has been spent on the university campus. What the university community is concerned about, I try to be concerned about. Therefore, I want to earnestly share with you my views about the dynamics of change in our universities and in contemporary society.

The revolutionary premise of change is that power will not be given up willingly by those who hold it. Therefore, it must be seized by those who, because of their assured self-righteousness, believe they should possess the power. The corollary, currently popularized by Marcuse and others, is that whenever one co-operates within present Western "democratic" structures, he is given the illusion of having some influence and voice, but is actually being "pacified." As you might expect, on the whole, I reject these premises.

Mahatma Gandhi, who led India's successful nonviolent revolution for independence, said that "the means is the end in the making." I agree.

Violent, anarchistic means to promote change, whether successful or not, will likely result in a violent end.

I am fully aware of those who protest against anyone in the "establishment" who cautions against violence. After all, they charge, the real violence in our land today in being committed by those institutions and people who carry out the war, sustain poverty, and tacitly condone racism. There is substantial truth in these charges. But I do not believe in "an eye for an eye, and a tooth for a tooth."

Those who choose to carry their protest, regardless of its virtue, to the point of aggressive, coercive disruption and destruction only invite the application of counter-force. In any resort to violence today, the side best equipped and best trained in violence will win, regardless of the relative justice of the issues involved. Further, current polls show that campus disorder is becoming the chief concern of our nation's population. I do not have to tell you how those of the reactionary right will find it difficult to resist making expedient political gain by exploiting popular feeling on this issue.

It is paramount that students today develop an effective strategy of influence. The danger I fear is that the idealism and vision of students, needed so desperately by our deteriorating society, will be rejected because of a cloak of anarchism and a glamorized faith in romanticized revolutionary myths.

Those who have changed history have known how to unify popular feeling and how to infiltrate society's power structure. The effective means of change in a post-industrial society such as ours is such unified force of public conviction combined with the impact of those who can enter into the power structure without selling out to its premises and presuppositions.

The need of this day then, is for students to speak out in unified protest against society's intolerable injustices and inequities where they exist, and to support political insurgents who will infiltrate all levels of influence and power, setting forth their alternative vision of the future. Students must remain uncompromising about their convictions and ideals. But they must also become flexible and adaptable enough to develop effective tactics that truly promote and do not inhibit, the realization of their goals.

Most revolutionaries argue that existing structures and institutions must be abolished so that new life can spring up from the ruins. I must admit that there are instances where I would concur with that premise.

For instance, the draft should be abolished.

Our paternalistic welfare system should be dismantled.

The Electoral College should be eliminated.

The power of political conventions to nominate Presidential candidates should be abolished.

And the ABM should be rejected before it is even begun.

It is clear that there are certain structures and institutions in society which cannot be reformed. After all, you do not reform inequity, you abolish it.

Let me take the draft as an example. Prominent political liberals have advocated draft reform. To me, that is like advocating slavery reform. We are asked to believe that the lottery is an equitable compromise to the present draft law. Let me ask you—what would you think of one who, during the last century, advocated replacing slavery—which was involuntary servitude—with a lottery system? Would that have changed the matter any? Would that have been a step toward justice? As far as the draft is concerned, I am a committed abolitionist. I know that during their time, abolitionists were considered too extreme, too radical; but I believe they were right. Inequity, as I said, must be abolished, not reformed.

The plight of our welfare structure is similar. Despite our well-intended social benevolence, and despite our investment of vast sums of money, our present welfare structure only deepens the dependency, hostility, and resentment of the poor toward their society. We must find new structures and avenues for creatively involving all citizens in the production and benefits of our economic abundance.

It is popularly accepted by almost everyone except many members of Congress that the Electoral College is an archaic, undemocratic institution that has no more right to exist in our modern technological society than the pony express. But I want to go further than even those colleagues of mine who have recommended electoral reform. We are told that the political conventions can be reformed and made truly democratic and responsive. (Example of Pennsylvania delegation to Democratic convention as opposed to the McCarthy strength in that state's primary.) Efforts to that end are being talked about in each party. But I remain dubious. I believe that this structure cannot be adequately reformed. There is no reason why our candidates have to be chosen by political conventions. There are many reasons why they should not be. I believe that it is time to let the people truly choose their candidates for President. Far too long the conventions have been the political brokerage firms and the people have had no controlling interest or certain influence. Let us establish a Direct National Primary Election and grant the people their true democratic voice. These are, of course, questions of political economics which would have to be resolved by such a proposal. But the real question at stake is whether we can afford democracy. Certainly, it seems the measures such as free television time for candidates and tax credits for campaign contributions could make it possible for any candidate, rich or poor, to have an equal opportunity to run for President.

As far as the "reformed" ABM system is concerned, let me give you my frank evaluation: This is the Edsel of an insane arms race. This issue should dramatically focus attention on the need for intense public scrutiny and responsible Congressional judgment of the vast sums of money—more than half of every tax dollar—that are allocated for military purposes.

Finally, there is one matter which cannot be reformed, liberalized, adapted, or modified. That is the war in Vietnam. It must be halted. It has been more than a year since President Johnson gave his March 31st speech which renewed hope for an end to this tragic chapter in our history. But since that time we have suffered more than one-third of our 34,000 casualties. Despite the formal Paris talks, the whispers exchanged over cups of tea, and the continual rumors of secret talks, we are continuing consistently on a path of firm military pressure, believing this will soon cause the enemy to give in.

The war in Vietnam was escalated and promoted by Democratic Administrations. I have firmly believed that a Republican President would be in the best position to end

this conflict. I believe that President Nixon has that opportunity. But I fear that he may be reluctant to seize it, believing that if we persevere just a few months longer, we can thwart the enemy sufficiently to insure the continued existence of the present government in the South, or an only slightly modified version of it. Let me state flatly that the war will be ended only when we first decide that our military presence on the Asian mainland is contrary to our interests and should be withdrawn. The method and implementation of that withdrawal is the issue for us to decide at Paris. When the government in South Vietnam must depend on its support from the Vietnamese people rather than American soldiers, then true self-determination will be possible. And when the North becomes convinced by our deeds rather than our words that our first interest is to de-escalate the violence and implement the removal of our troops, then they will have something new and substantial to say to us in the negotiations.

In summary, there are institutions, structures, and policies in our society which we should attempt to abolish rather than reform. But such ends can be only achieved through efforts that exploit the viability of our democratic procedures for reaching decisions.

The politicalization of the nation's youth during the last election was the most encouraging sign of this decade. But it must continue into the 70's. For the present there are specific political goals which can be influenced by the concerned involvement of youth. The draft, election change, Congressional reform, military spending, the ABM, the war—these are only a few examples of pressing, relevant issues that can be dramatically influenced by student conviction and action.

Students today question whether there is either reason or wisdom in adhering to our democratic process. Your doubts have come because you best know its failures, and your hopes for its fulfillment have been stronger than any. I believe that students feel alienated from our political process not because they fail to believe in democracy, but because they do believe, and have seen it fail to function adequately.

But history has given to your generation the primary responsibility for determining most of our future. Although you feel alienated and victimized by the 60's, you have the opportunity to reshape our nation's life in the 70's.

It is my firm conviction that with the passionate involvement of youth, our structures of political life can be shaken, disturbed, and revitalized sufficiently to establish their greater relevance to people, enhancing human freedom and encouraging social responsibility during the next decade. Without you, they will fossilize, becoming the obstacle rather than the instrument of change.

The 70's can be marked by creative perspectives and a whole new understanding of our nation's priorities that will result in significant progress toward full justice, restored sanity, and even lasting peace—at home and throughout the world. But the 70's could also be the time when alienation increases, polarization becomes more severe, and the tactics of political repression are perfected.

In the decade ahead it is my hope that you will focus attention on how to change the values held by those in our society, transform the attitudes and views of individual people, and help establish authentic human relationships between the polarized segments of our society. Then, institutions can be restructured or created that will truly serve the needs and hopes of people.

During the 70's we can direct our technology toward the service of human need, replace coercive power with meaningful participation, control military force by moral strength, and embrace worthy purposes to give meaning to our lives. If the future is to be open to these possibilities, it will require the commitment of converted persons. You are the ones who must lead, for you have considered what it means to be human, you place your values in the sacredness of life, and you can discover the depth and roots of man's spirit.

THE EFFECTS OF MILITARY CONSCRIPTION

Mr. HATFIELD. Mr. President, when one considers the effect of conscription upon the citizens of this Nation, above all he must recognize the profound moral dilemma which it poses for many young men. As a country which has long been a haven for immigrants escaping the military recruitment practices of authoritarian European governments, we must take care that the policies of our Government do not disregard the conscience of our people. It is that conscience which decides whether we deserve to be called a humane or inhumane Nation.

At present, in the inconsistency of its local boards, the selective service creates innumerable ethical difficulties in the classification of conscientious objectors. Although Americans are granted by law the right to refuse to participate in war because of sincere belief, local and State draft boards by disinclination or misunderstanding commonly reject their claims. To maintain the draft needlessly, as we are doing today, is to continue to subject young Americans to unnecessary hardships.

Mr. William Plymat, in a thoughtful article for Progress magazine discusses the problems of CO classification. I commend this article, entitled "The Peril in Conscription," to the attention of the Senate, and ask unanimous consent that it be printed in the RECORD.

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

THE PERIL IN CONSCRIPTION: RIGHT OF YOUNG MEN TO BE FREE

(By William N. Plymat, Sr.)

The operation of the Selective Service System is a terrible burden to the young men of this country. Especially is it distressing to those who have been brought up in homes which have emphasized the importance of religious teachings. It is also distressing to their parents who are hard-pressed to explain the necessity to obey a system which demands that they kill and be killed when from their earliest years the concepts stressed by them have been that we should not kill, we should not do to others that which we would not want them to do to us, and we should love our brothers as ourselves.

Parents find it difficult to defend the hyprocrisy of the system. At times it almost seems there is incipient revolution in our midst if effective leadership is not developed to correct the inconsistency. Young people cannot be expected to have respect for religion or the church if such leadership does not appear. They try to develop their own type of protest and leadership but this, too, threatens to be crushed by the weight of the system itself. I think it is time for churchmen to look more deeply into the system and challenge the control it has on the thinking of people everywhere.

What can a young man do when he is trying to reconcile his religious teachings with the demands put upon him by his government? The law says he shall not be required to serve in the armed forces if he has conscientious objection, but under the administration of the law, he seldom is given this right. If his local board rejects him for reasons known only to themselves, he faces a choice of refusing induction and being sent to prison for 5 years for his acceptance of the commandment, "Thou shalt not kill" or fleeing the country and becoming an exile from what is claimed to have been "the land of the free."

The Supreme Court of the U.S. in the Seeger case adopted a very liberal position on the subject of conscientious objection, indicating it was not necessary to be formally identified with a church, etc. This caused those supporting the draft to be greatly concerned and shortly thereafter Congress negated this decision of the Supreme Court in several ways. Appeals to the courts were ended.

MAKING IT TOUGH FOR THE CONSCIENTIOUS

To state his request to his draft board that he be granted the status of a conscientious objector, a young man must first fill out the questionnaire provided for this purpose. In this he states the background for his beliefs and his reasons for making the request. He may supplement this with letters from persons who know him which testify to his sincerity. These items constitute his written file which may be read carefully by the board members (or perhaps not at all). He is entitled to a personal appearance before the board. He cannot have an attorney present and the clerk will suggest to his father or mother often that they not appear as the case load is so heavy that only a few minutes are available. Although it is urged that draft boards contain five members, many have only three and two members is a quorum, so when given his personal hearing an applicant may have personal exposure to only two members of his draft board.

To qualify for CO status the young man must convince his board of three things: (1) He must oppose all war, (2) he must base this opposition on religious conviction due to his allegiance to God above the civil authorities, and (3) he must be sincere. If he asks the board why or in what way they doubt one or more of these areas, he may be told that it is for him to say what he wants and they are not obliged to answer any questions. Then he is dismissed. The decision of the board comes not with any formal opinion, expressing finding and reasons, such as we see in a court case, but is simply a decision. No one is able to discover the basis for their decision.

Then the applicant may appeal to a state appeal board. There he is not granted a personal appearance or representation by someone to plead his case. No one appears to know how many of such appeals are taken and what percentage of them are granted. There is sort of a conspiracy of silence. If he is turned down there unanimously this is the end of the road, unless the State Selective Service director should decide to ask that he be granted an appeal. But if one member of the state appeal board dissents, he may take an appeal to a so-called "presidential appeal board" as a matter of right. Here again, he has no opportunity to be heard or represented by counsel. And the decision of this board is rendered without an opinion expressing findings and reasons. When the decision of this board has been made, the matter is closed, except for the possibility that the local board might reconsider on the basis of facts not considered before by the State Selective Service director might ask for such reconsideration.

LACK OF PUBLIC INFORMATION

It seems to me there is a great lack of public information on all aspects of the Selective Service System. Efforts have been made, I believe, to keep as quiet as possible the names of members of boards. The press says little or nothing about what is going

on and reporters which seem very curious about many public issues of even minor nature ask nothing about the system. I do not think the Selective Service Act makes general information about procedures and action confidential. General actions surely must be a matter of public record, available to the public.

We can hope that the U.S. Senate will wake up soon and pass the bill to end the draft which Senator Hatfield has introduced, but it may take a long time before this happens. In the meantime, I think we can take constructive action by getting facts out into the open, which will help develop public opinion for decisive action. Leading clergymen and laymen may help by asking Selective Service directors for the following information:

(1) The number of CO requests that have been made during the previous calendar year to the local boards of the state.

(2) The number that have been granted and the number denied by local boards.

(3) The number that have been appealed to the state appeal board, and the number denied and the number granted.

(4) The number that have appealed to the presidential appeal board, and the number denied and the number granted.

(5) The number of cases reopened by local board later by request of the state director or on their motion, and the number of these that have been granted on reconsideration.

If the State Selective Service director does not have the information, he should be asked to seek it on the local board level by polling the local boards.

It seems to me that any concerned layman or clergyman could ask for this information in his own state, but it would perhaps be best if such person did not have a personal involvement of his own at the time. It is probable that a request from a denomination head might be considered more seriously as he would have facilities for widely publicizing the information or refusal to supply the information. If a group of denominational leaders were to ask for the information jointly, it would undoubtedly be considered even more seriously.

GO TO BAT

If such information became available, and it revealed a most unhealthy situation, it could stimulate actions of many kinds. Inquiry could also be made to determine the religious faiths of those being granted CO status, to see if rumors are correct that only those belonging to so-called "peace churches" are granted CO status. I know of some young men who wish to seek CO status who feel that the effort would be hopeless because the particular church in which they grew up has not been recognized officially as a "peace church." Such information could also provide much help to the drive for a total end of the draft.

I am concerned for all young men who have deep religious convictions against killing and who are sincere conscientious objectors, whether they be active church members or not, and no matter what their family religious affiliation may be. I feel the church should "go to bat" so to speak for these young men. This, I believe, would do much to dispel the dissillusion and violence we see and hear around us today.

HUMAN RIGHTS: THE CONVENTION ON POLITICAL RIGHTS FOR WOMEN

Mr. PROXMIRE. Mr. President, in March 1953, the United Nations signed a convention insuring that women shall enjoy political equality. The right to run for and hold office, the right to vote in all elections on an equal basis with men, and the right to hold membership in any publicly elected body were extended to women as well as men. The United States, 16 years later, still has not ratified this Convention on Political Rights for Women.

At this time, women are equal politically under the law here in the United States. This has not always been true. This equality was gained only after a long struggle culminating at the end of the progressive era with the adding of the 19th amendment to the Constitution.

Suffrage was first extended to women in America during prerevolutionary days in the Colony of New Jersey. Before the Colonies achieved independence, this privilege had been lost. Women remained relatively inactive in politics until the women's suffrage movement was born in the 1840's and gathered strength during the rest of the century. The movement was aided by increasingly wider participation of women in other areas of American life and the equalitarian practices on the Western frontier. Wyoming earned the distinction of being the first State to grant its women the right to vote in 1890. By 1914 12 States had extended suffrage to women. In 1916 the first woman to serve in the House of Representatives was elected from the State of Montana. The 19th amendment, providing for universal women's suffrage, which was proposed by Susan B. Anthony as early as 1869, after lying dormant in Congress for 41 years, was recommended for approval by Congress in June of 1919 and was declared ratified on August 26, 1920.

The right to vote proved to be the key to increased freedom for women. During this century they have entered nearly every field and profession.

In this country women enjoy every privilege outlined under the United Nations Convention on Political Rights for Women. Yet the convention languishes in committee. Mr. President, I fail to see any reason why this measure should not be adopted. I call for the ratification of the Convention on Political Rights for Women.

ISRAEL'S ANNIVERSARY

Mr. PERCY. Mr. President, this week, on the occasion of Israel's 21st anniversary, it is appropriate to pause and remember those who died for the establishment of Israel, and in its defense, as well as the millions of Jews who died when there was no Jewish state to take them in.

A nation born in war, with her back to the sea, and confronted on three sides by hostile neighbors who refuse to recognize her existence, Israel nevertheless has made remarkable advances, politically, economically, and technologically. Israel has demonstrated that with intelligence, industry, and perseverance, a people can develop a democratic society and make the desert bloom.

Today I join with all friends of Israel in saluting the Israeli people. I pray that the day will soon come when peace will be established in the Middle East, so that both Israeli and Arab may live in security and work together for the benefit of the entire region.

INTERVIEW OF FORMER VICE PRESIDENT HUMPHREY

Mr. McGEE. Mr. President, the Sunday picture magazine of the Minneapolis Tribune for April 20, 1969, contained an excellent feature on a well-known university professor. It is revealing in many ways, for it brings out the essential qualities of Hubert Humphrey, including his insights on today's students. Of them he is quoted as saying:

They're well-informed, socially sensitive, not afraid to ask any kind of question.

I've teased them a little bit. I think they ought to have a little better sense of humor.

There's a tendency on the part of a few to become terribly concerned to a point of anger. Well, an angry man over a period of time generally doesn't get much done.

The violence of those few has, in his view, unfortunately overshadowed a more important development; that being the reexamination of the colleges and universities and their role in our society.

Mr. President, I ask unanimous consent that the interview of our former Vice President be printed in the RECORD.

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

PROFESSOR HUMPHREY

It was only the second day of lectures at the University of Minnesota for Prof. Hubert Humphrey when he became the victim of a diabolical plot. He was persuaded to try a "student-style lunch" from the vending machines.

Along with a few students and faculty members, Humphrey walked down from his second-floor office in the Social Science Tower to the basement of nearby Blegen Hall.

Some of the students in the milling crowd stared or smiled at him, but many didn't know he was there.

A faculty colleague surreptitiously asked a student what was the worst sandwich in the machine, then suggested to Humphrey that he try ham salad. He bought one.

Next the former vice-president opted for chicken soup. It was sold out, but the machine kept his dime.

Undaunted, he moved on to the ice cream vendor. A strawberry ice cream sundae looked tempting.

The machine wouldn't take his quarter. He tried with exact change, 15 cents. No luck.

A cup of coffee perhaps? Nope. Sold out.

"Why hasn't there been a student uprising about these machines?" cried Humphrey.

A sympathetic student offered him a cup of Dr. Pepper, which was accepted with thanks. "It's the least I can do," the student explained.

The experience with the balky vending machines was not lost on Humphrey, either. Several days later, in recalling the incident, he talked to an interviewer about the effect of environment on students' attitudes and actions.

Students are a big part of Hubert Humphrey's life nowadays. He is still a political man and he is certainly not ignoring politics, but he is channeling much of his nonpolitical energy into education.

He is a part-time lecturer at Macalester College and at the university, a trustee of Brandeis University, chairman of the board of consultants and a director of Encyclopedia Britannica Educational Corp., and chairman of the Board of Regents of the Woodrow Wilson International Center for Scholars, "a sort of reverse Fulbright program" founded by Congress and now being established in Washington, D.C.

He will lecture from time to time at other

colleges. And he will give commencement addresses at four colleges, including Augsburg in Minneapolis.

Why the concentration on education?

"Because I like it. And I feel there's a great revolution taking place. There's an explosion of knowledge, and if you're not involved in it, it passes you by."

Humphrey likes to emphasize that he is no stranger to campuses, having made more than 100 college appearances as vice-president. And, of course, 25 years ago he was a popular visiting professor at Macalester.

Nevertheless, he admits, he had to go through a "period of readjustment." At first, students tended to regard him as a government official, and he tended to respond like one.

Then, too, his first days at Macalester were characterized by much attention from the press, a situation which he regretted and some students resented.

Those problems have passed, however, "I think things have gone extraordinarily well," he says, admitting he may have been a trifle nervous at the start.

Humphrey describes his educational role as a "supplement", not a substitute for other teachers. He serves as a guest lecturer for various classes—from constitutional law to marine biology, a subject he became familiar with as chairman of the U.S. Oceanography Council.

He also talks to informal seminar groups, and prefers this to formal class lectures.

In the classroom he is the political pragmatist, challenging theory with reality and experience.

He told one class that as a senator he often wished there were three possible votes: "yea, nay and maybe." Most of the time, he said, he would have voted maybe—"but you don't get that choice."

"I try to bring my political experiences, my legislative experiences into the classroom to enliven the regular material or to add an extra dimension," he explains.

To one class, for example, he described the bargaining he did as Senate majority whip with the colorful conservative Sen. Everett Dirksen to pass the 1964 Civil Rights Act. He talked about the personalities involved and he topped it off with an imitation of Dirksen's sonorous voice that brought a roar of laughter from the students.

As a presidential candidate, Humphrey was not exactly the overwhelming favorite on the campuses. His Vietnam stand was about as popular as higher tuition, and the battles at the Chicago convention did not help him.

As a faculty member, however, he seems to have quieted many of his critics. His lectures have been lively, and the reaction to him on both campuses has been generally favorable.

For his part, Humphrey has also reacted favorably to what he has seen of today's college students.

Speaking of his classroom and seminar experiences, he says:

"They're well-informed, socially sensitive, not afraid to ask any kind of question.

"I've teased them a little bit. I think they ought to have a little better sense of humor.

"There's a tendency on the part of a few to become terribly concerned to a point of anger. Well, an angry man over a period of time generally doesn't get much done."

He has also lamented the decline of the art of debate, "which is practically extinct," and has said he hopes to help revive it.

"We need to be able to see the other fellow's point of view," he told a group at Macalester, in an obvious reference to the attitude of some student activists. "And the only way I know to is to get a respect for argument."

But student activism, he says, is not just "an exercise. I see students being able to do many things and cause changes.

"I happen to believe that students have been responsible for activating our government in extending some aid to Biafra."

Students also have caused the Democratic party to change, he adds. Humphrey makes it clear that he opposes campus violence, but when it occurs it should be dealt with by university authorities, he says.

Violence, he says, has unfortunately overshadowed a more important development—the fact that colleges and universities are being challenged and re-examined.

Students are "asking those who are in charge to take a look at what they're in charge of . . . they're asking teachers to teach and administrators to listen.

"I happen to believe we're going to get better universities out of this—unless administrators and faculty just collapse before the most militant and violent reaction of a few students.

"Most students are asking for reform, not destruction."

So-called "disadvantaged students" are a "test of university administrators," says Humphrey, because universities are going to have to adjust to those students instead of expecting the students to adjust to the university.

All in all, the new professor seems to enjoy his role.

"I try to work at it hard. I'm only here a few days each month but I pack it in. I start at least at 9 and go to 5, and usually there's a seminar at night."

He is at Macalester and the university on a joint appointment at $30,000 a year—all from private funds. Macalester has furnished him a pleasant, four-office suite on the second floor of creaky Old Main.

He spends about six days a month on his teaching chores. The rest of his time is split up: some politicking in Washington (where he retains an office and small staff, and tends to Democratic party affairs) and elsewhere, speeches and lectures, several days a month for Encyclopedia Britannica. He is writing a newspaper column, which appears on The Minneapolis Tribune's Sunday editorial pages, and plans to write one or more books.

There are few idle days on his calendar. His April schedule called for: "Some political stuff" in Mississippi for the Freedom Democratic Party (later canceled because of President Eisenhower's death and funeral), a United Jewish Appeal speech in Chicago, an address to the National Congress of American Indians, and two days of meetings at Encyclopedia Britannica.

A speech at Adams State College in Colorado, two days of teaching at Macalester and the university, several days of lecturing at MIT and the University of Massachusetts, an appearance on "Meet the Press."

The opening baseball game in Washington, an Adlai Stevenson memorial lecture at Normal, Ill., teaching at the university for two days, an appearance at Concordia College, Moorhead, Minn., more teaching at Macalester, two days at Pace College, New York City.

It is a busy schedule, to be sure, but for the first time in years Hubert Humphrey is finding some time to do what he never could do in public office—to read and inquire on a broad range of subjects, or as he puts it, "to fill my mind."

"I imagine I've read more in the last two months than in the last five years," he says.

Instead of government reports, congressional bills and news magazines, his list now includes "The Second Federalist Papers," as background for lectures on the Constitution, and "a lot of reading on Afro-American studies."

"I've had to be a practical, pragmatic man for a long time, and I think I know how to do that. This new pattern of life will give me a chance to fill my mind with new ideas and try them out.

"For once in my life I have a chance just to have it poured into me, not to worry whether I can convince you or whether we can pass it.

"So we'll kind of fill up the well.

"I've been pumping it dry for a long time."

LEGISLATION TO ASSIST SMALL BUSINESS UNDER FEDERAL DEADLINES

Mr. SPARKMAN. Mr. President, I was pleased to join with the chairman of the Select Committee on Small Business (Mr. BIBLE) and other Senators on April 1 in introducing a resolution and bill designed to assist small meat processors and other small business firms which are required to modernize their plant, equipment, or procedures pursuant to deadlines established by Federal statutes.

Following the passage of the Wholesome Meat Act in December 1967, it came to our attention that the strict standards of Federal meat inspection must be extended from the 1,500 large-scale facilities presently under Federal inspection to the nearly 15,000 smaller firms in the meat industry. The law states that there must be compliance by December 15 of this year, or by December 15, 1970, at the latest, if a special exemption is obtained.

Because of this, we have reason to believe that pressure and hardship on these small firms will mount to either make new investments, which may be substantial compared to their size, or else to go out of business.

IMPACT IN ALABAMA

In my own State of Alabama, for instance, more than 60 companies in the meat processing industry will be affected. Although the majority of these firms are small, many are major factors in the economy of their towns and counties. According to information furnished to me by the Alabama Meat Packers Association, these firms employed more than 4,000 workers; last year accounted for $14.8 million in wages and $121.3 million in the purchase of raw materials; and made about $7.2 million in capital investments and improvements.

In addition, these firms are a source of a basic food which is important to the life and health of our people. It is thus apparent that the meat processing industry is important to the economy of Alabama in many ways and that the advent of the new method of operation for these firms may have a significant effect.

As Senator BIBLE and I have been pointing out, many of the firms affected are located in small towns. They may not have the volume or regularity of operations which are immediately compatible with the Federal system of daily and continuous inspection. They have not previously been subject to the rigorous and detailed requirements covering construction, layout, materials, sanitation, and cleaning which the Federal Government demands of larger firms engaged in interstate commerce.

Because of our concern, we introduced Senate Resolution 290 during the 90th Congress in an attempt to assess the impact of these new standards on the thousands of small firms in this industry.

CONSEQUENCES OF COMPLIANCE

It is my impression that the firms in this industry earnestly desire to comply

with the new standards. Perhaps more than anyone else, it is the meatpacking firms themselves who desire safe, wholesome, and attractive products because they have the most to gain from public acceptance of these commodities. I know that the firms and trade associations of Alabama have a positive attitude and have taken positive steps in this area.

It seems to me that eventually many small firms in Alabama and elsewhere will have to make capital improvements. The extent of these changes and their cost cannot be fully determined until the firms affected are ready to proceed with this work. However, the possibility exists that the outlay in a State such as Alabama would be far above the $7 million level of last year. A further consequence follows from the level of interest rates, which are now at historic highs. The prime rate is at 7½ percent and it is well known that smaller firms must pay rates that are scaled upward a point or more beyond the prime. With the additional factor of a deadline in this picture, a small firm is even in a weaker position in negotiating the interest rates and terms of a loan which may be vital for the continuance of its operations.

As a result, when these deadlines roll around, we may see hundreds of small firms threatened with severe economic hardship or even going out of business.

We in the Senate feel that we should not stand by and let these deadlines overtake us. Once a small firm of this kind closes its doors, its accounts will go elsewhere for their current requirements, and much, if not all, of its trade will be permanently lost. It seems to us that the time to prepare for the emergency is before it becomes acute. The day that a business is closed down is too late.

THE NEED TO GATHER INFORMATION

Because the Wholesome Meat Act, and similar Federal statutes, are recent and far reaching, we have found that there is no agency of the Federal Government that can predict the consequences of these deadlines. We therefore need to collect facts and figures that will spell out the difficulties which may be confronting small businessmen as they seek to comply with these laws. This is the purpose of the resolution we have introduced.

It calls upon the Small Business Administration to survey a sampling of the companies affected by the Wholesome Meat Act and to invite them to furnish information that will permit a judgment about whether they are running into trouble. It will, of course, be entirely voluntary as to whether the small businesses contacted wish to reply. However, I am encouraged by the willingness of the Alabama meatpacking organization to cooperate in this venture and I hope that other associations of small and independent meat processors will similarly be interested. I can assure the small business community that any data obtained will be helpful to all who are concerned with assisting small business in resolving the problems that arise as they seek compliance with the Wholesome Meat Act. The information will enable us to make informed judgments on what if any steps the Department of Agriculture, the SBA, or Congress ought to be taking in response to this situation.

OTHER DEADLINE STATUTES

As we got deeper into this subject, we soon discovered that the Wholesome Meat Act was not the only Federal statute imposing a deadline on small business. In recent years, we have seen a series of congressional statutes which create new Federal health and safety standards for the general public, and which require businessmen to upgrade their facilities. This has become something of a pattern. To the extent that capital investments must be made within a short period of time, this development would appear to fall most heavily upon small businesses, which are in the position of least financial strength.

We have compiled a list of several of these statutes, and I ask unanimous consent that they be included in the RECORD following my remarks. Such quality control laws are desirable. We need protection of consumer products and our natural resources. But there are also side effects as small businesses attempt to adjust. We hope the introduction of this legislation will contribute to the solution of these problems.

POSSIBILITY OF SBA ASSISTANCE

The study called for by our resolution would be one element in determining the nature and extent of any difficulties facing small business as a result of this deadline compliance.

It is hoped that there will be other efforts by private, local, State, and Federal bodies to bring out information enabling all concerned to gain a better grasp of the problems occurring under all of these statutes.

If it appears that action is called for, the bill proposed by Senator BIBLE, myself, and other Senators offers one alternative for such action.

This bill would authorize the Small Business Administration, pursuant to its disaster loan program, to make emergency loans to small firms which are seeking to comply with a Federal deadline, but cannot obtain the necessary capital from any other source. There would be proper safeguards to assure that the firms worthy of assistance would be given every opportunity to qualify, and that those which had access to other sources of capital made use of them. The interest rate of such disaster compliance loans would be at the cost of money to the Federal Government plus one-fourth of 1 percent. The terms should be of sufficient length to enable the firms concerned to repay the loan out of their earnings.

ROLE OF STATE PROGRAMS

The authors of this legislation envision that a firm seeking to comply with a State program equivalent to the required Federal program would stand on the same footing regarding eligibility for such assistance. The rationale of this is that the Federal Government originally created the deadline and therefore the necessity to act. However, any State which desires to adopt its own equivalent program, under any of the applicable statutes, should be given every incentive to do so.

WELCOMING OTHER POSSIBILITIES

In making these proposals, we certainly do not mean to imply that they are the only aproach to small business problems created by Federal deadlines. We do hope that further thinking will be stimulated, and that discussion among the various levels of government and private industry will take place before the problems become a crisis. We would, of course, welcome any suggestions that would improve these measures, or would devise others that alone or in combination with others would be adequate to cope with the difficulties involved.

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

RECENT FEDERAL LEGISLATION ESTABLISHING DEADLINES FOR SMALL BUSINESSES

Name of the act	Date of approval	Deadline
Wholesome Poultry Products Act	Aug. 18, 1968	60 days.
Natural Gas Pipeline Safety Act of 1968	Aug. 12, 1968	1 year.
Wholesome Meat Act	Dec. 15, 1967	Dec. 15, 1969 (1 additional year if exemption obtained).
Air Quality Act of 1967	Nov. 21, 1967	Issuance of regulations, May 21, 1969; implementation, Nov. 21, 1969.
Fair Packaging and Labeling Act	Nov. 3, 1966	July 1, 1967.
National Traffic and Motor Vehicle Safety Act of 1966	Sept. 9, 1966	1 year from order entered by Secretary of Commerce.
Motor Vehicle Air Pollution Control Act	Oct 20, 1965	Upon public order of appropriate secretary.
Water Quality Act of 1965	Oct. 2, 1965	June 30, 1967.

Source: Legislative Reference Service, Library of Congress.

AMERICAN OF THE CENTURY: DWIGHT DAVID EISENHOWER

Mr. GRIFFIN. Mr. President, an article published in the April issue of Reader's Digest contains this passage:

Well, I for one refuse to become pessimistic about America's future. Granted the storm signals are up. I believe nevertheless that as a people we have the good sense to place patriotism and human understanding above the arrogance of prejudice—that we can solve peacefully the problems that beset us. I believe that we will do so through our traditional reliance upon the philosophy of moderation—or Government by Common Sense.

Those words of faith and confidence were written, shortly before his last illness, by the most admired, the most beloved American of this century—Dwight David Eisenhower.

The United States and the world are much better places in which to live today because of the dedicated life and services of Dwight David Eisenhower.

Military strategist, educator, and statesman, General Eisenhower was all of these—and much more. In the hearts and minds of people everywhere, he was a soldier who hated war and fought un-

ceasingly for peace. His quest for peace was as intense during the 8 important years when he occupied the White House as it was during wartime when he commanded the most powerful armies in history.

Unwavering in his faith in America and the future, he was the very symbol of the Nation's spirit. In his state of the Union message on January 5, 1956, he said:

Our resources are too many, our principles too dynamic, our purpose too worthy and the issues at stake too immense for us to entertain doubt or fear. . . .

In the twilight years of his life, General Eisenhower wrote that his greatest regret, when leaving the White House, was that he had not achieved greater success in reducing world hostility and making progress toward global disarmament.

Then he added:

But though, in this, I suffered my greatest disappointment, it has not destroyed my faith that in the next generation, the next century, the next millenium these things will come to pass.

If and when world peace and order does come, it will be due, in no small measure, to the inspiring, dedicated efforts of Dwight David Eisenhower and his devotion to the principles of freedom with justice for all.

In this century there have been other great statesmen and other great soldiers, but Dwight David Eisenhower had no peer in the hearts of the people. He was a most exceptional man.

Perhaps that feeling is summed up best in what started out to be only a political slogan. In time, the slogan—"I like Ike"—became a phrase of affection heard round the world.

The wisdom and counsel of Dwight David Eisenhower will be sorely missed. But his lifetime of service to the world and the country he loved so much will remain as a monument of inspiration for all.

THE COLLEGE REVOLT MOVEMENT

Mr. TALMADGE. Mr. President, we have been witnessing throughout the country a radical and revolutionary movement which everyday increases in numbers, in violence, in damage, and in insults to law-abiding citizens and young people who are conscientiously trying to get an education.

Rioting and disorder on our college campuses have taken the country by storm. Such is their intensity and widespread frequency that I believe they pose a serious threat to the security and well-being of our Nation.

The college revolt movement has grown and flourished, and virtually each day we read about another college campus that has been overrun by rebellious and lawless students. I submit that this movement has prospered so because of the unwillingness of some public officials to stand up and enforce the law, because many university administrators and professors have demonstrated an astounding disregard for law and order, and no doubt because there are some parents who think their youngsters are involved in some kind of college prank and will not try to exercise any disciplinary control over their offspring.

The Atlanta Journal publishes a daily bit of wisdom in the guise of a letter to the editor, allegedly written by someone called Piney Woods Pete. I read to the Senate what he wrote on April 17:

DEAR MR. EDITOR: I see in your paper where the faculty at Harvard is taking the middle ground. It won't side either with the students or the administration.

Professors who don't know which side to be on when the schoolhouse is on fire ain't got sense enough to wipe their noses when they have a bad cold.

Yours truly,

PINEY WOODS PETE.

That is exactly how I feel. That is exactly how an overwhelming majority of the American people feel.

Also, in the April 24 edition of the Washington Post, the well-known humorist, Art Buchwald, discussed campus rioting in his column. He portrayed an imaginary college professor who had been beaten up and thrown down the stairs by rioting students, and who dismissed it all as just youthful exuberance or as the lawful expression of dissent. I realize that Mr. Buchwald's column was satire, but I found it an almost totally accurate portrait of some of the college teachers and administrators that we have been reading about in the papers.

There are increasing pressures from the public and from several Members of Congress for more Federal action to curb campus rioting, perhaps even for making it a Federal offense to participate in such unlawful demonstrations. I am not certain of the wisdom or necessity of such a law. Before passing judgment, I would first like to know what is wrong with the laws and the university regulations we already have, and why they are not being enforced.

It is still against the law in every State that I know of to abduct college officials, to hold them hostage, to verbally and physically abuse them, and to make them sign so-called "amnesty" papers at gunpoint, as students did at Cornell University in New York. It is still against the law to take over and destroy public property and to hurl bricks and bottles at people.

Before we start thinking about additional Federal legislation, I for one would like to know why it is that local laws are not being enforced as they should be. I would like to know why disorderly students who violate university regulations are not summarily expelled, and why students who break the law are not arrested, prosecuted, and punished—just like everyone else.

I invite the attention of the Senate to Mr. Buchwald's column and ask unanimous consent that it be printed in the RECORD.

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

[From the Washington Post, Apr. 24, 1969]

PROFESSOR'S STAND IS FIRM—BUT BRIEF

(By Art Buchwald)

One of the things that impresses people about the student demonstrations is the strong stand that some members of the faculty are taking on the issues.

I was on the campus of Northamnesty University and ran into a professor who was trying to stop his nose from bleeding. His clothes were torn up and he was walking with a pronounced limp.

"What happened, professor?" I asked, as I helped him search for his glasses.

"The militant students just took over my office and threw me down the stairs."

"Why, that's terrible," I said.

"From *my* point of view it is, but I think we have to look at it from *their* point of view. Why did they throw me down the stairs? Where have we as faculty failed them?"

"Are you going to press charges?"

"On the contrary. If I pressed charges, I would only be playing into the hands of the repressive forces outside the University who would like nothing better than to see the students arrested for assault."

"But they did assault you?"

"Yes. I have to admit I was surprised about that. But there was one heartening note. As they threw me down the stairs, one of my students yelled, 'It isn't you, professor. It's the system.' "

"That must have made you feel better."

"As I was tumbling down, the thought did occur to me that at least there was nothing personal in it."

"Say, Professor, isn't that the Philosophy Building going up in flames?"

"I believe it is. Now, why did they have to go and set fire to the Philosophy Building?"

"I was going to ask you that."

"I'm not quite sure, because I haven't seen any of the students since they threw me down the stairs. My guess is that it probably has to do with something the administration and the students are at odds about."

"But that's a terrible thing to do."

"I don't think we should make judgments until all facts are in. I would say burning down a philosophy building could be interpreted as an unlawful act. At the same time, there are moments when an unlawful act can bring about just reforms."

"But the books, the records, the papers are all going up in smoke. Shouldn't we at least call the fire department?"

"I don't believe the fire department should be called until the faculty has met and voted on what course of action should be taken. There are times when a fire department can only inflame a situation. We should also hear from the students who started the fire and get their side of it. After all, they have as much at stake in the University as anyone else, and if they don't want a philosophy building, we should at least listen to their arguments."

"I never thought of it that way," I admitted. "Professor, I know you can't see very well without your glasses, but I believe the militant students over at the quadrangle are building a scaffold. They wouldn't hang anyone, would they?"

"They haven't before," the professor said. "But it's quite possible that this is their way of seeking a confrontation with the establishment."

As we were talking, a group of students rushed up and grabbed the professor. "We got one here," the ringleader shouted. "Get the rope."

"Don't worry, Professor," I shouted as I was pushed away by the mob. "I'll get the police."

"I wish you wouldn't," he said calmly as the students led him toward the scaffold. "If we don't let the students try new methods of activism, they'll never know for themselves which ones work and which ones are counterproductive."

TV STATEMENT BY SENATOR BYRD OF WEST VIRGINIA ON PROTECTION OF U.S. AIRCRAFT

Mr. BYRD of West Virginia. Mr. President, on April 19, 1969, I made a

statement for television regarding protection of U.S. aircraft.

I ask unanimous consent that the transcript of that statement be printed in the RECORD.

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

PROTECTION OF U.S. AIRCRAFT

The attack on our EC–121 aircraft was a flagrant violation of international law and an act of premeditated provocation. Now, I did not advocate military retaliation in the case of the *Pueblo,* nor do I advocate military retaliation, at the moment, in this instance. But I do think that if such reconnaissance is vital to the security of our 56,000 men located in South Korea, and to our position there, then the reconnaissance effort should be continued, and the President has so decided. However, in continuing it, the men who are asked to perform such dangerous missions should be supplied with whatever protection is feasible under the circumstances, and the President has so decided that they will have such protection. I am glad to see that our Nation has vigorously protested this attack, and I think that the North Koreans should be clearly warned that further unprovoked and unwarranted attacks will invite swift and sure and adequate retaliation. We cannot expect to maintain the respect of other nations and our own self respect if we permit a country like North Korea to continue its acts of war against our forces operating where they have every night to be under international law.

ECONOMICS OF AGING—I

Mr. WILLIAMS of New Jersey. Mr. President, on March 28 a distinguished task force prepared for the U.S. Senate Special Committee on Aging a report called "Economics of Aging: Toward a Full Share in Abundance." That working paper provided weighty documentation showing that the retirement income problems of today—and of the next few decades—require prompt national attention. As chairman of the Committee on Aging, I have called hearings on April 29–30 to consider many of the issues raised in the task force study, and I am looking forward to receiving testimony by experts from government and elsewhere at that time.

I am also able to report that the committee will be guided by direct information from many older persons who are sharing with us their own experiences as they attempt to make both ends meet while trying to stretch their retirement resources over the years in the face of rising expenses.

Their letters are arriving at the committee office, and they bear out—in very direct and personal terms—the conclusions reached in the tables, charts, and evaluations offered in the task force working paper. I will, therefore, in the days before the hearings, offer excerpts from several of the letters sent voluntarily in response to news articles telling of the task force report. In very personal terms the individual letter-writers make the statistics come to life.

For example, the task force study said:

Three out of 10 people 65 and older—were living in poverty in 1966, yet many of these aged people did not become poor until they became old. Even with the important protection of Medicare, many older people have mounting medical bills that must be paid out of pocket.

One of the letters, written by a man from Westfield, N.J., poignantly makes these points. In his words:

I retired from the Department of Defense in 1957 on a disability. At that time I was a Grade 13 and received an annual salary of about $10,000. After some months of convalescence, I secured a job with industry and worked on this job until I reached the age of 65 and under the rules of my employer, I was forced to retire. With the civil service pension and social security I believed our income was sufficient to live normally.

About three years ago my wife became ill and after consultation with many doctors, both medical and psychiatric, her illness was diagnosed as arteriosclerosis. I hired household help and kept her with me until I was forced to place her in a nursing home. Unfortunately, her illness is not covered under Medicare so since last December I have been paying about $600 a month for her care which is more than my combined pensions. I have been using my meager savings and within a few months I will have to depend on charity.

I have tried to secure employment but because of my age, now 70, I cannot find an employer who would consider hiring me. As another alternative I placed an advertisement in the Wall Street Journal trying to start a business of my own. To date, I have had no results from this ad. So, it appears to me that I have about reached the end of the line and this is very sad as we will have been married fifty years in June of this year.

INTEREST RATE ON FEDERAL MONEYS UTILIZED FOR WATER-RELATED PROJECTS—RESOLUTION BY OKLAHOMA LEGISLATURE

Mr. HARRIS. The Oklahoma State Legislature recently enacted Enrolled House Concurrent Resolution 1016 memoralizing Congress to reduce the interest rate on Federal moneys utilized for water-related projects. This resolution was enacted as a result of recent action by the National Water Resources Council in increasing the interest rate from 2½ to 4⅝ percent on water resource development projects. I have long been opposed to an increase in the interest rate on water resource development projects, and I have strongly advocated that if such an increase in interest rate is put into effect a corresponding increase in the evaluation of benefits should be instituted. I still feel that the action of the Water Resources Council has thrown the benefit-cost formula out of balance because it has substantially increased the cost evaluation of vital resource benefits without giving equal consideration to benefits resulting from the development of our water resources. Mr. President, the resolution adopted by the Oklahoma State Legislature is timely and deals with a matter of vital concern to us all; therefore, I ask unanimous consent that it be printed in the RECORD.

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

H. CON. RES. 1016

A concurrent resolution memorializing Congress to reduce the interest rate on Federal monies utilized for water related projects; and directing distribution

Whereas, hearing and final action was taken on or about December 18 and 19, 1968, by the National Water Resources Committee, Stewart Udall, Executive Chairman, increasing the interest rate on all federal monies utilized for water related projects; and

Whereas, the rate was raised from 2½ percent to 4⅝ percent, effective immediately; and

Whereas, additionally, beginning in 1970 further increases of ¼ of 1 percent per quarter were ordered; and

Whereas, these increases would bring the total interest rate to 5⅝ percent beginning on January 1, 1971; and

Whereas, water related projects are of great importance to Oklahoma both from a mandatory and utilitarian standpoint; and

Whereas, even though projects now underway still retain the use of 2½ percent money, many watershed detention, navigation and irrigation projects in Oklahoma are only now in the feasibility study stage; and

Whereas, this increase in interest will likely have an enormous impact on the portion of the feasibility studies concerned with payout of return; and

Whereas, this increased drain on payout will undoubtedly affect the overall feasibility of many needed projects; and

Whereas, this denial of needed projects will work an unnecessary hardship on Oklahoma and many of her sister states.

Now, therefore, be it resolved by the House of Representatives of the first session of the thirty-second Oklahoma Legislature, the Senate concurring therein:

SECTION 1. That the Congress of the United States be and is hereby respectfully memorialized to come to the aid of the states in the conservation of water related projects by reducing the now high interest rate on federal monies utilized on water related projects.

SEC. 2. That duly authenticated copies of this resolution, after consideration and enrollment, be transmitted to the office of the Congress of the United States and to the members of the Oklahoma Congressional Delegation.

Adopted by the House of Representatives the 6th day of March, 1969.

REX PRIVETT,
Speaker of the House of Representatives.

Adopted by the Senate the 12th day of March, 1969.

FINIS SMITH,
President Pro Tempore of the Senate.

EDUCATION PROBLEMS OF INDIANS

Mr. MURPHY. Mr. President, as a member of the Subcommittee on Indian Education, I naturally am concerned with the education problems of the American Indian.

President Nixon in his acceptance speech at the Republican National Convention spoke of the need for those "small but splendid" efforts that are needed by private individuals to make our Nation a better place in which to live.

One such effort is being made by Mr. Jonathan Winters, the noted comedian, on behalf of the American Indian. Mr. Winters has spent the past year visiting Indian reservations throughout the country. He has seen firsthand the difficulties and conditions of the American Indian. After this examination, he reached the conclusion that the answer to the needs of the Indians will be found in education.

Thus, he established the Jonathan Winters American Indian Scholarship Fund. To raise funds for this worthwhile objective, he organized and headlined a benefit concert in Los Angeles last year with all the proceeds going directly to the newly established scholarship program. Since then he has made numerous other public appearances to raise money

accepting no payments for himself—his only reward being a personal satisfaction that is derived from knowing that his work will immeasurably benefit persons in need.

Mr. President, I commend Mr. Winters for his efforts.

THE CLOSING OF JOB CORPS CENTERS

Mr. HUGHES. Mr. President, last Friday, Mr. John Belindo, executive director of the National Congress of American Indians, testified before the Subcommittee on Employment, Manpower, and Poverty regarding the closing of Job Corps centers throughout the United States. In the course of his testimony, he read a letter to the President from Miss Fay White Calf, an Indian girl who is a trainee at the Women's Job Corps Center, Clinton, Iowa. It is such an eloquent testimony of the benefits that young people from minority and disadvantaged groups have received from Job Corps training that I ask unanimous consent that it be printed in the RECORD.

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

CLINTON, IOWA.

PRESIDENT NIXON: I doubt if you will ever see my letter, since it is one of many to be placed in a category. But I have something to say and I hope I say it for a lot of people.

Job Corps and other organizations have furnished us with another chance. I shudder to think where I would have been if it hadn't been for Job Corps. I have discovered talents in myself I didn't know I had. I've learned to understand and get along with people of other races; something I had never done before. I've learned to appreciate the modern conveniences of life and I now have the desire to work for them instead of waiting for them. I've learned that there are people in this world that can be trusted; something I think more people should have the chance to learn; then perhaps the world would be a better place to live. I don't claim to be a saint now, nor do I claim that everybody that comes to Job Corps learns these things. Some just aren't willing to learn. They have been hurt too bad to change. But there are those of us who are very much willing to learn. Not just to better ourselves, but to give what knowledge we've acquired to our parents and others who are connected with us.

I really dread the day when the Job Corps will close. Because if it closes before I have the chance to get what I came here for, I know I will be a disgrace to my family when I go back to the way I was living before.

Well, there have been good times and bad times in our centers. But the good is never publicized. Perhaps it should be. Well, our futures are in your hands and at your disposal. If your mind is already made up, I suppose no amount of talking will change your mind. But I just had to say what I felt.

Sincerely yours,

FAY WHITE CALF.

ROLE OF COMMUNISTS IN COLLEGE CAMPUS DISTURBANCES

Mr. MURPHY. Mr. President, Mr. Robert Betts, of the Copley News Service, recently wrote a penetrating series of articles dealing with the Communists' role in our college campus disturbances. I think that a careful reading of this material would do much to clarify some of the influences behind these disturbances which frankly have not had, in my opinion, enough of an airing in the press or by television which has focused so much attention on student unrest.

Mr. Betts, a native of London, England, was a Royal Air Force pilot during World War II and was a prisoner of war for 3½ years after being shot down over Germany. He became an American citizen a year ago. Already widely traveled throughout the United States, his work on this series took him to 16 college campuses.

I ask unanimous consent that this series, reprinted from the San Diego Union, be printed in the RECORD.

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

ACTIONS REVEAL REDS—BUSY ROLE IN YOUTH PROTESTS

(By Robert Betts)

Americans do not have to look for Reds under the bed.

They can be seen almost any night on television—leading a college riot or mingling in the melee like extras in a movie crowd scene.

They are not all card-carrying members of the Communist party. They are defined not by whether they pay party dues, but by their actions, their vocabulary and the way they always manage to be where trouble is.

Those who keep close, continuing watch on the unfolding pattern of subversion in this country can pick them out easily.

The average American sees only turmoil and shakes his head over the "impetuousness of youth."

Educators tell him—between frequent fires, bombings and other acts of sabotage and terrorism—that the young people have many legitimate grievances and that they need "patience and understanding."

Others oversimplify the problem and play into the hands of these who ridicule "Red-baiters," by attributing all criticism and protest to "the Communist conspiracy."

A bewildering assortment of youth protest movements add to the confusion—the Third World Liberation Front, Progressive Labor Movement, New Left Forum, W.E.B. DuBois clubs, Students for a Democratic Society, Young Socialist Alliance, Young People's Socialists League, Student Non-Violent Coordinating Committee and dozens of others.

Communist activity inside such groups is so subtle and diversified that it is not always easy to distinguish between real enemies and well-meaning, misguided, would-be-reformers.

Whatever the radicals call themselves, democratic-socialist or Marxist-Leninist, progressive-laborite or Trotskyite, Stalinist or Maoist, white Castroite or black militant, so far as the Federal Bureau of Investigation is concerned, they are all the same color underneath—Red.

Distinction between such labels is irrelevant, Director J. Edgar Hoover of the Federal Bureau of Investigation points out, "because the basic objective of both New Left and old-line Communist and their adherents in our society is to completely destroy our form of government."

The leaders of campus violence make no secret of it. They travel from campus to campus making speeches and distributing literature calling for the overthrow of "bourgeois America."

Peter Camejo, 29-year-old nonstudent leader of the Socialist Workers party, who has loomed large at every demonstration of consequence over the last four years, recently told the Third World Liberation Front in San Francisco: "Your is but part of a world struggle against the ruling class of the United States. Your victory will be the victory of oppressed peoples around the world."

Camejo, who faces a conspiracy trial for his part in the seizure of Moses Hall, Berkeley, last October, was writing from Cuba. Police list him as a "Trotskyite-Communist professional agitator."

Another familiar face is that of Tom Hayden of the Students for a Democratic Society, whose members call themselves "professional revolutionaries" committed to the destruction of imperialism and capitalism by organized sedition and guerrilla force."

Hayden, 29, helped found the SDS in 1961 when he was a University of Michigan student. Today he is SDS tactical chieftain. He visited Hanoi in 1965 with top U.S. Red strategist Herbert Aptheker. He also has consorted with Red bigwigs in Moscow, Peking and Havana.

Last year he went to Paris to confer with North Vietnamese delegates, then came home to lead a student crusade against the draft.

He was also at Columbia last May, helping local SDS man Mark Rudd, another delegate to Cuba, to organize the assault on the university buildings.

THE MAN IN A BANDANA MASK

Two months later Hayden, disguised this time with dark glasses, pulled-down hat and bandana mask, was among the 8,000 Chicago demonstrators during their confrontation with the police. Still later, he showed up for the troubles at San Francisco State College.

The task, says Hayden, is to "create more 'Chicagos' in our cities, more 'Columbias' on our campuses."

Also on the picket line recently at San Francisco State was Arthur Goldberg, one of the organizers of the Free Speech Movement which in 1964 put the blight on Berkeley.

Other FSM instigators who have been busy before and since include:

Steve Weissman, who graduated from Berkeley and went on to Stanford to be a ringleader in the troubles there.

Bettina Aptheker, Communist daughter of Herbert. Having at the tender age of 16 suffered three broken ribs during a rowdy "peace" demonstration in New York, Bettina is not such an ardent advocate of the violent method. She prefers the strategy of "going limp," a fashion she set during the Berkeley riots.

Mike Myerson, former chairman of the early Berkeley radical group SLATE, delegate to the Eighth World Communist Youth Festival in Helsinki, who went on to found, with Bettina and others, the DuBois clubs for bringing together Communist youth. On a visit to Hanoi in 1965, Myerson was proclaimed an "honorary nephew" of Communist leader Ho Chi Minh. He has participated in demonstrations in this country wearing a Viet Cong cap and a ring he claims was made from the wreckage of an American plane.

Karen Wald, or Liberman, who reportedly went from Berkeley to Cuba, on to Moscow, back to New York in time for the Columbia uprising, then back to Berkeley for the latest disturbance there.

Jerry Rubin, now in prison for his part in the Chicago disorders. In a letter to friends asking for contributions to the "Rubin Defense Committee," Rubin wrote: "To challenge the courts is to attack American society at its roots. In campus rebellions, the most revolutionary demand, the demand that can never be granted by the administration, is the demand for amnesty . . . An offensive against the courts and jails—including direct action and direct legal and financial aid to the victims of the system—would be the most immediate link that a white movement could possibly make with blacks and poor whites . . . As a beginning let's organize massive mobilizations for the spring, nationally coordinated and very theatrical, taking place near courts, jails and military stockades."

Others who will not be appearing on tele-

vision for a while are Eldridge Cleaver, 33, in hiding after a parole violation in connection with charges stemming from a gun battle with police, and Huey Newton, 26, Black Panther "minister of defense," now serving 2 to 15 years for manslaughter of an Oakland policeman.

Both men were defended by Charles Garry, a San Francisco lawyer identified as a Communist by a former fellow member in testimony before the House Committee on Un-American Activities in 1957.

A member of the Communist-organized National Lawyers Guild which, it is said, forms the "legal bulwark of the Communist party," Garry is one of several called on to defend Communists in court, as well as to play a leading role as public speakers and lobbyists against federal and local government security programs.

Garry is also one of the defense attorneys in the trial of the seven Oakland radicals arrested during "Stop the Draft" week in October, 1967.

Among the seven is Terry Cannon, who recently met comrades of the National Liberation Front in Budapest.

"The NLF could not understand why we did not have a single revolutionary organization like them in this country, one organization with a strategy for the liberation of America," he recently told fellow students. "We tried to explain that we were new at this business, we were experimenting, we were still trying to find the revolutionary tactic that would bring this country down."

When it does come down, Cannon thinks, it will be through "some massive combination of leaflets, sit-downs, strikes and fighting in the streets—all of them together."

Another one of the seven is Steve Hamilton, a well known Berkeley troublemaker, listed on file in the dean of students' office as chairman of Campus Progressive Labor, president of the May 2 Movement, chairman of the Medical Aid Committee (formed to give aid to wounded demonstrators).

Hamilton told the House Committee on Un-American Activities in 1966: "I joined with other people who are fighting for a just and socialist society and I became a member of the Progressive Labor party and became a Marxist-Leninist."

Some Negro groups have steered clear of the Communists. Their leaders are experienced, sincere men concerned only to right the wrongs that Negroes have undeniably suffered down the years. They are conducting a responsible, worthwhile campaign for better facilities for their people and, in schools, more courses tailored to what they regard as their own needs. Above all, they want recognition for the black people as people with pride in their own heroes, history and culture.

Some black groups, however, have fallen under the Communist spell. For all the venomous anti-white invective, it is never anti-Red. The Red line is followed. The same language is used. Communists provide the causes, the propaganda and much of the funds. To call for "Negro rights" have been added slogans like "imperialist warmongers," "capitalist scum" and others supplied by the Reds.

Nor is the campaign confined to hate words and obscenities. The threat of physical violence—beating, knifing, shooting—is also used to deter opposition.

Black Panther "minister of education" George Murray, former Oakland elementary schoolteacher, education coordinator for San Francisco State's Summer Youth Work program and lately part-time English teacher at the college, has told students: "America represents slavery, America represents hell."

REVILEMENT FOR FLAG

He calls the American flag "a piece of toilet paper" and says it should be "flushed down the toilet and burned in the sewers."

Murray claims he was victimized by suspension from the college for urging the students to "carry guns to protect themselves." His actual words at the campus rally left little doubt what he meant. "What we want to do," he said, "is use guns and force to liberate black people, as our brothers all over the world are doing against American imperialism."

Murray is an old-time Marxist. The Communist party publication in Cuba, which he also has visited, gave him 2½ pages. He was quoted as saying: "Every time a guerrilla knocks out a U.S. soldier this means one aggressor less against those who fight for freedom in the United States." The Detroit riot, he said, kept National Guardsmen busy so they could not even be considered for duty in Vietnam.

Many student demonstrators, both black and white, deride suggestions of Communist connection with their movements.

"Marx? Lenin? Those old fuddy-duddies," one young Berkeley demonstrator chuckled through his beard. "Communists are square, man. They wear collars and ties—just like you!"

Square or not, the Communists are past masters in the art of mob manipulation. They have had 60 years experience of organizing peasant and worker uprisings around the world.

"Fronts are things of the past—we don't need them," said Gus Hall, secretary of the Communist party, U.S.A.

He was right, No operation of subversive forces in this country has been more bold, direct or blatant than the Communist takeover of the youth protest movement.

"We've got the DuBois Clubs, the Student Non-Violent Coordinating Committee, the Students for a Democratic Society," Hall boasted. "We have them going for us and they are not fronts in the usual sense of the word."

He could have listed several more.

The Communists have made great headway since 1961 when they started their plan to capitalize on the energies, resourcefulness, idealism and inexperience of young American hotheads.

On Jan. 20, 1961, Hall told his national committee: "The party must give much higher priority for the work among youth in all fields of endeavor."

A national organizing committee was set up to form a national network of dissident youth groups, tying in the Marxist and socialist-oriented groups that already were springing up.

Contact was made with groups that were not, like SLATE and Advance, already Communist fronts. The idea was to give them every encouragement and help to feed them promise, to supply them with more funds.

Where local leaders were not considered active or militant enough, trained leaders were dispatched to the area. Their job was to build up the group by recruitment among the rootless intellectuals and loudmouthed malcontents, to make more impact on the community and stir up more resentment.

Liberal movements, calling themselves non-Communist or even anti-Communist, were also marked for infiltration. While concealing his Communist connections, the agent was to exploit existing grievances, arouse members to protest other "wrongs," and use his own persuasive personality either to be elected or eventually to take over as spokesman for the group. Activities thereafter were to be directed along channels that served the ends of the party.

College campuses were particularly fertile soil. Fidel Castro's victory in Cuba in 1959 had shown what could be achieved by a small group of young, dedicated followers.

Castro's deeds had stirred the imagination of American students already touched with revolutionary fever. They were ripe for indoctrination by Communist, pro-Communist and liberal professors. There were plenty of these around ready to talk about the "evils" and "injustices" of imperialism, capitalism and the American system, and the plight of oppressed peoples around the world.

Back-up was provided from outside by Communist party functionaries, including Hall himself, making speaking tours of the campuses.

Other vehicles of indoctrination were open forums, rallies and teach-ins. The teach-ins were a technique developed from the earlier Communist front "study group" to reach larger audiences.

Dressed up to look like fair debate, the "teach-in" was in fact carefully planned, timed and supervised by specially picked "discussion leaders" to give the organizers the advantage over the invited opposing speakers. Planted strategically about the hall were hecklers armed with prepared questions and statements, versed in the art of stifling the opposition and swaying an audience.

FREE SPEECH TO FREE SEX

It also was no longer necessary to confine activities to the old secret Communist "cells." Radical students and non-student radicals were enlisted to organize college chapters of new national organizations formed under various banners—civil rights, "fair play for Cuba," "end the war in Vietnam," "stop the draft," "academic freedom"—everything from free speech to free sex.

One of the first, and most radical, was the Progressive Labor Movement, formed in 1962 by two long-time Communists who wanted action according to the teachings of Red Chinese leader Mao Tse-tung.

This movement organized student trips to Cuba, arranged karate classes and established arms caches in the New York area. Mortimer Scheer, a former member of the New York State Committee of the Communist party, later founded Progressive Labor's West Coast chapter in San Francisco. He was active in the Free Speech Movement and the Vietnam Day Committee at the University of California campus at Berkeley and since has been busy at most of the big Berkeley demonstrations.

West Coast organizer for the Progressive Labor group today is Steve Cherkoss, who was assigned by the VDC to head the anti-draft committee. He also led anti-draft demonstrations at Berkeley High School and at Garfield Junior High in Berkeley, where he recruited 12- and 13-year-olds for a Junior Vietnam Day Committee.

The Students for a Democratic Society was the new name given to the student affiliate of the socialist League for Industrial Democracy. Although SDS originally repudiated communism as an authoritarian system and excluded Communists from its membership, Communist agents sat in on meetings and coached organizers almost from the start.

As a result, the 1965 SDS convention repealed a constitutional stipulation barring Communists from membership. Subsequently, Communist party leaders quietly told members they "could work through SDS." Today they control several chapters.

By mid-1968, SDS claimed to have 6,300 dues-paying members with another 35,000 unregistered participants in 250 chapters across the country, all under the direction of SDS headquarters in Chicago.

SDS members now openly embrace the Red cause, wave Viet Cong flags, display portraits of Marx and Mao, denounce "capitalist exploiters" and "the Al Capones who run this country," and shout slogans like, "Lenin won, Castro won, and we will win too!" They have been in the thick of the disruption and violence that has exploded on campuses from Berkeley to Columbia.

The latest SDS statement, appearing in one of the underground student papers which serve as organs of Communist propaganda, says: "The notion that we must remain simply 'an anti-imperialist student organiza-

tion' is no longer viable. The nature of our struggle is such that it necessitates an organization that is made up of youth and not just students, and that these youth become class conscious. This means that our struggle must be integrated into the struggles of the working people."

SDS organizers are told that they should "direct the focus of their energies to organizing on campuses of working-class colleges, community schools, trade schools and technical schools as well as high schools and junior colleges."

Following SDS came the W.E.B. DuBois Clubs, named for the founder of the National Association for the Advancement of Colored People. DuBois joined the Communist party at the age of 93. He died in Ghana.

The first club was established at the University of Wisconsin in 1964. One of the founders was Eugene Dennis Jr., son of a former national secretary of the party. Another was Bettina Aptheker, daughter of Herbert Aptheker, the party's leading theoretician.

Other chapters quickly sprang up across the country. The UC Berkeley chapter was one of the prime movers behind the 1964 Berkeley riots.

By May, 1965, the Communists were boasting openly, in their party newspaper, of other DuBois achievements. They said: "The DuBois Club of New York, a socialist youth organization, is proud to say that, along with hundreds of others on campuses and in communities throughout the country, have sponsored teach-ins, sit-ins, rallies, marches and the huge demonstration of over 25,000 Americans in Washington, D.C., last April 17 to protest the war in Vietnam.

Some party members originally had suggested that a major effort should be made to bring all student radicals together inside a single national organization. The wily, more experienced leaders knew this would not work.

"The kids are too erratic to sustain any popular front," they said. "They're unpredictable and they go from one cause to another. Better to let them choose their own labels, while we do the prompting from behind the scenes."

Local organizers—dedicated volunteers as well as paid, full-time agents—worked to build up cooperation between those students supporting different causes. They arranged for the distribution and exchange of literature appropriately sympathetic to the other's complaints, suggested they share meeting places and other facilities as well as some of the functions such as handbill distribution and fund-collecting.

PROTESTERS JOIN

Thus, students who originally were interested mainly in civil rights, or a greater say in domestic university matters, were conned into demonstrating, marching and rioting in common cause with others protesting everything from "capitalistic exploitation" to the draft.

Said Inspector Tom Fitzpatrick, director of the San Francisco Police Department's intelligence unit:

"It is no mere coincidence that most of the leaders in recent demonstrations either are or were members of the Communist party or some revolutionary organization.

"Nor is it without significance that the pattern of agitation and action neatly conforms to procedures carried out by Communists or revolutionaries elsewhere and at other times."

HOW MOBS ARE PLANNED

For all that has been said about the impetuousness of youth and the so-called "generation revolt," few campus riots are spontaneous. Most are the result of careful planning and organization.

Communists call it "mob manipulation." They have had long practice at it. About the only new method they have introduced is the use of the two-way radio for the ringleaders to keep in touch with each other.

The operation is carried out in six stages:

Stage 1: Infiltration of any group already protesting some grievance. Agents also are moved into strategic position where they can aggravate some real or imagined wrong and form a new protest group.

Stage 2: Meetings are arranged, on or off campus, to discuss an issue and what should be done about it. Small contributions are sought to help the cause. Attention is drawn to some article in one of the underground student newspapers that carry Red propaganda which "happens to deal with this very subject." Volunteers are enlisted to distribute leaflets and posters.

Stage 3: Bigger, public meetings are organized, rallies and forums are held to call wider attention to the grievance. Other "injustices" are aired and the charge made that they are all the result of "exploitation and oppression."

Supporting speakers are invited from outside. Their Communist connections are not advertised. The word "Communist" is generally avoided.

Allusions are made rather to such universal aspirations as "freedom," "peace," "civil liberties" or—a sure winner on campuses—"students' rights."

Neither is it made apparent, at least not in the early stages, that there is any connection or cooperation with other radical groups parading under different banners but using similar slogans.

The aim is to draw sympathy, break down trust in this society's established traditions and ways of keeping order, appeal to malcontents and restive youths eager to join in any defiance of authority.

If such agitation succeeds in recruiting more adherents to the cause and building up the hard-core membership, so much the better. The main intention, however, is to stir up as much discontent as possible and win enough sympathizers to stage an impressive demonstration.

It is also at this stage that support is enlisted from liberal faculty members. Some professors already are party members. A lucid professor who is popular with students can be of enormous help to the cause and add dignity to the proceedings.

Stage 4: Matters are forced to a head by getting members and sympathizers to agree on a list of demands to be presented to the university authorities. They may be demands for changes in campus rules, better cafeteria food, more black admissions or a stop to on-campus recruiting by industrial firms contributing to the war effort. It does not really matter, so long as it has the support of several dissident groups and discomfits the authorities.

If the authorities yield the organizers prepare new demands. The strategy is to keep adding issues until the authorities call a demand impossible and refuse to yield.

Stage 5: The issue is dramatized by calling a mass meeting or demonstration and appealing for active support from other groups.

A ringleader climbs on the stand and makes an impassioned but well-prepared speech about "our just rights" and "the hidebound bullies who are trying to deny them."

FOES ARE JUST STOOGES

The stand is yielded to others who back up the main speaker. They also introduce wider issues like "civil liberties" and the "unjust war in Vietnam" to convey the impression that these are all connected and all due to the same hateful cause—"capitalist exploitation."

University authorities are represented as "hired lackeys of the system," "stooges of the military-industrial complex," upholders of racism and the real enemies of truth and justice.

Anyone who tries to speak in opposition is lumped with them.

An emotional frenzy is worked up by contrasting hate words with rousing slogans like "freedom now," "we shall overcome," "let's show 'em," and "let's march."

Chanted repeatedly to the accompaniment of waving banners, these have an effect similar to the repeated suggestions at a hypnosis session.

Stage 6: This is the direct confrontation. It calls for violation of campus rules or civil laws to "force the issue" and to challenge the authorities to take disciplinary action.

Students who sympathize with the dissidents but who don't go along with violence by now have been drowned out. Anyone who has the courage to stand up and call for "further negotiations" is ridiculed and shouted down.

Faced with incidents which escalate from strikes and sit-ins to outright assault on college buildings, the authorities finally must choose between yielding to "student power" or calling the police.

The riot organizers prefer the latter. The appearance of police on campus—even to many who have not swallowed all the incessant Communist propaganda—is seen as the ultimate crime that a university administration can commit. It stirs up a heady feeling of revulsion against these ultimate symbols of authority and of sympathy for the demonstrators.

"Police brutality" and "pigs" are terms that have been used by Communists in other riots long before police ever appeared on U.S. campuses. It is taken up by other students as policemen, goaded by obscene insults and flying bricks and challenges to use their nightsticks, try to quell what has by now become a full-scale riot.

The riot organizers also welcome television cameras, especially if one can give a close-up of a policeman standing over a student with a bloodied head. It is good propaganda and costs nothing.

The ringleaders are not necessarily the riot manipulators. These are less obtrusive. They direct operations, keeping in touch with each other by means of hand signals, runners and two-way radio.

"The ability to manipulate people through violence and the mass media has never been greater, the potential for us radicals never more exciting than now," proclaimed a speaker at a meeting of the Students for a Democratic Society, a Communist-backed organization which has been behind many college riots.

The SDS and other radical groups under Communist direction have worked up demonstrations and riots at San Francisco State College, at the Universities of California, Texas, Georgia, Chicago, Wisconsin, Princeton, Brandeis, Howard and many other colleges. They also have organized many riots off campus,

In the name of defending such issues as "free speech," "better cafeteria food," allowing girls in men's dormitories, draft deferment, no on-campus recruiting, more black studies, etc., they have launched rampages of looting, brawling and arson. Carrying the red flag of Communist revolution and the black flag of anarchy, they have stormed buildings, held people captive, beaten up opponents, erected barricades and fought pitched battles with the police, deploying radio-directed students as shock troops.

The Columbia riot was directed by an SDS "high command" which set up headquarters in one of the occupied college buildings, and coordinated activities through a network of 40 walkie-talkies, telephones and runners. The same kind of organization has been observed at Berkeley and elsewhere.

IV

"University reform can only be a means to revolution, never a revolutionary end in

itself. Once you secure the campus you have just begun."

So asserts Lee Felsenstein, who calls himself "military editor" of the Berkeley Barb.

The Barb is one of nearly 50 underground newspapers circulating in the United States and sold on many campuses. They are joined in a syndicate, which includes others in Canada, Latin America and Europe.

They freely use each other's material. Much of it is virtually indistinguishable in tone from the anti-American outpourings from Moscow, Peking and Havana.

Such publications serve only as organs of Red propaganda, they also are used to transmit directives to party members and others working for the same cause. Detailed subversive tactics are worked out locally at secret meetings, but there is no secrecy about the over-all mission and the objectives.

Under the heading "Commune-ism Can Win" the Barb piece outlines a plan for setting up "revolutionary communes, each consisting of from 10 to 30 people who live near each other."

Such communes, Felsenstein says, could form a "decentralized revolutionary organization which is so vital for sustained militancy. It would be a substantial and yet invisible organization, capable of explosive activity or dormancy as the situation demanded."

Since several groups of this nature are already known—at least by the Federal Bureau of Investigation—to be in existence, such articles can only have the purpose of building up the network.

"Some of us should move into factories and shops as well as into working class communities," the Communist-backed Students for a Democratic Society proclaims through the underground press. "We should move into the liberation struggle now being fought inside the armed forces and take an active part."

Educators used to shrug off the SDS as just an unruly bunch of impetuous youngsters until a congressional report last year charged it with having given "open support to guerrilla warfare in the United States."

A BOAST OF SEDITION

The SDS makes no bones about it. "We're working to build a guerrilla force in an urban environment," it states. "We're actively organizing sedition," boasted national secretary Greg Calvert.

Recruiting for revolution reaches down to high schools, junior high and even lower.

One SDS pamphlet urges young school radicals to exploit tensions and potentialities existing in the American high school setup. Suggested ways for creating disorder at the junior level include starting trash can fires, setting off false fire alarms, organizing mass protests on such issues as dress regulations, attendance, even education itself.

"We have much to learn from SLATE, the Berkeley campus political movement," the SDS lectures its up-and-coming agitators. SLATE, an early Communist front organization, helped structure the Free Speech Movement which disrupted Berkeley in 1964.

At San Francisco State College, student rebels were given specific instructions on how to make bigger and better Molotov cocktails and how to make use of sodium, potassium or white phosphorus, which could be obtained from the college's chemistry department.

Another statement put out by the SDS during the San Francisco State trouble was headed, "The Need to Fight the Cops." It exhorted:

"The weapon that the rulers always fall back on when others fail is their armed might. In this case it was the police forces from San Francisco and surrounding counties. (President S. I.) Hayakawa thought if he used enough police terror we would quit and give up the strike, but instead of rolling over and playing dead we fought back. We met their clubs with Mace and rocks and bottles. Several plainclothesmen were beaten up when they were discovered. This was a big step forward for many of the white students. They overcame their awe and fear of the pigs and helped defeat every attempt to smash the strike."

How are radicals who helped the Reds financed?

Said Inspector Tom Fitzpatrick, director of San Francisco Police Department's intelligence unit: "We know they take up collections, charge dues or solicit contributions from well-heeled fellow travelers, of whom there are many. But all these sources put together couldn't come up with the money it takes to run their operations.

"Some of them, for instance have been able to commute between Havana, Hanoi and even Moscow, like well-to-do globetrotters, not to speak of frequent transcontinental trips."

Proceeds from the sales of underground publications, plus profits from the salacious commercial ads and personal "want" columns, make up only a small part of the revenue to finance the youth subversion program.

Membership dues to various radical groups are used to subsidize the propaganda campaign. For every paid, full-time worker there are dozens of volunteers—canvassing, fundraising or busy in makeshift offices near the campus, cranking out mimeographed sheets, letters and notices of forthcoming meetings.

In some cases where radicals control the student body, part of the student body fees are channeled off to leftist causes. The California Education Code specifically prohibits grants of student funds (which are compulsory college fees) to racist organizations. This may keep out Ku-Kluxers all right but not their opposite numbers.

Outraged students at San Francisco State College sent Gov. Reagan and Atty. Gen. Thomas Lynch a letter showing how these fees had provided money for a number of radical groups including the Third World Liberation Front ($15,339) and the Black Students Union ($22,073). The attorney general's investigation of the San Francisco State budget revealed that one speaker had quietly returned a $400 student government speaking fee to the Black Students Union and that an officer of the Black Students Union had bought a sniper rifle with a telescopic sight with a $150 student government check.

Public money also is misdirected into Communist causes by New Left students and others who have worked their way into influential positions of various off-campus projects financed under the War on Poverty. Local office facilities have been used for printing and distributing propaganda.

An investigation by an Office of Economic Opportunity auditing team showed that over $6,000 of federal funds had been expended in promoting various rallies and demonstrations in San Francisco, events having nothing whatsoever to do with the War on Poverty.

Summer youth camps have also been occasions for Red indoctrination. A San Francisco mother complained that her son returned from one weekend outing laden with Communist propaganda literature. He told of having lectures on Marxism and Maoism.

Investigators found that chartered buses were taking 60 to 70 youngsters at a time from around that area to a camp owned and operated by Willie and Else Beltran, longtime functionaries of the Communist Party. Manager was Virginia Proctor, wife of Roscoe Proctor, righthand man of Mickie Lima, who heads the Northern California branch of the Communist Party U.S.A. Buses, lodging and other costs were paid for out of War on Poverty funds.

Other so-called "youth leaders," some carrying the title of "reverend" but identified as working for Communists, have participated in similar projects.

FUND-RAISING PORNOGRAPHY

Other big money raisers are admission fees to private pornographic plays and movies which have lately been making the rounds of more and more campuses. The proceeds from sales of pornographic books and drugs, as well as from organized looting and robbery, are documented according to cases on file with the FBI.

Also on file is evidence of funds supplied from Communist sources abroad. The Progressive Labor Party obtained $43,000 in Peking, money that had been changed into U.S. currency. It was picked up at the Mexican City National Bank in Mexico City by a girl University of California student, who brought it to Berkeley and, according to House Committee investigation, delivered it to PLP leaders Mortimer Scheer and Lee Coe.

Testimony was given in Washington a few months ago by breakaway members of the PLP and Trotskyite Social Workers Party.

They told how activity had been financed by money sent from Peking by way of Havana. It was brought into the United States in the diplomatic pouches of the United Nations Mission from Cuba. Agents picked up the briefcases in New York.

The nationwide network of subversion is made up of old-time "cells"—groups meeting in private houses or "clubs"—front establishments like private schools, summer camps and hotels which are really training and indoctrinating schools—plus many groups openly calling themselves Communist, pro-Communist, leftist or New Left.

The main "knots" in the network are New York in the East, Chicago in the interior and San Francisco in the West.

One of San Francisco's earliest Communist front establishments was the California Labor School. After the U.S. Justice Department put it on the subversive list as a Communist indoctrination center and closed it down, organizers moved out into other subversive activities, where they are still busy today, some of them on college campuses.

BEHIND SHUTTERED WINDOWS

West Coast source of much Red propaganda material is 55 Colton Street, one of a shabby, broken-down block of buildings with closed doors and shuttered windows off San Francisco's Market Street. It is headquarters for the Third World Liberation Front and the Vietnam Day Committee, and command post of Asher Harar, reportedly the No. 3 Trotskyite in the United States and No. 1 man west of the Mississippi River. It also is the hangout of the Black Panthers and other revolutionary groups.

There the office mimeograph machines run late turning out anti-police, anti-establishment, pro-revolutionary propaganda.

One of the directives that went out coast to coast said: "If you are working for a defense plant engaged in making munitions, you want to see that that munition proves to be a dud when it gets there. If you are working for a food plant making K ration, do whatever you can to contaminate that food so it will be nonedible when it gets there."

San Francisco was chosen as the launching place for subversion in the West because of its cosmopolitan population, the climate of liberalism that already existed, and chiefly, because it was also the home of one of the greatest, most influential centers of learning in the world—the Berkeley campus of the University of California.

The wave of disorder and violence that has swept U.S. universities and colleges was set in motion at the Berkeley campus of the University of California in 1964.

Few people are aware of the full significance of the "Battle of Berkeley." It was no spontaneous student uprising. It was planned and organized by Communists, with the help of the so-called "New Left" and others committed to the destruction of this country's system of government.

They won an historic victory. Berkeley be-

came the beachhead from which to try to launch a revolution across the nation's campuses.

Today's Communists or pro-Communists control some of the positions of authority within the faculty and administrative offices. They dominate at least 10 important departments of the university.

The result is "a great and continuous barrage of propaganda at Berkeley denouncing this nation and its foreign policies. It has nothing to do with a youth movement. It is the effect of the subversion of youth."

The words are those of a Berkeley professor concerned enough to utter public warning of what has happened and is happening there. He is Dr. Hardin P. Jones, no wild-eyed Red-baiting fanatic.

Professor of medical physics, assistant director of the Donner Laboratory and an internationally respected scientist, he is a tall, dignified, quiet-mannered man with more than 30 years' close contact with Berkeley, beginning when he was a student.

"No one any longer speaks out effectively in the faculty or administration at Berkeley for the important concepts basic to our free society or to retain the excellences of our past social achievements, even though such identified excellences are usually regarded as the core material for an education," said Jones.

Several professors, including some who had considered themselves liberal, have left Berkeley in disgust.

Sociology Prof. William Peterson, who left to become research professor at the Institute of Human Sciences, Boston College, said:

"The University of California, still the nation's greatest public institution of higher learning, is in rapid disintegration. The university has a dark prospect; and the reason is that there has been no one with the will, intelligence and courage to administer it."

Dr. Lewis S. Feuer, who moved on to become sociology professor at the University of Toronto, said:

"Berkeley has become a symbol for the world. To many Americans, it stands for studentry in senseless rebellion; to the Communist government of North Vietnam it is a faithful ally whose demonstrations against the United States government are the most valued propaganda."

The greater political awareness of the modern generation is widely acknowledged. Its members feel critical of society, condemning poverty, racism and war as weaknesses which they are impatient to correct. Many are ready to protest and demonstrate without Communist coaxing.

A small but determined group had been working to undermine the university's academic structure and "politicize" it long before the 1964 outburst over "free speech."

In 1957, a small student coalition called SLATE sought to gain the political advantage of claiming to utter their extremist political views in the name of the 20,000 registered students.

Its platform was that the student government "should take stands on national and international issues," contrary to the principle embodied in the university's charter that the university and its subdivisions should be "free from political influences."

SLATE was defeated. After repeated defiance of authority it became an off-campus organization, continuing to press radical demands. Communists held leading positions.

FAITHFUL ALLY TO REDS

In the summer of 1964, SLATE issued a manifesto calling for revolution on the campus to match and support political revolution in the world. It urged students "to begin an open, fierce and thoroughgoing rebellion on this campus . . . start a program of agitation, petitioning, rallies, etc., in which the final resort will be to civil disobedience."

It exhorted them to "organize and split this campus wide open! If such a revolt were conducted with unrelenting toughness and courage, it could spread to other campuses across the country."

The SLATE slogans became the battle cry of the Free Speech Movement, whose organizers included the Red functionaries of SLATE.

For all the Free Speech Movement protesting, free speech was never a real issue. As a Berkeley professor, Nathan Glazer, put it:

"Berkeley was one of the few places in the country, I imagine, where in 1964 (pre-FSM) one could hear a public debate between the supporters of Nikita Khrushchev and Mao Tse-tung on the Sino-Soviet dispute. There were organized student groups behind both positions."

It was not free speech, but freedom to organize political action and collect funds on campus that was the immediate issue in the dispute that broke out two weeks after the SLATE manifesto was distributed to students.

FSM victory depended upon a hard core of about 200 members of the faculty who were in sympathy with the movement from the beginning and whose leaders were in touch with FSM leaders.

Some radical professors abused their position of academic authority to help the FSM leaders. They called off classes to make the student strike more effective and spoke in support of the strikers.

"I am aware," said Jones, "that activists on the faculty at Berkeley regard the Free Speech Movement and its political offspring as the greatest event ever in American education. With no de facto restraints on speech, the major characteristic of Berkeley became that of a political war, including violence, against American and Western society."

Though most university students might try to ignore or reject indoctrination aimed at the unqualified denial of the established principles of American society, there are few who could spend four or more years on campus without being affected by the deluge of propaganda.

Gradually the smaller political cliques that had been given freedom to campaign on campus formed themselves into larger, more cohesive groups which organized and led a series of activities on and off campus—stopping troop trains, encouraging defiance of the Selective Service system, handing out pamphlets on "How to Beat the Draft," upholding "filthy speech" and "free sex."

Warnings by alarmed professors and other concerned citizens that the Berkeley situation would be the precursor of other university eruptions were soon justified.

LIKE BUFFALOES BEING SHOT

According to Prof. John R. Searle, who supported the FSM at Berkeley, "Many college administrations in America don't yet seem to perceive that they are all in this together.

"Like buffaloes being shot, they look on with interest when another of their number goes down, without seriously thinking that they may be next."

Beneath the flood of revolutionary propaganda and exhortations to violence aimed at today's youth is an undercurrent of filth which goes far deeper than most Americans realize.

For parents to be shocked at youthful pranks is nothing new.

What is sinister, however, about the present student preoccupation with sex, drugs and perversion is that, unlike "panty raids" and other student frolics, it is largely the result of planning and organization.

It is the most sinister aspect of the Red youth subversion program—one part of the East-West psychological warfare which is practically one-sided, because little is being done on this side to combat it.

The discovery of the "conditioned reflex" by the Russian physiologist Ivan Pavlov had an important influence on all of Russian biological and social sciences. Few Westerners are aware of how widely Communists have used the principle to condition political behavior.

"American scientists have tended to neglect this area of study," said Dr. Hardin B. Jones, professor of medical physics and physiology and assistant director of the Donner Laboratory at the University of California at Berkeley. "American politicians have made comparatively little use of its capabilities because, until now, the politics of this country were very stable."

On the other hand, Jones said, "the leaders of world communism have relied heavily on the social methodology developed from Pavlov's principle of conditioning.

"It is a way in which satisfaction of animalistic human needs such as food, affection, discipline and sexual activities can be controlled so as to condition a person to actions and beliefs without intellectual evaluation."

Communists and radical Socialists used the principle for political purposes by seeking to subvert German youth movements in the 1930s. The animalistic mob culture they helped develop was taken over by Adolf Hitler. Through mass meetings, social activities and organized sexual contacts, the Hitler Youth was turned into a political army—unthinking, obedient, conditioned to give prompt reflex responses such as Pavlov studied. Elite members of the Nazi SS were introduced to abnormal sexual activities as part of the conditioning process to break down their attachment to traditional moral values.

Indoctrination through perversion came later to the United States as a weapon in the cold war. Young people, particularly university students, were the main targets. This came at the same time the universities were marked for political subversion and revolution.

The Vietnam Day Committee, also directed by Communists, followed by sponsoring on-campus plays which mixed politics with pornography. These and other indecent shows and activities to which students were invited helped as fund raisers for antiwar, antidraft demonstration, civil rights marches and related projects.

Four-letter vulgarities have become the stock-in-trade of campus radicals.

So have the obscene badges and open enticements of "sex" clubs and "sexual freedom" groups. So have the lurid language in the "underground" and many student newspapers which mix anti-American propaganda with titillating articles and pictures about drug-taking, sex and sex perversion. There also are columns of personal ads which leave nobody in doubt as to the prurient interests of the advertisers. These are but surface signs of the poison to which young minds today are being exposed.

Portraits of Lenin, Mao, Castro or Che Guevara, "Pig Brutality" and other "anti-imperialist" wall posters are an important part of the "scene." So are psychedelic art containing pornographic symbols, and "way out" music with its frenzied rhythmic beat, shrieking, hysterical voices and frequently lewd lyrics.

Veteran investigators into the underworld of dope and vice have a hard time holding onto their stomachs, as well as their sanity, when they look into some of the practices to which novices of the so-called New Left are introduced.

It goes far beyond "making love, not war." The narcotics in use today make the old dope dens look like dreary joss houses.

Neither are obscenity and pornography confined to the backroom "pads" of bearded, long-haired dirty-toed boys and their radical girl and boy-girl friends.

They are introduced into the theater and made part of student courses of instruction.

Performances of which "sick" might be considered too mild a description, have made the rounds of campuses. Either they are condoned by the "liberal" section of the faculty or are not objected to for fear of infringing rights of free speech. Some professors have even helped in publicizing and promoting them.

The "heroes" of these "dramas" are usually depicted as Socialist "revolutionaries." The villains are "capitalist pigs." Actors, sometimes naked or near-naked, portray characters in lustful, sadistic, brutish attitudes.

The coupling with political propaganda of blasphemous, sacrilegious and vulgar sexual terms used with regard to religious themes and family relationships is a deadly weapon, blatantly used to demoralize and destroy.

Another part of the same weapon is "sensitivity training," now being promoted on a massive scale in the United States, including on some campuses, notably the University of California.

The training consists of creating physical awareness of other persons. It is highly related to such physical contacts as between mother and infant and sexual feelings between persons. The idea is to become aware of the other persons through touch and other forms of direct contact. Classes often are conducted in the nude.

"Sensitivity training," Jones said "is a powerful form of Pavlovian conditioning by which sexual-emotional types of response can be substituted for intellectual consideration of any proposition common to the group, developing a surge of animalistic mob response."

This conditioning, he stresses, has been developed "by the Communoid forces, who apply these techniques to control of group behavior."

Many of those interested in sensitivity training and its "group dynamics" are well-intentioned. They believe these emotional responses can be applied to increase a feeling of brotherly love in the anti-war movement and to generate similar feelings of affection and admiration between whites and blacks.

Jones warns, however: "To the extent we begin to be influenced by animalistic tendencies and mob psychology, we certainly lose the structure of a society based on solving its problems rationally."

A WARNING FROM HISTORY

More than 100 years ago British historian Lord Macaulay wrote this warning to an American friend: "Your republic will be fearfully plundered and laid waste by barbarians in the 20th Century as the Roman empire was in the 5th, with this difference—that the Huns and Vandals will have been engendered within your own country, by your own institutions."

THE 21ST ANNIVERSARY OF THE STATE OF ISRAEL

Mr. SPONG. Mr. President, I congratulate and commend the State of Israel on the occasion of its 21st anniversary. Twenty-one years ago yesterday, on April 23, 1948, President Harry S. Truman sent word to Dr. Chaim Weizmann, the Zionist leader, that, if the Jewish state would proclaim its independence following the end of the British mandate, which was scheduled for May 15, then the United States would formally recognize the State of Israel. On May 13, 1948, Dr. Weizmann notified President Truman that Israel would proclaim its independence the next day, and on that day, May 14, 1948, the United States officially recognized the Israeli State.

During February, I had the pleasure of traveling in the Middle East and of visiting in Jerusalem and Tel Aviv. During this time I had the opportunity to speak with many Israelis from all stations of life. I was impressed with the spirit and determination of the citizens of Israel. The resolve and fortitude they displayed was quite admirable.

I was able to tour the Weizmann Institute of Science and Tel Aviv University. These modern, progressive institutions are symbolic of the development which the Israelis have brought to the area they occupy at the eastern end of the Mediterranean. They are part of the many achievements of which the Israeli people can be so proud.

My trip took me to the Wailing Wall, across the Jordan River, and to many of the shrines which are so significant to the Judeo-Christian heritage.

Israel officials arranged for me to visit reclamation projects, atomic energy projects, and similar endeavors which have contributed so greatly to Israel's industrial and scientific progress and her prosperity.

While so many internal problems of growth and development have been met in the past 21 years, solution of the major foreign problem—gaining peace and security for the Middle East—remains elusive. I would take this occasion to urge—as I have before—that the nations of the area proceed to negotiate a settlement to the conflicts which plague the Middle East, and threaten major conflagration for the world.

ON ISRAEL'S 21ST ANNIVERSARY

Mr. WILLIAMS of New Jersey. Mr. President, today I wish to express my congratulations to and deep respect for the State of Israel on her 21st birthday.

Twenty-one years ago the creation of the new nation of Israel captured the hearts of America and won America's hope and commitment. Common historic experience, common devotion to democracy are reinforced in the relations between our two countries by strong links which are of the spirit. It is no ordinary people—this people of Israel—whom the American people have so long admired and respected. They have done a remarkable job with their small piece of land. The Israelis have watered the strip of desert allocated to them by the family of nations—U.N.—made it blossom, defended it, raised their children there and turned it, in 21 short years, into almost an oasis. If given the chance, Israel could share her knowledge—agricultural, medical, and educational—with her neighbors.

Certainly the maintenance of the democratic State of Israel must be paramount in importance. Our commitment to the preservation of the national integrity of Israel dates back to President Truman's recognition of this nation as an independent state on May 14, 1948. It took President Truman only 4 minutes to make that decision and I believe this Nation was the first to recognize the independent status of Israel.

We, the United States and Israel, must maintain our historical friendship as we move toward the unfulfilled objectives which we hold in common. We hold in common a vision of peace between Israel and her Arab neighbors. I am hopeful that these two kindred peoples, who contributed so greatly to the thought and spirit of mankind will again unite their strength for the defense and progress of the East Mediterranean and revive upon its shores the full glories of ancient and medieval times.

The administration has supported the present four-power peace talks. I strongly feel that a settlement can never be imposed. The Arab States must recognize the sovereign rights of Israel and that mutual understanding can only be accomplished by the two parties involved. There can be no peace by proxy. We have seen the consequences of such action in 1948 and 1956. A contractual agreement must be made between the parties directly involved if it is to be binding. Abba Eban, Israel's Foreign Minister, stated the plea so eloquently when he addressed the Arab States in the U.N. General Assembly on October 8, 1968:

For you and us alone the Middle East is not a distant concern, or a strategic interest or a problem of conflict, but the cherished home in which our cultures were born, in which our nationhood was fashioned and in which we and you and all our posterity must henceforth live together in mutuality of interest and respect. The hour is ripe for the creative adventure of peace.

I pray Mr. Eban is right. The land of Israel is the land of youth and hope and courage and tenacity. It is a land that can only grow if given the chance. In 39 days I will be stepping off the plane in the land of Israel and at that time I shall personally say my message. But until that time, I wish you H'ag Sameyah—Happy Birthday. May you live a long, prosperous, and peaceful life.

THE PESTICIDE PERIL—I

Mr. NELSON. Mr. President, I wish to outline recent developments regarding pesticides and their effects on the environments, fish, birds, animals, and man.

There is growing concern among distinguished scientists, research investigators, conservationists, and public officials about the increasing pollution of our total environment by pesticides. Residues of pesticides, especially the very persistent DDT, have infiltrated the atmosphere, the land, the water, and the tissues of most of the world's creatures, including man. They are pushing some, such as the peregrine falcon and the bald eagle, to the brink of extinction.

The path of DDT has been traced to the dust above the Indian Ocean, the reindeer of Alaska, and the penguin of the Antarctic.

It was 1 month ago when the Food and Drug Administration announced the seizure of 28,150 pounds of Lake Michigan Coho salmon that contained a high concentration of DDT and dieldrin residues. The initial reports indicated DDT residues of 19 parts per million in the whole fish. More recently, Secretary of Health, Education, and Welfare Robert Finch has cited levels of 20 to 30 parts per million in the Lake Michigan salmon.

Previous to this seizure, the FDA and other food officials had occasionally seized vegetables, fruit, and other com-

modities which had been the recipient of direct application of pesticides.

However, the Coho salmon incident was the first instance when such a high pesticide concentration had been discovered after traveling hundreds of miles through the atmosphere and water and through the food chain of up to a half dozen organisms. This is ample proof of the tremendous persistence of hard pesticides such as DDT.

At last year's Lake Michigan Water Pollution Conference, a spokesman for the U.S. Bureau of Commercial Fisheries testified that the concentration of pesticides in Lake Michigan could reach a level lethal to both man and aquatic life if the use of pesticides was continued at such a heavy rate in the Lake Michigan watershed.

The discovery of the pesticide-contaminated Coho salmon substantiated that testimony. The future of all the Great Lakes will be imperiled unless action is taken soon to stop this poisoning of our waters by these pesticides.

Last spring, pesticides were also blamed for the death of nearly 1 million Coho salmon fry. This finding has raised a serious question about the future of salmon reproduction in the waters of Lake Michigan.

There is also growing concern among scientists that the reproduction capabilities of other fish may be harmed. This is especially the case with the lake trout, which spend 6 or 7 years in the water before sexual maturity as compared with only about 2 years for the salmon.

The FDA action was followed by a report from the New York State Health Department that very high concentrations of DDT are being found in lake trout in New York's central and northern lakes.

The Department officials stated that the DDT is so concentrated in some lakes that it has completely halted reproduction of the lake trout. The pesticide concentrations in the New York trout were reported to be close to 3,000 parts per million of DDT in the fatty tissues of the fish. Since pesticide residues tend to concentrate in the fat of animals and fish, the concentration in the whole fish would be considerably lower.

On April 1, I reintroduced legislation to prohibit the interstate sale and shipment of DDT. This measure is similar to proposals that I have advocated since the 89th Congress to place sanctions on the use of this persistent pesticide.

Thus far, Sweden and the States of Arizona and Michigan have taken steps to ban the use of DDT within their borders. I am presently contacting every State in the country to determine the present level of use of DDT and other persistent pesticides and the status of any pending local or State action on this matter.

I have also recently proposed the establishment of a permanent National Commission on Pesticides to evaluate the dangers of pesticides to the environment, wildlife and man.

Under the provisions of this bill, the Commission would examine current pesticide use and present labeling requirements, monitor the buildup of pesticide residues in the environment and living creatures, conduct basic research on pesticide degradability and develop less persistent, less toxic pesticides.

The Commission, appointed by the President, would include representatives of Government agencies, scientific and medical professions, conservation groups, farm organizations and private industry.

The panel would make annual recommendations to the President and the Congress concerning improved restrictions on pesticide use and present potential hazards to wildlife and human health.

Earlier this week, Secretary Finch named a Commission on Pesticides and Their Relationship to Environmental Health. I believe that the appointment of this departmental committee is symbolic of the increasing awareness of the public and Government of the growing perils of pesticides.

However, it would be reassuring to hear from the Chairman of the Commission, Dr. Emil Mrak of California, that he does in fact approach this very critical task without having any prejudgment which could influence the outcome of the Commission's recommendations.

In 1963, Dr. Mrak testified before a Senate subcommittee hearing on Federal pesticide regulatory activities that he supported the position that no evidence is presently available that there is danger of anyone being poisoned by pesticide residues in food.

At the 1963 hearing, Dr. Mrak also took issue with a President's Scientific Advisory Committee report of that year which stated:

> Although they (pesticides) remain in small quantities, their variety, toxicity, and persistence are affecting biological systems in nature and may eventually affect human health.

Dr. Mrak said:

> This statement is contrary to the present body of scientific knowledge available to our people.

I would hope that Dr. Mrak will issue a public statement clarifying his position on this issue.

On the day following the announcement of the departmental Commission, Secretary Finch established tolerance levels of DDT residues in fish moving in interstate commerce. Five parts per million were cited as the maximum amount of DDT residues allowed in fish that can cross State lines. Fish with concentrations exceeding that figure will be subject to seizure by the FDA.

The steps that Secretary Finch has taken are solid and responsible. He deserves a great deal of credit for moving swiftly and conscientiously on this issue.

There is much more to be learned about the effect of pesticides on the environment, fish and wildlife, and human health. With the total commitment of the Department of Health, Education, and Welfare, the answers we seek will certainly come more rapidly.

The Progressive magazine, published in Madison, Wis., featured an article last month on the pesticide issue, entitled, "Pesticides: Potions of Death."

This is a highly respected publication whose circulation reaches every corner of the country and world. Under its editor, Morris Rubin, it has continued to carry out the traditions and causes of its great founder, U.S. Senator Robert LaFollette.

I ask unanimous consent that the text of the article be printed in the RECORD.

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

PESTICIDES: POTIONS OF DEATH

(By J. George Butler [1])

Rachel Carson, whose *Silent Spring* shocked the world when it was published in 1962, died April 14, 1964. Just weeks before her death, she left a legacy to the American people that, to date, has not been appreciated. In what was to be her valedictory, she appeared before a committee of the U.S. Senate considering pesticides and public policy and made six recommendations which she earnestly asked the committee to act upon to lessen the menace from pesticides. Five years later, not one of these proposals has been enacted into law.

In recent months, newspapers have carried stories of pesticide disasters in Colombia, in Tijuana, Mexico, in Florida, and in California. In all these cases, the chemical involved was parathion, one of the most widely used agricultural pesticides.

In Colombia, flour was contaminated when a pint container of the poisonous liquid broke during a hundred mile truck journey from Bogata to the hinterland. A hundred persons were killed, hundreds more made violently ill.

In Tijuana, seventeen or more died when the poison was accidentally mixed with sugar. In Florida seven young people were killed by pesticide poisoning.

In California, a trailer truck overturned, spilling parathion over the highway, causing the main artery between California and Arizona to be closed. Orders were issued to rip up the concrete and bury it in the atomic waste burial ground in the desert, but this proved impractical. State health officials then recommended flushing the highway with a neutralizing agent. A captain of the state highway patrol warned that the pesticide would pose a hazard to anyone walking or driving over the area.

The same day the Tijuana story broke, another news item reported the death of a woman in the Bronx, New York, who committed suicide with parathion. Recently, in Kansas, suit was brought in behalf of a five-year-old boy reported stricken for a fifteen-month period after parathion was sprayed from an airplane to combat insects in the wheat crop.

Were Miss Carson alive, she might well say: "I told you so." In 1962, she described parathion as one of the most powerful and dangerous of the organic phosphate pesticides. Organic phosphate pesticides are supposed to be safer than others because they are readily soluble in water and break down quickly, as opposed to chlorinated hydrocarbons, such as DDT, dieldrin, aldrin, endrin, toxaphene, lindane methoxychlor, chlordane, heptachlor, and the like which persist for years. Miss Carson described a chemist who sought to learn just how toxic parathion was by the most direct method possible. Carefully preparing antidotes, he swallowed a minute amount, .00424 of an ounce. He was paralyzed so quickly that he died before he could reach the antidotes he had prepared.

The greatest danger to man, however, is not in accidents such as these—and many might have been avoided had her suggestions been carried out. The greatest danger comes from the insidious, long-range poisoning man is systematically inflicting on himself and his environment. Despite Miss Carson's pleas, pesticide formulations have proliferated. Over the past decade, 60,000

[1] J. George Butler describes himself as "a dirt farmer in Vermont" and a free lance writer.

pesticide preparations have been registered with the Department of Agriculture. Most fall into two broad classes; the so-called "safe" ones, organic phosphates such as malathion, phosdrin, TEPP, and parathion. Even though they decompose rapidly, they are deadly poisons, as the world now knows. Malathion and parathion, members of this group of allegedly "safe" pesticides, are now highly recommented as garden and fruit sprays by the Department of Agriculture.

The other group, comprises the long-lasting, even more poisonous chlorinated hydrocarbons, of which DDT is the most familiar.

An official U.S. Government document shows how the use of pesticides has grown to almost unbelievable proportions. In 1964, pesticide industry sales totaled more than a billion dollars; trade sources predict a two billion dollar market by 1975. "In 1964," the Fish and Wildlife Service reported, "the U.S. chemical industry produced 783 million pounds of pesticides, of which three-quarters were for domestic use. Insecticides, rodenticides, and fumigants accounted for 444 million pounds; herbicides 226 million, fungicides, 113 million. . . . One acre in ten in the continental United States—69 million acres—produces crops requiring insecticides—corn, rice, cotton, vegetables, fruits and nuts. Grain and cotton seed often need chemical treatment for the prevention of plant disease. Weed killers (herbicides) are used on all types of cropland and on an increasing percentage of the more than one billion acres of forage and grazing land. Pestisides also are used on a part of the 758 million acres of forest land."

Although the Federal Government has cut its use of pesticides so that it now uses less than five per cent of all pesticides in the United States, nevertheless, in 1965, the Federal Committee on Pest Control approved Agriculture Department pest control projects against the boll weevil on cotton in Texas and New Mexico; grasshoppers on rangeland in Western and Central states; cereal leaf beetle in Indiana, Michigan, and Ohio; gypsy moth on hardwood forests in the Northeast; Douglas-Fir tussock moth in Oregon, California, and Idaho; fall cankerworm in Pennsylvania; Great Basin tent caterpillar in Arizona; and other projects in Western and Southern states.

These massive programs leave fantastic amounts of pesticide residue, in some cases more than 170 pounds per acre. The universality of soil and water contamination is shown by the statement from the Fish and Wildlife Service that there is not a major river system in the United States that does not contain one or more of these poisons. The effect on the wildlife of the country is carefully documented. To quote the Fish and Wildlife Service again:

"Often, fish do not die immediately or at the site of the pesticide exposure. In one recorded case, fish started dying three months after DDT was applied, and death reached downstream nearly one hundred miles from the treatment site.

"Laboratory tests reveal that some pesticides in fantastically small amounts kill crabs and shrimp. One part of DDT in a *billion parts* of water will kill blue crabs in eight days. (One part per billion is about the relationship one ounce of chocolate syrup would bear to 1,000 tank cars of milk.) . . ."

Dr. Charles F. Wurster, Jr., a biochemist at the State University of New York, claims: "If an organism has nerves, DDT can kill it."

When aldrin was applied in a Government program for grasshopper control at two ounces per acre, nearly a third of the young waterfowl in the treatment area were killed. Usually, however, the effects are more indirect and more subtle, affecting the food chain and taking more time to become apparent. The Fish and Wildlife Service points out: "Wildlife may die after eating insects, fishes, or other kinds of animals that have been poisoned. Nonfatal doses of some chemicals may reduce reproductive capacity or survival of the young. Another indirect effect is the depletion of the food supply of wildlife."

Some Government scientists dismiss such damage to the food chain by saying that the food chain is broken when land is cleared and cultivated. They write: "Ninety-nine per cent of all the species which ever lived are now extinct; so the 'preservation of nature' actually involves extinction and dynamic, progressing change."

Apparently, Government policy has been set by the President's Science Advisory Committee, which in 1963 said that though there were "apparent risks," there were "great merits" in the use of insecticides. It felt, Rachel Carson and the mountain of evidence presented by some government bureaus to the contrary, that we still did not know the facts, and it was unwilling that any new legislation be enacted to curb the use of pesticides. The Department of Agriculture did step up its search for "natural controls," such as useful parasites, predators, sex lures, and male sterilants. Using the technique of sterilizing male insects, the screwworm fly was wiped out in the Southeast and Texas.

This past year, four gallons of ladybugs were released in a twenty block area of Riverside Park, New York City, because they thrive on aphids and a wide variety of similarly destructive lice, scales, and borers and their eggs. Significantly, however, these ladybugs, 300,000 of them, were released not by the U.S. Department of Agriculture, but by a new private group, Citizens for Clean Air, which is opposed to the use of chemical pesticides.

After a damning indictment of the way man is polluting the earth and water, the Fish and Wildlife Service report in 1966 concluded that the same bland statement of the President's Science Advisory Committee of 1963 that chemical should be used for pest control only after carefully considering their use in terms of need, anticipated results, and possible harmful effects. Safety, rather than cost, should be the primary consideration in choosing materials, and pesticide treatment should be limited to the target areas and the contamination of water courses avoided. Minimum dosage rates should be used, and large-scale use of persistent pesticides that are known to concentrate in living organisms discontinued.

Most people are simply not aware of what man in his fiendish ingenuity is doing to his environment. Poisoning the air he breathes, he also poisons the earth and water so that birds and fish can no longer survive.

National Wildlife magazine in 1967, quoting the Bureau of Sport Fisheries and Wildlife, reported that the death of songbirds in Minneapolis and other midwestern cities that year was caused by DDT. The story concluded: "Major losses to urban bird populations have resulted from widespread use of DDT in programs to control Dutch Elm disease." Other long-lived chlorinated hydrocarbon chemicals were also implicated—toxaphene, dieldrin, and heptachlor.

On Long Island in Suffolk County, naturalists in the spring of 1967 counted only several active osprey nests of 100 sighted. They pointed to the massive DDT aerial spraying programs, carried out for mosquito control, as the cause. The Fish and Wildlife Service says only: "The sublethal effects of exposure to these chemicals are not yet known, and we can not state definitely that pesiticides are the cause of a decline in their reproduction. We, therefore, believe it would be premature at this time to recommend legislation to further curtail the use of persistent pesticides."

It is this same Government bureau that reported in an official publication: "From 1960 to 1963, of fifty-six bald eagles found dead or incapacitated in twenty states and two Canadian provinces, all but one (found in Alaska) contained DDT."

The Duke of Edinburgh observed in an address last summer that pesticides, poisons, and pollution have wiped out more wildlife in a few years than man as a hunter has in millions of years. By affecting the capacity to breed and by interfering in the food chain, these agents are exterminating whole populations and species.

The home gardener, who accounts for fifteen per cent of the consumption of pesticides, is up against it if he wishes to protect birds and animal life. What can he use that will not poison and pollute and kill indiscriminately? The Acting Deputy Administrator of the U.S. Department of Agriculture, responding to a query, recommended malathion to control aphids, scale insects, bagworms, grasshoppers, Japanese beetles, and leafhoppers. He reassured the writer: "Malathion residue is rapidly destroyed by rainfall and very little persists more than a week after the orchard is sprayed." One asks: "What happens to birds during that week? What happens in periods of drought when there is no rainfall to break down the poison?"

Four Government Departments—Agriculture, Defense, Health, Education and Welfare, and Interior—now form the Federal Committee on Pest Control. The weakness of the FCPC is that it lacks the very authority it is supposed to exercise. Even its monitoring of pesticide residues in foodstuffs is inadequate. Each year, samples of 25,000 shipments of food in interstate commerce are taken. Each year, however, there are approximately 2,500,000 such shipments. That is, one per cent are monitored, 2,475,000 pass unchecked.

Congress should be urged to enact into law Miss Carson's legacy of 1964. These are the major points in the program she pleaded before the Congressional committee:

That, in view of "the right of a citizen to be secure in his own home against the intrusion of poisons applied by other persons," there be "a legal requirement of adequate advance notice of all community . . . spraying programs, so that all interests involved [might] receive hearing and consideration before any spraying is done . . ."

That support be provided for "new programs of medical research and education . . ."

That the "sale and use of pesticides . . . [be restricted] to those capable of understanding the hazards and of following directions . . ."

That "the registration of chemicals [be] made a function of all agencies concerned rather than of the Department of Agriculture alone . . ."

That "new pesticides [be] approved for use only when no existing chemical or other methods will do the job."

That research be supported on other than chemical approaches to pest control, looking to the elimination of chemical methods.

The FCPC has stepped up its research program. In 1966 it spent nearly eighteen million dollars on chemical research and forty-five million dollars on non-chemical pesticide research, yet it is significant that the first issue of the FCPC's *Pesticides Monitoring Journal*, published in June, 1967, told only of what action the committee *hoped* to take in monitoring pesticide residues in food, people, fish and wildlife, water and soil. To allow the unrestricted sale and use of these poisons is to invite disaster.

The delayed action of many poisons is well known. While leukemia developed among survivors of Hiroshima in the relatively short space of three years, generally much longer periods of latency are the rule. For instance, bone cancers among women workers who painted luminous figures on watch dials in the 1920's did not become apparent until fifteen to thirty years later.

Pesticides came into general use in the early 1950s. It is only now that we are beginning to see some of their effects. Deaths from all types of blood and lymph malign-

ancies in the United States totaled 25,400 in 1960, a sharp increase from the 16,690 figure of 1950, according to the National Office of Vital Statistics. Rachel Carson noted in *Silent Spring* in 1962: "Such world famous institutions as the Mayo Clinic admit hundreds of victims of these diseases of the blood-forming organs. Dr. Malcolm Hargraves and his associates in the Hematology Department at the Mayo Clinic report that almost without exception these patients have had a history of exposure to various toxic chemicals, including sprays which contain DDT, chlordane, benzene, lindane, and petroleum distillates."

Amazingly, it was not until last February that the Food and Drug Administration and the Department of Agriculture belatedly "proposed" to reduce the tolerance of DDT residues on thirty-six fruits and vegetables from the present seven parts per million to 3.6 parts per million for the 1968 growing season. The Department of Agriculture "suggested" that for the 1969 season, it might well reduce the tolerance to one part per million. Why? Because seven parts per million was "higher than necessary for adequate pest control when DDT was used according to label directions."

Were the public aware of the dangers confronting it, the indiscriminate use of pesticides could easily be controlled. The mechanism for such action already exists. Counties have agricultural agents. They could be thoroughly trained in pesticide procedures and dangers. The poison registry laws already covering drug stores could be extended to control use of agricultural poisons. Every drug store is required by law to keep a registry of those buying poisons such as strychnine, oxalic acid, or even iodine. Control over the dispensing of pesticides could be placed in the hands of the county agent. Those pesticides that are absolutely necessary could thus be obtained by his prescription alone. The FCPC, not just the Department of Agriculture, should oversee such prescriptions to make certain that poison, like dangerous drugs, is not handed out indiscriminately.

County agents should be required to hold classes to educate farmers and home gardeners in proper pesticide procedures, even as they now hold classes for other farm problems.

To help prevent accidental disasters caused by the mixture of pesticides with foodstuffs, stores selling food for human consumption ought to be banned from handling agricultural poisons. Inadvertent contamination is a concern in the petroleum industry, where stringent regulations govern the transportation of oil and gasoline. Why should not the same stringent regulations be applied to the shipment of food and poison?

As Senator Gaylord A. Nelson, Wisconsin Democrat, who has taken the lead in proposing remedial legislation, has pointed out:

"Dangerous environmental contamination is occurring at a rapid and accelerating pace. We are literally heading toward environmental disaster. It is no longer the question—will it happen? It is happening now. The question is—will we temporize with this issue until it is too late? Until, in fact, the land, the water and the air are polluted and all the living creatures in it are dangerously compromised. That is the issue we face.

"Through this massive, often unregulated use of highly toxic pesticides, such as DDT and Dieldrin, the environment has been polluted on a worldwide basis. In only one generation, these persistent pesticides have contaminated the atmosphere, the sea, the lakes, and the streams, and infiltrated the tissues of most of the world's creatures, from reindeer in Alaska to penguins in the Antarctic, including man himself."

To continue to allow pesticide manufacturers to push their wares in search of bigger and bigger profits, without adequate controls in the public interest, is inexcusable neglect and folly. The tragedies from these potions of death are multiplying. Congress has a moral obligation to act promptly to protect the public against the ravages of poisoning by pesticide.

THINKING THE UNTHINKABLE

Mr. HART. Mr. President, the Secretary of Agriculture issued a press release April 17 announcing that the Department of Agriculture and District of Columbia government would make a "dual attack on malnutrition in the District of Columbia."

Special food packages are to be distributed to pregnant women, new mothers, infants and young children. Lunches are to be provided needy children during the summer months in connection with recreation programs.

In the course of this press release, Secretary Hardin was quoted as saying:

It is unthinkable that hunger, protein deficiencies and other forms of malnutrition should be permitted to endanger the physical and mental development of children in this land of abundance.

Taking the Secretary of Agriculture at his word, it is clear that someone in the executive branch of our Government has been thinking the unthinkable.

Administration recommendations on the budget were submitted to Congress last week.

The recommendations did not propose to increase the amount provided for food for hungry people one thin dime over the Johnson budget.

The only increase over the Johnson budget in this whole area was $15 million for nutrition aides to Agricultural Extension Services to teach the poor, as Senator GEORGE MCGOVERN commented:

What they should eat if they ever get anything to eat.

The Johnson budget provided about $200 million more for food for the hungry in fiscal 1970 than in fiscal 1969. A large part of that was simply meeting directives previously adopted by Congress. It also included a reduction of $104 million in the special school milk program, recommended by the old administration and now by the new, which Congress did not direct.

I am advised that the budget documents supporting the new recommendations, while keeping dollar amounts for food items at virtually the same overall level, do propose to reduce by $45 million the funds earmarked for free school lunches for children who cannot buy them. Fifty million dollars would then be added to the withdrawals from section 32 funds, $10 million of this for the school milk program in schools where the breakfast or the lunch is not served. Instead of adding funds to assure that all hungry children are fed, the budget shifts funds from one group of needy children to another group.

Someone was obviously thinking the unthinkable when that budget recommendation was prepared and sent to Congress.

Let me read from the press release again:

"It is unthinkable," Secretary Hardin said, "that hunger, protein deficiencies, and other forms of malnutrition should be permitted to endanger the physical and mental development of children in this land of abundance."

The man or the men who sent the new budget proposals to Congress had to be thinking of doing exactly that; the budget makes a choice, not to see that every child has what is necessary for him to eat, but a choice between which children should get enough, or partly enough nutritious food, and which children are to get none at all.

Mr. President, the new Secretary of Agriculture, whom I knew and admired when he was at Michigan State University, is a fine man. We all know that members of the Cabinet are all but powerless when the Budget Bureau cracks the whip in the budgetmaking process.

The Secretary of Agriculture has done a fine job of jumping into the breaches exposed by the McGovern Select Committee on Nutrition and Human Needs with free food stamps for two South Carolina counties, a new program for Collier County in Florida, and now a dual attack on child hunger in the District. An appearance of quick response has been given, but it is a pitifully inadequate response—four or five tiny areas spotlighted by the Senate committee are going to get expanded, although inadequate programs, with accompanying headlines, while hundreds and even thousands of areas in the Nation, and millions of malnourished not visited by Senator MCGOVERN and his group, are required to accept the "unthinkable."

I agree with Secretary Hardin's public statement 100 percent. But I plead with him to make his observation in an internal memorandum directed to his boss and his colleagues and that he add a postscript to it which says: "It is also unthinkable that we should permit helpless, older people, teenagers, or adults—all of them human beings and nearly all disadvantaged by age, by handicaps acquired in childhood or subsequently, and many by economic and social forces beyond their control—to live out half lives of suffering and lethargy due to inability to get a few morsels of food out of our bulging storehouses."

Mr. Robert Choate, consultant to Secretary of Health, Education, and Welfare Robert Finch, said on television recently that at least a billion dollars more should be added to food budgets this year, and that anything less than $500 million would be a fraud.

There are reports that a proposal to add $10 to $50 million to some emergency food item is under consideration yet—a sort of band-aid job.

If it is true, I hope the administration will read Secretary Hardin's statement before it is proposed, for it would amount to a second instance of "thinking the unthinkable"—doing much less than we should and permitting millions of children, to say nothing of other hungry people, to go without food essential to healthy minds and bodies.

CONDITIONS AND WAGES OF FARMWORKERS

Mr. MURPHY. Mr. President, last Tuesday evening, an excellent editorial

written by James J. Kilpatrick was published in the Washington Evening Star.

The working conditions and wages of farmworkers have been a matter of increasing concern during the past few years and are being exhaustively reviewed by the Subcommittee on Labor at this time. The accounts of living conditions and earnings of those who work on our Nation's farms have been distorted in many instances by the press and other news media.

Mr. Kilpatrick's writing tells the story of the union effort and the conditions in the fields as they really are. I hope that Senators will take the time to read it, as I feel it will give them a different perspective on the subject.

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

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

GRAPE BOYCOTT IN DELANO PERPETRATES A HOAX

(By James J. Kilpatrick)

DELANO, CALIF.—The grapevines stand in trellised ranks, green-sleeved, precisely spaced, as disciplined as troops in close-order drill. Their cross-pieces are angled at right shoulder arms; they make of the flat brown earth a crowded battlefield.

It is for the possession of this battlefield that California's table-grape growers and an AFL–CIO union are struggling. The conflict long ago stretched beyond the Delano community.

For the past 3½ years, well-meaning liberals across the country—not to mention a number of politicians on the make—have been giving full-hearted support to the "grape boycott" urged by Cesar Chavez and to the supposed grape strike" behind it. Chavez is director of the United Farm Workers Organizing Committee, AFL–CIO. When it comes to recruiting union members, Chavez is a flop; his UFWOC has recruited amazingly few. But when it comes to mounting a publicity campaign, the man is an undoubted genius. He turned up recently with a bylined piece in Look extolling his non-violent piety.

His "boycott" bumper stickers blossom on half a million Volkswagens. In dozens of parochial schools, such is the gullibility of the nuns, little children compose insulting letters to grape growers as exercises in English. Hippies, Yippies, priests, professors, political figures, and housewives with time on their hands—all of them are whooping it up for the downtrodden grape pickers of Kern County, Calif.

It is a hoax, a fantasy, a charade, a tissue of half-truths and whole fabrications. Within the past 10 days, since Chavez blundered into his first big public relations error, the union's effort has become something more—a brazen, ugly, and undisguised bid for "closed shop" power over the lives of farm workers everywhere.

To swallow the Chavez line, you must believe that grape workers in the Delano area are miserably paid, wretchedly housed, and cruelly treated. You are urged to help feed "hungry children," the victims of the system that denies men a living wage. "At present rates," says an UFWOC handout given to me last week, "a farm worker who is fortunate enough to work 40 hours a week, 25 weeks a year, would earn $2,386."

This is moonshine. The reporter who checks payrolls, goes into the fields, talks with workers, visits their homes, inspects the labor camps, and otherwise covers the story, gets an entirely different picture. The going base wage for grape workers is $1.65 an hour. At 40 hours a week, 52 weeks a year, this would produce annual earnings of $3,432. Yet the hypothetical example has no meaning. This is not how grape workers work.

The typical Delano worker—if there is any such being—is a middle-aged Mexican-American, with little formal education and few skills beyond those of grape and vegetable culture. He has a wife and two or three teenaged children. As a resident alien of 10 years' standing, he must register annually with the Immigration Service. Otherwise, he is free to live his proud, humble, independent life as others do.

Such a worker may have a dozen different employers during the year. He goes where the work is, from one vineyard to another. Thus, there is no such thing as an ordinary "bargaining unit," for the workers move around freely. George A. Lucas, a middle-sized grower, sent out 3,500 W–2 forms on workers last year.

In summer, the work is hard and hot; at other times, it is picnic-pleasant. Families take their lunches to the fields. Last week, I talked at length with one such family of four. With the base wage, plus incentive supplements, they expected to earn about $325 for the week. At harvest time, this doubles. They drive a 1968 stationwagon. A son is in college.

Out in the fields, the workers speak of the Chavez union with fear and contempt. They tell of threatening telephone calls at night, of repeated acts of vandalism and intimidation. They are fearful that beleaguered growers, anxious to end the nationwide boycott, may yet sell them like so many heads of lettuce to the UFWOC, which thereafter would control when and where they worked.

It is this press-gang power that Cesar Chavez is seeking. He wants his union to become the sole source of agricultural workers, under contracts that would forbid the growers to hire any non-union man. This is what the fight is all about and it is incredible that liberals, professing a love for the little fellow, should be helping him toward his goal.

DRUG DETAIL MEN

Mr. MCINTYRE. Mr. President, the Washington Post of March 17, 1969, contained an article written by Mr. Morton Mintz concerning the landmark decision of the St. Louis court of appeals in which it held that a drug company's salesmen—better known as detail men—who pay personal calls upon physicians must tell them the bad news about the drugs they are selling as well as the good.

Federal Judge Fred J. Nichol stated:

Because detail men are the most effective method of promoting new drugs, they also are the most effective method of warning the doctor about recent development in drugs already employed by the doctor.

The court held that the manufacturer in this case knew but failed to use its detail men to tell doctors that the drug involved could cause blindness—and that therefore the company had failed to give a "proper warning."

This judgment concurs with that of the great majority of medical experts who have testified to date before the Senate Small Business Committee's Monopoly subcommittee. In its continuing study of problems in the drug industry the record shows that substantial numbers of physicians are misled by the drug companies' salesmen and by their promotional activities. The sad truth is that the failure on the part of these salesmen to properly inform physicians of the serious adverse side effects of the drugs they are selling has often led to dire consequences and sometimes to needless deaths.

The case pointed out in this article is just one illustration of the dangers in this situation. The committee has hundreds of such examples involving the drug chlorampnenicol, more commonly known under the Parke, Davis trade name of Chloromycetin, on which it has held 9 days of hearings thus far. This potent antibiotic has caused agony and death to untold numbers of people unnecessarily. The drug has been widely overprescribed and misprescribed for any number of nonindicated conditions because, according to the testimony the committee has received, physicians have been misled by the representations of Parke, Davis' salesmen as well as the firm's promotional activities. One heart-rending case which was brought to the attention of the committee was that of a physician who testified that he had given Chloromycetin to his 10-year-old son solely on the basis of the assurances he had received from the drug company's detail man that the drug had no adverse side effects. The boy subsequently developed aplastic anemia and died after a long period of agonizing illness during which he begged his father to pray for his death rather than his life. The committee's files are full of letters indicating this tragic situation has been repeated time after time.

The record is clear: The burden for the misuse of this and many other drugs lies with the drug companies' failure to make certain that the representations of their salesmen and their promotional activities stress the dangers of the use of drugs clearly and strongly.

The health and welfare of the American people must be protected. If the drug industry and/or the medical profession are unwilling or unable to insure that all representations concerning drugs are objective, accurate and competent, then I believe it is time for the Government to act in the public interest.

The findings in this case are significant. They place the spotlight upon one of the most serious problems the subcommittee has encountered to date. I ask unanimous consent that Mr. Mintz's article be printed in the RECORD.

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

SALESMEN MUST TELL BAD EFFECTS OF DRUGS

(By Morton Mintz)

In a landmark decision affecting patients, physicians and the pharmaceutical industry, the U.S. Court of Appeals in St. Louis held last week that a drug company salesman who calls on doctors must tell them the bad news as well as the good news about the medicine he promotes.

The ruling upheld a $180,000 judgment to a woman who said she was blinded by an arthritis drug.

Ultimately, the decision, which is expected to be carried to the Supreme Court, may change doctor-salesman relationships in ways that will bring a more judicious use of potent prescription drugs.

For years, critics from Capitol Hill and the medical community have complained that drugs potent enough to injure and kill often are prescribed casually and even carelessly because of excessive reliance by the medical profession on detailmen, as the salesmen usually are referred to.

The Appellate Court affirmed a lower court

decision that it was not enough for a drug manufacturer to warn of serious side effects in an array of printed materials with which the industry has "inundated" doctors.

Because detailmen are "the most effective method" of promoting new drugs, Federal Judge Fred J. Nichol said. They also would be "the most effective method of warning the doctor about recent developments in drugs already employed by the doctor."

The manufacturer in the case knew—but did not use detailmen to tell doctors—that a preparation called Aralen could cause irreversible blindness. For that reason, it failed to give "a proper warning," Nichol held.

He awarded—and the Eighth Circuit Court of Appeals upheld—a judgment of $180,000 to the victim, Irene M. Yarrow, a Sioux Falls, S.D., mother of four boys who is 50.

Since the fall of 1964, he said in his opinion, "she has been unable to read, sew, cook, drive a car, watch television, or recognize people, or even her loved ones, as she did before."

Aralen is Sterling Drug Co.'s tradename for chloroquine phosphate. The drug won fame as a devastating weapon against malaria. The problems with blindness have involved not the relatively short-term use connected with malaria, but long-term use by victims of other diseases—principally rheumatoid arthritis and a serious skin disorder in which it also has been found useful.

Mrs. Yarrow had an arthritic condition. Starting in January, 1958, she took Aralen, on a doctor's prescription, for 6½ years. In October, 1964, an examination showed a degeneration of cells in the retina of the eyes that resulted in an 80 per cent loss of vision. "The testimony showed that the blindness was caused by a side effect of the drug Aralen," Judge Nichol said.

The record also showed, he said, that as early as 1957, medical publications had suggested a connection between the use of chloroquine and retinal changes that Sterling subsequently reflected this in its literature and in a warning letter to doctors in 1963, and that Sterling "knew or had reason to know that some persons would be injured. . . ."

Saying that Sterling should have used its detailmen to warn doctors, the Judge pointed out that one of the firm's salesmen had introduced Mrs. Yarrow's physician to Aralen in late 1957 or early 1958, and called on him at intervals of four to six weeks thereafter, but "did not bring the side effects of Aralen to his attention."

After Sterling appealed the award to Mrs. Yarrow, the Pharmaceutical Manufacturers Association filed a friend-of-the-court brief saying that Judge Nichol's ruling appears to require drug manufacturers to use their detailmen "to notify personally each of the Nation's 248,000 practicing physicians of newly discovered drug warning information.

"Such a requirement is not feasible or even possible of timely accomplishment by any manufacturer," has "no foundation in law" and would "seriously and adversely" affect each of its members, the PMA told the Court of Appeals. The Association represents manufacturers of more than 90 per cent of the prescription drugs produced in the United States.

Although the Food and Drug Administration has been able to regulate ads in journals and other printed promotional materials, it has no way to monitor the hundreds of thousands of conversations that take place annually between doctors and detailmen to see if the salesmen deviate from the official labeling.

Sen. Gaylord Nelson (D-Wis.), who has held hearings since May, 1967, on prescription drug problems, has put major responsibility on detailmen for Parke, Davis for the continuing massive use of chloramphenicol, a potent antibiotic that has caused a fatal blood disease in hundreds of patients.

Expert witnesses testified that in almost all of the cases the drug, trade-named Cholromycetin, was not prescribed for the uses approved in the official labeling.

At a hearing last September, Nelson said that "the hard, cold, sad fact" is that physicians "in substantial numbers" are "misled by promotional advertising and detailmen, and the proof is in the record abundantly."

THE PROBLEMS OF LOCAL SCHOOL SYSTEMS

Mr. TALMADGE. Mr. President, we who believe very strongly in local school control are not unmindful of the multitude of problems—both education and social—that confront school systems today. Nonetheless, these are problems that should be handled at the local level of government. This is where they can best be resolved in the best interests of everyone concerned.

Federal Government cannot and should not run the business of local schools from Washington. Federal courts cannot do it either without creating more problems than they set out to treat.

Dr. Carl F. Hansen, former Superintendent of Schools in the District of Columbia, knows this just about as well as anyone in the country. He has written for U.S. News & World Report an excellent article entitled "When Courts Try To Run the Public Schools." To bring it to the attention of the Senate, I ask unanimous consent that it be printed in the RECORD.

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

WHEN COURTS TRY TO RUN THE PUBLIC SCHOOLS

(By Carl F. Hansen, former Superintendent of Schools, Washington, D.C.)

(NOTE.—Dr. Carl F. Hansen guided the integration of Washington, D.C., schools in 1954. His work in the transition drew wide praise, in subsequent years, Negro enrollment gained overwhelming predominance. A Negro filed suit, charging "inequalities." A federal judge ordered changes considered dangerous by Dr. Hansen, who chose to retire rather than comply.)

If you live in a small Nevada town—or in one in Iowa or Ohio, for that matter—and your schools are mostly white, you may actually be flouting a court ruling that says that racially imbalanced schools run against the Constitution of the United States.

If your schools have all-white faculties, you may someday be ordered to hire 13 per cent black teachers to make the percentage fit in with the ratio of blacks to whites in the national population.

If you live in a city like Washington, D.C., or Chicago, you may someday have to see to it that the proportion of the poor in any school does not exceed the percentage of the poor in the entire city.

If you refuse to attempt to get a balance between the poor and the nonpoor in your schools through voluntary exchanges across school-districts and even State lines, you may find yourself in contempt of court.

You may find your own child someday inexplicably "volunteering" to ride a bus out of your neighborhood for the kind of social and racial integration some of the nation's leaders think is best for everybody—except possibly for themselves.

If not already current realities, these requirements may ultimately result from the emergence of the doctrine of *de jure* integration.

A new and rather pervasive body of law is being generated by the courts and a limited number of school boards and State legislatures. The effect of this action is to make homogeneous schools either illegal or unconstitutional. In order to reduce homogeneity in school populations, school boards are being required by law to produce plans for increasing racial and social balance in their classrooms.

For much too long this nation lived with *de jure* segregation. Under this immoral and inhumane doctrine, children—and in some cases teachers—were told: "You may not enter this school or that one because of your race." The law stood guard at classroom doors, sifting out blacks from whites and sending each into prescribed educational areas.

Now comes a counterpart rule—that of *de jure* integration. The effect is the same as in the case of *de jure* segregation: The laws again stands guard, admonishing the black child to enter a designated school because his dark skin will improve racial balance there, or instructing a white child to transfer into a black school for the same reason.

One of the more difficult problems about assigning pupils to schools by race is deciding who is white and who is black. For this, someone ought to devise a skin scanner capable of computing racial dominance by measuring skin shade.

In today's admonition against homogeneous schools, you have to think beyond simple race differentials; you are required to weigh the purses of schoolchildren to determine whether they belong to the poor or to the affluent segments of American society. If you are going to enforce mixing of pupils by social and income class, you must find out about the financial condition of their families.

At the base of the doctrine of *de jure* integration is the assumption that homogeneous schools are bad for children. If you want to raise a nasty question, simply ask: "What is the proof that schools with fairly similar enrollments are inferior? Why is an all-white school arbitrarily suspect, or an all-black school written off as worse than useless?"

The earliest example of *de jure* integration is found in the 1954 action of the New York City board of education when it declared that "racially homogeneous public schools are educationally undesirable," and then placed upon itself the responsibility of preventing "further development of such schools" and achieving racial balance in all of its schools.

The action was taken on the advice of social theorists who reasoned that segregation by fact—that is, resulting from the free choice of people—was as bad as segregation by law.

The action of the New York City board of education was followed up in 1960 by the New York board of regents. On the premise that homogeneous schools impair the ability to learn, the regents ordered the New York State department of education to seek solutions to the problem of racial imbalance. It declared:

"Modern psychological knowledge indicates that schools enrolling students largely by homogeneous ethnic origin may damage the personality of the minority-group children. . . . Public education in such a setting is socially unrealistic, blocks the attainment of the goals of democratic education, and is wasteful of manpower and talent, whether this situation occurs by law or fact."

Three years later, the then New York State commissioner of education, Dr. James E. Allen, Jr., now United States Commissioner of Education, sent a memorandum to all State school officials requiring them to take steps to bring about racial balance in their schools. The commissioner defined racial imbalance as existing where a school had 50 per cent or more black children enrolled.

The legislative development of the concept of *de jure* integration has continued: California, Massachusetts, New Jersey, Wisconsin and Connecticut have declared in executive or judicial statements that racial isolation in

the schools has a damaging effect on the educational opportunities of the Negro pupils.

In 1965, for example, the Massachusetts legislature enacted a Racial Imbalance Act. Schools with more than 50 per cent nonwhites were required to file with the Massachusetts State board a plan for correcting the condition.

It would be a serious mistake to overlook the role of the courts in establishing the rule that homogeneous schools must be abandoned.

The *de facto* school-segregation decision in *Hobson v. Hansen* explicitly instructed the Washington, D.C., board of education to submit plans for the reduction of imbalance in the schools.

By clear definition, Judge J. Skelly Wright included social class along with race as factors of concern. For the first time a court spoke not only on the unconstitutionality of racial imbalance but of social imbalance as well:

"Racially and socially homogeneous schools damage the minds and spirit of all children who attend them—the Negro, the white, the poor and the affluent—and block the attainment of the broader goals of democratic education, whether the segregation occurs by law or by fact."

Judge Wright overrode the conclusions of at least eight federal courts that had ruled consistently that it is not the duty of a board of education to eliminate *de facto* segregation, provided there is no evidence suggesting the maintenance of *de jure* segregation.

The sweeping Wright decision, however, went far beyond the more common legislative view in such States as New York and Massachusetts that blacks suffer from attendance in predominantly black schools. The jurist in *Hobson v. Hansen* added social-class homogeneity as a factor detrimental to democratic education. In addition, he enunciated the opinion that all children are hurt by homogeneity. In all-white, predominantly affluent schools, therefore, the minds and hearts of the pupils are being damaged for about the same reasons the black children suffer in schools peopled by their own race.

If the rule requiring integration by social class prevails, every public school in the nation is subject to its effect. Even predominantly Negro school systems like the Washington, D.C., unit will be confronted with a redistribution of its pupils along social lines, if the literal meaning of the Wright opinion is observed. In the nation's capital, with about 94 per cent Negro public-school enrollment, more than 10,000 secondary-school students were reassigned in one year to bring about better social balance in the schools. Thus, *de jure* integration by class as a doctrine is already in partial effect in at least one major school system.

The conclusion that socially homogeneous schools must be destroyed rises from an increasing stress upon the theory that social class determines the quality of education. If the only way to improve achievement among lower-social-class pupils is to integrate them with higher-income pupils, a vast manipulation of school populations is in prospect. It would require a kind of despotism the world has not yet experienced, for enforcement is inevitable where the people do not volunteer.

It is difficult to believe that freedom can survive when government seeks to control the social and racial dispersement of the people—speaking, as it does so, the line: "This may hurt, but it will be good for you."

The judicial movement toward full development of the *de jure* integration doctrine was accelerated by the United States Supreme Court in three decisions issued in May, 1968. These are the Kent County, Va., the Gould, Ark., and the Jackson City, Tenn., opinions requiring the school boards in these communities to abandon their freedom-of-choice plans for desegregating their schools.

In these opinions, the Supreme Court declared that, in States where the schools were previously segregated by law, school boards must assume an affirmative responsibility to disestablish segregation.

In Jackson City, Tenn., for example, it was not enough to set up school zones on the neighborhood principle, at the same time allowing pupils to choose to attend schools outside those zones if space existed in them. Under this plan, formerly all-white schools received significant numbers of black students. Because, however, white students refused to attend or to elect to attend all-Negro schools, the Court was dissatisfied with the freedom-of-choice plan. The presence of all-Negro schools became clear evidence of intent to preserve segregation as it existed before 1954.

Not only must the Jackson City school authorities by the force of law require white children to attend formerly all-Negro schools, but they must also enforce faculty mixing by arbitrary assignment of personnel on racial lines.

The Supreme Court's disestablishment doctrine is the principle of *de jure* integration applied to those States in which segregation by law existed prior to the 1954 *Brown* decisions. This position—quite heavily burdened with patent discrimination against a group of States—is after all only one step removed from a decision requiring all States to disestablish segregation, whether this occurs by law or fact.

De jure integration, in summary, applies currently in those States and in those school districts where the local legislative bodies have enacted legislation establishing the new doctrine. It applies specifically to the District of Columbia, where the Wright opinion required the board of education to prepare plans to reduce homogeneity by race and social class.

Directly and unequivocally, the doctrine has been invoked by the Supreme Court of the United States in its disestablishment ruling applicable to jurisdictions formerly segregated by law. As has been said here, this step is the precursor of a ruling requiring local and State boards of education to disestablish *de facto* segregation as well.

"A THREAT TO PUBLIC EDUCATION"

The most damaging aspect of the *de jure* movement is that its proponents must discredit predominantly white schools—of which there are many throughout the country—and predominantly black schools, whether they exist in large cities like New York or small ones like Drew, Miss. Out of the attack on public education needed to establish an enforced abandonment of homogeneity by race or class has come a threat to public education that promises to bring down the walls of this primary citadel of democracy.

Hardly a school system anywhere with racial imbalance has escaped a scathing attack by those bent on achieving a millennium through the simplistic step of requiring racial balancing either by legislative or judicial action. Trace the anti-public-school sentiment in recent years to its source: You will discover—as in the case of the Washington, D.C., story—a sequence of attack, discredit, weaken; a strategy for imposing racial and social-class mixing through the winning of legislative and judicial support.

The danger in the drive for legislative and court actions to make integration the law of the land—here meaning the artificial management of persons to establish racial and social-class mixing—is the imminent destruction of confidence in public education.

As important as the hazard to public education is the fact that, in any case, *de jure* integration does not work.

The policy of the New York City board of education requiring racial balance produced overwhelmingly negative results. It left a trail of school disruptions, protests, boycotts and sit-ins. In the meantime, whites left the schools at an increasing rate.

In 1964, an official study group stated:

"No act of the board of education from 1958 through 1962 has had a measurable effect on the degree of school segregation. . . . Not a single elementary or junior high school that was changing toward segregation by virtue of residential changes and transfers of whites into parochial and private schools was prevented from becoming segregated by board action."

Four and a half years ago, the New York City board of education paired two schools—one mostly white, the other Negro. The promise made to the parents was that a race ratio of 65 per cent whites and 35 per cent blacks would be maintained in each school. Today—that is, in early 1969—the white enrollments are down to about 35 per cent in each of the two schools.

The Gould, Ark., experience is further proof of the futility of attempting to apply the doctrine of *de jure* integration. The community paired its two small schools last autumn. As a result, all but 50 of 250 white pupils withdrew. The authorities there estimate that in the coming school term the white enrollment will fall to no more than 20 pupils.

Washington, D.C., is an example of very rapid changes in race ratios over a period of a few years. From 1950 to 1967, the white school membership dropped from 46,736 to 11,784, while the black membership jumped from 47,980 to 139,364.

Enrollment figures show that formerly all-white Washington, D.C., public schools invariably moved to 75 per cent black membership two years after the 50 per cent point was reached. In each such school, the black membership quickly moved thereafter to 99 per cent.

The new and important discovery was that when a formerly all-white school approached 30 per cent black membership, the rate of change increased. Within two years, the black membership reached the 50 per cent point, from which it moved to 75 per cent within the next two years. The important finding is that the starting point for rapid white exodus is 30 per cent.

A police state with unlimited enforcement power will be needed to implement integration if it is required by law.

It is inviting to speculate about the ultimate possibility of an enforced integrated society. The next step may be to set up quotas for neighborhoods, so that the number of poor will be proportionate to their total number in the community. New homes funded by federal loans may, under a policy of social integration, be sold on schedules determined by the ratio of whites and blacks, Jews and non-Jews, Protestants, Catholics, agnostics and atheists in any community.

Out of the intervolutions from which the doctrine of *de jure* integration comes, two findings emerge with clarity:

One is that palpable preservation of *de jure* segregation anywhere—whether in schools, employment or housing—is morally wrong. The counterpart of this principle is that *de jure* integration is equally questionable.

CREATING "THE HOMOGENIZED CITIZEN"

The second main finding resulting from an analysis of the enforced mixing of people by race and class is that what is most desired is the "integrated man" made up of proportionate parts of every ethnic group and of the several religious and cultural components of American society. The homogenized citizen thus created is a dangerous change from the historic individualism which, with its supportive pluralism, has been this nation's major source of strength.

The melding, blending process inherent in the concept of *de jure* integration may destroy the dream of a free society. A development of such significance, therefore, deserves the most careful study and evaluation.

INVESTIGATION OF WILDLIFE ON SAN MIGUEL ISLAND FOR EFFECTS OF OIL POLLUTION

Mr. CRANSTON. Mr. President, many Californians were saddened and angered recently by stories of elephant seals and sea lions dying on the beach of San Miguel Island, apparently the victims of the oil scourge which has afflicted the California coast at the Santa Barbara Channel. Because the various reports were often contradictory, the California office of the American Humane Society requested my assistance in sending a veterinary specialist to inspect San Miguel. The island is operated by the U.S. Navy and is not open to the public. With the cooperation of the Commander of the Pacific Missile Range at Point Mugu, Calif., Dr. James L. Naviaux, Director of the National Wildlife Health Foundation, headed an inspection team to the island on Wednesday, April 16.

Mr. President, I ask unanimous consent that Dr. Naviaux's report on his findings be printed in the RECORD. I was delighted with his finding that the marine mammals he inspected on San Miguel showed no signs of injury from the oil pollution. Apparently the deathlike repose of the pinnipeds confused the less skilled observers who were reported in the earlier stories.

This good report should not diminish our concern with the disastrous effects of the oil slick. The Santa Barbara Channel remains a tragic chapter in the story of man's mismanagement of nature.

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

Subject.—San Miguel Island Wildlife Evaluation—April 16, 1969.

Purpose.—To survey and evaluate the condition of the wildlife on the Island as to the effect of the crude oil water pollution from the Santa Barbara Channel for a report to Senator Alan Cranston's Office, Washington, D.C.

Party.—Dr. James L. Naviaux, Director, National Wildlife Health Foundation, Pleasant Hill, California; Mr. Donald E. Hansen, Veterinary Student and assistant Davis, California; Mr. Mel L. Morse, President, Humane Society of the United States, Washington, D.C.

This party was joined by the following government officials at Pt. Mugu and accompanied to San Miguel Isl.

Mr. Vernon Appling, Chief Ranger, Channel Island National Monument, Oxnard, California; Dr. John Simpson, Veterinarian attached to Navy Undersea Research Pt. Mugu, California; Mr. William Russell, U.S. Navy Public Affairs Office Point Mugu, California.

Method.—The party was transported to San Miguel Island via a Navy helicopter, landing near the Northwest Coast of the Island at approximately 1100 hrs. This was the area where the heaviest concentration of oil pollution to the beach had occurred. The day was clear and sunny, with only a slight cool breeze. The three veterinary personnel then proceeded towards the beach and in about 100 yards came upon large groups of elephant seals (Mirounga sp.) in groups of 25 to 150 each. We then proceeded in among the animals to observe them for signs of oil pollution and/or indication of illness or signs of stress. While many of these elephant seals made slow continuous movements of flipping sand up over their bodies as they lay quietly in the sand, many lay quite motionless as in a deep sleep. In order to determine their alertness and general state of well-being, many were gently prodded by foot to evaluate their response to this stimulus. The typical response would be the reluctant opening of the eyes and turning back in a threatening, open mouth motion, but with little indication of desiring active aggression. When prodding was pursued to further evaluate their ability to respond, the animals would make further aggressive gestures or would move away in an up and down undulating movement across the sand. In an attempt to obtain further clinical evidence of the general condition of these animals, approximately ten were tested for body temperature, rectally, with an electric thermometer. The individuals selected for this testing either appeared in a very deep sleep (6), ill (1) or had evidence of oil pollution on their bodies (3). Only the one male (approx. 300 lbs.) that clinically appeared sick and lethargic had a variation from the normal body temperature of 95 degrees, which had a temperature of 100 degrees. This animal had many small bite wounds and an injured cornea. He was treated with antibiotics by injection and the eye was treated with an antibiotic eye ointment. The six sleeping elephant seals gave very little resistance to the temperature taking procedure, but were quite able to move out when stimulated to do so.

Of the three tested that were polluted with oil, one had approximately 65% of its body covered with oil (only a light coat), none had any variation from the normal body temperature nor did any show any signs of distress from what oil they had on them. In the course of our approximate three hour visit to the Island, most all of the oil-fouled Northwest coast area was walked to note any and all wildlife there.

Observations.—No sick or dying animals were found except the one noted and treated with bite wounds. Approximately 15 dead elephant seals were found along the beach area, none of which were fresh. Some evidence of oil was seen on them, but this number of dead does not seem above what might be expected among such a population. Only two dead California sea lions (Zalophus sp.) were seen, but a very large number (75–100) of aborted fetuses were noted among the rocks and along the beach. This would constitute an "abortion storm" in any other species and would indicate the need for some research into the problem. Mr. Appling verified that such abortions had been noted in prior years. A fetus was brought back to Pleasant Hill for studies. Most of the sea lions observed immediately entered the water as they were approached, would swim actively and showed no evidence of any problem, though there was still a sign of a light oil slick out off shore where many sea lions were swimming. The beaches and rocks that were observed in the affected area showed only a thin coating of crude oil and not the thick gooey coating as was previously reported earlier in the same area. A small number (4) of sea gulls were noted with very light pollution. No dead birds were observed.

Conclusion.—From the observations made, there is no evidence that any of the wildlife at San Miguel Island are showing harmful effects from the crude oil at this time. However, one can only conjecture to what real damage the crude oil has done in terms of stress factors, total mortality and disruption of the ecology of this pinniped habitat. Because of the Foundation's interest in conservation and wildlife, we greatly appreciated this opportunity to make this first-hand observation of conditions there at San Miguel Island and to treat the one individual that needed some help. We would also be more than happy to offer our services and medical help in any future problem affecting the health of wildlife.

INTELLIGENCE-GATHERING PLANES

Mr. McGEE. Mr. President, I ask unanimous consent to have printed in the RECORD columns written by Carl T. Rowan and Max Lerner and published in the Evening Star of April 23. Both articles deal with the recent incident involving the loss of an EC–121 intelligence-gathering plane over the Sea of Japan.

With these writers, I applaud the restraint shown by our President in response to this provocation, agreeing that such intelligence work must go on because it provides necessary information.

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

[From the Washington (D.C.) Evening Star, Apr. 23, 1969]

SPY PLANES HARVEST CRUCIAL ENEMY DATA

(By Carl T. Rowan)

With about as much grace as possible. President Nixon has swallowed his campaign braggadocio about what he would do if "a fourth-rate military power" like North Korea confronted him with a Pueblo attack.

Nixon has made it clear that the shooting down of an unarmed U.S. reconnaissance plane was actually a more brazen affront than was the seizure of the USS Pueblo. He told a press conference Friday of two basic differences in two incidents: 1. There were doubts for some time as to whether the Pueblo had entered North Korea's territorial waters, but there was no doubt whatsoever that the plane was always at least 40 miles from North Korea. 2. The North Koreans had warned previously about operations of the Pueblo, but there had been no warnings about the flights although 190 of them had occurred previously this year.

Why, then, did the President not order a military reprisal for an attack that he characterized as "unprovoked, deliberate, and without warning"? Why did he gulp down the bold words he used in ridiculing President Johnson's "weak" response to the Pueblo seizure, covering it only with the lame hint that he might still respond militarily?

The answer is simply that Nixon felt he could not risk reopening the Korean war when his top priority chore is to extricate the United States from the Vietnam war. He sensed that he would not have solid U.S. backing for military retaliation, not only because Americans don't want another war in Asia, but also because millions of Americans have misgivings about sending out "spy ships" and "spy planes."

Since Francis Gary Powers' U2 plane was shot down over Russia in 1960, millions of Americans have harbored notions that these missions are merely dangerous cloak-and-dagger activities by fools and warmongers. Nixon listed "protection of 56,000 American boys in Korea" as his reason for ordering surveillance flights resumed around North Korea. It is too bad he or someone does not tell the American people more of the whole truth about why such "spy flights" are necessary.

The public has never been told the true significance of the U2 flights in that extraordinary venture that was code-named Project Chalice.

Some Americans still ask why the Eisenhower administration "blundered" by authorizing the ill-fated Powers flight of May 1, 1960, only a fortnight before Eisenhower was to meet with Soviet Premier Khrushchev.

The truth is that previous U2 flights had provided some crucially important information about the Soviet military posture.

Powers had flown 26 successful U2 missions

prior to his ill-starred flight, only two of which had been directly over the Soviet Union. These flights, plus "Mission 4155" which was flown on April 16, 1960, caused the American government to revise completely its "national estimates" as to the military capability of Russia.

After U.S. experts analyzed the U2 photographs they concluded that they had been grossly wrong as to the location and number of Soviet military bases, aircraft, and missiles.

The Strategic Air Command did a complete re-targeting of the Soviet Union on the basis of the more accurate information provided by the U2s.

Thus these flights contributed immeasurably to the security not only of the United States but of Western Europe, which felt directly threatened by Soviet rockets.

Why the ill-fated Powers mission? Earlier flights had revealed three Soviet military installations about which the United States felt an urgent need for more information.

So, after the U2 flight of April 16, U.S. military and intelligence experts gave top priority to a Soviet installation known as Polarnyy Ural, second priority to an installation known as Kysthyn-Kola, and third priority to a Soviet base in the Carpathians.

Francis Gary Powers was out to get new vital information on any or all of these installations when his plane was rocketed down, creating an international furor that was to last for years.

Spy satellites now gather much of the data that the U2s provided. But there is still a vital role to be played by ships and planes loaded with fantastically sensitive electronic data. That is why the Soviets keep electronic trawlers around the U.S. and in other key parts of the world.

Sometimes the information gathered helps to maintain peace in periods of stress. During the June war of 1967 President Nasser of Egypt and King Hussein of Jordan issued a false report that U.S. aircraft were helping the Israelis—a report probably designed to bring the Soviet Union into the fray. But because of their intelligence gadgets, the Russians knew that Nasser and Hussein were lying. So they stayed out of the war, as did the United States.

Planes like the one shot down can provide the kind of information about "enemy" missile shots and aircraft takeoffs that add up to the "intelligence" that a country must have in deciding issues like whether to build an antiballistics missile system. They provide frequency information essential to jamming enemy radars should we ever have to try to get "second strike" bombers in.

So the spy flights will continue—because the President has concluded that they are worth whatever risk, whatever crisis, may be involved.

EC121: Caution Served With Crow

If Richard Nixon has a feel for irony (which you'll have to answer for yourself) it must be registering pretty strongly at this moment of history. Anyone who was at the Miami Beach convention will recall how the Republican presidential nominee sent the American eagle screaming at Lyndon Johnson's craven betrayal of the Flag in failing to act swiftly and strongly on the *Pueblo's* seizure.

The trouble with being in power, instead of on the outside, is that it takes a fireman, and all too often in global politics the fireman gets to the scene after the fire is over. That is what happened when the EC121 "reconnaissance" plane—call it an intelligence interceptor craft, an air version of the *Pueblo*—was shot down in the Japan Sea by the North Koreans. During the campaign Nixon promised there would be no fire next time, and if there were he would put it out posthaste. Well, there was, and he couldn't and didn't.

I'm not complaining about Nixon's caution. In fact, I like it in this case. I just hope the irony of it, and the cheeky brazenness of all the spread-eagle campaign drivel, isn't lost on the nation. Caution in reacting to Communist provocations like this one makes sense, especially when you can't do anything fast without overacting, and also if the caution is linked to boldness in trying to end the larger Vietnamese war whose priority has made the caution necessary.

To the families of the 31 crewmen who died, it won't be any consolation to be told that while they were serving a Great Power it can exact no redress or revenge because even a Great Power is helpless in the sea of world circumstance. That is one of the facts of life that all of us must live with.

Was the North Korean act a mindless provocation, a natural response to intolerable espionage from the air, or quite simply a calculated gamble? We won't know until we have more facts about the EC121's mission and how much sense it made, and especially whether the plane was (as Washington has claimed) at least 50 miles from the Korean air space.

If it was in fact that closer to that air space, then Nixon and his military decision-makers must take the consequences that every espionage system must take—of getting caught. If in fact it was far outside Korean air space, then shooting it down was a provocative act.

Assuming it was such an act, what makes the North Koreans so rancorous, almost to the point of savagery? No nation likes to be spied upon, whether by agents or electronics, but most governments have made their peace with it, or at least an armed truce. What really bugs Pyongyang, if I may risk the play on words, is not the actual bugging but the knowledge that the Seoul regime to the South is getting stronger every year and the South Korean prosperity greater.

No insult is deeper than the spectacle of a hatred rival flourishing. In the cankered joyless world in which the more fervent and fanatical Communists live, the support of the anti-Communist Seoul regime by Americans is a continuous provocation in itself, and the very fact of the immensity of American power is an obscene reversal of the world as it should be.

Seen from this angle every American "reconnaissance" plane is fair game. Shooting one down and sending its freight of human beings to the bottom of the sea is a way of shooting a barb into the tough or tender skin of the American colossus.

Shooting, moreover, with relative impunity. That is what Americans will have to live with for some time, and if they want to minimize their grief and frustration they had better demand a restructuring of the military intelligence services.

If a diplomat (as we are told) is sent abroad to lie for his country, then a "reconnaissance" plane is one sent abroad to spy for its country. A lumbering propeller-driven plane like the EC121 becomes a kamikaze plane, on a suicide mission, unless it is itself watched over by speedier fighters. Either these missions ought not to be attempted, or they ought to have their risks reduced. If this plane was in fact on a "routine" mission, then the routine had better be revised to include air cover.

While a weak nation may have the privilege of being rash (as State Secretary Rogers has told the American people) it doesn't follow that a strong nation must give its military bureaucracy the privilege of being sloppy.

NOMINATION OF MARSHALL GREEN AS ASSISTANT SECRETARY OF STATE FOR EAST ASIAN AND PACIFIC AFFAIRS

Mr. PELL. Mr. President, I believe the United States is particularly fortunate in having Marshall Green appointed as Assistant Secretary of State for East Asian and Pacific Affairs.

I say this not just because he has been a respected friend of mine for almost 30 years, but because he has an expert knowledge, sensitivity, and judgment for the area of which he has been charged.

I have heard him give a briefing that was in my view the best briefing we have ever received in the course of my years in the Senate.

His appointment is an excellent one, and the administration is to be congratulated on it.

THE 25TH ANNIVERSARY EDITION OF MAGAZINE HUMAN EVENTS

Mr. THURMOND. Mr. President, the magazine Human Events, the well-known journal of political commentary, has celebrated its 25th anniversary with a special issue filled with interpretative articles on the current scene. This anniversary is a remarkable one because it indicates the durability of the principles for which Human Events stands. For 25 years, this magazine has unswervingly dedicated itself to the ideals of constitutional government and conservative political action. It is no secret that over this period Human Events has been bucking the trend in the world of journalism and atuning itself more to the philosophy of the grass roots of the American people than to the supposedly sophisticated power centers of politics.

The anniversary issue is illustrative of the high quality of Human Event's journalism. Its editors and publishers can be proud of their record and can look forward to a brighter future.

Mr. President, the Charleston News and Courier recently published a special salute to Human Events in the form of the lead editorial on that newspaper's distinguished editorial page. The News and Courier says:

> Twenty-five years of pioneering by conservatives such as the editors of *Human Events* is beginning to pay off in a more thoughtful public approach to politics and ideas.

Mr. President, I am pleased that one of the leading newspapers of my State has paid this tribute to Human Events. I ask unanimous consent that the editorial, entitled "Human Events At 25," published in the Charleston News and Courier of Thursday, April 10, 1969, be printed in the Record.

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

Human Events at 25

Publication of a special 25th anniversary issue of Human Events, a magazine of political commentary, serves as a reminder of the rebirth of American conservatism in the last quarter century.

The conservative outlook has deep roots in American history, having such diverse 19th century spokesmen as John C. Calhoun of South Carolina and Fisher Ames of Massachusetts. By 1944, when Human Events was founded as a Washington newsletter, conservatism seemed to be going the way of the dodo bird. Franklin D. Roosevelt had been elected to an unprecedented third term as president. Contemporary spokesmen of intelligent conservatism were few, and almost without outlets. Liberalism in all its forms, from the mild socialistic variety to varieties

closely identified with Marxism, was blooming.

Today, a vastly different situation exists. The man in the White House, if not a full-fledged conservative on every issue, is strongly influenced by conservative ideas. The White House staff includes at least one well known young conservative theoretician, Dr. Richard V. Allen. Whereas conservatives hardly would have been allowed in the White House a few years ago, today they are welcome.

M. Stanton Evans, editor of The Indianapolis News, chronicles "The New Conservative Era: A Generation of Growth," in the 25th anniversary issue of Human Events.

"Political change," he notes, "is seldom unilinear and neat, and the Republican-conservative transformation since '44 has occurred as a series of ebbs and flows rather than as a single decisive thrust."

But there is abundant evidence of conservative growth and influence.

California, the most populous state in the Union, has a strongly conservative chief executive in Ronald Reagan. The Republican Party has had a major transfusion of Southern conservatism. Conservative youth groups, such as Young Americans For Freedom, are flourishing.

Perhaps the most important long-range development is emergence of conservative journalists and thinkers, authors such as William F. Buckley Jr., James J. Kilpatrick, Dr. Russell Kirk, Holmes Alexander and John Chamberlain—several of them contributors to The News and Courier as well as to Human Events.

As yet, conservatives don't predominate on college campuses. They don't play a leading role in the New York book world. But conservatives can no longer be safely ignored by liberals. The liberal presidential candidate failed last November.

In the battle for the mind of the rising generation, conservatives aren't faring badly, though peaceniks and militants grab the headlines. The middle class is continuing to move along the conservative path. Members of the big industrial unions are beginning to act more and more conservative.

Twenty-five years of pioneering by conservatives such as the editors of Human Events is beginning to pay off in a more thoughtful public approach to politics and ideas.

EXPERIMENT IN FREE FORM EDUCATION

Mr. TYDINGS. Mr. President, perhaps the "School for Beggars" in Peter Wiell's "Three Penny Opera" was not the most highly accredited or the most prestigious school in 18th century London. But then again it may have been the most relevant and practical school in its time. The disparity between material taught in high schools and colleges and the knowledge that is needed to meet the exigencies of life in America today is clearly one of the underlying causes of the turmoil and disturbance on college campuses and in high schools. This very problem of making learning relevant and applicable to modern life is reshaping our concepts of both the purpose and the procedures of education. Technological education, language labs, work-study programs, oversea seminars, computerized classrooms, and educational television are all attempts to solve this problem of making education meaningful to the students.

A most creative and successful experiment involving students and teachers in new learning situations was recently conducted at Walt Whitman Senior High School in Montgomery County, Md. The project, which was called "EFFE" short for Experiment in Free Form Education, was created, planned, and organized by students of Walt Whitman High.

The weeklong program that ran from March 24 to March 28 gave each student the option of spending the 5 days working in one of three different programs. The first phase of the program consisted of a regular study schedule but the regular classes were replaced by 140 courses that included subjects as "Comparative Religion," "Electronic Music," "Marine Biology," "Nuclear Reactor Technology," or a weeklong French seminar in Quebec, Canada. Students were able to chose courses that interested them or they could remain home if they liked.

The second possibility open to the students was an independent study program to be designed and executed by the individual students. One girl spent the time building a harpsichord, two boys rebuilt a Volkswagen, several others conducted chemistry experiments, and other worked on term papers.

The third phase of the Experiment in Free Form Education was called the work experience. The EFFE committee arranged 60 different weeklong job experiences with newspapers, research companies, schools, and community action programs. As part of this phase, four girls spent 3 weeks working in my office, from March 24 to April 11. Joan Bailey, Betsy Dotson, and Joyce Hoke are juniors at Walt Whitman, and Debby Marney is a senior. They all agree that the EFFE has been the best part of the school year. The girls hope the success of the experiment will encourage similar programs in following years and that the school's curriculum, scheduling, and teaching techniques will be influenced by the experiment.

In appreciation to the girls who worked in my office and in hopes that other schools will try similar experiments, I ask that an article published in the Washington Evening Star of March 25, 1969, be printed in the RECORD.

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

RELEVANCE IS THE WHITMAN "CLASSWORD"

(By Barry Kalb)

Here's a very contemporary riddle: What do sex education, world protest, the hazards of night driving, current trends in the Catholic church, the stock market, the draft, Balkan Kolo dancing, marijuana and the way a football game should be watched have in common?

A very contemporary answer: They're all relevant.

At least the students at Walt Whitman High School in Bethesda think they're all relevant to the students at Walt Whitman High School.

Among complaints that have cropped up most frequently in student protests of late are that the current course offerings—such as earth science and trigonometry—have no meaning for the student, or that they are just plain boring.

Whitman students were given the opportunity to outdo professional curriculum designers. The result of their efforts, including the above courses, began yesterday and will run through Friday under the title, "An Experiment in Free Form Education."

But this is no protest, and the students had the full blessing of the administration, faculty, PTA and county school board in their endeavors.

"We didn't sit down and say the school system is tearing us down, and hurting our minds, and we hate it, and therefore we're doing this," explains Lance Dublin, a student and prime mover behind the program.

"Obviously, the school has done something for us, or we wouldn't have this," he continued.

The whole thing began back in October with a few students and a couple of teachers talking about new ideas in education. The idea for EFFE quickly took shape, Dublin says, and in December, the school was presented with a proposal for the experiment. Students were polled as to what courses they would like to have taught, teachers were recruited to help plan and eventually teach the experimental courses, and parents—"the parents were fantastic," Dublin says—pitched in with advice and special parttime jobs.

The courses are of two major types: Those that are completely new, such as the seminar on "What It's Like to Be a College Professor," and regular courses that "aren't being taught the way they are normally."

In addition, 268 of Whitman's 2,200 students are spending the week on special work study programs, doing such things as teaching school, working for United States congressmen, learning how a newspaper is put together, and working at the Montgomery County Board of Education in Rockville.

Courses are non-graded and attendance is optional.

In the class called "Honest to God Debate," a visiting priest—Dublin says more than 250 outsiders volunteered as teachers and speakers—was asked by a boy:

"Can I ask you a question, sir? When you say 'God,' what do you—I'm not asking you to defend your faith—but when you say 'God,' what do you mean?"

In "Four Modern Underground Writers," a young teacher with a beard and muddy boots and a peace symbol around his neck instead of a tie read excerpts from Norman Mailer's "The Siege of Chicago," and told his students:

"If you remember that as a human being you have the potentialities to do harm to people or to concur in doing harm to people, you may not be so quick to condone some of the atrocities that are committed in your name."

REPEAL OF TITLE II, EMERGENCY DETENTION PROVISION, INTERNAL SECURITY ACT OF 1950

Mr. MURPHY. Mr. President, as a cosponsor of S. 1872, I am pleased to support the measure, which would repeal title II, the emergency detention provision, of the Internal Security Act of 1950. Under title II of this act, the President of the United States is given the power to declare an "internal security emergency" when any of the following events occur: First, an invasion of the United States; second, a congressional declaration of war; and, third, an insurrection within the United States in aid of a foreign enemy.

After the occurrence of one of these events the President makes the act operational by proclaiming an internal security emergency. Thereafter, the Attorney General may apprehend and detain any person where there are "reasonable grounds to believe that such person will engage in or probably will conspire to engage in acts of espionage or sabotage." While title II, enacted in 1950, obviously was not responsible for, it nevertheless reminds us of one of the sorriest chapters in all of American history. I am, of course, referring to the

relocation of 110,000 American residents, 70,000 of whom were U.S. citizens by birth, during World War II. Their sole crime was their Japanese parentage. These Japanese-American residents and citizens were apprehended and moved from their homes to "relocation centers." This action was contrary to America's tradition and its constitutional procedures. Yet, Japan had made its "infamous" attack on Pearl Harbor, the United States was at war and emotions, not reason, were the order of the day. Certainly, both history and hindsight without doubt reveal that the facts did not justify the actions.

Japanese-American residents were loyal citizens. In fact, the record of the all-Nisei famous go-for-broke, 442d regimental combat team in Europe during World War II, in writing one of the outstanding and courageous chapters in our military annals and our Nation's history, stands in marked contrast to the sorry and dark chapter our Government was writing in connection with the go-for-broke combat team's family, friends and relatives in the United States. Similarly, the Japanese-Americans served with distinction in the Pacific Theater. Here, we are told, they did primarily "combat intelligence work." Reportedly, Gen. Douglas MacArthur said that the Japanese-American's service in the Pacific shortened the war by 2 years and thus prevented the loss of many additional American lives.

Despite this unjust and regrettable treatment, Japanese-American citizens today are not bitter. They still have faith and pride in the American way of life. Senator INOUYE, the author of this amendment, certainly is a good example of the accomplishments of American citizens of Japanese ancestry. After a distinguished war record, he was elected to represent the State of Hawaii in the U.S. Senate. Thus, the accomplishments of Japanese-Americans in all areas of American life show they have won equal treatment and respect that our Government disgracefully denied them in World War II.

So, Mr. President, title II of the Internal Security Act clearly is not needed. It should never have been placed on the books in the first place.

I am most optimistic that we have a good chance of repealing title II this Congress. It is my understanding that the Senate Judiciary Subcommittee on Internal Security has unanimously recommended its repeal to the full Judiciary Committee. This action by the Judiciary Committee, coupled with the interest as evidenced by the measure introduced today, will, in my judgment, result in title II's repeal.

While this experience indicates that government abuse may occur even with a great free government like ours, nevertheless, it also reveals the strength of our system and its ability to correct abuse. California was the home of this controversy. In California today, however, there is no better example of the distance we have come since the wartime discriminating treatment against Japanese-Americans. Japanese-Americans today are among California's most distinguished citizens. They hold public office, they are successful in business, in education, in science, in the health professions, and in all other areas of human endeavor. They are an important part of California and California is an important part of them.

That the suspicion, that the hostility that existed, can be erased in such a short span is encouraging to a nation that has people problems, and to a world that so desperately wants and searches for peace and understanding.

EQUALITY IN EMPLOYMENT IN FEDERAL AGENCIES

Mr. CURTIS. Mr. President, I invite the attention of the Senate to a highly commendable approach which Federal agencies located or headquartered in Nebraska have been taking to achieve equality in employment within their own establishments.

The Equality in Employment Committee of the Federal Executive Association of Omaha and Lincoln has been working diligently and constructively for several years to increase minority employment in the association's member agencies.

The efforts have received wide cooperation within the agencies but have not been heralded publicly.

They have been conducted in close harmony with minority groups located within the area served.

The committee has just published a report which summarizes the work done and the achievements made by each agency.

I believe the report reflects an approach which sets an example for Federal agencies in their activities throughout the Nation. For this reason, I ask unanimous consent to have printed in the RECORD the text of the report, to show not only what has been accomplished in Nebraska but what can be accomplished everywhere through such efforts throughout the entire Federal Establishment.

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

HIRING AND UTILIZATION OF THE MINORITIES BY THE FEDERAL AGENCIES IN THE OMAHA-LINCOLN AREA

I. FOREWORD

The need for a summary of the job opportunities for minorities in our area is self-evident. Federal executives are well aware of the struggle in this nation to find tolerance and opportunity for our underprivileged. This report tells us how we stand today. I believe any knowledge gained by summarizing the work situation of our minorities in the Omaha-Lincoln area can be useful to all administrators, whether they work in private industry or government.

Aside from the facts and figures and the success stories in this booklet, this report is a way to show that the federal agencies have a deep commitment to leadership in the recognition of the fact that every American should have a fair and equal chance to gainful and productive employment.

"Employment and Utilization of the Minorities by the Federal Agencies in the Omaha-Lincoln Area" was prepared by the Federal Executive Association Equality in Employment Committee. Contributions to the report were made by Federal Executive Association members on a strictly volunteer basis. (Colonel William H. McKenzie III, Omaha-Lincoln Federal Executive Association President.)

Statement by the Chairman of the Equality in Employment Committee:

"It has been a distinct pleasure for me and members of my staff to develop a clear picture of the Federal equal employment opportunity program in the Omaha-Lincoln area. I am a firm believer in and an active promoter of the idea of total equality for all Americans."

Equality in Employment Committee

The Equality in Employment Committee of the Omaha-Lincoln Federal Executive Association is composed of Colonel Edward A. Crouchley, Base Commander, Offutt Air Force Base, Nebraska; Thomas E. Mason, Executive Officer of the Interagency Board of U.S. Civil Service Examiners, Civil Service Commission, Omaha; and Dr. J. Melvin Boykin, Director, Veterans Administration Hospital, Lincoln.

II. AGENCY REPORTS

Civil Service Commission, Omaha

Interagency Board of U.S. Civil Service Examiners

The Civil Service Commission office, located in the Federal Building in downtown Omaha, is responsible for recruiting and examination for all executive branch agencies in Nebraska and Pottawattamie County, Iowa. The Commission office also houses the District Interagency Board of U.S. Civil Service Examiners which has the legal responsibility under an executive order for overseeing the Equal Employment Opportunity Program for federal employees in the area. With responsibility for seeing to minority hires, Interagency Board officials attended countless meetings with minority group representatives and federal agencies. Two of the five full-time members of the Interagency Board are minority group employees.

Department of Agriculture

Agriculture Stabilization and Conservation Service

With very few Negro farmers from which to recruit in the Midwest, Department of Agriculture agencies operating in the State of Nebraska have experienced difficulties in making extensive hires of minority group employees. In an effort to improve the situation, the Agriculture Stabilization and Conservation Service office in Lincoln has contacted minority group organizations in the Omaha and Lincoln area to tell of employment opportunities, qualifications for employment and information concerning examinations. The Agriculture Stabilization and Conservation Service has set an inner-office goal for hiring minority employees, and in the future will participate in the Youth Opportunity Corps Program in an effort to develop qualified employees. There are no minority group employees on the payroll.

Soil Conservation Service

The Soil Conservation Service office for the State of Nebraska in Lincoln has had success in hiring minority group employees. The Soil Conservation Service for Nebraska has an Equal Employment Opportunity plan of action entitled "The Annual Plan of Progress." The Lincoln Soil Conservation Service also makes use of the Civil Service Commission's Maximum Utilization of Skills and Training (MUST) Program. Under the MUST Program, the Lincoln-based office reports reengineering two positions at the trainee level for minority group members including one civil engineer and one office machine operator. Minority group employees constitute two percent of the total workforce.

Department of Air Force

Offutt Air Force Base, Nebraska

Civil Service employees at Offutt Air Force Base, Nebraska, work shoulder-to-shoulder with uniformed members of the United States Air Force to help carry out the Strategic Air Command mission of preserving world peace by deterring aggression. With over 2500 employees, Offutt utilizes a number of pro-

grams aimed at insuring that each individual, regardless of race, creed, color, or national origin, be given equal employment opportunity. Members of minority groups comprise 13.5% of the total civilian workforce.

The RLN Program

In a special and unique program aimed at attracting minority group college students, Offutt Air Force Base has hired a dozen young men now attending the Universtiy of Nebraska at Omaha. The students are working as draftsmen, billeting clerks, in the Personnel Office, in the Base Recreation Program, and in the Commissary while pursuing a Bachelor's Degree. As a follow through to the plan devised by Base Personnel Officer Ronald L. Nelson in July 1966, the University of Nebraska at Omaha students will be offered permanent jobs on completion of their undergraduate studies.

The MUST Program

By the most recent count, 72 positions at Offutt have been re-engineered under the "Maximum Utilization of Skills and Training (MUST)" Program. The re-engineered positions include the following: Aircraft Attendants, Equipment Specialists (Electronics), Warehousemen, Library Technicians and Office Clerks.

Offutt EEO Committee

The Offutt Air Force Base Equal Employment Opportunity Committee is comprised of over 100 members drawn from private industry, local government and high echelon base personnel headed by Base Commander Edward A. Crouchley. The recommendations of the committee are used in connection with the Offutt Plan in EEO. The Air Base also participates in a number of civic and Federal programs aimed at employing and utilizing the minority including the following: the Title I Program, a high school work-study venture; Neighborhood Youth Corps, Youth Opportunity Campaign; the ACT, Armour Coordinating Team; and Operation YES, the Youth Employment Service, a nationally known summer program for underprivileged youth. Offutt also participates in and furnishes instructors for the Civil Service training seminars in Equal Employment Opportunity.

Project REC

During the Summer of 1968, Offutt Air Force Base in a coordinated effort with the City of Omaha and the United Community Services played host to 1,200 disadvantaged youths. The program which ran ten weeks, was aimed at helping children from areas lacking recreational facilities. Both civilian and military personnel took part in the REC Program which included Recreation, Employment, and Counseling for the disadvantaged youths.

Department of Army

Omaha District Corps of Engineers

The Omaha District of the Army Corps of Engineers is responsible for planning, designing, and building military and civil work projects in all or parts of the States of Nebraska, Iowa, North Dakota, South Dakota, Colorado, Montana, and Wyoming. The office, headed by FEA President Colonel William H. McKenzie III, employs 1,470 civilians. This figure includes employees in field offices. Minority group employees presently constitute 4.16% of the total workforce. The policy of the Omaha District Corps of Engineers is to strive for equal employment opportunity for the underprivileged through a series of active and continuing programs.

Youth Opportunity With the Corps

During the summer of 1968, the Omaha District Corps of Engineers established 45 jobs to provide work experience and training for disadvantaged youths. The youngsters, who ranged in age from 16 to 21 years, worked in clerical jobs, mathematics, accounting, drafting, engineering, mapping, and in the Corps of Engineers printing plant. In addition, engineer speakers made frequent trips to Negro areas within the City of Omaha. Their topics included Afro-American history and motivation of continued education.

Operation HELP

Engineering employees were called on during the last year to become more personally involved in ways to help disadvantaged youths improved themselves. In response, they assisted in directing recreational activities on Omaha's Near North Side at the Gene Eppley Boys' Club. They also volunteered as teachers at the Omaha Opportunity Industrialization Center. These volunteer teachers tutored disadvantaged youngsters in reading, communication, arithmetic, job seeking, personal grooming, and typing.

The Equal Employment Opportunity Committee

The Corps has established an EEO Committee composed of 21 high level staff members and minority group employees. This committee is responsible for the development, execution and implementation of the EEO plan of action. The Committee hears guest lecturers from minority groups and meets quarterly. It is chaired by the District Engineer.

Department of Commerce

U.S. Weather Bureau

The Environmental Science Service Administration Weather Bureau Office in Omaha retains 18 Civil Service employees in providing weather information on a 24-hour a day basis. The Omaha Weather Bureau with a small staff makes use of its regional office's plan for equal employment opportunity.

The Bureau participates in summer hiring programs directed at training minority employees in business and government office work, and lectures high school and college groups regarding careers in weather bureau and government service in connection with recruiting minority employees. There are no permanent minority group employees on the Omaha Weather Bureau payroll.

Department of Health, Education, and Welfare

It is the policy of the Social Security Administration District Office in Lincoln to promote the full realization of Equal Employment Opportunity through a positive, continuing, affirmative action program. Minority individuals working for the Omaha and Lincoln offices comprise 2% of the total workforce. Minority employees make up 9% of the Lincoln Social Security Administration Office staff where grades range from GS–3 to GS–9. The Nebraska-based Social Security Administration Office has participated since 1965 by providing summer employment for disadvantaged and minority group individuals. Recently, the Nebraska Social Security Administration has expanded its program to include Neighborhood Youth Corps enrollees.

Department of Justice

U.S. Attorney, Omaha

The Office of the U.S. Attorney, State of Nebraska, serves as sole legal representative for the U.S. Government in all matters which go to court in the State of Nebraska or are appealed from Nebraska to the U.S. Circuit Court in St. Louis, Missouri. The office located in Omaha employs thirteen Civil Service personnel and reports no minority employees. The U.S. Attorney's office, however, has been involved in enforcing Federal laws in the Civil Rights field, including the processing of complaints on discrimination because of race, creed, or national origin in employment. The Omaha office, with its small staff has not prepared an individual equal employment opportunity plan of action, but subscribes to the Equal Employment Opportunity plan of action prepared by the Department of Justice in Washington, D.C.

Department of Navy

Naval Personnel Training Center

The Navy way

The United States Navy retains 110 Civil Service employees at Fort Omaha. 8.3% of this total workforce is made up of minority group members. Policy governing Civil Service employees is generated by what the Navy calls a "Central Civilian Personnel Public Policy Committee." Each command at Fort Omaha is represented on this committee by key personnel. Information and suggestions on implementing Equal Employment Opportunity programs are devised and passed on to the commitee of the whole by a subcommittee on Equal Employment Opportunity. The advice of the sub-committee is then passed on to the various tenant commands as is necessary.

Department of Treasury

U.S. Savings Bonds Division

With a small office force, the Nebraska State Office of the U.S. Savings Bonds Division has participated in the Youth Opportunity Campaign Program, and attended seminars in Omaha and Washington, D.C., on the subject of equal employment opportunity. The Omaha office reports no minority group employees working on its staff of six persons.

Federal Aviation Agency

Safety is the Bible

The primary mission of the Federal Aviation Agency in Omaha is the safe control of aircraft using Epply Airfield or Offutt Air Force Base. The 102 people working for the Federal Aviation Agency in Omaha are employed as aircraft controllers, electronic technicians, electrical mechanics, equipment repairmen, material specialists, secretarial and management positions. The Federal Aviation Agency reports that some 8.5% are minority group employees.

Internal Revenue Service

Department of Treasury

Imagination is the key word in the management of the Equal Employment Opportunity Program in the Omaha District Office of the Internal Revenue Service. The Internal Revenue Service in Omaha employs 270 people with a minority employment rate of three per cent. Faced with a need to recruit at a professional level, the Omaha Internal Revenue Service has developed an Equal Employment Opportunity plan which includes a career counseling program for high school students.

Equal Employment Opportunity Committee

The Internal Revenue Service has turned to an informal committee on Equal Employment Opportunity in contrast to the structured appointive committee in use by other agencies. The informal committee consists of three Negro employees and an equal number of white people from a Civil Service Pre-Management Career Program. This voluntary mixed-group concept is exploring the extent to which people in an unstructured situation would be willing and able to discuss their attitudes and feelings and then present in planning and developing appropriate action projects. The Internal Revenue Service Director reports that the adhoc group has developed into an open and constructive forum.

National Park Service

Midwestern Regional Office—Omaha

The Midwestern Regional Office of the National Park Service provides administrative and technical support and coordinates the efforts of the parks, national monuments and recreation areas in the states of Nebraska, Iowa, North Dakota, South Dakota, Colorado, Wyoming, Kansas, Minnesota, Missouri, and Montana.

The Omaha Office employs 82 Civil Service workers with a minority group representation

of 4%. With administrative responsibility for forwarding the EEO program within its widespread region, the Park Service Regional Office has encouraged the employment of Indians and Negroes. As an example, the Park Service Office at the Jefferson National Expansion Memorial employs 10 minority group persons out of a complement of 30. The Office also participates in the Title V Program of the Economic Opportunity Act of 1964 and has minority group employees from the "Back to School" Program. The payroll of the Park Service on a region-wide basis ranges from 500 permanent employees to 2200 employees during the summer.

Postal Department

Lincoln

The Lincoln Post Office has an active Equal Employment Opportunity Committee consisting of the Assistant Postmaster, one supervisory employee and three lower grade employees. The Equal Employment Opportunity Committee at the Lincoln Post Office submits written recommendations to the Postmaster when committee members feel there is a potential for discrimination complaints. With 365 employees, minority groups presently total 3.6% of the workforce. The Lincoln Post Office reports contacts with Lincoln and Omaha Community Action groups and use of the Opportunities Unlimited Civil Service Commission announcement and register for minority and underprivileged people.

Omaha

Administrative Policy on Equal Employment Opportunity: The Omaha Post Office policy is to support every facet of the Equal Employment Opportunity Program which prohibits discrimination because of race, color, creed, national origin or sex; and to insure genuine equality of opportunity for all employees to participate fully in all organizational units, occupations, and levels of responsibility within the Omaha Post Office.

Self-Development

The Omaha Post Office has also participated in Job Corps and self-development programs for employees. For example, in 1968 over 200 postal employees participated, on their own time, in a study effort to prepare themselves for the beginning level supervisory examination. A large number of participants were minority group employees.

Postmaster's Advisory Committee

The Omaha Post Office uses a committee called "The Postmaster's Advisory Committee" to spearhead equal employment opportunity work. The committee of six was formed to "create an environment to improve efficiency in the postal service, complete equality or employment opportunity for all races, colors, religious or national origins and to enhance the postal image among groups in the community."

Rapport

The Advisory Committee recently sponsored a program entitled "Rapport Between Supervisors and Employees." The goal of the Rapport Program was to inform postal supervisors that community involvement could bring better understanding toward minority employees and their problems. Guest speakers have included the following: Jack Clayter, Executive Director, Urban League; Reverend James Hargelroad, Calvin Memorial Presbyterian Church; Barry Goodlett, Executive Director, Omaha Industrialization Center; and Joe Ramirez, Omaha Urban League.

Selective Service System

Lincoln-Omaha

The Nebraska Selective Service System with statewide responsibility for administering the draft employs 108 civilians with offices in county seats. 77 of the Selective Service System civilians man one-employee offices, and of the total employment, 1.85% are minority group employees. The Selective Service System has made contacts with the NAACP in Lincoln and operates through the U.S. Civil Service Commission Interagency Board in Omaha in their efforts to recruit minority group personnel.

Farmers Home Administration

The Farmers Home Administration, with offices in Omaha, Lincoln, and Scottsbluff, Nebraska, now employs four minority group persons. The office, under the direction of Heasty W. Reesman, also participates in the Youth Opportunity Campaign by hiring minority group trainees.

Veterans Administration

Veterans Administration Regional Office, Lincoln: The Veterans Administration Regional Office in Lincoln has been active in contacting and working with Lancaster County in the City of Lincoln civic groups in connection with Equal Employment Opportunity. The contacts have included the Lincoln Chamber of Commerce "Forward Lincoln Community" (on social action); the Lincoln Committee of 1,000; the Lancaster County Public Welfare Office; and an organization called "Brother." With 101 employees, the Veterans Administration Regional Office reports a minority group work force of 7.5%. Veterans Administration Regional Office does not have an equal employment opportunity committee as such, but the office manager and his staff act as a committee on Equal Employment Opportunity. The Veterans Administration Regional Office staff is augmented by minority group members of the office when a question involving equal employment opportunity is up for discussion. The Lincoln Veterans Administration Regional Office has re-engineered three jobs in its Administrative Management Division to the trainee level for minority or disadvantaged persons and has also participated in the Summer Youth Campaign by hiring three minority group persons. Veterans Administration Regional Office will participate this spring in a meeting of Lincoln Federal agencies intended as a follow-up orientation of members of the minority community. This meeting will stress the skills needed in training.

Veterans Administration Hospital, Lincoln

The Veterans Administration Hospital in Lincoln, with 293 employees, has an active Equal Employment Opportunity Committee which holds scheduled and on-call meetings. The Veterans Administration Hospital report indicates that the Committee is made up of leading employees of the Hospital. The Lincoln Veterans Administration Hospital Equal Employment Opportunity Committee has submitted a number of recommendations to hospital management including a suggestion for a questionnaire survey on Equal Employment Opportunity to all major divisions and services in the Hospital. The Hospital has conducted several courses on equal employment opportunity and uses social workers for counseling and assisting minority and underutilized employees. Lincoln Veterans Administration Hospital officials have been active participants in a number of local programs including the Board of Directors of the "Lincoln Action" program; the Board of Directors of Malone Center, a Neighborhood Community Welfare Agency; and the Vice Chairman of the NAACP. Future plans for the Lincoln, Nebraska Veterans Administration Hospital in the Equal Employment Opportunity field include formal reviews of appointment and promotion actions regarding recruitment, evaluation techniques, job requirements, interviewing methods and reasons for non-selection.

Veterans Administration Hospital, Omaha

The latest count shows that 27% of the workforce at the Omaha Veterans Administration Hospital are minority employees. They are employed in such positions as nurse; chemist, GS–11; medical photographer, GS–8; social worker, GS–9; pharmacist, GS–10; dietitian, GS–9; clerical positions and a number of wage board employees.

Equal Employment Opportunity Committee

The hospital Equal Employment Opportunity Committee represents a cross-section of the total employee group. Lower graded are included on the committee so that they may have an opportunity to give the opinions of the rank-and-file employee. The committee receives and evaluates quarterly reports from all operating elements at the hospital and makes its recommendations directly to the hospital administration.

Plans for Progress

The Equal Employment Opportunity Committee also drafts or reviews the hospital's Plan of Action for hiring and utilizing minority group employees. The Plan, entitled "Plans for Progress" currently includes a program under which a list of classes available at local schools and universities is published so that minority group employees have an opportunity to participate in promotional opportunities as a result of continuing education.

III. THE SPECIAL PROBLEM OF WOMEN

Women represent approximately 27% of the Federal workforce; 80% of the women are employed below GS–8; half are employed at GS–1 through GS–4. Only one per cent of American women make $10,000 a year or better.

A Long Struggle for Equality

Women have been employed in the Federal government since 1800 (first woman postmaster). However, it wasn't until 1923 when the Classification Act system was established that women received equal pay for equal work. In 1965, Congress repealed the law of 1870 (this law gave "permission" to pay equal salaries, but few chose to do so) and as a result, Federal departments could no longer specify "sex" except when filling a very few special positions approved by the Civil Service Commission.

Study Group

A study group of careers for women comprised of Federal Women's award winners was established in 1966 at the direction of President Johnson. This group recommended: (1) Executive Order reinforcing existing programs to advance status of women (E.O. 11873, Oct. 1967, added discrimination because of sex to the other forms of discrimination prohibited in Federal government); (2) development of statistical system to keep the Civil Service Commission apprised of upward (or lower) trends in employment of women; (3) establishment of part-time employment programs; and (4) annual review of each agency's program. The Civil Service Commission recently published specific instructions to strengthen the Federal Women's Program including establishment of a formal agency "Plan of Action" and designation of a Federal Women's Progress Coordinator within each agency, to insure equal opportunity in every personnel management policy and practice including recruitment, selection, placement, counseling, training, career development and promotion.

Omaha-Lincoln Federal executive association

The Omaha-Lincoln Federal Executive Association was founded May 1, 1965, under the leadership of Mr. Richard P. Vinal, Director of the Internal Revenue Service for Nebraska. There are presently 65 active members, made up of agency heads or their certified representatives. The purpose of the Omaha-Lincoln Federal Executive Association is to create a better public image of the Federal Civil Servant; to provide liaison between business and industry in the Federal government; to promote better relations between city, county, state and federal groups on matters of mutual interest; to

sponsor Federal participation in humanitarian campaigns, dedications, and other public ceremonies; and to participate as an associate of community affairs.

The Omaha-Lincoln Federal Executive Association has long been concerned with promoting more equitable hiring practices for the minority groups in our area. The Equality in Employment Committee of the Federal Executive Association has sponsored a number of nationally known speakers on the subject of the minorities in recent years, including Mr. Gerald Christensen, Vice Presidential Advisor on the Equal Employment Opportunity Council under the Johnson administration; and Mr. Al Sonntag, Director of the St. Louis Region Civil Service Commission. As Regional Director, Sonntag is responsible for the coordination of the Equal Employment Opportunity Program for all Federal agencies in Nebraska and a number of other midwestern states.

YOUTH WEEK

Mr. MURPHY. Mr. President, it is a pleasure to join as a cosponsor of the resolution to proclaim the week beginning May 1 as "Youth Week" and thereby associate myself with the outstanding efforts of the Benevolent and Protective Order of Elks in setting aside that period to honor America's junior citizens.

I would also like to take this opportunity to offer a must sincere commendation to the Elks for their efforts in behalf of our youth.

It has been said that "there is a feeling of eternity in youth," and there is no nobler work than that performed by those who recognize this eternal quality within our young men and women and guide it toward morality, responsibility, integrity, and self-esteem.

For their impressive accomplishments in this respect, I congratulate the Elks and wish them all possible continued success.

May they take justifiable pride in the knowledge that the fruits of their labors will benefit untold generations to come.

INEFFICIENCY AND WASTE IN THE PENTAGON

Mr. PERCY. Mr. President, we are currently engaged in a great debate on nuclear arms control, the outcome of which could well determine whether millions of people are to live or to die.

A wise scholar once said:

Those who cannot learn from the mistakes of the past are forced to repeat them.

Surely, then, we have much to learn from our previous mistakes in military contracting and particularly from several previous efforts to deploy a defensive screen against the striking power of the Soviet Union.

In our present decade, the United States has spent another $20 billion on ABM research and development. But the Pentagon has abandoned emerging defense systems when it became obvious that, years before they could possibly be deployed, the hardware and electronic controls had been rendered useless by new strides in Soviet offenses and penetration technology. All admit now that if we had deployed Nike-Zeus at an estimated cost of an additional $20 to $40 billion it would have been a waste of resources. Of course, I do not question the dedication of the military to their task. But they are not infallible in their judgment.

The Pentagon's defense budget requests have risen from $13.8 billion in 1950 to $40.8 billion in 1960 to $81 billion in the current fiscal year. And year after year Congress has granted these requests in full, and has even increased them, often after only the most perfunctory debate on the Senate floor.

Mr. President, two of the most astute reporters in the Washington press corps, William McGaffin and Robert Gruenberg, of the Chicago Daily News, after many weeks of research and interviews, have recently completed a 19-part series on the military-industrial-academic complex.

They have looked in depth at the budgeting of dozens of complex weapons systems and have presented us with a catalog of abandoned projects, all major mistakes of judgment or technology. Their report presents compelling reasons for Congress to review military spending plans more carefully than heretofore has been the case.

I am particularly interested in one of their articles, which deals at length with the links between the Pentagon and the academic community. The writers reveal that defense contracts to nonprofit institutions have risen from $432 million at the time that the late General Eisenhower warned us about the military industrial complex to $772 million in 1968.

The series published in the Chicago Daily News will be helpful in providing the basic data that is needed to find ways to cut the national defense budget from its present staggering $81 billion level—the same dollar figure as at the height of the Second World War. Since I commend the series to be read by Senators, I ask unanimous consent that the McGaffin-Gruenberg articles be printed in the RECORD.

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

(See exhibit 1.)

Mr. CASE. Mr. President, the issues confronting us with respect to the claims of the defense establishment on the Nation's resources cannot be resolved without the aid of an informed public. As demonstrated by the open hearings of the Subcommittee on Disarmament as well as the Committee on Armed Services on the proposed deployment of an antiballistic-missile system, the "facts" presented in its behalf turn out to be much less certain than we might have assumed before closer examination. We need to increase substantially the flow of information to the public. It is a pleasure, in that connection, to join the Senator from Illinois (Mr. PERCY) in calling to the Senate's attention the informative series of articles written by William McGaffin and Robert Gruenberg, of the Chicago Daily News, that are placed in the RECORD today. They have made a significant contribution to public understanding of the complex problems facing us today in assessing the true security needs of the Nation.

EXHIBIT 1

IS PENTAGON "BUYING" DISASTER?

(By William McGaffin and Robert Gruenberg)

WASHINGTON.—"In the councils of government we must guard against the acquisition of unwarranted influence, whether sought or unsought . . ."

This was Dwight D. Eisenhower, President, general and educator, speaking on Jan. 17, 1961, three days before the end of his eight-year Presidency.

To a nation that appeared largely unlistening, America's greatest contemporary soldier—who served his people from the Normandy beaches to the Little Rock streets—was warning them about the "military-industrial complex."

That warning underlies a historic confrontation now building betwen the American public and the military and industrial planners, spenders and policymakers.

The confrontation—triggered by the Vietnam war, the antiballistic missile debate and other recent crises—may make the Eisenhower farewell as historically memorable and important as the farewell of our first soldier-President, George Washington.

"The potential for the disastrous rise of misplaced power exists and will persist," Eisenhower said of the military and industrial forces that has become—with a 3,500,000-man defense establishment—a permanent part of the American experience.

"We must never let the weight of this combination endanger our liberties or democratic processes. We should take nothing for granted.

"Only an alert and knowledgeable citizenry can compel the proper meshing of the huge industrial and military machinery of defense with our peaceful methods and goals, so that security and liberty may prosper together."

In the plush, carpeted headquarters of a leading aerospace contractor here, an executive, reminded of Eisenhower's words, snapped:

"That damned speech!"

That speech warned of a military-industrial complex that has now become an all-embracing conglomerate, reaching into virtually every corner of American life.

It is, at once, a system, an attitude, a giant dynamo of men, machines and money. It has in two decades enveloped the American life and economy in:

Billions of dollars in waste.

Airplanes that don't fly, missiles touted in words as empty as the space they are to fly in and giant trucks that never roll.

Congressmen who vie for a slice of the defense pie (color it green) so constituents from the red clay land of Georgia to the antiseptic suburbs of Southern California can keep working.

Lawmakers, not a few with Pentagon-awarded commissions, voting with little or no opposition the billions the military asks.

An aerospace industry that underpins a considerable share of the nation's economy—estimates run from 10 to 30 per cent of the working force—which is dependent on ever-increasing, more sophisticated arms development.

A university-scientific-technological community, hand-maidens to the industry, drawing their sustenance, too, in large part from the Pentagon's billions.

That is, they say, the military-industrial complex, overlay upon overlay, expanding each year.

That is also, according to its defenders, the price of the nation's security. Its proof, they say, is that no nation has dared attack the United States since World War II.

This is undeniably true. But the critics of the military-industrial complex point to developments in the national life that they say are undermining it from within—the mingling of politics with the influence of industrial giantism.

None explained it better, perhaps unwittingly, than Lyndon B. Johnson at the March 2, 1968, rollout ceremony at Marietta, Ga., for the giant C-5 cargo plane, built by Lockheed Aircraft Corp., the nation's No. 1 defense contractor.

"I would have you good folks know there

are a lot of Marietta, Georgias, scattered through our 50 states," said LBJ.

"All of them would like to have the pride that comes from this production . . . but all of them don't have the Georgia delegation."

He specifically cited the influential Sen. Richard B. Russell and former Rep. Carl Vinson, at that time chairmen of Senate and House Armed Services committees.

In 1968, Georgia was second only to Mr. Johnson's Texas in capturing prime contracts for airframes, assemblies and parts. Together the states accounted for nearly half the U.S. production.

Today so many military bases and defense installations dot the Georgia landscape that an unknown Pentagon wit is often quoted, "One more in the state will sink it."

The "unwarranted influence" that Eisenhower warned about travels with the Pentagon brass after retirement, the critics say.

In 1959, an investigation by Paul H. Douglas, then senator from Illinois, revealed that 88 of the 100 top defense firms had 721 retired officers of colonel (or Navy captain) rank or higher on their payrolls. Ten companies employed 372—more than half.

Pentagon figures, dug out of the Defense Dept. by The Daily News and disclosed for the first time in 10 years, show that 2,076 former officers now are working for 98 of the top 100 companies. The top 10 firms have 1,065 former officers.

"I do not claim nor even suggest that any conspiracy exists between the military and the 100 largest defense contractors," said Sen. William Proxmire (D.-Wis.), one of the military-industrial establishment's sharpest critics.

"But what we have here is almost a classic example of how the military-industrial complex works.

"It is a question of what can be called the 'old boy' network, or the 'old school tie.'"

While retired officers get their chances to go to industry, legislators at the same time hold military commissions themselves.

One hundred of the 435 House members and 39 of the 100 senators have officer ranks as high as major general, the Daily News learned from Pentagon files. They are on the active, inactive and retired lists.

A number of Senate and House members said they could not see a "conflict of viewpoint" in holding the commissions and simultaneously voting on military appropriations.

The military-industrial combine extends beyond mere contracting with each other. It embraces the nation's educational institutions. Some schools are listed by the Pentagon among the "top 100" of the nation's defense contractors.

Last year educational and nonprofit institutions held $772,000,000 in research contracts, $16,000,000 more than in 1967. High on the lists were the Massachusetts Institute of Technology, in 10th place with $119,000,000, and Johns Hopkins University, 22d with $57,600,000.

More than all this, say the critics, is a foreboding that the nation has become inured not only to military influence in managing its civilian affairs but to "conflicts of interest" in sensitive positions.

This was highlighted recently by the appointment of David M. Packard as assistant secretary of defense. Packard is co-founder of the Hewlett-Packard Co. of Palo Alto, Calif., electronics systems and computer manufacturer.

In the 12 months ending last Oct. 12, his firm's sales to the Pentagon, other federal agencies and defense contractors totaled $100,685,000.

The Senate, confirming Packard's appointment, overrode the protest of Sen. Albert Gore (D.-Tenn.), who calls it approval of "a conflict of interest that is clear on its face."

But Sen. John Stennis (D.-Miss.), new chairman of the Senate Armed Services Committee, argued in behalf of Packard.

Packard has, said Stennis, "the very talent we would like to see."

For all the wealth and talent it commands, however, the military-industrial complex has, through the years, made some big, big mistakes.

PENTAGON'S $10 BILLION BLUNDER

(By William McGaffin and Robert Gruenberg)

WASHINGTON.—The Pentagon recently compiled a list of 68 major weapons systems that cost nearly $10 billion.

That sum is slightly more than all the money the government proposes to spend for education in the year beginning July 1.

The $10 billion list was typed on plain, white paper, not the usual blue-topped Defense Department publicity releases. And it was available only to those who knew of its existence and asked for it.

This modesty, although unusual, was understandable. For the $10 billion list was a catalog of abandoned projects that included mistakes and misjudgments on weapons systems fit only for the museum or the scrap heap.

The list was also a forceful reminder that the nation's military-industrial complex—now facing an unprecedented challenge—is hardly infallible.

The military-industrial complex is the name hung by the late President Eisenhower on a combination of forces which critics say has acquired too great an influence in America's economic, political—and even educational—life.

Weapons development—and their failures—are only one aspect of it.

None of the weapons on the Pentagon's confidential list included the strategic staples of the U.S. arsenal.

Omitted were the solid-fueled intercontinental ballistic missile (ICBM), the nuclear-powered submarine, the Polaris missile—all of which the United States developed first and which "work."

The Pentagon cites this new generation of missiles with pride—hailing them in elaborate brochures and publicity releases as a deterrent to war.

Nevertheless, the average of "successes" does not appear too good, in view of the expertise, the time and the money assigned to all of the projects together.

Yet the wisdom of the military-industrial combine has not been seriously challenged since World War II.

It is virtually a truism that whatever the military—backed up by the defense industry—demands from Congress, it gets, despite occasional trims in appropriations.

For being "against defense" is not a position that could be popularly held—or so it was thought.

Just how much money was needlessly added to the huge defense bill may never be known. But some examples on the Pentagon's closely-held, uncirculated list may provide a clue.

The largest item is the nearly $1.5 billion devoted by the Air Force to a new, manned bomber, the B–70, which ended up a museum piece.

Another big one is the $511,000,000 the Air Force invested in a futile attempt to build a nuclear-powered airplane.

But this is an understatement of the cost. The figure does not include $500,000,000 that the Atomic Energy Commission poured into it, and the $14,000,000 the Navy contributed.

Birds, animals, fish, Indians, Greek gods and press agentry words provided the names given to some $4 billion worth of hardware that went nowhere.

There was $2.7 billion in Air Force missiles: Navaho, Snark, Rascal, Skybolt, Talos, mobile Minuteman, Q–4 Drone, Goose and Crossbow.

Another $993,000,000 for Navy missiles: Sparrow I and II, Regulus II, Petrel, Corvus, Eagle, Meteor, Rigel, Dove, Triton, Oriole and Typhon.

The Air Force's version of a mobile Minuteman ballistic missile that could be fired from a train shuttling across the Western plains cost $108,000,000.

It also sent $405,000,000 into the wild blue yonder on Dynasoar, a spacecraft that was supposed to land like a plane.

The Navy spent $361,000,000 on Seamaster, a jetpowered flying boat designed for reconnaissance and mine-laying but which ended in disaster with two test model crashes.

It also channeled $64,000,000 into Big Dish, a super-ear that was supposed to hear radio emanations from outer space and whose most notable feature was that it was being designed while it was being built!

Yet the list has many omissions of other abandoned projects.

One is a "small item" of $27,000,000, spent by the Navy to take the New Jersey, a World War II battleship, out of mothballs and send it to Vietnam.

It was the brainchild of Sen. Richard Russell (D-Ga.), chairman last year of the Senate Armed Services Committee and whom the brass did not dare offend.

The New Jersey went out to Vietnam in mid-1968 and is scheduled to return home shortly. During its brief Tonkin Gulf stay, it has tossed shells into enemy positions—a function already being handled by bombers, artillery and smaller warships.

One of its most recent, publicized exploits was wiping out a machinegun nest with a mighty, 1900-pound shell from one of its 16-inch guns.

In pre-military-industrial complex days the job was handled more cheaply—and probably more efficiently—by infantry and artillery action.

Also unmentioned in the closely-held Pentagon list is a $300,000,000 Army missile system whose details, including a description of it, are still secret.

The one non-secret fact, disclosed by the General Accounting Office, gadfly of wasteful government spenders, is that the weapon was so defective that army field units asked for older weapons instead, saying the secret one was "not suitable" and "could serve only as a training weapon."

The Army kept on buying the weapon "despite knowledge that it was unsuitable for tactical use," the GAO said. A Daily News request to Army Sec. Stanley Resor for more information about the weapon has gone unanswered.

The list also neglects to mention the $600,000,000 down the drain for the F–111B, the Navy version of the controversial TFX fighter-bomber abandoned as a failure.

And one searches in vain for mention of the $60,000,000 the Army spent early in the nuclear age to build 60 atomic cannons. Some of these million-dollar-a-copy monsters were deployed in western Germany.

They were 84 feet long, weighed 85 tons and were so cumbersome they needed tractors fore and aft to move them. A series of accidents in the narrow streets of old-world Germany preceded their phaseout as obsolete.

But atomic cannons are still in the American arsenal. Instead of the giant atomic shell which the old monsters fired, the technicians have produced a much smaller nuclear shell to be fired from weapons such as the 175-mm. gun and the 8-inch howitzer.

Three of the original 60 atomic cannons are left. They are on display at Rock Island Arsenal, Rock Island, Ill.; Aberdeen Proving Ground, Aberdeen, Md., and the Artillery Center at Fort Sill, Okla.

The other 57 have been sold for scrap, says the Army.

The two largest items on the Air Force list of "terminated" missile projects are the Navaho and the Snark. The Air Force spent $667,400,000 on the first and $678,900,000 on the second. Total: More than $1.35 billion.

They were jet-propelled, intercontinental "air-breathing" missiles—that is, they could not go higher than the Earth's atmosphere because, like a jet plane, they were unable to

fly in "thin" air. This was considered their biggest drawback.

The Snark, carrying either conventional or nuclear warheads, traveled between 650 and 700 miles an hour over a 5,500-mile span, and beginning about 1947, a squadron was actually deployed at Presque Isle Air Force Base, Maine.

The Navaho, started in 1954, could fly somewhat faster than the Snark, over 700 miles an hour. But it was canceled in 1957, before the first prototype had been completed.

The Snark and Navaho became obsolete when the Pentagon perfected the ballistic missile that could soar hundreds of miles into space, crossing oceans at 15,000 miles an hour.

In a letter to Rep. James B. Utt (R-Cal.), on July 25, 1957, the Air Force "regretfully" explained that "unfortunately" there was "no basis for continuing the Navaho program."

Because an ICBM was "now well along in development" and "should now be available earlier than the Navaho, the Navaho project was terminated," said Maj. Gen. Joe W. Kelly, director of Air Force legislative liaison.

But Gen. Kelly failed to spell out why the Air Force decided to go ahead with the costly Navaho program in the first place. The Air Force already had a missile similar to the Navaho in the Snark—and it was aware that a flashy replacement, the ballistic missile, was already in the works.

A $1.5 BILLION FLOP: ONE B–70 CRASHED, THE SECOND FLEW TO MUSEUM—NOW AIR FORCE IS PUSHING NEW SUPERPLANE

(By William McGaffin and Robert Gruenberg)

WASHINGTON.—Two planes and 1½ billion dollars.

To all but its Air Force supporters, the B–70—or "Valkyrie" as it was called at first—is the monumental failure of the weapons-breeding, military-industrial machine, a lesson in waste and bad judgment never to be forgotten.

That machine, which the late President Eisenhower warned against in 1961, is the amalgam of industry, labor, politics, the military and even a generous part of the world of education—all held together by the payout of Pentagon billions.

The influence of the military-industrial complex on American life is now under challenge with a questioning of arms spending only one aspect of this.

When the B–70 program began with a $500,000 appropriation in 1954, the Air Force envisioned a 200-bomber fleet of massive, six-engine monsters that would cost more than $10 billion.

But the program got into so many cost troubles that finally only two of the bombers were built. One of these was destroyed in a crash with a fighter plane in June, 1966, on a picture-taking publicity mission. Two pilots died.

The other B–70 ended up as an exhibit in the Air Force Museum at Dayton, Ohio.

It was Robert S. McNamara, the sometime-stand-up-and-talk-back defense secretary of the Kennedy-Johnson years, who ended the B–70 program. He did so against great pressures—from Capitol Hill to the aerospace industry.

To experts who have watched the Pentagon over the years, this was one of the first clear significant victories of the civilians over the generals.

It was a bitter blow to the "big bomber" men of the Strategic Air Command who had publicized their bird with a romantic name and some high-flown press releases.

The Valkyrie, they said, was named after "a maiden of great beauty who roamed the skies, deciding the outcome of battles." Afterwards "she would also choose heroes from the fallen and conduct them to Valhalla. . . .

"There, with Odin (like Valkyrie, a Norse god) they would come alive again and continually prepare for ultimate warfare against the enemies of gods and men, a war which would be known as the Frost War."

But far from fighting a "Frost War" or becoming a sky-roaming beauty, she became a bird who had difficulty during her development in making her wings stick to her body and could hardly feed herself from the fuel tanks.

But, despite her failure, the Valkyrie—like still another mythical god—is rising from the ashes. She is called AMSA now, an acronym for Advanced Manned Strategic Aircraft.

Accepting the Air Force argument on the need for it. Defense Sec. Melvin R. Laird not only has given the "go-ahead" signal for the AMSA bomber—estimated to cost between $5 billion and $10 billion—but has increased research and development spending.

Since 1965, Congress has approved almost $173,000,000 for it and a Johnson administration request for $77,000,000 this year was boosted by Laird to more than $100,000,000.

With the B–70 adjudged a bust, why is the Air Force so intent on building a manned bomber in the missile age?

It is for essentially the same reason that it pushed so hard for the B–70 in the early period of missile building. "In those days," recalled Jack P. Ruina, former director of the Pentagon's Advanced Research Projects Agency, "we were not quite ready to put all our eggs in the ballistic missile basket."

The Air Force today still is concerned with how to prepare for the worst, how to achieve 100-per cent security. A manned bomber, the Air Force argues, is a necessary hedge in case our missiles are knocked out or don't reach their targets.

To the critics, however, this reflects a common military characteristic—the "never-have-enough" psychology.

The B–70 was to have cruised at 70,000 feet, traveling more than 2,000 miles an hour (faster than a high-powered rifle bullet) and it was to have carried the largest nuclear weapon as well as air-launched missiles over vast, intercontinental distances without refueling.

But seven years and $786,000,000 after the initial 1954 research funds were allocated, it was evident the B–70 was in production trouble.

The late Air Force Maj. Gen. John K. Hester argued strongly for continuing the program when he testified in March, 1961, before the House Armed Services Committee.

The program had already been cut back to the production of three planes on an experimental basis, but Hester argued that the Air Force is "firmly convinced that for the foreseeable future the manned aircraft is an element of our strategic force."

The B–70, he said, "is the most advanced . . . the state of the art permits and is technically feasible and producible."

A year later, however, McNamara called the B–70 "a very doubtful proposition, with the weight of competent, scientific, technical and military opinion against it for many years.

"In fact," he added, "the only consistent supporter of this program was the Air Force itself."

It was a position that was to draw fire upon him from military protagonists and Air Force defenders, including the Air Force Space/Digest, the "magazine of aerospace power."

On March 5, 1964, McNamara issued orders to reduce the B–70 program from three aircraft to two.

"The program is already some 18 months behind schedule," he said. "The first airplane is not completely assembled. To date some $1.5 billion has been allocated . . . with the prospect that more would be required to complete three planes."

But money was not the chief reason for the cutback, he made clear.

Technical problems, research on other projects and a change in "the concept of manned strategic bombers" accounted for the cut, he said.

He had referred to the B–70 in the past as a "manned missile" that, he added, compared poorly with intercontinental ballistic missiles and was not as flexible as ordinary, manner bombers.

On Sept. 21, 1964, almost two years beyond its scheduled date, the first of the giant planes—rechristened the XB–70, got into the air. The second flew 10 months later.

The epitaph for the remaining B–70 was written last Feb. 7. The Air Force issued an announcement saying it had flown from Edwards Air Force Base (Calif.) to Dayton, completing the 2,000 miles in a little more than three hours.

And there it sits in the open air museum—trophy of a lost campaign that cost $1.5 billion. That is about equal to all the federal money spent in 1967 for housing the nation's poor.

Now AMSA is on the way. What would it do?

It would carry short-range attack missiles (now well along in development), decoy missiles and nuclear and conventional gravity bombs. This description comes from the Defense Industry Bulletin, a Pentagon publication of limited circulation that provides military suppliers with "guidance concerning official policies."

AMSA could even serve as a useful come-on for Air Force recruiting in an age of missiles plugged in ground silos.

Said a former Pentagon official, only half in humor:

"Suppose a poster said, 'Join the Air Force—go down in a hole in the ground and study for a year.' Then another poster said, 'Join the Air Force and fly the most modern machine available.'

"Which do you think would be more effective?"

MISSILE COMPETITION: HOW $200 MILLION WAS LOST IN ARMY-AIR FORCE RIVALRY

(By William McGaffin and Robert Gruenberg)

WASHINGTON.—Courage in the corridors of the Pentagon can be a sometime thing.

It is put to severe test when it collides with the interservice rivalry on which the military-industry complex thrives.

None can tell it better than Austin W. Betts, who as a young colonel back in the 1950s was not as much interested in promotion or decoration as in how to save millions of dollars in defense waste.

He fought a losing battle.

Now a lieutenant general and chief of research for the U.S. Army, he recalled how he tried to put a stop to the costly race between the Army and Air Force over who would build the first ballistic missile.

Contributing to his defeat was the hysteria generated in the nation as a result of the Soviet Union being first to launch an artificial satellite, called "Sputnik."

And part of that excitement was contributed by the senator who then headed the Senate Preparedness subcommittee, Lyndon B. Johnson.

Betts, soft-spoken, wearing his three stars with a casual bearing, recalls how, as a colonel, he recommended cancellation of the Army's Jupiter missile program in January, 1957.

This would have left the field to the Air Force's Thor and would have saved $200,000,000, Betts estimates.

He had not yet moved into 3-E–412, the large office he occupies in a "prestige" section of the Pentagon. And he was overruled by higher officials.

Even today, more than a decade later, the Jupiter-Thor story of how competing services can waste millions is like rubbing salt in an open wound to many old Pentagon hands.

But Betts says it's one of his favorite stories.

From beginning to end, an estimated $3 billion was spent on these two missiles. As so often happens, they soon became obsolete. After a couple of years of service, they were replaced by something bigger and "better."

It may seem odd that Betts, wearing an Army uniform in 1957 as he does now, should have tried to kill the Army's entry in this missile-building race. He did not feel, however, that he was being disloyal to his service.

He was not serving with the Army at the time, but was on the defense secretary's staff as an assistant to the late Eger V. Murphree, the secretary's "missile czar," an oil industry scientist and executive.

Both Jupiter and Thor, named after mythical deities, were liquid-fueled and had an intermediate range—1,500 miles. The big "difference" between them was that Jupiter was the Army's baby and Thor the Air Force's pride and joy.

But Betts considered it his responsibility to give the best advice he could summon on the issue and, impressed with the Air Force's progress on Thor, he thought it capable of performing the job.

There's "no question" but that interservice rivalry greatly boosted the cost of this missile program, says Betts. The rivalry grew so hot that Charles E. Wilson, ("Engine Charlie") then Defense Secretary and former president of General Motors Corp., finally appointed a special committee to settle it.

The Wilson-appointed committee was empowered to try to end the interservice dispute by combining the best features of each missile into a single one. But it was not a solution that either service would accept if it could be avoided.

Betts said Murphree had two reasons for turning down his advice that Jupiter be canceled, a decision sustained by the Pentagon brass.

"First, he wanted the Wernher von Braun team, which had been employed by the Army in the original development of Jupiter at Redstone Arsenal, to build a back-up missile in case Thor did not succeed," said Betts.

"Second, he knew the Navy wanted a shipboard ballistic missile and Thor could not be configured (adapted) for firing from a ship."

The Navy, however, soon decided for its own reasons to concentrate on developing a solid-fueled missile (in contrast to the liquid-fueled Jupiter and Thor) for its nuclear-powered Polaris submarine.

So no missile was developed out of the Jupiter-Thor program for the Navy.

But an extra $200,000,000 was spent in the expensive flight test program of the Jupiter, which duplicated Thor's equally expensive program, according to Betts.

Another defense secretary came into the Jupiter-Thor program on Oct. 9, 1957. He had a reputation for issuing orders and making decisions.

Defense Sec. Neil H. McElroy, a former National Guard private first class who became president of the Procter & Gamble soap company, took office and in 24 hours announced postponement of a final choice between Jupiter and Thor.

The special Wilson committee, which could not make up its mind, had recommended that tests on both rockets be continued for several months and this is what McElroy proposed to do.

Meanwhile, an ominous event—or so it seemed then—took place Oct. 4: The Soviet sent Sputnik aloft.

That precipitated, in Betts' words, "a panic reaction" in the United States.

A few weeks later Sen. Johnson opened his subcommittee's investigation.

Americans had believed "we were well ahead of Russia in science," Sen. Johnson declared, "but the satellites that are whistling above our heads demonstrate that we have lost an important battle in technology."

Sen. Johnson made his pronouncement Nov. 25; two days later, on Nov. 27, McElroy announced "full production" on both missiles.

In the atmosphere that prevailed, observed Betts, it was considered imperative to build as many of these missiles as possible and deploy them with utmost speed.

Douglas Aircraft Corp. built the Thor. Total costs, an estimated $952,000,000. Chrysler Corp. built the Jupiter. Tab, $881,000,000.

Because the missiles had only a 1,500-mile range they had to be deployed in Europe in order to reach Soviet targets. Sixty Thors were sent to England in the winter of 1959–60. Thirty Jupiters were stationed in Italy in June, 1961. Fifteen more were positioned in Turkey in July, 1962.

With the advantage of 20-20 hindsight, the whole Jupiter-Thor program loses its urgency.

"We had the ocean-spanning, intercontinental ballistic missile coming along them," says Betts. "But we went into Jupiter and Thor to get faster deployment of a ballistic missile even though its range was limited."

Both missiles were "phased out" as obsolete and vulnerable, of course, when Atlas, the first ICBM, became available. The Pentagon estimates $3 billion—from conception through removal—went into the program.

Three billion dollars is roughly comparable to all the federal money spent in 1964 on health services, including medicare, medicaid and prevention and control of health went into the program.

Betts has a number of regrets.

One is that the Defense Department did not do as he asked at the time and inaugurate a study on "lessons learned from this program."

Among other reasons, it would cost too much, he was told.

INFLUENCE FEARED: $772 MILLION LINKS PENTAGON, COLLEGES

(By William McGaffin and Robert Gruenberg)

WASHINGTON.—In the nation's current challenge to the tax-eating, weapons-making, politics-prone "military-industrial" complex, there are two common targets.

The first is the Pentagon itself, with a budget that consumes more than 40 per cent of the country's revenue. The second is its arms-making corporate might, especially in the aerospace and electronics industries.

Generally overlooked is the role of the American universities, whose largesse from government—although far smaller than that for industry—is virtually as significant.

According to Pentagon records, schools and nonprofit institutions received $772,000,000 in defense funds last year for research, development and other work.

To many of them it meant a substantial portion of financial support.

It was Dwight D. Eisenhower, soldier, President and—forgotten to many Americans—educator, too, who warned in his famous 1961 farewell address of the dangerous involvement of the universities in the military-industrial combine.

Discussing the "technological revolution during recent decades," he declared:

"In this revolution, research has become central; it also becomes more formalized, complex and costly. A steadily increasing share is conducted for, by, or at the direction of the federal government.

"Today the solitary inventor, tinkering in his shop, has been overshadowed by task forces of scientists in laboratories and testing fields.

"In the same fashion, the free university, historically the fountainhead of free ideas and scientific discovery, has experienced a revolution in the conduct of research.

"Partly because of the huge costs involved, a government contract becomes a substitute for intellectual curiosity. For every old blackboard, there are now hundreds of computers.

"The prospect of domination of the nation's scholars by federal employment, project allocations and the power of money is ever present and gravely to be regarded."

At the time Eisenhower spoke, defense awards to schools and nonprofit institutions totaled about $432,000,000.

Since then they have risen steadily each year, reaching the $772,000,000 mark in 1968.

The Pentagon finances thousands of individual research projects in the engineering, physical and environmental sciences; also the biological, medical, behavioral and social sciences.

New weapons ideas are sometimes born in university laboratories, said a former high Pentagon official, who also added pointedly that many military-developed ideas are also put to peacetime uses.

Research, of course, is carried on over more fronts than the school. Former Defense Sec. Clark M. Clifford, presenting his 1969–1970 defense budget proposals to Congress shortly before leaving office, emphasized the need for the Pentagon's entire $8 billion research effort and explained:

"The effectiveness of our weapons system a decade from now depends on maintaining a balanced research effort across the entire spectrum of science and technology.

"The Defense Department is the largest user of research output in the nation and must emphasize those areas most likely to be of military benefit in the future.

"The research program also provides a link between the department and the academic community, a vital tie which keeps open a unique source of new ideas and technologies."

The schools' research budget of more than $750,000,000 hardly compares to the $40 billion in prime contract awards made in 1968.

But within that "minibudget" are found some of the nation's largest defense contractors—exceeding in contracts awards even the giant aerospace, electronic and general manufacturing corporations.

This year, the Massachusetts Institute of Technology, with $119,000,000 in contract awards, is the 10th largest among the Pentagon's list of 500 top defense contractors.

It ranks ahead of such well-known names as Aerojet-General Corp.; Raytheon Co.; Pan American World Airways; Grumman Aircraft Engineering Corp. and even General Motors Corp.

Johns Hopkins University, Baltimore, is 22d in rank, with $57,600,000; Stanford Research Institute in California—with branch operations in Ethiopia and Thailand—is 36th among the 500 largest, with $28,000,000 in contracts.

In the Chicago area, the University of Chicago ranks first with $1,360,000 and is 219th nationally. It is followed by the Illinois Institute of Technology, with $988,000, and Northwestern University, $588,000.

The University of Illinois has $8,583,000 in contracts, all of it, except for $89,000, concentrated at Urbana.

Buried among the 260 million-dollar-and-over contracts listed in the Pentagon's January issue of the Defense Industry Bulletin, a limited circulation publication that says "suggestions from industry representatives concerning possible topics for future issues are welcome", were three university awards.

Descriptions of the projects were brief to the point of saying almost nothing.

One award, for $9,000,000, went to the University of Rochester "for research of problems associated with the mission of the Navy." A second, for $1,200,000, went to the University of Alaska, at College, Alaska for "additional research in Arctic problems."

But the third for $1,000,000, went to MIT, for "design and development of advanced instrumentation of missiles."

Adam Yarmolinsky, a special assistant to former Defense Sec. Robert S. McNamara and now a Harvard Law School faculty member, does not see a "threat" to the university in acceptance of Defense money. Harvard University has $2,500,000 in contract awards.

"I really don't think universities are significantly influenced or affected," he says.

While many universities receive a broad range of federal funds, he added, "by and large these are not from the Defense Department." Only about 4 per cent of funds for social and behavioral science research comes from federal sources, and only one-tenth of that amount is from the Pentagon, he said.

Government research money goes to universities that are "big and rich, not poor and small," said Yarmolinsky, because the former have the facilities to conduct the research.

But, he acknowledged:

"The fact that Defense Department funds are used at all has an unfortunate divisive effect within the community."

The recent one-day "strike" of professors at a number of universities was a good example of this, he agreed.

"Some were opposed to Defense Department-sponsored research and others were against the Vietnam war and the size of the military budget," he said.

This, as well as other similar demonstrations of disaffection at schools, reflects the "serious divisions within the country over the Vietnam war and the priorities of spending."

Another high official of an Eastern university, neck-deep in Pentagon money, discussing the military-industrial complex, its faults and—as he saw them—its virtues, made a revealing comment:

I must be careful of what I say, I have millions in research I'm in charge of. Now, that's off the record."

Big Dish: $63 Million Fiasco

(By William McGaffin and Robert Gruenberg)

Washington.—Sugar Grove (pop. 75) lies in the beautiful eastern Appalachians, seemingly the last place on earth to be involved in the military-industrial complex.

But this West Virginia hamlet on the South Fork of the Potomac became just that—the site of a dispute between the Defense Department and the dollar-conscious General Accounting Office that cost the taxpayers $63,000,000.

To 75-year-old Ben Mitchell, a Sugar Grove native, the sight of earthmoving machines back in 1958 leveling hills and filling in hollows and the relocation of roads was a welcome one.

The U.S. Navy was coming to Sugar Grove with some kind of a project. Whatever it was, the increased population and money to be spent was sure to bring good times to all of surrounding Pendleton County.

But in 1962 Defense Sec. Robert McNamara called a halt to it all.

"They had worked quite a while and then they pulled up. It left us in a pretty bad way. They would have brought us lots of revenue and business," observed Mitchell, who also is county assessor.

The Sugar Grove story is one of the first that GAO officials cite if anyone asks about military spending and waste.

The project was Big Dish, a huge, naval radio research station, its main feature a 600-foot-diameter reflector (the Big Dish).

It was to reach more than 60 stories in height and turn full circle horizontally or tilt completely vertical as it listened to radio emanations from galaxies billions of light years off.

Certain highly classified military needs also were to be met, said GAO, mainly—added Defense officials—connected with "estimating Soviet technical progress in certain areas."

Big Dish was to maintain its exactitude to within a fraction of an inch tolerance under all conditions—wind gusts, icing and distortion caused by cloud shadow.

In short it was to have been the largest movable, land-based structure ever built anywhere. Its initial estimated cost: $20,000,000.

But by July 18, 1962, when McNamara killed it, the costs were projected at 10 to 15 times that amount—up to $300,000,000.

As it was, about $63,000,000 had been poured into it, according to the Navy.

Just about every planning error in the book was made on Big Dish, according to Joseph Campbell, U.S. controller general in 1964.

It was badly underestimated from the beginning, he said in a report. Until the original architectural engineering team—three firms on a "joint venture"—was dropped by "mutual consent," Big Dish's history was "one of a series of design failures," he said.

But the Navy thought the military urgency of the project so great that it went ahead asking for structural design bids and bought steel "even though the validity of the . . . design had not been verified."

A new architectural-engineering firm had also been selected—a subcontractor to the original team—and it decided that the total re-analysis and design were required. The cost of the earlier design effort was set at between $2,000,000 and $5,000,000.

But all hands decided to take what was called a "calculated risk"—to design and build the project at the same time!

The decision was taken, said Campbell, "although it was known that major scientific and technological developments were necessary" for its success.

Adm. Frank L. Johnson, then of the Office of Chief of Naval Operations, explained to the Senate Armed Services Committee in 1962:

"This facility is so important that the Navy decided instead of designing and testing the various components . . . before actual construction, we would design and construct it simultaneously in order to save about roughly—three or four years."

One result of this policy was that Big Dish's super structure weight was considerably greater than that provided for in the already partially-built supporting elements. Instead of cutting down on a recognized problem of overweight, it had the opposite effect.

By early 1960 the Navy was caught in a revolving door of cost increases due to increased steel needs, caused by increased design work, said Campbell.

By June, 1961, a special committee named to explore Big Dish's troubles told then Navy Sec. John B. Connally:

"The present construction status at the Sugar Grove site appears confused. . . ." It went on to emphasize the need for "each phase of the project to be complete and practical before proceeding too far with another."

Campbell also charged in his study that the Navy's construction agency, then called the Bureau of Yards and Docks, "almost completely eliminated effective participation . . . by scientific personnel until it became very clear . . . that (their) assistance was essential to solve several of the scientific problems."

The security classification of Big Dish was responsible for much of this, he said, as well as "actions of bureau personnel."

Meanwhile, costs spiraled. From a 1957 estimate of $20,000,000 they went to $52,000,000 in 1958; as military capabilities were added to the requirements they went to $79,000,000. In September, 1961, Congress set a limit of $135,000,000.

It was after the Navy decided that $195,700,000 would be needed, even with omissions from the project, that it was halted.

Big Dish was vigorously defended by Eugene G. Fubini, then deputy director of defense research and engineering.

Monday morning quarterbacking was fine, he hinted in a reply to Campbell, but GAO's "oversimplification" failed to consider "the tenor of the international situation in the years, 1956 to 1962."

In some of those coldest of the cold war years, he acknowledged, wrong decisions and judgments were made, but they were "on the basis of the experience and background of those responsible" for research and development work.

He said the $20,000,000 initial estimate "may be" a "misunderstanding." This envisioned only a "limited use research instrument," he said. The GAO should use $79,000,000 as a "base" to figure cost escalation.

The temper of the late 1950s also made it necessary, he argued, that planning and building be carried on simultaneously, adding:

"It is often necessary to make a decision that accepts high technical risks in the expectation of getting very valuable returns, although the probability of achieving these returns is not as high as one would normally like."

And there is no guarantee that the Big Dish story won't happen again, Fubini warned.

"It has been the case and will continue to be the case that occasional high-risk developments will have to be undertaken because the value of the information obtained is also very high."

Military-Industrial Complex: Ike's Historic 1961 Warning

(By William McGaffin and Robert Gruenberg)

Washington.—It happened one day during the quiet well-regulated life in the White House when Dwight D. Eisenhower was President.

Malcolm C. Moos, the President's speech writer, had been perusing a batch of aerospace journals brought in by a White House aide.

"I recall looking at one where there were some 26,000 different aerospace firms supplying different things to the aerospace industry," Moos said.

"And I thought, 'God, what a network this is!'

"Then there was the field of Congress and politics," mused Moos, now the president of the University of Minnesota.

"I was constantly impressed with the test of wills going on in Congress—about taking a military installation away from this or that state and what it would do to the economy and the fighting back and forth."

In addition, Moos said, he was concerned about the "early retirement, the phasing out of colonels and generals—men in the middle forties," who wound up on the boards of defense industry firms.

Moos said he discussed these concerns a number of times with Ralph Williams, another White House speech writer, a Navy captain who "has a head full of technical facts, a good factual inventory in his noggin."

Williams, now an official in the Department of Interior, also provided "a great deal of help on such things as the State of the Union message," according to Moos.

Moos' give-and-take with Williams, as well as his own observations built up over the years, germinated the idea for that now-famous farewell speech Eisenhower delivered Jan. 17, 1961, three days before John F. Kennedy took office.

"In the councils of government we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex," said the soldier who had been friend to generals and corporation leaders.

"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 or democratic processes. We should take nothing for granted."

Nor did Eisenhower forget -as have so many others who cite only the "military-industrial" phases—the scientific and technological community's part in the "complex."

"In holding scientific research and discovery in respect, as we should, we must be alert to the equal and opposite danger that public policy could itself become the captive of a scientific-technological elite."

The language was strong as any soldier-President was capable of using. It caused experienced heads in the military and aerospace industry here to wag, recalls one veteran. They asked each other:

"Was it really Ike speaking, or did someone 'get' to him?"

"People thought it incongruous for Ike to be saying something like that," Moos acknowledged. However, a number of times afterwards the President expressed pride in the speech, and its "importance as a warning," Moos added.

Moos was uncertain exactly how the phrase, "military-industrial complex" originated. "It just seems to me a logical phrase to describe exactly what was happening in the effervescence of American politics," he said.

Years later, he recounted, Library of Congress research experts told him they had hunted two years in vain for an earlier reference to the "military-industrial complex."

At the time he served Eisenhower, the tall, spare university official, now 52, was a political scientist and historian on leave from Johns Hopkins University in Baltimore.

One of his casual practices was to jot down "stray ideas" on pieces of paper and toss them in a drawer. "H. L. Mencken taught me that. He said, 'Moos, you've got to have a dustbin.'

"In my own teaching at Johns Hopkins I had stressed constantly that after 1945 we entered a new stage of our existence in this troubled country," Moos said.

"It was the first time we had a permanent, huge peacetime military establishment . . . and it was bound to have an enormous impact. It was totally unprecedented in the 179 or 180 years of this republic's lifetime."

Thus, the "dustbin" had been collecting ideas steadily when, in late 1958, Moos said he showed Eisenhower a book on great presidential decisions and the speeches accompanying them. There were "15 or 20," beginning with George Washington's Farewell Address, which some authorities believe was "ghostwritten" by Alexander Hamilton.

Ike said to Moos, "I want you to be thinking about something that I want to say, and say very much, when I leave the White House. I want you to be thinking and putting together materials," Moos recalled.

About three weeks after the Kennedy victory in November 1960, Moos and Williams wrote the first draft of the farewell speech.

It was submitted by Eisenhower knowing that the President's "first impressions were not always the best index of what he thought."

Moos said Eisenhower, after reading the speech, called him into his office the next day, and said, "I think you've got something here. Let me sleep on it."

"I think another two or three days went by and he said, 'Yes, you've got something.'" He told Moos to take the speech to Dr. Milton Eisenhower, the President's brother and president of John Hopkins. Eisenhower often consulted him on important matters.

Milton Eisenhower liked the speech, Moos said, and the three men went to work on it for final delivery. There was discussion among the White House staff over whether Eisenhower should deliver it before Congress, thus making certain that it would receive concentrated national coverage.

But Eisenhower vetoed this, Moos said. He recalled the President saying, "I'm more interested in how it reads a generation from now than I am in the comment it gets in the headlines."

The speech was delivered over nationwide television from the White House. Like another great speech, delivered at Eisenhower's own Gettysburg 98 years earlier, it kindled little public fire.

Eventually the news media did "discover" it. There was some consternation but, one aerospace industry spokesman recalled here, Eisenhower was "too sacrosanct" to attack.

Today the "military-industrial complex" is part of the national debate.

Moos still thinks that the military-industrial complex is a threat to the nation.

"President Eisenhower delivered a timely warning. I feel strongly that it may have helped alert people to its danger—but I don't think we are past that threat, by any means," he said.

PENTAGON OFFERS CONGRESSMEN HIGH RANKS

(By William McGaffin and Robert Gruenberg)

WASHINGTON.—"I had only been a corporal in the Army, but after I came here and was appointed to the Armed Services Committee, the Army offered to make me a colonel."

The speaker was an important legislator on a congressional committee that recommends the spending of millions of dollars on defense hardware.

But he was not interested in making unnecessary enemies—neither among his colleagues nor the military—so his remarks were "not for attribution."

What he said, however, echoed what had long been spoken of quietly on Capital Hill: the Pentagon's practice of trying to win important Senate and House friends by offering them military commissions.

It is one of the strands in the fabric of the military-industrial complex, a fabric that some critics say can become a shroud.

Giving commissions to congressmen is only one example of the politics in big military spending.

Another is the "pork barrel" race among senators and House members to win weapons and defense service contracts or military installations for their states or home districts.

And then there is the pressuring by the Pentagon's own $4-million-a-year force of 339 lobbyists, more than one for every two members of Congress.

Defense officials say this force is necessary because the congressmen as well as the constituents are continually seeking more information.

Finally, there are the defense industry's own lobbyists, now called "strategic systems salesmen," backed by the military associations, their service journals and other military publications.

As the bill for the national defense goes up each year (it is now about $80 billion) the politics, porkbarreling and lobbying gets more intense, and taxpayers many rightly wonder whether there is a relationship among them all.

The unorthodox promotion system employed by the military with members of Congress was disclosed in a check into the manner in which a number held commissions—sometimes listed in the Congressional Directory, sometimes not.

The criterion is not necesarily the legislator's military background or experience. It is, in many cases, his membership on a key committee such as Armed Services or Appropriations where the fate of much of the huge defense budget is often decided.

Of the 535 Senate and House members, 139—or 26 percent—are in the active, inactive and retired reserve, according to Pentagon records dug out by The Daily News.

These ranks range from BM-3 (Boatswain's Mate, 3d Class) to MG (Major General).

Sen. John G. Tower (R-Tex.) is a BM-3 in the active standby reserve, according to the Pentagon list. A Tower aide denied it, saying the senator is in the inactive enlisted reserve.

Why does he maintain his standing?

"As a factor in breaking ice . . . to talk to the troops," replied the Tower spokesman. The senator has visited Vietnam and domestic bases, he said.

"For instance, he may go to the enlisted men's mess or the club, and he can say, 'I'm one of you boys' and get a real, personal 'feel' as to what worries them."

Sen. Strom Thurmond (R-S.C.) is an MG. His assistant is Col. K. Kipling Cowan, who says he is retired and refers to himself as "Mr. Cowan." He is on the senator's "personal staff," not his office payroll, says Cowan.

Asked if Thurmond's service as a retired reserve general on the Armed Services Committee represented a conflict of interest, Cowan replied:

"He has nothing to gain by it. He knows the problem of the military. His integrity and character and experence are unquestioned.

"Because of his experience and knowledge the country is well served by people like him. We are lucky to have him."

The defense budget has grown so huge that each of the 50 states feel its effects. And while all are equal, some are "more equal" than others and so get more of the pork.

A speech 10 years ago by Rep. Ken Hechler (D-W. Va.) shows how the system works. "I am firmly against the kind of logrolling that would subject our defense program to narrowly sectional or selfish pulling and hauling," he said.

"But I am getting pretty hot under the collar about the way my state of West Virginia is shortchanged in Army, Navy and Air Force installations. . . ."

Hechler vowed to "stand up on my hind legs and roar" until West Virginia "got the fair treatment she deserves."

Four years later his state's share of military contracts had gone from $36,000,000 to $162,000,000.

The Ken Hechlers may have their troubles in getting their share of the pie. But this is not a worry to the chairmen of the House and Senate armed services and appropriations committees.

A good example is L. Mendel Rivers (D-S.C.), the House Armed Services Committee head. He is from Charleston. There are in Charleston and several neighboring counties an air base, an Army depot, a missile plant, a mine warfare center, a naval station, a shipyard, a major Polaris submarine base and two hospitals.

A chairman of a committee dealing with the Pentagon may find that he is "appreciated" more than other Congressional Committee chairmen.

The Pentagon recently held an "appreciation dinner" for Sen. John Stennis (D-Miss.), the new Senate Armed Services Committee chairman, in his home town of Jackson.

Among the Pentagon officials attending were Defense Sec. Melvin R. Laird, four of the five members of the Joint Chiefs of Staff, the Navy secretary, the Coast Guard commandant and the commander-in-chief of U.S. forces in the Pacific.

Also flown to Jackson at taxpayer expense, was the entire Armed Services Committee membership, other congressional VIPs and the evening's entertainment.

NEW PROBE SLATED: TFX AIRPLANE "CLASSIC CASE" OF POLITICKING

(By William McGaffin)

WASHINGTON.—The "classic example" of lobbying and political infighting for huge defense contracts is the TFX case—and in a few weeks Washington may get a re-run of this acrimonious case.

It will be re-opened by Sen. John L. McClellan (D-Ark.), The Daily News was informed.

McClellan who conducted the original investigation into the highly controversial TFX (Tactical Fighter, Experimental), will conduct a series of hearings that will review the case from its beginning, then close it out with a summarizing report.

The final phase of the sessions will concentrate on the shortcomings of the plane, which was later known as the F–111. Three of the F–111s were lost in less than a month in Vietnam, at $13,000,000 per copy.

Critics of former Defense Sec. Robert S. McNamara say it was one of his biggest mistakes.

Nowhere in the final report, it may be predicted, will there be a full discussion of the geographical favoritism that was charged during the dispute over the award: Texas and New York against Kansas and the state of Washington.

Some in Washington prefer to think of it as Lyndon B. Johnson against Sen. Henry (Scoop) Jackson (D-Wash.).

"You could never get anybody to talk on the record about these things," said an old congressional hand.

It was in November, 1962, that the Pentagon awarded the TFX contract to the General Dynamics Corp. after one of the fiercest behind-the-scenes political battles ever fought here.

It was a tough fight because the prize being dangled in front of the defense industry was the biggest since World War II. As originally drawn up, it called for a whopping 1,700 planes at an estimated cost of $6.5 billion.

Competing for the prize also was the Boeing Co., which—according to the nearly unanimous recommendation of the military technicians at the Pentagon—should have been given the contract.

When it went to General Dynamics, instead, McClellan held a 10-month investigation—from February to November, 1963. The case has been in limbo since.

If the politics of the case does not appear in the final McClellan report, neither will there be any discussion of the relative prosperity of General Dynamics and Boeing at the time the contract was awarded.

"It's common knowledge that had a lot to do with the award of the TFX contract," said a knowledgeable Capitol Hill source who has been close to the conflict for years.

One of the important factors influencing the decision in favor of General Dynamics, he said, was that it needed the business more than Boeing.

"The way they reasoned is that it was necessary to keep General Dynamics prosperous, too, in case this big contractor might be needed in some future emergency."

The geographical battle lines were drawn from the start—Boeing, with headquarters in Seattle planned to build the flying machine in its Wichita (Kan.) plant, while General Dynamics, headquartered in New York, planned—and finally did—the work in Texas and Long Island.

Its Texas plant, the Convair division, is at Fort Worth. Its main subcontractor was Grumman Aircraft Corp., on Long Island.

One politics-sharp congressional source commented:

"An election was coming up (the 1964 presidential election) and there were obviously a lot more electoral votes to be gathered in New York and Texas than in Kansas and Washington state.

"But naturally you could never get McNamara or Johnson to admit this."

A Texas Democratic congressman, did go on record about what the contract meant in dollars to General Dynamics and Fort Worth:

"It meant the difference between employment or unemployment for thousands of my constituents."

Rep. Jim Wright (D-Tex.) was describing a problem typical of scores—if not hundreds—of congressmen whose home economies are dependent on defense industry.

As a member of the Texas delegation headed by then Vice President Johnson, he worked hard to win the contract for General Dynamics, and he did not try to conceal this fact.

"I talked about this subject with everybody I could get to listen," he said, "both military and civilian officials. That does not, in my judgment, amount to undesirable political influence. The same sort of things was being attempted by the other side.

Boeing had its political champions, too.

The investigation into the TFX contract award was made at the instigation of Sen. Jackson (D-Wash.), sometimes called "the senator from Boeing." Jackson held a post on the subcommittee that looked into TFX.

One of Boeing's most fervent supporters was Rep. K. William Stinson (R-Wash.), whose 7th District included that part of Seattle in which Boeing's main headquarters is located. In the bitter aftermath of the TFX award, Stinson, who served from 1963 to 1965, rose in the House one day and in acid tones, said:

"This very, very valuable TFX (was) sometimes known as the LBJ aircraft."

Support for the military-industrial complex is bipartisan and Boeing had it.

Besides Warren Magnuson, the other Democratic senator from Washington state, there was a trio of Kansas legislators, all Republicans: Sen. James B. Pearson, then-Sen. Frank Carlson and Rep. Garner E. Shriver.

The latter three went to then-Air Force Sec. Eugene Zuckert, arguing that Boeing could do a better job than General Dynamics, and besides, that Boeing's Wichita plant needed the work.

As did the Kansas trio, then-Sen. Mike Monroney (D-Okla.) made a case for an idle defense facility in his state. He reminded Zuckert that the government owned a big plant in Tulsa, that it had large unused machinery and manpower resources.

Sen. Stuart Symington (D-Mo.), a former Air Force secretary himself, hoped that Missouri defense plants could get TFX subcontracts—from either competitor.

But the potent forces working for General Dynamics prevailed. These included not only Vice President Johnson and Rep. Wright, but John B. Connally, a good friend of Mr. Johnson and Navy secretary early in the John F. Kennedy administration who had moved on to become governor of Texas.

There was also Fred Korth, the Texas banker who became Navy secretary after Connally.

The McClellan investigation disclosed—among other things—that General Dynamics, the TFX winner, kept its checking account in the Fort Worth bank that Korth headed before coming to Washington.

GIANT CARGO PLANE FAR PAST ESTIMATED COST

(By William McGaffin and Robert Gruenberg)

WASHINGTON.—Lockheed Aircraft Corp., No. 1 among the nation's top 500 defense contractors, is building the "Versatile Giant."

That's Lockheed's description of the C–5 Galaxy, a gargantuan cargo plane that Lockheed hopes the Air Force will turn into a nuclear-powered aircraft that can stay aloft for weeks.

A nuclear-powered plane project was killed in 1961 by President John Kennedy after 15 years of research and more than $1 billion had been spent by the Air Force, Navy and Atomic Energy Commission.

But the C–5 is proposed by Lockheed now as the plane that can do it. This is one way new weapons are born.

The "Versatile Giant" rates high among the colossal creations of the nation's mushrooming post-World War II military-industrial combine.

Aside from its size and advanced technical developments, the C–5 is already a rarity by Pentagon contracting standards: It flew on schedule last June 30, a date fixed three years earlier.

The plane, a monster with 28 landing wheels, has a tail more than six stories tall (workers at Lockheed's Marietta (Ga.) plant wear mountain climbers' ropes). It is almost a football field in length.

At an average speed of 506 miles an hour it will span oceans and continents, carrying helicopters, tanks, trucks, jeeps, ammunition trailers and even mobile bridges. With 75 soldiers and 20 airmen, in addition, there are enough men and materiel for a small invasion.

It is, says Lockheed, the "world's largest airplane," and the Air Force wants 120 of them.

But testimony before the Joint Economic Committee has left critics wondering whether it also will become the world's largest airplane bill.

Neither the Defense Department, nor Lockheed, nor Congress can estimate its ultimate cost.

"I don't have the foggiest notion," said a Lockheed spokesman, adding it will be subject to the contract's provisions after the last plane is delivered.

But the cost will be big, all agree, and Lockheed is accustomed to bigness. Last year it and its subsidiary, Lockheed Shipbuilding Construction, received $1,870,000,000 in military contracts, about 5 percent of the total awarded.

That's 10 times the amount in the proposed 1969–70 federal budget for consumer protection.

A. E. Fitzgerald, deputy for management systems, office of the assistant secretary of the Air Force, reported to the Joint Economic Committee that the C–5 probably will cost $2 billion more than the original contract ceiling of $3 billion.

"The Air Force itself admits that the cost 'overrun' will amount to at least $1.2 billion," adds Sen. William Proxmire (D-Wis.), committee chairman.

Three of the airplanes have been produced. But the significant delivery date, June, 1969, when the planes were to join Air Force operations, has now been delayed to December.

The Air Force "had not bothered to tell anyone" about the extra costs, said a Proxmire aide, "until after the hearings discovered them."

Proxmire wanted to get the Defense Department to delay ordering 57 of the planes, approximately the latter half of the number sought by the Air Force.

He hoped a new price could be negotiated, and he scheduled hearings on the C–5 for the afternoon of Jan. 16. But that morning he was notified by then Defense Sec. Clark M. Clifford that the Air Force had "exercised the option" to buy 23 of the 57 planes.

"Having reviewed all the facts, including cost escalation, I concluded it was in the national interest to authorize the action," Clifford told Proxmire in a letter.

"I felt it appropriate to take this action before Jan. 20; otherwise the new administration would have had only 11 days in which to review and make a decision in this complex matter."

The Air Force denies a $2 billion "overrun." Its cost data breakdown, headed "fly-away costs," says it is $882,000, or 25 per cent more than the October, 1964, estimate when the program began.

At that time the Air Force estimated the cost to be $3,110,000,000 (close to Proxmire's $3 billion), based on a smaller craft than Galaxy. But by October, 1965, when Lockheed received "contract go-ahead", the cost was $3,460,000,000. Since then, it has gone to $4,340,000,000.

"Economic inflation has been the biggest single cause for the price rise, amounting to an estimated $500,000,000," says the cost date memo furnished by the Pentagon.

Also, in 1965 changes in specifications caused "considerable redesign." In 1966 wind tunnel tests revealed "significant excess drag," forcing more redesigning. The plane

also was found to be overweight, forcing introduction of "new and more costly materials."

Lockheed's backlog of other aerospace business, and the booming airplane manufacturing market also caused "sharp unpredictable increases" in production costs as well as knocking schedules awry.

"The cost growth currently projected . . . has not been the result of inefficiency, but rather it has been caused by normal development problems associated with complex weapons, compounded by normal escalation in the economy and disruption of the aircraft market," added the Pentagon spokesmen.

A Lockheed official was extra sensitive about discussing final costs and Proxmire's $2 billion "overrun" predictions.

"Anyone who predicts is just . . . well . . . predicting," he said in irritation. "But I'm not in the business of wanting to be quoted these days. I don't want to fan the fires."

Lockheed officials envision their "Versatile Giant" as no ordinary workhorse, hauling soldiers and equipment. In their public statements they see it doing more sophisticated jobs.

An intricate electronics and communications system permits Galaxy to serve as an "airborne command post," they say. Or it could "loiter far beyond" U.S. borders, armed with air-to-air missiles, providing "advance warning and control."

It also could serve as an airborne fuel tanker or an advanced reconnaissance plane, firing missiles at the after end and through the top. They also see it serving as an airborne aircraft carrier, catching and launching small fold-wing planes and helicopters.

Finally, it could "go nuclear." For, says the firm, "a reactor, with all necessary shielding, can be contained in the center of the fuselage. For the first time an airplane exists that is large enough to make this approach practicable.

"Nuclear-powered C–5s would carry significant payloads for essentially unlimited range."

Do industry and the military plan new weapons systems together at an ever-escalating pace?

"We do not have a group of men from the Pentagon and industry sitting around thinking up new ways to 'do in' the American taxpayer," said Jack P. Ruina, former director of the Pentagon's Advanced Research Projects Agency in the Robert S. McNamara era.

"On the other hand (they) very naturally believe strongly in the importance of their mission. This is no different from what we have in any other field. . . ."

As for Lockheed's attempt to convince the Pentagon of the value of its "Versatile Giant," he added:

"I believe it is perfectly in order and very useful for Lockheed to be as inventive as it can be to find uses for its product. But the government must on its part examine the merits of the case dispassionately and resist sales pressure."

PENTAGON INFIGHTING: QUIET WAR BEING WAGED OVER MILITARY WASTE; $9.2 BILLION IN "FAT" CAN BE CUT, SAYS EX-AIDE

(By William McGaffin and Robert Gruenberg)

WASHINGTON.—Open skirmishing, sometimes with rifles and often with blunderbusses, has been under way for some time on Capitol Hill against military waste.

Less known, and probably surprising to many critics, is that a similar, although "quiet," war has also been going on in the Pentagon, citadel of the military-industrial establishment.

Attention has focused this year on whether military spending has run away with other national priorities. It was brought to public debate not only by the mounting costs of Vietnam but in the argument over deploying antiballistic missiles at a cost speculated at $5 billion and up.

National defense costs, currently at about $80 billion a year—the same level as the height of World War II—are, for the first time being looked at with a view toward serious cutting.

Robert S. Benson, former official in the Pentagon's office of the controller, writing recently in the Washington Monthly, says that about 90 per cent of the major weapons systems the Pentagon buys cost twice as much as he originally estimated.

More than $9.2 billion in "fat" can be slashed from the Pentagon's budget, says Benson, without affecting national security or reducing funds for the Vietnam war.

The cuts can be made in the so-called "core" programs and in areas where "weapons systems are either duplicated or outmoded, where an enemy threat is no longer credible in today's political and technological environment, or where money is being lost through grossly inefficient performance."

He suggested:

Eliminating the Manned Orbiting Laboratory (MOL), an Air Force project "duplicative and wasteful" of the National Aeronautics and Space Administration's program: Savings, $576,000,000.

Instituting a "more flexible" Army basic training program, shortening it in some cases for certain troops: $50 million.

Reducing by 25 per cent the number of changes in officer assignments, with consequent reduction of moving and transportation costs: $500,000,000.

Eliminating the extra "cushion" of manpower demanded by the Pentagon to compensate for men on leave, in the hospital and in schools. Require, instead—as does industry—that the absences be "absorbed" by the work units: $450,000,000.

Eliminating the close-to-shady practices, the "sheer inefficiency" and other sloppy administration in Pentagon purchasing. This would require "no dramatic breakthrough in management techniques." Saving: $2.7 billion.

Taking a new look at the Navy's use of tactical aircraft carriers as against the use of ground air bases now scattered around the globe augmented by the Navy's "vital" Polaris-Poseidon ballistic missile submarine fleet. Savings in eliminating five carriers: $400,000,000.

Reconsidering the use of Marine Corps amphibious assault tactics, especially in the light of an enemy's tactical nuclear weapons employment. Keep the marines, but "phase out a proportionate share of assault ships": $100,000,000.

Reducing over-all shipping defenses to a "sensible" level instead of expanding them at a time when destroying the ships of an enemy would, in any event, almost certainly mean a nuclear war: $600,000,000.

Making a "realistic" cut-back from the 300,000 U.S.-NATO troops in Europe (with 200,000 dependents) to 125,000 troops, with 50,000 on U.S. soil for "contingencies": $1.5 billion.

Converting the SAGE-Air Defense Command from a full anti-bomber defensive system (outmoded when "the balance of terror rests on an offensive missile strength") to a purely warning system: $600,000,000.

Halting the Sentinel ABM, "a misguided attempt to provide protection": $1.8 billion.

Benson is now among the top officials of the Urban Coalition, a group of national leaders dedicated to tackling realistically and directly the problems of the cities. Antagonists may thus charge him with special pleading.

However, similar estimates from "neutral," as well as military sources caused an "in-house" furor last summer at the five-sided fortress on the Potomac.

In fact, these savings estimates were even higher than Benson's $10.8 billion.

They were disclosed in an indepth investigation by the Congressional Quarterly, the fact-finding, record-searching Washington research organization with a reputation for reliability.

Based on interviews with numerous defense-industry experts, civilian and military officials, CQ's lists differed only in a few details from Benson's estimates.

Critics of Defense Department spending practices are also concentrating fire on other cost-cutting methods. For instance:

Of the 500 personnel in the Budget Bureau, only about 50, or 10 per cent, are assigned to scrutinize military spending, Sen. William Proxmire (D-Wis.), said recently.

One explanation is that the Budget Bureau considers that any attempt by it to subject defense spending to rigorous examination would force it into the field of military strategy and national security.

Rep. William S. Moorhead (D-Pa.) says that one result of the Pentagon's control over the Budget Bureau's experts is that the budget director must ask the President to overrule the defense secretary in any controversy.

Other Cabinet secretaries do not enjoy the power possessed by the defense secretary. They must ask the President to overrule the budget director in any dispute affecting their agency.

The sheer size of the Pentagon and its operations, the lack of competitive bidding in favor of negotiated contracts, the lack of uniform accounting standards (now under study by the General Accounting Office), the military-industrial links, the secrecy of audits—all these, and more—contribute to the uncontrollability of the Pentagon say the critics.

RALPH LAPP: PENTAGON GADFLY—A NUCLEAR EXPERT AND RELENTLESS ARMS-RACE FOE WARNS THE UNITED STATES IS CLOSE TO BEING A PRISONER OF ITS OWN MILITARY

(By William McGaffin and Robert Gruenberg)

WASHINGTON.—Two Presidents, Lyndon B. Johnson and Richard M. Nixon, were strongly motivated by politics to build the controversial antiballistic-missile system.

Their decision represents another in a long series of triumphs for the military-industrial complex.

With its pressures, political connections and influence stretching from Capitol Hill to small-town factory, it has contributed to the arms race and brought us to the dangerous point where we may one day become "prisoners" in a "garrison state."

These are some of the conclusions of Ralph E. Lapp, outstanding American nuclear scientist who, with other noted persons, is waging a vigorous campaign against deploying the ABM.

Lapp's credentials extend back to 1943, when he was part of the team that developed America's atomic bomb at the University of Chicago. He also has been a top adviser to defense officials.

In a wide-range interview to climax a series of Daily News articles on the influence of the conglomerate of defense, industrial, education, political and labor forces that make up the "complex," Lapp emphasized:

The military-industrial complex "needs" the ABM so it can continue its work as Vietnam spending and Apollo space program contracts taper off.

Starting with a "modest" $2 billion, the ABM costs could go as high as $72 billion—with no dollar limit really in sight.

The military-industrial influence "cuts across" both major political parties, not only because of the "dominance of the military" but because politicians are hungry to keep constituents happy in jobs, no matter what kind.

The danger exists that the military-industrial combine depends so greatly on cold-war

tensions and resultant arms making that it may be tempted to promote these for selfish financial reasons.

SIGNIFICANT EXCERPTS FROM THE INTERVIEW WITH LAPP

Q. How did the ABM get started?

A. It got started toward the end of World War II as an anti-bomber defense. It was hastened by the Soviet development of an intercontinental ballistic missile and the launching of Sputnik in 1957.

Q. Were you surprised when Defense Sec. Robert McNamara announced a decision to deploy the ABM?

A. Yes, because it was a complete U-turn for him. It went against everything he had said up to then. (McNamara had long argued that the U.S. deployment of an ABM would trigger an "action-reaction phenomenon," causing the Soviets to attempt to "out-ABM" the United States, thus spiraling the arms race.)

Q. Why do you think he made that turn?

A. It seems to me there's only one place the decision could have been made—the White House.

Q. Why did the White House make it?

A. The Republicans blasted President Johnson for failure to make a decision on the antiballistic missile. He was still in the running for a second term at that time and it could become a potential defense issue. I guess you could say that warheads with mega-votes were more important than warheads with megatons.

Q. So you feel this was largely politically inspired?

A. Congress had already appropriated the money. . . . Congress was ready, the Army was ready, the Joint Chiefs of Staff had approved it, the GOP was criticizing LBJ—it seems to me the cards were all stacked one way. When you've spent $4 billion (in research) on a weapons system, it's awfully difficult not to do something about it.

Q. In the fall of 1966, the Russians were beginning to deploy a limited ABM around Moscow. Did that figure in it?

A. This was certainly a factor. The matching of weapons is the oldest of military traditions. No matter what the Russians develop you have to go ahead and develop the same thing. But McNamara had already anticipated that, and in 1961 and 1962 we took steps to develop the multiple warhead for our missiles—which if deployed would give us an advantage over the Soviets.

Q. What else figured in it?

A. There's also the military-industrial component. Nothing promises so many dollars to the major aerospace concerns as the ABM. Once you start on it, it's a narcotic. You're hooked and you'll never get off it.

Q. Do you think the military-industrial complex was active in pressuring and lobbying for this?

A. Oh, very definitely. But I deny it is a conspiracy, because a conspiracy takes coordination. However, if people think alike you don't have to have a conspiracy.

Q. If the ABM is deployed, what would it mean for the arms race and the money to be spent?

A. The Soviets must look on an ABM defense as being an effective one. They have no choice, because as a military man, you must always assume the worst. It would start another round in the arms race.

The cost of the present program is estimated at $2.1 billion, for partial protection for about one-third of the bases. To protect all the missiles sites would cost about $18 billion, and an equal amount to protect cities would bring it to $36 billion. Then with elaborate "point defenses" it could go up possibly twice as high.

Q. Why did President Nixon go ahead with it?

A. This dramatically altered program to defend missiles instead of cities reflects pressure in the Pentagon itself. People in the Army who had been trying to sell this system for a long time pushed very hard. And Defense Sec. Melvin Laird, being a "hardliner," decided to accept that. Now Mr. Nixon is in an unenviable position of having to battle it out with congress.

Q. Would Mr. Nixon have been as inclined to proceed with the ABM had he not inherited it from the Johnson administration?

A. Mr. Nixon in his campaign had come out strongly for increasing our national security. A week before he was elected he made a very strong radio broadcast in this connection. And I think that his political constituency, which is the more conservative type, would be pleased with this.

There's also the point of George Wallace in the picture. If he did not go ahead with an ABM program, he would be handling a security issue to George Wallace.

Q. How do the antiballistic missile question and the military-industrial complex involve the political parties?

A. So far as the "complex" is concerned, it dosen't make any difference which party is in power. It will support or put pressure on either one.

Q. If, as you say, both parties are involved, what are Americans to do about it?

A. Americans must turn in the direction of rationality. McNamara, at the end of that September, 1967, speech, said we must begin to seek kinds of strategic agreements with the Russians. I think our safety will lie more in limitation of nuclear arms than senseless increases.

Q. Doesn't having more nuclear weapons provide more security?

A. The American people have never quite absorbed the new dimension of nuclear weapons. They tend to think in terms of sheer numbers—more tanks, more airplanes, more battleships, more security.

But when with 200 nuclear weapons you have the capacity to knock the Soviet Union out of the 20th Century, and you have 10,000 warheads available, it seems to me we have enough of something.

Q. Why should both parties be more or less in agreement on this?

A. Because of the traditional dominance of the military in our government.

Q. What do you mean?

A. The "hard core" (fact) of the military-industrial complex is that the Defense Department spends so much money. Money is power. With $80 billion, it has extended its influence into the very heart and mind of America. Millions of Americans owe their livelihood to the Defense Department and so do many thousands of contractors. Some completely depend on Pentagon contracts.

A triangular complex

Q. Is it just the military and industry?

A. It's a triangular figure—the Defense Department on one side, contractors on the other and, at the base, the funding agency, Congress.

Q. Is that all?

A. We have a closed cycle here, tied together by the fact that defense plant workers are also voters. This is the glue of it. And we're not talking only about laborers—but scientists, engineers, technicians, universities. It's a kind of second government.

Q. So what's wrong with it? Jobs are provided. Industry pays taxes, builds roads, etc.

A. The thing that is wrong is that we come to an arms economy. We become prisoners of the military. What happens when the fortunes of General Dynamics or Lockheed Aircraft start to sag?

Q. How does this affect social problems; the cities, for instance?

A. We have constantly deferred doing something about our cities. It's the old "guns-vs.-butter" argument, and we have allowed the butter to go rancid.

Q. Are you saying that the American defense industry and the U.S. economy depend on keeping the Cold War going?

A. I can't help but think that when you see full-page ads . . . on the latest missiles and bombers in the trade press, that this does have some effect on the Cold War. What really worries me is that if the aerospace industry gets into trouble, as it is now, that some of these people in the business may actually turn into being promoters of the Cold War.

Slaves to security

Q. Could we become a garrison state in which most of our money is devoted to arms? Could we one day have a military coup?

A. I don't think it's anything so dramatic as a military coup. I think it's more a question of our total program being nudged over by the military—unquestioning subservience to national security without asking what we get for it. No less an authority that Gen. Dwight D. Eisenhower raised the very issue of the military-industrial complex converting us into a kind of garrison state.

Q. What does this mean to the individual?

A. This eventually penetrates into the core of a person. It comes back to the whole question of the nature of our country—where we're moving—and should we not be spending more on the works of man, rather than the arts of destruction?

AMERICA'S MUSEUMS

Mr. PELL. Mr. President, I am pleased to invite the attention of the Senate to the publication of a report describing the needs and conditions of the museums in America. It is entitled "America's Museums: The Belmont Report." The message from this report comes through all too clearly: museums are in trouble. Stated simply, museums cannot afford to continue offering widespread cultural and educational services without Federal support.

The report grew out of the Federal Council on the Arts and Humanities' thorough study of the status of America's museums, their unmet needs, and their relationship to other educational and cultural institutions. Serving as Chairman of the Federal Council, S. Dillon Ripley called upon the American Association of Museums to assist in the study of these needs. The American Association of Museums appointed a distinguished special committee consisting of the following persons:

W. D. Frankforter, director, Grand Rapids Public Museum, Michigan.

Frank H. Hammond, director pro tem, American Association of Museums.

Louis C. Jones, director, New York State Historical Association, Cooperstown, N.Y.

Sherman Lee, director, the Cleveland Museum of Art.

George E. Lindsay, director, California Academy of Sciences, San Francisco.

Thomas M. Messer, director, the Solomon R. Guggenheim Museum, New York City.

Charles Parkhurst, director, the Baltimore Museum of Art, and former president of the American Association of Museums.

H. J. Swinney, director, the Adirondack Museum, Blue Mountain Lake, N.Y.

Frank A. Taylor, director, U.S. National Museum, Smithsonian Institution.

Evan H. Turner, director, Philadelphia Museum of Art.

Bradford Washburn, director, Museum of Science, Boston.

E. Leland Webber, director, Field Museum of Natural History, Chicago, and chairman, Committee on Museum Needs of the American Association of Museums.

John B. Davis, Jr., superintendent of schools, Minneapolis, Minn.

John R. Fleming, writer, Chevy Chase, Md.

Nancy Hanks, executive secretary, special studies, Rockefeller Bros. Fund, New York City.

J. Newton Hill, director, Karamu House, Cleveland, Ohio.

This committee met initially at Belmont House, Maryland, outside of Baltimore, to outline the general areas of museum needs and conditions in this community. The American Association of Museums committee continued gathering information and statistics throughout mid-1968. In the later part of 1968, it submitted a final document to the Federal Council. In turn, the Federal Council, then chaired by Roger Stevens, submitted its final report to President Johnson on November 25, 1968.

Basically, there are three types of museums; those specializing in art, those in history, and those in science. Nonprofit in nature, and charged with the responsibility of collecting, preserving, and exhibiting our Nation's treasures, museums have long served the public without adequate compensation. They have brought cultural and educational advantages to people of all ages. They have performed research for the scientific advancement of the entire Nation. They have preserved our cultural heritage, made it possible for us to study the past. In the past, the financial burdens of these important tasks have been borne by private citizens or local governments. The book, "America's Museums: The Belmont Report," explains that now the cost of these efforts have outstripped the abilities of private fortunes and local governments.

If all the museums in America were to close tomorrow, the public would soon be demanding to know something of our past, to see the objects which brought mankind to the present day. In a short time, we would be opening buildings for the very purposes that museums now serve. We would soon be training and hiring people to conserve these objects of art, history, and science and exhibit them for the public to see. The ever-increasing popularity of museums is witnessed by the fact that many of them have over 1,000,000 visitors per year. This is no mere fad. The growth in new museums and the expanding use of all museums has been continuing for years, and it continues because the public recognizes and demands their cultural, educational benefits.

However, these benefits cost money. With growth in popularity, the cost of museum services become more and more expensive. And it must be noted that it costs more to maintain exhibition space for 1,000,000 visitors than for 500,000, salaries are higher, more sophisticated humidity controls are needed, and of great importance, acquisition costs are higher. And these costs have grown as the financial base of museums has remained constant.

Much of what I have just related can be found in the letter which Roger Stevens wrote upon transmittal of the Belmont Report to President Johnson.

I ask unanimous consent that Mr. Stevens' letter, with its eloquent discussion of the report and the problems faced by our museums, be printed in the RECORD.

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

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES, FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES,
Washington, D.C., November 25, 1968.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: On behalf of the Federal Council on the Arts and the Humanities, I am privileged to forward you the enclosed report, "The Condition and Needs of America's Museums".

On June 20, 1967, you asked the Federal Council to study thoroughly the status of America's museums, to assess their present condition and unmet needs, to identify their relationship to other educational and cultural institutions, and to recommend ways to support and strengthen these unique repositories of scientific, artistic, and historical wealth.

The report was the subject of continuing discussions at quarterly meetings of the Federal Council and was the subject of many meetings of the Council's museum subcommittee. It drew upon the knowledge and insights of the most distinguished directors, curators and other museum professionals as well as educators, foundation officials, and public-spirited citizens. It drew, too, upon virtually all of the rather limited museum literature presently available. Given the limitation brought about by the shortage of relevant data, the Council believes the report to be the most comprehensive and significant assessment of America's museums presently available.

It is the view of this Council that the report documents the broad scope of museum services and makes it abundantly clear that the nation's museums play an authentic and major role in the nation's cultural and intellectual life. The report makes clear, too, that a pervasive and insistent financial crisis confronts these institutions.

A strong case can be made for federal support. It is in the national interest to protect our cultural heritage as other countries have effectively done for many years. Collectively the nation's museums preserve, exhibit, and interpret the irreplaceable treasures of America, and of man. Together with schools and libraries they represent the communities'—and the nation's—resources for educating tomorrow's citizens. If the present financial dilemma were not a source of serious concern, these functions of museums alone would commend a sustained federal interest to a nation increasingly concerned with the quality of our national life.

Faced, as are all of America's cultural institutions, with a demand for greater service to their community and nation and experiencing a relative decrease in traditional sources of funds, it is apparent on the basis of information presently available that additional resources will be required to meet these expanding demands, or in some cases, to prevent further reduction in existing services.

But a reduction of museum services at the very time when millions of Americans are looking eagerly to them—and to other cultural institutions—to give added dimension and meaning to their lives must not come about through inaction or inadvertence. Steps can be taken now to meet specific serious needs. Further steps should be taken in the near future to insure continuing support which will provide federal resources while encouraging increased support from traditional sources.

The Federal Council urges consideration of the following steps which may be taken now without major legislative change and within the framework of existing law:

1. A number of existing federal agencies, by outstanding authorizations, could make funds available for needs of museums directly. In the Council's judgment these programs would be effective temporarily in meeting such needs and would be in the public interest. While they are helpful, they lack the funds to make them fully effective. For example, the National Endowment for the Humanities conducts programs of museum internships and fellowships to increase the professional competence of museum professional staffs and through its research program, supports museum-based projects which will contribute to new knowledge in the humanities. The National Endowment for the Arts has conducted programs to disseminate art museum holdings to broader audiences, supported museum purchases of living American artists, and supported specific museum exhibitions. The Office of Education supports, through its Arts and Humanities Branch, museum programs which encourage and assist museums in performing better the educational function. The National Science Foundation has, as the report recognizes, been a leader in museum support, most of it in the form of awards for basic research but some for capital improvement. Yet the National Science Foundation could, with adequate funds, support a much broader spectrum of activities: research training and technical training programs, education, operational support, equipment and facilities. The full funding of such programs could have immediate beneficial impact on the nation's art, history and science museums, and the Council strongly urges such a step.

2. Under the authority of the National Museum Act the Smithsonian Institution is authorized to cooperate with museums and their professional organizations, to carry out programs of training for career employees in museum practices, to support museum publications, undertake research on the development of museum techniques and to cooperate with government agencies concerned with museums. Yet that authorization, approved in October, 1966, has not yet received any of the appropriations authorized for fiscal years 1968 and 1969. The Council recommends appropriations for fiscal year 1970 and subsequently.

3. Some federal agencies administer educational and cultural programs for which museums do not qualify as direct grantees. Although careful thought should be given to qualifying museums as direct grantees through amending present law, the Council believes that museums could, as indirect grantees, play a larger role than is presently given them and urges appropriate administrative directives to that end. The Council urges that efforts be made to extend to museums opportunities for equal participation in federally funded activities and that state educational agencies be urged to implement requirements for full compensation and effective joint planning under the Elementary and Secondary Education Act.

4. Careful consideration should be given to changes in the treatment of museums for tax purposes which would extend to them the benefits available to other educational institutions.

Beyond these immediate steps the Council believes the national interest requires major, comprehensive and sustained programs in support of the nation's museums. These programs should be directed particularly toward helping meet construction and operating costs and should be so designed that present sources of funds, both public and private, be not only continued at present

levels, but substantially increased through a matching program. Perhaps an amended Library Services and Construction Act would be an appropriate start. However, to achieve the goals mentioned in the report, significant amendment of existing law or entirely new legislation is required. The formulation of such legislative proposals is beyond the authority of the Federal Council, but the Council here notes its readiness to participate fully in any such work.

In addition the Council urges these further recommendations:

1. Because there presently exists no standards against which the all-around excellence of individual museums might be measured and since broad federal support such as that envisaged above should be restricted to those institutions which have attained a level of quality commensurate with accepted standards, the profession should be strongly urged to establish such standards throughout the museum field.

2. The report's description of museum functions and demands, its account of their present condition, and its identification of unmet needs should be of wide interest to the nation's museums, museum-goers, and those concerned with American culture. The Council recommends, therefore, that the report be widely circulated as a means of soliciting and focusing the views of all interested citizens. A broad critique of the report could initiate that extensive public dialogue which is essential to the responsible commitment of public funds.

Respectfully,

THE FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES.
ROGER L. STEVENS, *Chairman.*

Mr. PELL. Mr. President, public support on a national level is, therefore, needed to sustain many of America's finest museums. This report, "America's Museums: The Belmont Report," published by the American Association of Museums, provides us with the basis for providing this support. I urge my colleagues to review it. It will jar the complacent notion that we can take our museums for granted. It will make us realize, as I have come to realize, that museums are in great need of Federal help.

RESIDENCY REQUIREMENTS FOR PUBLIC ASSISTANCE

Mr. ALLEN. Mr. President, the U.S. Supreme Court has nullified the statutes of 40 States, including one in Alabama, which prescribe minimum residence requirements as a condition of eligibility for public assistance. The Supreme Court now asks the American people to believe that the Constitution of the United States not only guarantees every citizen a living at public expense but also that it creates a constitutionally protected right in an individual to pick and choose a place in which to draw benefits based on a consideration of which community offers the highest standard of living at public expense. This is a further effort to strike down State lines as well as States rights.

The Supreme Court may know, but it did not say, where the last decision will take us. On the other hand, Secretary Finch seems to know. The Washington Post of April 22, 1969, reported:

Secretary Robert H. Finch was quick to say the ruling advanced the drive for minimum welfare standards, a goal he has long favored and which he now considers "inevitable."

Mr. President, who is prepared to support with evidence the contention that national welfare standards are preferable to State selected standards? Who is prepared to say that no minimum residency requirement, as decreed by the Supreme Court, is preferable to a 12 months residence requirement as fixed by State legislatures? Who can reasonably claim to foresee the ultimate consequence of this last judicial decision?

In this connection I am reminded of an observation of Max Lerner who wrote:

Relative to our needs, understanding of the connection between action and result is rapidly deteriorating. We are being forced to formulate long-range policy as a response to present issues with little knowledge of where such decisions ultimately will take us.

These words could have been spoken to Congress. In any event, the observation is relevant to the present issue presented by the Supreme Court.

The result is that Congress must now undertake to formulate a realistic response to the problem. That means that Congress must discover the facts and try to anticipate the consequences without benefit of or resort to judicial sophistry and untenable arguments from negatives. If the U.S. Supreme Court continues to legislate, perhaps we ought to provide it with power to conduct hearings and to get the facts.

Mr. President, it is generally agreed that the decision establishes national policy and that such policy will have a tremendous impact on many communities throughout the Nation. Some State welfare budgets simply cannot absorb the additional cost. In some States the taxpaying public will be asked to assume an even heavier tax burden to meet the new obligation or in the alternative to spread its limited resources even thinner among needy and most deserving citizens of the State. In turn, it is reasonable to expect that such States and localities will raise a hue and cry for greater Federal financial assistance and, as anticipated by Secretary Finch, we can expect to hear anguished cries for the establishment of national minimum welfare standards to alleviate the effects of the policy.

Mr. President, if regional minimum welfare standards are established by Congress, it is almost certain that countless thousands of welfare "clients" will hit the road and set up camp in States where low cost of living will add to the purchasing power of welfare payments. Relatively lower costs of living is characteristic of States which can ill afford to assume the cost of additional welfare burdens. Under such circumstances we can expect to see persons living on public largess enjoying a higher standard of living than their next door neighbors who work and pay taxes and strive to support themselves and families.

Mr. President, this is a grave injustice, which gives rise to a concern that aggrieved taxpayers may mount a massive revolt against increased taxation even for needed and necessary services of State and local governments.

Before leaving the subject of possible consequences of the Supreme Court "no residency requirement" decree, we cannot avoid comment on the clear implication in the decision that the Court may next strike down State prescribed residency requirements for voting in elections. If that eventually comes to pass, we may well witness a return of the practice of transporting indigent voters from State to State and from jurisdiction to jurisdiction as a means of swinging closely contested elections. Such was the practice of previous national "reformers" in the South.

One last comment on this point: It is from the eminent historian Alexander Fraser Tytler, who wrote during the time when we were still colonies of Great Britain. In commenting on the fall of the Athenian Republic he said:

A democracy cannot exist as a permanent form of government. It can only exist until the voters discover they can vote themselves largess out of the public treasury. From that moment on, the majority always votes for the candidate promising benefits from the public treasury with the result that democracy always collapses over a loose fiscal policy, always to be followed by a dictatorship.

The same conclusions led Plutarch to say:

The real destroyer of the liberties of the people is he who spreads among them bounties, donations and benefits.

Mr. President, the American people for years have been complacent beyond anything I thought possible in the face of increased taxes. They have trusted institutions of Federal Government far beyond what I imagined possible in spite of repeated misgivings. But, Mr. President, the Supreme Court of the United States now seems to be deliberately thumbing its collective nose at the people. I believe that the people are about ready to say that they have had enough.

Mr. President, this last decision demonstrates once again the pressing need for judicial reforms. Such reforms must include, as a bare minimum, some sort of assurance that prospective Supreme Court Justices know the difference between legislative and judicial powers—that they accept the proposition that a Constitution is the law that governs government and that such law can not be changed except in the manner prescribed by the Constitution; and accordingly will agree not to exercise clear and unmistakable legislative powers, contrary to the law of the Constitution.

PROTECTION OF U.S. RECONNAISSANCE FLIGHTS

Mr. THURMOND. Mr. President, it is encouraging that the President has taken positive action to protect U.S. reconnaissance flights off North Korea. I heartily endorse the President's action to provide this combat patrol cover in the future. For the men who were lost and their families, however, I regret the protection was too late.

Mr. President, I also announced at the time that the United States should move with combat strength into the Sea of Japan. It is reassuring to learn that the President has issued such orders. It is my firm hope that Task Force 71 is instructed to retaliate in any future attack on any of our intelligence reconnaissance of North Korea. Immediate retaliation against the actual criminals when they

attack is the only way to stop this piracy. Our men must have unequivocal support wherever they serve. The loss of our 31 men is another bitter sorrow that has raised the anger and emotions of every red-blooded American.

It is my hope that the President's action will put a stop to these savage attacks in international space and in international waters. The President is to be congratulated for his calm, deliberate and measured reaction when the Nation's emotions are running high. A great nation cannot be guided by anger.

Mr. President, North Korea is one of the most belligerent Communist countries in the world. It is an outlaw government that respects neither international law nor international custom. North Korea is another country that looks to the Soviets for leadership and will cooperate with the Soviets' goal of Communist domination of the world. It has a large army and an effective air force. I am relieved that the President recognizes this threat and the cruel and irrational North Korea leaders. I hope our forces are prepared to deal with them on a moment's notice if they dare to venture another attack.

Mr. President, the day this atrocity was committed by North Korea, I made a press release which expressed my view of this shocking incident. I ask unanimous consent that my news release of April 15, 1969 be printed in the CONGRESSIONAL RECORD following my remarks.

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

A NEWS RELEASE FROM THE OFFICE OF U.S. SENATOR STROM THURMOND, REPUBLICAN OF SOUTH CAROLINA, APRIL 15, 1969

WASHINGTON, D.C.—North Korea's destruction of a U.S. Navy unarmed aircraft in the free skies over international waters is another act of dastardly aggression by the communists. The military power of the U.S. can no longer be made a mockery by North Korea. This malicious act in violation of international law cannot be accepted. It is time we use our power to protect our men and our national interests.

It is most disturbing to me that the United States did not provide fighter aircraft to protect this reconnaissance flight in such a sensitive area. Apparently, this Navy flight was a "flying Pueblo." I would think by this time that we would have learned a tragic lesson in dealing with North Korea which has been committing provocative acts of aggression for years against our forces and South Korea. I would like to know why this "flying Pueblo" was not protected.

I am hopeful that current search and rescue operations for the crew of 31 are successful. However, it is most distressing to learn that the U.S. is sending only one search aircraft and two destroyers for the search. The U.S. Navy and Air Force should move in appropriate strength to the Sea of Japan in search of the crew. It should be an all-out search with maximum combat forces. If North Korea attacks this rescue force, then our forces should be under orders to destroy all attackers.

THE DUBCEK OUSTER

Mr. THURMOND. Mr. President, 2 weeks ago I stood in the streets of Prague and watched the expressions on the faces of the Czechoslovak people, hungry for freedom. I said then that it was my hope that the Czechoslovak people would enjoy the same freedoms which we enjoy in the United States.

At that time, those of us in the delegation did not know that First Party Secretary Alexander Dubcek had already been designated to be removed from his office. That very day, Marshal of the Soviet Union, A. A. Gretchko, was in conference with Dubcek, giving him his orders from Moscow.

Dubcek was out, Gustav Husak was in. Stalinism was once more triumphant in Czechoslovakia, as it must be triumphant wherever communism exerts its rule. We did not know then nor did the world until the following week that Dubcek was being removed by Soviet orders, but it was obvious that Dubcek would remain in office only as long as the Soviets thought it necessary to exterminate all their opposition.

Mr. President, the State newspaper has ably summed up the contrast between Dubcek and Tito in their editorial "Goodbye to Dubcek." The State says:

Free inquiry must of necessity lead to rejection of Communism as a system of economics and it is this system on which the state is built. Tito, for all his corruption of Communist economics, has never been so foolish as to suggest that dangerous ideas should not be suppressed and their proponents punished.

This, in essence, sums up the meaning of communism and Soviet rule.

Mr. President, I ask unanimous consent to have printed in the RECORD the editorial entitled "Goodbye to Dubcek," published in The State for April 20, 1969.

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

GOODBYE TO DUBCEK

The Czech reformer, Mr. Alexander Dubcek, has been relieved of his public duties and now will have time, if he lives, to reflect on the error of his ways. Chief among his missteps, as Dubcek must recognize better than anyone else, was the attempt to mix oil and water—that is to say, Communism and freedom.

This is a nearly impossible task under the best conditions, and it was Dubcek's miscalculation to attempt it under the worst. Even had he been able to reconcile the contradictions at home, the Russians would have prevented it. They understand what Dubcek allowed himself to forget: To cure the disease of Communist totalitarianism is to kill the doctor.

Economists—even Communist economists—long have recognized the fallacy of Marxism and its Labor Theory of Value. Pure Marxism, which dismisses the function of profit, is incapable of assigning priorities to investment and disinvestment and consequently cannot work. But the pretense is maintained. It has to be maintained, for without the excuse of Marxist economics the need for state management ceases to exist.

This is fundamental to an understanding of why the most permissive Communist governments require rigid censorship. They may fudge on the economics of Communism—slyly instituting the profit motive by some other name, as in Yugoslavia, Romania and even the Soviet Union. But they cannot allow the unfettered freedom of speech and scholarship that free nations accept as a matter of course.

Add to this the danger that nationalism represents to Moscow's military complex in Eastern Europe and it is easy to see why Dubcek failed. He was doomed from the start. As long as the Western nations keep hands off the satellites—which is likely to be a good, long while—the Russians always will snuff out such rebellions as jeopardize the purity of fictive Communism among the Soviet dependents.

Optimism was sustained in Dubcek's case only because of the failure in the West to understand or accept the necessarily repressive nature of Communism. It was thought that Czech Communism could be liberalized, the press unshackled, scholars cut loose from their straitjackets, critics set free to probe the Marxist superstition. This appears to have been Dubcek's misapprehension, too, although in the early stages of reform he was moved to warn against any attempt to challenge the Communist theology.

This very warning underscores the Dubcek error. Free inquiry must of necessity lead to rejection of Communism as a system of economics, and it is this system on which the state is built. Tito, for all his corruption of Communist economics, has never been so foolish as to suggest that dangerous ideas should not be suppressed and their proponents punished.

Tito has survived. Dubeck has not. And free men will contemplate this lesson in survival without enjoyment.

THE OTEPKA APPOINTMENT

Mr. THURMOND. Mr. President, in recent weeks, the New York Times has published three articles and editorial attacking the judgment of President Nixon in appointing Otto Otepka to the Subversives Activities Control Board.

While everyone has a right to an opinion on this topic, the New York Times has been less than candid in acknowledging its own conflict of interest in this affair. Readers who read the recent editorial attacking Mr. Otepka's integrity would have found no clue indicating that one of the principal names in the Otepka case was printed at the top of the newspaper masthead. I am referring, of course, to Mr. Harding F. Bancroft, executive vice president of the New York Times.

Mr. Bancroft's name was one of six individuals submitted to Mr. Otepka for evaluation from a security and suitability standpoint. His name was among those who were judged to require further investigation under law and regulations before the appointment could be made. In other words, because of certain material of a security nature which Mr. Otepka found in their files, the regulations of the State Department under Executive Order No. 10450 required that a full investigation would be necessary. This is not to say that Mr. Otepka labeled Mr. Bancroft as a security risk or made any allegations whatsoever about his character. He merely said that the same regulations should apply to Mr. Bancroft as would apply to any other citizen of the United States under such circumstances.

Instead of accepting Mr. Otepka's recommendation, the State Department chose to appoint Mr. Bancroft on a waiver, thereby taking the case out of Mr. Otepka's hands. This action later became a central issue in Mr. Otepka's testimony before the Senate Internal Se-

curity Subcommittee when he cited it as an example of declining respect for security regulations. When his superiors denied that this action had been taken, Mr. Otepka furnished for the subcommittee his memorandum protesting the waivers as evidence that his superiors had lied.

Today we find, then, that Mr. Bancroft is now the executive vice president of the newspaper which is leading the attack against Mr. Otepka. I repeat that Mr. Otepka never attacked Mr. Bancroft but merely said he should be subject to the same security regulations as any other U.S. citizen. Now, 8 years later, Mr. Bancroft's newspaper is leading the vendetta against Mr. Otepka. It is hard to believe that there is not some element of retaliation in this instance.

It is also interesting that Mr. Bancroft's expressed views on security were contrary to the security policies under which Mr. Otepka was operating. After Mr. Bancroft was hired on the basis of a security waiver, he participated in a report for the State Department, recommending that U.S. citizens employed by the United Nations should not be made the subject of regular security precautions. The report of this Commission also became one of the cases investigated by the Senate Internal Security Subcommittee as evidence of the degenerating security system at the State Department.

Mr. President, I ask unanimous consent that pertinent excerpts from the published testimony before the Senate Internal Security Subcommittee be printed in the RECORD at the conclusion of my remarks. I also ask unanimous consent that two columns by Paul Scott reporting on Mr. Bancroft and the New York Times campaign be printed in the RECORD at the conclusion of my remarks.

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

(See exhibits 1, 2, 3, 4, 5, 6, 7, 8, and 9.)

EXHIBIT 1

STATE DEPARTMENT INTERNAL CORRESPONDENCE LEADING UP TO ISSUANCE OF SECURITY WAIVERS FOR HARDING BANCROFT, ET AL.

DEPARTMENT OF STATE, REFERENCE SLIP, FEBRUARY 4, 1963

Office of the Deputy Assistant Secretary for Security

Routing: Mr. Otepka.

Subject: Loyalty Investigation of U.S. Citizens Employed by International Organizations.

Would you look into this please and may I have your views by February 8?

Attachment: Copy of MEMO FOR OIA—Mr. Hefner re subj dtd 1–27–63.

From: John F. Reilly.

JANUARY 27, 1963.

Memorandum for: OIA—Mr. Hefner.

Subject: Loyalty Investigations of U.S. Citizens Employed by International Organizations.

It seem to me the subcommittee has made a sufficiently strong case for changing the policy on loyalty investigations, to justify our pushing right ahead with a recommendation for the change.

I take it that the essential change (to provide that non-professional employees, employees in P–1 slots, and persons employed for less than two years, should be cleared on the basis of a check without full field investigation) could be accomplished through a change in the Executive Order without a change in basic legislation involved. This would also be true of the other recommendation, that professional employees be cleared, with a full field investigation *after* they have been hired, could also be done by Executive Order, but I doubt if we would want to do this without full consultation on the Hill, notably with Senator Stennis.

You already have the original of a memorandum from the Legal Adviser. Would you please work with L in developing a recommendation to the Secretary, which should also be cleared with Mr. Orrick and Mr. Dutton?

IO—HARLAN CLEVELAND.

CC: Mr. Wallner
Mr. Gardner
Mr. Chayes
Mr. Orrick
Mr. Dutton

FEBRUARY 8, 1963.

Mr. REILLY: As requested by you, I have looked into this matter fully and have obtained significant information which I am ready to discuss with you today at your convenience. (I wil be at an ICIS meeting in Justice from approximately 1:45 p.m. to 4:00 p.m.)

OTTO F. OTEPKA.

Attachments:

1. Copy of Memorandum for OIA—Mr. Hefner re Loyalty Investigations by International Organizations, dated January 27, 1963

2. Mr. Reilly's chit to Mr. Otepka of Feb. 4, 1963

[Confidential]

SEPTEMBER 17, 1962.

IO—Mr. George M. Czayo

O/SY—John F. Reilly [initialed J.F.R. in ink].

Processing of Appointments of Members of the Advisory Committee on International Organization Staffing.

Reference your memorandum of July 6, 1962 which furnished a copy of Mr. Harlan Cleveland's memorandum dated July 3, 1962 to Under Secretary Ball describing a proposal to establish an advisory committee that would undertake a study with respect to fiscal policy and staffing of international organizations. Mr. Cleveland's memorandum expressed his concern that posts available to the United States and to other non-Communist countries in the UN agencies be properly staffed in order to effectively combat Soviet subversive designs on those agencies.

In a memorandum dated August 7, 1962 addressed to PER–EMD—Mr. Simpson (copy to SY) you requested that the proposed members of the Committee be entered on duty as employees by a security waiver and indicated that each proposed member would comply with the Department's regulations by supplying completed processing forms.

As of this date full security clearances have been issued for Arthur Larson and Francis O. Wilcox. Mr. Sol Linowitz's will also be issued shortly. As to the others, forms have been received for all except Harding Bancroft, Joseph Pois and Karney Brasfield which, it is understood, are forthcoming.

Mr. William H. Orrick, Jr., Deputy Under Secretary for Administration, has issued a memorandum expressing his reluctance to recommend to the Secretary that he sign any further waiver unless there was a genuine urgency and an ample justification for the person's services.

In view of the fact that the full Committee shall not meet again until sometime in November and that five of the individuals proposed for membership on the committee have data in their files developed by prior investigation that is not entirely favorable, I am not recommending that waivers be granted.

O/SY: DIBelisle [initialed in ink]: mc Dist.:
Orig & 1 addressee
cc subjectfile
cc chron cc OFO chron

EXHIBIT No. I–a

[Handwritten note at top of memo: "Sent to Reilly for signature, 9/13/62."]

IO—Mr. George M. Czayo

O/SY—John F. Reilly

Processing of Appointments of Members of the Advisory Committee on International Organization Staffing

Reference is made to your initial memorandum of July 6, 1962, addressed to SY—Mr. Otepka with which you furnished a copy of Mr. Harlan Cleveland's memorandum dated July 3, 1962, to Under Secretary Ball describing a proposal to establish an advisory committee that would undertake a study extending over a period of about six months with respect to fiscal policy and staffing of international organizations. I have particularly noted in Mr. Cleveland's memorandum his concern that posts available to the United States and to other non-Communist countries in the U.N. agencies be properly staffed in order to effectively combat Soviet subversive designs on those agencies.

In your initial memorandum you indicated that the members of the committee would need to be appointed to the Department as Consultants and each would require a security clearance predicated on a full field investigation. Also, you requested a security clearance to allow the proposed members to participate in the first meeting of the committee to be held on July 25, 1962 in which classified data would be discussed. With the understanding that the participants (except those who were already State Department employees) would have controlled access to classified data through Secret as necessary for the meeting and with the further understanding that the services they contributed would not then constitute employment by the Department, SY granted an "access" clearance to these participants. Subsequently, these and other proposed members of the committee were granted the same level of clearance by SY for a second meeting in the terms of the same understanding as for the first meeting. Such clearances are permitted by Section 7, E. O. 10501 for persons not actually employed by the Federal Government who may need to be consulted occasionally in some specialized field.

In a second memorandum dated August 7, 1962 addressed by you to PER/EMD—Mr. Simpson (copy to SY) you requested that the proposed members of the committee be entered on duty as employees by a security waiver (i.e. an emergency clearance signed by the Secretary pursuant to 3 FAM 1914.2). You indicated that each proposed member would comply with the Department's regulations by supplying completed processing forms (applications for employment, security questionnaires, fingerprint charts, etc.).

In résumé, as of this date full security clearances under E. O. 10450 for employment in sensitive positions have been issued by SY to PER/EMD for Arthur Larson and Francis O. Wilcox. Their security history satisfied the requirements of E. O. 10450 without the necessity of either person furnishing any processing forms for SY use and without resorting to a waiver. As to the others, forms have been received for all except Harding Bancroft, Joseph Pois and Karney Brasfield which, it is understood, are forthcoming.

I have been informed that the full committee shall not meet again until some time in November. I share Mr. Cleveland's concern with regard to one objective to be achieved from the committee's study, namely, the defeat or minimising of Soviet subversive tactics. For these and the following reasons I would like to urge you to withdraw your request for a security waiver:

1. An emergency clearance does not allow SY to take the maximum precautions prescribed by regulations for the security of the Department's operations. When a person is permitted to occupy a sensitive position before he is adequately investigated and where

he must have access to highly classified information in the course of his duties, post appointment investigations may develop derogatory information thereby creating a question as to whether the Department's security interests have been damaged by disclosing vital data to a potentially undesirable person.

2. The frequent, and perhaps excessive use in the recent past of emergency clearances for officer personnel caused Mr. Orrick to issue a memorandum clearly expressing his reluctance to recommend to the Secretary that he sign any further waiver unless there was a genuine urgency and an ample justification for the person's services.

3. Five of the individuals proposed for membership on the committee have data in their files developed by prior investigations that is not entirely favorable. These investigations are either not current or are incomplete, or both. On the basis of the provisions in E. O. 10450, some, if not all of this information must be carefully reconsidered under a broad security standard which can best be done if a supplementary and current investigation is completed before those persons enter on duty as employees.

4. SY believes that if the meetings of the committee are not to be resumed until November we can provide the necessary investigation of each case that should fully resolve any presently existing question. We cannot, of course, predict the final outcome, but we believe it is not in the Department's best interest to "invite" any derogatory case into the Department before a full investigation has been completed and an impartial and thorough assessment has been made based on all of the facts.

5. SY is prepared soon to add the full clearance of Sol Linowitz to those granted to Mr. Larson and Mr. Wilcox.

Distribution:
Orig and 1 addressee
cc—chron file
cc—subject file
cc—chron file (Mr. Reilly's)
O/SY/E:OFOtepka:ebp, 9–13–62.

EXHIBIT No. I-b

DEPARTMENT OF STATE REFERENCE SLIP, SEPTEMBER 13, 1962

To: Mr. Belisle [initial in ink].
Mr. Reilly.
[for] (X) Approval. (X) Signature.
Remarks or additional routing:

Dave, re your note appended to my memorandum of September 10, 1962 as result of my conversation with Czayo who said committee would not meet again until November, I prepared a memorandum from JFR to Czayo which I think will dispense with the necessity of taking this up with Orrick along the lines you suggested.

Attachment: Suggested memorandum to Mr. Czayo drftd. by Mr. Otepka.

OTTO F. OTEPKA.

EXHIBIT No. I–c

Handwritten memo to Mr. Otepka:

OTTO: Pls. prepare a memo for Mr. Orrick relating the reasons for our recommendations that we not grant the waiver.

You will have to summarize the info rather than referring to the Tabs.

Suggest you follow this procedure rather than the memo from SY/E to SY. This will eliminate unnecessary typing and work on your part.

/s/ BELISLE.

9–11–62.

Handwritten marginal note: "Not necessary. See subsequent memo to IO. Czayo. OFO 9/13/62"

EXHIBIT No. I–d

Handwritten memo on margin of copy sheet.

3x5 "chit," handwritten, from Belisle to Reilly re Otepka's draft of 9/13/62.

JACK: I agree with the conclusions—however, we sure go thru a h—l of a lot of words. If you concur, I'm going to start knocking these down—short and concise.

/s/ D.

Handwritten memo on bottom of copy sheet: "Reilly's note said 'I agree. Let's start with this one'."

EXHIBIT No. I–e

Department of State, Washington.
Interdepartmental Reference.
Referred to: Otto, Office of Security, Division of Evaluations, September 20, 1964.
Comments: I am returning your orig along with copy sent to rewrite.

Please make memos short—concise and to the point. Your orig was too verbose and contained too much detail.

/s/ BELISLE.

EXHIBIT No. I–f

[Confidential]

SEPTEMBER 10, 1962.

O/SY—Mr. John F. Reilly.
SY/E—Otto F. Otepka—F [initialed in ink]

Francis O. Wilcox, Arthur Larson, Lawrence Finkelstein, Marshall D. Shulman, Andrew Cordier, Ernest Gross, Harding Bancroft, Sol Linowitz.

On August 7, 1962, IO—Mr. Czayo submitted a request to PER/EMD concerning emergency clearance for each of the above individuals pursuant to 3 FAM 1914.2 indicating therein that immediate interim clearance be processed for Shulman and Finkelstein and that subsequent requests for emergency clearance would follow for the others. PER/EMD forwarded Mr. Czayo's memorandum to SY on August 8, 1962 accompanied by a specific request for an immediate "waiver" on Shulman and Finkelstein.

Acting on the basis of information provided by IO that it was necessary for Assistant Secretary Cleveland urgently to utilize Wilcox, Larson, Finkelstein, Shulman, Cordier, and Gross on the Advisory Committee on International Organization Staffing with the understanding that they (a) would have only limited and controlled access to certain data relating to these operations (b) would not enter into any formal employment relationship and (c) would not be compensated for their services, SY granted those six persons *clearances for access* to classified data through Secret (as permitted by Section 7, E. O. 10501) to enable them to participate in two initial meetings of the Committee. It was stated by IO that formal employment of these persons would take place at a later date.

In the meantime SY continued to process the usual preliminary inquiries which are conducted on proposed emergency appointees. While these were in process Mr. Orrick issued his memorandum of August 21, 1962 expressing his reluctance to further recommend any emergency clearance to the Secretary unless amply justified and also indicating that he would insist on full field investigations, including completion of processing forms and personal interviews, before a clearance would be granted for employment in a sensitive position.

I have examined the SY files and other records on all of the eight individuals. I found that the investigative and clearance data in the cases of Wilcox and Larson is adequate to issue a full security clearance without further investigation and without these persons having to submit SF–86 and SF–87. I am concerned, however, with the others on whom I submit the following résumé:

LAWRENCE FINKELSTEIN

There was no pertinent derogatory information developed in the preliminary checks. However, it was revealed Finkelstein was a research employee of the Institute of Pacific Relations (1949–51) and a contributor to its publications. At that time the IPR was under active investigation by the Senate Internal Security Subcommittee. Though not a Communist organization, subject's activities on behalf of the IPR should bear scrutiny before (not *after*) appointment to determine if subject was under the influence of the inner core directorate of IPR whom the Internal Security Subcommittee found to be Communist or pro-Communist. [One sentence deleted: reference to medical record.]

There is only meager investigative history regarding Finkelstein.

MARSHALL D. SHULMAN

Shulman was considered for an emergency appointment in January 1958. Pertinent information regarding this proposal is set forth in the underlying Tab A. Other significant information appears as Tab B. SY was informed by SCA in February 1958 that Mr. Shulman "was not available for appointment." In November 1961 S/S reviewed Shulman's SY file following a request that an inquiry be initiated by SY with respect to the proposed appointment of Shulman as a Consultant to Under Secretary Ball. On November 13, 1961 S/S informed SY it would have no immediate use for Shulman's services.

I do not recommend the emergency clearance of Shulman. It is my view he should be thoroughly investigated prior to appointment for the reasons indicated in Tab A.

ANDREW CORDIER

Cordier was employed by the UN from 1946 to 1961. He was Executive Assistant to Secretary General of the UN, Dag Hammarskjold, from 1957 until the latter's death in 1961. Cordier then retired from the UN. Cordier was cleared by the Civil Service Commission under E. O. 10422 in 1953 after appropriate investigation conducted under the provisions of that Executive Order. A summary of the investigative data developed appears in underlying Tab C. Following that investigation Povl Bang-Jensen, a Danish employee of the UN, accused Cordier of pro-Soviet views and charged that Cordier brought about his (Bang-Jensen's) dismissal by the UN because Bang Jensen refused to turn over the names of Hungarian Freedom Fighters to the UN where the Soviets would have access to them. Bang-Jensen later was found dead under mysterious circumstances in Central Park, New York City. In 1960 the Senate Internal Security Subcommittee published a report on the Bang-Jensen case which prominently mentioned Cordier. Detailed information about Cordier is in the Bang-Jensen file and this data needs to be fully coordinated with the SY file on Cordier.

I do not recommend the emergency clearance of Cordier. His SY file together with the findings of the Internal Security Subcommittee reflects far too many unresolved matters which in the best interests of the Department should be clarified before his appointment.

ERNEST GROSS

Gross is a former Presidential appointee having served as a U.S. Delegate to UNGA, successively in 1950–53. He served the Department in other high capacities from 1946 to 1949. He was cleared for those appointments under the then existing standards. He has not been investigated since 1953. In 1958 Gross became employed as a legal adviser to Secretary General Dag Hammarskjold of the UN and reportedly represented the Secretary General in the Bang-Jensen matter. In 1958 Bang-Jensen asserted Gross was friendly with Alger Hiss. There is no pertinent data in SY files explaining the significance of this information.

I recommend that the foregoing matters reagrding Gross be clarified by investigation before he re-enters on duty in the Department of State in a sensitive position.

HARDING BANCROFT

Bancroft is a former employee of the Department. He left in 1953 when he accepted an appointment in Geneva with the International Labor Organization. He was considered for reappointment to the Department in 1955 at which time his case came up for readjudication under the standard of E. O. 10450 in connection with his re-employment rights. The case was closed without decision when Bancroft failed to exercise his re-employment rights. A rough draft summary prepared at that time (Tab D) covers the substantive data in his file. He has not been investigated since 1954.

On the basis of the above information I recommend a supplementary investigation under E. O. 10450 before Bancroft is reemployed by the Department.

SOL LINOWITZ

There is no previous investigative data on Linowitz in SY files. Preliminary record checks in files of other agencies are pending.

Unless IO submits a justification indicating that Linowitz's services are essential to the immediate needs of the Committee I would feel that he should be investigated before appointment and according to the terms specified in Mr. Orrick's memorandum of August 21, 1962.

I discussed with Mr. Czayo on September 6, 1962 the provisions in Mr. Orrick's memorandum of August 21, 1962 and also pointed out to him generally the difficulty for SY in rendering judgment for an interim security clearance in the cases of Finkelstein, Shulman, Cordier, Bancroft, and Gross where there is unresolved derogatory information. I said that in such cases there are far more problems generated in attempting to clarify the information after appointment than there would occur if the Department carried out the requirements prescribed by its regulations, i.e., assuring the maximum security of its operations and personnel by obtaining current and satisfactory full field investigations before appointment.

I told Mr. Czayo that the substantive data in the five cases (Finkelstein, Shulman, Cordier, Gross and Bancroft) would be brought to Mr. Orrick's attention and suggested that perhaps Mr. Cleveland might wish to discuss them with Mr. Orrick to determine whether the investigations should proceed on a preappointment or post appointment basis in the light of the urgency of the needs of the Department in regard to the functions of the Advisory Committee on International Organization Staffing.

You may wish, therefore, to bring this matter to Mr. Orrick's attention orally. If more written staffing data is desired please let me know.

Attachments: A, B, C, and D.

(EDITOR'S NOTE.—Attachments not printed because they were not furnished.)

AUGUST 7, 1962.

Memorandum: EMD—Mr. Simpson.
(Attention: Mrs. Selvig).
Subject: Request for Waiver, Advisory Committee on International Organization Staffing: Ernest A. Gross, Marshall D. Shulman, Andrew W. Cordier, Harding Bancroft, Lawrence Finkelstein, Francis O. Wilcox, Arthur Larson.

Assistant Secretary Harlan Cleveland, with the concurrence of Mr. Ball and after general discussion with the Bureau of the Budget has initiated a management study on the strengthening U.S. influence in the financial management and staffing policies of international organizations. A survey staff, composed of AID, Bureau of the Budget, and State employees, headquartered in the New State Building, are responsible for fact-finding, analysis and preparation of recommendations. An advisory group of private citizens will come in from time to time for consultations and meetings relative to United States strategy in the United Nations.

The first meeting of the advisory group took place on July 25, 1962, and access clearance was granted for this meeting. It is Mr. Cleveland's desire to employ the individuals who comprise the advisory group as either WOC or WAE consultants, depending on the amount of the allocation the Department of State will receive from the Management Improvement Appropriation. This will be determined when the position descriptions are prepared and formal request for employment made on DS–1031.

Mr. Otepka's memorandum of August 1, 1962, a copy of which was sent to your office, indicates that no investigation is required of two of the members—Francis O. Wilcox and Arthur Larson.

I understand that security clearance is in process on Marshall D. Shulman at the request of INR, who intend to appoint Mr. Shulman as Consultant. Completed employment forms are attached herewith for Lawrence Finkelstein. I request that a security waiver be processed for these two in order that they may be cleared for a series of meetings which are planned for early September.

We have sent employment forms to Ernest Gross, Andrew Cordier and Harding Bancroft and will forward them to you as soon as they are received with a similar request for security waiver. Access clearance for the July meeting was not granted Harding Bancroft because he was in Europe and was not available for that meeting.

IO—GEORGE M. CZAYO.

EXHIBIT 2

EXCERPTS FROM REPORT PREPARED BY HARDING BANCROFT, ET AL., RECOMMENDING REDUCED SECURITY REQUIREMENTS FOR U.S. CITIZENS EMPLOYED AT U.N.

Senator DIRKSEN. Then without objection and by agreement, this copy which has been authenticated by Mr. Reilly will be made a part of the record, as previously ordered.

Mr. SOURWINE. Thank you, Senator.

(Editor's note: The document referred to above is a report (with a foreword) of the Advisory Committee on Management Improvement, dated March 1963, on the subject of "Staffing of International Organizations," which bears the date of February 19, 1963. At the beginning of this report is a short "Foreword" apparently signed by 12 members of the Advisory Committee. The cover page bears the date of March 1963. On top of this were three pages captioned "Staffing International Organizations Summary of Recommendations," and bearing the date of February 25, 1963. All portions of the document, in the order in which they were stapled together when received by the subcommittee, are reproduced here.)

STAFFING INTERNATIONAL ORGANIZATIONS

Summary of recommendations

1. The United States should alter its attitude toward the staffing of international organizations which has been, during a period of time, somewhat laissez faire to one of objective alertness. It has an obligation under the U.N. Charter to seek to improve the quality of personnel and of personnel administration in the international agencies.

2. The President should announce a policy in respect to staffing of international organizations which envisions much fuller use of all U.S. Government departments and private organizations in this effort. The policy statement should be accompanied by a move to set up a U.S. Government Advisory Council composed of representatives of private agencies in the fields of international relations, education, business, labor, and agriculture to support Government efforts to nominate highly qualified personnel for this purpose.

3. It is recommended that the position of Special Assistant to the Assistant Secretary for International Organization Affairs be set up with the function of developing and directing the execution of a single U.S. recruiting policy utilizing all appropriate Government resources and available private resources. The incumbent of this position would serve as a central information and record point, would evaluate the effectiveness of U.S. recruiting efforts, and would coordinate the efforts of U.S. missions abroad. Actual recruitment would be decentralized to U.S. Government agencies which are counterparts of the U.N. agencies. In those cases where counterpart U.S. agencies do not exist, responsibility for recruitment should rest with an international recruiting service within the State Department. A. U.S. Government coordinating committee for international recruitment should be formed to facilitate access to the total personnel operations of the Government, as needed.

4. To serve total U.S. purposes, arrangements should be made to facilitate the cooperative use of AID and State of the U.S. AID recruiting and placement mechanisms for bilateral aid and the counterpart U.S. mechanisms for multilateral aid. The needs of both organizations can be met more expeditiously by full cooperation and there should be a definite U.S. policy that promotes the idea the service in either multilateral or bilateral aid organizations is a part of the career ladder for all U.S. technical assistance personnel.

5. It is recommended that Executive Order 10422 be amended to eliminate the requirement for a full field investigation for U.S. citizens recommended for employment through the P–1 grade and for all persons of any grade being considered for employment for a period of 2 years or less and that only a national agency check be used for those people. A full field investigation after employment is recommended for those above the P–1 level being considered for extended employment. The national agency checks would be completed, however, before U.S. citizens are recommended for employment by international agencies. No clearance procedure should be required for U.S. Federal Government employees who have been cleared and are in good standing in their agencies. Funds for all such checks and investigations should be appropriated to the Department of State and it should be permitted to use any investigative agency it chooses.

6. The United States should sponsor a study of emoluments for U.S. and U.N. personnel serving in headquarters overseas and in technical assistance positions in order to establish comparability of information for employment purposes. In addition, the United States should sponsor a coordinated policy for emoluments for all U.N. agency personnel, including the International Monetary Fund and the World Bank.

7. In order to perform the job of staffing international organizations more expeditiously, the United States needs regular and nearly uniform information on the vacancy situation. The obtaining of vacancy information should be incorporated in the reporting instructions to be issued to U.S. missions to international agency headquarters.

8. It is recommended that a current directory of U.S. personnel serving in international organizations be maintained by the International Recruitment Service in the Department of State. The maintenance of such a directory will serve a variety of useful purposes.

9. In its general recruitment procedure the U.S. Government should pay particular attention to the recruitment of junior officers to the extent that career opportunities for them in international service are known to exist.

10. It is recommended that amendment to Public Law 85–795 be sought to permit as-

signment of Foreign Service officers to international organizations when appropriate, and that the necessary administrative steps be taken to facilitate assignments.

11. The United States should adopt a program of orientation for U.S. personnel selected for service in international organizations. This program should deal with the importance which the United States attaches to their assignments and with the favorable influence which effective international service can have on the U.S. posture in the international scene.

12. It is both desirable and proper that U.S. missions overseas and in New York accord appropriate recognition to American nationals who are contributing to international amity through service in international organizations.

13. There is need for all U.S. agencies concerned with the activities of international organizations to contribute to the identification of major posts. Those are not necessarily the highest ranking positions but include those posts which are concerned with the development of policy and program, which require superior technical capacity and initiative, and which require ability to contribute to the solution of complex problems of general administration. A special responsibility devolves upon U.S. missions to headquarters of the U.N. agencies to give this advice on a continuing basis.

14. It is recommended that the Department revise standing instructions to missions to international organizations to include an assignment of responsibility in the area of staffing and personnel administration and to provide that the responsibility be placed with a single top level officer in the mission. In connection with this role, the U.S. mission should be given the responsibility for identifying well-qualified foreign nationals for service in international organizations.

15. Appropriate efforts should be made from time to time to inform the American public of the importance the U.S. Government attaches to service in international organizations.

A Report of the Advisory Committee on Management Improvement to the Assistant Secretary of State for International Organization Affairs, March 1963

FOREWORD

In his report of June 25, 1962, to the 87th Congress on U.S. contributions to international organizations, estimated at about $312 million for the 1962 fiscal year, the Acting Secretary of State pointed out that:

"The United Nations and the other organizations and programs to which the United States contributes carry out activities which support one or both of the basic aims of U.S. foreign policy: First, the promotion of peace and security; second, the promotion of economic and social growth, which may well be one of the best ways to achieve peace and security in the long run.

"The concept of multilateral cooperation and action has been actively supported by the United States as one of several means of achieving a better world in which to live. These international organizations, most of which were established after World War II, are emerging from their infancy and are gradually gaining the capability to handle international tasks of greater dimensions. Their capacity to act benefits both the United States and the rest of the world."

It is against this background of the traditional and whole-hearted U.S. support of international organizations and of the potentiality of these organizations that the Advisory Committee on Management improvement makes this report on staffing.

As the responsibilities of the international organizations increase in quantity, complexity, and significance, the greater becomes the need for an active concern about improving the human resources which the organizations require to carry out their tasks. How can the best qualified and best trained persons be obtained? How can the most effective personnel management be accomplished? Such a concern, motivated by a genuine desire for effective multilateral machinery, must be worldwide, and those member states which are committed in fact to making it possible for international organizations to meet the challenge they face, should lead the way. The Advisory Committee, therefore, believes that the United States must extend its historic policy of political and financial support to include support for improving the quality and management of the staffs of international organizations. It believes, also, that this country can and should do more to discharge its own responsibility to make available highly qualified candidates as they may be required and to encourage specific improvements in personnel administration. The following report is directed toward these ends.

Harding F. Bancroft, Karney Brasfield, Andrew Cordier, Lawrence S. Finkelstein, Ernest A. Gross, Arthur Larson, Sol M. Linowitz, Joseph Pois, Marshall D. Shulman, Francis O. Wilcox, John W. Macy, Jr., Robert Amory.

Staffing International Organizations

* * * * *

6. GOVERNMENT CLEARANCE OF CANDIDATES FOR INTERNATIONAL ORGANIZATION EMPLOYMENT

Under Executive orders a loyalty clearance on the basis of a full field investigation is required for all U.S. citizens considered for employment by international organizations. Investigations are made by the Civil Service Commission with referral to the FBI when loyalty information is uncovered. Findings are reviewed by a loyalty board in the Commission and advisory opinions are furnished the international organizations through the State Department. Started in 1953 the program has cost $5.2 million. It has resulted in the denial of employment to 5 persons and in the termination of 11 persons employed at the outset of the program because of adverse loyalty findings. In addition, suitability information secured during investigations which might affect employment is called to the attention of the organizations, although this is not provided for by the Executive order. The number of candidates not selected for suitability reasons is unknown.

The Committe has taken note of the fact that this domestic clearance requirement is operating to prevent the selection of well-qualified Americans for international organization posts. Time is the most important factor. Faced with a choice, for example, an international organization is likely to select an immediately available foreigner in preference to an American who perhaps will be given a clearance by his Government after an investigation of several months. Many Americans, moreover, cannot remain candidates for an indefinite period while the clearance process takes place. The Committee believes a screening program should be continued, but that it should be put on a par with that now in effect for Government employees. It must be recognized, moreover, that the sensitivity aspects of U.S. agencies are not present in the case of international organizations, that international organizations generally require a probationary period of service for extended appointments and that employment may be terminated for cause.

The Committee recommends that the Executive order be amended to require a national agency check only (not a full field investigation) for persons considered for nonprofessional employment, for the P–1 grade, and for persons at any grade being considered for employment for a period of 2 years or less.

There would be a full investigation for those in the professional categories above the P–1 level being considered for extended employment, but it could be made after employment. The record checks, however, would be completed before the persons were recommended for employment. No clearance procedure should be required in the case of a Federal Government employee who has been investigated and cleared and is in good standing in his agency.

The substantial savings that will result from these modifications of the clearance process should be used to permit advance national agency and reference checks of potential candidates.

The Committee also believes that it should be possible to use whatever Federal investigative agency can most expeditiously make a full field investigation at a particular time, rather than relying solely on the Civil Service Commission, and that the method of funding should be changed so that the State Department obtains funds and reimburses the investigative agency.

EXHIBIT 3

Testimony of John F. Reilly, April 30, 1963, Relating to Proposals of Harding Bancroft, et al., To Reduce Security Requirements for U.S. Citizens Employed at U.N.

Mr. Sourwine. Are you familiar with the demand for elimination of the United Nations clearance procedure that was made by Leonard Boudin in his capacity as counsel for the Emergency Civil Liberties Committee?

Mr. Reilly. I have seen the—I believe there was a letter to the New York Times.

Mr. Sourwine. Yes.

Mr. Reilly. Yes, I have seen this letter.

Mr. Sourwine. Mr. Chairman, I do not have that letter with me but may I ask that a copy of it go in the record at this point?

Senator Dodd. Yes, without objection, so ordered.

(The letter referred to follows:)

"[From the New York Times, July 30, 1962, p. 22]

"SCREENING U.N. EMPLOYEES

"McCarran committee's authority over Americans challenged

"To the Editor of the New York Times:

"In an otherwise excellent story published July 15, 'U.N.'s Fiscal Plight,' Thomas J. Hamilton seriously errs in referring to '11 American members of the United Nations who had been dismissed on charges of disloyalty to the United States.'

"These staff officials, some of whom I represented as counsel had been dismissed as a result of U.S. governmental pressure when they declined, under the first and fifth amendments, to answer questions put by the McCarran Internal Security Subcommittee.

"Both the validity and propriety of the committee's authority were most doubtful in view of the independence of the international Secretariat and the total lack of legislative purpose. Nevertheless, yielding to manifest political discretion, the first Secretary General dismissed these staff officials and the second preferred to pay damages rather than comply with the U.N.'s administrative tribunal's decision that the staff had been unlawfully discharged.

"Loss of services

"I write for two additional reasons:

"First, the public is not aware that the careers of many devoted and brilliant international civil servants were destroyed in the hysteria of the 1950's. The loss of their services was also a grievous blow to the United Nations.

"Second, your recent thoughtful editorial on Andrew Cordier's resignation should remind us that the U.S. Government is still enforcing President Truman's and President Eisenhower's Executive orders which screen, on political grounds, American employees of the United Nations and other international organizations.

"The expressed criteria include membership on the Attorney General's list; the sources include derogatory information in congressional committee files; the procedures are based upon undisclosed evidence.

"Such screening is inconsistent with the charter's principle in article 100 of the independence of the organization. An International Organizations' Employees Loyalty Board in our Civil Service Commission makes no sense. There is no security problem in employment by the United Nations. Hence, the Association of the Bar's Special Committee on the Federal Loyalty-Security Program recommended in its 1956 report that this Board and the program be terminated.

"The U.S. Government to its credit has sought in other respects to strengthen the United Nations. The present administration would now score a major achievement if it were to adopt, although belatedly, the committee's advice to eliminate its so-called loyalty program in the international field.

"LEONARD B. BOUDIN.

"NEW YORK, *July 24, 1962.*"

Mr. SOURWINE. Do you know who drafted the draft report or how it come to be drafted, who had responsibility for its drafting, the February draft report, which was along the lines of Mr. Boudin's recommendation?

Mr. REILLY. No; I do not, sir. I have no knowledge on that.

Senator DODD. Off the record.

(Discussion off the record.)

Mr. SOURWINE. Did you recognize this recommendation of the report with respect to the elimination of the United Nations clearance procedure for American nationals, when you saw it in the report, as coinciding with the demands which had been made by Boudin?

Mr. REILLY. That was one of the things Mr. Otepka brought to my attention.

Mr. SOURWINE. Oh, you had not seen the Boudin article before that time?

Mr. REILLY. No, I had not, I was not—we were not at that time—I was not personally involved in the International Organizations' Employees Loyalty Board, since that is outside the Department of State.

Senator DODD. Did I understand that you did not know anything about Boudin? Did Otepka call his name to your attention?

Mr. REILLY. Oh, I had known about Boudin——

Senator DODD. You have known about him before?

Mr. REILLY. For a long period of time; yes, sir.

Senator DODD. And you had read the draft of the report before Otepka called your attention to the Boudin recommendation?

Mr. REILLY. Yes; I read the draft report before I handed it to Mr. Otepka; yes, sir.

Senator DODD. My point is, did you notice it yourself or didn't you notice it until Otepka called it to your attention?

Mr. REILLY. Well, I was not familiar with the position taken by Mr. Boudin in the New York Times letter until Mr. Otepka brought that article to my attention.

EXHIBIT 4

TESTIMONY OF OTTO OTEPKA WITH REGARD TO MISSTATEMENTS OF JOHN F. REILLY CONCERNING OTEPKA'S HANDLING OF CASES OF HARDING BANCROFT, ET AL.

TESTIMONY OF OTTO F. OTEPKA, CHIEF DIVISION OF EVALUATIONS, OFFICE OF SECRETARY, DEPARTMENT OF STATE, MONDAY, AUGUST 12, 1963

Senator Hugh Scott presiding.

Also present: J. G. Sourwine, chief counsel, and Frank W. Schroeder, chief investigator.

(Mr. Otepka was previously sworn.)

* * * * *

Mr. SOURWINE. Mr. Otepka, are you aware that Mr. John Reilly, in his testimony before this committee, controverted many statements previously made by you when you testified?

Mr. OTEPKA. Yes; I was given to understand that he did.

Mr. SOURWINE. Did you have an opportunity to examine Mr. Reilly's testimony, the transcript of his testimony?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Did I furnish you with a copy of this testimony and ask you to prepare a memorandum of reply covering point by point all of those instances in which you felt Mr. Reilly's testimony was inaccurate or untrue?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. Did you prepare such a memorandum?

Mr. OTEPKA. I did, sir.

Mr. SOURWINE. You prepared it yourself?

Mr. OTEPKA. Yes, sir; I did.

Mr. SOURWINE. Is this it?

Mr. OTEPKA. That is the memorandum I prepared.

Mr. SOURWINE. That memorandum is accompanied by certain exhibits, Nos. 1 through 13?

Mr. OTEPKA. Yes, sir; which were intended to be used by me.

Mr. SOURWINE. The exhibits were furnished by you in connection with the memorandum for the records of this committee?

Mr. OTEPKA. The exhibits were intended to be used to refresh my recollection in connection with my forthcoming testimony before this committee of which I have previously been apprised.

Mr. SOURWINE. Mr. Otepka, are any of these exhibits classified?

Mr. OTEPKA. There is one exhibit which is—which bears a classification, but the classification was assigned to it only because it was—there was an accompanying document that was classified. However, that particular exhibit which I have there does not have the classified memorandum.

Mr. SOURWINE. Are you referring specifically to the exhibit No. I–f which deals—which consists of a memorandum to Mr. Reilly from you respecting emergency clearance of eight named individuals?

Mr. OTEPKA. Could you give me the date of that memorandum, sir?

Mr. SOURWINE. This one?

Mr. OTEPKA. Yes, sir.

Mr. SOURWINE. And you say that, although this memorandum has what appears to be a "secret" classification, it also has a marking that upon removal of the attachments it will be considered "confidential" only.

Mr. OTEPKA. The marking on that document was placed there by me as a classifying officer. I am authorized to classify documents.

Mr. SOURWINE. Did you classify this document initially as "secret" with the attachments on it?

Mr. OTEPKA. That document is "secret" only with the attachments.

Mr. SOURWINE. But this was your classification?

Mr. OTEPKA. That was my classification.

Mr. SOURWINE. And with the attachments off it was no longer "secret"?

Mr. OTEPKA. That is correct.

Mr. SOURWINE. And you did not supply the attachments to the committee?

Mr. OTEPKA. No, sir.

Mr. SOURWINE. There is no reason why, then, all these exhibits should not go in our record along with this memorandum, is there?

Mr. OTEPKA. Based on my knowledge of the contradictions of Mr. Reilly in his testimony, I feel that I am entitled to submit that material for the record.

Mr. SOURWINE. Mr. Chairman, I ask that all of this material may be ordered into the record at this point.

Senator SCOTT. Without objection it may be so received.

Mr. SOURWINE. And I ask permission to retain it temporarily in the counsel's files, because I propose to ask questions about some of the points that are raised there.

Senator SCOTT. Very well.

COMMENTS REGARDING TESTIMONY OF JOHN REILLY ON MAY 21, 22, AND 23, 1963

TESTIMONY OF MAY 21, 1963

Pages 584–585 pencil mark 1 (ending with line 13)*

Otepka received from Reilly a note dated February 4, 1963,[1] with enclosure consisting *only* of a copy of a memorandum dated January 27, 1963, from IO [2] Harlan Cleveland addressed to OIA [3] Mr. Hefner.[1] Reilly's note to Otepka included *no report* of the Advisory Committee on International Organization Staffing. Since Otepka realized immediately that he did not have all the facts available on which he could prepare an intelligent appraisal of the proposal in the Cleveland memorandum of January 27, 1963, Otepka called Paul Byrnes in IO and asked him what additional information was available. Byrnes advised Otepka that a report was being drafted on which he, Byrnes, had already prepared comments. Otepka asked for and received from Byrnes the latter's own comments which, in general, coincided with Otepka's initial views. Otepka's views were based then only on the meager data available. Otepka sent a note February 8, 1963,[1] to Reilly and advised Reilly orally that SY [4] should oppose any attempt to eliminate full field investigation of UN personnel. Reilly did not, on this occasion nor thereafter, indicate to Otepka that he had known of or received a copy of the February 19, 1963, report of the Advisory Committee. The fact is that Otepka himself, after his discussion of February 8, 1963, with Reilly, obtained copies of the February 19, 1963, report from Byrnes. Otepka sent a copy of the February 19, 1963, report to Reilly under cover of Otepka's written comments prepared on March 18, 1963, for Reilly's signature.[5]

On several occasions after March 18, 1963, Otepka inquired orally of Reilly as to whether Reilly had had an opportunity to examine these comments and whether he would approve them. On such occasions Reilly gave Otepka the same answer: that he had not had the opportunity to review Otepka's draft comments. To this date, Reilly has not indicated to Otepka his approval or disapproval of Otepka's draft of March 18, 1963.

On May 14, 1963, Otepka answered Belisle's note of May 13, 1963, whereby Belisle had attached a new report of the Advisory Committee (copies of pertinent correspondence are attached and are self-explanatory [6]).

The statement by Reilly (page 585) that the February 19, 1963, report came down to *him* from Orrick's office apparently is not true.

Questions for Reilly

When did he receive the report of February 19, 1963, from Orrick's office? Did he see it before Otepka sent it to him on March 18, 1963? Why did he not say he got it from Otepka, who had not obtained it from Orrick's office but was furnished it directly by a member of Cleveland's staff?

(Page 585—pencil mark 2, see also pencil mark 3, page 586 which is a contradictory statement by Reilly)

Reilly's statement (2) is not correct. The consultants were granted a clearance for access to classified data by Otepka. This clearance was limited only to each specific meeting of the Committee. The clearances were renewed upon requests made by IO for every successive meeting of the Committee. The clearances were predicated upon the express written statement of IO that the Committee members would see only a limited number of

---

Footnotes at end of article.

documents as necessary for the meeting attended. Also IO specifically advised SY that the information would be carefully controlled and the consultants were not in any sense employees of the Federal Government. They were merely contributing their special talents and their time without compensation on an *ad hoc* basis to study international organization staffing problems. Their clearances in his [this] sense would not extend beyond the stated purposes of the meeting. IO was informed *they would be given regular clearances permitting them more levity* (sic) *only after they had been fully investigated, fingerprinted and had completed all required processing forms.* None of the consultants was given building passes until after they had been fully cleared.

Page 586–587—pencil mark 4 and 5

Reilly's statement is not true. Otepka furnished Reilly with a comprehensive sketch of the derogatory background data at the very outset of the initial request received from IO. Moreover, Otepka prepared a memorandum addressed to the Executive Director, IO, in which Otepka detailed both the procedural problems involved as well as the substantive questions. Belisle returned the memorandum to Otepka with a terse note saying Otepka's draft was verbose and that Otepka used "a hell of a lot of words." Belisle eliminated that part of Otepka's memorandum containing statements about the background of the individuals, and prepared his own memorandum to IO about the procedural problem, showing only himself (Belisle) as the drafting officer but using Otepka's almost identical words.[1]

Further, on the above point, after the full field investigations had been completed for the purpose of formally appointing the individuals to the employment rolls and determining at the same time if their clearance for access to classified data could be extended, Otepka forwarded to Reilly *before the clearance notifications were sent to the Employment Livision* the cases of Ernest Gross, Harding Bancroft and Andrew Cordier. In the case of Gross, Otepka said he would not object on *security* grounds to Gross' employment by the Department but he (Otepka) felt the contents of the investigative reports should be examined by the Employment Division under suitability standards. Reilly approved the security clearance but declined to send the reports to the Employment Division. In the case of Bancroft, Otepka wrote a memorandum to Reilly expressing Otepka's concern about the fact that Loy Henderson had described Bancroft as pro-Soviet and also Otepka's concern that Bancroft long defended Alger Hiss and Bancroft relented (but not fully) only after Hiss had been sent to jail. Otepka indicated that he was clearing Bancroft with reservations, saying that the clearance was being granted based on Otepka's understanding from IO that these consultants dealt only with a limited number of classified documents which were described to Otepka as having no significant impact on the national security.

EXHIBIT 5

STATEMENT OF OTTO OTEPKA TO FBI DURING INTERROGATION ORDERED BY STATE DEPARTMENT, WITH EXCERPTS FROM DESCRIPTION OF DOCUMENTS FURNISHED TO SENATE INTERNAL SECURITY SUBCOMMITTEE

WASHINGTON, D.C., *August 15, 1963.*

I, Otto F. Otepka, make the following voluntary statement to Carl E. Graham and Robert C. Byrnes, who have identified themselves as Special Agents of the Federal Bureau of Investigation. No threats or promises of any kind have been made to me to make this statement and I know it can be used against me in a court of law. I have been advised of my right to have legal counsel before making any statement whatsoever.

Mr. Byrnes informed me in general that the FBI was conducting an investigation with respect to myself concerning an allegation that had been received that I had furnished classified information to an unauthorized person. In the course of our discussion it was made known to me specifically that the alleged unauthorized person was the Chief Counsel of the United States Senate Committee on the Judiciary. His name is Julien G. Sourwine. I shall hereinafter for the purposes of this inquiry identify such documents which were furnished by me to the Chief Counsel of this Committee. It is important to me at the outset that it be known for the record that I am a member of the classified or competitive Civil Service and that I am now and have been a career member of that service for over 27 years.

The circumstances in regard to which I am alleged to have furnished documents or information to the said Chief Counsel relate to an investigation which was being conducted by the Internal Security Subcommittee of the Committee of the Judiciary beginning in November, 1961. I first appeared before that Committee at its request and with the express permission of the Department of State together with two other members of the Bureau of Security and Consular Affairs, and I responded to the questions of its Chief Counsel frankly and truthfully to the best of my knowledge and ability. Subsequently I reappeared before that Subcommittee once in April, 1962, also at the Committee's request and with the permission of my superiors. Also appearing at or about that time were my superiors. In November, 1962, the Committee publicly released the transcripts of my testimony and that of other Department of State personnel together with a report of the Committee containing the Committee's conclusions and recommendations with respect to the security practices and procedures of the Department of State.

Beginning in March 1963, and during April 1963, I appeared before the same subcommittee in accordance with its request and with the knowledge of my superiors, for a total of four times. I was given to understand that the Committee was seeking to ascertain from the Department of State whether or not the Department of State had implemented the Committee's recommendations to improve certain security practices found by the Committee to be deficient. During May, 1963, my immediate superior, Mr. John F. Reilly, also testified before the Committee on three separate days. Prior to his appearances and at his own personal request I obtained from the Chief Counsel of the Committee, Mr. Sourwine, the stenographic transcripts of my testimony of March and April, 1963, and furnished those transcripts to Mr. Reilly. Mr. Reilly indicated to me he had not read my transcripts before. I do not know the reason why.

Following the first appearance of Mr. Reilly, which I believe was on May 21, Mr. Reilly personally came to my office and informed me that Senator Thomas J. Dodd, the presiding chairman of the Subcommittee, had given him, Mr. Reilly, "a bad time" on that day. Mr. Reilly related to me that he had told the Subcommittee that I had voluntarily disqualified myself from the evaluation of the case of William A. Wieland. Mr. Reilly asked if I could "straighten out" Mr. Dodd on this matter. I said I did not know Mr. Dodd but were I to be again questioned by the Subcommittee I would be very happy to state for the record what had transpired between myself and Mr. Reilly when on a prior occasion he discussed with me at his request my future role in the re-evaluation of the Wieland case. I prepared for the record and have in my possession a memorandum indicating the exact nature of my discussions with Mr. Reilly on any prior occasion concerning what function I should play as Chief of the Division of Evaluations in the Wieland case.

Following the conclusion of Mr. Reilly's testimony, Mr. Julien Sourwine, the Chief Counsel of the Subcommittee, requested that I come to see him, which I did, after working hours on the day of his request. To the best of my recollection this was on May 23. Mr. Sourwine voluntarily informed me that there were contradictions in my testimony and the testimony of Mr. Reilly. He offered to let me read the stenographic transcripts of Mr. Reilly's testimony and upon doing so he said I should give him a memorandum that would answer point by point all of the instances in which I felt Mr. Reilly's testimony was inaccurate or untrue. After carefully reading the transcripts of Mr. Reilly's testimony I was both shocked and amazed. I therefore prepared a memorandum consisting of 39 double-spaced pages annotated by exhibits which I shall identify below, and I furnished a copy of this memorandum to Mr. Sourwine together with copies of the exhibits mentioned therein. This memorandum was intended to serve as my reference in rebuttal, explanation, or clarification of statements made by Mr. Reilly in my future appearance before the Committee which had already been made known to me.

At this point I would like to state for the record that what particularly concerned me in regard to Mr. Reilly's testimony was that he made statements to the Subcommittee concerning my personal character and performance. As a knowledgeable and experienced career civil servant, I know that one's superior owes one primary duty especially to his subordinate. That is: if the subordinate's performance is or has been deficient that subordinate should first be so told by the superior. The superior should not derogate the employe's performance before a legislative body or any organization outside the employee's place of employment without fulfilling his first duty to his subordinate. Mr. Reilly never expressed to me his dissatisfaction with my performance nor did he ever let me know that he had anything but a favorable opinion concerning my character. However, neither Mr. Reilly nor his predecessor has given me an annual efficiency report as required by the Department's regulations since October, 1960, almost three years. Not only did I request such efficiency reports from Mr. Reilly but I succinctly informed his Executive Officer on several occasions that these reports were long overdue. Mr. Reilly, of course, is entitled to his explanations for this delinquency. The fact is I still do not have any efficiency reports for those three years. Furthermore, I wish this record to bear out that my whole history of performance in the Department of State reflects not only the most satisfactory comment by those officers who have rated me but that prior to my entering on duty in the Department of State in June, 1953, I was the recipient for six successive years preceding my appointment to the Department of State of "Excellent" efficiency ratings. Such an adjective rating was the highest attainable.

In considering the request made to me by Mr. Sourwine to identify inaccuracies or untrue statements by Mr. Reilly, I was already cognizant of the following provision in Section 652, Title 5, of the United States Code. This is a law enacted by the United States Congress. It reads as follows:

"The right of persons employed in the Civil Service of the United States, either individually or collectively, to petition Congress or any member thereof or to furnish information to either house of Congress or to any Committee or member thereof shall not be denied or interfered with."

It was my honest belief and conviction in the light of contradictions in the record of the Senate Internal Security Subcommittee

---

Footnotes at end of article.

that I should support my refutation of Mr. Reilly's statements concerning me with such necessary information as would establish that my own statements were truthful and accurate. I carefully observed in the transcript of Mr. Reilly's testimony that he had entered selected documents into the record relating to me.

The documents herein involved which were furnished by me to the Chief Counsel of the Senate Committee on the Judiciary as an appendage to my prepared written comments are as follows:

EXHIBIT 1

(1) This included a memorandum dated January 27, 1963, for Mr. Hefner, OIA, from Harland Cleveland, IO, on the subject of "Loyalty Investigations of United States Citizens Employed by International Organizations."

(2) Routing slip dated February 4, 1963, of Department of State to Mr. Otepka from Mr. John F. Reilly on the subject of "Loyalty Investigations of United States Citizens Employed by International Organizations" with the notation "Would you look into this please and may I have your views by Feb. 8?"

(3) One page memorandum to Mr. Reilly from Mr. Otepka dated February 8, 1963.

EXHIBIT 2

(1) Thirty-two page document entitled "Staffing International Organizations, A Report of the Advisory Committee on Management Improvement to the Assistant Secretary of State for International Organization Affairs" dated March, 1963. A three page cover memorandum to this document is also attached and which bears the title of "Staffing International Organizations, Summary of Recommendations."

(2) Five page memorandum dated September 10, 1962, from Mr. Otepka to Mr. Reilly on the subject of "Francis O. Wilcox; Arthur Larson; Lawrence Finkelstein; Marshall D. Shulman; Andrew Cordier; Ernest Gross; Harding Bancroft; Sol Linowitz." This document bears a classification of "Secret" but with a stamped notation at the bottom stating that the document would be considered "Confidential" upon removal of attachment. At the conclusion of the fifth page there is a notation that the attachments were "tabs A, B, C and D." These attachments were *not* furnished to Sourwine. Attached to this document at the conclusion is a one page memorandum dated September 17, 1962, from Mr. Reilly to Mr. Czayo on the subject "Processing of Appointments of Members of the Advisory Committee on International Organization Staffing" classified "Confidential."

EXHIBIT 3

(1) Thirty-six page document entitled "Staffing International Organizations, A Report of the Advisory Committee on International Organizations", published by the Department of State, Washington, D.C., April 22, 1963 (a public document). Attached to this document are Appendices I and II consisting of six pages.

(2) Routing slip from Mr. Belisle to Otepka dated May 13, 1963. Attached to this routing slip is a one page memorandum dated May 6, 1963, to Mr. Reilly from Gladys P. Rogers on the subject "Staffing International Organizations—A Report of the Advisory Committee on International Organizations."

(3) ?Undated routing slip from Belisle to Otepka. Attached to this routing slip is a three page memorandum from Mr. John F. Reilly to Mr. George M. Czayo on the subject "Processing of Appointments of Members of Advisory Committee on International Organization Staffing." This three page memorandum bears a stamped security classification of "Confidential"

(4) One page memorandum dated August 7, 1962, to Mr. Simpson, EMD, to attention of Mrs. Solvig with copy for Mr. Otepka, captioned "Request for Waiver, Advisory Committee on International Staffing: Ernest A. Gross, Marshall D. Shulman, Andrew W. Cordier, Harding Bancroft, Lawrence Finkelstein, Francis O. Wilcox, Arthur Larson". This was a nonclassified memorandum with two attached routing slips; one dated September 13, 1962, from Otepka to Mr. Belisle and to Mr. Reilly. The other routing slip was from Belisle to Otepka, addressed to "Otto", dated September 11, 1962.

(5) One page memorandum dated May 14, 1963, to Mr. Belisle from Mr. Otepka. The memorandum indicates there is an attachment of "Report of the Advisory Committee on International Organizations."

EXHIBIT 6

EXCERPT FROM NOTICE OF PROPOSED ADVERSE ACTION SENT TO OTTO OTEPKA BY STATE DEPARTMENT, INCLUDING CHARGES THAT HE HAD TRANSMITTED INFORMATION CONCERNING HARDING BANCROFT, ET AL., TO SENATE INTERNAL SECURITY SUBCOMMITTEE

DEPARTMENT OF STATE,
Washington, September 23, 1963.

Mr. OTTO F. OTEPKA,
Office of Security,
Department of State.

DEAR MR. OTEPKA: This is a notice of proposed adverse action in accordance with the regulations of the Civil Service Commission.

You are hereby notified that it is proposed to remove you from your appointment with the Department of State, as Supervisory Personnel Security Specialist, GS–15, in the Office of the Deputy Assistant Secretary for Security, thirty (30) days from the date of this letter.

On August 16, 1963, at Washington, D.C., you executed a voluntary sworn statement, dated August 15, 1963, before Carl E. Graham and Robert C. Byrnes, Special Agents of the Federal Bureau of Investigation. A copy of this statement is attached as Exhibit A. Information contained therein will be referred to specifically in some of the charges listed below.

Furthermore, during the period March 13, 1963, to June 18, 1963, Mr. John F. Reilly, Deputy Assistant Secretary for Security, caused the following procedures to be instituted:

(*a*) Mrs. Joyce M. Schmelzer, Secretary to Mr. Frederick W. Traband, Supervisory Personnel Security Specialist, periodically observed your classified trash bag (hereinafter referred to as "burn bag") which was in the possession of your secretary, Mrs. Eunice Powers. Mrs. Schmelzer and Mrs. Powers were located in the same room and across from one another.

(*b*) When Mrs. Schmelzer saw that your burn bag was full, she would ask Mrs. Powers if she wanted her (Mrs. Schmelzer) to take your burn bag to a Department Mail Room with Mr. Traband's.

(*c*) When Mrs. Powers accepted Mrs. Schmelzer's offer, Mrs. Schmelzer would inform Mr. Traband of this fact. Mr. Traband would then call Mr. Rosetti, Supervisory Security Specialist, or Mr. Shea, Supervisory General Investigator, if Mr. Rosetti was not available, and inform him that your burn bag was being delivered to the Mail Room.

(*d*) While carrying your burn bag and Mr. Traband's to the Mail Room, Mrs. Schmelzer would mark your burn bag with a red "X" (with a crayon or pencil mark) and deposit both burn bags in the Mail Room, Room 3437.

(*e*) Mr. Rosetti or Mr. Shea, and on one occasion Mr. Robert McCarthy, Supervisory Security Specialist, would obtain your burn bag from the Mail Room within five to ten minutes after Mrs. Schmelzer left it there and would turn it over to Mr. Reilly or Mr. Belisle (Special Assistant to the Deputy Assistant Secretary for Security), in their office, Room 3811. (On one occasion when Mrs. Powers herself took your burn bag to the Mail Room, Messrs. Rosetti and Shea picked it up from the Mail Room immediately after Mrs. Powers deposited it there.) Your burn bag was then transferred to Mr. Reilly's brief case.

(*f*) Mr. Reilly's brief case was then taken by Mr. Shea to Room 1410, 2612A or 3811 for examination of its contents. Your burn bag was inspected by Mr. Shea either alone or with Mr. Belisle and/or Mr. Rosetti.

(*g*) The contents of your burn bags were carefully examined. All carbon paper or copies were read by turning the carbon side toward the light thus allowing the paper to be read from the back. Torn pieces of paper were grouped together and then pieced together to make readable documents. One-time typewriter ribbons were also read on occasion.

During the course of inspecting the contents of your burn bag on May 29, 1963, a typewriter ribbon was retrieved. This ribbon has been read and the contents are reproduced as Exhibit B. Information contained therein will be referred to specifically in some of the charges listed below.

(1) *You have conducted yourself in a manner unbecoming an officer of the Department of State.*

Specifically: You furnished a copy of a classified memorandum concerning the processing of appointments of members of the Advisory Committee on International Organization Staffing to a person outside of the Department without authority and in violation of the Presidential Directive of March 13, 1948 (13 Fed. Reg. 1359). This Directive provides:

"* * * all reports, records, and files relative to the loyalty of employees or prospective employees (including reports of such investigative agencies), shall be maintained in confidence, and shall not be transmitted or disclosed except as required in the efficient conduct of business."

You were reminded of the prohibition contained in this Directive on March 22, 1963, when you received and noted a copy of a letter from Mr. Dutton, Assistant Secretary of State, to Senator Eastland, Chairman of the Senate Committee on the Judiciary, dated March 20, 1963. A copy of this letter, indicating that you "noted" it, is enclosed as Exhibit C.

In your sworn statement, referred to above and enclosed as Exhibit A, you stated on pages 7 and 8 that you gave a copy of a classified memorandum entitled "Francis O. Wilcox, Arthur Larson, Lawrence Finkelstein, Marshall D. Shulman, Andrew Cordier, Ernest Gross, Harding Bancroft, Sol Linowitz", to Mr. J. G. Sourwine, Chief Counsel, United States Senate Subcommittee to Investigate the Administration of the Internal Security Act and Other Internal Security Laws, of the Committee on the Judiciary. This memorandum concerns "the loyalty of employees or prospective employees" of the Department within the meaning of the Presidential Directive of March 13, 1948.

This is a breach of the standard of conduct expected of an officer of the Department of State.

(2) *You have conducted yourself in a manner unbecoming an officer of the Department of State.*

Specifically: You furnished a copy of a classified memorandum concerning the processing of appointments of members of the Advisory Committee on International Organizations Staffing to a person outside of the Department without authority and in violation of the Presidential Directive of March 13, 1948 (13 Fed. Reg. 1359). This Directive provides:

"* * * all reports, records, and files relative to the loyalty of employees or prospective employees (including reports of such investigative agencies), shall be maintained in confidence, and shall not be transmitted or disclosed except as required in the efficient conduct of business."

You were reminded of the prohibition con-

tained in this Directive on March 22, 1963, when you received and noted a copy of a letter from Mr. Dutton, to Senator Eastland, dated March 20, 1963. A copy of this letter, indicating that you "noted" it, is enclosed as Exhibit C.

In your sworn statement, referred to above and enclosed as Exhibit A, you stated on page 9 that you gave a copy of a classified memorandum entitled "Processing of Appointments of Members of the Advisory Committee on International Organizations Staffing" to Mr. J. G. Sourwine. This memorandum concerns "the loyalty of employees or prospective employees" of the Department within the meaning of the Presidential Directive of March 13, 1948.

This is a breach of the standard of conduct expected of an officer of the Department of State.

EXHIBIT 7

EXCERPTS FROM RESPONSE OF OTTO OTEPKA TO CHARGES OF STATE DEPARTMENT THAT HIS CONDUCT WAS UNBECOMING OF A STATE DEPARTMENT OFFICER

(EDITOR'S NOTE.—Mr. Otepka's answer to the charges preferred by the Department was ordered into the record at this point and reads as follows:)

WHEATON, MD., *October 14, 1963.*

HON. JOHN ORDWAY,
Chief, Personnel Operations Division,
Department of State,
Washington, D.C.

DEAR MR. ORDWAY: This is my answer to the charges preferred against me by your letter of September 23, 1963.

CHARGE 1 AND CHARGE 2

Before turning to the specific charges, a general statement of the background of this entire matter is in order.

I have been an employee of the U.S. Government for 27 years. From 1936 until 1942 I occupied minor positions in the Farm Credit Administration and the Bureau of Internal Revenue, and for 3 years during that period attended law school. In 1942 I was appointed an investigator and security officer with the U.S. Civil Service Commission. I served in that capacity until 1943, when I entered the U.S. Navy as an apprentice seaman. I served in the Navy from 1943 until 1946, being discharged with the grade of petty officer first class. Returning to the Civil Service Commission in 1946, I served there as an investigator and security officer until 1953 when I came to the Department of State as a security officer. I have been with the Department ever since 1953.

My efficiency ratings at the Civil Service Commission for the years 1948–53 were all "excellent," the highest ratings attainable under the system then in effect. During my service in the Department of State, all of my efficiency reports have been highly favorable. For example, for the year 1959–60, when I served as Deputy Director of the Office of Security, my efficiency report contained the following comment by the Director of that office, Mr. Boswell:

"He has had long experience with and has acquired an extremely broad knowledge of laws, regulations, rules, criteria, and procedures in the field of personnel security. He is knowledgeable of communism and of its subversive efforts in the United States. To this, he adds perspective, balance, and good judgment, presenting his recommendations and decisions in clear, well reasoned, and meticulously drafted documents. He has brought these attributes to bear during periods totaling almost 4 months when he has been Acting Director in my absence and throughout the rating period as the State Department representative on an intragovernmental committee concerned with security matters."

In April 1958 I received a Meritorious Service Award signed by Secretary of State John Foster Dulles for sustained meritorious accomplishment in the discharge of my assigned duties. The justification for this award included the following statement: "He has shown himself consistently to be capable of sound independent judgment, creative work, and the acceptance of unusual responsibility."

It may be noted that I have received no efficiency report since September 1960, although the regulations require that each employee receive such a report annually, and I have on several occasions requested my superiors to give me my efficiency reports. However, until recently none of my superiors ever complained to me about my performance of duty.

Beginning in November 1961 an investigation into certain security practices of the Department of State was conducted by the Internal Security Subcommittee of the Committee on the Judiciary of the U.S. Senate. I first appeared before that committee at its request and with the express permission of the Department of State, together with two other members of the Bureau of Security and Consular Affairs. I responded to the questions of Mr. J. G. Sourwine, the subcommittee's chief counsel, frankly and truthfully to the best of my knowledge and ability. Subsequently, in April 1962 I reappeared before the subcommittee also at the committee's request and with the permission of my superiors. Also appearing at or about that time were my superiors. In October 1962 the committee publicly released the transcripts of my testimony and that of other Department of State personnel, together with a report of the committee containing the committee's conclusions and recommendations with respect to the security practices and procedures of the Department of State.

Beginning in February 1963, and during March 1963, I appeared on four occasions before the same subcommittee in accordance with its request and with the knowledge of my superiors. I was given to understand that the committee was seeking to ascertain from the Department of State whether or not the Department had implemented the committee's recommendations to improve certain security practices found by the committee to be deficient. During April and May 1963 my immediate superior, Mr. John F. Reilly, testified before the committee on five occasions. Prior to his first appearance, and at his request, I obtained from Mr. Sourwine the stenographic transcripts of my testimony of February and March 1963 and I furnished those transcripts to Mr. Reilly. Mr. Reilly indicated to me he had not read my transcripts before. I do not know the reason why, as the transcripts had been available to him through regular Department channels.

Following the appearance of Mr. Reilly, he came to my office and informed me that Senator Thomas J. Dodd, the presiding chairman of the subcommittee, had given him, Mr. Reilly, "a bad time" on that day. Mr. Reilly related to me that he had told the subcommittee that I had voluntarily disqualified myself from the evaluation of the case of William A. Wieland. Mr. Reilly asked if I could "straighten out" Mr. Dodd on this matter. I said I did not know Mr. Dodd but were I to be again questioned by the subcommittee I would be very happy to state for the record what had transpired between me and Mr. Reilly when on a prior occasion he discussed with me, at his request, my future role in the reevaluation of the Wieland case.

Following the conclusion of Mr. Reilly's testimony, Mr. J. G. Sourwine, the chief counsel of the subcommittee, requested that I come to see him, which I did, after working hours on the day of his request. To the best of my recollection this was on May 23, 1963. Mr. Sourwine voluntarily informed me that there were conflicts between my testimony and the testimony of Mr. Reilly. He offered to let me read the stenographic transcripts of Mr. Reilly's testimony and said that when I had done so, I should give him a memorandum that would answer point by point all of those portions of Mr. Reilly's testimony which conflicted with my testimony or which I found inaccurate or untrue. After carefully reading the transcripts of Mr. Reilly's testimony I was both shocked and amazed. I therefore prepared a memorandum consisting of 39 double-spaced pages annotated by exhibits, and I furnished a copy of this memorandum to Mr. Sourwine together with copies of the exhibits mentioned therein. This memorandum was furnished to Mr. Sourwine as the chief counsel, and authorized representatives of the subcommittee. It was intended to serve as my reference in rebuttal, explanation, or clarification of statements made by Mr. Reilly, in any future appearance I made before the committee. I was told that I would be recalled to testify again before the committee.

I was especially disturbed by two statements made by Mr. Reilly in his testimony which was shown to me by Mr. Sourwine. First, Mr. Reilly testified, concerning eight prospective appointees to the Advisory Committee on International Organizations, that there was no substantial derogatory information respecting any of the prospective appointees, and that the case of only one of them had even been brought to his attention prior to their appointment. This testimony I knew to be incorrect, for on September 10, 1962, before the appointments were made I had submitted to him a memorandum with respect to each of the individuals in question. This memorandum strongly recommended that certain of the prospective appointees not be cleared without further investigation. On September 17, 1962, Mr. Reilly himself directed a memorandum to Mr. George M. Czayo in the office of Mr. Harlan Cleveland with respect to these cases, and this document reflected that Mr. Reilly was familiar with my memorandum of September 10.

I gave to Mr. Sourwine a copy of my memorandum of September 10, 1962 and a copy of Mr. Reilly's memorandum of September 17, 1962. While these documents were classified "Confidential"—the one of September 10 having been classified by me—they contained no investigative data. The only substantive data contained in my memorandum of September 10 consisted of references to certain matters which had been mentioned in published reports or hearings of the Senate Internal Security Subcommittee or which were otherwise in the public domain. The Reilly memorandum of September 17 contained no substantive data whatever with respect to the prospective appointees, but related for the most part to the procedural steps involved in their clearance.

Charge 1 in your letter is based upon my action in giving a copy of my memorandum of September 10, 1962, to Mr. Sourwine. Charge 2 relates to my action in giving Mr. Sourwine a copy of Mr. Reilly's memorandum of September 17, 1962. You allege that my actions were in violation of the Presidential directive of March 13, 1948 (12 Fed. Reg. 1359) which forbids the disclosure, except as required in the efficient conduct of business, of "reports, records, and files relative to the loyalty of employees or prospective employees."

It is a familiar rule that regulations, like statutes, must be interpreted with commonsense, that a thing may be within the letter of a regulation and yet not within the regulation, because not within its spirit, nor within the intention of its makers. This has been the law for centuries. Poffendof mentions the judgment that the Bolognian law which enacted "that whosever drew blood in the streets should be punished with the utmost severity," did not extend to the surgeon who opened the vein of a person

that fell down in a street in a fit. Plowden cites the ruling that the statute of 1st Edward II, which enacts "that a prisoner who breaks prison shall be guilty of a felony," does not extend to a prisoner who breaks out of prison when the prison is on fire "for he is not to be hanged because he would not stay to be burnt." See *Church of the Holy Trinity* v. *United States* (143 U.S. 457).

Applying this doctrine to the present case, and assuming without conceding that the memoranda of September 10 and September 17, 1962, fell within the letter of the Presidential directive of March 13, 1948, I submit that those memorandums were not within the spirit of the directive, nor within the intention of its author. As President Truman stated in his letter to the Secretary of State, dated April 2, 1952, the purpose of the directive was "to preserve the confidential character and sources of information, to protect Government personnel against the dissemination of unfounded or disproved allegations, and to insure the fair and just disposition of loyalty cases." The memorandums of September 10 and September 17, 1962, referred to no confidential information, disclosed no confidential sources, and made no allegations. My memorandum of September 10, 1962, merely referred to matters of public record and recommended that these matters should be investigated. There was no loyalty case, pending, or contemplated, involving any of the individuals mentioned. In short, in the context of the Presidential directive of March 13, 1948, the two memorandums were completely innocuous and clearly not the kind of papers that the directive was designed to protect.

My interpretation of the Presidential directive of March 13, 1948, is apparently in harmony with the interpretation placed upon the directive by Secretary of State Rusk. Thus, the statement of Senator Thomas J. Dodd, appended to the report of the Senate Subcommittee on Internal Security in the matter of State Department security, published in 1962, contains the following:

"Subsequent to the preparation of this report, I had occasion to discuss the Wieland case with Secretary Rusk and to *examine certain documents which he showed me in confidence*.

"On the basis of these conversations, I am satisfied that, prior to September 15, 1961, Secretary of State Rusk had examined the material pertaining to the Wieland case in considerable detail, including reports of the Federal Bureau of Investigation * * *" [Italic supplied.]

See Senate report, State Department security, the case of William Wieland, etc., 87th Congress 2d session—page 197. The intendment of Senator Dodd's statement is that Secretary Rusk disclosed to him documents from the security file of Mr. Wieland, in order to establish that the Secretary did examine this material prior to September 15, 1961. It seems obvious that, in the judgment of Secretary Rusk, a reasonable and commonsense interpretation of the Presidential directive did not prevent the disclosure of the security material to Senator Dodd. If it was proper for Secretary Rusk to show such material to a member of the Internal Security Subcommittee, then it was proper for me to disclose the innocuous memorandums of September 10 and September 17, 1962, to an authorized agent of that subcommittee in order that the committee might know the truth and to refute unwarranted and scandalous charges against me and my record.

Mr. Reilly's testimony that the cases of the prospective appointees had not been brought to his attention seriously disparaged my performance of duty and impugned my integrity. In other words, had I failed to bring such matters to his attention. I would have been guilty of a dereliction of duty. In this context, I submit that I had not only the right but the duty to defend myself, to correct the committee's record, and to support my oral testimony by the memorandums of September 10 and September 17, 1962.

The provisions of the United States Code, title 5, section 652(d) plainly gave me the right to respond to the request of the Senate committee and to answer Mr. Reilly's attacks upon me. That statute provides:

"(d) The right of persons employed in the civil service of the United States, either individually or collectively, to petition Congress, or any Member thereof, or to furnish information to either House of Congress or to any committee or member thereof, shall not be denied or interferred with. As amended June 10, 1948, c. 447, 62 Stat. 354; 1949 Reorg. Plan No. 5, eff. Aug. 19, 1949, 14 F.R. 5227, 63 Stat. 1067".

If the provisions of the directive are construed to prohibit the disclosure by me of the memorandums here involved, under the circumstances of this case, then I submit the directive is in violation of the statute.

It must be emphasized always that I gave the memorandums in question to Mr. Sourwine, not as an individual, but as the authorized agent of a committee of the U.S. Senate; and I gave them to him only to be used as exhibits in connection with my forthcoming testimony before that committee in executive session.

EXHIBIT 8

THE SCOTT REPORT

(By Paul Scott)

WASHINGTON, April 4.—A dramatic new chapter, with far-reaching implications for the future security of the U.S., is developing in the Otto Otepka case.

Opponents of the former Deputy Chief of Security at the State Department are preparing an all out campaign to block a Senate vote on his nomination to the Subversive Activities Control Board (SACB), an independent government security agency.

Otepka, after five years of persecution and vilification by the State Department, was nominated last month to the SACB by President Nixon.

The nomination, now pending before the Senate Judiciary Committee, was a partial victory for Otepka who had been stripped of security duties and demoted by Dean Rusk, former Secretary of State, for cooperating with a Senate Committee exposing security lapses in the State Department.

The nerve center for the new onslaught against Otepka, scheduled to begin after the Easter congressional recess, is the prestigious New York Times Washington Bureau.

Neil Sheehan, the newspaper's controversial Defense Department correspondent, has been given the assignment to write a series of articles designed to indirectly link the veteran security officer with right-wing groups—none of which Otepka had ever been a member or actively supported.

Significantly, Sheehan is the former bureau chief for the United Press International in Saigon who openly worked during the early '60s for the downfall of South Vietnam's anti-communist President Diem.

Pierre Salinger, press secretary for both Presidents Kennedy and Johnson, assailed Sheehan as one of a trio of American newsmen that "announced to one and all in Saigon that one of the aims of their stories . . . was to bring down the Diem government."

More recently in a panel discussion in New York on "The Peace in Asia," Sheehan presented the following view on communism:

"We might abandon the idea that communism is our enemy in Asia. We must be willing to tolerate their enmity. I am suggesting that in some countries a communist government may be the best government."

CASTING THE SHADOW

Insiders at the New York Times say Sheehan's anti-Otepka series was scheduled to begin earlier this week but the death of President Eisenhower and his state funeral temporarily delayed their appearance.

Several of the persons involved in the volunteer raising of funds for Otepka's costly and long-drawn out legal battle for vindication report that they have already been badgered by Sheehan about their political affiliations.

In one case, Sheehan spent more than 45 minutes on long distance phone grilling James Stewart, of Palatine, Ill., Director of American Defense Fund which raised money for Otepka's legal defense, on whether he was ever a member of the John Birch Society.

When Stewart argued the question was irrelevant and offered to discuss the issues of the Otepka case with Sheehan, the correspondent changed the subject, asking for the names of all the contributors to Otepka's defense fund.

On being told that more than 4,000 persons had contributed, Sheehan said he wanted "only the names of the big contributors." This Stewart refused on the grounds he needed approval of the individuals to give out their names.

THE BOSTON RALLY

Sheehan also quizzed Stewart at length about his group's fund-raising stand for Otepka at the New England Rally for God, Family, and Country, held in Boston in July, 1968, and attended by more than 1,000 persons.

"I have reports that Otepka manned a fund-raising booth at the Boston rally and solicited funds for his case," stated Sheehan. "Is not this true?"

"No, and you know it," replied Stewart. "Otepka had nothing to do with that stand."

What Sheehan didn't mention to Stewart was that another New York Times reporter had turned in the same negative report earlier. After spotting Otepka and his wife among the spectators at the Boston meeting, the reporter kept a watch on Otepka only to learn that he had nothing to do with the fund-raising stand.

Other persons involved in the fund raising for Otepka's legal defense, which cost the veteran security officer nearly $30,000, have also been intensely questioned by Sheehan.

Sheehan has been in contact with aides of several Senators, including William Proxmire (D., Wis.) and Jacob Javits (R., N.Y.), who plan to use his forthcoming stories to try to block Otepka's nomination.

Several State Department officials, who helped influence Secretary of State William Rogers to bar Otepka's return to that Agency, also have been in contact with Sheehan.

THE BIGGER ISSUE

While Otepka will be the central target of the coming attack, many congressional security experts see the campaign as having a much broader objective.

One memorandum being circulated among these experts, warns:

"The coming campaign against Otepka is designed to prevent, by smear and attack, efforts to strengthen the Subversive Activities Control Board, through the appointment to it of strong, conscientious securities specialists, and so bring about its destruction.

"The campaign will follow the pattern of the highly successful one by which the Eisenhower-Nixon program to train Americans in red tactics through civilian-military seminars was destroyed, through using General Walker as the target.

"Now, Otto Otepka is the target, and the objective is the nipping in the bud of the restoration of a strong security staff and operation within the government."

Thus, the battle lines are being drawn for a historic security showdown that could rattle a lot of windows in the national capital.

EXHIBIT 9

THE SCOTT REPORT

(By Paul Scott)

WASHINGTON, April 11.— * * *

THE OTEPKA CASE

The New York Times campaign to block Senate confirmation of Otto Otepka as a member of the Subversive Activities Control Board is being sparked by a former State Department employee.

The anti-Otepka strategist is Harding A. Bancroft, the Times' executive Vice President who once was under investigation by Otepka for his close association with Alger Hiss, the former high-ranking State Department official convicted of perjury.

State Department insiders report that Bancroft has actively opposed Otepka's return to government security work since the veteran security officer was suspended in 1963. At that time, Otepka provided two documents to the Senate Internal Security Subcommitte to support his testimony about lax security in the handling of clearances for several persons, including Bancroft, for important State Department posts.

Bancroft was being sponsored for a key State Department position by Harlan Cleveland, then assistant Secretary of State for International Organization, and former Secretary of State Dean Rusk.

Otepka, the State Department's top authority on government security regulations, insisted that before Bancroft was given a sensitive State Department assignment that "several matters" in his security file be resolved by a full-scale FBI investigation.

Instead, Bancroft's friends who were Otepka's superiors in the State Department waived the investigation. The Senate Internal Security Subcommittee, which was conducting an inquiry into the Department's lax security practices, quizzed Otepka about the Bancroft matter.

OTEPKA'S TROUBLE BEGINS

As a result of Otepka's cooperation with the Senate Subcommittee, the veteran security official was suspended and charged by the Department with giving classified information to the Senate probers.

Otepka, after five years of fighting the charge, was nominated last month by President Nixon to the Subversive Activities Control Board, an independent government security agency.

Hearing on Otepka's nomination is now scheduled for Tuesday, April 15 before a Senate Judiciary Subcommittee. Since the Otepka nomination was submitted to the Senate, the New York Times under Bancroft's direction has blasted the nomination editorially.

Also, Neil Sheehan, the newspaper's controversial Defense Department correspondent, was given the assignment to try to link the veteran security officer with extremist groups—none of which Otepka had ever been a member or actively supported. One of Sheehan's articles already has appeared.

FROM THE RECORD

Testimony and documents gathered by the Internal Security Subcommittee provide an insight into Bancroft's opposition to Otepka.

These records show that Bancroft was first employed in the State Department in 1946 on the recommendation of Alger Hiss in the office of Special Political Affairs (later renamed the Office of United Nations Affairs), which Hiss headed.

While in the Department, Bancroft became involved in a bitter dispute with Loy Henderson, Director of the Office of Near Eastern and African Affairs, a veteran diplomat and staunch anticommunist.

Bancroft insisted that the Soviets be permitted to retain units of the Red Army in Iran (Persia) beyond March 2, 1946, despite the fact that this would be in violation of a Treaty of Alliance to respect Iran's territorial integrity. Great Britain and the U.S. already had withdrawn their forces after the end of World War II.

In one of his great decisions, former President Truman disregarded the Bancroft recommendation, and decided to force the Soviets to withdraw their troops immediately. He did this by threatening strong U.S. action if there was no Russian pullout. The Russians withdrew.

Bancroft also tried to get Robert Alexander, a highly respected and knowledgeable official in the State Department's Visa division, fired. He recommended his ouster after Alexander told a Congressional Committee that the United Nations headquarters in New York was a haven for alien communists and espionage agents.

Although Alexander's testimony later was confirmed publicly by statements of FBI Director J. Edgar Hoover, his career was ruined by Department officials who entered into his records a stiff reprimand for telling the truth.

In the case of Cordier, Otepka recommended to Reilly that additional investigation be conducted before further consideration was given to the granting or denial of a clearance. Belisle *overruled* Otepka and Reilly concurred with Belisle. As the result, Cordier was granted a full clearance for appointment to the Department.

FOOTNOTES

*"Pages" cited throughout this document refer to typed transcripts of Reilly testimony before the Senate Internal Security Subcommittee.

[1] See Exhibit I at p. 1721.

[2] IO: Assistant Secretary for International Organization Affairs.

[3] OIA: Office of International Administration.

[4] SY: Office of Security.

[5] Typed note at bottom of page: "Copy given to Sourwine on May 23, 1963."

[6] A typed line at the bottom of typed page 2 reads as follows: "Given to Sourwine on May 23, 1963." (The correspondence referred to read as follows:)

MAY 14, 1963.

Mr. BELISLE: Reference is made to your handwritten note of May 13, 1963, on the subject "Staffing International Organizations," requesting my comments on the attachments by noon, May 14.

The report of the Advisory Committee on International Organizations which is dated April 22, 1963, and appended to OM—Mrs. Rogers' memorandum of May 8, 1963, was given to the press about two weeks ago. A brief account appeared in local newspapers. I did not see the actual report itself until you sent it to me yesterday.

The Advisory Committee on International Organizations Staffing previously drafted a report dated March 1963 on the staffing of international organizations. I discussed with Mr. Reilly my views on the contents of that report. Thereafter, on March 18, 1963, I submitted to Mr. Reilly for his signature a proposed memorandum drafted by me personally addressed to Mr. Orrick containing detailed written comments with respect to Section 6 regarding "Loyalty Investigations of U.S. Citizens Employed by International Organizations."

I note that the new report of the Committee has eliminated in its entirety the Committee's previous comments and recommendations that investigations of Americans employed by UN agencies be conducted on a post appointment rather than a preappointment basis. The new provisions, now designated as Section 8 and captioned "Government Clearance of Candidates for International Organization Employment" merely contains an observation that the problem clearance is a difficult one and should be given careful consideration in the immediate future. The present report advocates more simplified procedures to appoint qualified Americans when they are needed but it does not specify the types of procedures desirable.

I see no objection to the revised provision. However, any new procedures proposed in the future should take into account the matters which I discussed in detail in my comprehensive comments of March 18, 1963. I have received no indication as to the approval or disapproval of my previous observations and recommendations. I would appreciate being informed of their disposition for my future guidance.

OTTO F. OTEPKA.

[Pencilled note]

MAY 13, 1963.

Subject: Staffing Int'l Org.

To Mr. Otepka:

Please let me have any comments by noon May 14.

Thanks.

BELISLE.

DEPARTMENT OF STATE,
ASSISTANT SECRETARY,
May 6, 1963.

Subject: Staffing International Organization—A Report of the Advisory Committee on International Organizations.

To: SY—Mr. John F. Reilly.

O has asked OM (Office of Management) to staff out the attached. Could we have any SY views sonnest (by telephone—Extension 4381—if you prefer). The item you may be most interested in is marked at pages 24 and 25.

OM—GLADYS P. ROGERS.

Attachment: A Report of the Advisory Committee on International Organizations. (The April 22, 1963, draft of the Report on International Organizations staffing accompanied the above request.)

[7] Copies of pertinent memorandums supplied by Mr. Otepka were marked "Exhibit No. I" and are printed at p. 1721.

THE COURTS AND THE PUBLIC SCHOOLS

Mr. THURMOND. Mr. President, every Monday millions of Americans fearfully scan their newspapers to find the latest edicts of the Supreme Court. The Court has in recent years put its own peculiar brand of sociology on many facets of our daily lives, but there is no more blatant example than its rulings in the area of education.

Dr. Carl F. Hansen, former superintendent of schools for Washington, D.C., has written an excellent article entitled "When Courts Try To Run the Public Schools," published in U.S. News & World Report for April 21, 1969, which should be read by all of us. It may be recalled that Dr. Hansen was hailed by many throughout the Nation for his pioneer work in the city of Washington in response to the 1954 Brown decision.

Mr. President, as an educator, Dr. Hansen is well qualified to illustrate the dangers inherent in the Court's decisions affecting education; and as one who has been deeply involved in the issue, he knows better than most lawyers the effects of the Court's rulings on the public school system.

Mr. President, with the hope that this article may provide some much-needed information in an area of vital concern to all of us, I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

WHEN COURTS TRY TO RUN THE PUBLIC SCHOOLS

(By Dr. Carl F. Hansen, former Superintendent of Schools, Washington, D.C.)

(NOTE.—Dr. Carl F. Hansen guided the integration of Washington, D.C., schools in 1954. His work in the transition drew wide praise. In subsequent years, Negro enrollment gained overwhelming predominance. A Negro filed suit, charging "inequities." A federal judge ordered changes considered dangerous by Dr. Hansen, who chose to retire rather than comply.)

If you live in a small Nevada town—or in one in Iowa or Ohio, for that matter—and your schools are mostly white, you may actually be flouting a court ruling that says that racially imbalanced schools run against the Constitution of the United States.

If your schools have all-white faculties, you may someday be ordered to hire 13 per cent black teachers to make the percentage fit in with the ratio of blacks to whites in the national population.

If you live in a city like Washington, D.C., or Chicago, you may someday have to see to it that the proportion of the poor in any school does not exceed the percentage of the poor in the entire city.

If you refuse to attempt to get a balance between the poor and the nonpoor in your schools through voluntary exchanges across school-district and even State lines, you may find yourself in contempt of court.

You may find your own child someday inexplicably "volunteering" to ride a bus out of your neighborhood for the kind of social and racial integration some of the nation's leaders think is best for everybody—except possibly for themselves.

If not already current realities, these requirements may ultimately result from the emergence of the doctrine of de jure integration.

A new and rather pervasive body of law is being generated by the courts and a limited number of school boards and State legislatures. The effect of this action is to make homogeneous schools either illegal or unconstitutional. In order to reduce homogeneity in school populations, school boards are being required by law to produce plans for increasing racial and social balance in their classrooms.

For much too long this nation lived with de jure segregation. Under this immoral and inhumane doctrine, children—and in some cases teachers—were told: "You may not enter this school or that one because of your race." The law stood guard at classroom doors, sifting out blacks from whites and sending each into prescribed educational areas.

Now comes a counterpart rule—that of de jure integration. The effect is the same as in the case of de jure segregation: The law again stands guard, admonishing the black child to enter a designated school because his dark skin will improve racial balance there, or instructing a white child to transfer into a black school for the same reason.

One of the more difficult problems about assigning pupils to schools by race is deciding who is white and who is black. For this, someone ought to devise a skin scanner capable of computing racial dominance by measuring skin shade.

In today's admonition against homogeneous schools, you have to think beyond simple race differentials; you are required to weigh the purses of schoolchildren to determine whether they belong to the poor or to the affluent segments of American society. If you are going to enforce mixing of pupils by social and income class, you must find out about the financial condition of their families.

At the base of the doctrine of *de jure* integration is the assumption that homogeneous schools are bad for children. If you want to raise a nasty question, simply ask: "What is the proof that schools with fairly similar enrollments are inferior? Why is an all-white school arbitrarily suspect, or an all-black school written off as worse than useless?"

The earliest example of *de jure* integration is found in the 1954 action of the New York City board of education when it declared that "racially homogeneous public schools are educationally undesirable," and then placed upon itself the responsibility of preventing "further development of such schools" and achieving racial balance in all of its schools.

The action was taken on the advice of social theorists who reasoned that segregation by fact—that is, resulting from the free choice of people—was as bad as segregation by law.

The action of the New York City board of education was followed up in 1960 by the New York board of regents. On the premise that homogeneous schools impair the ability to learn, the regents ordered the New York State department of education to seek solutions to the problem of racial imbalance. It declared:

"Modern psychological knowledge indicates that schools enrolling students largely of homogeneous ethnic origin may damage the personality of the minority-group children. . . . Public education in such a setting is socially unrealistic, blocks the attainment of the goals of democratic education, and is wasteful of manpower and talent, whether this situation occurs by law or fact."

Three years later, the then New York State commissioner of education, Dr. James E. Allen, Jr., now United States Commisisoner of Education, sent a memorandum to all State school officials requiring them to take steps to bring about racial balance in their schools. The commissioner defined racial imbalance as existing where a school had 50 per cent or more black children enrolled.

The legislative development of the concept of *de jure* integration has continued: California, Massachusetts, New Jersey, Wisconsin and Connecticut have declared in executive or judicial statements that racial isolation in the schools has a damaging effect on the educational opportunities of the Negro pupils.

In 1965, for example, the Massachusetts legislature enacted a Racial Imbalance Act. Schools with more than 50 per cent nonwhites were required to file with the Massachusetts State board a plan for correcting the condition.

It would be a serious mistake to overlook the role of the courts in establishing the rule that homogeneous schools must be abandoned.

The *de facto* school-segregation decision in *Hobson v. Hansen* explicitly instructed the Washington, D.C., board of education to submit plans for the reduction of imbalance in the schools.

By clear definition, Judge J. Skelly Wright included social class along with race as factors of concern. For the first time a court spoke not only on the unconstitutionality of racial imbalance but of social imbalance as well:

"Racially and socially homogeneous schools damage the minds and spirit of all children who attend them—the Negro, the white, the poor and the affluent—and block the attainment of the broader goals of democratic education, whether the segregation occurs by law or by fact."

Judge Wright overrode the conclusions of at least eight federal courts that had ruled consistently that it is not the duty of a board of educaion to eliminae *de facto* segregation, provided there is no evidence suggesting the maintenance of *de jure* segregation.

The sweeping Wright decision, however, went far beyond the more common legislative view in such States as New York and Massachusetts that blacks suffer from attendance in predominantly black schools. The jurist in *Hobson v. Hansen* added social-class homogeneity as a factor detrimental to democratic education. In addition, he enunciated the opinion that all children are hurt by homogeneity. In all-white, predominantly affluent schools, therefore, the minds and hearts of the pupils are being damaged for about the same reasons that black children suffer in schools peopled by their own race

If the rule requiring integration by social class prevails, every public school in the nation is subject to its effect. Even predominantly Negro school systems like the Washington, D.C., unit will be confronted with a redistribution of its pupils along social lines, if the literal meaning of the Wright opinion is observed. In the nation's capital, with about 94 per cent Negro public-school enrollment, more then 10,000 secondary-school students were reassigned in one year to bring about better social balance in the schools. Thus, *de jure* integration by class as a doctrine is already in partial effect in at least one major school system.

The conclusion that socially homogeneous schools must be destroyed rises from an increasing stress upon the theory that social class determines the quality of education. If the only way to improve achievement among lower-social-class pupils is to integrate them with higher-income pupils, a vast manipulation of school populations is in prospect. It would require a kind of despotism the world has not yet experienced, for enforcement is inevitable where the people do not volunteer.

It is difficult to believe that freedom can survive when government seeks to control the social and racial dispersement of the people—speaking, as it does so, the line: "This may hurt, but it will be good for you."

The judicial movement toward full development of the *de jure* integration doctrine was accelerated by the United States Supreme Court in three decisions issued in May, 1968. These are the Kent County, Va., the Gould, Ark., and the Jackson City, Tenn., opinions requiring the school boards in these communities to abandon their freedom-of-choice plans for desegregating their schools.

In these opinions, the Supreme Court declared that, in States where the schools were previously segregated by law, school boards must assume an affirmative responsibility to disestablish segregation.

In Jackson City, Tenn., for example, it was not enough to set up school zones on the neighborhood principle, at the same time allowing pupils to choose to attend schools outside those zones if space existed in them. Under this plan, formerly all-white schools received significant numbers of black students. Because, however, white students refused to attend or to elect to attend all-Negro schools, the Court was dissatisfied with the freedom-of-choice plan. The presence of all-Negro schools became clear evidence of intent to preserve segregation as it existed before 1954.

Not only must the Jackson City school authorities by the force of law require white children to attend formerly all-Negro schools, but they must also enforce faculty mixing by arbitrary assignment of personnel on racial lines.

The Supreme Court's disestablishment doctrine is the principle of *de jure* integration applied to those States in which segregation by law existed prior to the 1954 *Brown* decisions. This position—quite heavily burdened with patent discrimination against a group of States—is after all only one step removed from a decision requiring all States to disestablish segregation, whether this occurs by law or fact.

De jure integration, in summary, applies currently in those States and in those school districts where the local legislative bodies have enacted legislation establishing the

new doctrine. It applies specifically to the District of Columbia, where the Wright opinion required the board of education to prepare plans to reduce homogeneity by race and social class.

Directly and unequivocally, the doctrine has been invoked by the Supreme Court of the United States in its disestablishment ruling applicable to jurisdictions formerly segregated by law, as has been said here, this step is the precursor of a ruling requiring local and State boards of education to disestablish *de facto* segregation as well.

A THREAT TO PUBLIC EDUCATION

The most damaging aspect of the *de jure* movement is that its proponents must discredit predominantly white schools—of which there are many throughout the country—and predominantly black schools, whether they exist in large cities like New York or small ones like Drew, Miss. Out of the attack on public education needed to establish an enforced abandonment of homogeneity by race or class has come a threat to public education that promises to bring down the walls of this primary citadel of democracy.

Hardly a school system anywhere with racial imbalance has escaped a scathing attack by those bent on achieving a millennium through the simplistic step of requiring racial balancing either by legislative or judicial action. Trace the anti-public-school sentiment in recent years to its source: You will discover—as in the case of the Washington, D.C., story—a sequence of attack, discredit, weaken; a strategy for imposing racial and social-class mixing through the winning of legislative and judicial support.

The danger in the drive for legislative and court actions to make integration the law of the land—here meaning the artificial management of persons to establish racial and social-class mixing—is the imminent destruction of confidence in public education.

As important as the hazard to public education is the fact that, in any case, *de jure* integration does not work.

The policy of the New York City board of education requiring racial balance produced overwhelmingly negative results. It left a trail of school disruptions, protests, boycotts and sit-ins. In the meantime, whites left the schools at an increasing rate.

In 1964, an official study group stated:

"No act of the board of education from 1958 through 1962 has had a measurable effect on the degree of school segregation. . . . Not a single elementary or junior high school that was changing toward segregation by virtue of residential changes and transfers of whites into parochial and private schools was prevented from becoming segregated by board action."

Four and a half years ago, the New York City board of education paired two schools—one mostly white, the other Negro. The promise made to the parents was that a race ratio of 65 per cent whites and 35 per cent blacks would be maintained in each school. Today—that is, in early 1969—the white enrollments are down to about 35 per cent in each of the two schools.

The Gould, Ark., experience is further proof of the futility of attempting to apply the doctrine of *de jure* integration. The community paired its two small schools last autumn. As a result, all but 50 of 250 white pupils withdrew. The authorities there estimate that in the coming school term the white enrollment will fall to no more than 20 pupils.

Washington, D.C., is an example of very rapid changes in race ratios over a period of a few years. From 1950 to 1967, the white school membership dropped from 46,736 to 11,784, while the black membership jumped from 47,980 to 139,364.

Enrollment figures show that formerly all-white Washington, D.C., public schools invariably moved to 75 per cent black membership two years after the 50 per cent point was reached. In each such school, the black membership quickly moved thereafter to 99 per cent.

The new and important discovery was that when a formerly all-white school approached 30 per cent black membership, the rate of change increased. Within two years, the black membership reached the 50 per cent point, from which it moved to 75 per cent within the next two years. The important finding is that the starting point for rapid white exodus is 30 per cent.

A police state with unlimited enforcement power will be needed to implement integration if it is required by law.

It is inviting to speculate about the ultimate possibility of an enforced integrated society. The next step may be to set up quotas for neighborhoods, so that the number of poor will be proportionate to their total number in the community. New homes funded by federal loans may, under a policy of social integration, be sold on schedules determined by the ratio of whites and blacks, Jews and non-Jews, Protestants, Catholics, agnostics and atheists in any community.

Out of the intervolutions from which the doctrine of *de jure* integration comes, two findings emerge with clarity:

One is that palpable preservation of *de jure* segregation anywhere—whether in schools, employment or housing—is morally wrong. The counterpart of this principle is that *de jure* integration is equally questionable.

CREATING "THE HOMOGENIZED CITIZEN"

The second main finding resulting from an analysis of the enforced mixing of people by race and class is that what is most desired is the "integrated man" made up of proportionate parts of every ethnic group and of the several religious and cultural components of American society. The homogenized citizen thus created is a dangerous change from the historic individualism which, with its supportive pluralism, has been this nation's major source of strength.

The melding, blending process inherent in the concept of *de jure* integration may destroy the dream of a free society. A development of such significance, therefore, deserves the most careful study and evaluation.

THE ABM: ANOTHER VIETNAM

Mr. TYDINGS. Mr. President, at this time I wish to discuss one of the most crucial matters to come before the Congress in this decade: the administration's decision to deploy the Safeguard antiballistic-missile system. For more is at stake than an enormously expensive complex of military equipment. We are being asked to make a decision which could easily affect our national security, the course of the arms race, as well as the very nature of our society in the years ahead.

Therefore, it is my intention to explore this matter this afternoon in as much depth and detail as time permits.

One of the most important checks and balances built into our system of government by the Constitution is the power of the purse vested in the Congress. It is the grave responsibility of those who exercise this power to insure that the taxpayer's money is expended on public programs that meet the most rigorous criteria of effectiveness and efficiency, and are consistent with the Nation's priorities. In the field of domestic legislation, the Congress has honored its obligation, proceeding with prudence and caution. Members of the Senate and House of Representatives closely examine the content and costs of new programs, demanding assurances regarding their actual performance and cost effectiveness. In fact, we have often been subject to criticism for being overly circumspect, demanding unrealistic guarantees of innovative new programs in the health, education, and welfare category. But no one can validly accuse us of being profligate.

THE "UNTOUCHABLE" MILITARY BUDGET

Such, however, has not been the case with regard to military appropriations. Since the onset of the cold war in the years immediately following World War II, Pentagon requests have been treated as sacrosanct on Capitol Hill. Few Congressmen have dared to boldly question and debate programs bearing the label "national security."

As a result our defense budget has expanded at an incredible rate to the point where military and defense-related expenditures consume more than two-thirds of every American income tax dollar. Congressional failure to carefully analyze and evaluate defense spending has permitted much waste and duplication. Our distinguished colleague, the Senator from Missouri (Mr. SYMINGTON), former Secretary of the Air Force and now a member of the Senate Armed Services Committee, recently pointed out in this Chamber that more than $23 billion in public funds have been spent on developing missile systems that were never operative or quickly became obsolete.

Given the unpredecented inflation we are experiencing, the growing burden of the American taxpayer, and the implacable urgency of our domestic problems, this "buy whatever the generals want" attitude toward military spending is a luxury we can no longer afford.

This is not to say that the importance of insuring the national security should be diminished in any way. Diverting money to domestic programs at the price of military vulnerability is foolhardy and unthinkable in the nuclear age. Our strategy for deterring World War III and the destruction of mankind rests on an unquestioned capacity to destroy any adversary who would contemplate a nuclear attack.

However, the advance of nuclear weaponry has introduced a new factor into the strategic calculus: beyond a certain point additional military appropriations and equipment may not be translatable into increased national security or useful political power. In other words, since both the Soviet Union and the United States have sufficient nuclear power to start a nuclear attack and then to destroy the attacker's society with a second strike, additional dollars spent on weapons do not necessarily enhance our strength or security. With the aid of expert advice from the military, from our scientists, and from our diplomats, it is the responsibility of Congress to determine which funds are needed to preserve our military position and which could best be allocated elsewhere.

It is within this framework, Mr. Presi-

dent that I wish to discuss the recent decision by the administration to proceed with the deployment of an anti-ballistic-missile system.

The PRESIDING OFFICER (Mr. SPONG in the chair). The Senator's time has expired.

Mr. TYDINGS. Mr. President, I ask unanimous consent to proceed for an additional 15 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UNCONVINCING PENTAGON CLAIMS FOR ABM

Mr. TYDINGS. Let us begin with a careful examination of the Defense Department's reasons for requesting the money for an ABM system. Though the justifications for deploying an ABM have shifted with the political winds during both this administration and the last, Secretary of Defense Laird offered three principal reasons for constructing the Safeguard system during recent congressional hearings:

First, to defend against a possible Chinese nuclear missile attack;

Second, to defend against a "light" irrational or accidental attack by the Soviet Union;

Third, to protect a portion of our offensive missile forces for a second-strike capability against a possible Soviet attempt to develop the potential to destroy our offensive forces through a massive preemptive nuclear attack.

At the same time, spokesmen for the Defense Department indicated what the ABM was not supposed to do:

First, it was not to be a defense of our cities against an all-out attack, for this was deemed beyond our present technological capabilities;

Second, it was not to provoke the Soviets into reacting, thereby setting off another expensive round in the arms race;

Third, it was not to undermine in any way our chances of reaching agreements with the Soviets on arms control and limitation.

Mr. President, I feel that these arguments for the ABM simply do not hold water. To begin with, the case made by the Pentagon for the deployment of ABM installations around our Minutemen sites in Malmstrom, Mont., and Grand Forks, N. Dak., is rife with inconsistencies and contradictions.

If the Chinese ever chose irrationally to attack—and it should be remembered that they still do not possess a deliverable nuclear attack capability—it would surely consist of a suicidal nuclear bombardment of our cities, and not a strike against two isolated missile bases in Montana and North Dakota. For the Chinese will not have a sufficient number of warheads in the foreseeable future to attempt to destroy our second-strike capability; that is, our ability to absorb a nuclear attack with enough of our missiles intact to devastate China in response.

CITIES UNPROTECTED

The proposed ABM system is simply not designed to defend cities. The contemplated ABM system consists of two different types of missiles: the Spartan missile which is designed to intercept enemy missiles before they reenter the earth's atmosphere and which has a range of approximately 400 miles; and the smaller Sprint missile, with a range of 25 to 30 miles, which is supposed to pick up enemy projectiles that penetrate the Spartan defense and disarm them 100,000 feet above their targets.

Given the location of the two ABM installations proposed for initial construction by the administration, the only one of the Nation's 25 largest cities that would receive even theoretical protection against a Chinese attack would be Minneapolis. The rest of our urban population would remain as vulnerable as before.

Would this situation be remedied by deploying missiles in the 10 additional sites the Pentagon is reportedly contemplating? I think not. According to scientists both in and out of Government, it is relatively easy to deceive the radars which guide the Spartan missiles with decoys and other deception devices. It is not until objects actually reenter the atmosphere on this side of the globe that radars can reliably differentiate the decoys from the real thing. At this point, it falls to the Sprint to provide the ultimate protection.

But the Pentagon has announced its intention to place its ABM sites a considerable distance from our cities, which would place our major population centers outside the range of the Sprints. Thus, with a little ingenuity and the technical proficiency which the Soviets now have and the Chinese will likely soon possess, they could penetrate our Spartan defense and devastate our cities.

Why don't we move our Sprints closer to the cities? Because then we would have the "damage-limiting" system the Pentagon claims is impractical and which it believes will provoke the Soviets into increasing their own offensive capacity.

In other words, the justification of the ABM as protection against a Chinese nuclear attack simply defies the facts.

The argument that the ABM would provide useful protection against a less than "all-out" irrational or accidental attack by the Soviets is hardly more convincing.

A Soviet missile attack on the United States would be "irrational" because it would be suicidal. Regardless of the destruction wreaked on the United States, the U.S.S.R. would also be obliterated in the process. However, to assume that such a Soviet attack might also be "irrational" enough to be less than "all-out" defies reason. Why should any Soviet leader send only a few missiles over when he knows the United States will retaliate with its full second-strike force? Even men as mad as Hitler were never guilty of such thoughtless accommodation to their enemies. If the Soviets did attack, it would certainly be with full force, which by the Pentagon's own reckoning would render the proposed Safeguard system useless.

As for accidental attack, I assume it would consist of one or two missiles that unintentionally "got away." Since all missiles are programed to specific destinations, it is clear that such a missile would either be directed toward a large city or toward a missile site.

If the former were the case, the Safeguard system would only protect Minneapolis theoretically and might even prove inadequate here owing to the fact that this city is beyond the range of our Sprints. If this enemy missile were targeted at a missile site, at most we would simply lose a few of our 1,000 ICBM's, and few lives would be lost. It is hardly worth the vast expense of an ABM system to insure against the loss of a few drastically less expensive ICBM's.

REFUTING CHARGE OF VULNERABILITY

The final justification offered by the Pentagon in support of the Safeguard is the most serious. It is based on the claim that our second-strike capability is being threatened by the Soviets and that measures must be taken to protect portions of our second-strike force.

If in fact our retaliatory capability is in question, we must act immediately to restore it. The Soviets must never doubt our ability to inflict unacceptable damage to their society in response to a preemptive attack. This is the very substance of our deterrent strategy. If our retaliatory capability is in question, additions to our offensive forces, not dubious defensive missiles, ought to be our strategy.

However, there is no evidence that our second-strike capability is being threatened or that Moscow doubts its effectiveness.

Last month, before the Senate Foreign Relations Subcommittee on Disarmament, Secretary of Defense Laird declared that the Russians "are going for a first strike capability—there is no question about that." This came as a shock to those of us in Congress who are acutely interested in this Nation's defense posture. Only 2 months before, outgoing Defense Secretary, Clark Clifford, had announced:

> The U.S. "shall continue to have, as far into the future as we can now discern, a very substantial qualitative lead and a distinct superiority in numbers . . . and overall combat effectiveness of our strategic offensive forces."

He added that the "most pessimistic" military estimates credit the U.S. with the ability to destroy 40 percent of the Soviet population and 75 percent of their industry even after an all-out attack by the "highest expected threat" the Soviets could launch in the future. And presumably by "future," he meant more than the 8 weeks between the time of his leaving and Mr. Laird's testimony before Congress.

The National Intelligence Estimate—the consensus view of the Defense Intelligence Agency, the State Department, and the Central Intelligence Agency—denies the existence of any first-strike plans on the part of the Kremlin or any signs that such plans are in the making. In addition, the Secretary of State of this administration, Mr. Rogers, reconfirmed this view in a recent press conference, declaring that he was not aware of any Soviet intentions to develop a first-strike capability.

The arithmetic of the situation casts further doubts on Mr. Laird's conten-

tion. Both we and the Soviets each have slightly in excess of 1,000 operational ICBM's. Let us suppose that Moscow initiated a preemptive strike against the United States and destroyed everyone of our Minutemen in their hardened and dispersed sites—a virtual impossibility given what we know about the launch probabilities, megatonnage and accuracy of Soviet missiles. This hypothetical exercise also requires the further doubtful assumption that we chose not to launch our ICBM's in retaliation during the grace period after our radars detected this massive Soviet assault and before the enemy missiles actually struck.

Our retaliatory forces would still contain 656 submarine-launched Polaris missiles that are invulnerable to enemy attack and 480 B–52 bombers each carrying four nuclear bombs and a nuclear-tipped Hound Dog missile with a range of 700 miles once it is launched from the parent plane. This is a total of more than 3,000 nuclear warheads. According to former Secretary of Defense McNamara's estimates, it would take no more than 400—not 3,000—nuclear warheads to damage the Soviet Union beyond recognition and repair.

MR. LAIRD CRIES "WOLF"

Mr. Laird bases his claims about Soviet intentions to develop a first-strike capability on the deployment of 200 Russian SS9 missiles. We have known about these missiles with large warheads for several years, and our intelligence evaluations have considered them part of the Soviet second-strike force designed to destroy our cities in a retaliatory attack. Suddenly, without explanation the Secretary of Defense has decreed that they are now first-strike weapons.

Even accepting this questionable turnabout, the SS9 provides no reason for deploying an anti-ballistic-missile system in this country. Assuming these missiles possess the accuracy and launch probability estimated for our own Minutemen missiles, all 200 SS9's with huge multimegaton warheads would destroy only 90 of our 1,000 land-based ICBM's. The Soviets would require more than 2,000 of these SS9's armed with 20 megaton warheads to destroy our entire Minutemen force—and this would still leave us with 656 submarine-launched missiles and our intercontinental bombers with their 2,400 nuclear warheads with which to retaliate.

Finally, the credibility of Mr. Laird's contention that Moscow has first-strike designs is undermined by his recommended response. He is calling for a limited ABM system that will not "provoke" the Soviets. If, in fact, the Soviets are intent on developing the capability to destroy us and our ability to retaliate, and if the ABM is a workable system, a workable defense, should we not proceed immediately with a "heavy system" to protect our people and all our missiles? Why are we worried about provoking a nation which supposedly already has decided to go all out to annihilate the United States? How can they be further provoked?

In addition, spokesmen for the administration have indicated U.S. readiness to abandon the Safeguard if the Russians will give up their limited ABM deployment around Moscow. Secretary of State Rogers informed the Foreign Relations Committee only several weeks ago:

> Suppose we started our talks in a few months and the first thing that's said by the Soviet Union is, "Let's do away with defensive missiles." We'd have no problem. We'd be delighted.

These are Secretary of State Rogers' words.

If we truly believed the Soviets were forging ahead with the development of a first-strike capability, such a concession would be suicidal. We would be playing directly into Moscow's hands. One is forced to conclude that Mr. Laird does not take his own cries of "wolf" as seriously as he would have us receive them.

In summary, the Pentagon's claim that the Safeguard is necessary to preserve our second-strike capability is unconvincing.

Thus, a careful examination of the three principal justifications for an ABM system offered by the administration—to protect us against a Chinese attack, to defend against a light irrational or accidental Soviet attack, and to counter Kremlin designs to develop a first-strike capability—yields little reason to support deployment. Indeed, the Pentagon's own contradictory and inconsistent defense of the system provides a persuasive case for its rejection. It appears that the Safeguard will not do that for which it is intended while doing that which is not needed.

However, it is conceivable that a proposal may possess merit though it will not do what its proponents claim. Therefore, I believe there are several other questions that should be raised before a responsible decision on deployment can be reached.

SCIENTISTS DOUBT ABM EFFECTIVENESS

The most obvious is whether or not the Safeguard system will actually disarm enemy missiles before they destroy their targets. That is, will it work? The weight of the scientific evidence presented before Congress to date indicates that the ABM will not work.

Safeguard's technology is essentially the same as that of Nike X, which was rejected as inadequate when it was developed. The last five science advisers to the President, the President's Science Advisory Committee, and hundreds of scientists across the country have entertained serious questions about the technical difficulties an ABM system would encounter. Most of their questions, such as those concerning radar blackout, computer programing, saturation, fallout, and command and control links, remain unanswered. In fact, many can only be answered with confidence under actual combat conditions, when it is too late to correct system failures.

There is also the problem of early obsolescence. Our scientists are confident we could render a Soviet ABM system ineffective by relatively simple countermeasures. Enemy radars could be deceived or debilitated with devices such as large numbers of lightweight decoys, nuclear explosions, electronic jammers, and widely dispersed metal chaff.

There is every reason to believe the Soviets and Chinese would develop these deception techniques, leaving us with a multi-billion dollar missile system that might be totally obsolete even before it is installed. Would we consider funding a poverty program with similar prospects?

ESCALATING THE ARMS RACE

So far we have focused on what the Safeguard's proponents say it will do—on its potential benefits. A balanced appraisal, however, requires an evaluation of possible costs resulting from deployment.

First, we must consider the impact of constructing an ABM system on the arms race and international stability.

The President contends that because the Safeguard system is "thin" and its avowed purpose is defensive, deployment will not provoke the Soviets into expanding their own missile forces. While the absence of a Soviet reaction would be welcome, it seems highly unlikely.

Why should the Russians, with their obsession for defense conditioned by two World Wars, exercise more restraint than we, ourselves, have managed? After all, the Pentagon's decision to proceed with the Safeguard was partially in response to the Kremlin's deployment of a very limited system around Moscow. In addition this small Soviet ABM system "provoked" us into developing multiple-independently - targeted - reentry - vehicles (MIRV's) for our own missiles to insure our capacity to penetrate any anti-ballistic-missile system.

At a minimum, the Soviets could be expected to increase their offensive forces sufficiently to saturate our Safeguard defenses in Montana and North Dakota, thereby preserving their ability to strike our missile bases. More likely, given the action-overreaction pattern that has characterized the arms race since the fifties, they would feel compelled to increase their offensive missile forces, to expand their ABM system, and to begin to develop their own MIRV's.

Once both nations begin to deploy ABM systems and MIRV's, the history of the strategic arms race will have entered a disastrous new phase from which there might be no escape. Massive new levels of expenditure and danger will be imposed on both peoples with no gain of security for either.

PENTAGON PARADOX: BILLIONS FOR INSECURITY

The key to the current strategic balance and hopes for eventual arms control is the ability of each nation to accurately calculate the missile strength of the other. For only with such information can we and the Soviets be certain that our second-strike capabilities are adequate.

A combination of MIRV's and ABM's destroys such certainty. The MIRV is a weapon system which permits the independent firing of a number of nuclear warheads from a single missile. Since these warheads are concealed in the nose cones of the missiles from which they are fired, there is no way of knowing how many warheads another nation could unleash in time of war.

The ABM merely increases this uncertainty. Since it is impossible to know how effective an anti-missile system would be during an actual nuclear ex-

change, it is impossible to ascertain with any certainty how many of your own missiles would be needed to penetrate it.

Since we and the Soviets could no longer accurately estimate either the offensive or defensive capabilities of the other, both nations would be condemned to add continuously to their armaments, to guarantee that neither could attain a first-strike capability. In addition to being incredibly expensive, this endless arms race would produce a permanent strategic instability that would invite miscalculation and a heightened possibility of nuclear exchange.

In other words, deployment of the ABM and its antidote, the MIRV, would place us in the paradoxical position of purchasing insecurity at a very dear price. All we would have to show for the hundreds of billions in defense appropriations would be considerably less national security than we currently enjoy.

Furthermore, the opportunity to negotiate meaningful arms controls with the Soviets would be lost. The only way to determine the number of MIRV's in a missile is to open the nose cone and count them. Given the longstanding Soviet opposition to onsite inspection, no workable arrangement with Moscow to limit or decrease nuclear warheads would be possible. We would become the permanent prisoners of our own ingenious technology.

COST OF THE SAFEGUARD: HIGHER TAXES, MORE INFLATION

Next, there is the matter of opportunity costs. Every government, business, and household must weigh intended spending against the benefits that would be derived from alternative uses of the money.

Determining how much the Safeguard system would cost is difficult. The Pentagon has provided an estimate of $7 billion. However, according to a recent Brookings Institute study, U.S. weapons systems consistently cost taxpayers 300 to 700 percent more than initial Defense Department estimates. Therefore, at a minimum we are contemplating an expenditure of between $21 and $49 billion.

If we assume Soviet reactions to the Safeguard will cause us to expand it into a heavy system, we find ourselves committed to a military bill ranging in the hundreds of billions of dollars. Senator SYMINGTON recently estimated that the cost of a heavy anti-Soviet ABM system could conceivably run over $400 billion—which is more than double our entire present Federal budget.

A tripling of the Federal budget over a short period would obviously triple Federal taxes and exacerbate the dangerous inflation we are fighting. Given that per capita taxation in this country is already in excess of $1,000 and that our dollar is currently losing a nickel in buying power each year, a radical increase in Federal spending hardly would be a welcome development.

DOMESTIC NEGLECT

More importantly, increases in military spending would render impossible the needed reordering of the national agenda. Though we are the most affluent of nations, resources in the public sector remain limited. In reality, we have not been able to afford both guns and butter. The war in Vietnam and a burgeoning defense budget have compelled us to ignore pressing domestic problems.

Our central cities are in an advanced stage of deterioration. Slums spread and businesses providing jobs and services flee to the more inviting suburbs.

The poverty that grips these blighted areas shatters families and breaks men's spirits. Adults and children are driven to drugs and crime. Failure and frustration explode into riots and bitter disillusionment with the American dream. Millions of Americans in our urban slums and rural shantytowns continue to struggle for survival ill housed, ill clothed, ill fed. Our war on poverty has turned into a decidedly dovish affair for lack of funds.

A situation that places the solution of such problems at the bottom of the list of national priorities is unacceptable. We must not become so preoccupied with defense that we lose sight of what is being defended.

A budget that devotes two-thirds of all Federal funds to military and defense-related items threatens to militarize our foreign policy, our economy, our entire culture. Without weakening our ability to deter war, we must find ways to cut defense spending, not increase it.

For if we fail to reorder our priorities and restore some balance to Federal activities, we will no longer need to worry about the balance of power and enemy first-strike capabilities; we will meet devastating disorders at home.

CONCLUSION

The evidence against deploying the Safeguard system at this time is compelling. It would not defend us against a Chinese or Soviet attack on our cities; the Soviets would still be able to strike our missile sites by means of deception devices or by simply saturating our defenses with more missiles than we could handle; there is strong reason to doubt the Safeguard would actually work; the Soviet response to deployment would likely trigger an incredibly expensive new round in the arms race that would destroy any hopes for disarmament or arms control; the development of ABM's and MIRV's would upset the current strategic balance of power and introduce uncertainties that would leave us less secure than we are today; Safeguard might cost as much as $400 billion at a time when taxes are rising and inflation is reducing the value of the American dollar; an assessment of opportunity costs suggests that tax dollars would be better invested in solving urgent domestic problems instead of purchasing more military hardware which is unneeded to preserve our national security.

Therefore, I shall vote against the deployment of the Safeguard system at this time, though I do not oppose continued research and development as a precautionary measure. When the Pentagon is wrong, Congress must have the courage to stand up and say "No."

PROPOSED CLOSINGS OF THREE FEDERAL ACTIVITIES IN MAINE

Mrs. SMITH. Mr. President, 8 years ago at this time Democratic President John F. Kennedy and his Secretary of Defense Robert S. McNamara announced their decision to close the Snark missile Air Force base at Presque Isle, Maine. I immediately took the position that I would not oppose such closing caused by the rapidly changing character of the security and defense of our country even though the closing would have a detrimental effect on the economy of the area and cause dislocation. I was the first Member of the U.S. Senate to take such a position on closings.

I refused to oppose the decision to close that base because to do so would be submitting to the economic philosophy that our National Defense Establishment and our national security program must be operated for the economy locally. I said that to do otherwise would be against the interests of national security and the taxpayers. I expressed my confidence that the citizens of the Presque Isle area were of such admirable self-reliance that they would meet the impact well and successfully.

They did so—and so remarkably well that they have been held up as an example for others to follow nationally.

Now, 8 years later, a Republican President has announced the decisions to close three Federal activities in Maine—the Air Force station at Topsham, Maine, the Job Corps Center at Poland Spring, Maine, and the Job Corps activity at Acadia National Park.

Now my position is the same as it was 8 years ago. I cannot oppose such closings by a Republican President any more than such closing by a Democratic President. I am equally confident that the citizens of the Topsham-Brunswick area, the Poland Spring-Lewiston area, and the Acadia-Bar Harbor area are of such admirable self-reliance that they will meet the impact well and successfully. I shall do what I can to help them absorb the economic impact of these unpleasant decisions.

I have tried to be nonpartisan in my position on these closings. I supported a Democratic President 8 years ago and I support a Republican President now in accepting in good faith their decisions on these closings and their beliefs that such closings are in the best interest of our Nation and our citizens.

The bipartisan nature of the closings at Topsham and Poland Spring should not be overlooked. The decision to close the Air Force station at Topsham was made originally by the Democratic administration last year in its determinations on the proposed 1969–70 budget.

It was a Democrat who made the key recommendation that the Women's Job Corps Center at Poland Spring be closed—an appointee of a Democratic President, the then Acting Director of the Office of Economic Opportunity, who made the recommendation that this Job Corps Center be closed. In a letter dated April 10, 1969, to the Secretary of Labor, Acting OEO Director Bertrand M. Harding wrote:

> For at least the past two years, we have had serious managerial problems with the contractor at Poland Spring. These problems have raised serious questions as to whether the center should be continued under any circumstances . . . it is our collective judgment in OEO that in determining between

the two centers, closure of the Poland Spring facility would be the more constructive move.

I ask unanimous consent that his letter be printed in the RECORD.

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

OFFICE OF ECONOMIC OPPORTUNITY,
Washington, D.C. April 10, 1969.

Hon. GEORGE P. SHULTZ,
Secretary of Labor,
Washington, D.C.

DEAR MR. SECRETARY: This is in response to your request for our judgment in the selection for closure of a seventh Women's Job Corps Center.

We recognize that the statistical data furnished you as a guide to ranking the various centers ranks the center at Poland Spring very slightly above those at Albuquerque, Guthrie, and Tongue Point. Using that data alone could lead to the conclusion that there is justification for closing any one of these centers. However, I want to call your attention to another factor which, in our judgment, would weigh the equation in favor of closing Poland Spring. For at least the past two years, we have had serious managerial problems with the contractor at Poland Spring. These problems have raised serious questions as to whether the center should be continued under any circumstances. While, to be fair, the contractor has been making serious efforts in recent months to up-grade the quality of the center operations, I nevertheless feel that the difficult problems which have become inherent in that situation are such that they will not be easily corrected. Therefore, it is our collective judgment in OEO that in determining between the two centers, closure of the Poland Spring facility would be the more constructive move.

I hope this information will be helpful to you in making these difficult decisions.

Sincerely,

BERTRAND M. HARDING,
Acting Director.

EXECUTIVE COMMUNICATIONS, ETC.

The PRESIDING OFFICER laid before the Senate the following letters, which were referred as indicated:

PROPOSED LEGISLATIVE RECOMMENDATIONS OF THE INTERSTATE COMMERCE COMMISSION

A letter from the Chairman of the Interstate Commerce Commission, transmitting four drafts of legislative recommendations on the following subjects: Motor Carrier Through Routes and Joint Rates; Suspension and Revocation of Motor Carrier Operating Authority; Delegation of Authority to Qualified Individual Employees; and Revision of Procedures for Judicial Review of the Commission's Proceedings (with accompanying papers); to the Committee on Commerce.

PROPOSED LEGISLATION DEALING WITH THE PEACE CORPS

A letter from the Acting Director of the Peace Corps, transmitting a draft of proposed legislation concerning the appropriation authorization of $101.1 million for the Peace Corps in fiscal 1970, and amendment of the Peace Corps Act to provide that Peace Corps Volunteers be deemed Government employees for purposes of the Act of October 21, 1968, which authorizes the waiver of claims arising from erroneous payments to Government employees (with an accompanying paper); to the Committee on Foreign Relations.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States transmitting a report on the opportunity to use excess foreign currencies to pay transportation expenses of returning Peace Corps volunteers, dated April 23, 1969 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States transmitting a report on a survey of the economic opportunity loan program administered by the Small Business Administration, under title IV of the Economic Opportunity Act of 1964, dated April 23, 1969 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States transmitting a report on the administration and effectiveness of the work experience and training project in Lake County, Indiana, under title V of the Economic Opportunity Act of 1964, Department of Health, Education, and Welfare, dated April 24, 1969 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States transmitting a report on potential savings by improving evaluation of competitive proposals for operation and maintenance contracts awarded by the Department of the Air Force, dated April 25, 1969 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States transmitting a report on the administration and effectiveness of the work experience and training project activities carried on in Maricopa County, Arizona, under title V of the Economic Opportunity Act of 1964, Department of Health, Education, and Welfare, dated April 22, 1969 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States transmitting a report on improvements needed in the management of the urban renewal rehabilitation program by the Department of Housing and Urban Development, dated April 25, 1969 (with an accompanying report); to the Committee on Government Operations.

PETITIONS AND MEMORIALS

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

By the PRESIDING OFFICER:

A joint resolution of the Legislature of the State of New Mexico; to the Committee on Commerce:

"SENATE JOINT MEMORIAL 8

"A joint memorial requesting that the Congress of the United States amend Public Law 89-387, being the "Uniform Time Act of 1966"

"Whereas, the United States congress passed the "Uniform Time Act of 1966" which required that the states of the nation observe daylight saving time unless their legislatures voted to reject it, and

"Whereas, the New Mexico legislature did not reject the provisions of Public Law 89-387 requiring daylight saving time, and

"Whereas, the law requires that daylight saving time be observed from the last Sunday in April until the last Sunday in October, and

"Whereas, it appears that although the majority of the people approve of daylight saving time, objection has been made to its six-months' duration, and

"Whereas, a four-month period, commencing on the last Sunday in May and ending on the last Sunday in September would be more desirable for, and more acceptable to, the majority of the people;

"Now, therefore, be it resolved by the Legislature of the State of New Mexico that the congress of the United States be requested to amend Public Law 89-387, being the "Uniform Time Act of 1966" to provide for a four-month period of daylight saving time, and

"Be it further resolved that copies of this memorial be sent to the President pro tempore of the United States Senate, to the Speaker of the United States House of Representatives and to the New Mexico congressional delegation.

"Signed and Sealed at The Capitol, in the City of Santa Fe.

"E. LEE FRANCIS,
"President, New Mexico Senate.
"DAVID L. NORVELL,
"Speaker, House of Representatives."

A concurrent resolution of the Legislature of the State of Kansas; to the Committee on Post Office and Civil Service:

"HOUSE CONCURRENT RESOLUTION No. 1048

"A concurrent resolution memorializing the Congress of the United States in regard to legislation pertaining to the conduct of a census.

"Whereas, A census of the entire population of the United States will be taken in the year 1970; and

"Whereas, The residents of the state of Kansas are vitally concerned with the census that will be conducted; and

"Whereas, The proposed census questionnaire for 1970 contains a great number of questions, many of which are of a very personal nature, and such questionnaire will prove to be quite cumbersome and burdensome; and

"Whereas, Legislation has been introduced in the 1969 session of the congress of the United States which would remedy this problem by limiting the categories of the census questionnaire to six items; and

"Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the legislature of the state of Kansas respectfully petitions the congress of the United States to give serious consideration to the legislation which is now before such body in reference of a census. Such considerations should take into account a thorough review of the proposed census questionnaire for the year 1970 which contains a tremendous number of items, many of which are of a strictly personal nature. There is now a bill before the 1969 congress, which is House Resolution 20, which would limit the categories and items that a census would be concerned with to six in number. The legislature of this state respectfully requests that the members of the 1969 congress study this problem and direct their attention toward the legislation now before the congress or to other legislation of a similar nature and import.

"Be it further resolved: That a duly attested copy of this resolution be immediately transmitted by the secretary of state to the secretary of the Senate of the United States, the clerk of the House of Representatives of the United States and to each member of the congress from this state.

"I hereby certify that the above Concurrent Resolution originated in the House, and was adopted by that body April 7, 1969.

"CALVIN A. SWERIG,
"Speaker of the House.
"D. HAZEN,
"Chief Clerk of the House.

"Adopted by the Senate April 10, 1969.

"G. SMITH,
"President of the Senate Pro Tem.
"RALPH E. ZERKER,
"Secretary of the Senate."

A joint resolution of the Legislature of the State of Nevada; to the Committee on Interior and Insular Affairs:

"SENATE JOINT RESOLUTION No. 20

"Senate Joint Resolution—Memorializing the Congress of the United States to establish a national cemetery in Nevada.

"Whereas, An increasing number of military personnel are spending their retirement years in Nevada; and

"Whereas, The inaccessibility of existing national cemeteries makes it impossible for the families of western veterans to provide for the interment of their loved ones in a cemetery fitting as a remembrance to the career pursued; and

"Whereas, Nevada is an ideal location for the establishment of a national cemetery; now, therefore, be it

"Resolved by the Senate and Assembly of the State of Nevada, jointly, That the legislature of the State of Nevada hereby respectfully memorializes the Congress of the United States to establish a national cemetery in Nevada; and be it further

"Resolved, That copies of this resolution be prepared and transmitted forthwith by the legislative counsel to the President of the United States, the Vice President of the United States, the Speaker of the House of Representatives and each member of the Nevada congressional delegation."

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 amendments:

H.R. 7206. An act to adjust the salaries of the Vice President of the United States and certain officers of the Congress (Report No. 91-131).

BILLS AND JOINT RESOLUTIONS INTRODUCED

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

By Mr. ANDERSON (for himself and Mrs. SMITH) (by request):

S. 1941. A bill authorizing appropriations for the National Aeronautics and Space Administration; to the Committee on Aeronautical and Space Sciences.

By Mr. COTTON (for himself, Mr. ALLOTT, Mr. BAKER, Mr. BOGGS, Mr. COOK, Mr. CURTIS, Mr. DIRKSEN, Mr. DOMINICK, Mr. ERVIN, Mr. FANNIN, Mr. FONG, Mr. HANSEN, Mr. JAVITS, Mr. JORDAN of Idaho, Mr. MUNDT, Mr. MURPHY, Mr. PELL, Mr. SCOTT, Mrs. SMITH, Mr. THURMOND, Mr. TOWER, and Mr. TYDINGS):

S. 1942. A bill to amend the Internal Revenue Code to encourage the construction of facilities to control water and air pollution by allowing a tax credit for expenditures incurred in constructing such facilities and by permitting the deductions, or amortization over a period of 1 to 5 years, of such expenditures; to the Committee on Finance.

(See the remarks of Mr. COTTON when he introduced the above bill, which appear under a separate heading.)

By Mr. BYRD of West Virginia:

S. 1943. A bill for the relief of Arie Abramovich; to the Committee on the Judiciary.

By Mr. PACKWOOD:

S. 1944. A bill to provide that the Secretary of the Interior, in consultation with the Governor of the State of Oregon, shall investigate and report to the Congress on the advisability of establishing a national park or other unit of the national park system in the central and northern parts of the Cascade Mountain region of the State of Oregon; to the Committee on Interior and Insular Affairs.

By Mr. BOGGS:

S. 1945. A bill to amend the Internal Revenue Code of 1954 to include losses caused by termites as casualty losses; to the Committee on Finance.

By Mr. ERVIN (for himself and Mr. FANNIN):

S. 1946. A bill to further protect the rights guaranteed to employees by section 7 of the National Labor Relations Act (20 U.S.C., sec. 157) by prohibiting the imposition by labor organizations of fines or other economic sanctions for the exercise thereof, and for other purposes, viz; to the Committee on Labor and Public Welfare.

(See the remarks of Mr. ERVIN when he introduced the above bill, which appear under a separate heading.)

By Mr. HATFIELD:

S. 1947. A bill to provide that the Secretary of the Interior shall investigate and report to the Congress on the advisability of establishing a national park or other unit of the national park system in the central and northern parts of the Cascade Mountain region of the State of Oregon; to the Committee on Interior and Insular Affairs.

(See the remarks of Mr. HATFIELD when he introduced the above bill, which appear under a separate heading.)

By Mr. MONTOYA:

S. 1948. A bill for the relief of Wong Kam Cheung; to the Committee on the Judiciary.

By Mr. INOUYE (for himself, Mr. FONG and Mr. STEVENS):

S. 1949. A bill to amend section 620 of title 38 of the United States Code to permit the Administrator of Veterans' Affairs to share with public or private persons the cost of nursing home care for veterans in Alaska and Hawaii; to the Committee on Labor and Public Welfare.

(See the remarks of Mr. INOUYE when he introduced the above bill, which appear under a separate heading.)

By Mr. INOUYE:

S. 1950. A bill for the relief of Wan Wai Chung, Chan Sau Chui, and Wong Yi Fun; to the Committee on the Judiciary.

By Mr. METCALF:

S. 1951. A bill to establish certain rights of professional employees in public schools operating under the laws of any of the several States or any territory or possession of the United States, to prohibit practices which are inimical to the welfare of such public schools, and to provide for the orderly and peaceful resolution of disputes concerning terms and conditions of professional service and other matters of mutual concern; to the Committee on Labor and Public Welfare.

(See the remarks of Mr. METCALF when he introduced the above bill, which appear under a separate heading.)

By Mr. BAYH (for himself, Mr. HART, Mr. HARTKE, Mr. McGEE, Mr. MOSS, Mr. NELSON, Mr. TYDINGS, and Mr. YARBOROUGH):

S. 1952. A bill to establish in the Executive Office of the President an independent agency to be known as the Office of Executive Management; to the Committee on Government Operations.

(See the remarks of Mr. BAYH when he introduced the above bill, which appear under a separate heading.)

By Mr. HOLLINGS:

S. 1953. A bill for the relief of Chan Yuk Pan; and

S. 1954. A bill for the relief of Liu Yam Wah; to the Committee on the Judiciary.

By Mr. McGEE:

S. 1955. A bill for the relief of Lydia Ann Barot; to the Committee on the Judiciary.

By Mr. RIBICOFF:

S. 1956. A bill for the relief of Miss Ilva John; to the Committee on the Judiciary.

By Mr. NELSON (for himself, Mr. MAGNUSON, and Mr. HARTKE) (by request):

S. 1957. A bill to provide an improved and enforceable procedure for the notification of defects in tires; to the Committee on Commerce.

(See the remarks of Mr. NELSON when he introduced the above bill, which appear under a separate heading.)

By Mr. HARRIS:

S. 1958. A bill to provide an equitable system for fixing and adjusting the rates of compensation of wage board employees; to the Committee on Post Office and Civil Service.

(See the remarks of Mr. HARRIS when he introduced the above bill, which appear under a separate heading.)

By Mr. HARRIS (for himself, Mr. JAVITS, Mr. HART, Mr. MONDALE, Mr. INOUYE, Mr. YARBOROUGH, Mr. YOUNG of Ohio, Mr. WILLIAMS of New Jersey, Mr. BROOKE, Mr. TYDINGS, Mr. RIBICOFF, Mr. NELSON, Mr. McCARTHY, Mr. KENNEDY, Mr. McGEE, Mr. McINTYRE, and Mr. MUSKIE):

S. 1959. A bill to amend title IV of the Social Security Act to repeal the provisions limiting the number of children with respect to whom Federal payments may be made under the program of aid to families with dependent children; and

S. 1960. A bill to amend the Social Security Act so as to revise certain provisions thereof relating to public assistance which were enacted or amended by the Social Security Amendments of 1967, to improve the program of aid to families with dependent children established by title IV of such act, and for other purposes; to the Committee on Finance.

(See the remarks of Mr. HARRIS when he introduced the above bills, which appear under a separate heading.)

By Mr. MONDALE:

S. 1961. A bill for the relief of Mr. Ji-Chia Liao, wife Su-Wan Chow Liao, child Shih-Fan Liao; to the Committee on the Judiciary.

By Mr. MONDALE (for himself, Mr. McCARTHY, Mr. BURDICK, Mr. MANSFIELD, Mr. Moss, Mr. NELSON, Mr. RANDOLPH, Mr. RIBICOFF, Mr. YOUNG of Ohio, and Mr. EAGLETON):

S. 1962. A bill to authorize the establishment of the Voyageurs National Park in the State of Minnesota, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. McINTYRE:

S. 1963. A bill for the relief of WU Hip; to the Committee on the Judiciary.

By Mr. WILLIAMS of New Jersey:

S. 1964. A bill for the relief of James Douranakis; to the Committee on the Judiciary.

By Mr. TYDINGS:

S. 1965. A bill to remit a share of Federal tax revenues to State and local governments, and to establish a Commission for Federalism to allot such revenues and to report on their use to the Congress; to the Committee on Finance.

(See the remarks of Mr. TYDINGS when he introduced the above bill, which appear under a separate heading.)

By Mr. PERCY:

S. 1966. A bill to provide for research into safer methods of mining and preparing coal; to the Committee on Interior and Insular Affairs.

(See the remarks of Mr. PERCY when he introduced the above bill, which appear under a separate heading.)

By Mr. HART (for himself, Mr. DODD, Mr. AIKEN, and Mr. BAYH):

S. 1967. A bill to supplement the antitrust laws of the United States by providing for fair competitive practices in the termination of franchise agreements; to the Committee on the Judiciary.

(See the remarks of Mr. HART when he introduced the above bill, which appear under a separate heading.)

By Mr. SPARKMAN:

S. 1968. A bill to authorize the Secretary of the Interior to permit the removal of the Francis Asbury statue, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PELL:

S. 1969. A bill to amend the Higher Education Act of 1965 to provide for basic educational opportunity grants and for cost of

instruction allowances, and for other purposes; to the Committee on Labor and Public Welfare.

(See the remarks of Mr. PELL when he introduced the above bill, which appear under a separate heading.)

By Mr. SPARKMAN:

S. 1970. A bill for the relief of Liu Yu-Tech; to the Committee on the Judiciary.

By Mr. TYDINGS (for himself, Mr. BIBLE, and Mr. EAGLETON):

S. 1971. A bill to provide for the election of members of the District of Columbia Council, and for other purposes; and

S. 1972. A bill to provide an elected mayor and city council for the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

(See the remarks of Mr. TYDINGS when he introduced the above bills, which appear under a separate heading.)

By Mr. TYDINGS:

S. 1973. A bill to improve judicial machinery by amending title 28 of the United States Code, "Judiciary and Judiciary Procedure", and amending title 26 of the United States Code, "Internal Revenue Code", to provide for concurrent jurisdiction of the United States Tax Court and the United States district courts over civil tax refund suits and deficiency redeterminations, and for other purposes;

S. 1974. A bill to improve judicial machinery by amending title 28 of the United States Code, "Judiciary and Judicial Procedure", and amending title 26 of the United States Code, "Internal Revenue Code", to make the United States Tax Court an article III court, to provide for exclusive jurisdiction of the United States Tax Court over civil tax refund suits and deficiency redeterminations in taxes imposed by subtitle A, B, C, or D of title 26 of the United States Code, to create a Small Claims Division of the United States Tax Court, and for other purposes;

S. 1975. A bill to improve judicial machinery by amending title 28 of the United States Code, "Judiciary and Judicial Procedure", and amending title 26 of the United States Code, "Internal Revenue Code" to provide for exclusive jurisdiction of the United States district courts over civil tax refund suits and deficiency redeterminations, and for other purposes;

S. 1976. A bill to improve judicial machinery by amending title 28 of the United States Code, section 93 of the Act of January 12, 1895, and the Internal Revenue Code of 1954, by establishing a United States Court of Tax Appeals, and for other purposes;

S. 1977. A bill to improve the judicial machinery by amending title 28, United States Code, to establish a revised procedure for litigating tax disputes, and for other purposes;

S. 1978. A bill to amend title 28 of the United States Code, "Judiciary and Judicial Procedure", to provide for appeals from decisions of the Court of Claims, and for other purposes;

S. 1979. A bill to amend title 28 of the United States Code, "Judiciary and Judicial Procedure", to provide that the Court of Claims should no longer have jurisdiction over civil tax refund suits and to provide that the Court of Claims shall have jurisdiction to review orders of the Renegotiation Board;

S. 1980. A bill to improve judicial machinery by providing Federal jurisdiction for certain types of class actions and for other purposes;

S. 1981. A bill to improve judicial machinery by repealing the provisions of section 41 of the Act of March 2, 1917, as amended, concerning the United States District Court for the District of Puerto Rico, and for other purposes;

S. 1982. A bill for the relief of Lewis, Levin, and Lewis, Incorporated;

S. 1983. A bill for the relief of Commander Frederick J. Lewis, Junior, United States Navy (retired);

S. 1984. A bill for the relief of Alice E. Ford; and

S. 1985. A bill for the relief of Randall L. Talbot; to the Committee on the Judiciary.

(See the remarks of Mr. TYDINGS when he introduced the first nine above mentioned bills, which appear under separate headings.)

By Mr. SCOTT:

S. 1986. A bill for the relief of Panagiotis Koutsouros; to the Committee on the Judiciary.

By Mr. THURMOND:

S. 1987. A bill to amend section 837, title 18, United States Code, to prohibit certain acts involving incendiary devices; and

S. 1988. A bill to amend the Internal Security Act of 1950 to prohibit certain obstructive acts and practices; to the Committee on the Judiciary.

(See the remarks of Mr. THURMOND when he introduced the above bills, which appear under separate headings.)

By Mr. PELL:

S. 1989. A bill for the relief of Jose Soares Figueiredo; to the Committee on the Judiciary.

By Mr. MURPHY (for himself and Mr. CRANSTON):

S. 1990. A bill to authorize the Secretary of the Interior to approve an agreement entered into by the Soboba Band of Mission Indians releasing a claim against the Metropolitan Water District of Southern California and Eastern Municipal Water District, California, and to provide for construction of a water distribution system and a water supply for the Soboba Indian Reservation; to the Committee on Interior and Insular Affairs.

(See the remarks of Mr. MURPHY when he introduced the above bill, which appear under a separate heading.)

By Mr. PROUTY (for Mr. MATHIAS) (for himself and Mr. GOODELL):

S. 1991. A bill to provide an elected Mayor, City Council, and nonvoting Delegate to the House of Representatives for the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

(See the remarks of Mr. PROUTY when he introduced the above bill, which appear under a separate heading.)

By Mr. INOUYE (for himself, Mr. ANDERSON, Mr. BENNETT, Mr. BIBLE, Mr. BURDICK, Mr. BYRD of Virginia, Mr. CANNON, Mr. CURTIS, Mr. DODD, Mr. EASTLAND, Mr. ERVIN, Mr. FONG, Mr. GOODELL, Mr. HANSEN, Mr. HARTKE, Mr. HRUSKA, Mr. JACKSON, Mr. LONG, Mr. METCALF, Mr. MILLER, Mr. MUNDT, Mr. MURPHY, Mr. PASTORE, Mr. PELL, Mr. RANDOLPH, Mr. SCOTT, Mr. THURMOND, Mr. TYDINGS, Mr. WILLIAMS of New Jersey, Mr. YOUNG of Ohio, and Mr. YOUNG of North Dakota):

S.J. Res. 100. A joint resolution to proclaim the week beginning May 1, as "Youth Week"; to the Committee on the Judiciary.

By Mr. TYDINGS:

S.J. Res. 101. A joint resolution to authorize the President to issue a proclamation designating the last full calendar week in April of each year as "National Secretaries Week"; to the Committee on the Judiciary.

(See the remarks of Mr. TYDINGS when he introduced the above joint resolution, which appear under a separate heading.)

S. 1942—INTRODUCTION OF A BILL TO PROVIDE TAX INCENTIVES FOR AIR AND WATER POLLUTION CONTROL EXPENDITURES

Mr. COTTON. Mr. President, in the last Congress our esteemed former colleague, the distinguished Senator from Kansas, Frank Carlson, introduced a bill, S. 734, to insure a continued strong drive against air and water pollution. I refer to the bill to provide an incentive tax credit for companies which invest in Government-approved pollution control facilities.

Because I believe that control of environmental pollution is among the greatest challenges facing the Nation today, I am reintroducing for appropriate reference the legislation proposed by former Senator Carlson, for myself and the following Senators: Mr. ALLOTT, Mr. BAKER, Mr. BOGGS, Mr. COOK, Mr. CURTIS, Mr. DIRKSEN, Mr. DOMINICK, Mr. ERVIN, Mr. FANNIN, Mr. FONG, Mr. HANSEN, Mr. JAVITS, Mr. JORDAN of Idaho, Mr. MUNDT, Mr. MURPHY, Mr. PELL, Mr. SCOTT, Mrs. SMITH, Mr. THURMOND, Mr. TOWER, and Mr. TYDINGS.

Mr. President, while the bill we propose might appear to be directly related to the administration's new tax proposals which are now under review, I would point out that its thrust is quite different.

While we are all concerned about inflation and equitable taxation, and I may say that the objectives stated by the President in his tax message will have my earnest consideration, it is my conviction that Government and industry must cooperate—now, not sometime in the future—to clean up our air and water. It is my further conviction that such effective cooperation is not possible when this pressing problem is approached piecemeal and indirectly in a variety of bills. In short, if we are to ask industry to build nonproductive facilities to prevent pollution, we must provide definite Government assistance programs. Certainly we cannot treat this subject legislatively on a "now you have it, now you don't" basis. This simply will not work.

This legislation is vital to a real social priority: cleaning up our air and water. It provides a 20-percent credit in any taxable year to a company which cooperates with municipal or other governmental entities by spending for State and federally approved facilities to curb air and water pollution.

We all share a keen interest in improving and protecting the health of our Nation, and we all know the population explosion makes it urgent that we lick the pollution control dilemma. The problem is that while we know where the trouble is and how to attack it, the cleanup costs a bale of money. Financing is the big problem for pollution control programs all across the Nation.

It is not my purpose to argue the merits of the administration's investment tax credit policy announced this week, but I do believe the White House announcement makes this an especially appropriate time to consider the need for incentives confined to pollution abatement alone.

Pollution control expenditures are in a class by themselves. Precisely because the Government has decided to discontinue incentives for capital investments I believe that something should be done so that companies can continue their expenditures for pollution control.

If we do not do this, I am afraid that costs of staying competitive will force companies to channel limited capital resources into productive facilities and

create a financial drought among many pollution projects that are just beginning to sprout.

In a telegram to the President about the proposed cutback of the investment credit which I have received, Mr. C. William Verity, Jr., president of Armco Steel Corp., and one of the country's leading industrial voices, makes the following point:

> In the case of Armco and many other companies, the investment tax credit is crucial to our efforts to control air and water pollution.

I have served a long time on the Committee on Commerce and have seen plenty of evidence of the concern which businessmen feel about this problem. They do not deserve any special credit for this. We all have the same concern but there can be no doubt the business community is sincere about alleviating pollution. Industry is spending billions for scientific personnel and equipment to help find the answers and correct the problem.

In his wire, Mr. Verity makes reference to the fact that for several years Government tax policy has encouraged businessmen to plan large long-term commitments for control of pollution. This represents expensive alterations to production facilities.

I believe that there is strong sentiment in Congress supporting the need for continuance of cooperative planning between Government and industry. Let us not let a cloud come over this great effort just as we are beginning to see sunshine through the mists. I am glad to reintroduce the bill proposed in the 90th Congress by our respected former colleague, Mr. Carlson, which I am sure reflects the intent of the Congress that a tax incentive for air and water pollution control expenditures is essential.

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

The bill (S. 1942) to amend the Internal Revenue Code to encourage the construction of facilities to control water and air pollution by allowing a tax credit for expenditures incurred in constructing such facilities and by permitting the deductions, or amortization over a period of 1 to 5 years, of such expenditures, introduced by Mr. COTTON (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Finance.

S. 1946—INTRODUCTION OF A BILL TO PROHIBIT UNION FINES FOR EXERCISING STATUTORY RIGHTS UNDER THE TAFT-HARTLEY ACT

Mr. ERVIN. Mr. President, on behalf of Senator FANNIN and myself, I introduce, for appropriate reference, a bill to further protect the rights guaranteed to employees by section 7 of the National Labor Relations Act by prohibiting the imposition by labor organizations of fines or other economic sanctions for the exercise thereof.

Section 7 of the Taft-Hartley Act grants employees equal right to join in, or to refrain from joining in collective action to support their interests. Other sections of the act give teeth to this magna carta of the American workingman by making unfair labor practices of efforts by both management and unions to interfere with those rights.

Recently, I called to the Senate's attention the fact that the Supreme Court and the National Labor Relations Board have largely annulled section 7 by failing to prevent unions from imposing fines on members who exercise the rights Congress granted by that section. Since the Labor Board and the Supreme Court nullified the chief objective of the Taft-Hartley Act in the Allis-Chalmers case, unions have imposed fines on members, which in some cases have run to as high as $20,000. In the Allis-Chalmers case and in other instances, these fines have been imposed for working during a strike. Now, in the Scofield case, the Supreme Court has ruled that it is not an unfair labor practice for a union to impose a fine for exceeding union-imposed production quotas—which is the same as union-imposed quotas on the amount of money a man can earn.

It is long past time for Congress to restore the original meaning to the Taft-Hartley Act which the Board and the Supreme Court have disregarded. This bill is designed to make crystal clear Congress' position in this matter. It is not intended to create new policy, but rather to reaffirm and restore a policy first declared in 1947, but which has now been nullified by case decisions.

I introduced an amendment last year during the civil rights debate similar to the bill I introduce today. The Senate was unable to act on it at the time because cloture had been voted and the amendment was not germane to the pending bill. Bills have been introduced for years seeking to reverse the decisions which permit union fines, but so far no hearings have ever been held or even scheduled by the responsible committees. I now propose yet another alternative to those which have been introduced in the past.

The Subcommittee on Separation of Powers last year heard considerable testimony on the Allis-Chalmers issue and on many other problems in labor law which demand legislative action. These hearings, which were in the form of a legislative review of the National Labor Relations Board, run over 1,600 pages in printed form. They document in detail many areas where there is a pressing need for legislation. I hope that the committees concerned will be able to schedule hearings on these proposals in the very near future so that the Senate will be able to consider necessary remedial legislation.

I ask unanimous consent that the text of the bill be printed in full in the RECORD at this point.

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

The bill (S. 1946) to further protect the rights guaranteed to employees by section 7 of the National Labor Relations Act (29 U.S.C. Section 157) by prohibiting the imposition by labor organizations of fines or other economic sanctions for the exercise thereof, and for other purposes, viz, introduced by Mr. ERVIN (for himself and Mr. FANNIN), 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. 1946

A bill to further protect the rights guaranteed to employees by section 7 of the National Labor Relations Act (29 U.S.C. 157) by prohibiting the imposition by labor organizations of fines or other economic sanctions for the exercise thereof, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8(b)(1)(A) of the National Labor Relations Act (29 U.S.C. 158(b)(1)(A)) is amended by striking out the semicolon at the end of the proviso and inserting in lieu thereof a colon and the following: *"Provided further,* That it shall be an unfair labor practice under this section for a labor organization to impose any fine or other economic sanction against any person for exercising any rights under section 7 of this Act or for invoking any process of the Board;".

Mr. ERVIN. Mr. President, I also ask consent that an editorial on the Scofield case by Jesse Helms of WRAL–TV, Raleigh, N.C., be included in the RECORD at this point.

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

[From the Raleigh (N.C.) WRAL–TV Viewpoint, Apr. 7, 1969]

(By Jesse Helms, executive vice president and vice chairman of the board)

Four members of a labor union in Milwaukee had been fined by their union leaders for working too hard. Specifically, the four men had produced more goods than their union bosses had wanted them to produce. The men had offered as their defense their belief that if they worked for a company, they ought to work as efficiently and productively as possible. They refused to pay the fine, and appealed their case to the courts.

Finally the dispute reached the Supreme Court. And in a seven-to-one decision handed down last Tuesday, the U.S. Supreme Court upheld the union bosses. The high court, according to brief news reports, said that labor unions have a "legitimate interest" in trying to hold down production.

It's too bad that there is not some higher authority to require the Supreme Court to explain its definition of the word "legitimate". Moreover, the public has a vested interest in this absurdly dangerous decision. There is an obvious economic principle involved. If workers are to be penalized for doing their best, then obviously there will be a widespread tendency to do *less* than their best. That means higher production costs, and therefore higher prices which consumers—and that includes everybody—must pay. And the name of *that* game is further inflation.

The Supreme Court has prated a great deal about "freedom" during the past ten-to-fifteen years. It has upheld the bloody hands of criminals, it has sanctioned the disruption of the country. Now it declares that employees of a company do not have the freedom to do their best, most productive work for their employer. In other words, if the union bosses say "loaf", then the workers must loaf—or be jacked up and be made to pay a fine.

This decision by the Supreme Court is an announcement that labor unions may henceforth do as they please in controlling not only their members, but production as well.

It is an alarming development, for other matters involving labor union bosses are on the way to the Supreme Court.

Out in California, for example, 24 rank-and-file employees of the McDonald-Douglas Corporation have gone to court in an effort to protect their right to hold a job without joining a union.

These employees, who have never belonged to a union, contend that their being required to join a union in order to hold a job is a violation of their civil rights. They have cited the First, Fifth and Ninth Amendments of the Constitution. They contend that freedom works two ways: That the right to speak is accompanied by a right to keep silent; the right to assemble embraces a right to stay away; the right to vote carries with it a right not to vote. Therefore, they reason, one man's right to join a union, if he wishes, surely must be balanced by another man's right *not* to join if he doesn't want to.

Of course, what these employees seek is something that the leftwingers—on the Supreme Court and elsewhere—have repeatedly opposed. That is: freedom of choice. It has become fashionable in this country—and in the name of "freedom," mind you—to deny citizens their right to make up their own minds about how to run their lives and businesses, operate their schools, and in countless other matters. Freedom of choice, all of a sudden, has become taboo.

So now, another freedom has gone down the drain—the freedom to work as hard as you wish. This is scarcely the kind of principle that forged this nation ahead to a position of leadership in the world. Many more decisions like this, and the Supreme Court will have set America on an irreversible course towards mediocrity. And the next step beyond that is inferiority.

S. 1947—INTRODUCTION OF A BILL AUTHORIZING THE SECRETARY OF THE INTERIOR TO INVESTIGATE AND REPORT TO CONGRESS ON ADVISABILITY OF ESTABLISHING A NATIONAL PARK IN THE CASCADE MOUNTAIN REGION

Mr. HATFIELD. Mr. President—

It is a magnificent sight. Behind the sharp, splintered uplifts of Mount Washington and Three Fingered Jack, Mount Jefferson rises in architectural perfection, complemented by the distant snowy cone of Mount Hood. Nearby, their fires only recently stilled, the Middle and South Sisters lift massively against the skyline. Beyond . . . many-summited Diamond Peaks . . . the calderal blue of Crater Lake.

These are the shining mountains. Glacier-sheathed, they dominate a living wilderness of near-rain forests, volcanic wonders, calm lakes, rushing streams and flashing waterfalls, varied wildlife, and a diversified flora.

So wrote David Simons in 1959, describing the Oregon Cascades. Nominated for national park status as early as 1916 in the State's travel promotion and revered by Oregonians everywhere, these lands deserve the utmost care and protection.

I believe, Mr. President, that a detailed, impartial study of these lands in the Oregon Cascades should be made to determine whether portions thereof are of national park caliber. Therefore, I introduce today for appropriate reference a bill directing the Secretary of the Interior to study the scenic, scientific, recreational, educational, wildlife and wilderness values of the Oregon Cascades from the northern boundary of Crater Lake National Park to the Columbia River. Within 1 year of the enactment of the bill, after the detailed, impartial study has been completed, the Secretary of the Interior would make his report to Congress.

The bill is not a proposal to create a national park over such a large area. But realistically the whole area must be studied to determine which parts thereof should be included in a national park. In any event, the study will provide guidelines to protect this extraordinary area of "shining mountains."

Mr. President, I ask unanimous consent that the bill which I introduce be printed at this point in the RECORD.

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

The bill (S. 1947) to provide that the Secretary of the Interior shall investigate and report to the Congress on the advisability of establishing a national park or other unit of the national park system in the central and northern parts of the Cascade Mountain region of the State of Oregon, introduced by Mr. HATFIELD, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S. 1947

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of evaluating fully the potentiality for establishing therein a national park or other unit of the national park system, the Secretary of the Interior shall make a comprehensive study of the scenic, scientific, recreational, educational, wildlife, and wilderness values of the central and northern portion of the Cascade Mountain Range in the State of Oregon, lying generally between the northern boundary of Crater Lake National Park and the Columbia River.

SEC. 2. Within one year after the date of enactment of this Act, the Secretary of the Interior shall report to the Congress the results of such study and his recommendations concerning the advisability of establishing a national park or other unit of the national park system within the region generally described under the first section of this Act, and the lands desirable for inclusion therein.

SEC. 3. The Secretary of the Interior is authorized, in his discretion, to utilize the services of any nongovernmental group in conducting the study provided for under the first section of this Act and for that purpose to enter into a contract or other agreement with such group.

S. 1949—INTRODUCTION OF A BILL TO AMEND THE VETERANS' ADMINISTRATION REGULATIONS

Mr. INOUYE. Mr. President, during the 90th Congress, a bill was passed to permit veterans in Hawaii and Alaska to be furnished nursing home care. Since Hawaii and Alaska have no VA hospitals, their veterans were not eligible to be placed in a nursing home following their hospitalization. Public Law 90–612 corrected this situation; however, following the passage of this bill, it was found that $16.50, which is the maximum allowable rate for nursing home care paid by the Veterans' Administration, did not cover the cost of the care in Hawaii's nursing homes.

There are a number of cases in Hawaii which no longer require hospital care, but do still require skilled nursing care. Therefore, placement in a nursing home would be an ideal solution. However, no qualified nursing home in Hawaii will accept the $16.50 per diem rate presently authorized by the Veterans' Administration.

Therefore, I am introducing a bill to correct this situation. Rather than raise the per diem rate allowed by the Veterans' Administration, my bill would amend Veterans' Administration regulations to permit the veteran himself or a third party to supplement the maximum allowable rate of $16.50. The veterans of Hawaii have waited a long time to obtain nursing home care; however, the law as passed in the 90th Congress does not permit them to utilize this provision. I urge speedy consideration of this measure to correct this inequity.

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

The bill (S. 1949) to amend section 620 of title 38 of the United States Code to permit the Administrator of Veterans' Affairs to share with public or private persons the cost of nursing home care for veterans in Alaska and Hawaii, introduced by Mr. INOUYE (for himself, Mr. FONG, and Mr. STEVENS), was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

S. 1951—INTRODUCTION OF A BILL TO ESTABLISH CERTAIN RIGHTS OF PROFESSIONAL EMPLOYEES IN PUBLIC SCHOOLS

Mr. METCALF. Mr. President, today I am introducing a bill to provide a Federal "Professional Negotiation Act for Public Education." This bill will establish a Professional Education Employees Relations Commission, as an impartial agency within the Department of Health, Education, and Welfare, to mediate disputes between boards of education and organizations of teachers within the school systems throughout the United States. The bill also provides recourse to the Commission by educational employees or boards of education if either party refuses to negotiate with the other.

The recent phenomenon of strikes by teachers has caused great concern to the people of the United States and to Congress. I believe that the answer to these teacher strikes lies in providing a mechanism for the settlement of legitimate grievances which, when unsettled, lead to teacher walkouts. There are always two sides to every dispute. Both teachers and boards of education will welcome the creation of a mediation agency which can serve impartially in resolving the differences.

Strife between boards of education and their professional employees, which interferes with the normal flow of commerce, can be avoided or substantially minimized if such boards and employees each recognize under law one another's legitimate rights in their relations with each other. They must also recognize that neither has any right in its relations

with any other to engage in acts or practices which jeopardize the public health and safety.

The inequality of negotiating power between professional employees who do not possess full freedom of association or actual liberty of contract and boards of education substantially burdens and affects the flow of commerce, and tends to aggravate recurrent business depressions, by depressing wage rates and the purchasing power of wage earners in the national economy and by preventing the stabilization of competitive wage rates and working conditions in such economy.

Such boards of education and their professional employees have an obligation to the public to exert their full and continuing efforts to achieve the highest possible education standards in the institutions which they serve. This requires establishment and maintenance of an educational climate and working environment which will attract and retain a highly qualified professional staff and stimulate optimum performance by said staff.

Under this act, therefore, the rights of professional education employees to form, join, and assist employee organizations to confer, consult and negotiate with boards of education over the terms and conditions of professional service and other matters of mutual concern are guaranteed.

Early enactment and full implementation of this act will be in the best interests of the schoolchildren of the United States. It is for this reason that I introduce it today.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD as a part of my remarks.

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

The bill (S. 1951) to establish certain rights of professional employees in public schools operating under the laws of any of the several States or any territory or possession of the United States, to prohibit practices which are inimical to the welfare of such public schools, and to provide for the orderly and peaceful resolution of disputes concerning terms and conditions of professional service and other matters of mutual concern, introduced by Mr. METCALF, 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. 1951

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Professional Negotiations Act for Public Education, 1969."

DECLARATION OF POLICY

SEC. 2. It is the purpose and policy of this Act, in order to promote the full flow of commerce, to prescribe rights and obligations of boards of education operating under the laws of any of the several States or of any territory or possession of the United States and their professional employees, and to establish procedures governing relationships between them which are designed to meet the special requirements and needs of public education.

It is the policy of the United States to recognize the rights of professional employees of boards of education to form, join, and assist employee organizations, to confer, consult, and negotiate with such boards of education over the terms and conditions of professional service and other matters of mutual concern through representatives of their own choosing, to engage in other activities, individually or in concert, for the purpose of establishing, maintaining, protecting and improving terms and conditions of professional service and other matters of mutual concern, and to establish procedures which will facilitate and encourage amicable settlement of disputes.

DEFINITIONS

SEC. 3. As used in this Act—

(a) The term "person" means one or more individuals, organizations, associations, corporations, boards, committees, commissions, agencies, or their representatives, including those established or created under the laws of any of the several States or of any territory or possession of the United States.

(b) The term "board of education" means any board committee, commission, or agency authorized under the laws of any of the several States or of any territory or possession of the United States to direct a public educational system or institution, or a school, college, or university which is either tax-supported or operated under contract with any of the several States or any territory or possession of the United States, and any person acting as an agent thereof.

(c) The term "professional employee" means nay person employed in a professional educational capacity by a board of education, except the superintendent of schools or other chief executive officer.

(d) The term "professional employees' organization" means one or more organizations, agencies, committees, councils or groups of any kind in which professional employees participate, and which exist for the purpose, in whole or in part, of conferring, discussing and negotiating with boards of education over the terms and conditions of professional service and other matters of mutual concern.

(e) The term "representative" means any professional employees' organization or person it authorizes or designates to act in its behalf.

(f) The term "professional negotiation" means meeting, conferring, consulting, discussing and negotiating in a good faith effort to reach agreement with respect to the terms and conditions of professional service and other matters of mutual concern, and the execution, if requested by either party, of a written document incorporating any agreements reached.

PROFESSIONAL EDUCATION EMPLOYEE RELATIONS COMMISSION

SEC. 4. (a) There is hereby created within the Department of Health, Education, and Welfare, an agency of the United States, the "Professional Education Employee Relations Commission" (hereinafter to be known as the "Commission"), which shall consist of five members who shall be appointed by the President by and with the advice and consent of the Senate. One of the original members shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. Their successors shall be appointed for terms of five years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Commission members shall be eligible for reappointment. The President shall designate one member to serve as Chairman of the Commission. Any member of the Commission may be removed by the President, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.

(b) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission, and three members of the Commission shall, at all times, constitute a quorum. The Commission shall have an official seal which shall be judicially noticed.

(c) Members of the Commission shall not engage in any other business, vocation or employment. The Chairman of the Commission shall receive an additional $1,500 a year. The Commission shall point an Executive Director, and a General Counsel and may appoint State or regional directors, attorneys, mediators, arbitrators, and such other persons as it may from time to time find necessary for the proper performance of its functions and as may from time to time be appropriated for by the Congress. Attorneys appointed under this section may, at the direction of the Commission, appear for and represent the Commission in any case in court.

(d) All of the expenses of the Commission, including all necessary traveling and subsistence expenses outside the District of Columbia incurred by the members or employees of the Commission under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Commission or by any individual it designates for that purpose.

(e) The principal office of the Commission shall be in the District of Columbia, but it may meet and exercise any or all of its powers at any other place, and may establish and operate State and regional offices. The Commission may, by one or more of its members or by such agents or agencies as it may designate, prosecute any inquiry necessary to its functions in any part of the United States. A member who participates in such an inquiry shall not be disqualified from subsequently participating in a decision of the Commission in the same case.

(f) The Commission is authorized to issue, amend and rescind, in the manner prescribed by subchapter —— of chapter 5 of title 5 United States Code, such rules and regulations as may be necessary to carry out the provisions of this Act and is expressly empowered and directed to prevent any person from engaging in conduct in violation of this Act. In order to carry out its functions under this Act, the Commission is authorized to hold hearings, subpena witnesses, administer oaths, take the testimony or deposition of any person under oath, and in connection therewith, to issue subpenas to require the production and examination of any State or Federal governmental or other books or papers relating to any matter pending before it and to take such other action as may be necessary.

(g) (1) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(54) Chairman, Professional Education Employees Relations Commission."

(2) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(92) Members, Professional Education Employees Relations Commission."

RIGHTS OF PROFESSIONAL EMPLOYEES AND PROFESSIONAL EMPLOYEES' ORGANIZATION

SEC. 5. (a) Professional employees shall have the right to form, join, or assist professional employees' organizations, to participate in professional negotiation with boards of education through representatives of their own choosing and to engage in other activities, individually or in concert, for the purpose of establishing, maintaining, protecting or improving terms and conditions of professional service and other matters of mutual concern.

(b) Professional employees' organizations shall have—

(1) access at reasonable times to areas in which professional employees work, the right to use institutional bulletin boards, mail boxes, or other communication media, subject to reasonable regulation, and the right to use institutional facilities at reasonable times for the purpose of meetings concerned with the exercise of the rights guaranteed by this Act: *Provided,* That if a representative has been selected or designated pursuant to the provisions of section 6 of this Act, a board of education shall deny such access and usage to any professional employees' organization other than such representative until such time as a lawful and timely challenge to the majority status of the representative is raised pursuant to the provisions of section 6 of this Act; and

(2) the right to have deducted from the salary of professional employees, upon receipt of an appropriate authorization form which shall not be irrevocable for a period of more than one year, the fees and dues required for membership: *Provided,* That if a representative has been selected or designated pursuant to the provisions of section 6 of this Act, a board of education shall deny such deduction to any professional employees' organization other than such representative.

REPRESENTATIVES AND NEGOTIATING UNITS

SEC. 6. (a) The representative designated or selected for the purpose of professional negotiation by the majority of the professional employees in an appropriate negotiating unit shall be the exclusive representative of all the professional employees in such unit for such purpose and a board of education shall not negotiate over matters covered by this Act with any other representatives: *Provided,* That nothing contained herein shall be construed to prevent professional employees, individually or as a group, from presenting grievances informally to a board of education, and from having such grievances adjusted without the intervention of the representative designated or selected by the majority of the professional employees in the unit of which they are a part, as long as such representative is given an opportunity to be present at said adjustment and to make its views known, and as long as the adjustment is not inconsistent with the terms of an agreement between the board of education and the representative which is then in effect: *And provided further,* That such employees shall not be represented by an officer or agent of any professional employees' organization other than the representative.

(b) (1) Any professional employees' organization may file a request with a board of education alleging that a majority of the professional employees in an appropriate negotiating unit wish to be represented for the purposes of professional negotiation by such organization and asking such board of education to recognize it as the exclusive representative under subsection (a) of this section. Such request shall describe the grouping of jobs or positions which constitute the unit claimed to be appropriate and shall include a demonstration of majority support through verified membership lists. Notice of such request shall immediately be posted by the board of education on a bulletin board at each school or other facility in which members of the unit claimed to be appropriate are employed.

(2) Such request for recognition shall be granted by the board of education unless—

(A) the board of education has a good faith doubt as to the accuracy or validity of the evidence demonstrating majority support in an appropriate unit or as to the appropriateness of the claimed unit;

(B) another professional employees' organization files with the board of education a competing claim of majority support within ten calendar days after the posting of notice of the original request and submits as evidence of its claim of majority support verified membership lists demonstrating support of at least thirty per centum of the professional employees in the appropriate negotiating unit;

(C) there is currently in effect a lawful written agreement negotiated by the board of education and another professional employees' organization covering any professional employees included in the unit described in the request for recognition; or

(D) the board of education has, within the previous twelve months, lawfully recognized another professional employees' organization as the exclusive representative of any professional employees included in the unit described in the request for recognition.

(c) A petition may be filed with the Commission, in accordance with such rules and regulations as it may prescribe for such filing, asking it to investigate and decide the question of whether professional employees have selected or designated an exclusive representative under subsection (a) of this section, by—

(1) a board of education alleging that it has received a request for exclusive recognition from a professional employees' organization and has a good faith doubt as to the accuracy or validity of the evidence demonstrating majority support in an appropriate unit or as to the appropriateness of the claimed unit;

(2) by a professional employees' organization alleging that it has filed a request for recognition as exclusive representative with a board of education and that such request has been denied or has not been acted upon within thirty days after the filing of said request; or

(3) by one or more professional employees or a professional employees' organization asserting that the professional employees in an appropriate unit no longer desire a particular professional employees' organization as their exclusive representative: *Provided,* That such petition is supported by signed statements to that effect from at least 30 per centum of the professional employees in the appropriate negotiating unit.

(d) (1) Upon receipt of such a petition the Commission or its agents shall conduct such inquiries and investigations or hold such hearings as it shall deem necessary in order to decide the questions raised by the petition. The Commission's determination may be based upon the evidence adduced in such inquiries, investigations, or hearings as it or its agents shall make or hold, or upon the results of a secret ballot election as it shall direct and conduct if deemed necessary; *Provided,* That the Commission shall dismiss, without determining the questions raised therein, any petition filed pursuant to subsections (c) (2) or (3) of this section if—

(A) the petition filed by a professional employees' organization is not supported by credible evidence in the form of verified membership lists that at least 30 per centum of the professional employees in the unit described therein are members in good standing of the organization seeking recognition;

(B) there is currently in effect a lawful written agreement negotiated by such board of education and a professional employees' organization other than the petitioner covering any professional employees included in the unit described in the petition, unless (1) such agreement has been in effect for more than three years, or (2) the request for recognition is filed less than sixty days prior to the expiration date of such agreement or such greater number of days prior to said expiration date as the Commission may determine is reasonable because of the budget making procedures of the board of education; or

(C) the board of education has, within the previous twelve months, lawfully recognized a professional employees' organization other than the petitioner as the exclusive representative of any professional employees included in the unit described in the petition.

(2) If the Commission decides that it is necessary to direct and conduct a secret ballot election in order to resolve the questions raised by such petition, it shall order such election held, but in no event shall the name of any intervening professional employees' organization appear on such ballot unless it has submitted to the Commission credible evidence in the form of verified membership lists demonstrating that at least 30 per centum of the professional employees in the appropriate unit are members in good standing of such organization.

(e) In each case where the appropriateness of the claimed unit is in issue, the Commission shall decide the question on the basis of the community of interest between and among the professional employees of the board of education, their wishes, and their established practices including, among other things, the extent to which such employees have joined a professional employees' organization, which latter factor shall not be by itself controlling, whether the unit appropriate for the purposes of professional negotiation shall consist of all persons employed by the board of education who are engaged in teaching or performing other duties of an educational nature or some subdivision thereof: *Provided,* That a unit including classroom teachers shall not be appropriate unless it includes all such teachers employed by the board of education.

IMPASSE IN NEGOTIATION OVER THE TERMS AND CONDITIONS OF PROFESSIONAL SERVICE AND OTHER MATTERS OF MUTUAL CONCERN

SEC. 7. (a) Either a board of education or the representative selected or designated pursuant to the provisions of section 6 of this Act may declare that an impasse has been reached between the parties in negotiation over the terms and conditions of professional service and other matters of mutual concern, and may request the Commission to appoint a mediator for the purpose of assisting them in reconciling their differences and resolving the controversy on terms which are mutually acceptable. If the Commission determines that an impasse exists, it shall, in no event later than five days after the receipt of a request, appoint a mediator in accordance with rules and procedures for such appointment prescribed by the Commission. The Commission may, on its own volition, declare an impasse and appoint a mediator in any particular negotiation. The mediator shall meet with the parties or their representatives, or both, forthwith, either jointly or separately, and shall take such other steps as he may deem appropriate in order to persuade the parties to resolve their differences and effect a mutually acceptable agreement: *Provided,* That the mediator shall not, without the consent of both parties, make findings of fact or recommend terms of settlement. The services of the mediator, including, if any, per diem expenses, and actual and necessary travel and subsistence expenses, shall be provided by the Commission without cost to the parties. Nothing in this subsection shall be construed to prevent the parties from mutually agreeing upon their own mediation procedure and in the event of such agreement, the Commission shall not appoint its own mediator unless failure to do so would be inconsistent with carrying out the objectives of this Act.

(b) If the mediator is unable to effect settlement of the controversy within fifteen days after his appointment, either party may, by written notification to the other, request that their differences be submitted to advisory arbitration. Within five days after receipt of the aforesaid written request, the

parties shall select a person to serve as arbitrator and obtain a commitment from said person to serve. If they are unable to agree upon an arbitrator or to obtain such a commitment within said time, either party may request the Commission to designate an arbitrator. The Commission shall, within five days after receipt of such request, designate an arbitrator in accordance with rules and procedures for such designation prescribed by the Commission. The arbitrator so designated shall not, without the consent of both parties, be the same person who was appointed mediator pursuant to subsection (a) of this section.

(c) The arbitrator shall, within ten days after his appointment, meet with the parties or their representatives, or both, forthwith, either jointly or separately, and may make inquiries and investigations, hold hearings, and take such other steps as he may deem appropriate. For the purpose of such hearings, investigations and inquiries, the arbitrator shall have the power to issue subpenas requiring the attendance and testimony of witnesses and the production of evidence. The several departments, commissions, divisions, authorities, boards, bureaus, agencies, and officer of the United States or of the State, territory or possession affected, or any political subdivision or agency thereof, including any board of education, shall furnish the arbitrator, upon his request, with all records, papers and information in their possession relating to any matter under investigation by or in issue before the arbitrator. If the dispute is not settled within thirty days after his appointment, the arbitrator shall make findings of fact and recommend terms of settlement, which recommendations shall be advisory only, unless the parties have agreed in writing prior thereto to make such recommendations binding in which case they shall be binding. All findings of fact and recommended terms of settlement shall be submitted in writing to the parties and the Commission privately before they are made public. Either the Commission, the arbitrator, the board of education or the professional employees' representatives may make such findings and recommendations public if the dispute is not settled within ten days after their receipt from the arbitrator. The costs for the services of the arbitrator, including per diem expenses, if any, and actual and necessary travel and subsistence expenses, and any other mutually incurred costs, shall be borne equally by the board of education and the professional employee's representative. Any individually incurred costs shall be borne by the party incurring them.

DISPUTES OVER THE INTERPRETATION, APPLICATION, OR VIOLATION OF AGREEMENTS

SEC. 8. (a) An agreement between a board of education and a representative selected or designated pursuant to the provisions of section 6 of this Act which covers terms and conditions of professional services and other matters of mutual concern, may include procedures for final and binding arbitration of such disputes as may arise involving the interpretation, application or violation of such agreement or of established policy or practice of such board of education affecting terms and conditions of professional service and other matters of mutual concern.

(b) In the event that such agreement does not include procedures of the type provided for in subsection (a) of this section, either party to the agreement may submit such disputes to final and binding arbitration pursuant to rules and procedures prescribed for such purpose by the Commission.

(c) Where a party to such agreement is aggrieved by the failure, neglect or refusal of the other party to proceed to arbitration pursuant to the procedures provided therefor in such agreement or pursuant to subsection (b) of this section, such aggrieved party may file a complaint in the appropriate district court of the United States or the appropriate court of any of the several States or of any territory or possession of the United States for a summary action without jury seeking an order directing that the arbitration proceed pursuant to the procedures provided therefor in such agreement or pursuant to subsection (b) of this section.

(d) Unless the award of an arbitrator is deficient because—

(1) it was procured by corruption, fraud or other misconduct;

(2) of partiality of the arbitrator;

(3) the arbitrator exceeded his powers or so imperfectly executed them that a final and definite award upon the subject matter was not made;

such award shall be final and binding upon the parties and may be enforced by the appropriate district court of the United States.

STRIKES

SEC. 9. (a) Except as otherwise expressly provided in subsection (b) of this section, nothing in this Act or in any other law of the United States, of any of the several States or of any territory or possession of the United States shall be construed to interfere with, impede or diminish the right of a representative selected or designated pursuant to the provisions of section 6 of this Act to engage in a strike for the purpose of establishing, maintaining, protecting or improving terms and conditions of professional service and other matters of mutual concern, or of a public employee to participate in such a strike.

(b) A restraining order or temporary or permanent injunction may be granted in a case involving a strike engaged in for the purpose of establishing, maintaining, protecting or improving terms and conditions of professional service and other matters of mutual concern by a representative selected or designated pursuant to the provisions of section 6 of this Act, only on the basis of findings of fact made by the appropriate district court of the United States or appropriate court of any of the several States or of any territory or possession of the United States after due notice and hearing prior to the issuance of such restraining order or injunction that—

(1) the commencement or continuance of the strike poses a clear and present danger to the public health or safety which in light of all relevant circumstances it is in the best public interest to prevent: *Provided,* That any restraining order or injunction issued by a court for this reason shall prohibit only such specific act or acts as shall be expressly determined in said findings of fact to pose such clear and present danger; or

(2) the representative has failed to make a reasonable effort to utilize the procedures provided in section 7 of this Act for the resolution of impasse in negotiation: *Provided,* That any restraining order or injunction issued by a court for this reason shall indicate the specific act or acts which the representative has failed to perform and shall remain in effect only until said act or acts shall have been performed.

(c) Nothing contained in this subsection shall prevent a court from enforcing any lawful provision of an agreement covering terms and conditions of professional service and other matters of mutual concern.

UNLAWFUL ACTS

SEC. 10. (a) It shall be unlawful for a board of education to—

(1) impose or threaten to impose reprisals on professional employees, to discriminate or threaten to discriminate against professional employees, or to otherwise interfere with, restrain or coerce professional employees because of their exercise of rights guaranteed by this Act:

(2) deny to professional employees' organizations rights guaranteed to them by this Act; or

(3) refuse or fail to negotiate in good faith with the representative selected or designated pursuant to the provisions of section 6 of this Act if requested to do so.

(b) It shall be unlawful for—

(1) a professional employee or a professional employees' organization to cause or attempt to cause a board of education to engage in conduct in violation of the provisions of section 10(a) of this Act: *Provided,* That this paragraph shall not impair the right of a professional employees' organization to prescribe its own rules with respect to the acquisition or retention of membership therein; or

(2) a representative selected or designated pursuant to the provisions of section 6 of this Act to refuse or fail to negotiate in good faith with a board of education if requested to do so.

PREVENTION OF UNLAWFUL ACTS

SEC. 11. (a) The Commission is empowered, as hereinafter provided, to prevent any person from engaging in any unlawful act set forth in section 10 of this Act. This power shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, law, or otherwise.

(b) Whenever it is charged that any person has engaged in or is engaging in any such unlawful act, the Commission or any agent or agency designated by the Commission for such purpose, shall have the power to issue and cause to be served upon such person a complaint stating the charges in that respect, and containing a notice of hearing before the Commission or a member thereof, or before a designated agent or agency, at a place therein fixed, not less than five days after the serving of said complaint: *Provided,* That no complaint shall issue based upon any unlawful act occurring more than six months prior to the filing of the charge with the Commission and the service of a copy thereof upon the person against whom such charge is made unless the person aggrieved thereby was prevented from filing such charge by reason of service in the Armed Forces, in which event the six-month period shall be computed from the day of his discharge. Any such complaint may be amended by the member, agent, or agency conducting the hearing or the Commission in its discretion at any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint. In the discretion of the member, agent, or agency conducting the hearing or the Commission, any other person may be allowed to intervene in the said proceeding and to present testimony. Any such proceeding shall, so far as practicable, be conducted in accordance with the provisions of subchapter 11 of chapter 5 of title 5, United States Code.

(c) The testimony taken by such member, agent, or agency or the Commission shall be reduced to writing and filed with the Commission. Thereafter, in its discretion, the Commission upon notice may take further testimony or hear argument. If upon the preponderance of the testimony taken the Commission shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unlawful act, then the Commission shall state its findings of fact and shall issue and cause to be served upon such person an order requiring such person to cease and desist from such unlawful act, and to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the poli-

cies of this Act: *Provided,* That where an order directs reinstatement of an employee, back pay may be required of the Board of Education, or professional employees' organization, as the case may be, responsible for the discrimination suffered by him. Such order may further require such person to make reports from time to time showing the extent to which it has complied with the order. If upon the preponderance of the testimony taken the Commission shall not be of the opinion that the person named in the complaint has engaged in or is engaging in any such unlawful act, then the Commission shall state its findings of fact and shall issue an order dismissing the said complaint. No order of the Commission shall require the reinstatement of any individual as an employee who has been suspended or discharged, or the payment to him of any back pay, if such individual was suspended or discharged for cause. In case the evidence is presented before a member of the Commission, or before an examiner or examiners thereof, such member, or such examiner or examiners, as the case may be, shall issue and cause to be served upon the parties to the proceeding a proposed report, together with a recommended order, which shall be filed with the Commission and if no exceptions are filed within twenty days after service thereof upon such parties, or within such further period as the Commission may authorize, such recommended order shall become the order of the Commission and become effective as therein prescribed.

(d) Until the record in a case shall have been filed in a court, as hereinafter provided, the Commission may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

(e) The Commission shall have power to petition any court of appeals of the United States, wherein the unlawful act in question occurred or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall file in the court the record in the proceedings, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission. No objection that has not been urged before the Commission, its member, agent, or agency, shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commission with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive. If any person shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, its member, agent, or agency, the court may order such additional evidence to be taken before the Commission, its member, agent, or agency, and to be made a part of the record. The Commission may modify its findings as to the facts, or make new findings by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, and shall file its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification provided in section 1254 of title 28, United States Code.

(f) Any person aggrieved by a final order of the Commission granting or denying in whole or in part the relief sought may obtain a review of such order in any circuit court of appeals of the United States in the circuit wherein the unlawful act in question was alleged to have been engaged in or wherein such person resides or transacts business, or in the United States Court of Appeals for the District of Columbia, by filing in such court a written petition praying that the order of the Commission be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission, and thereupon the aggrieved person shall file in the court the record in the proceeding, certified by the Commission, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall proceed in the same manner as in the case of an application by the Commission under subsection (e) of this section, and shall have the same jurisdiction to grant to the Commission such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Commission; the findings of the Commission with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall in like manner be conclusive.

(g) The commencement of proceedings under subsection (e) or (f) of this section shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

(h) When granting appropriate temporary relief or a restraining order, or making and entering a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part an order of the Commission, as provided in this section, the jurisdiction of courts sitting in equity shall not be limited by the provisions of section 20 of the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies and for other purposes" approved October 15, 1914, as amended (27 U.S.C. 52), or the provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," approved March 23, 1932 (29 U.S.C. 101–115).

(i) Petitions filed under this Act shall be heard expeditiously, and if possible within ten days after they have been docketed.

(j) The Commission shall have power, upon issuance of a complaint as provided in Subsection (b) of this section charging that any person has engaged in or is engaging in an unlawful act, to petition any district court of the United States (including the District Court of the United States for the District of Columbia), within any district wherein the unlawful act in question is alleged to have occurred or wherein such person resides or transacts business, for appropriate temporary relief or restraining order. Upon the filing of any such petition the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction to grant to the Commission such temporary relief or restraining order as it deems just and proper.

(k) (1) For the purpose of all hearings and investigations which the Commission determines are necessary and proper for the exercise of its powers under this Act, the Commission, or its duly authorized agent or agencies, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any evidence of any person being investigated or proceeded against that relates to any matter under investigation or in question. The Commission, or any member thereof, shall upon application of any party to such proceedings, forthwith issue to such party subpenas requiring the attendance and testimony of witnesses or the production of any evidence in such proceeding or investigation requested in such application. Within five days after the service of a subpena upon any person requiring the production of any evidence in his possession or under his control, such person may petition the Commission to revoke, and the Commission shall revoke, such subpena if in its opinion the evidence whose production is required does not relate to any matter under investigation, or any matter in question in such proceedings, or if in its opinion such subpena does not describe with sufficient particularity the evidence whose production is required. Any member of the Commission, or any agent or agency designated by the Commission for such purposes, may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any territory or possession thereof, at any designated place of hearing.

(2) In case of contumacy or refusal to obey a subpena issued to any person, any district court of the United States or the United States courts of any territory or possession, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, or the District Court of the United States for the District of Columbia, upon application by the Commission shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission, its member, agent, or agency, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(3) No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to the subpena of the Commission, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(4) Complaints, orders, and other process and papers of the Commission, its member, agent, or agency, may be served either personally or by registered mail or by telegraph or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return by the individual so serving the same setting forth the manner of such service shall be proof of the same, and the return post office receipt or telegraph receipt therefor when registered and mailed or telegraphed as aforesaid shall be proof of service of the same. Witnesses summoned before the Commission, its member, agent, or agency, shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the person taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(5) All process of any court to which ap-

plication may be made under this Act may be served in the judicial district wherein the defendant or other person required to be served resides or may be found.

(l) Any person who shall willfully resist, prevent, impede, or interfere with any member of the Commission or any of its agents or agencies in the performance of duties pursuant to this Act shall be punished by a fine of not more than $5,000 or by imprisonment for not more than one year, or both.

APPLICABILITY OF THIS ACT

SEC. 12. This Act shall be the exclusive method for regulating the relationship between boards of education and their professional employees in regard to all matters covered herein: *Provided*, That if any of the several States or any territory or possession of the United States shall by law establish a system for regulating the relationship between boards of education and their professional employees which is substantially equivalent to the system established by this Act, said State, territory or possession may apply to the Commission for an exemption from the provisions of this Act. If the Commission determines that the system of regulation established by said state, territory, or possession is substantially equivalent to the system established herein, it shall grant the requested exemption, to take effect on a date fixed by the Commission. Any State, territory, possession or person aggrieved by the decision of the Commission granting or denying the request for an exemption may obtain a review of such decision in the same manner as provided under section 11(f) of this Act.

MISCELLANEOUS

SEC. 13. (a) Except as otherwise expressly provided herein, nothing in this Act shall be construed to annul, modify, or preclude the renewal or continuation of any lawful agreement entered into prior to the date of enactment of this Act between a board of education and a professional employees' organization covering terms and conditions of professional services and other matters of mutual concern.

(b) All laws or parts of laws of the United States, of any of the several States or of any territory or possession of the United States inconsistent with the provisions of this Act are modified or repealed as necessary to remove such inconsistency. Except as otherwise expressly provided herein, nothing contained in this Act shall be construed to deny or otherwise abridge any rights, privileges, or benefits granted by law to professional employees.

(c) If any provision of this Act shall be held invalid, other provisions of this Act shall not be affected thereby.

S. 1952—INTRODUCTION OF A BILL ESTABLISHING AN OFFICE OF EXECUTIVE MANAGEMENT FOR THE EXECUTIVE OFFICE OF THE PRESIDENT

Mr. BAYH. Mr. President, I introduce, for appropriate reference, the Federal Executive Management Act of 1969, a bill to establish in the Executive Office of the President an independent agency to be known as the Office of Executive Management.

The establishment of this office has been needed for a long time. Present Federal executive agency management is too often characterized by highly inadequate program organization, extensive duplication of efforts, substantial overlaps of functions, widespread diffusion of program management responsibilities, major conflicts in agency policies for individual program areas, and basic deficiencies in interagency and intergovernmental program coordination.

While a number of legislative proposals providing for review of Federal executive management and organization have been introduced during the present session of Congress, none of these would provide the necessary continuing, systematic, and detailed review and evaluation of Federal executive management that current circumstances demand. The Hoover type commission generally advocated in the majority of the bills introduced to date, as well as the blue-ribbon type Presidential Advisory Council recently proposed by President Nixon, could be highly useful devices. This is particularly so with respect to the examination of long-range problems which have been neglected by Federal agencies as a result of constant pressures to deal with more immediate short-range matters. However, both of these approaches have the basic weakness of being "one shot" actions, whereas the problems involved require a continuing, multifaceted effort. It is also important to remember that the most severe and troublesome executive management and organization problems facing our Nation today are those of an immediate nature which should not await the establishment, convening, and reporting of a new Hoover Commission or a Presidential Advisory Council.

The nature of organizational, program, and administrative management problems and deficiencies in executive branch operations has been thoroughly documented and publicized in recent years. Numerous articles analyzing Federal program conflict, overlap, duplication, and a host of other indicators of woefully inadequate management policies and practices have been circulated through various media.

The Senate Executive Reorganization Subcommittee hearings of 1968 on the then proposed Department of Consumer Affairs helped to focus attention on the specific extent and degree of Federal executive disorganization and mismanagement problems. For example, it was indicated that—

> More than 400 Federal Government programs require a thorough examination.

Statements attributed to President Nixon which have appeared recently in the national press have referred to numerous duplications of effort and widespread overstaffing in many agencies. On February 17, 1969, the President also issued a memorandum to agency heads commenting on the "overstaffing in many activities and excessive overhead in almost all agencies and departments." As recently as March 27, 1969, President Nixon, in describing the need to overcome executive branch inertia with regard to organizational and management reform, stated:

> Many of the disappointments of the last several years can be blamed on the fact that administrative performance has not kept pace with legislative promise.

Incidentally, it is interesting to note that the Republican Party platform of 1968 pledged to establish not only a new Efficiency Commission "to root out the unnecessary duplication and overlapping," but also a "Presidential Office of Executive Management to assure follow-through."

The management deficiencies of the executive branch were further emphasized in the data obtained by the Civil Service Commission from a recent questionnaire directed to young professional Federal executive branch employees. The 2,882 individuals who replied—out of a total of 3,536 receiving questionnaires—listed their "organization's management" as the one factor out of 14 separate job aspects which gave them the greatest amount of "dissatisfaction" and the least amount of "satisfaction."

Probably the best summation of the nature, extent, and ramifications of the Federal executive organization and management problem was made by Stephen K. Bailey in a recent Brookings Institution publication entitled, "Agenda for the Nation." The opening paragraphs of that article are so pertinent to my discussion today that I ask unanimous consent to have the excerpt printed at this point in my remarks.

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

AGENDA FOR THE NATION

(By Steven K. Bailey)

The President of the United States faces a crisis of public confidence in the capacity of the federal government to manage itself and to carry out with efficiency, equity, and dispatch its own legislative mandates.

The seriousness of this issue can hardly be overstated. In question is the capacity of an eighteenth century constitutional arrangement of widely diffused and shared powers and a nineteenth century system of political pluralism to deal effectively with twentieth century problems of technological, social, and economic interdependencies—at home and abroad.

Unless the President devotes substantial attention to making the system work—an effort involving persistence and the employment of high political skills—the consequences for the future of the American polity could be serious in the extreme.

The programs and policies of the government of the United States are currently carried out by a diverse collection of political, administrative, and judicial systems. (The last of these is not treated in this paper.)

The descriptive and taxonomic problems alone are almost grotesque in their complexity. One may list and classify the obvious. The federal government of 1968 contains: three constitutional branches—legislative, executive, and judicial; an Executive Office of the President with a half dozen major constituent units and scores of minor councils and committees; four operating agencies exclusively responsible to the Congress, which itself is divided into two houses, forty standing committees, and more than two hundred subcommittees; twelve cabinet departments; fifty independent agencies, nine of which are independent regulatory commissions with both quasi-legislative and quasi-judicial authority; fifty-statutory interagency committees; 2.8 million civilian employees, 90 percent of whom are employed in federal field offices outside of the Washington, D.C., area; and 3 million military employees.

This gross breakdown suggests the magnitude and diversity of the enterprise, but it is only the tip of the iceberg. For federal policies are today carried out through a bewildering number of entities and instrumentalities: subdepartmental and subagency offices, branches, divisions, units—headquar-

ters and field; hundreds of nonstatutory, but more or less permanent, intra-agency and interagency committees and commissions; grants-in-aid to fifty-five state and territorial governments and their hundreds of subdivisions, including tens of thousands of local governments, with more than 20,000 local school districts; a growing number of quasi-public, nonprofit corporations; scores of international and regional organizations; and myriad contracts to private industries, universities, professional groups, and charitable institutions.

Many of these subsidiary agents have their own separate identities, legal bases, and agenda of priorities apart from their instrumental (and often incidental) role in federal policy implementation.

This almost limitless diffusion presents internal problems of communication and control and often makes terms like "accountability" and "responsibility" words of art to cover a kaleidoscope of administrative fragmentation.

Even if the scene were not so cluttered, even if the formal structure of executive departments, agencies, and personnel were exclusively responsible for the implementation of federal policy, our constitutional system of shared powers and the pluralistic and oligarchical nature of political parties and interest groups would interfere with any neat model of hierarchical loyalty and public accountability. Elmer E. Schattschneider once commented that the history of the federal government could be written in terms of a struggle between the President and the Congress for control of the bureaucracy. But even this is too simple. For the struggle is not just between the President and the Congress: within the Congress, committee and subcommittee chairmen, often allied with powerful private group interests, exercise extraordinary control over the policies and administrative arrangements of subdepartmental and subagency units of the bureaucracy.

If we lived in a simpler and less apocalyptic age, such a complex arrangement might be tolerated without fear of untoward disruptions to basic social values. But this is not the case. The American national government is confronted with unprecedented factors that place an absolute premium upon improved managerial competence in the public sector:

Government decisions involve increased stakes and risks, while mistakes are much harder to retrieve.

Science and technology have penetrated national security, environmental, and social strategies in a way that imposes acute moral and philosophical burdens upon public policy.

The dimensions of public spending require a modern President to monitor spending, taxing, and wage-price relationships with unprecedented precision, and to take stabilization actions without regard to the costs to his political credit balances; he is now obliged to be a conscientious student of economics.

"People" problems no longer lend themselves to straight-line solutions, and a President finds that he must work overtime to compensate for failures of administrative response and to teach a new administrative style to reluctant bureaucrats and congressmen.

Shortened decision intervals and reaction times drive a President to form his calculus of stragey on the run, as it were, placing a premium on accurate and adequate information systems and analytic support.

The modern President lives with a relentless social criticism that generates dissatisfactions with the quality of life and leadership and tends to force his timing and priorities.

In this kind of world, the President, by the logic of his position, must have two overriding managerial concerns:

How can the federal government identify, mobilize, train, and release the energy of the most impressive talent in the nation for developing and carrying out federal policy?

How can staff and line arrangements in the executive branch contribute to more rational and imaginative policy inputs to political decision making, and how can they contribute to more effective and coordinated policy implementation?

These two concerns must be specifically related to the modern President's inevitable preoccupations in the field of public policy: national security, economic stability and growth, environmental management and control, and human resource development.

Concretely, in national security affairs modern Presidents cannot afford a series of "Bay of Pigs" episodes, nor can they afford contradictions between diplomatic and military initiatives. In domestic affairs, they cannot afford to allow brave legislative responses in the fields of environmental management and control and human resource development to be blunted by ineptness and confusion in implementation, as has been the case with much of the Great Society legislation of 1964–65. In economic affairs, Presidents cannot afford to return to earlier days when the varying power centers of economic stabilization policy making (notably key congressional committees, the Budget Bureau, the Council of Economic Advisers, the Treasury, and the Federal Reserve Board) went their separate ways. To do so would be to invite economic disaster.

The difficulty is that the magnitude of the political as well as administrative tasks in assuring some modicum of competence and coherence in these preeminent areas of public policy is staggering. For there are no organizational gimmicks capable of overcoming the enormous centrifuge of governance in our pluralistic society.

An attack upon the managerial inadequacies of the federal government should encompass at least the Executive Office of the President, the departmental and agency structure, the federal field office structure, the devolution system for the transfer of federal funds and functions to nonfederal agencies, and the federal personnel system.

Mr. BAYH. As indicated in the above analysis, the effort which will be required to bring about a sound and effective organization and management program is indeed staggering. However, it is a function that the executive branch must take on and take on immediately. The Nation can no longer tolerate the lack of substantive, effective effort to establish a meaningful and efficient program of administrative management. Indeed, the Congress must see to it that the executive branch not only meets this obligation but also has adequate tools and resources to do so.

It has often been said that management in the executive branch cannot and will not be improved until there is a reward for good management. Present executive management philosophy, and organizational structure neither offers nor provides such reward. The "by-guess and by-gosh" approaches too often utilized by the Bureau of the Budget in its limited efforts for program evaluation, organization and management review, and manpower studies, as well as by the Civil Service Commission in the administration of supergrade positions, have been largely ineffective in improving administrative management. Instead, these approaches have often contributed to the problem. Long standing executive branch policy of recommending across-the-board percentage cuts in program operations, budgets, and manpower without regard to varying circumstances has often served, as suggested by Budget Bureau Director Mayo, in his February 18, 1969, memorandum to agency heads, to punish the lean, efficient organization, and, in effect, to reward the overstaffed, inefficient organization.

Based on past experience, there is considerable doubt that the Bureau of the Budget or a Presidential Advisory Council on Executive Management could perform the necessary overview role in Federal executive organization and management. Previous failures and deficiencies with regard to Federal executive organization and management clearly indicate that, if an effective program is to be instituted in this area, the task should be entrusted to some other organizational entity. Roger Hilsman's observation on organizations, which were set forth in his book "To Move a Nation," would seem to apply in this case. Hilsman's point, simply put, is that in order to change policy, it is necessary to change organization. The Federal Executive Management Act of 1969 would provide for this essential organizational change.

Weaknesses of the Bureau of the Budget in Federal executive organization and management appear to stem largely from the fact that the Bureau's principal orientation is toward budget examination process. Therefore, it tends to lack an adequate understanding of appreciation for the significant role that an effective executive organization and management review program should play in the budgetary process and cost-reduction efforts.

Since 1939, Congress has provided the President with substantive authority to propose reorganizations of the executive branch. During the early years this authority was used extensively and the great majority of such reorganizational proposals were sustained by Congress. However, since 1953, a period in which an unprecedented expansion and proliferation of Federal programs has occurred, utilization of this executive reorganization authority has averaged less than three times a year. Moreover, the great majority of these proposals have not involved major, substantive actions.

Our distinguished colleague from Connecticut, Senator RIBICOFF, chairman of the Senate Executive Reorganization Subcommittee, vividly portrayed the Budget Bureau's deficiencies in the area of executive reorganization during the 1968 hearings on the Hoover Commission proposal. The chairman indicated:

I told the Bureau of the Budget, time and time again, that this [sub]committee would give the highest priority to any reorganization plan that it would bring up. But I find that it is very slow in bringing forth reorganization plans. There is a lack of imagination. It lacks forethought, and the list of duplications and multiplications of agencies . . . cited here today indicates that it has been derelict in its duty to come up with reorganization plans and eliminate unnecessary agencies.

During this same hearing, Senator RIBICOFF further observed:

Instead of acting as a coordinating agency they [BOB] seem to be playing one department against the other. By doing this the

Bureau of the Budget then becomes the actual czar or boss of the entire Federal establishment.

Senator RIBICOFF then asked the logical question whether the President should not have "someone besides the Bureau of the Budget to be the coordinating arm of the executive branch, to bring all the diverse problems of the Federal establishment together to eliminate the duplication and waste and inefficiency that we have?"

Unfortunately, these same "duplications and multiplications" are still with us today, but in even larger numbers and involving a greater variety of functions. To cite only one example, let us consider the area of consumer affairs. For several years some 33 Federal departments and agencies have been administering approximately 260 consumer affairs programs in an organizational context and management style which has been characterized as a haphazard combination of appendages carrying out programs which are often duplicative and contradictory in nature and which require the agencies to serve a multiplicity of constituencies whose basic interests are in direct conflict.

Since 1959, numerous proposals have originated in Congress for the establishment of a Department of Consumer Affairs or some other appropriate device for consolidating or coordinating executive branch consumer affairs programs. Several proposals for new consumer protection programs also have originated in the Congress each session. However, in spite of the executive branch's extensive responsibility and authority for internal organization and management, the Congress has had to look to its own devices with regard to executive management and organization in the area of consumer affairs. And, to this date, despite great public and congressional concern over Federal consumer affairs programs, the Congress has yet to hear any suggestions from the Bureau of Budget with respect to executive organization and management in this vital area.

In all fairness to the Bureau of the Budget, it may well be that it has been asked to assume too large a role in too extensive a variety of functional activities in view of the limitation on the Bureau's staffing and areas of expertise. Prof. Rufus Miles, of Princeton University, who formerly was Assistant Secretary of Health, Education, and Welfare for Administration, indicated as much during the 1968 hearings on the proposed Hoover Commission when he stated:

We have asked the Bureau of the Budget to do entirely too much. They cannot in a single agency do as much as they should be doing.

During the recent hearings on the proposed Department of Consumer Affairs, Ralph Nader ascribed the failure of many Federal agencies to meet their consumer protection responsibilities as stemming from a lack of effective internal review and evaluation of program and administrative management. Mr. Nader also indicated that the complete lack of external review and evaluation of agency activities by the Executive and Congress left the agencies without a "goad" to spur their efforts. The Federal Executive Management Act of 1969 would provide such a "goad."

Former Presidential Assistant McGeorge Bundy aptly described the current situation with regard to Federal executive management in the second of his three Godkin Lectures at Harvard University on March 12, 1968. Mr. Bundy characterized the executive branch as "dangerously weak in its own internal capacity for sustained, coordinated, and energetic action. It more nearly resembles a collection of badly separated principalities than a single instrument of Executive action."

If this is an accurate description of the current status of Federal executive management, and the available evidence indicates that it is, one wonders what functions are being performed by the 9,560 management analysts and technicians who were on various agency payrolls as of October 1967. This figure does not include several thousand executive branch systems analysts, program analysts, operations research analysts, management information specialists and a host of other management specialty positions, including in-house and contract consultants.

During the 1968 hearing on the Hoover Commission proposal Professor Miles remarked:

Much too much emphasis has been placed on how to divide the work instead of how to plan it and coordinate it.

In view of the large number of executive branch management specialists and the lack of evidence of any substantive, effective activity to bring about needed executive branch organization and management improvements, Professor Miles may have provided us with a clue as to where the efforts of these personnel have been directed.

Mr. President, I firmly believe that there is ample proof of the necessity and desirability for the establishment of an Office of Executive Management in the Executive Office of the President. Such an Office was proposed by the first Hoover Commission in 1949. Testimony offered during the 1968 hearings on the proposal for a third Hoover Commission also indicated broad support on the part of the members of the Senate Executive Reorganization Subcommittee, Members of the Congress in general, and representatives of the academic and public administration communities, for the management concept which I offer today.

Some may contend that what is being proposed by this bill would result in more, not less, bureaucracy. However, if we are ever to treat the causes rather than the symptoms of administrative organization and management problems, then the Executive must be given adequate tools and manpower to get at these problems. To some degree, blue ribbon panels and advisory commissions are really symptomatic of the American governmental and public administration syndrome for responding to problems by appointing committees and conducting long-range policy level studies. Executive organization and management problems are immediate and bureaucratic in nature. Through the establishment of an appropriate and responsible office within the bureaucracy, it would be possible for the executive branch to institute the necessary organizational and management reforms to adequately propose reorganization and/or elimination of unnecessary agencies. Just as importantly, this proposal would in no way alter or effect the historic authority and responsibility of the Congress in reviewing and approving proposed reorganizations of the executive branch.

If a third Hoover Commission had been established, it seems likely that one of its major if not principal recommendations would be to call for the creation of an Office of Executive Management. Specific organizations have already been established to meet administrative requirements for budget, personnel, and general services; there is certainly a need for a similar organizational entity which could deal with the most important Federal administrative function of all: executive management.

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

The bill (S. 1952) to establish in the Executive Office of the President an independent agency to be known as the Office of Executive Management, introduced by Mr. BAYH (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Government Operations.

S. 1957—INTRODUCTION OF A BILL TO PROVIDE AN IMPROVED AND ENFORCEABLE PROCEDURE FOR THE NOTIFICATION OF DEFECTS IN TIRES

Mr. NELSON. Mr. President, on behalf of the chairman of the Senate Commerce Committee (Mr. MAGNUSON), the chairman of the Surface Transportation Subcommittee (Mr. HARTKE), and myself, I am introducing legislation to require the establishment of a system for recalling safety-related defective tires from dealers and users.

This bill is a revision of one I introduced in the Senate first on November 8, 1967 (S. 2638), and again this year on January 27 (S. 661). It was prepared by the Department of Transportation under former Secretary Alan Boyd and sent to the Senate Commerce Committee in January. However, it was not introduced before the previous administration left office.

The new administration has reviewed the legislation and has now given its official endorsement to the bill in a statement by Francis Turner, Administrator of the Federal Highway Administration, before Senator MAGNUSON'S committee on April 15. I ask unanimous consent that a copy of Mr. Turner's statement, along with the text of the bill, be printed in the RECORD following my remarks.

This bill would simply extend to tire manufacturers the responsibility already imposed on the automobile manuturer under the National Traffic and Motor Vehicle Safety Act of 1966, to notify vehicle owners of safety-related defects in their cars, and to provide for their repair.

Under the automobile recall provision, more than 12 million potentially defec-

tive automobiles have been recalled for inspection. Officials at the National Highway Safety Bureau feel strongly that this provision is at the very heart of the Nation's effort to combat the highway death toll. Its value to the consumer is incalculable.

There is no similar provision which applies to tire manufacturers. But the need for one is very clear.

Recent tests of tires by the National Highway Safety Bureau for compliance with the minimum Federal tire safety standards have shown that a disturbingly high rate of these tires—about 9 percent—have failed the tests.

At that very high rate of failure, it is probable to assume that out of 220 million tires sold in 1 year, hundreds of thousands, and perhaps millions, do not meet the minimum Federal standards and should be recalled.

However, under the present system, not only are tire manufacturers not required to recall these tires, but when they do try, as several have, they find that effective recall is impossible because they do not know where the tires are.

At the present time, the tire companies do not keep records on where their tires go after they leave the factory. Also when recall is attempted they have no sure way of reaching the individual user, and even sometimes the dealer.

In addition to placing the same responsibility upon tire manufacturers which automobile manufacturers must now meet, this bill would require the tire manufacturers to develop procedures for keeping track of their tires from the factory to the dealer to the purchaser so that they are able to recall when the need arises.

The recent recall attempts by Mohawk and General Tire Co. have proven beyond a doubt the need for a uniform system of identification and notification to facilitate recall. Mohawk's attempted recall of 10,000 Airflo tires—7.35–14—which did not meet the Federal standard for endurance brought back only 300 tires from users in the first 3 months, and 2,300 from dealers. General Tire Co.'s recall of 42,000 of their 9.00–15 Safety Jet tires which failed the standards for endurance and strength, produced less than 550 in the first month of the campaign. Nine weeks after the campaign was initiated, the company announced that a total of 9,060 tires had been returned, but they had no breakdown between individual users and dealers.

The National Highway Safety Bureau had been deeply disappointed in the poor rate of return in these recalls. And it is clear that if additional recalls are initiated as a result of the Bureau's further testing, as they most certainly will be, there is little chance of reaching more than a token percentage of the defective tires.

There is almost unanimous agreement among safety officials in and out of the Government, and among many in the tire industry that this significant loophole in the law should be closed.

I want to commend the administration for its forthright endorsement of this bill. In what may be their first major consumer decision, they have clearly come down on the side of increased protection and safety for the American consumer. It is also gratifying that the tire companies are working together to develop a practical system for identifying tires and notifying customers. With this preliminary work, a workable system can be quickly effected as soon as this bill becomes law—a law which would make a significant contribution to tire and highway safety and to the consumer cause in general.

I ask unanimous consent that an editorial from the New York Times entitled "Tire and Auto Safety" be printed in the RECORD at this point.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill, statement, and editorial will be printed in the RECORD.

The bill (S. 1957) to provide an improved and enforceable procedure for the notification of defects in tires, introduced by Mr. NELSON (for himself, Mr. MAGNUSON and Mr. HARTKE), was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 113 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1402) is amended by:

(1) striking subsection (a) thereof and inserting in lieu thereof the following:

"(a) Every manufacturer of motor vehicles or tires shall furnish notification of any defect in any motor vehicle or motor vehicle equipment produced by such manufacturer which he determines, in good faith, relates to motor vehicle safety, to the purchaser (where known to the manufacturer) of such motor vehicle or motor vehicle equipment within a reasonable time after such manufacturer has discovered such defect."

(2) striking the first sentence of subsection (d) thereof and inserting in lieu thereof the following:

"(d) Every manufacturer of motor vehicles or tires shall furnish to the Secretary a true or representative copy of all notices, bulletins, and other communications to the dealers of such manufacturers or purchasers of motor vehicles or motor vehicle equipment of such manufacturer regarding any defect in such vehicle or equipment sold or serviced by such dealer."

(3) adding at the end thereof the following new subsections:

"(f) Every manufacturer of motor vehicles or tires shall maintain records of the names and addresses of the first purchaser (other than a dealer or distributor) of motor vehicles or tires produced by that manufacturer. The Secretary may establish by order procedures to be followed by manufacturers in establishing and maintaining such records.

"(g) For the purpose of this section the term manufacturer of tires includes the retreader in the case of retreaded tires."

EFFECTIVE DATE

SEC. 2. This Act shall take effect six months after enactment unless the Secretary finds, for good cause shown, that a later effective date is in the public interest and publishes his reason for such finding, except that the provisions of section 113(d) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1402(d)), as amended by this Act, shall take effect on the date of its enactment. In no event, however, shall the Secretary postpone the effective date of this Act to a date more than one year after enactment.

The statement and editorial, presented by Mr. NELSON, are as follows:

SUPPLEMENTARY STATEMENT ON TIRE DEFECT NOTIFICATION BY F. C. TURNER, FEDERAL HIGHWAY ADMINISTRATOR, DEPARTMENT OF TRANSPORTATION, BEFORE THE COMMITTEE ON COMMERCE OF THE U.S. SENATE, APRIL 14, 1969

Mr. Chairman and members of the Committee, under present law, where the Secretary determines the existence of safety related defects, section 113(e) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1402(e)) provides authority for the Secretary, after informal administrative proceedings, to require both vehicle and tire manufacturers to initiate defect notification campaigns. In addition, the present law obliges the *manufacturer of a motor vehicle* to notify new vehicle purchasers of any safety-related defects *it* discovers, including those on original equipment tires. However, the Act imposes no parallel obligation on the *tire manufacturer* to notify tire purchasers of defects it discovers in its own products sold directly to the public. (See section 113(a), 15 U.S.C. 1402(a).)

In other words, if a motor vehicle manufacturer discovers a tire defect in original equipment tires, the Act imposes a duty on that vehicle manufacturer to notify vehicle purchasers. If a tire manufacturer discovers such a defect, no similar obligation to notify consumers is imposed on him. This is very significant for by far the largest proportion of tires manufactured are sold by the tire companies as replacements for the original ones supplied with the vehicle. To be specific, last year more than 225 million motor vehicle tires were produced; less than 58 million of these were delivered as original equipment. As a result, there is a serious gap in the safety protection afforded by the Act; the absence of a legal requirement on tire manufacturers to notify the consumers—or for that matter the Secretary—of safety-related defects they discover in their own tires.

Recent tests sponsored by the Department for checking compliance of tires with Federal safety standards have led to several large recall campaigns by manufacturers. Through these campaigns, the manufacturers will seek to replace tires sold to the public from the production runs which the Government tests discovered produced tires with safety defects. Because of the thousands of tire manufacturer locations and retail outlets, it is impossible for the Government, through its compliance testing program, to discover *all* safety-related defects on tires. In fact, most of the defects were first known to the manufacturers through customer complaints.

Another serious aspect of tire defect recalls is in the present methods whereby the tire manufacturer notifies the consumer that he has purchased a defective tire. Most tire manufacturers as yet do not maintain records of the names and addresses of tire purchasers. Consequently, in the recent recall campaigns the manufacturers had to notify the public by press release rather than by "certified mail" to individual purchasers. The public response to these campaigns has so far been extremely disappointing. The Administration, accordingly, has taken under consideration regulations that would require appropriate records to be maintained. It is of prime importance if tire safety programs are to be effective that the manufacturer be able to reach the consumer who has purchased a defective tire to advise him of the potential hazard.

We urge that the Act be amended to remedy the problems I have just outlined. First, the obligation to notify purchasers of safety-related defects in their products, now required only of the motor vehicle manufacturers, should be extended to tire manufacturers. Second, the Secretary should es-

tablish appropriate procedures for the manufacturers to follow to keep track of tire purchasers so that the warnings can be effectively passed on.

We note that Senate Bill 661 was introduced this session with these ends in mind. A draft bill containing a similar proposal was prepared by the Department and transmitted to Congress by former Secretary Boyd on January 16th of this year. That draft was referred to this Committee for its consideration (a copy is attached for your convenience).

We favor the Department's proposal for the reasons detailed in the letter of explanation which accompanied it. In particular, the Department's proposal would give the Secretary six months—extendable to one year—to set up effective record keeping and notification procedures. S. 661 would only allow six months to accomplish this. That inflexibly shorter period, in our view, may not prove adequate. The tire defect notification problem is complicated by tire production in excess of two hundred million annually distributed through a multitude of small retail outlets. While we are mindful of the safety problem, sufficient time must be allowed for consultation with all affected groups before settling on a particular procedure. Only in this way can we insure that the notice procedures adopted will have maximum effectiveness without being unnecessarily burdensome.

We think this expansion of the defect notification program to tire manufacturers will definitely increase tire safety protection for American motorists.

[From the New York Times, Jan. 29, 1969]

TIRES AND AUTO SAFETY

Many motorists are inspecting their tires closely—for something other than low air pressure—as a result of Senate charges that nine manufacturers have not met Federal safety standards. Since two of every three new tires sold may have serious defects, this complaint represents the first major consumer challenge to the Department of Transportation since the change in Administration.

Unfortunately, a recall program similar to that instituted by car manufacturers is virtually impossible to achieve with the tire manufacturers. Careful records of tire ownership are not kept. But surely the National Highway Safety Bureau, a Federal agency, should take steps to publicize trade names, lines and sizes of tires that may be dangerous on the road. And civil suits should be started under the law.

The National Traffic and Motor Vehicle Safety Act deserves to be implemented. We agree with Senator Gaylord Nelson, chairman of a Small Business subcommittee, that Secretary of Transportation John A. Volpe should support requests for more funds to enable Federal testing of every brand of tires. A system should be established that would keep track of tires with flaws before they ever reach the motorist.

This month also marked the compulsory introduction of added safety equipment on all 1969 models. The most important of all the improvements are headrests. They will save lives and lessen neck injuries in whiplash accidents following collisions.

Under the National Traffic and Motor Vehicle Safety Act, the Department of Transportation should press for used-car safety standards, too. The recent hearings on old car service and new car warranties indicated that guidelines are badly needed. The hearings disclosed not only that mechanics overcharged for imperfect work but—even more shocking—that the manufacturer and his dealer often disowned the owner of a car once he left the showroom.

A Federal Trade Commission staff study shows that better assembly-line inspection and testing could eliminate many warranty problems before they appear. The F.T.C. also says dealers ought to make their own inspections before accepting "lemons" for sale.

The public should not be kept in the dark about products that may stand between life or death on the road. And it is up to the Department of Transportation to show its concern for the American motorist by strict policing of auto and tire manufacturers.

(NOTE.—Senator Nelson wrote to Transportation Secretary John Volpe on January 26 listing 33 brands of tires which do not meet the federal tire safety standards. He urged the Secretary to inform the public about these dangerous tires and to institute legal action against those tire manufacturers who are violating the Traffic Safety Act. Senator Nelson is also the author of a bill to make it mandatory for tire manufacturers to recall defective tires from consumers, as automobile manufacturers are now required to do under the Traffic Safety Act.)

S. 1958—INTRODUCTION OF THE PREVAILING WAGE RATE DETERMINATION ACT OF 1969

Mr. HARRIS. Mr. President, I introduce, for appropriate reference, the Prevailing Wage Rate Determination Act of 1969. The purpose of this legislation is to provide an equitable system for fixing and adjusting the rates of compensation of wage board employees.

This bill is of vital concern to one-fourth of all employees of the Federal Government. It directly affects their wages, their individual rights and obligations as well as the rights and obligations of their union representatives who are bargaining for them and who will represent them on the various wage board committees established by this act.

Basically, my bill is intended to organize and to standardize the Federal Government's procedures for fixing the rates of pay of employees working under the so-called prevailing rate system. Information I have indicates a discrepancy between rates of pay for wage board employees and others performing identical functions within the same community.

This bill would reduce such a possibility of inequity.

While remedying abuses, the bill will preserve, nonetheless, the concept and procedures of the "prevailing wage" system. It thus is not a modification of the wage board system itself but simply a measure to eliminate injustice and inequity by providing new mechanisms to establish basic regulations, to conduct wage surveys, and to adjudicate or arbitrate differences.

The most important single improvement in my bill over the present arrangement is that it will give a statutory foundation to improved procedures for wage board rate determinations. The principal instrumentality provided by the bill to assure that such a policy is pursued is a newly created standing committee within the Civil Service Commission, to be known as the "National Wage Policy Committee."

Composed of 11 members, the National Wage Policy Committee will have as its chairman a person who shall be from outside the Federal service and who shall be appointed directly by the President and shall hold no other office in the Federal service during his tenure as chairman.

To assure that the chairman is objective, my bill provides that he will serve exclusively at the pleasure of the President of the United States and that his compensation will be $75 for each day spent in the work of the policy committee.

In addition, the policy committee will have five Federal employee union representatives and five management representatives.

The Federal employee union representatives will be appointed as follows:

Two by the president of the AFL–CIO; and one each appointed respectively by the president of the Federal employee union representing the first largest, the second largest and the third largest number of Federal employees subject to this act.

The five employer representatives shall be appointed to the National Wage Policy Committee as follows:

Two management representatives will be appointed by the Secretary of Defense, at least one of whom shall be appointed on a rotational basis for a period of 2 years from the Department of the Army, the Department of the Navy, and the Department of the Air Force;

One management representative from the Veterans' Administration will be appointed by the Administrator of Veterans' Affairs;

One management representative from the Civil Service Commission will be appointed by the Chairman of the Civil Service Commission; and

One management representative will be appointed, on a rotational basis for a period of 2 years, by the Chairman of the Civil Service Commission from Federal agencies which are leading employers of employees subject to this act.

In addition to establishing the National Wage Policy Committee, my bill will require each Federal department or independent agency designated by the National Wage Policy Committee to establish an Agency Wage Committee, composed of five members. The role of the Agency Wage Committee will be to assure the implementation within the agency of the wage surveys through the functioning of the local wage survey committees.

A most important feature of my bill is the inclusion under its wage rate system of all employees who are now paid from so-called nonappropriated funds. These employees will no longer be considered outsiders to the wage board, or prevailing wage rate, system. They will be assured equity and justice in the same manner as if they were receiving their pay from appropriated funds. Certainly, it is improper that an employee should receive less money for his work simply because his employer or manager draws his checks on a different bank account.

As with all legislation, I realize that this bill may emerge in somewhat different form when it is finally enacted. However, on the basis of my experience, I am sure that the final statute will not be very much different in its essentials than the bill which I introduced today.

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

The bill (S. 1958) to provide an equitable system for fixing and adjusting the

rates of compensation of wage board employees, introduced by Mr. HARRIS, was received, read twice by its title, and referred to the Committee on Post Office and Civil Service.

S. 1959 AND S. 1960—INTRODUCTION OF BILLS TO AMEND THE SOCIAL SECURITY ACT

Mr. HARRIS. Mr. President, last year the late Senator Robert F. Kennedy and I introduced two separate bills to repeal the retrogressive measures contained in the Social Security Act Amendments of 1967 and to initiate needed improvements in our welfare policy. A majority of these measures passed the Senate but were dropped in conference. Today I reintroduce those identical measures, unchanged except for the even more urgent need for passage that a year's delay has brought.

As Senator Kennedy said last year:

> By enacting these restrictions, Congress has decided to punish the children of the poor without making any fundamental change in the present unsatisfactory status of the welfare system.

I do not like our welfare system; the prosperous do not like it; and certainly many of the poor find it almost intolerable. But, we cannot even begin to fashion a just system that will promote the true meaning of welfare until these regressive measures are repealed.

The first bill I am introducing provides for a repeal of the freeze on the level of Federal contribution to State AFDC programs which is otherwise to become effective July 1, 1969.

Without action by us, Federal reimbursement to the States after July 1, 1969, will be based on: First, average expenditures for all children in need because of the death, disability, or unemployment of a parent; but, second for those with an absent parent only up to the number determined by the first quarter ratio of children in category; third, to the total child population.

Since the States are required to accept all who qualify for welfare, the States will have the choice of spreading the benefits, already inadequate, to greater numbers; barring families from the welfare rolls; or raising the additional money themselves.

The last alternative, when States are already in dire financial distress, is unlikely to happen; Governors have unanimously voiced objection to the freeze. The first two alternatives are likely, but should be unthinkable. Depending on the alternative selected, as many as 300,000 children could be dropped from the AFDC rolls.

The Senate and Finance Committee have twice voted to do away with the freeze. I urge immediate repeal of the freeze.

The measures in the second bill have common aims—to preserve the dignity and independence of individuals in our welfare system, to strengthen the family unit, and to increase incentive and ability of families to achieve self-support. One important measure I am proposing is to require each State to participate in the AFDC–UP program by July 1, 1970. This requirement has once been adopted by the Senate as a floor amendment.

Two desirable objectives would be accomplished by requiring each State to participate in the AFDC–UP program. First, in those States which are not presently participating, it would be instrumental in solving the major problem of disintegration of families partly brought about the regulations in many States which have the practical effect of making the father live out of the home before aid will be given. Second, the possibility of gainful employment would improve; the father would have to register for work with his State employment service office and participate in the work-training program provided for in the Social Security Act.

The cost of this program has been estimated to be approximately $60 million to the Federal Government and between $30 to $35 million to States. Long-range costs should be lower as many of these families become self-sustaining. What cannot be estimated in dollars are the future benefits to children growing up in a home with a father and where the atmosphere is one of success and not failure.

The family unit is further strengthened by a measure in the bill providing for a more realistic payment of $20 per week for participants in the new work-training programs, instead of the $30 per month adopted, along with a more attractive incentive to AFDC recipients to seek and retain employment by permitting them to retain $50 and one-half of amount earned rather than $30 and one-third of the amount earned.

The extra income which a working father would receive would provide a greater incentive for him to stay in the work training program or to seek and retain employment—necessary steps toward financial independence. Measures are also contained in the second bill to eliminate certain undesirable legal barriers for assistance based on factors other than legitimate need.

One undesirable legal barrier which would be eliminated is the requirement that a father have six calendar quarters of work or have been entitled to uneemployment compensation as a condition to eligibility to assistance under the special AFDC unemployed parents program. The Senate last year voted to repeal these requirements, but the conference committee dropped the provisions.

The young family head with little or no previous employment experience may have the greatest need of assistance. His employment record would serve as proof of his need, not cause a denial of it.

Another undesirable legal barrier of the 1967 amendments is the provision which denies AFDC aid in any amount to an unemployed worker's family if he is receiving unemployment compensation in any amount. The Finance Committee accepted this measure last year; however, the conference committee modified it to prohibit payment to a family for any week rather than any month that unemployment compensation is received.

A repeal of this requirement would simply put the States back in the same position they were in prior to the 1967 amendments and permit them to decide how much, if any, aid the worker should receive.

The bill also contains two measures designed to eliminate certain undesirable features of our present law relating to employment.

One measure would require that the Federal minimum wage be enforced in jobs which people are assigned to in the work-incentive program. This would not entail additional costs, for, as Senator Robert F. Kennedy clearly set forth, "the welfare recipient would simply work fewer hours to 'work off' his welfare, and be compensated more adequately, therefore, for his work."

A second measure would make Federal aid available to supplement the earnings of working fathers whose income happens to be below the State AFDC standard. The importance of this proposal depends in part on how HEW defines "unemployed." If defined to include part-time and seasonal workers, as interpreted in the past, few workers would be covered. But under the earning exemption of 1967, a person on welfare might go to work and have a combined income from work and welfare which would exceed the income of a coworker who never applied or qualified for welfare. The amendment I offer would permit the coworker to receive aid according to the same formula as the AFDC recipient under the earnings exemption. This would be helpful to fathers who are living with their families and attempting to support them. It is another measure aimed at eliminating some of the present features of our welfare system that lead to desertion of families by fathers in order that their families can qualify for welfare when they are unable to make a living wage.

Jobs for the unemployed are vital. But I think one failure of our welfare laws has been the philosophy that a job is an end in itself. When a man secures work, our unemployment figure goes down. We are satisfied. But a job is a means to an end—that of freedom through self-support. Work which does not have prospect of attaining this goal brings no adequate economic benefits to the family or real achievement to the wage earner. Asking a man to work long hours for less than a minimum wage or for wages below the State AFDC standard can only deepen the feeling of the worker that he cannot support his family. Any incentive of rehabilitation or incentive to retain the family unit is lost.

Most of the measures just discussed were intended to ensure and promote the father's place in the home. I think we all agree that the psychological and emotional health of a family is bettered when the father is present. By what logic do we then conclude that a family without the presence of a father is better off without even the mother's care. There are approximately 900,000 mothers of children receiving welfare. How can we possibly use their economic plight to force them away from their children. We do not have the right to make that decision.

The bill contains a provision allowing mothers caring for one or more children of pre-school age, or caring for one or more children under the age of 16 who are attending school to be exempt from work except during school hours. In ad-

dition, the States under this section, would have the authority to make other exemptions where appropriate.

Parental care and supervision under the circumstances set forth in the exemptions are obviously compelling, and the law as it presently stands should be repealed. This provision was offered as a floor amendment in 1967 and passed the Senate, but was dropped by the conference committee.

Another proposal is to eliminate the requirement that payments be made to a third party or parties rather than directly to the parents in those instances where the parent or parents refuse to participate in the work incentive program.

The proposal I am offering would simply leave such a decision to the States and therefore would lend more flexibility to the system and would permit decisions to be reached on a case-by-case basis. Under the present law, an automatic judgment is made that the parent is unable to handle money without regard to special circumstances that the States should be permitted to take into consideration.

This bill also alleviates a serious discrimination that is involved in the ceiling on Federal reimbursement for medicaid. The law presently limits Federal reimbursement to the States for medical assistance to families with incomes not in excess of 133⅓ percent of the actual level of AFDC payments in the State to a family of that size. The emphasis should be on the States' definition of minimum family need rather than actual level of AFDC payments in the State due to the fact that in many States the actual level of AFDC payments is far below the State's definition.

For example, in one State a year ago the State was paying only 22.8 percent of its own minimum need definition. The State defined minimum need for a family of four at $2,340 a year but paid only $600. Applying the 133⅓ percent limitation to the actual payment, the medical assistance ceiling would be $800 or only about 30 percent of the State's own definition of minimum need.

The final provision would authorize the Secretary of Health, Education, and Welfare to conduct a broad study of our welfare system, assess its failures and successes, and produce recommendations for its general restructuring.

You cannot visit with families on welfare and believe that they do not share the same wish. But our system is failing. Welfare assistance for too many has become a closed circle of dependency and despair for succeeding generations. If we are to break this cycle, we must be prepared to make sweeping changes. Affirmative action now on these two bills would be a beginning and a pledge of our future intentions.

The entire welfare system must be changed. We must federalize the system; States cannot continue to fund the increasing costs of both education and welfare. Legislation is being prepared toward this end. Until it can be enacted, however, the bills I introduce represent a base minimum of what must be done to make the present system more decent and humane.

Mr. President, I ask unanimous consent to have a summary of these bills printed at this point in the RECORD.

The PRESIDING OFFICER. The bills will be received and appropriately referred; and, without objection, the summary will be printed in the RECORD.

The bills (S. 1959) to amend title IV of the Social Security Act to repeal the provisions limiting the number of children with respect to whom Federal payments may be made under the program of aid to families with dependent children; and (S. 1960) to amend the Social Security Act so as to revise certain provisions thereof relating to public assistance which were enacted or amended by the Social Security Amendments of 1967, to improve the program of aid to families with dependent children established by title IV of such act, and for other purposes, introduced by Mr. HARRIS (for himself and other Senators), were received, read twice by their title, and referred to the Committee on Finance.

The material, presented by Mr. HARRIS, follows:

SUMMARY OF BILLS

BILL TO REPEAL FREEZE

This bill amends Title IV of the Social Security Act to repeal the provisions limiting the number of children with respect to when Federal payments may be made under the program of aid to families with dependent children.

BILL TO REPEAL CERTAIN PUNITIVE MEASURES OF 1967 AMENDMENTS TO SOCIAL SECURITY ACT

Sections 2 and 3 permit AFDC recipients to retain $50 and ½ of amount earned rather than $30 and ⅓ of amount earned.

Sections 4 and 5 repeal the requirement that a father have 6 calendar quarters of work or have been entitled to unemployment compensation as a condition for eligibility to assistance under the special AFDC—Unemployed Parents program.

Section 6 permits States to determine if aid will be denied when unemployed worker is receiving unemployment compensation.

Section 7 provides that the AFDC-UP program be mandatory in each state by July 1, 1970.

Section 8 provides for payment of $20 per week for participants in the work training program, instead of $30 per month. Also increases Federal participation under this program to 90% from 80%.

Section 9 provides for an increase from 30 to 60 days in any 12-month period as used to define term "emergency assistance to needy families with children."

Section 10 provides for the amendment of certain sections to make certain that eligibility for and the extent of aid under the plan will be determined in a manner consistent with simplicity of administration and the best interest of the recipients.

Section 11 provides for a study of the welfare system to be conducted by the Secretary of HEW to determine how the system can be improved.

Section 12 provides for:

a. the exemptions of mothers from coercion to work;

b. the reinsertment into the work incentive program a protection for children whose parent or parents refuse to participate in the program; and

c. the compensation of people in the work incentive program on the basis of the Federal minimum wage applicable to newly covered workers.

Section 13 amends the program of aid to dependent children of unemployed fathers by making Federal aid available to supplement the earnings of working fathers whose income is below the State AFDC standard.

Section 14 provides for the Federal reimbursements to States for medicaid on the basis of 133⅓% of the State's definition of minimum need rather than on the basis of 133⅓% of the actual level of AFDC payments.

Section 15 provides for the effective date of the amendments, except in those instances where specifically provided, to be January 1, 1970.

S. 1965—INTRODUCTION OF A REVENUE SHARING BILL TO HELP STATES AND POLITICAL SUBDIVISIONS MEET BURGEONING RESPONSIBILITIES

Mr. TYDINGS. Mr. President, for more than a decade, the Congress has debated the virtues and vices of sharing Federal revenues with the States and localities on a block-grant basis. The record of our deliberations documents the urgent need for a massive infusion of funds into State, county, and city coffers if the demise of our federal system of government is to be prevented. Therefore, I am introducing a revenue-sharing bill today designed to help the States and their political subdivisions meet their burgeoning responsibilities.

As you may recall, I was one of the active opponents in the Senate of the "rotten borough" amendments aimed at emasculating the Supreme Court's "one-man, one-vote" reapportionment decisions. It was my contention that, until State legislatures truly represented all groups and localities in their States, they would never be responsive or responsible.

Under the old system of urban and suburban underrepresentation, the financially hardpressed cities were compelled to turn increasingly to Washington for succor and support. The inability and unwillingness of many State governments to confront the problems of the mid-20th century were subverting the maintenance of a vigorous, effective federal system.

"Federalism" was becoming part of the hollow political cant invoked at campaign rallies and in July 4th speeches. Everyone endorsed it in principle, but little was being done to preserve the integrity of the States and localities as equal partners in our system of government.

Reapportionment has been a major step in the restoration of our federal system. Legislatures which for years were the exclusive preserves of isolated rural representatives and powerful special interests are struggling to respond to the problems of poverty, substandard housing, inferior education, air and water pollution, law enforcement, and traffic congestion that are threatening to strangle our cities and suburbs. In short, State governments have become responsive; they want to be responsible.

However, the principal obstacle currently preventing most States from effectively fulfilling their responsibilities is a lack of adequate resources.

As Walter Heller, one of the early proponents of revenue-sharing, put it:

Prosperity generates demands for better schools, roads, and parks, for new and better services . . . faster than it produces added state-local revenues.

Despite an increase of more than 125 percent in State and local tax receipts over the past decade, expenditures continue to outdistance revenues. A recent study by the Brookings Institute forecast State and local expenditures growing at a rate of 7 percent a year while revenues rise by only 5 percent. By next year, this will produce an annual fiscal gap of at least $15 billion, a gap which will widen as we move into the 1970's.

Most States, counties, and cities will be unable to raise sufficient revenues to close this gap without considerable Federal assistance. The traditional sources of State and local funds, the property and sales taxes, cannot be exploited further in most areas without working severe hardship on low- and middle-income taxpayers. Owing to their regressivity, property and consumer levies fall most heavily on those who can least afford them. In addition, these two principal supports of our State and local fiscal system respond relatively poorly to economic growth.

State and local governments are caught in a bind. Interstate competition for industry constrains the revenue-raising potential of the rich States, while an inadequate tax base limits the poorer States and most large cities.

The best device for collecting needed new revenues is unquestionably the graduated income tax. It is scaled according to ability to pay and it is relatively elastic with respect to economic growth.

However, despite its use by 35 of the States, it has been largely preempted by the Federal Government. As a result, the Federal income tax currently accounts for approximately two-thirds of the public revenue raised in this country.

Herein lies the cardinal cause of the fiscal imbalance in our federal system. While the most rapid growth in the demand for public goods and services is occurring at the State and local level, the fastest growing source of revenue is controlled by Washington.

The fecundity of the Federal income tax has led economists to forecast the emergence of a Federal surplus or "fiscal dividend" when the war in Vietnam is finally brought to a close. Those concerned over the growing insolvency of the States and their political subdivisions have proposed using a portion of this dividend to finance a revenue-sharing program.

I fully support this proposal. However, I do not believe we can afford to postpone a block grant program for the States several more years in the hope that this Federal surplus materializes. Our States and cities need assistance and they need it now.

Therefore, I suggest funding a tax-sharing program at the present time out of the additional Federal revenues that would result from a thoroughgoing reform of our tax system.

Billions of dollars in potential Federal tax receipts slip through the loopholes in our tax system each year into the pockets of the special interests. I intend to introduce legislation shortly which would close a large number of these loopholes. This would provide enough new revenue to permit a drastic slash in the surtax and enable us to initiate a revenue-sharing program with the States this year.

Thus, the average taxpayer would have his Federal taxes reduced, and the States and localities would be able to improve their services without a commensurate hike in property and sales taxes.

The revenue-sharing plan I am introducing today would provide the States with $2.5 billion in block grants in fiscal year 1971, $3 billion in fiscal year 1972, and $3.5 billion in fiscal year 1973.

These grants are designed to give the States greater fiscal flexibility to meet their growing responsibilities. No strings are attached to the money from Washington, save the requirement that each State pass a substantial share of its portion through to its cities and urban counties with populations of more than 50,000. The State and local governments would be free to determine how the money is spent.

The bill allocates this shared revenue among the States according to a formula based on population and tax effort. The tax effort factor is the ratio of all State and local taxes collected within a State to the total personal income for that State. Including a tax-effort factor providing incentives to the States to maintain or increase their own revenue-raising rates.

Since it is imperative that a portion of this revenue reaches the cities and counties with the greatest needs, a "pass through" provision is included. The formula was developed by the National Advisory Commission on Urban Problems, chaired by former Senator Paul Douglas of Illinois.

Under the formula, a State is required to pay a portion of its revenue-sharing grant to a city or urban county which is determined by the latter's size and local tax ratio. A city's or urban county's local tax ratio is the ratio of its revenues from its own local sources to the total revenues from all State and local taxes in the State. In other words, it is a measure of the percentage of the total revenue in that State raised by the locality from its own tax base.

Each State would be required to "pass through" to urban counties and cities the following portion of its revenue-sharing payments.

First. To each city or urban county with a population of 100,000 or more, two times its local tax ratio; and

Second. To each city or urban county of 50,000 to 99,999 population, the product of its local tax ratio times the percentage by which the local government's population exceeds 50,000.

The use of this "pass through" formula insures that the largest share goes to the most populous and active city and county governments, and that proper account is taken of the variation in State-local fiscal arrangements throughout the country.

Mr. President, it is being said that tax reform's "time" has come on Capitol Hill. The Congress is prepared to repair our loophole-riddled tax system.

By tieing revenue-sharing with the States to tax reform, it is my hope that we can induce action on a matter whose "time" it has been for nearly a decade: block grant assistance to our States and localities. No less than the survival of our Federal system of government is at stake.

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

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

The bill (S. 1965) to remit a share of Federal tax revenues to State and local governments, and to establish a Commission for Federalism to allot such revenues and to report on their use to the Congress, introduced by Mr. TYDINGS, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 1965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

COMMISSION FOR FEDERALISM

SECTION 1. There is hereby established a Commission for Federalism (hereinafter referred to as "the Commission"), which shall consist of five Commissioners, appointed by the President by and with the advice and consent of the Senate. The first Commissioners appointed shall continue in office for terms of three, four, five, six and seven years, respectively, the term of each to be designated by the President, and their successors shall be appointed for a term of seven years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the Commissioner whom he shall succeed.

The President shall designate one among the Commissioners as Chairman of the Commission. The annual rate of basic compensation for the Chairman, and the other Commissioners, shall be equivalent to that provided by level III and level IV, respectively, of the Federal Executive Salary Schedule (5 U.S.C. 2211(c)(d)).

No more than three Commissioners shall be members of the same political party. The Commission is authorized to employ such personnel as, in its judgment, shall be required to carry out its functions.

APPROPRIATIONS

SEC. 2. In order to provide for a sharing with the States and their political subdivisions of receipts from Federal income taxes, there is hereby appropriated out of the Treasury to the Commission $2.5 billion for the fiscal year ending June 30, 1971, $3.0 billion for the fiscal year ending June 30, 1972, and $3.5 billion for the fiscal year ending June 30, 1973.

REVENUE-SHARING PAYMENTS

SEC. 3. The revenue sharing under this Act shall be carried out by the Commission through payments under section 4 to all qualified States. The aggregate of such payments to a State shall be the "revenue-sharing payment" for that State.

ALLOTMENT TO STATES

SEC. 4. (a) The Commission shall each year make a payment to each State which, under section 5, is qualified for a revenue-sharing payment in an amount which bears the same ratio to the amount appropriated for that year under section 2 as the product of—

(1) the population of the State, and

(2) the State's tax-effort ratio (as determined under subsection (b)), bears to the sum of the corresponding products for all the States which are qualified for a revenue-sharing payment.

(b) The "tax-effort ratio" for a State shall be the ratio between the sum of all taxes

collected in the State by the State and its political subdivisions and the total personal income for the State. Determinations under this section by the Commission shall be based on the most recent data available from the Department of Commerce.

STATE UNDERTAKINGS

SEC. 5. (a) In order to be qualified for a revenue-sharing payment under this Act a State shall undertake—

(1) to assume the same responsibility for the fiscal control of and accountability for revenue-sharing payments as it has with respect to State funds derived from its own tax resources;

(2) to enact a graduated State income tax if such a tax has not yet been enacted in the State;

(3) to make the distribution out of the revenue-sharing payments received by it to certain cities and urban counties as provided under subsection (b);

(4) to make available to the Commission all of the data and information it requires to meet its obligations under section 7.

(b) A state shall distribute in each fiscal year out of its revenue-sharing payments—

(1) To each city or urban county (as defined in subsection (c)) within its boundaries having a population of one hundred thousand or more, an amount not less than the product of—

(A) the revenue-sharing payment made to the State under section 4;

(B) twice the local tax ratio (as defined in subsection (c)) of such city or urban county; and

(2) To each city or urban county (as defined in subsection (c)) within its boundaries having a population between fifty thousand and ninety-nine thousand nine hundred and ninety-nine an amount not less than the product of—

(A) the revenue-sharing payment made to the State under section 4, and

(B) a fraction representing the product of (i) twice the local tax ratio (as defined in subsection (c)) of such city or urban county, and (ii) the population ratio (as defined in subsection (c)) of such city or urban county.

Such distributions shall be made by the State to such cities and urban counties with no restrictions imposed on the use thereof which are not applicable to the use of funds which such cities or urban counties derive from their own resources. Determinations under this subdivision shall be made by a State on the basis of satisfactory data from the most recent year available, which data shall be provided by the Commission.

(c) For purposes of this section—

(1) the term "urban county" shall mean a county having a population of fifty thousand or more, at least 50 percentum of the population of which was classified as urban population in the most recent United States census;

(2) the term "local tax ratio" of a city or urban county shall mean the ratio between (A) the total receipts from all taxes imposed by such city or urban county and (B) the total receipts from all taxes imposed by the State and all its political subdivisions; and

(3) the term "population ratio" of a city or urban county having a population between fifty thousand and ninety-nine thousand nine hundred and ninety-nine shall be the ratio between (A) the amount by which the population of such city or urban county exceeds fifty thousand, and (B) fifty thousand.

Section 6. Under the following two conditions, a State may substitute its own plan for distributing revenue-sharing payments to certain cities and urban counties for the plan contained in Section 5—

(a) Where the State plan would provide more funds to the cities and urban counties designated in Section 5 than would the plan contained in Section 5; and

(b) When the State plan is approved by formal resolution of the governing bodies of the cities and urban counties that would receive, in combination, at least ⅔ of the money that would be distributed by the State under the plan in Section 5.

PLANS AND REPORTS

SEC. 7. (a) Before receiving an allotment under section 4, each State shall each year submit to the Commission a comprehensive plan indicating the purposes for which the sums to be allotted will be expended and the relationship of those purposes to the overall development of the State.

(b) The Commission shall have no power to disapprove or to revise any portion of a plan submitted, pursuant to subsection (a) of this section, by a State. The Commission may, however, from time to time consult, in an advisory capacity, with each State regarding the preparation or implementation of a plan.

(c) The Commission shall annually report to the Congress, after the conclusion of the fiscal year beginning July 1, 1971 regarding the implementation of this title and, in particular, the Commission shall give its evaluation of the purposes for which and the manner in which the sums allotted under this title have been expended. The Commission is authorized to require, from time to time, reports from States, for purposes of carrying out this subsection.

SEC. 8. (a) The provisions of title VI of the Civil Rights Act of 1964 shall be deemed applicable to any activity, program, or service provided solely or in part from any allotment received under this title by a State or authorities governing a metropolitan area.

(b) All laborers and mechanics employed by contractors or subcontractors on projects assisted by funds alloted under this title shall be paid in wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority functions set forth in the Reorganization Plan Numbered 14 of 1950 and section 2 of the Act of June 13, 1934, as amended.

SEC. 9. For purposes of this act (except section 5(c)) the term "State" includes the District of Columbia.

S. 1966—INTRODUCTION OF A BILL PROVIDING FOR RESEARCH INTO SAFER METHODS OF MINING AND PREPARING COAL

Mr. PERCY. Mr. President, we all recall that on November 30 of last year, after 10 days of anxiety and constant vigil, the decision was reluctantly made to seal the Mountaineer Coal Co.'s mine No. 9, near Farmington, W. Va., entombing the bodies of 78 miners. Once again a tragic disaster of major proportions has struck the coal mining community; and, justifiably shocked, the social conscience of the American public was once again aroused from its traditional apathy to the miner's lot.

One reflection of the public outcry succeeding Farmington is S. 1300, a bill to improve mine health and safety standards. It was introduced by Senator JAVITS and is now being considered by the Committee on Labor and Public Welfare.

I am pleased to be a cosponsor of this proposed legislation. If the standards contained in this bill are properly enforced, it will go a long way to reducing the accident and health dangers to which miners are exposed today. This bill would establish more rigorous safety standards and inspection procedures aimed at preventing all types of both underground and surface mine accidents—not just the major disasters toward which the present laws are directed. Equally important, it would set standards for permissible levels of coal dust—the cause of pneumoconiosis—the dreaded black lung. This legislation is urgently needed. I am hopeful of its passage this session. It is urgently needed.

However, we should bear in mind that even this proposed act is palliative in nature. By the time it is enacted it will in some respects already be "outdated." Coal mining will still be this Nation's most dangerous major industry. Increased mechanization will generate more coal dust—the cause of "black lung"; the necessity to go deeper underground where coal gas is under greater pressure will increase the danger of violent explosion; in brief, even with all its refinements, coal mining will continue to be performed with the same potential hazards as it has had for hundreds of years. Secretary Hinkel emphasized this in his recent testimony, saying:

> The technique of coal mining, already complex and sophisticated, will become even more so as the years pass * * *. Environmental problems * * * will also become more serious unless the ways in which we mine coal are carefully calculated to minimize them.

The proposed legislation, therefore, is not a permanent remedy to the coal miner's problem and should not be viewed as such. We should not be deceived by the assumption that this legislation is all that is needed for the future; and the future of coal mining is a long one, with coal reserves estimated as adequate for another 3,000 years.

In my own State of Illinois, our soft coal reserve is over 137 billion tons—greater than that of any other State. Mr. Merle C. Relce, the chairman of one of the leading coal producers of Illinois, the Peabody Coal Co., has said:

> Coal will be the dominant source of energy for the generation of electric power in this country, and it is also obvious that new uses for coal promise an even-brighter future.

Ten of the country's largest coal-mine producers are in my home State, and new mines are being opened, both to meet demands for coke in the production of iron and steel and particularly to meet the increasing requirements for electric utilities which presently use over two-thirds of the State's 63 million tons annual production.

The coal industry has snapped out of the doldrums in which it found itself immediately after World War II, and the future of the industry looks brighter than ever before. We must make sure that the future of the coal miner is equally bright.

To do this we need to immediately go beyond the bounds of the legislation presently being considered which is concerned with what may be termed "protective technology." That is, it deals with the mining process as it is, and after identifying and defining dangerous and potentially dangerous situations, provides systems of safeguards.

This approach, which accepts a situa-

tion as given, and works basically by inspection and enforcement of regulations is not alone adequate for the future. What is also needed is an emphasis on what the mining process should become; a research approach aimed at developing a whole new mining technology that will permit the miner to work under both safe and productive conditions.

The Director of the Bureau of Mines recognized this fact in a recent statement when he said:

> Better health and safety standards, rigorously enforced, will permit immediate control of conditions and practices that urgently require such control. But research, properly directed and adequately funded, can yield real and lasting solutions to most of the health and safety problems now encountered in coal mining. Research can give us a coal mining technology that is even more productive than today's and is, at the same time, far less hazardous to the life and health of the coal miner.

In a very interesting paper entitled "New Technology Can Make Coal Mining Safer," the Director of Mining Research said that—

> Our effort should be directed far beyond what is normally considered health and safety research, such as work on dirt control, permissibility, protective equipment, warning devices, and the like. It must be a fundamental approach to the process of production seeking *new* ways of accomplishing the various steps required to get coal or ores out of the ground—new ways that avoid the dangers of the old.

We have been successful in such research efforts in other areas. I recently witnessed the results of such research in the undersea launching of a Polaris missile from the S.S. *LaFayette*. With a crew of 130 men this nuclear submarine, and 40 others like it, can cruise for months underwater with its position unknown to anyone outside the officers and crew. The launching I witnessed sent a Polaris missile 1,200 miles down-range and within extremely close proximity to its target.

The lessons learned in the development of the total Polaris system—which began with only a desired end product and through systems and cost analysis created the necessary preconditions for its successful operation—have been adapted and applied to many other research and development programs. They can be adapted and utilized in developing a new, more efficient and safer coal mining technology.

Basically, research in a new technology should be aimed at achieving two goals. The first of these is the creation of mechanical devices and mechanized total systems which would enable many extractive and transporting operations to be performed by surface control; thus, precluding the present necessity of sending large groups of miners underground for lengthy periods of time. I am convinced that until such time as we can accomplish a significant amount of mining operations from surface control, miners will continue to face possible death and injury every time the mine elevator gate closes behind them.

The second area of research should be directed toward the development of artificial underground environments which can assure that those miners who must still continue to perform underground operations can subsist in a healthful and protected environment for sufficiently long periods of time. My recent experience, which I earlier referred to, convincingly demonstrates how we have accomplished this in the normally hostile underwater environment. The experiences taking place now with both Sealab and Tektite are even more remarkable examples of how technological resources can enable man to not only exist, but perform productively within an atmosphere wholly foreign to his nature. Perhaps the best example familiar to all of us is the formerly unimagined success of both Apollo 8 and 9. If we are able to direct the best scientific talent of Government, industry, and private research groups toward this end, I have no doubt but what we can realize our goal in a much shorter period of time than we might imagine.

I have talked of two areas of research in the scientific fields. Although I feel that these are the basic two avenues of approach, I do not question that, as we make further progress, new scientific approaches may need to be taken; and I would already suggest one area of "social"—as contrasted with "scientific"—research where I feel we should place both emphasis and priority. That is in developing and initiating effective programs for instilling in the individual miner a greater concern for strict adherence to safety and health precautions. Most miners are both concerned and conscientious about the safety and welfare of themselves and their fellow workers. All are not, however, and it takes only one lighted cigarette in a gallery where methane is present to snuff out a score or more lives. We should turn more of our attention to this aspect of health and safety if the bills before us now are to be as effective as desired once enacted into law.

Work on these research approaches will have to be done by the Federal Government. After careful consideration, I have concluded that the most effective office for carrying out this work is the Office of Coal Research. The Office has already established the necessary contacts with the broad spectrum of competent and interested research organizations which can devote their attention to these areas. I feel that its responsibilities should be enlarged to permit it to assume this new role. The present statement of functions and responsibilities of this Office, authorized by the act of July 7, 1960, which established it, reads: "to develop, through research, new and more efficient methods of mining; preparing, and utilizing coal." I am therefore today introducing legislation to expand the statement "new and more efficient methods" by the addition of the clause: "develop through research, safer methods of mining and preparing coal." This should be interpreted to apply to the promotion of miners' health as well as to the improvement of the safety conditions of their work area. Naturally, this added research will necessitate additional funds. I am therefore also proposing that for the coming fiscal year an additional $5 million be specifically authorized for this particular area of research. I think that this is both a reasonable and adequate amount. It is indeed small in terms of the potential benefits, both to the coal operator and the coal miner.

As I said earlier, I will strongly support S. 1300, but I do not feel that an approach which basically relies on attempting to prevent disease and accident by regulation of the mining process as it exists is sufficiently promising for the future. I will, therefore, press for this new approach and ask for the support of other Members of the Senate in working together in the interests of the American coal miner.

I ask unanimous consent to have my bill printed in the RECORD at this point.

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

The bill (S. 1966) to provide for research into safer methods of mining and preparing coal, introduced by Mr. PERCY, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S. 1966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act entitled "An Act to encourage and stimulate the production and conservation of coal in the United States through research and development by authorizing the Secretary of the Interior to contract for coal research, and for other purposes", approved July 7, 1960 (74 Stat. 336), is amended by inserting immediately after clause (1) thereof the following new clause:

"(A) develop through research, safer methods of mining and preparing coal;"

SEC. 2. Subsection (b) of section 8 of the Act of July 7, 1960 (74 Stat. 336), is amended to read as follows:

"(b) (1) Subject to the provisions of paragraph (2) of this subsection, there are authorized to be appropriated for each fiscal year beginning after June 30, 1961, such sums as may be necessary to carry out the purposes of this Act.

"(2) There is authorized to be appropriated the sum of $5,000,000 to be used to carry out the purposes of clause (1A) of section 2 of this act for the fiscal year commencing July 1, 1969.

S. 1967—INTRODUCTION OF A BILL PROVIDING FOR FAIRNESS IN FRANCHISING

Mr. HART. Mr. President, for myself, Senators DODD, AIKEN, and BAYH, today I introduce the fairness-in-franchising bill.

We live in a time when our economy is becoming increasingly concentrated; when 200 corporations control almost two-thirds of all manufacturing assets; when most of our major industries are heavily concentrated. This means that to a significant extent, the giants are able to insulate themselves from market forces. And to the consumer it means he must pay higher prices than if the markets were more competitive.

But where is this competition to come from? It seems to me that the smaller independent businessman—the efficient and resourceful smaller entrepreneur—

is absolutely essential to keep the giants competitive—to help bring prices down.

This is true particularly in the field of distribution. Historically, the distribution field has been much more competitive than that of manufacturing. It is at this level that true price competition actually may exist. Therefore, it seems particularly important to resist efforts by manufacturers in concentrated industries to expand their economic power into distribution.

One method by which this appears to be happening is through franchising. In the past 10 years franchising—as a form of distribution—has mushroomed.

It now accounts for 20 percent of all retail business equaling $80 billion in annual sales.

Franchising has been heralded as the "last frontier" of the independent businessman. The hearings I have held in this area for the Antitrust and Monopoly Subcommittee indicate that, too often, franchising has been the cheapest method for economically powerful franchisors to move into distribution. And they have the best of all worlds. The franchisee uses his own money, assumes most of the legal responsibilities, and the franchisor gets an efficient distribution system. It is a distribution system in which the so-called independent franchisee may be no more than a branch manager taking orders from a parent corporation. Except, of course, this branch manager has laid his own money on the line for the privilege of taking orders.

At these hearings we heard repeated examples of franchisors who required price fixing, exclusive dealing, territorial allocations, full-line forcing, requirement contracts and other practices which are treated extensively in most antitrust textbooks.

Perhaps even more important, we heard repeated examples of franchisors reserving the best customers for themselves; competing unfairly with their own franchisees by selling to potential or current franchisee customers at prices below those available to the franchisee himself. Further, we heard about franchisors who let the franchisee build up a good territory and good customers, then moved in and took the territory of customers away.

Why cannot the franchisee ignore the orders and fight for his own customers? Generally, he cannot because of the economic muscle of the franchisor. The result, of course, is the double standard of independence I have been talking about.

When those hearings had been concluded, I firmly believed something needed to be done. It seemed to me that the crux of the power of the franchisor was his ability to whip the franchisee into line by threat of termination or cancellation.

How then to correct this inequity without wedding a franchisor to a franchisee for the rest of his life? Divorce needs to be possible but as in most divorce cases, some equitable settlement is in order. When one has devoted a part of his life to an economic partner, he deserves something better than a kind word when through no fault of his own the relationship is broken off.

The purpose of the fairness-in-franchising bill is to take some sting out of concellation and termination and, therefore, make the partners to the franchise agreement more equal than is presently the case. If a franchisee has suffered damages because of a termination or cancellation, the bill will give him the opportunity to ask a court for assistance. Or if he has suffered from illegal dual distribution practices, he will have the same opportunity. Of course, if the franchisee has acted in bad faith or has failed to comply with an essential and reasonable provision of the franchise agreement, then the franchisor will have a complete defense to the law suit—not unlike the "wronged" partner in that divorce action.

The bill also seeks to encourage arbitration arrangements in franchise agreements. It does this by providing that the law will not apply if the franchise contract contains an arbitration clause which includes the damages allowable in the bill. The hearings themselves have already resulted in several franchisors including arbitration clauses in their newest franchise agreements.

The emphasis of the bill is on self-help. This I feel is a far better way to help solve the problems than either by Government edict or by having to depend on a Government agency. It attempts to make general principles of fairness and equity apply to the franchise agreement. I would hope that the many Senators, so concerned about the bigness of Government, would recognize this approach as effective in making it easier for the independent businessman to help himself.

This bill certainly will not solve all the problems inherent in the franchise relationship. But it is a good start toward equalizing the bargaining positions between franchisor and franchisee; toward equalizing the present double standard of independence.

The basic purpose of this legislation is to help keep the distribution system independent and free from concentration; to keep the independent businessman as an integral and essential part of our free enterprise system.

The subcommittee held legislative hearings during the last session of Congress on two proposals aimed at achieving this goal. A total of 23 witnesses were heard, including representatives of the franchisor and franchisee, as well as academicians, arbitration experts and attorneys who have developed expertise in this area of distribution.

Specific objections were raised to the proposal introduced by Senator MAGNUSON and myself focusing on the fact that that bill was so broad as to include all buy-sell relationships, regardless of whether there was a real franchiser-franchisee situation involved. Additionally, we were told that the bill would prohibit the franchisor from canceling even the very worst franchisee without fear of legal action. In general, it appeared that our first effort was, in fact, weighted too much on the side of the franchisee and would not offer sufficient protection for the franchisor's legitimate interests. Much of the same objections that were raised with respect to the Hart-Magnuson proposal were also raised with respect to the Eastland bill. It also appeared from testimony received that certain sections of that proposal might have anticompetitive results.

As a consequence of these hearings, I asked the staff to redraft the bills to meet the legitimate objections that were raised. The staff, in following this direction, met with many and varied representatives of industry, including trade associations, and the U.S. Chamber of Commerce in order to determine what type of bill would do equity to all concerned. Additionally, staff met with various franchisees and other parties interested in the subject of franchising. Out of these meetings and numerous redrafts comes the present proposal. This bill represents, I believe, a reasonable compromise which will protect against arbitrary termination while at the same time safeguard the franchisor's right to cancel for cause. Here is a brief explanation of the bill, attempting to show the manner in which it differs from my previous efforts in this area.

Section 2(a) defines "person" as a sole proprietor, partnership, corporation, or any other form of organization.

Section 2(b) of the proposal establishes certain criteria which must be met before a franchise is recognized under this act. Thus, there must be a commercial relationship of definite duration or continuing indefinite duration involved; there must be granted to the franchisee the right to offer, sell, and distribute goods or services to the extent that they are manufactured, processed, distributed, or, in the case of services, organized and directed by the franchisor; the franchisee as an independent business must constitute a component of the franchisor's distribution system; the operation of the franchisee's business franchise must be substantially associated with the franchisor's trademark, service mark, trade name, advertising, or other commercial symbol designating the franchisor; and the operation of the franchisee's business must be substantially reliant on the franchisor for the continued supply of goods or services. This definition is more restrictive than the criteria set forth in the old S. 2321 introduced in the 90th Congress because it automatically excludes from coverage those casual buy-sell relationships which do not, in fact, encompass the mutual obligations and responsibilities of a franchise agreement.

Section 2(c) simply defines the term "goods."

Section 2(d) defines "commerce." This definition would exclude from coverage under the bill those franchises which domestic companies may have in foreign nations, but would include domestic franchises operating within this country under a franchise received from a foreign corporation.

Section 3 provides that it shall be a violation of this act for any franchisor engaged in commerce directly or through any officer, agent, or employee to terminate, cancel, or fail to renew a franchise for any reason whatsoever without hav-

ing first given written notice of at least 90 days in advance of such termination, cancellation, or failure to renew. This section was not included in the old bill and is an attempt to recognize the fact that a franchisee should have ample opportunity to prepare himself for the eventuality of cancellation, termination, or failure to renew a franchise. One can easily imagine the hardships placed upon any businessman in closing up a business and it seems extremely reasonable that he be given 90 days to wind up the affairs of business.

Section 4 provides that notwithstanding the terms, provisions, or conditions of any franchise, and except as provided in section 5, it shall be a violation of this act for any franchisor engaged in commerce, directly or through any officer, agent, or employee to terminate, cancel, or fail to renew a franchise except that it shall be a complete defense under this act for the franchisor to prove that the cancellation was for good cause. Proof of good cause in canceling the franchise would be a complete defense available to the franchisor.

Sections 4(a) and 4(b) spell out what "good cause" shall be for the purpose of this act; namely:

> Failure by the franchisee to substantially comply with those requirements imposed upon him by the franchise, which requirements are both essential and reasonable or use of bad faith by the franchisee in carrying out the terms of the franchise.

This section differs from the old bill in that the only defense available under that proposal would have been the conscious malfeasance or willful failure of the franchisee to perform adequately, competently, and in good faith the lawful duties imposed upon him by the franchise contract. The change was in recognition of the fact that a franchisee might for any number of reasons not be properly carrying on the business even though this action would not constitute "conscious malfeasance" or a "willful failure." The section as presently written is an attempt to provide the franchisor with the avenue of cancellation or termination in those needed instances and at the same time afford protection against arbitrary or capricious cancellation.

Section 5 of the bill provides that the provisions of section 4 shall not apply to a written contract containing arbitration provisions either pursuant to the rules of the American Arbitration Association or other similar rules governing disputes concerning those items contained in section 4 providing that certain criteria are met; namely, that the criteria for determining whether good cause existed shall be no less than outlined in section 4 and providing that allowable compensation shall be no less than that provided in the damage section of the bill. This section is very similar to the arbitration section in the old bill and should encourage the fair arbitration of differences by franchisor and franchisee without resorting to the courts.

Section 6 provides that it shall be a violation of this act for any franchisor engaged in commerce directly or through any officer, agent, or employee to engage directly or indirectly in methods of competition with any franchisee that constitute unfair methods of competition within the meaning of the Federal Trade Commission Act. This section, in effect, provides a private action for the use of unfair methods of competition, which action had previously been available only to the Federal Trade Commission. The Commission in its enforcement of section 5 of the Federal Trade Commission Act has established precedents which could be followed in a civil action. This section was not contained in the previous bill and is a substitute for a section of that bill which would give a right of action to a franchisee in those instances wherein the franchisor preempted the sale of goods or services to customers previously sold by the franchisee without the consent of the franchisee. Under the present provision such a preemption would only be actionable in those instances where it was accomplished by an unfair method of competition.

Section 7 sets forth the cause of action for violation of the act and provides for provable damages. This section differs from the old bill in that it would have provided for a liquidated-type damage based upon factors such as the value of certain tangible and intangible items, including good will. Under the present damage provision, the franchisee must make an affirmative showing of the damages sustained but is not limited by any arbitrary formula.

The remaining sections are housekeeping provisions.

Mr. President, this proposal represents in my thinking a good and fair compromise between positions which have in the past been opposed. Hopefully my colleagues will agree that this is a good step to help the small businessman.

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

The bill (S. 1967) to supplement the antitrust laws of the United States by providing for fair competitive practices in the termination of franchise agreements, introduced by Mr. HART (for himself, Mr. DODD, Mr. AIKEN, and Mr. BAYH), was received, read twice by its title, and referred to the Committee on the Judiciary.

S. 1969—INTRODUCTION OF A BILL TO AMEND THE HIGHER EDUCATION ACT OF 1965

Mr. PELL. Mr. President, I introduce, for appropriate reference, a bill to amend the Higher Education Act of 1965 to provide for a program of basic educational opportunity grants and for cost-of-instruction allowance to institutions of higher education. I ask unanimous consent that the bill be printed in the RECORD following my remarks.

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

Mr. PELL. Mr. President, the strength or richness of our country or, in fact, of any country is directly related to the sum total of the skills and character of its people; and these skills and character are determined by the education of its people.

This is why our Nation gained so much from the investment in the education of veterans under the GI bill of rights. That investment returned more than $2 in taxes for every dollar spent on veterans' education. This is why it is such a tragedy that, while almost half of our college students come from families in the upper quarter of the income brackets, only 7 percent of them are from families in the lowest quarter. Some method must be found to enlarge the percentage of college students from low-income families.

It is my belief that it is imperative for the Congress to examine our national priorities and goals in postsecondary education, the needs and desires of the American people for that education, and the crucial role that education plays in our Nation's society and economy. Indeed, the improvement of educational opportunity and the quality of education is so necessary for the continued strength and vitality of the Nation that education should probably be recognized as an element of national security in the same manner as the military. Our Nation's problems and its future cannot be dealt with unless our institutions of higher education produce the human resources able to solve them.

Education has always played a vital role in our democratic society. Thomas Jefferson foresaw this when he stressed the necessity of a well-educated citizenry to the well-being of the Republic.

Elementary and secondary school systems were established across the country with a view toward universal education at those levels. Increased knowledge, the new technology, the intellectual aspirations of the people, and the complexity of our society demand that this same universal approach to education be elevated to the postsecondary level. The time when high school can be considered a terminal level for a person's education program has passed.

We cannot simply expand our public approach to secondary education to higher education. The diversity we have in our public and private colleges and universities is fundamental to our higher education system and should be encouraged. Therefore, a new approach must be devised.

The question of how to finance postsecondary education in the United States has been the subject of numerous discussions and several major studies during the past years. Although there is no consensus with respect to the best approach to the financing of higher education, there is almost total agreement that some kind of postsecondary educational opportunity should be available to all who desire it. Some would argue even further that such opportunity should be a matter of right, and that making the opportunity available is a public obligation. I would support such a philosophic approach.

In December of 1968 and in January of 1969, two very significant special reports with recommendations on the financing of higher education were made public. The first was issued by the Car-

negie Commission on Higher Education and recommended that Federal support for higher education be increased by $10 billion a year by 1976 through a variety of programs, most of which are already in existence. The second was made in January by the Secretary of Health, Education, and Welfare, Wilbur Cohen, to President Johnson. The HEW report called for an increase of Federal funding for higher education, excluding research, by $7.3 billion a year by fiscal year 1976.

A study of these reports and various other proposals has prompted me to develop a new approach to the problem.

To better understand my proposal it may be helpful to review some of the ideas already advanced which would bring about greater Federal support of higher education. The proposals most often offered have been those which would make tax credits or deductions available for expenditures on higher education. Aside from the question of whether tax credits or deductions should be used as a means to carry out social policy, there are some very real questions as to whether a tax credit or deduction system could provide the means by which we can provide universal higher educational opportunity to all qualified students. In fact, a person must have enough income on which to pay taxes before he may gain the benefit of a deduction or of a credit against those taxes. Therefore, tax credits or deductions would provide substantial subsidies to upper and middle income families with children in college, but would provide little or no benefit to students from families whose income is so low they pay little or no taxes or who are working their way through school. Indeed, it has been estimated that almost half the benefits of tax credits would flow to families with income levels in the top quarter income bracket.

Another proposal is for the Federal Government to establish some type of massive loan program through which students could borrow the money needed to finance higher education. While recognizing the value of a loan program to supplement college financing, I question the fairness of a Government-sponsored program which will cause the full burden of finances to shift to the student. Is not the public divesting itself of its responsibility to train the future leaders of the country? And, is it in our best interests to have a citizenry which starts out its productive life saddled with debt? Would this not in effect be an economic discrimination? In my mind the answer to all these questions is "yes," and therefore I find it difficult to support such a loan program as the only method of financing higher education.

More recently a number of proposals have been advanced which would provide for direct grants to colleges and universities to assist in their maintenance and operation costs. True, such an approach would alleviate the heavy dependence on tuition to cover the cost of instruction; however, there are many unanswered questions concerning these so-called institutional grants. Would the institutions be forced to lower tuition and other fees in relation to the grant so that low-income students are able to benefit and attend classes? Would not the present disparities between availability of private versus public education and their relevant costs to students continue under such a program? And inversely, would publicly supported private institutions really continue to be private? Again, I find that the answers to my questions do not meet the task given—the making available of higher education as a matter of right to those qualified and desirous of it.

The bill I am introducing today is designed to focus our attention on these problems and offer a proposal which may meet some of the objections I have lodged against the foregoing proposals.

My measure would amend the educational opportunity grant program to provide for two types of educational opportunity grants, and initiate a program of cost-of-instruction allowances. The present educational opportunity grants would continue for students of exceptional need, but they would be renamed "supplementary educational opportunity grants."

The basic thrust of our Federal aid to higher education would be through a new type of grant—the "basic educational opportunity grant." Every qualified student would, as a matter of right, be eligible for a direct grant for each year of undergraduate work in college. That grant would be $1,200 minus the amount of individual income tax paid by him or, if he is included as a dependent on the income tax return of his family. If the income tax paid is $1,000, the grant would be $200; if the tax is $800, the grant would be $400; and, if the tax is $200, the grant would be $1,000. And if he paid no taxes, he would receive the whole basic educational opportunity grant of $1,200.

The basic grant program would provide a minimum for all students while the renamed supplementary grants would be available for additional payments based on the particular needs of students, needs which are not met by the basic grant or by other sources of support.

This basic educational opportunity grant program would aid those in the lowest income groups the most, while making some assistance available at the middle-income level.

Actually, depending on family size and deductible expenses, students from families having an income as high as $10,000 would be eligible for at least a portion of the maximum basic grant; that is, $1,200 less the income tax paid by the student or his family.

The bill also provides for cost-of-instruction allowances to institutions of higher education. The cost-of-instruction allowance feature follows the precedent of similar allowances provided in the fellowship programs under title IV of the National Defense Education Act and title V of the Higher Education Act. Each institution would receive a grant of $1,000 for each holder of a basic or supplementary educational opportunity grant attending that institution. The grant would be reduced by the amount of tuition charged to the grant holder.

The foregoing is a discussion of a proposal which I believe may meet the needs of the United States today. It is time for us to recognize the role our Government must take to insure that a higher education is available to all who are capable of assimilating it. In the past, education bills have been called everything but education measures in an attempt to get them enacted. Perhaps the crisis presently being experienced by qualified young people who wish to go on to college, but do not have the means to do so, will be sufficient to make passage of legislation, such as I have proposed, a viable hope.

The bill (S. 1969) to amend the Higher Education Act of 1965 to provide for basic educational opportunity grants and for costs-of-instruction allowances, and for other purposes, introduced by Mr. PELL, 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. 1969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part A of title IV of the Higher Education Act of 1965 (Public Law 89-329) be amended to provide for a program of basic educational opportunity grants and for cost of instruction allowances to institutions of higher education as provided hereafter in this Act.

SEC. 2. (a)(1) Section 401(a) of the Higher Education Act of 1965 is amended to read as follows:

"SEC. 401. (a) It is the purpose of this part to assist in making available the benefits of higher education to qualified high school graduates by providing, (1) basic educational opportunity grants (hereinafter referred to as 'basic grants') to all eligible high school graduates and (2) supplementary educational opportunity grants (hereinafter referred to as 'supplementary grants') to those high school graduates of exceptional need who for lack of financial means of their own or of their families would be unable to obtain such benefits without a supplementary grant."

(2)(A) Section 401 of such Act is amended by redesignating subsection (b) thereof, and all references thereto, as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) There are hereby authorized to be appropriated for the fiscal year ending June 30, 1971, and for each of the succeeding fiscal years ending prior to July 1, 1975, such sums as may be necessary for basic grants under this part."

(B) Subsection (c) of such section 401 (as designated in this section (A)) is amended by striking out "educational opportunity" each time it appears therein and inserting in lieu thereof "supplementary".

(b)(1) Section 402 of such Act is amended to read as follows:

"BASIC EDUCATIONAL OPPORTUNITY GRANTS AND SUPPLEMENTARY EDUCATIONAL OPPORTUNITY GRANTS: AMOUNTS AND DETERMINATIONS

"SEC. 402. (a)(1) The Commissioner shall pay to each student who is in good standing at an institution of higher education (according to the prescribed standards, regulations, and practices of that institution) for each academic year during which that student is in full-time attendance (as determined by the Commissioner by regulation) at that institution, as an undergraduate, a basic grant in the amount for which that student is eligible, as determined under paragraph (2).

"(2)(A) The amount of the basic grant for which a student is eligible under this part for any academic year shall be 1,200, less an amount equal to the amount of the

tax imposed for the tax year by chapter I of the Internal Revenue Code of 1954 on the taxpayer.

"(B) For the purposes of this paragraph, the term—

"(i) 'tax year' means the taxable year used by the taxpayer for the purposes of subchapter A of chapter I of the Internal Revenue Code of 1954 which ends prior to the beginning of the academic year for which the basic grant is awarded; and

"(ii) 'taxpayer' means the individual upon whom the student receiving a basic grant is dependent for the purposes of section 152 of the Internal Revenue Code of 1954 or, in the case of such a student who is not so dependent upon another individual, the student.

"(b)(1) Each eligible institution which awards a supplementary grant to a student under this part shall pay to that student for each academic year during which he is in need of such a grant to pursue a course of study at the institution an amount determined by the institution for such student with respect to that year, in accordance with paragraph (2).

"(2) The amount of a supplementary grant under this part shall not exceed the lesser of $1,000 or one-half the sum of the amount of student financial aid (including assistance under other parts of this title and compensation paid under a work-study program assisted under part C of this title) provided such student under any scholarship program established by a State or a private institution or organization, as determined in accordance with regulations of the Commissioner. If the amount determined under paragraph (1) for any academic year is less than $200 for a student, no payment shall be made for a supplementary grant for that year.

"(3) The Commissioner shall, subject to the limitations of this subsection, prescribe, for the guidance of participating institutions, basic criteria or schedules (or both) for the determination of the amount of any such supplementary grants, taking into account the objective of limiting supplementary grants to students of exceptional financial need and such factors, including the number of dependents in the family, as the Commissioner may deem relevant.

"(4) Payments to students for supplementary grants under this section shall be made from funds received by the institution under an agreement pursuant to section 407 and shall be made only in accordance with the terms of such agreement."

(2) Section 406 of such Act is amended to read as follows:

"APPLICATIONS; ALLOCATIONS OF ALLOTMENTS OF FUNDS TO INSTITUTIONS

"SEC. 406. (a) The Commissioner shall from time to time set dates by which eligible institutions and students must file applications for funds under this part.

"(b)(1) Each student desiring a basic grant for any year must file an application therefor containing such information and assurances as the Commissioner may deem necessary to enable him to carry out his responsibilities under this part.

"(2) If the appropriations pursuant to section 401(b) for any fiscal year are insufficient to pay the full amount of the basic grants for which all students are eligible in that year, the payment to each student shall be ratably reduced, except that if such payment is reduced to an amount less than $200 for any student no payment shall be made to that student.

"(c)(1) The eligible institutions of each State desiring funds for supplementary grants must file an application for an allocation to such institutions of funds from the allotment to that State (including any reallotment thereto) for any fiscal year pursuant to section 405 to be used for the purposes specified in the first sentence of section 401(c). The Commissioner shall allocate the allotments in accordance with equitable criteria which he shall prescribe in order to achieve such distribution of funds among eligible institutions within a State as will most effectively carry out the purposes of this part.

"(2) The Commissioner shall further, in accordance with regulations, allocate to eligible institutions, in any State, from funds apportioned or reapportioned pursuant to section 405(b), funds to be used for supplementary grants specified in the third sentence of section 401(b).

"(3) The Commissioner shall, subject to the limitations of this subsection, prescribe, for the guidance of participating institutions, basic criteria or schedules (or both) for the determination of the amount of any such supplementary grant, taking into account the objective of limiting supplementary grants to students of exceptional financial need and such other factors, including the number of dependents in the family, as the Commissioner may deem relevant.

"(d) Payments under this section shall be made in accordance with regulations promulgated by the commissioner."

(3)(A) The caption heads of sections 403, 404, and 405 of such Act are each amended by striking out "EDUCATIONAL OPPORTUNITY" and inserting in lieu thereof "SUPPLEMENTARY".

(B) Such sections 403, 404, 405, and 407 are each amended—

(i) by striking out "educational opportunity" wherever it appears before "grant" or "grants" and inserting in lieu thereof "supplementary"; and

(ii) by striking out "section 406" wherever it appears and inserting in lieu thereof "section 406(c)".

(c)(1) Part A of title IV of such Act is amended by redesignating section 409, and all references thereto, as section 410 and by inserting after section 408 the following new section:

"COST OF INSTRUCTION ALLOWANCES

"SEC. 409. In addition to the amounts paid to institutions for supplementary grants, the Commissioner shall pay to each eligible institution a cost of instruction allowance for each student in attendance at such institution who is a recipient of a grant under this part. No cost of instruction allowance paid under this section shall exceed $1,000, less any tuition charged to the student for whom the allowance is paid."

(2) Section 401 of such Act is amended by adding at the end thereof the following new subsection:

"(d) There are authorized to be appropriated for the fiscal year ending June 30, 1971 and for each of the succeeding fiscal years ending prior to July 1, 1975 such sums as may be necessary to carry out the purposes of section 409."

S. 1971 AND S. 1972—INTRODUCTION OF BILLS ON HOME RULE FOR THE DISTRICT OF COLUMBIA

Mr. TYDINGS. Mr. President, today, on behalf of myself, Senator BIBLE, and Senator EAGLETON, I am introducing two bills relating to self-government for the citizens of the District of Columbia.

One bill is a comprehensive home rule bill which provides for an elected mayor-and-council government with the powers appropriate to govern the local affairs of the District of Columbia. This comprehensive bill is an updated version of the comprehensive home rule bill passed by the Senate in 1965. The revised bill retains all essential features of that 1965 Senate-passed bill, with technical revisions to take into account legislative and executive changes in the District of Columbia government organization since 1965.

The second bill is a much narrower bill, one which is really the minimum possible step forward toward home rule. It would not alter the present structure or powers of the District of Columbia government, but would provide for election of the members of the City Council. At present, Council members are appointed by the President and confirmed by the Senate. The elected Council bill I am introducing is modeled very closely on the election provisions of the elected school board bill enacted by Congress last year.

The Senate District of Columbia Committee will consider both these bills at its home rule hearing next Wednesday. In addition, I understand the President's home rule proposal will be available by that time.

The position of most of the public and the Congress on the home rule question is clear. The Senate held comprehensive hearings on home rule in 1965 and the committee unanimously reported and the Senate passed the bill I have introduced today. The great majority of District residents and organizations support home rule.

This issue is above partisanship and politics. I invite cosponsorship of this bill from both sides of the aisle. I believe that with the President's support home rule could become a reality in this session of Congress.

Our hearing Wednesday will be to bring the home rule record up to date. I hope thereafter to report the home rule measure—be it one of these I introduce today, the President's proposal, or a combination of bills—whichever seems most likely to produce home rule progress during this Congress.

Two years ago I had the opportunity to present the case for home rule in an article which appeared in the American University Law Review. That article considers, and I believe answers, the most frequently asked questions about home rule. I ask that that article, entitled "Home Rule for the District of Columbia: The Case for Political Justice," be reprinted at the conclusion of my remarks.

Mr. President, the outstanding former chairman of this committee, our distinguished colleague, Senator BIBLE, has asked me to insert in the RECORD his own remarks in favor of this legislation. I am pleased to do so. I ask unanimous consent that his remarks be printed in the RECORD as if they had been read at the conclusion of my own remarks.

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

The bills will be received and appropriately referred.

The bills (S. 1971) to provide for the election of members of the District of Columbia Council, and for other purposes; and (S. 1972) to provide an elected Mayor and City Council for the District of Columbia, and for other purposes, introduced by Mr. TYDINGS, were received, read twice by their titles and referred to the Committee on the District of Columbia.

The material, furnished by Mr. TYDINGS, follows:

HOME RULE FOR THE DISTRICT OF COLUMBIA: THE CASE FOR POLITICAL JUSTICE

(By Joseph D. Tydings*)

Foremost among the traits which historically have characterized the American people are a sense of justice and a firm and expansive belief in popular sovereignty. It is sadly ironic that in our nation's capital, which should symbolize American ideals, these two are starkly contradicted.

Denial of self-government to the District of Columbia mocks every democratic principle this country represents. Our Declaration of Independence declares that governments derive "their just powers from the consent of the governed," [1] yet the laws which govern the District of Columbia deprive more than three-quarters of a million Americans of the fundamental right to select those who govern them.[2] Why should the citizens of the ninth-largest city in the United States,[3] who pay their full share of federal taxes and a heavy load of local taxes,[4] and who are permanent residents of Washington,[5] be deprived of the elemental American heritage of a voice in their local government?

Three arguments are customarily advanced against granting home rule to the District of Columbia: (1) Congress lacks power to delegate home-rule authority to the District and must, by force of the federal constitution, govern it itself; (2) The federal interest in the District as the seat of the national government ought to bar home rule; (3) The people of the District of Columbia are incapable of home rule.

The first two of these arguments are frequently and vociferously advanced by home rule opponents.[6] The third, probably the key argument for many home rule opponents, generally exists only as an undertone. All three are invalid.

CONSTITUTIONAL AUTHORITY TO DELEGATE

Some home rule opponents assert that Congress is constitutionally incapable of delegating authority to a local government to conduct the affairs of the District of Columbia. They base their contention on Article I, section 8 of the Constitution:

"The Congress shall have Power . . . To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square), as may, by Cession of particular States, and the Acceptance by Congress, become the seat of the Government of the United States. . . ."

But the argument that this clause prohibits home rule will not bear analysis. It is refuted both by history and by judicial decision.

The Founding Fathers quite clearly envisioned a popularly-elected municipal form of local government for the federal enclave they provided for in Article I, section 8. In discussing the proposed federal district in *The Federalist Papers*, Madison stated that, "a municipal legislature for local purposes, derived from their own sufferages, will of course be allowed them." [7] The political history of the District affirmed Madison's assertion in fact for nearly a century following its creation. At the time Maryland and Virginia ceded the ten-mile-square territory of the District of Columbia, it contained not only the territory it now covers, but also the portion of northern Virginia which is now Arlington County.[8] Operating within the boundaries of the District at its creation were at least two separate and independent cities, each with popularly-elected governments: the city of Georgetown on the Washington side, and Alexandria on the Virginia side.[9]

Washington itself was not incorporated until 1802. Prior to that time the District was governed by three commissioners authorized by the legislation of 1790,[10] though the government was not actually to be moved to Washington until 1800.[11] The incorporation legislation of 1802 created a mayor-council form of local government, with the Mayor appointed annually by the President and the twelve-member Council elected by the people.[12] The Council elected five from among its membership to serve as an upper chamber.[13]

In 1812, Congress abandoned the mayor-council system and replaced it with a popularly-elected eight-member Board of Alderman and a popularly-elected twelve-member Common Council.[14] The Council members and Aldermen, meeting in joint session, elected the Mayor annually by majority vote.[15]

Congress revised the government again in 1820, retaining both branches of the popularly-elected legislature, but providing for popular election of the Mayor to serve a two-year term.[16] District government continued in this form into the 1870's, when mismanagement, accompanied by political and racial strife, stirred Congress gradually to amend away and finally to eliminate home rule in the District.

First, in 1871, Congress repealed the separate charters of Georgetown and the City of Washington, and merged them into a municipal corporation of the entire District, to be governed in the territorial form by a presidentially-appointed Governor and a two-house legislature consisting of a presidentially-appointed eleven-member Council and a twenty-two member popularly-elected House of Delegates.[17] Then, in 1874, Congress put the District government in the hands of three presidentially-appointed Commissioners.[18] This system ultimately was confirmed three years later in the Organic Act of the District of Columbia, which is the law under which the District is governed today.[19]

Thus ended three quarters of a century of popular participation in the government of the District of Columbia. Even the end of popular government, however, did not mark the end of congressional delegation of legislative authority to the District government. In both 1887 and 1892, Congress authorized the Commissioners to make and enforce public regulations,[20] authority which they still possess today.[21]

So it must be seen that if Congress lacks constitutional authority to delegate legislative responsibility to the District of Columbia home-rule government, then it acted unconstitutionally in 1802, 1812, 1820, and even as late as 1871 in providing for popularly-elected legislatures to rule the District. And, if Congress cannot delegate its legislative function to the District, then Congress is acting unconstitutionally today (and has been doing so since 1887) in providing that the District Commissioners can, without reference to Congress or resort to the President, "make and enforce all such reasonable and usual police regulations . . . as they deem necessary for the protection of lives, limbs, health, comfort and quiet of all persons and the protection of all property within the District of Columbia." [22] There have been few complaints about that delegation. One of them, however, reached the Supreme Court in 1953. In *District of Columbia* v. *John R. Thompson Company* the Court held, *inter alia*, that there is no constitutional barrier to delegation by Congress to the District of Columbia of full legislative power, except to the extent that such delegation would be subject to constitutional limitations pertinent to all lawmaking and to the power of Congress at any time to revise, alter, or revoke the authority granted.[23]

The *Thompson Company* decision arose out of a criminal prosecution involving alleged violations of the Acts of 1872 and 1873 passed by the then half-appointed, half-elected legislative Assembly of the District of Columbia.[24] The Municipal Court of the District quashed the information on the ground that the Acts of 1872 and 1873 had been repealed by implication through the enactment of the Organic Act of 1878.[25] The Municipal Court of Appeals found that while the Act of 1872 had been repealed, the Act of 1873 had not, and therefore reversed on the latter point. On cross-appeal, the Court of Appeals held that the Acts of 1872 and 1873 were both unenforceable and that the entire information should be dismissed.[26]

The Supreme Court in an unanimous opinion, reversed as to the 1873 Act and held that "the Congress had the authority under Art. I, § 8, cl. 17 of the Constitution to delegate its lawmaking authority to the Legislative Assembly of the municipal corporation which was created by the Organic Act of 1871," [27] and that the Acts of 1872 and 1873 survived all subsequent changes in the District government and were presently enforceable.[28] In reaching its decision, the Court specifically rejected the argument so frequently advanced by home rule opponents that the word "exclusive" in the constitutional grant of power to Congress "to exercise exclusive legislation" [29] in the District renders the legislative function non-delegable. The Court said, "it is clear from the history of the provision that the word 'exclusive' was employed to eliminate any possibility that the legislative power of Congress over the District was to be concurrent with that of the ceding states." [30]

In short, the argument that Congress lacks authority to delegate its legislative authority to a local government in the District, including a popularly-elected government, stands refuted by 166 years of delegation, fifty of which involved delegation to a wholly popularly-elected local government.

The barrenness of this legal argument serves to emphasize the fact that the question of home rule for the nation's capital is not really a constitutional matter at all, but rather a political, social, and moral one. The really decisive arguments against home rule fall into two general categories already noted: (1) the federal interest in the District of Columbia makes home rule unwise; (2) the people of the District are incapable of prudent self-government.

THE FEDERAL INTEREST

What is there about the federal interest in the District which bars home rule? Is it the mere size of the governmental establishment? Is it the District's character as the federal government's headquarters? Or is some undefinable mystical principle controlling here?

Certainly "the federal presence" in the District is very significant. The present boundaries of the District of Columbia enclose an area of 43,677 acres, of which 4,404 are under water and 8,627 are devoted to streets and alleys.[31] Of the remaining 30,646 acres, only 14,162, or 46.2 percent, represent taxable private property. The balance amounting to 16,484 acres, or 53.8 percent, are exempt from taxation either because they belong to the United States (43.3 percent), to the District government, to foreign governments, or to tax-exempt private organizations.[32]

The presence in the District of so much federally-held, tax-exempt land makes it clear that the financial success of a home rule government would depend, just as the present government system does, on a fair federal contribution to local government in lieu of the taxes the District does not collect on federal property.[33]

But does the wisdom or justice of *granting* home rule bear any logical relationship to the mere size of the federal establishment?

Is there something about the character of the government establishment in Washington which bars home rule? The headquarters of a great number of federal agencies and their top personnel are located here. But other agencies are headquartered in other jurisdictions (*e.g.*, the Department of

Footnotes at end of article.

Defense in Virginia and the Atomic Energy Commission and Social Security Administration in Maryland) without causing the slightest embarrassment to the government of the United States.

The Chief Executive also lives and works in the District of Columbia. But every President since Franklin Roosevelt has supported home rule. Every President from Adams to Grant lived and worked while in office in some form of home-ruled Washington.

Some home rule foes envision such spectres as the Secret Service having to apply to a home-ruled District government for permission to hold an inaugural parade. Quite aside from the fact that far more elaborate arrangements must actually be made with the District government at inaugural time, the notion of the federal government being centered in a home-ruled city seems far less humiliating than the thought of the Congress of the United States demeaning itself, wasting its time and energies, by debating such burning issues as the regulation of podiatry in the District, or the rental of office space to a veterans group. Yet each of these bills was considered and passed by one or both houses of the United States Congress during the past two years.[34]

COMPETENT CITIZENRY

One must look beyond the legal and "federal interest" arguments to find the basic reason why six Senate-passed home rule bills have been blocked by the House of Representatives: the often unspoken belief that the predominantly Negro population of the District of Columbia cannot be trusted to govern itself.

This belief arises in part out of sheer racial prejudice which, needless to say, lends itself to no manner of rational argument or analysis.

A more rational, though no more valid, argument is that, if the popular government in power during the post-Civil War period so managed its affairs that Congress abolished home rule, what assurance is there that such mismanagement will not recur? Aside from the fact that most major cities of Washington's 166-year age have experienced periods of embarrassing mismanagement at some point in their history, what many "it-could-happen-again" critics ignore is that most of the mismanagement complained of in the 1870's occurred after the popularly-elected mayor-council system was abolished and home rule virtually eliminated by the Act of 1871.[35] Moreover, current home rule proposals contain many adequate safeguards against the possibility of mismanagement. For example, the latest Senate-passed home rule bill provides for presidential veto of *any* legislation enacted by the home rule government and recognizes, as the Constitution requires, an undiluted power in Congress to revise in whole or in part, or to repeal home rule altogether, at any time.[36]

Do the people of the District of Columbia want home rule? They voted about nine-to-one in favor of home rule in a special referendum held in conjunction with the presidential-primary elections of 1964.[37]

The argument that the people of the District cannot be trusted to govern themselves represents what is perhaps the last unbridled expression of autocracy in America. It reflects the last vestiges of the fear of popular government which Jackson assailed when he demanded: "Let the People Rule!"

The Senate on six separate occasions since 1949 has affirmed its belief, that the motto "no taxation without representation" and the phrase "governments derive their powers from the consent of the governed" are not mere antiqual slogans, to be consigned to the attic of history. They are fundamental touchstones of the American political system, which have undergirded the continuing expansion of democratic popular government and the franchise in America, from the earliest days of the Republic through the granting of statehood to Hawaii and Alaska and the passage of the Voting Rights Act of 1965.

The question of home rule for the District of Columbia does involve important moral, political and social issues. But Americans have always believed these issues should be resolved in favor of democratic, popularly-elected government—not against the people.

FOOTNOTES

* United States Senator from Maryland.

[1] Declaration of Independence.

[2] The Act of June 11, 1878, ch. 180, § 2, 20 Stat. 102, 103, provides for the appointment rather than the election of all District Government officials.

[3] United States Bureau of the Census, Statistical Abstract of the United States 19 (1964).

[4] A District of Columbia family of four owning a house and car, for example, bear a higher burden of federal, state, and local taxes than their counterparts in several of the suburban counties adjoining the District, or in San Francisco, Seattle, Cleveland, or New Orleans. *Hearings Before the Senate Committee on the District of Columbia on the District of Columbia Revenue Bill,* 89th Cong., 2d Sess. 63–64 (1966).

[5] A survey conducted in 1966 by Mr. Louis Harris for the Washington Post indicates that 16% of all District residents are natives, 69% have lived in the District longer than ten years, and 78% have lived in the District five years or longer. The Washington Post, Oct. 3, 1966, p. A8, col. 2.

[6] See CONGRESSIONAL RECORD, vol. 111, pt. 19, p. 25347.

[7] The Federalist No. 43, at 209 (Cooke ed. 1961) (Madison).

[8] Act of March 3, 1791, ch. 17, 1 Stat. 214.

[9] Commissioners of the District of Columbia, The Government of the District of Columbia 116–17 (1964).

[10] Act of July 16, 1790, ch. 28, § 2, 1 Stat. 130.

[11] Act of July 16, 1790, ch. 28, §§ 5 and 6, 1 Stat. 130.

[12] Act of May 3, 1802, ch. 53, §§ 2 and 5, 2 Stat. 195, 196.

[13] Act of May 3, 1802, ch. 53, § 2, 2 Stat. 195, 196.

[14] Act of May 4, 1812, ch. 74, § 1, 2 Stat. 721.

[15] Act of May 4, 1812, ch. 75, § 3, 2 Stat. 721.

[16] Act of May 15, 1820, ch. 104, § 3, 3 Stat. 583, 584.

[17] Act of Feb. 21, 1871, ch. 62, §§ 2 and 5, 16 Stat. 419, 420–21.

[18] Act of June 20, 1874, ch. 337, § 2, 18 Stat. 116.

[19] Act of June 11, 1878, ch. 180, § 2, 20 Stat. 102, 103.

[20] Act of Jan. 26, 1887, ch. 49, 24 Stat. 368; Act of April 6, 1892, J. Res. No. 7, 27 Stat. 394.

[21] See, *e.g.*, D.C. Code § 1–226 (1961).

[22] D.C. Code § 1–226 (1961).

[23] District of Columbia v. John R. Thompson Co., 346 U.S. 100, 109.

[24] *Id.* at 102–03.

[25] *Id.* at 103.

[26] *Id.* at 103–04.

[27] *Id.* at 110.

[28] *Ibid.*

[29] U.S. Const. art. I, § 8.

[30] District of Columbia v. John R. Thompson Co., *supra* note 23, at 109.

[31] Commissioners of the District of Columbia, The Government of the District of Columbia 4 (1964).

[32] *Ibid.*

[33] The "Federal Payment" to the District Government in lieu of taxes was $43 million in 1966, compared to $269.2 million raised by the District Government by local taxation and service charges. *Hearings Before the Senate Committee on the District of Columbia on the District of Columbia Revenue Bill,* 89th Cong., 2d Sess. 27 (1966).

[34] See, *e.g.*, CONGRESSIONAL RECORD, vol. 111, pt. 2, p. 2114; and pt. 8, p. 10118.

[35] See Whyte, the Uncivil War: Washington During the Reconstruction 1865-1878 (1958).

[36] S. Rep. No. 381, 89th Cong., 1st Sess. (1966).

[37] *Hearings Before the Senate Committee on the District of Columbia on District of Columbia Home Rule,* 89th Cong., 1st Sess. 156 (1965).

Mr. BIBLE. Mr. President, I join my colleague the distinguished senior Senator from Maryland today as a cosponsor of two bills providing for home rule in the District of Columbia.

Legislation to establish self-government for the District of Columbia is not new to the Senate. In fact, this year marks the 20th year that some sort of measure has been debated by this body. The 81st, 82d, 84th, 85th, 86th, and 89th Congresses have seen the Senate pass home rule bills. On each occasion they died in the House. In 1965 my own bill, similar to those introduced here today, had the support of the President and came close to passage after it was forced out of the House committee. But even with the impetus of the President of the United States, the measure that finally came to conference fell far short of its original objectives.

My own record is abundantly clear on the subject of home rule for the District of Columbia. As a member of the Senate District Committee and as its chairman for 10 years, I have sponsored or cosponsored a total of seven home rule bills, four of those having passed the Senate. In this same period the committee held 37 days of hearings and heard testimony from literally hundreds of witnesses, the vast majority of them in favor of home rule for the Nation's Capital.

Mr. President, the results of our past efforts should not deter the Senate from again making a formidable effort to provide some measure of self-government for the nearly 1 million residents of the Nation's Capital.

It is my best judgment that the District of Columbia cannot continue to meet its growing need by the present system of halfway government where all of its housekeeping and municipal legislative problems are weighed on the national scale by a Congress whose concern should not be focused on the city's daily activity, but on those of the Nation and the world.

If Washington is truly to become a model city for the Nation, then we cannot tolerate the contradiction of denying its citizens the basic right exercised by citizens throughout the country. The right of self-government is one which is to be cherished and exercised with responsibility and discretion, and it is my firm belief that the residents of the District of Columbia are capable of dealing with the issues that confront them if given the opportunity.

Responsibility is a two-way street, and the Congress must make it abundantly clear to those charged with the task of dealing with the affairs of the District that they be answerable for their actions. This government has established the ballot box as the method of making governmental officials responsible to the people. We must allow the citizens of the

District of Columbia this same method for vigilance over the actions of those now appointed to serve them.

As former chairman of the Committee on the District of Columbia, I believe I know something of the problems of this great city. It is a city caught in the social upheaval that plagues most of our large metropolitan areas. It is a city which must now attempt to solve its problems through a maze of governmental agencies within the District and the Federal Government. And it is a city with a great potential for development into a place where all of its citizens can pursue their individually charted course of life. The denial to these citizens of the right to control their own destiny has manifested itself in higher crime rates, social unrest, and violence.

Mr. President, we can no longer afford the luxury of academic discussion on the question of home rule for the District of Columbia. Through six previous Congresses there has been enough discussion. What is called for now is action, and that action can begin with prompt consideration of the measures introduced here today.

S. 1973, S. 1974, S. 1975, S. 1976, S. 1977, S. 1978, S. 1979—INTRODUCTION OF BILLS TO REFORM THE STRUCTURE OF THE FEDERAL TAX STRUCTURE

Mr. TYDINGS. Mr. President, I am reintroducing today seven measures designed to reform the structure of the Federal tax litigation system. When they were initially submitted near the end of the second session of the 90th Congress, I explained at some length the difficulties with the existing system that give rise to the need for change. Today, I will merely summarize those problems.

The shortcomings of the present system became evident in the course of hearings held by the Subcommittee on Improvements in Judicial Machinery on S. 2041, a bill in the 90th Congress giving article III constitutional status to the U.S. Tax Court. S. 2041 was favorably reported by the subcommittee during the second session, but the Judiciary Committee did not have an opportunity to act upon it prior to the end of the 90th Congress. The subcommittee heard testimony from the Tax Court judges, from representatives of the Justice Department, the Internal Revenue Service, and the tax section of the American Bar Association, law professors and others. While this testimony did not produce unanimity as to the direction change should take, it did reveal overwhelming agreement as to the need for change.

As presently constituted, the tax litigation system is grossly discriminatory. It acts to the benefit of the wealthy taxpayer who can afford to prepay his taxes, then sue for a refund, and to the detriment of the moderate income and poor taxpayers who cannot afford to be out of pocket the contested amount for the duration of a course of litigation. We cannot tolerate a system in which justice is determined by the size of a person's bankroll.

At the heart of this problem is the trifurcation of the existing tax litigation structure. Trial of tax disputes is divided among three separate forums: the U.S. district courts, the Tax Court, and the Court of Claims. The allocation of jurisdiction among these courts, where jurisdiction is not concurrent, is primarily a result of their historical development and not of a rational design. This division breeds diverse interpretation and application of the tax laws, delays resolution of conflicts, encourages forum shopping, and contributes significantly to the strain on our overburdened judicial system.

Lack of uniformity in interpreting and applying the Federal tax laws is a significant problem with broad ramifications at both the trial and appellate levels. The greater possibility for conflicting opinions does much to encourage litigation. Conflict naturally arises where there are three systems of trial courts, and where the Supreme Court is the only appellate body whose decisions are equally binding on all of them.

The U.S. district courts are subject to review by the courts of appeals for their respective circuits and are bound to follow the decisions of those circuit courts. There are, however, 11 circuit courts and only the Supreme Court can ultimately assure that they will agree as to the resolution of a given problem.

Next, we have the Tax Court deciding cases at a trial level. Although its decisions are subject to review by the courts of appeals for the various circuits, the Tax Court has given indication in the past that it does not consider itself bound to follow the views of those appellate courts, even when those views were expressed in the process of reversing a prior Tax Court decision on the same issue.

Finally, there is the Court of Claims, which is subject to review only by the Supreme Court on writ of certiorari. In the last 20 years such review has been had on the average of one case per year. Hence, the Court of Claims plays an important role in the gamemanship of tax litigation under the present system. Once the Court of Claims has decided against the Government on a particular issue, that question is virtually foreclosed—at least when it arises with taxpayers who can afford the price of admission to the forum.

This unique potential for differing resolutions of the same question among trial level courts and in the appellate courts results in unusually protracted litigation and uncertainty. Often as much as a decade will pass before a disagreement among the courts as to interpretation of a specific section of the Internal Revenue Code is resolved. Meanwhile, resolution of any individual dispute will frequently depend only on the forum in which it is brought.

Here the discriminatory character of the present system creates its greatest injustice. In income, estate and gift tax cases—and excess profit cases—the full-payment rule, as stated by the Supreme Court in *Flora* v. *United States*, 362 U.S. 145 (1960) requires a taxpayer to pay the full amount claimed due by the Internal Revenue Service for the periods in issue before he can obtain a jury trial. The same full-payment rule bars access to the Court of Claims for the taxpayer unable to pay in advance. If payment in advance cannot be made, only the Tax Court is available. Hence, only the wealthy taxpayer has an absolute choice among forums.

The problem is compounded by the differing institutional characteristics and procedures among the three forums in the actual litigation of cases. As an example of institutional differences, the district courts are local in character, with trial held in the judicial district where the taxpayer resides, while the Tax Court and Court of Claims are essentially national in character. While the Tax Court does hold trials in many of the major cities of the nation, it does not sit in every judicial district or, within the districts where they do sit, in every place where the district court sits. A taxpayer who does not live in one of the major cities may suffer considerably more inconvenience and expense if he ends up in the Tax Court than he would have incurred had he brought suit in the district court. The Tax Court judge is ordinarily available to the parties only at the time of trial, and they are expected to prepare the case for trial without his assistance. The trial is conducted by a single Tax Court judge, operating under special Tax Court rules. A tentative opinion is drafted by one Tax Court judge—who conducted the trial—and is submitted to the chief judge of the Tax Court. The chief judge will then either refer the opinion to the entire Tax Court for en banc consideration or will permit the opinion to be issued without review. In an en banc consideration of a decision, the original opinion may be completely changed. Occasionally, the judge who originally tried the case and who had an opportunity to observe the witnesses may dissent, with the result that the majority opinion and findings are prepared by another judge, who did not try the case.

The Court of Claims is, like the Tax Court, a national tribunal. Cases are initially heard throughout the country by trial commissioners who report to the court, usually in the form of findings of fact and conclusions of law. The judges of the Court of Claims sit only in Washington, do not hear the evidence, and seldom have any contact with the parties to the suit. In effect, the Court of Claims case requires a full trial to a trial commissioner followed by an "appellate review" by the judges of the court.

The availability of discovery procedures is a significant procedural difference among the three forums. In the district court we have the familiar discovery procedures provided for by the Federal Rules of Civil Procedure. The Court of Claims has some discovery procedures available, but they are considerably more circumscribed than those of the district court. The Tax Court has no procedure by which parties can obtain information for the purposes of discovery as distinct from use as evidence.

In sum, the inconsistency in application of the law, the protracted conflicts as to interpretation, the discrimination in availability of various forums, and the diversity of procedures employed in the various forums persuaded me that reform was necessary. In trying to deter-

mine what direction this reform should take, I sought the views of numerous interested parties to supplement the efforts of my own staff. The result of these efforts was a series of bills offering several possible solutions to the problems I have been discussing. Some were complementary, while others were inconsistent with each other and must therefore be taken as alternative proposals.

I emphasize here, as I did then, that all of my proposals are premised on Article III constitutional status having been conferred upon the Tax Court. I do not believe that any reform could be successfully implemented unless the Tax Court were to be given article III status. I have placed myself on record wth respect to this question many times, and will not reiterate my reasoning at this point.

When I first introduced these measures at the end of the last Congress, I indicated that I hoped to elicit comments and suggestions from Members of Congress, the public generally, and any organizations especially interested in the subject matter, from which I could determine which of the potential directions for change I was suggesting would be most desirable. In the interim since the end of the 90th Congress, I have submitted my proposals for evaluation by members of the Federal judiciary, by tax professors in many of our Nation's leading law schools, by interested members of professional organizations, and others. The response was most encouraging because it indicated that there is a widespread interest among all of these groups in the project at hand.

Still, there is no unanimity as to what direction change should take. But there remains as a common ground the conviction that there must be change.

The tax section of the American Bar Association considered the bills at its February meeting in Atlanta, Ga. A distinguished panel of lawyers and professors, including Luther J. Avery, Jerry M. Hamovit, John B. Jones, John S. Sexton, M. Albert Figinski, and Profs. Alan W. Polasky and Richard H. Pugh, moderated by Bruce S. Lane and C. W. Wellen, presented views on the advantages and disadvantages which would be obtained under each measure. I am most interested in the recommendations which will be forthcoming from the tax section, and expect that they will be presented when hearings are held on the bills.

It is my hope that hearings on these issues will begin in the very near future, in order that we may begin to move toward reform during the 91st Congress.

Mr. President, I ask unanimous consent that the bills be printed in the RECORD at this point.

The PRESIDING OFFICER. The bills will be received and appropriately referred; and, without objection, the bills will be printed in the RECORD.

The bills (S. 1973) to improve judicial machinery by amending title 28 of the United States Code, "Judiciary and Judiciary Procedure," and amending title 26 of the United States Code, "Internal Revenue Code," to provide for concurrent jurisdiction of the U.S. Tax Court and the U.S. district courts over civil tax refund suits and deficiency redeterminations, and for other purposes; (S. 1974) to improve judicial machinery by amending title 28 of the United States Code, "Judiciary and Judicial Procedure," and amending title 26 of the United State Code, "Internal Revenue Code," to make the U.S. Tax Court an article III court, to provide for exclusive jurisdiction of the U.S. Tax Court over civil tax refund suits and deficiency redeterminations in taxes imposed by subtitle A, B, C, or D of title 26 of the United States Code, to create a Small Claims Division of the U.S. Tax Court, and for other purposes; (S. 1975) to improve judicial machinery by amending title 28 of the United States Code, "Judiciary and Judicial Procedure," and amending title 26 of the United States Code, "Internal Revenue Code" to provide for exclusive jurisdiction of the U.S. district courts over civil tax refund suits and deficiency redeterminations, and for other purposes; (S. 1976) to improve judicial machinery by amending title 28 of the United States Code, section 93 of the act of January 12, 1895, and the Internal Revenue Code of 1954, by establishing a U.S. Court of Tax Appeals, and for other purposes; (S. 1977) to improve the judicial machinery by amending title 28, United States Code, to establish a revised procedure for litigating tax disputes, and for other purposes; (S. 1978) to amend title 28 of the United States Code, "Judiciary and Judicial Procedure," to provide for appeals from decisions of the Court of Claims, and for other purposes; (S. 1979) to amend title 28 of the United States Code, "Judiciary and Judicial Procedure," to provide that the Court of Claims should no longer have jurisdiction over civil tax refund suits and to provide that the Court of Claims shall have jurisdiction to review orders of the Renegotiation Board, introduced by Mr. TYDINGS, were received, read twice by their titles, and ordered to be printed in the RECORD, as follows:

S. 1973

A bill to improve judicial machinery by amending title 28 of the United States Code, "Judiciary and Judicial Procedure", and amending title 26 of the United States Code, "Internal Revenue Code", to provide for concurrent jurisdiction of the United States Tax Court and the United States district courts over civil tax refund suits and deficiency redeterminations, and for other purposes

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

SEC. 2. Title 28, United States Code, "Judiciary and Judicial Procedure", is amended to read as follows:

(a) Section 1340 is amended to read as follows:

"§ 1340. Internal revenue; customs duties

"(a) The district court shall have original jurisdiction of any civil action arising under any Act of Congress providing for internal revenue, or revenue from imports or tonnage except matters within the jurisdiction of the Customs Court.

"(b) The district courts shall have original jurisdiction of any civil action under section 6213(a) of title 26 of the United States Code against the United States for the redetermination of a deficiency in any tax imposed by subtitle A, B, C, or D of title 26 of the United States Code."

(b) Section 1346 is amended to read as follows:

"§ 1346. United States as defendant

"(a) The district courts shall have original jurisdiction, concurrent with the Tax Court, of any civil action against the United States for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected under the internal-revenue laws;

"(b) The district courts shall have original jurisdiction, concurrent with the Court of Claims, of:

"(1) Any other civil action or claim against the United States, not exceeding $10,000 in amount founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, for liquidated or unliquidated damages in cases not sounding in tort;

"(2) Subject to the provisions of chapter 171 of this title, the district courts, together with the United States district court for the district of the Canal Zone and the district court of the Virgin Islands, shall have exclusive jurisdiction of civil actions on claims against the United States, for money damages, accruing on and after July 1, 1945, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place or omission occurred.

"(c) The jurisdiction conferred by this section includes jurisdiction of any setoff, counterclaim, or other claim or demand whatever on the part of the United States against any plaintiff commencing an action under this section.

"(d) The district court shall not have jurisdiction under this section of any civil action or claim for a pension.

"(e) The district courts shall have original jurisdiction of any civil action against the United States provided in section 7426 of the Internal Revenue Code of 1954."

(c) Section 1402 is amended to read as follows:

"§ 1402. United States as defendant

"(a) Any civil action brought in a district court against the United States under subsection (b) of section 1340 of this title, or subsection (a) of section 1346 of this title, or subsection (a) of section 6213 of title 26, may be prosecuted only—

"(1) except as provided in paragraph (2) in the judicial district where the plaintiff resides;

"(2) in the case of a civil action by a corporation under subsection (b) of section 1340, or subsection (a) of section 1346, or subsection (a) of section 6213 of title 26, in the judicial district in which is located the principal place of business or principal office or agency of the corporation; or if it has no principal place of business or principal office or agency in any judicial district (A) in the judicial district in which is located the office to which was made the return of the tax in respect to which the claim is made, or, (B) if no return was made, in the judicial district in which lies the District of Columbia. Notwithstanding the foregoing provisions of this paragraph, the district court, for the convenience of the parties and witnesses, in the interest of justice, may transfer any such action to any other district or division.

"(b) Any civil action on a tort claim against the United States under subsection (b)(2) of section 1346 of this title may be prosecuted only in the judicial district where the plaintiff resides or wherein the act or omission complained of occurred.

"(c) Any civil action against the United States under subsection (e) of section 1346 of this title may be prosecuted only in the judicial district where the property is situated at the time of levy, or if no levy is made, in the judicial district in which the event occurred which gave rise to the cause of action."

(d) Section 1491 is amended to read as follows:

"§ 1491. Claims against United States generally; actions involving Tennessee Valley Authority; actions involving recovery of any internal revenue tax or penalty

"The Court of Claims shall have jurisdiction to render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort.

"Nothing herein shall be construed to give the Court of Claims jurisdiction in suits against, or founded on actions of, the Tennessee Valley Authority, nor to amend or modify the provisions of the Tennessee Valley Authority Act of 1933, as amended, with respect to suits by or against the Authority; nor shall anything herein be construed to give the Court of Claims jurisdiction in any civil action against the United States for the recovery of any internal-revenue tax or penalty under subsection (a) of section 1346 of this title."

(e) Section 2402 is amended to read as follows:

"§ 2402. Jury trial in actions against United States

"Any action against the United States under section 1346 shall be tried by the court without a jury, except that any action against the United States brought in a district court under section 1346(a) shall, at the request of either party to such action, be tried by the court with a jury."

SEC. 3. Title 26, United States Code, "Internal Revenue Code", is amended to read as follows:

(a) Section 6211 is amended to read as follows:

"SEC. 6211. DEFINITION OF A DEFICIENCY.

"(a) IN GENERAL.—For purposes of this title in the case of income, estate, gift, employment, and excise taxes imposed by subtitle A, B, C, or D, the term 'deficiency' means the amount by which the tax imposed by subtitle A, B, C, or D, exceeds the excess of—

"(1) The sum of—

"(A) the amount shown as the tax by the taxpayer upon his return, if a return was made by the taxpayer and an amount was shown as the tax by the taxpayer thereon, plus

"(B) the amounts previously assessed (or collected without assessment) as a deficiency, over—

"(2) the amount of rebates, as defined in section (b)(2), made.

"(b) RULES FOR APPLICATION OF SUBSECTION (a).—For purposes of this section—

"(1) The tax imposed by subtitle A and the tax shown on the return shall both be determined without regard to payments on account of estimated tax, without regard to the credit under section 31, and without regard to so much of the credit under section 32 as exceeds 2 percent of the interest on obligations described in section 1451.

"(2) The term 'rebate' means so much of an abatement, credit, refund, or other repayment, as was made on the ground that the tax imposed by subtitle A, B, C, or D, was less than the excess of the amount specified in subsection (a)(1) over the rebates previously made.

"(3) The computation by the Secretary or his delegate, pursuant to section 6014, of the tax imposed by chapter 1 shall be considered as having been made by the taxpayer and the tax so computed considered as shown by the taxpayer upon his return.

"(4) The tax imposed by subtitle A and the tax shown on the return shall both be determined without regard to the credit under section 39, unless, without regard to such credit, the tax imposed by subtitle A exceeds the excess of the amount specified in subsection (a)(1) over the amount specified in subsection (a)(2)."

(b) Section 6212 is amended to read as follows:

"SEC. 6212. NOTICE OF DEFICIENCY.

"(a) IN GENERAL.—If the Secretary or his delegate determines that there is a deficiency in respect of any tax imposed by subtitle A, B, C, or D, he is authorized to send notice of such deficiency to the taxpayer by certified mail or registered mail.

"(b) ADDRESS FOR NOTICE OF DEFICIENCY.—

"(1) INCOME, GIFT, EMPLOYMENT, AND EXCISE TAXES.—In the abesnce of notice to the Secretary or his delegate under section 6903 of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by subtitle A, C, or D of chapter 12 if mailed to the taxpayer at his last known address, shall be sufficient for purposes of subtitle A, chapter 12, and this chapter even if such taxpayer is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

"(2) JOINT INCOME TAX RETURN.—In the case of a joint income tax return filed by husband and wife, such notice of deficiency may be a single joint notice, except that if the Secretary or his delegate has been notified by either spouse that separate residences have been established, then, in lieu of the single notice, a duplicate original of the joint notice shall be sent by certified mail or registered mail to each spouse at his last known address.

"(3) ESTATE TAX.—In the absence of notice to the Secretary or his delegate under section 6903 of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by chapter 11, if addressed in the name of the decedent or other person subject to liability and mailed to his last known address, shall be sufficient for purposes of chapter 11 and of this chapter.

"(c) FURTHER DEFICIENCY LETTERS RESTRICTED.—

"(1) GENERAL RULE.—If the Secretary or his delegates has mailed to the taxpayer a notice of deficiency as provided in subsection (a), and the taxpayer files a petition with the Tax Court or a complaint with a proper district court within the time prescribed in section 6213(a), the Secretary or his delegate shall have no right to determine any additional deficiency of income, employment or excise tax for the same taxable year, of gift tax for the same calendar year, or of estate tax in respect of the taxable estate of the same decedent, except in the case of fraud, and except as provided in section 6214(a) (relating to assertion of greater deficiencies before the Tax Court or a district court), in section 6213(b)(1) relating to mathematical errors), or in section 6861(c) (relating to the making of jeopardy assessments).

"(2) CROSS REFERENCES.—

"For assessment as a deficiency notwithstanding the prohibition of further deficiency letters, in the case of—

"(A) Deficiency attributable to change of election with respect to the standard deduction where taxpayer and his spouse made separate returns, see section 144(b).

"(B) Deficiency attributable to gain on involuntary conversion, see section 1033(a)(3)(C) and (D).

"(C) Deficiency attributable to sale or exchange of personal residence, see section 1034(j).

"(D) Deficiency attributable to war loss recoveries where prior benefit rule is elected, see section 1335."

"(c) Section 6213 is amended to read as follows:

"SEC. 6213. RESTRICTIONS APPLICABLE TO DEFICIENCIES; PETITION TO TAX COURT OR COMPLAINT WITH DISTRICT COURT.

"(a) TIME FOR FILING PETITION OR COMPLAINT AND RESTRICTION ON ASSESSMENT.—Within 90 days, or 150 days if the notice is addressed to a person outside the States of the Union and the District of Columbia, after the notice of deficiency authorized in section 6212 is mailed (not counting Saturday, Sunday, or a legal holiday in the District of Columbia as the last day), the taxpayer may file a petition with the Tax Court or file a complaint against the United States with the proper United States district court under section 1402(a) of title 28, for a redetermination of the deficiency. Except as otherwise provided in section 6861 no assessment of a deficiency in respect of any tax imposed by subtitle A, B, C, or D and no levy or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor until the expiration of such 90-day or 150-day period, as the case may be, nor, if a petition has been filed with the Tax Court or a complaint with the proper district court, until the decision of the Tax Court or district court has become final. Notwithstanding the provisions of section 7421(a), the making of such assessment or the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

"(b) EXCEPTIONS TO RESTRICTIONS ON ASSESSMENT.—

"(1) MATHEMATICAL ERRORS.—If the taxpayer is notified that, on account of a mathematical error appearing upon the return, an amount of tax in excess of that shown upon the return is due, and that an assessment of the tax has been or will be made on the basis of what would have been the correct amount of tax but for the mathematical error, such notice shall not be considered as a notice of deficiency for the purposes of subsection (a) (prohibiting assessment and collection until notice of the deficiency has been mailed), or of section 6212(c)(1) (restricting further deficiency letters), or section 6512 (a) (prohibiting credits or refunds after petition to the Tax Court or complaint with the proper district court), and the taxpayer shall have no right to file a petition with the Tax Court or a complaint with a proper district court based on such notice, nor shall such assessment or collection be prohibited by the provisions of subsection (a) of this section.

"(2) ASSESSMENTS ARISING OUT OF TENTATIVE CARRYBACK ADJUSTMENTS.—If the Secretary or his delegate determines that the amount applied, credited, or refunded under section 6411 is in excess of the overassessment attributable to the carryback with respect to which such amount was applied, credited, or refunded, he may assess the amount of the excess as a deficiency as if it were due to a mathematical error appearing on the return.

"(3) ASSESSMENT OF AMOUNT PAID.—Any amount paid as a tax or in respect of a tax may be assessed upon the receipt of such payment notwithstanding the provisions of subsection (a). In any case where such amount is paid after the mailing of a notice of deficiency under section 6212, such payment shall not deprive the Tax Court or a proper district court of jurisdiction over such deficiency determined under section 6211 without regard to such assessment.

"(c) FAILURE TO FILE PETITION OR COMPLAINT.—If the taxpayer does not file a petition with the Tax Court or a complaint with the proper district court within the time prescribed in subsection (a), the deficiency, notice of which has been mailed to the taxpayer, shall be assessed, and shall be paid upon

notice and demand from the Secretary or his delegate."

(d) Section 6214 is amended to read as follows:

"SEC. 6214. DETERMINATIONS BY TAX COURT OR DISTRICT COURT.

"(a) JURISDICTION AS TO INCREASE OF DEFICIENCY, ADDITIONAL AMOUNTS, OR ADDITIONS TO THE TAX.—The Tax Court or United States district court shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the taxpayer, and to determine whether any additional amount, or addition to the tax should be assessed, if claim therefor is asserted by the Secretary or his delegate at or before the hearing or a rehearing.

"(b) JURISDICTION OVER OTHER YEARS.—The Tax Court or district court in redetermining a deficiency of income tax for any taxable year or of gift tax for any calendar year shall consider such facts with relation to the taxes for other years as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for any other year has been overpaid or underpaid.

"(c) FINAL DECISIONS OF TAX COURT OR DISTRICT COURT.—For purposes of this chapter and subtitle A, B, C or D, the date on which a decision of the Tax Court or a district court becomes final shall be determined according to the provisions of section 7481 or section 7490."

(e) Section 6215 is amended to read as follows:

"SEC. 6215. ASSESSMENT OF DEFICIENCY FOUND BY TAX COURT OR DISTRICT COURT.

"(a) GENERAL RULE.—If the taxpayer files a petition with the Tax Court or a complaint with a proper United States district court, the entire amount redetermined as the deficiency by the decision of the Tax Court or district court which has become final shall be assessed and shall be paid upon notice and demand from the Secretary or his delegate. No part of the amount determined as a deficiency by the Secretary or his delegate but disallowed as such by the decision of the Tax Court or district court which has become final shall be assessed or be collected by levy or by proceeding in court with or without assessment.

"(b) CROSS REFERENCES.—

"(1) For assessment or collection of the amount of the deficiency determined by the Tax Court or district court pending appellate court review, see section 7485 or section 7492.

"(2) For dismissal of petition by Tax Court or district court as affirmation of deficiency as determined by the Secretary or his delegate, see section 7459(d) or section 7489(b).

"(3) For decision of Tax Court or district court that tax is barred by limitation as its decision that there is no deficiency, see section 7459(e) or section 7489(c).

"(4) For assessment of damages awarded by Tax Court or district court for instituting proceedings merely for delay, see section 6673.

"(5) For treatment of certain deficiencies as having been paid, in connection with sale of surplus war-built vessels, see section 9(b)(8) of the Merchant Ship Sales Act of 1946 (60 Stat. 48; 50 U.S.C. App. 1742).

"(6) For rules applicable to Tax Court proceedings, see generally subchapter C of chapter 76.

"(7) For proration of deficiency to installments, see section 6152(c).

"(8) For extension of time for paying amount determined as deficiency, see section 6161(b)."

(f) The titles of sections 6213, 6214, and 6215 in the table of sections for subchapter B of chapter 63 of subtitle F of the Internal Revenue Code of 1954 are amended to read as follows:

"Sec. 6213. Restrictions applicable to deficiencies; petition to Tax Court or complaint with district court.

"Sec. 6214. Determinations by Tax Court or district court.

"Sec. 6215. Assessment of deficiency found by Tax Court or district court."

(g) Paragraph (1) of subsection (a) of section 6503 is amended to read as follows:

"(1) GENERAL RULE.—The running of the period of limitations provided in section 6501 or 6502 on the making of assessments or the collection by levy or a proceeding in court, in respect of any deficiency as defined in section 6211 (relating to income, estate, and gift taxes), shall (after the mailing of a notice under section 6212(a)) be suspended for the period during which the Secretary or his delegate is prohibited from making the assessment or from collecting by levy or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is placed on the docket of the Tax Court, or is filed in a proper United States district court under section 6213(a), until the decision of the Tax Court, or district court, becomes final), and for 60 days thereafter."

(h) Section 6512 of the Internal Revenue Code of 1954 is amended to read as follows:

"SEC. 6512. LIMITATIONS IN CASE OF PETITION TO TAX COURT OR COMPLAINT WITH DISTRICT COURT.

"(a) EFFECT OF PETITION TO TAX COURT OR COMPLAINT WITH DISTRICT COURT.—If the Secretary or his delegate has mailed to the taxpayer a notice of deficiency under section 6212(a) and if the taxpayer files a petition with the Tax Court or a complaint with a proper United States district court for a redetermination of the deficiency within the time prescribed in section 6213(a), no credit or refund of income, employment, or excise tax for the same taxable year, or gift tax for the same calendar year, or of estate tax in respect of the taxable estate of the same decedent, in respect of which the Secretary or his delegate has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovery of any part of the tax shall be instituted in any court except—

"(1) As to overpayments determined by a decision of the Tax Court or a district court which has become final; and

"(2) As to any amount collected in excess of an amount computed in accordance with the decision of the Tax Court or a district court which has become final; and

"(3) As to any amount collected after the period of limitation upon the making of levy or beginning a proceeding in court for collection has expired; but in any such claim for credit or refund or in any such suit for refund the decision of the Tax Court or district court which has become final, as to whether such period has expired before the notice of deficiency was mailed, shall be conclusive.

"(b) OVERPAYMENT DETERMINED BY TAX COURT OR DISTRICT COURT.—

"(1) JURISDICTION TO DETERMINE.—If the Tax Court, or district court finds that there is no deficiency and further finds that the taxpayer has made an overpayment of income, employment, or excise tax for the same taxable year, of gift tax for the same calendar year, or of estate tax in respect of taxable estate of the same decedent, in respect of which the Secretary or his delegate determined the deficiency, or finds that there is a deficiency but that the taxpayer has made an overpayment of such tax, the Tax Court or district court shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the Tax Court or district court has become final, be credited or refunded to the taxpayer.

"(2) LIMIT ON AMOUNT OF CREDIT OR REFUND.—No such credit or refund shall be allowed or made of any portion of the tax unless the Tax Court or district court determines as part of its decision that such portion was paid—

"(A) after the mailing of the notice of deficiency, or

"(B) within the period which would be applicable under section 6511(b)(2), (c), or (d), if on the date of the mailing of the notice of deficiency a claim had been filed (whether or not filed) stating the grounds upon which the Tax Court or district court finds that there is an overpayment."

(i) The title of section 6512 in the table of sections for subchapter B of chapter 66 of subtitle F of the Internal Revenue Code of 1954 is amended to read as follows:

"Sec. 6512. Limitations in case of petition to Tax Court or complaint with district court."

(j) Section 6673 is amended to read as follows:

"SEC. 6673. DAMAGES ASSESSABLE FOR INSTITUTING PROCEEDINGS BEFORE THE TAX COURT OR A DISTRICT COURT MERELY FOR DELAY.

"Whenever it appears to the Tax Court or a United States district court that proceedings before it under section 6213 (a) have been instituted by the taxpayer merely for delay, damages in an amount not in excess of $500 shall be awarded to the United States by the Tax Court or district court in its decision. Damages so awarded shall be assessed at the same time as the deficiency and shall be paid upon notice and demand from the Secretary or his delegate and shall be collected as part of the tax."

(k) The title of section 6673 in the table of sections for subchapter B of chapter 68 of subtitle F of the Internal Revenue Code of 1954 is amended to read as follows:

"Sec. 6673. Damages assessable for instituting proceedings before the Tax Court or a district court merely for delay."

(l) The titles of sections 6861 and 6862 in the table of sections for part II of subchapter A of chapter 70 of subtitle F are amended to read as follows:

"Sec. 6861. Jeopardy assessments of taxes imposed by subtitle A, B, C, or D.

"Sec. 6862. Jeopardy assessments of taxes other than those imposed by subtitle A, B, C, or D.

"Sec. 6863. Stay of collection of jeopardy assessments.

"Sec. 6864. Termination of extended period of payment in case of carryback."

(m) The title of section 6861 and subsections (c), (d), (e), (f), and (g) are amended to read as follows:

"SEC. 6861. JEOPARDY ASSESSMENT OF TAXES IMPOSED BY SUBTITLE A, B, C, OR D.

"(c) AMOUNT ASSESSABLE BEFORE DECISION OF TAX COURT OR DISTRICT COURT.—The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the taxpayer, despite the provisions of section 6212(c) prohibiting the determination of additional deficiencies, and whether or not the taxpayer has theretofore filed a petition with the Tax Court or a complaint with a United States district court under section 6213(a). The Secretary or his delegate may, at any time before the decision of the Tax Court or district court is rendered, abate such assessment, or any unpaid portion thereof, to the extent that he believes the assessment to be excessive in amount. The Secretary or his delegate shall notify the Tax Court or district court of the amount of such assessment or abatement, if the petition is filed with the Tax Court or the complaint with a district court before the making of the assess-

ment or is subsequently filed, and the Tax Court or district court shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith.

"(d) AMOUNT ASSESSABLE AFTER DECISION OF TAX COURT OR DISTRICT COURT.—If the jeopardy assessment is made after the decision of the Tax Court or district court is rendered, such assessment may be made only in respect of the deficiency determined by the Tax Court or district court in its decision.

"(e) EXPIRATION OF RIGHT TO ASSESS.—A jeopardy assessment may not be made after the decision of the Tax Court or district court has become final or after the taxpayer has filed a petition for review of the decision of the Tax Court or an appeal from the decision of the district court.

"(f) COLLECTION OF UNPAID AMOUNTS.—When the petition has been filed with the Tax Court or the complaint with a district court and when the amount which should have been assessed has been determined by a decision of the Tax Court or district court which has become final, then any unpaid portion, the collection of which has been stayed by bond as provided in section 6863(b) shall be collected as part of the tax upon notice and demand from the Secretary or his delegate, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be credited or refunded to the taxpayer as provided in section 6402, without the filing of claim therefor. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the Secretary or his delegate.

"(g) ABATEMENT IF JEOPARDY DOES NOT EXIST.—The Secretary or his delegate may abate the jeopardy assessment if he finds that jeopardy does not exist. Such abatement may not be made after a decision of the Tax Court or district court in respect of the deficiency has been rendered or, if no petition is filed with the Tax Court or complaint with a district court, after the expiration of the period for filing such petition. The period of limitation on the making of assessments and levy or a proceeding in court for collection, in respect of any deficiency, shall be determined as if the jeopardy assessment so abated had not been made, except that the running of such period shall in any event be suspended for the period from the date of such jeopardy assessment until the expiration of the tenth day after the day on which such jeopardy assessment is abated."

(n) Section 6862 is amended to read as follows:

"SEC. 6862. JEOPARDY ASSESSMENT OF TAXES OTHER THAN IMPOSED BY SUBTITLE A, B, C, OR D.

"(a) IMMEDIATE ASSESSMENT.—If the Secretary or his delegate believes that the collection of any tax (other than the taxes imposed by subtitle A, B, C, or D) under * * *"

(o) Subsection (b) of section 6863 is amended to read as follows:

"(b) FURTHER CONDITIONS IN CASE OF CERTAIN TAXES.—In the case of taxes subject to the jurisdiction of the Tax Court or a United States district court under section 6213(a)—

"(1) PRIOR TO PETITION TO TAX COURT OR COMPLAINT WITH DISTRICT COURT.—If the bond is given before the taxpayer has filed his petition or complaint under section 6213(a), the bond shall contain a further condition that if a petition or complaint is not filed within the period provided in such section, then the amount, the collection of which is stayed by the bond, will be paid on notice and demand at any time after the expiration of such period, together with interest thereon from the date of the jeopardy notice and demand to the date of notice and demand under this paragraph.

"(2) EFFECT OF TAX COURT OR DISTRICT COURT DECISION.—The bond shall be conditioned upon the payment of so much of such assessment (collection of which is stayed by the bond) as is not abated by a decision of the Tax Court or district court which has become final. If the Tax Court or district court determines that the amount assessed is greater than the amount which should have been assessed, then when the decision of the Tax Court or district court is rendered the bond shall, at the request of the taxpayer, be proportionately reduced.

"(3) STAY OF SALE OR SEIZED PROPERTY PENDING TAX COURT OR DISTRICT COURT DECISION.—

"(A) GENERAL RULE.—Where, notwithstanding the provisions of section 6213(a), a jeopardy assessment has been made under section 6861 the property seized for the collection of the tax shall not be sold—

"(i) if section 6861(b) is applicable, prior to the issuance of the notice of deficiency and the expiration of the time provided in section 6213(a) for filing petition with the Tax Court or complaint with a district court, and

"(ii) if petition is filed with the Tax Court or complaint with a district court (whether before or after the making of such jeopardy assessment under section 6861), prior to the expiration of the period during which the assessment of the deficiency would be prohibited if section 6861(a) were not applicable.

"(B) EXCEPTIONS.—Such property may be sold if—

"(i) the taxpayer consents to the sale,

"(ii) the Secretary or his delegate determines that the expenses of conservation and maintenance will greatly reduce the net proceeds, or

"(iii) the property is of the type described in section 6336.

"(C) APPLICABILITY.—Subparagraphs (A) and (B) shall be applicable only with respect to a jeopardy assessment made on or after January 1, 1955, and shall apply with respect to taxes imposed by this title and with respect to taxes imposed by the Internal Revenue Code of 1939."

(p) Section 6871 is amended to read as follows:

"SEC. 6871. CLAIMS FOR CERTAIN TAXES IN BANKRUPTCY AND RECEIVERSHIP PROCEEDINGS.

"(a) IMMEDIATE ASSESSMENT.—Upon the adjudication of bankruptcy or any taxpayer in any liquidating proceeding, the filing or (where approval is required by the Bankruptcy Act) the approval of a petition against, any taxpayer in any other bankruptcy proceeding, or the appointment of a receiver for any taxpayer in any receivership proceeding before any court of the United States or of * * * imposed by subtitle A, B, C, or D upon such taxpayer * * *

"(b) CLAIM FILED DESPITE PENDENCY OF TAX COURT PROCEEDINGS.—In the case of a tax imposed by subtitle A, B, C, or D, claims for the deficiency * * * in pursuance of a petition to the Tax Court or a complaint with a district court under 6213(a); but no petition * * * with the Tax Court or with a district court under 6213(a) after the adjudication * * *"

(q) Subsections (a) and (b) of section 6902 are amended to read as follows:

"(a) BURDEN OF PROOF.—In proceedings before the Tax Court the burden of proof shall be upon the Secretary or his delegate and in proceedings before a United States district court under section 6213(a) the burden shall be upon the defendant to show that a petitioner or a plaintiff is liable as a transferee of property of a taxpayer, but not to show that the taxpayer was liable for the tax.

"(b) EVIDENCE.—Upon application to the Tax Court, a transferee of property of a taxpayer shall be entitled, under rules prescribed by the Tax Court, to a preliminary examination of books, papers, documents, correspondence, and other evidence of the taxpayer or a preceding transferee of the taxpayer's property, if the transferee making the application is a petitioner before the Tax Court for the redetermination of his liability in respect of the tax (including interest, additional amounts, and additions to the tax provided by law) imposed upon the taxpayer. Upon such application, the Tax Court may require by subpena, ordered by the Tax Court or any division thereof and signed by a judge, the production of all such books, papers, documents, correspondence, and other evidence within the United States the production of which, in the opinion of the Tax Court or division thereof, is necessary to enable the transferee to ascertain the liability of the taxpayer or preceding transferee and will not result in undue hardship in the taxpayer or preceding transferee. Such examination shall be had at such time and place as may be designated in the subpena. This subsection shall not restrict any right of a transferee of property to discovery in proceedings before a district court under section 6213(a)."

(r)(1) Subsection (e) of section 7422 is amended to read as follows:

"(e) COUNTERCLAIMS FOR DEFICIENCY.—If the Secretary or his delegate prior to the hearing of a suit brought by a taxpayer in a district court or the Tax Court for the recovery of any income, estate, gift, employment, or excise tax mails to the taxpayer a notice that a deficiency has been determined in respect of the tax which is the subject matter of taxpayer's suit, the United States may counterclaim in the taxpayer's suit for the amount of deficiency, including penalties and interest. The taxpayer shall have the burden of proof with respect to the issues raised by such counterclaim of the United States except as to the issue of whether the taxpayer has been guilty of fraud with intent to evade tax. This subsection shall not apply to a suit by a taxpayer which, prior to the date of enactment of this title, is commenced, instituted, or pending in a district court or the Court of Claims for the recovery of any income tax, estate tax, or gift tax (or any penalty relating to such taxes)."

(r) (2) Section 7442 is amended to read as follows:

"SEC. 7442. JURISDICTION.

"The Tax Court shall have original jurisdiction, concurrent with district courts, of:

"(a) Any civil action brought under section 6213(a) of this title for the redetermination of a deficiency in any tax imposed by subtitle A, B, C, or D of this title; and

"(b) Any civil action against the United States for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected under the internal-revenue laws."

(s) Chapter 76 of subtitle F of the Internal Revenue Code of 1954 is amended by redesignating subchapter E as subchapter F, by redesignating sections 7491, 7492, and 7493 as sections 7496, 7497, and 7498, respectively, and by inserting after subchapter D a new subchapter E reading as follows:

"Subchapter E—Redetermination Proceedings in District Courts

"Sec. 7488. Burden of proof in fraud and transferee cases.

"Sec. 7489. Decisions.

"Sec. 7490. Date when district court decision becomes final.

"Sec. 7491. Courts or review.

"Sec. 7492. Bond to stay assessment and collection.

"Sec. 7493. Refund, credit, or abatement of amounts disallowed.

"Sec. 7494. Conflict with Tax Court jurisdiction.

"SEC. 7488. BURDEN OF PROOF IN FRAUD AND TRANSFEREE CASES.

"(a) FRAUD.—In any proceeding before a United States district court under section 6213(a) involving the issue whether the plaintiff has been guilty of fraud with intent to evade tax, the burden of proof in respect of such issue shall be upon the defendant.

"(b) CROSS REFERENCE.—

"For provisions relating to burden of proof as to transferee liability, see section 6902(a).

"SEC. 7489. DECISIONS.

"(a) DATE OF DECISION.—A decision of a United States district court in a proceeding under section 6213(a) (except a decision dismissing a proceeding for lack of jurisdiction) shall be held to be rendered upon the date that an order specifying the amount of the deficiency is entered in the records of the district court. If the district court dismisses a proceeding for reasons other than lack of jurisdiction and is unable from the record to determine the amount of the deficiency determined by the Secretary or his delegate, or if the district court dismisses a proceeding for lack of jurisdiction, an order to that effect shall be entered in the records of the district court, and the decision of the district court shall be held to be rendered upon the date of such entry.

"(b) EFFECT OF DECISION DISMISSING COMPLAINT.—If a complaint for a redetermination of a deficiency has been filed by the taxpayer, a decision of the district court dismissing the proceeding shall be considered as its decision that the deficiency is the amount determined by the Secretary or his delegate. An order specifying such amount shall be entered in the records of the district court unless the district court cannot determine such amount from the record in the proceeding, or unless the dismissal is for lack of jurisdiction.

"(c) EFFECT OF DECISION THAT TAX IS BARRED BY LIMITATION.—If the assessment or collection of any tax is barred by any statute of limitations, the decision of the district court to that effect shall be considered as its decision that there is no deficiency in respect of such tax.

"(d) PENALTY.—

For penalty for taxpayer instituting proceedings before Tax Court or district court merely for delay, see section 6673.

"SEC. 7490. DATE WHEN DISTRICT COURT DECISION BECOMES FINAL.

"The decision of a United States district court in a proceeding under section 6213(a) shall become final for purposes of this title but not for purposes of section 1291 of title 28 of the United States Code (relating to appeals from final decisions of district courts)—

"(1) TIMELY NOTICE OF APPEAL NOT FILED.—Upon the expiration of the time allowed for filing a notice of appeal, if no such notice has been duly filed within such time; or

"(2) DECISION AFFIRMED OR APPEAL DISMISSED.—

"(A) PETITION FOR CERTIORARI NOT FILED ON TIME.—Upon the expiration of the time allowed for filing a petition of certiorari, if the decision of the district court has been affirmed or the appeal dismissed by the United States Court of Appeals and no petition for certiorari has been duly filed; or

"(B) PETITION FOR CERTIORARI DENIED.—Upon the denial of a petition for certiorari, if the decision of the district court has been affirmed or the appeal dismissed by the United States Court of Appeals; or

"(C) AFTER MANDATE OF SUPREME COURT.—Upon the expiration of 30 days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the decision of the district court be affirmed or the appeal dismissed.

"(3) DECISION MODIFIED OR REVERSED.—

"(A) UPON MANDATE OF SUPREME COURT.—If the Supreme Court directs that the decision of the district court be modified or reversed, the decision of the district court rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of thirty days from the time it was rendered, unless within such thirty days either the Secretary or his delegate, the United States, or the taxpayer has instituted proceedings to have such decision corrected to accord with the mandate, in which event the decision of the district court shall become final when so corrected.

"(B) UPON MANDATE OF THE COURT OF APPEALS.—If the decision of the district court is modified or reversed by the United States Court of Appeals, and if—

"(i) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

"(ii) the petition for certiorari has been denied, or

"(iii) the decision of the United States Court of Appeals has been affirmed by the Supreme Court, then the decision of the district court rendered in accordance with the mandate of the United States Court of Appeals shall become final on the expiration of thirty days from the time such decision of the district court was rendered, unless within such thirty days either the Secretary or his delegate, the United States, or the taxpayer has instituted proceedings to have such decision corrected so that it will accord with the mandate, in which event the decision of the district court shall become final when so corrected.

"(4) REHEARING.—If the Supreme Court orders a rehearing, or if the case is remanded by the United States Court of Appeals to the district court for a rehearing, and if—

"(A) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

"(B) the petition for certiorari has been denied, or

"(C) the decision of the United States Court of Appeals has been affirmed by the Supreme Court, then the decision of the district court rendered upon such rehearing shall become final in the same manner as though no prior decision of the district court has been rendered.

"(5) DEFINITION OF 'MANDATE'.—As used in this section, the term 'mandate,' in case a mandate has been recalled prior to the expiration of thirty days from the date of issuance thereof, means the final mandate.

"SEC. 7491. COURTS OF APPEALS.

"(a) JURISDICTION.—The United States Court of Appeals and the Supreme Court of the United States shall have jurisdiction of appeals from decisions of United States district courts in proceedings under section 6213(a) in the manner provided in title 28 of the United States Code.

"(b) POWER TO IMPOSE DAMAGES.—The United States Court of Appeals and the Supreme Court shall have power to impose damages in any case where the decision of the district court is affirmed and it appears that the appeal was filed merely for delay.

"SEC. 7492. BOND TO STAY ASSESSMENT AND COLLECTION.

"(a) UPON APPEAL.—Notwithstanding any provision of law imposing restrictions on the assessment and collection of deficiencies, the appeal under section 7491 shall not operate as a stay of assessment or collection of any portion of the amount of the deficiency determined by the United States district court unless an appeal in respect of such portion is duly filed by the taxpayer, and then only if the taxpayer—

"(1) on or before the time his notice of appeal is filed with the district court a bond in a sum fixed by the district court not exceeding double the amount of the portion of the deficiency in respect of which the notice of appeal is filed, and with surety approved by the district court, conditioned upon the payment of the deficiency as finally determined, together with any interest, additional amounts, or additions to the tax provided for by law, or

"(2) has filed a jeopardy bond under the income or estate tax laws. If as a result of a waiver of the restrictions on the assessment and collection of a deficiency any part of the amount determined by the district court is paid after filing of the appeal bond, such bond shall, at the request of the taxpayer, be proportionally reduced.

"(b) CROSS REFERENCE.—

"For deposit of United States bonds or notes in lieu of sureties, see U.S.C. 15.

"SEC. 7493. REFUND, CREDIT, OR ABATEMENT OF AMOUNTS DISALLOWED.

"In cases where assessment or collection has not been stayed by the filing of a bond, then if the amount of the deficiency determined by a United States district court is disallowed in whole or in part by the court of review, the amount so disallowed shall be credited or refunded to the taxpayer, without the making of claim therefor, or, if collection has not been made, shall be abated.

"SEC. 7494. CONFLICT WITH TAX COURT JURISDICTION.

"Nothing contained in section 6213(a) shall be construed to impair the jurisdiction of the Tax Court or to prevent a taxpayer from filing a petition with the Tax Court for a redetermination of a deficiency under such section. The filing of a petition with the Tax Court under such section for a redetermination of a deficiency shall be a bar to the commencement of an action in a United States district court under such section for a redetermination of such deficiency, and the commencement of an action in a United States district court under such section of a redetermination of a deficiency shall be a bar to the filing of a petition with the Tax Court under such section for a redetermination of such deficiency."

(t) Subsection (a) and (d) of section 534 are amended to read as follows:

"(a) GENERAL RULE.—In any proceeding before the Tax Court or in any proceeding before a United States district court under section 6213(a) involving a notice of deficiency based in whole or in part on the allegation that all or any part of the earnings and profits have been permitted to accumulate beyond the reasonable needs of the business, the burden of proof with respect to such allegations shall—

"(1) if notification has not been sent in accordance with subsection (b) be on the Secretary or his delegate, or

"(2) if the taxpayer has submitted the statement described in subsection (c), be on the Secretary or his delegate with respect to the ground set forth in such statement in accordance with the provisions of such subsection.

"(d) JEOPARDY ASSESSMENT.—If, pursuant to section 6861(a) a jeopardy assessment is made before the mailing of the notice of deficiency referred to in subsection (a), for purposes of this section such notice of deficiency shall, to the extent that it informs the taxpayer that such deficiency includes the accumulated earnings tax imposed by section 531, constitute the notification described in subsection (b), and in that event the statement described in subsecion (c) may be included in the taxpayers' petition to the Tax Court or complaint to a district court."

(u) This Act shall take effect thirty days after its enactment.

S. 1974

A bill to improve judicial machinery by amending title 28 of the United States Code, "Judiciary and Judicial Procedure," and amending title 26 of the United States Code, "Internal Revenue Code", to make the United States Tax Court an article III court, to provide for exclusive jurisdiction of the United States Tax Court over civil tax refund suits and deficiency redeterminations in taxes imposed by subtitle A, B, C, or D of title 26 of the United States Code, to create a Small Claims Division of the United States Tax Court, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Federal Tax Litigation Act".

TITLE I—UNITED STATES TAX COURT

SEC. 101. (a) Title 28, United States Code, "Judiciary and Judicial Procedure," is amended by adding immediately following section 255 thereof the following new chapter:

"Chapter 12.—TAX COURT

"Sec.
"271. United States Tax Court.
"272. Chief judge; designation.
"273. Precedence of judges.
"274. Tenure and salaries of judges.
"275. Divisions; assignment of judges; trials; quorum.
"276. Principal seat and places of trial.
"277. Sessions.
"278. Publication of opinions.

"§ 271. United States Tax Court

"(a) The Tax Court of the United States shall be a court of record, consisting of sixteen judges, and shall henceforth be known as the United States Tax Court. The judges of the United States Tax Court shall be appointed by the President, by and with the advice and consent of the Senate: *Provided, however,* That a judge of the Tax Court of the United States established under section 7441 of the Internal Revenue Code of 1954 in office on the effective date of this Act shall serve as a judge of the United States Tax Court until his term expires, he resigns prior to the expiration of his term, he is separated or removed from office in accordance with law, or he retires under section 7447 of such Code, except as provided in section 294 of this title.

"(b) When no active or retired judge of the Tax Court of the United States can serve, or be recalled for service as a judge, the United States Tax Court shall be a court established under article III of the Constitution of the United States.

"§ 272. Chief judge; designation

"The United States Tax Court shall, at least biennially, designate a judge of such court to act as chief judge.

"§ 273. Precedence of judges

"(a) The chief judge of the United States Tax Court shall have precedence and preside at any session of the court which he attends.

"(b) The other judges shall have precedence and, in the absence of an order of designation by the chief judge, shall preside according to the seniority of their commissions. For purposes of this section, the date of the commission of each judge of the United States Tax Court who has become such by virtue of his being a judge of the Tax Court of the United States in office on the effective date of this Act shall be the date of his first commission as a judge of the Tax Court of the United States. Judges whose commissions are of the same date shall have precedence according to seniority in age.

"§ 274. Tenure and salary of judges

"(a) Each judge of the United States Tax Court shall hold office during good behavior, except as otherwise provided in section 271 of this title.

"(b) Each judge shall receive a salary of $30,000 per annum.

"§ 275. Divisions; assignment of judges; trials; quorum

"(a) The chief judge may from time to time divide the United States Tax Court into divisions of one or more judges (including a division for small claims), assign the judges of the court thereto, and in case of a division of more than one judge, designate the chief thereof, and he may authorize the trial and determination of cases and other matters by any such division. If a division, as a result of a vacancy or the absence or inability of a judge assigned thereto to serve thereon, is composed of less than the number of judges designated for the division, the chief judge may assign other judges to the division or direct the division to proceed with the transaction of business without awaiting any additional assignment of judges thereto.

"(b) A majority of the judges of the United States Tax Court or of any division thereof shall constitute a quorum for the transaction of the business of such court or of the division, respectively. A vacancy in the court or in any division thereof shall not impair the powers nor affect the duties of such court or division nor of the remaining judges of such court or division, respectively.

"§ 276. Principal seat and places of trial

"The principal seat of the United States Tax Court shall be in the District of Columbia, but such court or any of its divisions may sit at any place within the United States.

"§ 277. Sessions

"The times and places of the sessions of the United States Tax Court and of its divisions shall be fixed by the chief judge with a view to securing reasonable opportunity to taxpayers to appear before the court or any of its divisions, with as little inconvenience and expense to taxpayers as is practicable.

"§ 278. Publications of opinions

"The United States Tax Court shall provide for the publication of its opinions at the Government Printing Office in such form and manner as may be best adapted for public information and use, and such authorized publication shall be competent evidence of the opinions of the court therein contained in all courts of the United States and of the several States without any further proof or authentication thereof. Such opinions shall be subject to sale in the same manner and upon the same terms as other public documents."

(b) Title 28, United States Code, is amended by inserting the analysis of part I, preceding chapter 1, after the item

"11. Customs Court ---------- 251"

the following new item:

"12. United States Tax Court -------- 271".

(c) Section 93 of the Act of January 12, 1895 (providing for the public printing, binding, and distribution of public documents) (ch. 23, 28 Stat. 623; 44 U.S.C. 117) is amended by inserting immediately before the words "or the Library" the following: "the United States Tax Court," and by inserting immediately before the words "or the Librarian" the following: "chief judge of the United States Tax Court,".

SEC. 102. Title 28, United States Code, section 292(d), is amended by striking out the words "Appeals or the Customs Court" and inserting in lieu thereof the following: "Appeals, the Customs Court, or the United States Tax Court".

SEC. 103. Title 28, United States Code, section 293, is amended by adding at the end thereof the following new subsection:

"(e) After the United States Tax Court becomes a court under article III of the Constitution of the United States in accordance with section 271, the Chief Justice of the United States may designate and temporarily assign any judge of the United States Tax Court to perform judicial duties in a court of appeals or in a district court in any circuit upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises. Judges designated or assigned shall be competent to sit as judges of the court."

SEC. 104. Title 28, United States Code, section 294, is amended by adding at the end thereof the following new subsection:

"(f) Any judge who is receiving retired pay under section 7447(d) of the Internal Revenue Code of 1954 or compensation (in lieu of retired pay) under section 7447(c) of such Code (whether or not he served as a judge on the United States Tax Court) may be called upon by the chief judge of the United States Tax Court to perform for such court judicial duties in accordance with section 7447(c) of such Code: *Provided, however,* That five years after the enactment of this Act, no retired judge who was not appointed to hold office during good behavior shall be subject to recall. Judges excluded from recall by reason of this proviso shall continue to receive compensation as though they were serving subject to recall. Any act, or failure to act, by a retired judge performing such judicial duties shall have the same force and effect as if it were the act (or failure to act) of a judge of such court. Any retired judge performing such judicial duties shall have the same powers under section 2651 of this title as a judge of the United States Tax Court."

SEC. 105. (a) Title 28, United States Code, section 331, is amended by inserting after "Appeals," in the first sentence thereof the following: "the chief judge of the United States Tax Court,".

(b) Title 28, United States Code, section 331, third undesignated paragraph, second sentence, is amended by striking out "or the chief judge of the Court of Customs and Patent Appeals" and inserting in lieu thereof the following: "the chief judge of the Court of Customs and Patent Appeals, or the chief judge of the United States Tax Court".

SEC. 106. (a) Title 28, United States Code, section 372(a), is amended by striking from the third undesignated paragraph the words "or Customs Court," and inserting in lieu thereof "Customs Court, or United States Tax Court".

(b) Title 28, United States Code, section 372(a), is amended by striking from the fifth undesignated paragraph thereof the words "or Customs Court" and inserting in lieu thereof "Customs Court, or United States Tax Court".

(c) Title 28, United States Code, section 372(b), is amended by striking "or Customs Court" both places where it appears in the first sentence thereof and inserting in lieu thereof in both places the words "Customs Court, or United States Tax Court".

SEC. 107. (a) Title 28, United States Code, is amended by insering immediately after section 376 the following new section:

"§ 377. Service for the Tax Court of the United States

"(a) For purposes of sections 371 to 376, inclusive, the years of service of a judge of the United States Tax Court holding office during good behavior shall include all service by him on the United States Tax Court and the Tax Court of the United States.

"(b) Sections 7447 and 7448 of the Internal Revenue Code of 1954 shall continue to apply to any judge of the United States Tax Court who became such a judge by reason of his service as a judge on the Tax Court of the United States unless and until such judge takes office by reason of an appointment to hold office during good behavior. If he is so appointed, such sections 7447 and 7448 shall not apply to him after he takes office under such appointment.

"(c) For purposes of section 376(a) of this title, the date on which a judge who previously served on the Tax Court of the United States takes office shall be the date on which

he takes office by reason of an appointment to hold office during good behavior. If a judge electing to bring himself within the purview of such section 376 had made deposits under section 7448 of the Internal Revenue Code of 1954, the amount he would be entitled to receive under section 7448(g) of such Code, if he had terminated his service at the time of filing his election, shall be transferred to the credit of the 'judicial survivors annuity fund' established by such section 376, and shall be subject to the provisions applicable to such fund. The amounts so transferred shall be credited as deposits to the individual account of the judge making such an election. No amount is includable in the gross income of the judge by reason of such transfer of deposits."

(b) The analysis of chapter 17, immediately preceding section 371, title 28, United States Code, is amended by adding at the end thereof the following new item:

"377. Service on the Tax Court of the United States."

(c) Title 5, United States Code, section 8331, paragraph (1), is amended by inserting immediately before the semicolon in clause (i) thereof the following: ", except for a judge of the United States Tax Court who is holding office under a term appointment".

(d) Section 7447 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"(h) SERVICE ON THE UNITED STATES TAX COURT.—For purposes of this section and section 7448—

"(1) the years of service of any judge of the Tax Court of the United States shall include any service by him as a judge of the United States Tax Court under a term appointment;

"(2) the term 'Tax Court' or 'Tax Court of the United States' includes the 'United States Tax Court';

"(3) the term 'chief judge' or 'judge' includes a chief judge or judge of the United States Tax Court; and

"(4) the term 'judge's salary' includes the salary of a judge received under section 274 of title 28, United States Code."

SEC. 108. (a) Title 28, United States Code, section 451, second undesignated paragraph is amended by inserting immediately after "the Customs Court" the following: ", the United States Tax Court.".

(b) Title 28, United States Code, section 451, fourth undesignated paragraph is amended by adding at the end thereof the following new sentence: "Such term also includes the judges of the United States Tax Court.".

(c) Title 28, United States Code, section 451, is amended by adding at the end thereof the following new undesignated paragraph:

"The term 'Tax Court' means the United States Tax Court except when otherwise indicated."

SEC. 109. Title 28, United States Code, section 454, is amended by adding at the end thereof the following new sentence: "This section shall not apply to a judge of the United States Tax Court who has retired under the provisions of title 5, chapter 83, United States Code, or under section 7447 of the Internal Revenue Code of 1954."

SEC. 110. Title 28, United States Code, section 456, second undesignated paragraph, is amended by inserting immediately after "and United States District Court for the District of Columbia" the following: "and the United States Tax Court,".

SEC. 111. (a) Title 28, United States Code, is amended by inserting immediately after section 526 the following new section:

"§ 527. Conduct of litigation before the United States Tax Court

"Notwithstanding sections 516 through 519 or section 547 of this title, in all proceedings before the United States Tax Court, the Secretary of the Treasury or his delegate shall be represented by the Chief Counsel for the Internal Revenue Service or his delegate in the same mannner as he has heretofore been represented in proceedings before the Tax Court of the United States."

(b) The analysis of chapter 31, immediately preceding section 501, title 28, United States Code, is amended by adding at the end thereof the following new item:

"527. Conduct of litigation before the United States Tax Court."

SEC. 112. Title 28, United States Code, section 569(a), is amended by striking the word "and" immediately before "of the Customs Court" and by inserting immediately after "New York," the following: ", and of the United States Tax Court holding sessions in his district,".

SEC. 113. Title 28, United States Code, section 610, is amended by striking "and the Customs Court" and inserting in lieu thereof "the Customs Court, and the United States Tax Court."

SEC. 114. (a) Title 28, United States Code, is amended by adding immediately after section 873 the following new chapter:

"Chapter 56.—UNITED STATES TAX COURT

"Sec.
"911. Commissioners.
"912. Clerk of the court and employees.
"913. Marshal and employees.
"914. Law assistants and secretaries.
"915. Transferred employees.

"§ 911. Commissioners of Small Claims Division

"(a) APPOINTMENT.—The United States Tax Court may appoint, without regard to the civil service laws and regulations, such number of Commissioners, not exceeding twenty, as may be necessary to carry out the functions of the Small Claims Division. Each Commissioner shall be a member in good standing of the bar of the United States Supreme Court or of the highest court of any State or territory or of the District of Columbia. Commissioners shall be subject to removal by the United States Tax Court.

"(b) COMPENSATION AND ALLOWANCES.—Each Commissioner shall receive the same compensation, travel, and subsistence allowances, retirement and other benefits as are now or hereafter provided by law for commissioners of the United States Court of Claims.

"§ 912. Clerk of the court and employees

"(a) The United States Tax Court may appoint, and shall fix the duties of, a clerk and an assistant clerk who shall be subject to removal by the court.

"(b) The clerk may employ, with the approval of the chief judge, deputies, clerical assistants, and other employees as may be authorized by the court. Such deputies, clerical assistants, and other employees shall be subject to removal by the clerk, with the approval of the chief judge.

"(c) The clerk shall serve the court under the direction of the chief judge. All fees and costs collected by the clerk shall be deposited in the Treasury under the administrative procedures of the court.

"§ 913. Marshal and employees

"(a) The United States Tax Court may appoint, and shall fix the duties of, a marshal and an assistant who shall be subject to removal by the court.

"(b) The marshal may employ, with the approval of the chief judge, other officers and employees as may be authorized by the court. Such other officers and employees shall be subject to removal by the marshal, with the approval of the chief judge.

"(c) The marshal shall serve the court under the direction of the chief judge. Under regulations prescribed by the Director of the Administrative Office of the United States Courts, the marshal shall pay the salaries, office expenses, and travel and subsistence allowances of the judges, officers, and employees of the court, pay judges retired pay and survivors annuities, and shall disburse funds appropriated for all expenses of the court. All fees collected by him shall be deposited in the Treasury under the administrative procedures of the court.

"§ 914. Law assistants and secretaries

"Each judge of the United States Tax Court may continue to employ two law assistants, a secretary, and a secretarial assistant, each of whom shall be subject to removal by the judge.

"§ 915. Transferred employees

"Nothing contained in this chapter shall be construed to deprive any person serving on the date of enactment of this chapter as an officer or employee of the Tax Court of the United States of any rights, privileges, or civil service status, if any, to which such person is entitled under the laws of the United States or regulations thereunder."

(b) The analysis of part III—Court Officers and Employees, immediately preceding chapter 41, title 28, United States Code, is amended by inserting after the item

"55. Customs Court..... 871"

the following new item:

"56. United States Tax Court..... 911."

SEC. 115. (a) Title 28, United States Code, is amended by inserting the following new section immediately after section 1294:

"§ 1295. United States Tax Court decisions

"(a) The courts of appeals shall have exclusive jurisdiction to review on appeal the decisions of the United States Tax Court in the same manner and to the same extent as decisions of the district courts in civil actions tried without a jury; and the judgment of any such court shall be final, except that it shall be subject to review by the Supreme Court upon certiorari, in the manner provided in section 1254 of this title.

"(b)(1) Except as otherwise provided in paragraph (2), such decisions may be reviewed by the court of appeals for the circuit in which is located—

"(A) in the case of a petitioner seeking redetermination of tax liability other than a corporation, the legal residence of the petitioner, or

"(B) in the case of a corporation seeking redetermination of tax liability, the principal place of business or principal office or agency of the corporation, or, if it has no principal place of business or principal office or agency in any judicial circuit, then the office to which was made the return of the tax in respect of which the liability arises.

If for any reason neither subparagraph (A) nor (B) applies, then such decisions may be reviewed by the United States Court of Appeals for the District of Columbia. For purposes of this paragraph, the legal residence, principal place of business, or principal office or agency referred to herein shall be determined as of the time the petition seeking redetermination of tax liability was filed with the United States Tax Court.

"(2) Notwithstanding the provisions of paragraph (1), such decisions may be reviewed by any court of appeals which may be designated by the Secretary of the Treasury or his delegate and the taxpayer by stipulation in writing.

"(c)(1) Upon such review, such courts shall have power to affirm or, if the decision of the United States Tax Court is not in accordance with law, to modify or to reverse the decision of the United States Tax Court, with or without remanding the case for a rehearing, as justice may require.

"(2) Rules for a review of decisions of the United States Tax Court shall be those prescribed by the Supreme Court under section 2072 of this title."

(b) The analysis of chapter 83, immediately preceding section 1291, title 28, United States Code, is amended by adding at the end thereof the following new item:

"1295. United States Tax Court decisions."

SEC. 116. (a) Title 28, United States Code, is amended by adding immediately following section 1583 the following new chapter:

"Chapter 96.—UNITED STATES TAX COURT

"Sec.
"1621. Jurisdiction.

"§ 1621. Jurisdiction

"The United States Tax Court and its divisions shall have all the jurisdiction conferred upon the Tax Court of the United States and its divisions by the Internal Revenue Code of 1954, by chapters 1, 2, 3, and 4 of the Internal Revenue Code of 1939, by title II and title III of the Revenue Act of 1926, or by laws enacted subsequent to February 26, 1926, and by section 1346 of this title.

"For purposes of this section—

"(1) any reference to any such laws to the 'Tax Court', to the 'Tax Court of the United States', or to the 'Board of Tax Appeals' shall be construed as including a reference to the 'United States Tax Court';

"(2) any reference in any such laws to the chief judge or presiding judge of the Tax Court or of the Tax Court of the United States or to the Chairman of the Board of Tax Appeals shall be construed as including a reference to the chief judge of the United States Tax Court; and

"(3) any reference in any such laws to a judge of the Tax Court or of the Tax Court of the United States or to a member of the Board of Tax Appeals shall be construed as including a reference to a judge of the United States Tax Court."

(b) The analysis of part IV—Jurisdiction and Venue, immediately preceding chapter 81, title 28, United States Code, is amended by adding at the end thereof the following new item:

"96. United States Tax Court_____ 1621".

SEC. 117. (a) Title 28, United States Code, is amended by adding the following new section immediately after section 1696:

"§ 1697. United States Tax Court; service of process

"Service of any pleading decision, order, notice, or process in proceeding before the United States Tax Court may be made personally or by registered or certified mail, except as provided in section 1783 of this title."

(b) The analysis of chapter 113, immediately preceding section 1691, title 28, United States Code, is amended by adding at the end thereof the following new item:

"1697. United States Tax Court; service of process."

SEC. 118. (a) Title 28, United States Code, is amended by adding the following new section immediately after section 1825:

"§ 1826. Payment of United States Tax Court witnesses

"(a) Witnesses for the Secretary of the Treasury or his delegate in proceedings before the United States Tax Court shall be paid by the Secretary of the Treasury or his delegate out of any moneys appropriated for the collection of internal revenue taxes, and may be paid in advance.

"(b) Other witnesses in such proceedings shall be paid in accordance with the rules of the United States Tax Court by the party at whose instance the witness appears or makes deposition."

(b) The analysis of chapter 119, immediately preceding section 1821, title 28, United States Code, is amended by adding at the end thereof the following new item:

"126. Payment of United States Tax Court witnesses."

SEC. 119. (a) Title 28, United States Code, is amended by adding the following new section immediately after section 1929:

"§ 1930. United States Tax Court fees

"(a) The United States Tax Court may impose a fee not in excess of $10 for the filing of a petition.

"(b) The United States Tax Court may fix reasonable fees for preparing, comparing, and certifying transcripts of record, and a copy of any record, entry, or other paper; such fees shall not exceed comparable fees prescribed by the Judicial Conference for district courts."

(b) The analysis of chapter 123, immediately preceding section 1911 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1930. United States Tax Court fees."

SEC. 120. Title 28, United States Code, section 2072, is amended by striking out the words "Tax Court of the United States" and inserting in lieu thereof the words "United States Tax Court."

SEC. 121. Title 28, United States Code, section 2107, second undesignated paragraph is amended to read as follows:

"In any such action, suit, or proceeding in which the United States or an officer or agency thereof is a party, the time as to all parties shall be sixty days from such entry; except that the decision of the United States Tax Court may be reviewed by a court of appeals if an appeal for such review is filed by either the Secretary of the Treasury (or his delegate) or the taxpayer within ninety days after the decision is rendered. If, however, an appeal from a decision of the United States Tax Court is so filed by one party to the proceeding, an appeal from such decision may be filed by any other party to the proceeding within one hundred and twenty days after such decision is rendered."

SEC. 122. (a) Title 28, United States Code, is amended by adding the following new chapter immediately after section 2642:

"Chapter 170.—UNITED STATES TAX COURT PROCEDURE

"Sec.
"2651. Powers of United States Tax Court generally.
"2652. Rules of practice, procedure, and evidence.
"2653. Jury trial denied.
"2654. Burden of proof.
"2655. Special rule in transferee proceedings.
"2656. Review of findings and opinions of divisions.
"2657. Rehearing after trial.
"2658. Publicity of trials and records.
"2659. Entry and rendition of decisions.
"2660. Effect of certain decisions.

"§ 2651. Powers of United States Tax Court generally

"The United States Tax Court and each judge thereof shall possess all the powers of a district court of the United States for preserving order, compelling the attendance of witnesses, and the production of evidence. These powers, however, shall be nationwide.

"§ 2652. Rules of practice, procedure, and evidence

"(a) The trials and other proceedings of the United States Tax Court and its divisions and commissioners shall be conducted in accordance with such rules of practice and procedure as the court may prescribe. The court shall adopt the Federal Rules of Civil Procedure to the extent that they are not incompatible with the operations of the court.

"(b) The rules of evidence applicable in civil actions tried without a jury in the United States District Court for the District of Columbia shall be applied in trials before the United States Tax Court and its divisions and commissioners.

"(c) Notwithstanding the provisions of subsections (a) and (b), the United States Tax Court may prescribe separate rules of practice, procedure, and evidence applicable to trials and other proceedings before a small claims division of the court.

"§ 2653. Jury trial denied

"Any case before the United States Tax Court shall be tried by the court without a jury.

"§ 2654. Burden of proof

"(a) In any case before the United States Tax Court involving an addition to tax under section 6653(b) of the Internal Revenue Code of 1954, the burden of proof in respect of such issue shall be upon the Secretary of the Treasury or his delegate.

"(b) In any proceeding before the United States Tax Court for the redetermination of the liability of a transferee, the Secretary of the Treasury or his delegate shall have the burden of proving that a petitioner is liable as a transferee of a taxpayer's property, but not that the taxpayer was liable for the tax.

"§ 2655. Special rule in transferee proceedings

"Upon application of a transferee of a taxpayer's property, who is a petitioner before the United States Tax Court for a redetermination of his liability with respect to any tax (including interest, additional amounts, and additions to tax) imposed upon the taxpayer, the United States Tax Court may, in its discretion, order the production, and preliminary examination and duplication by such transferee, of any books, papers, documents, correspondence, and other evidence of the taxpayer or of a preceding transferee of such taxpayer's property.

"§ 2656. Review of findings and opinions of divisions

"(a) The findings of fact and opinion of a division of the United States Tax Court shall become the findings and opinion of the court unless within thirty days after such determination by such division the chief judge orders a review by the court, or unless he orders such review by the court as a result of a motion for review by the court filed by either party within thirty days after service upon such party of the findings of fact and opinion.

"(b) If the findings of fact and opinion of a division are reviewed by the court, the opinion of the court shall reveal the identity of the judges in the majority.

"(c) The findings of fact of a division shall be a part of the record in all cases, except where the judge or judges who made such findings join the majority or where the findings of such division are not inconsistent with the majority opinion in cases reviewed by the court.

§ 2657. Rehearing after trial

"After trial before a division of the United States Tax Court, neither the petitioner nor the respondent shall be entitled to be heard before the court upon review, except upon a specific order of the chief judge.

"§ 2658. Publicity of trials and records

"(a) Trials before the United States Tax Court and its divisions and commissioners shall be open to the public.

"(b) The testimony and, if the court so requires, the argument at trials shall be stenographically reported. The court may employ verbatim reporters or may negotiate contracts without advertising (by renewal of contract or otherwise) for the verbatim reporting of such trials or any other proceedings, and in such contracts fix the terms and conditions under which transcripts will be supplied by the contractor to the court and to the parties and the public.

"(c) All findings of fact and opinions of the court, and all evidence received by the court and its divisions and commissioners, including a transcript of the stenographic report of the trials or proceedings, shall be public records open to the inspection of the public except that, subject to rules prescribed by the United States Tax Court for the protection of the parties, members of the public, or national security, the court may, upon its own motion or upon the motion of any person, impound all or any part of such evidence and transcript.

"(d) Notwithstanding the provisions of subsection (c) of this section, after the decision of the court in any case has become final, the court may, upon motion of any party, permit the withdrawal by the party

entitled thereto of originals of books, documents, and records, and of models, diagrams, and other exhibits, introduced in evidence by such party before the court or any division or commissioner; or the court may, on its own motion, make such other disposition thereof as it deems advisable.

"§ 2659. Entry and rendition of decisions

"(a) In each proceeding before it, the United States Tax Court shall find the facts specially and state separately its opinion thereon. Judgement shall be entered pursuant to the United States Tax Court's rules. The court may provide for omissions from the official published reports of the court the findings of fact and opinion in any case which it determines not to have precedential value.

"(b) A decision of the court (except a decision dismissing a proceeding for lack of jurisdiction) shall be held to be rendered upon the date that an order specifying the amount of the deficiency is entered in the records of the court.

"(c) If the court dismisses a proceeding for reasons other than lack of jurisdiction and is unable from the record to determine the amount of the deficiency determined by the Secretary of the Treasury or his delegate, or if the court dismisses a proceeding for lack of jurisdiction, an order to that effect shall be entered in its records, and the decision of the court shall be held to be rendered upon the date of such entry.

"§ 2660. Effect of certain decisions

"(a) If a petition for a redetermination of a deficiency has been filed by a taxpayer, a decision of the United States Tax Court dismissing the proceeding, other than for lack of jurisdiction, shall be considered as its decision that the deficiency is the amount determined by the Secretary of the Treasury or his delegate. An order specifying such amount shall be entered in the records of the court unless the court cannot determine such amount from the record in the proceeding.

"(b) If the assessment or collection of any tax is barred by any statute of limitations, the decision of the court to that effect shall be considered as its decision that there is no deficiency in respect of such tax."

(b) The analysis of part VI, immediately preceding chapter 151 of title 28, United States Code, is amended by inserting after the item

"169. Customs Court procedure------- 2631"

the following:

"170. United States Tax Court procedure ---------- 2651".

SEC. 123. Except as provided in section 294 of title 28, United States Code, the tenure, rights, obligations, and duties of the judges of the Tax Court of the United States in office, or retired pursuant to section 7447 of the Internal Revenue Code of 1954, on the effective date of this Act shall not be affected by its enactment but each judge now in office shall continue to serve on the United States Tax Court until the expiration of his present term, or until he retires or resigns prior to the expiration of such term. Each judge now retired or hereafter retired under such section 7447 and subject to recall pursuant to subsection (c) thereof shall continue to be entitled and obligated to perform the same judicial duties with the United States Tax Court until or unless illness or disability precludes the performance of such duties. No loss of rights, interruption of jurisdiction, nor prejudice to matters pending in the Tax Court of the United States on the effective date of this Act shall result from its enactment. No loss or diminution of any right or privilege granted by sections 7447 and 7448 of such Code shall result from the enactment of this Act and such sections shall remain in full force and effect as specifically modified by this Act. The employment of any employee serving as a member of the staff of a judge of the Tax Court of the United States at the time of enactment of this Act shall not be terminated by reason of such enactment.

SEC. 124. The taxpayer shall be represented before the United States Tax Court in accordance with rules of practice prescribed by such court. All persons admitted prior to the effective date of this Act to practice in the Tax Court of the United States shall be recognized by the United States Tax Court as entitled to represent taxpayers before the court, subject to the rules of the court generally applicable to persons appearing before it.

SEC. 125. (a) Sections 6902, 7441–7446 (except 7443(f) with respect to judges serving on the Tax Court of the United States), 7451–7463 (except 7456(b)), 7471–7474, 7482, 7483, 7485(b)(1), and 7487 of the Internal Revenue Code of 1954 are repealed.

(b) Section 7485(a) of the Internal Revenue Code of 1954 is amended by striking "under section 7483" and inserting in lieu thereof "of a United States Tax Court decision".

SEC. 126. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

TITLE II—FEDERAL TAX LITIGATION

SEC. 201. Section 1340, title 28, United States Code, is amended to read as follows:

"§ 1340. Internal revenue; customs duties

"(a) The district court shall have original jurisdiction of any civil action arising under any Act of Congress providing for internal revenue, or revenue from imports or tonnage, except matters within the jurisdiction of the Customs Court and matters within the jurisdiction of the United States Tax Court."

SEC. 202. Section 1346, title 28, United States Code, is amended to read as follows:

"§ 1346. United States as defendant

"(a) The United States Tax Court shall have original jurisdiction of any civil action against the United States for the recovery of any internal revenue tax imposed by subtitle A, B, C, or D of title 26, United States Code, alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected under the internal revenue laws;

"(b) The district court's shall have original jurisdiction, concurrent with the Court of Claims, if:

"(1) Any other civil action or claim against the United States, not exceeding $10,000 in amount, founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort; and for the refund of taxes or penalties imposed by subtitle E of title 26, United States Code, alleged to have been wrongfully or illegally assessed or collected, regardless of amount.

"(2) Subject to the provisions of chapter 171 of this title, the district courts, together with the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands, shall have exclusive jurisdiction of civil actions on claims against the United States, for money damages, accruing on and after January 1, 1945, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

"(c) The jurisdiction conferred by this section includes jurisdiction of any setoff, counterclaim, or other claim or demand whatever on the part of the United States against any plaintiff commencing in action under this section.

"(d) The district courts shall not have jurisdiction under this section of any civil action or claim for a pension.

"(e) The district court shall have original jurisdiction of any civil action against the United States provided in section 7426 of the Internal Revenue Code of 1954."

SEC. 203. Section 1491, title 28, United States Code, is amended to read as follows:

"§ 1491. Claims against United States generally; actions involving Tennessee Valley Authority; actions involving recovery of any internal revenue tax or penalty

"The Court of Claims shall have jurisdiction to render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort.

"Nothing herein shall be construed to give the Court of Claims jurisdiction in suits against, or founded on actions of, the Tennessee Valley Authority, nor to amend or modify the provisions of the Tennessee Valley Authority Act of 1933, as amended, with respect to suits by or against the Authority; nor shall anything herein be construed to give the Court of Claims jurisdiction in any civil action against the United States for the recovery of any internal revenue tax or penalty under subsection (a) of section 1346 of this title."

SEC. 204. Section 2402, title 28, United States Code, is amended to read as follows:

"§ 2402. Jury trial in actions against United States

"Any action against the United States under section 1346 shall be tried by the United States Tax Court without a jury, except that any action against the United States brought in a district court under section 1346(b)(1) shall, at the request of either party to such action, be tried by the court with a jury."

SEC. 205. Section 6211(a) of the Internal Revenue Code of 1954 is amended to read as follows:

"SEC. 6211. DEFINITION OF A DEFICIENCY.

"(a) IN GENERAL.—For purposes of this title in the case of income, estate, gift, employment, and excise taxes imposed by subtitles A, B, C, and D, the term 'deficiency' means the amount by which the tax imposed by subtitle A, B, C, or D, exceeds the excess of—

"(1) The sum of—

"(A) The amount shown as the tax by the taxpayer upon his return, if a return was made by the taxpayer and an amount was shown as the tax by the taxpayer thereon, plus

"(B) The amounts previously assessed (or collected without assessment) as a deficiency, over—

"(2) The amount of rebates, as defined in section (b)(2), made."

SEC. 206. Section 6212 (a) and (c) of the Internal Revenue Code of 1954 are amended to read as follows:

"SEC. 6212. NOTICE OF DEFICIENCY.

"(a) IN GENERAL.—If the Secretary or his delegate determines that there is a deficiency in respect of any tax imposed by subtitle A, B, C, or D, he is authorized to send notice of such deficiency to the taxpayer by certified mail or registered mail.

"(c) FURTHER DEFICIENCY LETTERS RESTRICTED.—

"(1) GENERAL RULE.—If the Secretary or his delegate has mailed to the taxpayer a notice of deficiency as provided in subsection

(a), and the taxpayer files a petition with the United States Tax Court within the time prescribed in section 6213(a), the Secretary or his delegate shall have no right to determine any additional deficiency of income, employement or excise tax for the same taxable year, or gift tax for the same calendar year, or of estate tax in respect of the taxable estate of the same decedent, except in the case of fraud, and except as provided in section 6214(a) (relating to assertion of greater deficiencies before the United States Tax Court or a district court), in section 6213(b)(1) (relating to mathematical errors), or in section 6861(c) (relating to the making of jeopardy assessments)."

SEC. 207. Section 6213(a) is amended to read as follows:

"SEC. 6213. RESTRICTIONS APPLICABLE TO DEFICIENCIES; PETITION TO UNITED STATES TAX COURT.

"(a) TIME FOR FILING PETITION AND RESTRICTION ON ASSESSMENT.—Within 90 days, or 150 days if the notice is addressed to a person outside the States of the Union and the District of Columbia, after the notice of deficiency authorized in section 6212 is mailed (not counting Saturday, Sunday, or a legal holiday in the District of Columbia as the last day), the taxpayer may file a petition with the United States Tax Court for the redetermination of the deficiency. Except as otherwise provided in section 6861 no assessment of a deficiency in respect of any tax imposed by subtitle A, B, C, or D, and no levy or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor until the expiration of such 90-day or 150-day period, as the case may be, nor, if a petition has been filed with the United States Tax Court, until the decision of the United States Tax Court has become final. Notwithstanding the provisions of section 7421(a), the making of such assessment or the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court."

SEC. 208. Section 6214(c) of the Internal Revenue Code of 1954 is amended to read as follows:

"(c) FINAL DECISIONS OF UNITED STATES TAX COURT.—For purposes of this chapter and subtitle A, B, C, or D, the date on which a decision of the Tax Court becomes final shall be determined according to the provisions of section 7481."

SEC. 209. Section 6512(b) of the Internal Revenue Code of 1954 is amended to read as follows:

"(b) OVERPAYMENT DETERMINED BY TAX COURT.—

"(1) JURISDICTION TO DETERMINE.—If the United States Tax Court finds that there is no deficiency and further finds that the taxpayer has made an overpayment of income, employment, or exicse tax for the same taxable year, of gift tax for the same calendar year, or of estate tax in respect of the taxable estate of the same decedent, in respect of which the Secretary or his delegate determined the deficiency, or finds that there is a deficiency but that the taxpayer has made an overpayment of such tax, the United States Tax Court shall have jurisdiction to determine the amount of such overpayment, and such amount shall, when the decision of the United States Tax Court has become final, be credited or refunded to the taxpayer."

SEC. 210. Section 6871 of the Internal Revenue Code of 1954 is amended to read as follows:

"Sec. 6871. CLAIMS FOR CERTAIN TAXES IN BANKRUPTCY AND RECEIVERSHIP PROCEEDINGS.

"(a) IMMEDIATE ASSESSMENT.—Upon the adjudication of bankruptcy of any taxpayer in any liquidating proceeding, the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer in any other bankruptcy proceeding, or the appointment of a receiver for any taxpayer in any receivership proceeding before any court of the United States or of any State or territory or of the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided by law) determined by the Secretary or his delegate in respect of a tax imposed by subtitle A, B, C, or D upon such taxpayer shall, despite the restrictions imposed by section 6213(a) upon assessments, be immediately assessed if such deficiency has not therefore been assessed in accordance with law.

"(b) CLAIM FILED DESPITE PENDENCY OF TAX COURT PROCEEDINGS.—In the case of a tax imposed by subtitle A, B, C, or D, claims for the deficiency and such interest, additional amounts, and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the Tax Court; but no petition for any such redetermination shall be filed with the Tax Court after the adjudication of bankruptcy, the filing or (where approval is required by the Bankruptcy Act) the approval of a petition of, or the approval of a petition against, any taxpayer in any other bankruptcy proceeding, or the appointment of the receiver."

SEC. 211. Section 7422(e) is amended to read as follows:

"(e) COUNTERCLAIMS FOR DEFICIENCY.—If the Secretary or his delegate prior to the hearing of a suit brought by a taxpayer in the United States Tax Court for the recovery of any income, estate, gift, employment, or excise tax mails to the taxpayer a notice that a deficiency has been determined in respect to the tax which is the subject matter of taxpayer's suit, the United States may counterclaim in the taxpayer's suit for the amount of deficiency, including penalties and interest. The taxpayer shall have the burden of proof with respect to the issues raised by such counterclaim of the United States except as to the issue of whether the taxpayer has been guilty of fraud with intent to evade tax. This subsection shall not apply to a suit by a taxpayer which, prior to the date of enactment of this title, is commenced, instituted, or pending in a district court for the recovery of any income tax, estate tax, or gift tax (or any penalty relating to such taxes).

TITLE III—SMALL CLAIMS DIVISION

SEC. 301. The analysis of chapter 12, immediately preceding section 271, title 28, United States Code, is amended by adding before the item:

"271. United States Tax Court."

the new item:

"Subchapter I—In general."

SEC. 302. Title 28, United States Code, "Judiciary and Judicial Procedure," is amended by adding immediately following section 278 thereof the following new subchapter:

"SUBCHAPTER II.—SMALL CLAIMS DIVISION

"§ 279. Authorization; jurisdiction

"(a) AUTHORIZATION.—There is hereby established within the United States Tax Court, a Small Claims Division.

"(b) JURISDICTION.—

"(1) DEFICIENCIES.—Any taxpayer to whom is sent a notice of deficiency authorized in section 6212 in respect of any tax imposed by subtitle A or B may file a petition directed to the Small Claims Division for a redetermination of the deficiency if the amount of the deficiency placed in dispute by the petition (excluding interest and penalties) for each taxable year does not exceed $1,500 in the case of income or gift tax, or does not exceed $1,500 in the case of estate tax. The Small Claims Division shall not have jurisdiction to determine a deficiency or an overpayment (excluding interest and penalties) in excess of $1,500 of income or gift tax, for a single taxable year, or $1,500 of estate tax.

"(2) REFUNDS.—Any taxpayer who has filed with the Secretary or his delegate a claim for refund required under section 7422 of any tax imposed by subtitle A or B and whose claim has not been allowed in full may, within the period prescribed in this paragraph, file a petition with the Tax Court directed to the Small Claims Division for the determination of an overpayment of tax if the amount of such claim or of the part disallowed does not exceed $1,500 (excluding interest and penalties). The petition shall be filed within 90 days after whichever of the following first occurs—

"(A) six months from the date of filing the claim for refund with the Secretary or his delegate, or

"(B) the date of mailing by certified mail or registered mail by the Secretary or his delegate to the taxpayer of a notice of the disallowance of the part of the claim for which the petition was filed. The Small Claims Division shall have jurisdiction to determine the amount of any overpayment not in excess of $1,500 (excluding interest and penalties).

"§ 280. Commissioners of Small Claims Division

"(a) DUTIES.—Under the supervision of the United States Tax Court and the chief judge of the Small Claims Division, Commissioners, appointed under section 911, shall conduct all proceedings before the Small Claims Division, and shall perform such other duties as the United States Tax Court may from time to time direct.

"(b) ASSIGNMENT.—Each Commissioner shall, to the extent possible, be assigned by the chief judge of the Small Claims Division to conduct all proceedings in a geographical area. Each Commissioner shall maintain his principal office in such area.

"§ 281. Reports and decisions

"(a) REQUIREMENT.—A decision shall be rendered by the Commissioner immediately upon completion of the hearing or as soon thereafter as practical. A written notice of decision shall promptly thereafter be mailed to the taxpayer and the Secretary or his delegate.

"(b) INCLUSIONS OF FINDING OF FACT OR OPINIONS.—The Commissioner shall not be required to prepare findings of fact or to issue an opinion or memorandum opinion unless required by the United States Tax Court.

"(c) FINALITY OF DECISIONS.—Unless reviewed by the United States Tax Court under section 7480(b), such decision shall, when entered, be the decision of the United States Tax Court and there shall be no review of, or appeal from, any decision of the Small Claims Division.

"(d) PRECEDENT.—No decision under section 281 or section 282(b) shall be treated as precedent for any other case.

"§ 282. Removal and review

"(a) REMOVAL.—

"(1) SUBSTANTIAL QUESTION.—If a petition under section 279 raises a substantial question relating to the validity or meaning of a provision of this title or of the regulations thereunder, the Secretary or his delegate may file with the United States Tax Court at any time before answer is filed a motion for removal from the Small Claims Division without prejudice. The United States Tax Court shall have jurisdiction to grant or deny such motion, and there shall be no review of, or appeal from, such a grant or denial.

"(2) NEW MATTER.—If at any time the total amount (excluding interest and penalties) in dispute in a proceeding instituted before the Small Claims Division exceeds the jurisdictional limit prescribed in section 279, the jurisdiction of the Small Claims Division

shall cease, without prejudice, upon issuance of an order by the chief judge of the Small Claims Division.

"(3) EFFECT IN DEFICIENCY CASES.—In the case of a petition for redetermination of deficiency, upon the grant by the United States Tax Court of a motion for removal under paragraph (1) or the issuance of an order under paragraph (2) the petition shall be considered as having been filed with the United States Tax Court without direction to the Small Claims Division.

"(4) COSTS.—If after the granting of a motion under paragraph (1) further proceedings are carried on pursuant to paragraph (3) or if the taxpayer commences a suit or proceeding for recovery of tax based on the errors alleged in the petition, the United States shall be liable for all of the taxpayer's costs and expenses including a reasonable fee to any person or persons representing the taxpayer in such proceeding or suit.

"(5) ADDITIONAL RULES.—The United States Tax Court may prescribe rules of practice and procedure requiring additional pleadings in proceedings under paragraph (3) and may otherwise provide for such cases.

"(b) REVIEW.—

"(1) APPLICATION.—Within twenty days after the notice of decision authorized by section 281(a) is mailed by the Small Claims Division to the parties, either party may file an application for review of the decision with the United States Tax Court. The United States Tax Court shall have jurisdiction to review the decision of the Commissioner and upon such review shall affirm or, if the decision is not in accordance with law or if the findings of fact are clearly erroneous, modify or reverse the decisions, with or without remanding the case. The United States Tax Court shall not be required to include findings of fact, opinion, or memorandum opinion.

"(2) RECORD.—The review by the United States Tax Court shall be limited to a review of the record of the proceedings before the Small Claims Division including any findings of fact, opinion, or memorandum opinion required by the Tax Court under section 281(b). Neither oral arguments nor briefs shall be permitted, except as otherwise ordered by the United States Tax Court. Review shall be conducted in accordance with such rules of practice and procedure as the United States Tax Court may prescribe. The provisions of part II of this subchapter shall apply only to the extent provided in such rules.

"(3) FINALITY OF DECISION.—The decision of the United States Tax Court shall, when entered, be final, and such decision shall not be subject to further review or to appeal.

"(4) FEE.—The United States Tax Court shall impose a fee in the amount of $25 for the filing of an application for review.

SEC. 303. The analysis of chapter 12, immediately preceding section 271, title 28, United States Code, is amended by adding after the item:

"278. Publication of opinions."

the following new items:

"SUBCHAPTER II.—SMALL CLAIMS DIVISION

"Sec.
"279. Authorization; jurisdiction.
"280. Commissioners of Small Claims Division.
"281. Reports of decisions.
"282. Removal and review."

SEC. 304. Title 28, United States Code, section 275 is amended by adding at the end thereof the following new subsection:

"(c) The chief judge shall from time to time assign a judge of the United States Tax Court to act as chief judge of the Small Claims Division."

SEC. 305. Subsection (a) of section 6512 of the Internal Revenue Code of 1954 is amended to read as follows:

"(a) EFFECT OF PETITION TO TAX COURT.—

"(1) GENERAL RULE.—If—

"(A) the Secretary or his delegate has mailed to the taxpayer a notice of deficiency under section 6212(a) (relating to deficiencies of income, estate, and gift taxes) and if the taxpayer files a petition with the Tax Court within the same time prescribed in section 6213(a); or

"(B) the taxpayer files a petition for the determination of an overpayment of tax within the time prescribed in section 279(b)(2).

no credit or refund of income tax for the same taxable year, or gift tax for the same calendar year, or of estate tax in respect of the taxable estate of the same decedent in respect of which the petition was filed shall be allowed or made and no suit by the taxpayer for the recovery of any part of the tax shall be instituted in any court.

"(2) EXCEPTION.—Paragraph (1) shall not apply with respect to the following—

"(A) As to overpayments determined by a decision of the Tax Court which has become final; and

"(B) As to any amount collected in excess of an amount computed in accordance with the decision of the Tax Court which has become final; and

"(C) As to any amount collected after the period of limitation upon the making of levy or beginning a proceeding in court for collection has expired; but in any such claim for credit or refund or in any such suit for refund the decision of the Tax Court which has become final, as to whether such period has expired before the notice of deficiency was mailed, shall be conclusive; and

"(D) As to any case where the taxpayer filed a petition for the determination of an overpayment of tax and the Tax Court either granted a motion for removal under section 282(a)(1) or the jurisdiction of the Tax Court has ceased by reason of an order issued under section 282(a)(2)."

SEC. 306. Section 6532 of the Internal Revenue Code of 1954 is amended by adding to subsection (a) the following new paragraph:

"(5) The running of the period of limitations provided for in paragraph (1) shall be suspended during the period commencing with the filing of a petition under section 7476 and ending four months after the grant of a motion under section 7480(a)(1) or the issuance of an order under section 7480(a)(2)."

SEC. 307. This Act shall take effect on the thirtieth day after the date of enactment of this Act.

S. 1975

A bill to improve judicial machinery by amending title 28 of the United States Code, "Judiciary and Judicial Procedure", and amending title 26 of the Untied States Code, "Internal Revenue Code" to provide for exclusive jurisdiction of the United States district courts over civil tax refund suits and deficiency redeterminations, and for other purposes

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

SEC. 2. Title 28, United States Code, "Judiciary and Judicial Procedure", is amended as follows:

(a) Section 1340 is amended to read as follows:

"§ 1340. Internal revenue; customs duties

"(a) The district court shall have original jurisdiction of any civil action arising under any Act of Congress providing for internal revenue, or revenue from imports or tonnage except matters within the jurisdiction of the Customs Court.

"(b) The district courts shall have original jurisdiction of any civil action under section 6213(a) of title 26 of the United States Code against the United States for the redetermination of a deficiency in any tax imposed by subtitle A, B, C, or D of title 26 of the United States Code."

(b) Section 1346 is amended to read as follows:

"§ 1346. United States as defendant

"(a) The district courts shall have original jurisdiction of any civil action against the United States for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected under the internal revenue laws;

"(b) The district courts shall have original jurisdiction, concurrent with the Court of Claims, of:

"(1) any other civil action or claim against the United States, not exceeding $10,000 in amount, founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort;

"(2) Subject to the provisions of chapter 171 of this title, the district courts, together with the United States district court for the district of the Canal Zone and the district court of the Virgin Islands, shall have exclusive jurisdiction of civil actions on claims against the United States, for money damages, accruing on and after January 1, 1945, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place or omission occurred.

"(c) The jurisdiction conferred by this section includes jurisdiction of any setoff, counterclaim, or other claim or demand whatever on the part of the United States against any plaintiff commencing an action under this section.

"(d) The district courts shall not have jurisdiction under this section of any civil action or claim for a pension.

"(e) The district courts shall have original jurisdiction of any civil action against the United States provided in section 7426 of the Internal Revenue Code of 1954."

(c) Section 1402 is amended to read as follows:

"§ 1402. United States as defendant

"(a) Any civil action brought in a district court against the United States under subsection (b) of section 1340 of this title, or subsection (a) of section 1346 of this title, or subsection (a) of section 6213 of title 26, may be prosecuted only—

"(1) except as provided in paragraph (2) in the judicial district where the plaintiff resides; and

"(2) in the case of a civil action by a corporation under subsection (b) of section 1340, or subsection (a) of section 1346, or subsection (a) of section 6213 of title 26, in the judicial district in which is located the principal place of business or principal office or agency of the corporation; or if it has no principal place of business or principal office or agency in any judicial district (A) in the judicial district in which is located the office to which was made the return of the tax in respect to which the claim is made, or, (B) if no return was made, in the judicial district in which lies the District of Columbia. Notwithstanding the foregoing provisions of this paragraph, the district court, for the convenience of the parties and witnesses, in the interest of justice, may transfer any such action to any other district or division.

"(b) Any civil action on a tort claim against the United States under subsection

(b)(2) of section 1346 of this title may be prosecuted only in the judicial district where the plaintiff resides or wherein the act or omission complained of occurred.

"(c) Any civil action against the United States under subsection (e) of section 1346 of this title may be prosecuted only in the judicial district where the property is situated at the time of levy, or if no levy is made, in the judicial district in which the event occurred which gave rise to the cause of action."

(d) Section 1491 is amended to read as follows:

"§ 1491. Claims against United States generally; actions involving Tennessee Valley Authority; actions involving recovery of any internal-revenue tax or penalty.

"The Court of Claims shall have jurisdiction to render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort.

"Nothing herein shall be construed to give the Court of Claims jurisdiction in suits against, or founded on actions of, the Tennessee Valley Authority, nor to amend or modify the provisions of the Tennessee Valley Authority Act of 1933, as amended, with respect to suits by or against the Authority; nor shall anything herein be construed to give the Court of Claims jurisdiction in any civil action against the United States for the recovery of any internal-revenue tax or penalty under subsection (a) of section 1346 of this title."

(e) Section 2402 is amended to read as follows:

"§ 2402. Jury trial in actions against the United States

Any action against the United States under section 1346 shall be tried by the court without a jury, except that any action against the United States brought in a district court under section 1346(a) shall, at the request of either party to such action, be tried by the court with a jury."

SEC. 3. Title 26, United States Code, "Internal Revenue Code", is amended to read as follows:

(a) Section 6211 is amended to read as follows:

"SEC. 6211. DEFINITION OF A DEFICIENCY.

"(a) IN GENERAL.—For purposes of this title in the case of income, estate, gift, employment, and excise taxes imposed by subtitles A, B, C, and D, the term 'deficiency' means the amount by which the tax imposed by subtitles A, B, C, or D, exceeds the excess of—

"(1) The sum of

"(A) The amount shown as the tax by the taxpayer upon his return, if a return was made by the taxpayer and an amount was shown as the tax by the taxpayer thereon, plus

"(B) The amounts previously assessed (or collected without assessment) as a deficiency, over—

"(2) The amount of rebates, as defined in section (b)(2), made.

"(b) RULES FOR APPLICATION OF SUBSECTION (a).—For purposes of this section—

"(1) The tax imposed by subtitle (A) and the tax shown on the return shall both be determined without regard to payments on account of estimated tax, without regard to the credit under section 31, and without regard to so much of the credit under section 32 as exceeds 2 percent of the interest on obligations described in section 1451.

"(2) The term 'rebate' means so much of an abatement, credit, refund, or other repayment, as was made on the ground that the tax imposed by subtitles (A) or (B) was less than the excess of the amount specified in subsection (a)(1) over the rebates previously made.

"(3) The computation by the Secretary or his delegate, pursuant to section 6014, of the tax imposed by chapter 1 shall be considered as having been made by the taxpayer and the tax so computed considered as shown by the taxpayer upon his return.

"(4) The tax imposed by subtitle A and the tax shown on the return shall both be determined without regard to the credit under section 39, unless, without regard to such credit, the tax imposed by subtitle A exceeds the excess of the amount specified in subsection (a)(1) over the amount specified in subsection (a)(2)."

(b) Section 6212 is amended to read as follows:

"SEC. 6212. NOTICE OF DEFICIENCY.

"(a) IN GENERAL.—If the Secretary or his delegate determines that there is a deficiency in respect of any tax imposed by subtitles A, B, C, or D, he is authorized to send notice of such deficiency to the taxpayer by certified mail or registered mail.

"(b) ADDRESS FOR NOTICE OF DEFICIENCY.—

"(1) INCOME AND GIFT TAXES.—In the absence of notice to the Secretary or his delegate under section 6903 of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by subtitle A or chapter 12 if mailed to the taxpayer at his last known address, shall be sufficient for purposes of subtitle A, chapter 12, and this chapter even if such taxpayer is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

"(2) JOINT INCOME TAX RETURN.—In the case of a joint income tax return filed by husband and wife, such notice of deficiency may be a single joint notice, except that if the Secretary or his delegate has been notified by either spouse that separate residences have been established, then, in lieu of the single notice, a duplicate original of the joint notice shall be sent by certified mail or registered mail to each spouse at his last known address.

"(3) ESTATE TAX.—In the absence of notice to the Secretary or his delegate under section 6903 of the existence of a fiduciary relationship, notice of a deficiency in respect of a tax imposed by chapter 11, if addressed in the name of the decedent or other person subject to liability and mailed to his last known address, shall be sufficient for purposes of chapter 11 and of this chapter.

"(c) FURTHER DEFICIENCY LETTERS RESTRICTED.—

"(1) GENERAL RULE.—If the Secretary or his delegate has mailed to the taxpayer a notice of deficiency as provided in subsection (a), and the taxpayer files a complaint with a proper district court within the time prescribed in section 6213(a), the Secretary or his delegate shall have no right to determine any additional deficiency of income, employment or excise tax for the same taxable year, of gift tax for the same calendar year, or of estate tax in respect of the taxable estate of the same decedent, except in the case of fraud, and except as provided in section 6214 (a) (relating to assertion of greater deficiencies before a district court), in section 6213(b)(1) (relating to mathematical errors), or in section 6861(c) (relating to the making of jeopardy assessments).

"(2) CROSS REFERENCES.—

"For assessment as a deficiency notwithstanding the prohibition of further deficiency letters, in the case of—

"(A) Deficiency attributable to change of election with respect to the standard deduction where taxpayer and his spouse made separate returns, see section 144(b).

"(B) Deficiency attributable to gain on involuntary conversion, see section 1033(a)(3)(C) and (D).

"(C) Deficiency attributable to sale or exchange of personal residence, see section 1034(j).

"(D) Deficiency attributable to war loss recoveries where prior benefit rule is elected, see section 1335."

(c) Section 6213 is amended to read as follows:

"SEC. 6213. RESTRICTIONS APPLICABLE TO DEFICIENCIES; COMPLAINT WITH DISTRICT COURT.

"(a) TIME FOR FILING COMPLAINT AND RESTRICTION ON ASSESSMENT.—Within 90 days, or 150 days if the notice is addressed to a person outside the States of the Union and the District of Columbia, after the notice of a deficiency authorized in section 6212 is mailed (not counting Saturday, Sunday, or a legal holiday in the District of Columbia as the last day), the taxpayer may file a complaint against the United States with the proper United States district court under section 1402(a) of title 28, for a redetermination of the deficiency. Except as otherwise provided in section 6861 no assessment of a deficiency in respect of any tax imposed by subtitle A, B, C, or D and no levy or proceeding in court for its collection shall be made, begun, or prosecuted until such notice has been mailed to the taxpayer, nor until the expiration of such 90-day or 150-day period, as the case may be, nor, if a complaint has been filed with the proper district court, until the decision of the district court has become final. Notwithstanding the provisions of section 7421(a), the making of such assessment or the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

"(b) EXCEPTIONS TO RESTRICTIONS ON ASSESSMENT.—

"(1) MATHEMATICAL ERRORS.—If the taxpayer is notified that, on account of a mathematic error appearing upon the return, an amount of tax in excess of that shown upon the return is due, and that assessment of the tax has been or will be made on the basis of what would have been the correct amount of the tax but for the mathematical error, such notice shall not be considered as a notice of deficiency for the purposes of subsection (a) (prohibiting assessment and collection until notice of the deficiency has been mailed), or of section 6212(c)(1) (restricting further deficiency letters), or section 6512(a) (prohibiting credits or refunds after complaint with the proper district court) and the taxpayer shall have no right to file a complaint with a proper district court based on such notice, nor shall such assessment or collection be prohibited by the provisions of subsection (a) of this section.

"(2) ASSESSMENTS ARISING OUT OF TENTATIVE CARRYBACK ADJUSTMENTS.—If the Secretary or his delegate determines that the amount applied, credited, or refunded under section 6411 is in excess of the over-assessment attributable to the carryback with respect to which such amount was applied, credited, or refunded, he may assess the amount of the excess as a deficiency as if it were due to a mathematical error appearing on the return.

"(3) ASSESSMENT OF AMOUNT PAID.—Any amount paid as a tax or in respect of a tax may be assessed upon the receipt of such payment notwithstanding the provisions of subsection (a). In any case where such amount is paid after the mailing of a notice of deficiency under section 6212, such payment shall not deprive a proper district court of jurisdiction over such deficiency determined under section 6211 without regard to such assessment.

"(c) FAILURE TO FILE COMPLAINT.—If the taxpayer does not file a complaint with the proper district court within the time prescribed in subsection (a), the deficiency, notice of which has been mailed to the taxpayer, shall be assessed, and shall be paid upon notice and demand from the Secretary or his delegate."

(d) Section 6214 is amended to read as follows:

"SEC. 6214. DETERMINATIONS BY DISTRICT COURT.

"(a) JURISDICTION AS TO INCREASE OF DEFICIENCY, ADDITIONAL AMOUNTS, OR ADDITIONS TO THE TAX.—The United States district courts shall have jurisdiction to redetermine the correct amount of the deficiency even if the amount so redetermined is greater than the amount of the deficiency, notice of which has been mailed to the taxpayer, and to determine whether any additional amount, or addition to the tax should be assessed, if claim therefor is asserted by the Secretary or his delegate at or before the hearing or a rehearing.

"(b) JURISDICTION OVER OTHER YEARS.—The district court in redetermining a deficiency of income tax for any taxable year or of gift tax for any calendar year shall consider such facts with relation to the taxes for other years as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for any other year has been overpaid or underpaid.

"(c) FINAL DECISIONS OF DISTRICT COURT.—For purposes of this chapter and subtitle A, B, C, or D, the date on which a decision of the district court becomes final shall be determined according to the provisions of section 7481 or section 7490."

(e) Section 6215 is amended to read as follows:

"SEC. 6215. ASSESSMENT OF DEFICIENCY FOUND BY DISTRICT COURT.

"(a) GENERAL RULE.—If the taxpayer files a complaint with a proper United States district court, the entire amount redetermined as the deficiency by the decision of the district court which has become final shall be assessed and shall be paid upon notice and demand from the Secretary or his delegate. No part of the amount determined as a deficiency by the Secretary or his delegate but disallowed as such by the decision of the district court which has become final shall be assessed or be collected by levy or by proceeding in court with or without assessment.

"(b) CROSS REFERENCES.—

"(1) For assessment or collection of the amount of the deficiency determined by the district court pending appellate court review, see section 7485 or section 7492.

"(2) For dismissal of complaint by district court as affirmation of deficiency as determined by the Secretary or his delegate, see section 7459(d) or section 7489(b).

"(3) For decision of district court that tax is barred by limitation as its decision that there is no deficiency, see section 7459(e) or section 7489(c).

"(4) For assessment of damages awarded by district court for instituting proceedings merely for delay, see section 6673.

"(5) For treatment of certain deficiencies as having been paid, in connection with sale of surplus war-built vessels, see section 9(b)(8) of the Merchant Ship Sales Act of 1946 (60 Stat. 48; 50 U.S.C. App. 1742).

"(6)) For rules applicable to Tax Court proceedings, see generally subchapter C of chapter 76.

"(7) For proration of deficiency to installments, see section 6152(c).

"(8) For extension of time for paying amount determined as deficiency, see section 6161(b)."

(f) The titles of sections 6213, 6214, and 6215 in the table of sections for subchapter B of chapter 63 of subtitle F of the Internal Revenue Code of 1954 are amended to read as follows:

"Sec. 6213. Restrictions applicable to deficiencies; complaint with district court.

"Sec. 6214. Determinations by district court.

"Sec. 6215. Assessment of deficiency found by district court."

(g) Paragraph (1) of subsection (a) of section 6503 is amended to read as follows:

"(1) GENERAL RULE.—The running of the period of limitations provided in section 6501 or 6502 on the making of assessments or the collection by levy or a proceeding in court, in respect of any deficiency as defined in section 6211 (relating to income, estate, and gift taxes), shall (after the mailing of a notice under section 6212(a)) be suspended for the period during which the Secretary or his delegate is prohibited from making the assessment or from collecting by levy or a proceeding in court (and in any event, if a proceeding in respect of the deficiency is filed in a proper United States district court under section 6213(a), until the decision of the district court, becomes final), and for 60 days thereafter."

(h) Section 6512 of the Internal Revenue Code of 1954 is amended to read as follows:

"SEC. 6512. LIMITATIONS IN CASE OF COMPLAINT WITH DISTRICT COURT.

"(a) EFFECT OF COMPLAINT WITH DISTRICT COURT.—If the Secretary or his delegate has mailed to the taxpayer a notice of deficiency under section 6212(a) and if the taxpayer files a complaint with a proper United States district court for a redetermination of the deficiency within the time prescribed in section 6213(a), no credit or refund of income, employment, or excise tax for the same taxable year, or gift tax for the same calendar year, or of estate tax in respect of the taxable estate of the same decedent, in respect of which the Secretary or his delegate has determined the deficiency shall be allowed or made and no suit by the taxpayer for the recovery of any part of the tax shall be instituted in any court except—

"(1) As to overpayments determined by a decision of a district court which has become final; and

"(2) As to any amount collected in excess of an amount computed in accordance with the decision of a district court which has become final; and

"(3) As to any amount collected after the period of limitation upon the making of levy or beginning a proceeding in court for collection has expired; but in any such claim for credit or refund or in any such suit for refund the decision of the district court which has become final, as to whether such period has expired before the notice of deficiency was mailed, shall be conclusive.

"(b) OVERPAYMENT DETERMINED BY DISTRICT COURT.—

"(1) JURISDICTION TO DETERMINE.—If a district court finds that there is no deficiency and further finds that the taxpayer has made an over payment of income, employment, or excise tax for the same taxable year, of gift tax for the same calendar year, or of estate tax in respect of the taxable estate of the same decedent, in respect of which the Secretary or his delegate determined the deficiency, or finds that there is a deficiency but that the taxpayer has made an overpayment of such tax, the district court shall have jurisdiction to determine the amount of such overpayment, and such amount shall when the decision of the district court has become final, be credited or refunded to the taxpayer.

"(2) LIMIT ON AMOUNT OF CREDIT OR REFUND.—No such credit or refund shall be allowed or made of any portion of the tax unless the district court determines as part of its decision that such portion was paid—

"(A) after the mailing of the notice of deficiency, or

"(B) within the period which would be applicable under section 6511 (b)(2), (c), or (d), if on the date of the mailing of the notice of deficiency a claim had been filed (whether or not filed) stating the grounds upon which the district court finds that there is an overpayment."

(i) The title of section 6512 in the table of sections for subchapter B of chapter 66 of subtitle F of the Internal Revenue Code of 1954 is amended to read as follows:

"Sec. 6512. Limitations in case of complaint with district court."

(j) Section 6673 is amended to read as follows:

"SEC. 6673. DAMAGES ASSESSABLE FOR INSTITUTING PROCEEDINGS BEFORE A DISTRICT COURT MERELY FOR DELAY.

"Whenever it appears to a United States district court that proceedings before it under section 6213(a) have been instituted by the taxpayer merely for delay, damages in an amount not in excess of $500 shall be awarded to the United States by a district court in its decision. Damages so awarded shall be assessed at the same time as the deficiency and shall be paid upon notice and demand from the Secretary or his delegate and shall be collected as a part of the tax."

(k) The title of section 6673 in the table of sections for subchapter B of chapter 68 of subtitle F of the Internal Revenue Code of 1954 is amended to read as follows:

"Sec. 6673. Damages assessable for instituting proceedings before a district court merely for delay."

(l) The titles of sections 6861 and 6862 in the table of sections for part II of subchapter A of chapter 70 of subtitle F are amended to read as follows:

"Sec. 6861. Jeopardy assessments of taxes imposed by subtitle A, B, C, or D.

"Sec. 6862. Jeopardy assessments of taxes other than those imposed by subtitle A, B, C, or D.

"Sec. 6863. Stay of collection of jeopardy assessments.

"Sec. 6864. Termination of extended period for payment in case of carryback."

(m) The title of section 6861 and subsections (c), (d), (e), (f) and (g) are amended to read as follows:

"SEC 6861. JEOPARDY ASSESSMENT OF TAXES IMPOSED BY SUBTITLE A, B, C, OR D.

"(c) AMOUNT ASSESSABLE BEFORE DECISION OF DISTRICT COURT.—The jeopardy assessment may be made in respect of a deficiency greater or less than that notice of which has been mailed to the taxpayer, despite the provisions of section 6212(c) prohibiting the determination of additional deficiencies, and whether or not the taxpayer has theretofore filed a complaint with a United States district court under section 6213(a). The Secretary or his delegate may, at any time before the decision of the district court is rendered, abate such assessment, or any unpaid portion thereof, to the extent that he believes the assessment to be excessive in amount. The Secretary or his delegate shall notify the district court of the amount of such assessment or abatement, if the complaint is filed with a district court before the making of the assessment or is subsequently filed, and the district court shall have jurisdiction to redetermine the entire amount of the deficiency and of all amounts assessed at the same time in connection therewith.

"(d) AMOUNT ASSESSABLE AFTER DECISION OF DISTRICT COURT.—If the jeopardy assessment is made after the decision of the district court is rendered, such assessment may be made only in respect of the deficiency determined by the district court in its decision.

"(e) EXPIRATION OF RIGHTS TO ASSESS.—A jeopardy assessment may not be made after the decision of the district court has become final or after the taxpayer has filed an appeal from the decision of the district court.

"(f) COLLECTION OF UNPAID AMOUNTS.—When the complaint with a district court and when the amount which should have been assessed has been determined by a decision

of the district court which has become final, then any unpaid portion, the collection of which has been stayed by bond as provided in section 6863(b) shall be collected as part of the tax upon notice and demand from the Secretary or his delegate, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be credited or refunded to the taxpayer as provided in section 6402, without the filing of claim therefor. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the Secretary or his delegate.

"(g) ABATEMENT IF JEOPARDY DOES NOT EXIST.—The Secretary or his delegate may abate the jeopardy assessment if he finds that jeopardy does not exist. Such abatement may not be made after a decision of the district court in respect of the deficiency has been rendered or, if no complaint with a district court, after the expiration of the period for filing such petition. The period of limitation on the making of assessments and levy or a proceeding in court for collection, in respect of any deficiency, shall be determined as if the jeopardy assessment so abated had not been made, except that the running of such period shall in any event be suspended for the period from the date of such jeopardy assessment until the expiration of the tenth day after the day on which such jeopardy assessment is abated."

(n) Section 6862 is amended to read as follows:

"SEC. 6862. JEOPARDY ASSESSMENT OF TAXES OTHER THAN THOSE IMPOSED BY SUBTITLE A, B, C, OR D.

"(a) IMMEDIATE ASSESSMENT.—If the Secretary or his delegate, believes that the collection of any tax (other than the taxes imposed by subtitle A, B, C, or D) under * * *".

(o) Subsection (b) of section 6863 is amended to read as follows:

"(b) FUTURE CONDITIONS IN CASE OF CERTAIN TAXES.—In the case of taxes subject to the jurisdiction of a United States district court under section 6213(a)—

"(1) PRIOR TO COMPLAINT WITH DISTRICT COURT.—If the bond is given before the taxpayer has filed his complaint under section 6213(a), the bond shall contain a further condition that if a complaint is not filed within the period provided in such section, then the amount, the collection of which is stayed by the bond, will be paid on notice and demand at any time after the expiration of such period, together with interest thereon from the date of the jeopardy notice and demand to the date of notice and demand under this paragraph.

"(2) EFFECT OF DISTRICT COURT DECISION.—The bond shall be conditioned upon the payment of so much of such assessment (collection of which is stayed by the bond) as is not abated by a decision of the district court which has become final. If the district court determines that the amount assessed is greater than the amount which should have been assessed, then when the decision of the district court is rendered the bond shall, at the request of the taxpayer, be proportionately reduced.

"(3) STAY OF SALE OF SEIZED PROPERTY PENDING DISTRICT COURT DECISION.—

"(A) GENERAL RULE.—Where, notwithstanding the provisions of section 6213(a), a jeopardy assessment has been made under section 6861 the property seized for the collection of the tax shall not be sold—

"(i) if section 6861(b) is applicable, prior to the issuance of the notice of deficiency and the expiration of the time provided in section 6213 (a) for filing complaint with a district court, and

"(ii) if complaint with a district court (whether before or after the making of such jeopardy assessment under section 6861), prior to the expiration of the period during which the assessment of the deficiency would be prohibited if section 6861(a) were not applicable.

"(B) EXCEPTIONS.—Such property may be sold if—

"(i) the taxpayer consents to the sale,

"(ii) the Secretary or his delegate determines that the expense of conservation and maintenance will greatly reduce the net proceeds, or

"(iii) the property is of the type described in section 6336.

"(C) APPLICABILITY.—Subparagraph (A) and (B) shall be applicable only with respect to a jeopardy assessment made on or after January 1, 1955, and shall apply with respect to taxes imposed by this title and with respect to taxes imposed by the Internal Revenue Code of 1939."

(p) Section 6871 is amended to read as follows:

"SEC. 6871. CLAIMS FOR CERTAIN TAXES IN BANKRUPTCY AND RECEIVERSHIP PROCEEDINGS.

"(a) IMMEDIATE ASSESSMENT.—Upon the adjudication of bankruptcy of any taxpayer in any liquidating proceeding, the filing or (where approval is required by the Bankruptcy Act) the approval of a petition against, any taxpayer in any other bankruptcy proceeding, or the appointment of a receiver for any taxpayer in any receivership proceeding before any court of the United States or of * * * imposed by subtitle A, B, C, or D upon such taxpayer * * *

"(b) CLAIM FILED DESPITE PENDENCY OF DISTRICT COURT PROCEEDINGS.—In the case of a tax imposed by subtitle A, B, C, or D, claims for the deficiency * * * in pursuance of a complaint with a district court under section 6213(a); but no petition * * * with a district court under section 6213(a) after the adjudication * * *"

(q) Subsections (a) and (b) of section 6902 are amended to read as follows:

"(a) BURDEN OF PROOF.—In proceedings before a United States district court under section 6213(a) the burden shall be upon the defendant to show that a plaintiff is liable as a transferee of property of a taxpayer, but not to show that the taxpayer was liable for the tax.

(r) Subsection (e) of section 7422 is amended to read as follows:

"(e) COUNTERCLAIMS FOR DEFICIENCY.—If the Secretary or his delegate prior to the hearing of a suit brought by a taxpayer in a district court for the recovery of any income, estate, gift, employment, or excise tax mails to the taxpayer a notice that a deficiency has been determined in respect of the tax which is the subject matter of taxpayer's suit, the United States may counterclaim in the taxpayer's suit for the amount of deficiency, including penalties and interest. The taxpayer shall have the burden of proof with respect to the issues raised by such counterclaim of the United States except as to the issue of whether the taxpayer has been guilty of fraud with intent to evade tax. This subsection shall not apply to a suit by a taxpayer which, prior to the date of enactment of the title, is commenced, instituted, or pending in a district court or the Court of Claims for the recovery of any income tax, estate tax, or gift tax (or any penalty relating to such taxes)."

(s) Chapter 76 of subtitle F of the Internal Revenue Code of 1954 is amended by redesignating subchapter E as subchapter F, by redesignating sections 7491, 7492, and 7493 as sections 7496, 7497, and 7498, respectively, and by inserting after subchapter D a new subchapter E reading as follows:

"Subchapter E.—Redetermination Proceedings in District Courts

"Sec. 7488. Burden of proof in fraud and transferee cases.

"Sec. 7489. Decisions.

"Sec. 7490. Date when district court decision becomes final.

"Sec 7491. Courts of review.

"Sec. 7492. Bond to stay assessment and collection.

"Sec. 7493. Refund, credit, or abatement of amounts disallowed.

"Sec. 7494. Conflict with Tax Court jurisdiction.

"SEC. 7488. BURDEN OF PROOF IN FRAUD AND TRANSFEREE CASES.

"(a) FRAUD.—In any proceeding before a United States district court under section 6213(a) involving the issue whether the plaintiff has been guilty of fraud with intent to evade tax, the burden of proof in respect of such issue shall be upon the defendant.

"(b) CROSS REFERENCE.—

"For provisions relating to burden of proof as to transferee liability, see section 6902(a).

"SEC. 7489. DECISIONS.

"(a) DATE OF DECISIONS.—A decision of a United States district court in a proceeding under section 6213(a) (except a decision dismissing a proceeding for lack of jurisdiction) shall be held to be rendered upon the date that an order specifying the amount of the deficiency is entered in the records of the district court. If the district court dismisses a proceeding for reasons other than lack of jurisdiction and is unable from the record to determine the amount of the deficiency determined by the Secretary or his delegate, or if the district court dismisses a proceeding for lack of jurisdiction, an order to that effect shall be entered in the records of the district court, and the decision of the district court shall be held to be rendered upon the date of such entry.

"(b) EFFECT OF DECISION DISMISSING COMPLAINT.—If a complaint for a redetermination of a deficiency has been filed by the taxpayer, a decision of the district court dismissing the proceeding shall be considered as its decision that the deficiency is the amount determined by the Secretary or his delegate. An order specifying such amount shall be entered in the records of the district court unless the district court cannot determine such amount from the record in the proceeding, or unless the dismissal is for lack of jurisdiction.

"(c) EFFECT OF DECISION THAT TAX IS BARRED BY LIMITATION.—If the assessment or collection of any tax is barred by any statute of limitations, the decision of the district court to that effect shall be considered as its decision that there is no deficiency in respect of such tax.

"(d) PENALTY.—For penalty for taxpayer instituting proceedings before Tax Court or district court merely for delay, see section 6673.

"SEC. 7490. DATE WHEN DISTRICT COURT DECISION BECOMES FINAL.

"The decision of a United States district court in a proceeding under section 6213(a) shall become final for purposes of this title but not for purposes of section 1291 of title 28 of the United States Code (relating to appeals from final decisions of district courts)—

"(1) TIMELY NOTICE OF APPEAL NOT FILED.—Upon the expiration of the time allowed for filing a notice of appeal, if no such notice has been duly filed within such time; or

"(2) DECISION AFFIRMED OR APPEAL DISMISSED.—

"(A) PETITION FOR CERTIORARI NOT FILED ON TIME.—Upon the expiration of the time allowed for filing a petition for certiorari, if the decision of the district court has been affirmed or the appeal dismissed by the United States Court of Appeals and no petition for certiorari has been duly filed; or

"(B) PETITION FOR CERTIORARI DENIED.—Upon the denial of a petition for certiorari, if the decision of the district court has been

affirmed or the appeal dismissed by the United States Court of Appeals; or

"(C) AFTER MANDATE OF SUPREME COURT.—Upon the expiration of thirty days from the date of issuance of the mandate of the Supreme Court, if such Court directs that the decision of the district court be affirmed or the appeal dismissed.

"(3) DECISION MODIFIED OR REVERSED.—

"(A) UPON MANDATE OF SUPREME COURT.—If the Supreme Court directs that the decision of the district court be modified or reversed, the decision of the district court rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of 30 days from the time it was rendered, unless within such 30 days either the Secretary or his delegate, the United States, or the taxpayer has instituted proceedings to have such decision corrected to accord with the mandate, in which event the decision of the district court shall become final when so corrected.

"(B) UPON MANDATE OF THE COURT OF APPEALS.—If the decision of the district court is modified or reversed by the United States Court of Appeals, and if—

"(i) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

"(ii) the petition for certiorari has been denied, or

"(iii) the decision of the United States Court of Appeals has been affirmed by the Supreme Court, then the decision of the district court rendered in accordance with the mandate of the United States Court of Appeals shall become final on the expiration of 30 days from the time such decision of the district court was rendered, unless within such 30 days either the Secretary or his delegate, the United States, or the taxpayer has instituted proceedings to have such decision corrected so that it will accord with the mandate, in which event the decision of the district court shall become final when so corrected.

"(4) REHEARING.—If the Supreme Court orders a rehearing; or if the case is remanded by the United States Court of Appeals to the district court for a rehearing, and if—

"(A) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

"(B) the petition for certiorari has been denied, or

"(C) the decision of the United States Court of Appeals has been affirmed by the Supreme Court, then the decision of the district court rendered upon such rehearing shall become final in the same manner as though no prior decision of the district court has been rendered.

"(5) DEFINITION OF 'MANDATE'.—As used in this section, the term 'mandate', in case a mandate has been recalled prior to the expiration of thirty days from the date of issuance thereof, means the final mandate.

"SEC. 7491. COURTS OF APPEALS.

"(a) JURISDICTION.—The United States Court of Appeals and the Supreme Court of the United States shall have jurisdiction of appeals from decisions of United States district courts in proceedings under section 6213 (a) in the manner provided in title 28 of the United States Code.

"(b) POWER TO IMPOSE DAMAGES.—The United States Court of Appeals and the Supreme Court shall have power to impose damages in any case where the decision of the district court is affirmed and it appears that the appeal was filed merely for delay.

"SEC. 7492. BOND TO STAY ASSESSMENT AND COLLECTION.

"(a) UPON APPEAL.—Notwithstanding any provision of law imposing restrictions on the assessment and collection of deficiencies, the appeal under section 7491 shall not operate as a stay of assessment or collection of any portion of the amount of the deficiency determined by the United States district court unless an appeal in respect of such portion is duly filed by the taxpayer, and then only if the taxpayer—

"(1) on or before the time his notice of appeal is filed has filed with the district court a bond in a sum fixed by the district court not exceeding double the amount of the portion of the deficiency in respect of which the notice of appeal is filed, and with surety approved by the district court, conditioned upon the payment of the deficiency as finally determined, together with any interest, additional amounts, or additions to the tax provided for by law, or

"(2) has filed a jeopardy bond under the income or estate tax laws. If as a result of a waiver of the restrictions on the assessment and collection of a deficiency any part of the amount determined by the district court is paid after the filing of the appeal bond, such bond shall, at the request of the taxpayer, be proportionately reduced.

"(b) CROSS REFERENCES.—

"For deposit of United States bonds or notes in lieu of sureties, see section 15 of title 6, United States Code."

"SEC. 7493. REFUND, CREDIT, OR ABATEMENT OF AMOUNTS DISALLOWED.

"In cases where assessment or collection has not been stayed by the filing of a bond, then if the amount of the deficiency determined by a United States district court is disallowed in whole or in part by the court of review, the amount so disallowed shall be credited or refunded to the taxpayer, without the making of claim therefor, or, if collection has not been made, shall be abated."

(t) Subsections (a) and (d) of section 534 are amended to read as follows:

"(a) GENERAL RULE.—In any proceeding before a United States district court under section 6213(a) involving a notice of deficiency based in whole or in part on the allegation that all or any part of the earnings and profits have been permitted to accumulate beyond the reasonable needs of the business, the burden of proof with respect to such allegation shall—

"(1) if notification has not been sent in accordance with subsection (b), be on the Secretary or his delegate, or

"(2) if the taxpayer has submitted the statement described in subsection (c), be on the Secretary or his delegate with respect to the grounds set forth in such statement in accordance with the provisions of such subsection.

"(d) JEOPARDY ASSESSMENT.—If pursuant to section 6861(a) a jeopardy assessment is made before the mailing of the notice of deficiency referred to in subsection (a), for purposes of this section such notice of deficiency shall, to the extent that it informs the taxpayer that such deficiency includes the accumulated earnings tax imposed by section 531, constitute the notification described in subsection (b), and in that event the statement described in subsection (c) may be included in the taxpayer's complaint to a district court."

(u) Subchapters C and D of chapter 76 of the Internal Revenue Code are repealed.

(v) This Act shall take effect thirty days after its enactment.

S. 1976

A bill to improve judicial machinery by amending title 28 of the United States Code, section 93 of the Act of January 12, 1895, and the Internal Revenue Code of 1954, by establishing a United States Court of Tax Appeals, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United States Court of Tax Appeals Act of 1969".

SEC. 2 (a) Title 28, United States Code, "Judiciary and Judicial Procedure," is amended by adding immediately after section 216 thereof the following new chapter:

"CHAPTER 10.—UNITED STATES COURT OF TAX APPEALS

"§ 231. Appointment and number of judges

"The President shall appoint, by and with the advice and consent of the Senate, a chief judge and eight associate judges who shall constitute a court of record known as the United States Court of Tax Appeals. Such court is hereby declared to be a court established under article III of the Constitution of the United States.

"§ 232. Precedence of judges

"The chief judge of the United States Court of Tax Appeals shall have precedence and preside at any session of the court which he attends.

"The associate judges shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

"§ 233. Tenure and salary of judges

"Judges of the United States Court of Tax Appeals shall hold office during good behavior. Each shall receive a salary of $33,000 a year.

"§ 234. Divisions; assignment of judges; hearings; quorum

"(a) The chief judge may from time to time divide the United States Court of Tax Appeals into separate divisions, each consisting of three judges, assign the associate judges thereto, designate the chief thereof, and authorize the hearing and determination of cases and other matters by any such division. Such divisions shall sit at the times and places and hear the cases and controversies assigned as the chief judge directs.

"(b) Cases and controversies shall be heard and determined by a division of three judges, unless a hearing or rehearing before the court en banc is ordered by a majority of the judges of the court who are in regular active service. A court en banc shall consist of all judges in regular active service. A judge who has retired from regular active service shall also be competent to sit as a judge of the court en banc in the rehearing of a case or controversy if he sat in the court or division at the original hearing thereof.

"(c) A majority of the member of judges authorized to constitute a court or division thereof, as provided in paragraphs (a) and (b), shall constitute a quorum.

"§ 235. Principal seat and places of hearing

"The principal seat of the United States Court of Tax Appeals shall be in the District of Columbia, but the United States Court of Tax Appeals or any of its divisions may sit at any place within the United States.

"§ 236. Sessions

"Terms or sessions of the United States Court of Tax Appeals and of its divisions shall be held annually. The times and places of the sessions of the United States Court of Tax Appeals and of its divisions shall be fixed by the chief judge with a view to securing reasonable opportunity to taxpayers to appear before the United States Court of Tax Appeals or any of its divisions with as little inconvenience and expense to taxpayers as is practicable.

"§ 237. Publication of opinions

"The United States Court of Tax Appeals shall provide for the publication of its opinions at the Government Printing Office in such form and manner as may be best adapted for public information and use, and such authorized publication shall be competent evidence of the opinions of the United States Court of Tax Appeals therein con-

tained in all courts of the United States and of the several States without any further proof or authentication thereof. Such opinions shall be subjected to sale in the same manner and upon the same terms as other public documents."

(b) Title 28, United States Code, is amended by inserting in the analysis of part I, preceding chapter 1, after the item

"9. Court of Customs and Patent Appeals ---------- 211"

the following new item:

"10. Court of Tax Appeals---------- 231".

(c) Section 93 of the Act of January 12, 1895 (providing for the public printing, binding, and distribution of public documents) (chapter 23, 28 Stat. 623; 44 U.S.C. 117) is amended by inserting immediately before the words "or the Library" the following: "the United States Court of Tax Appeals," and by inserting immediately before the words "or the Librarian" the following: "chief judge of the United States Court of Tax Appeals.".

SEC. 3. Title 28, United States Code, section 292(d), is amended by striking out the words "Appeals or the Customs Court" and inserting in lieu thereof the following: "Appeals, the Customs Court, or the United States Court of Tax Appeals".

SEC. 4. Title 28, United States Code, section 293, is amended by adding at the end thereof the following new subsection:

"(e) The Chief Justice of the United States may designate and assign temporarily any judge of the United States Court of Tax Appeals to perform judicial duties in a court of appeals or in a district court in any circuit upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises."

SEC. 5. (a) Title 28, United States Code, section 331, is amended by inserting after "Appeals," in the first sentence thereof the following: "the chief judge of the United States Court of Tax Appeals".

(b) Title 28, United States Code, section 331, third undesignated paragraph, second sentence, is amended by striking out "or the chief judge of the Court of Customs and Patent Appeals" and inserting in lieu thereof the following: "the chief judge of the Court of Customs and Patent Appeals, or the chief judge of the United States Court of Tax Appeals".

SEC. 6. (a) Title 28, United States Code, section 372(a), is amended by striking from the third undesignated paragraph the words "or Customs Court," and inserting in lieu thereof "Customs Court, or United States Court of Tax Appeals".

(b) Title 28, United States Code, section 372(a), is amended by striking from the fifth undesignated paragraph thereof the words "or Customs Court" and inserting in lieu thereof "Customs Court, or United States Court of Tax Appeals".

(c) Title 28, United States Code, section 372(b), is amended by striking "or Customs Court" in both places where it appears in the first sentence thereof and inserting in lieu thereof in both places the words "Customs Court, or United States Court of Tax Appeals".

SEC. 7. (a) Title 28, United States Code, section 451, second undesignated paragraph is amended by inserting immediately after "the Customs Court" the following: ", the United States Court of Tax Appeals".

(b) Title 28, United States Code, section 451, fourth undesignated paragraph is amended by inserting immediately after "Customs Court" the following: ", the United States Court of Tax Appeals".

SEC. 8. Title 28, United States Code, section 456, second undesignated paragraph is amended by inserting immediately after "Patent Appeals," the following: "the United States Court of Tax Appeals,".

SEC. 9. (a) Title 28, United States Code, is amended by inserting immediately after section 526 the following new section:

"§ 528. Conduct of litigation before the United States Court of Tax Appeals

"Notwithstanding section 516 through 519 or section 547 of this title, in all proceedings before the United States Court of Tax Appeals in which a decision of the Tax Court of the United States is under review by appeal, the conduct of litigation is reserved to the chief counsel for the Internal Revenue Service or his delegate as representative for the Secretary of the Treasury or his delegate."

(b) The analysis of chapter 31, immediately preceding section 501, title 28, United States Code, is amended by adding at the end thereof the following new item:

"528. Conduct of litigation before the United States Court of Tax Appeals."

SEC. 10. Title 28, United States Code, section 569(a), is amended by striking the word "and" immediately before "of the Customs Court" and by inserting immediately after "New York," the following: "and of the United States Court of Tax Appeals holding sessions in his district,".

SEC. 11. Title 28, United States Code, section 610, is amended by striking "and the Customs Court" and inserting in lieu thereof "the Customs Court, and the United States Court of Tax Appeals".

SEC. 12. (a) Title 28, United States Code, is amended by adding immediately after section 713 the following new chapter:

"CHAPTER 48.—UNITED STATES COURT OF TAX APPEALS

"Sec.
"731. Clerks and employees.
"732. Law clerks and secretaries.
"733. Criers, bailiffs, and messengers.

"§ 731. Clerks and employees

"(a) The United States Court of Tax Appeals may appoint a clerk who shall be subject to removal by the court.

"(b) The clerk, with the approval of the court, may appoint necessary deputies, clerical assistants, and employees in such number as may be approved by the Director of the Administrative Office of the United States Courts. Such deputies, clerical assistants, and employees shall be subject to removal by the clerk with the approval of the court.

"(c) The clerk shall pay into the Treasury all fees, costs, and other moneys collected by him and make returns thereof to the Director of the Administrative Office of the United States Courts under regulations prescribed by him.

"§ 732. Law clerks and secretaries

"The judges of the United States Court of Tax Appeals may appoint necessary law clerks and secretaries.

"§ 733. Criers, bailiffs, and messengers

"(a) The Unied States Court of Tax Appeals may appoint a librarian and necessary library assistants who shall be subject to removal by the court.

"(b) The United States Court of Tax Appeals may appoint a crier and such messengers as may be necessary, all of whom shall be subject to removal by the court.

"The crier shall also perform the duties of bailiff and messenger.

"(c) The United State marshal of the district in which the United States Court of Tax Appeals or a division thereof is sitting or in which a judge is present in chambers, may, with the approval of the court, division, or judge, employ necessary bailiffs. Such bailiffs shall attend the court, preserve order, and perform such other necessary duties as the court, division, judges, or marshal may direct. They shall receive the same compensation as bailiffs employed for the district courts."

(b) The analysis of "Part III—Court Officers and Employees", immediately preceding chapter 41, title 28, United States Code, is amended by inserting after the item

"47. Courts of Appeals---------- 711"

the following new item:

"48. Court of Tax Appeals---------- 731".

SEC. 13. (a) Title 28, United States Code, is amended by adding immediately following section 1583 the following new chapter:

"CHAPTER 97.—UNITED STATES COURT OF TAX APPEALS

"Sec.
"1631. Powers generally.

"§ 1631. Powers generally

"(a) Notwithstanding sections 1291, 1292, and 1294 of this title, the United States Court of Tax Appeals shall have exclusive jurisdiction to review on appeal the decisions of the district courts of the United States, the Tax Court of the United States, and the Court of Claims in all Federal tax cases, except Federal criminal tax decisions, and except as provided in section 1254 of this title, in the same manner and to the same extent as decisions of the district courts are reviewed by the courts of appeals in civil actions; and the judgment of such court shall be final, except that it shall be subject to review by the Supreme Court upon certiorari, in the manner provided in section 1254 of this title.

"(b) Upon such review, such court shall have power to affirm or, if the decision of the district court is not in accordance with law, to modify or to reverse the decision, with or without remanding the case for a rehearing, as justice may require.

"(c) Rules for review of decisions of the district courts shall be the Federal Rules of Appellate Procedure as far as practicable.

"(d) The Court of Tax Appeals and the Supreme Court shall have power to impose damages in any case where the decision of the district court is affirmed and it appears that the petition was filed merely for delay."

(b) The analysis of part IV—Jurisdiction and Venue, immediately preceding chapter 81, title 28, United States Code, is amended by adding at the end thereof the following new item:

"97. Court of Tax Appeals---------- 1631".

SEC. 14. Title 28, United States Code, section 2072, is amended by striking out "courts of appeals" and inserting in lieu thereof the following: "United States Court of Tax Appeals".

SEC. 15. Title 28, United States Code, section 2107, second undesignated paragraph is amended to read as follows:

"In any such action, suit, or proceeding in which the United States or an officer or agency thereof is a party, the time as to all parties shall be sixty days from such entry; except that the decision of the Tax Court may be reviewed by the United States Court of Tax Appeals if an appeal for such review is filed by either the Secretary of the Treasury (or his delegate) or the taxpayer within three months after the decision is rendered. If, however, an appeal is so filed by one party to the proceeding, an appeal from the decision of the Tax Court may be filed by any other party to the proceeding within four months after such decision is rendered."

SEC. 16. Title 26, United States Code, section 7481, is amended by inserting "tax" before "Appeals" on each and every occasion where "United States Court of Appeals" appears.

SEC. 17. (a) Title 26, United States Code, section 7482(a), is amended to read as follows:

"§ 7842. Court of review

"(a) Jurisdiction.

"The United States Court of Tax Appeals shall have exclusive jurisdiction to review on appeal the tax decisions of the Tax Court, except as provided in section 1254 of title 28 of the United States Code, in the same manner and to the same extent as decisions of the district courts are reviewed by the courts of appeals in civil actions; and the judgment of any such court shall be final, except that it shall be subject to review by the Supreme Court upon certiorari, in the manner pro-

vided in section 1254 of title 28 of the United States Code."

(b) Title 26, United States Code, section 7482(b) is repealed.

(c) Title 26, United States Code, section 7482(c)(1), is amended by striking out "such courts" and inserting in lieu thereof the following: "the United States Court of Tax Appeals".

(d) Title 26, United States Code, section 7482(c)(4), is amended by inserting "Tax" before "Appeals".

SEC. 18. Title 26, United States Code, section 7483, is amended by striking out "a United States Court of Appeals" and inserting in lieu thereof the following: "the United States Court of Tax Appeals".

SEC. 19. This Act shall take effect thirty days after its enactment.

S. 1977

A bill to improve the judicial machinery by amending title 28, United States Code, to establish a revised procedure for litigating tax disputes, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tax Litigation Act".

SEC. 2. Section 1340 of title 28, United States Code, is amended—

(1) by inserting immediately before the text thereof the subsection designation "(b)":

(2) by inserting immediately before the word "civil" in subsection (b), as designated by this section, the word "other"; and

(3) by inserting immediately before the text of subsection (b), as designated by this section, the following new subsection:

"(a) The district courts shall have original jurisdiction, concurrent with the Tax Court of the United States, in any civil action for a tax credit or refund of overpayment or for a redetermination of tax deficiencies.".

SEC. 3. Section 1346 of title 28, United States Code, is amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively, and

(2) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) The district courts shall have original jurisdiction, concurrent with the Tax Court of the United States, in any civil action against the United States for a tax credit or refund of overpayment or for a redetermination of tax deficiencies.

"(b) The district courts shall have original jurisdiction, concurrent with the Court of Claims, of any other civil action or claim against the United States, not exceeding $10,000 in amount, founded upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort.".

SEC. 4. Section 7442 of the Internal Revenue Code of 1954 is amended by inserting after "jurisdiction" a comma and the phrase "concurrent with the district courts (as defined in section 451 of title 28, United States Code),".

SEC. 5. (a) Subsection (a) of section 7482 of the Internal Revenue Code of 1954 is amended to read as follows:

"(a) JURISDICTION.—

"(1) COURT OF CLAIMS.—The Court of Claims shall have exclusive jurisdiction to review the decisions of the Tax Court in any civil action for a tax credit or refund of overpayment or for a redetermination of tax deficiencies, except as provided in section 1255 of title 28 of the United States Code, in the same manner and to the same extent as decisions of the district courts in civil actions tried without a jury are reviewed by the United States Courts of Appeals; and the judgment of such court shall be final, except that it shall be subject to review by the Supreme Court of the United States upon certiorari, in the manner provided in section 1255 of title 28 of the United States Code.

"(2) COURTS OF APPEALS.—The United States Courts of Appeals shall have exclusive jurisdiction to review all other decisions of the Tax Court, except as provided in section 1254 of title 28 of the United States Code, in the same manner and to the same extent as decisions of the district courts in civil actions tried without a jury; and the judgment of any such court shall be final, except that it shall be subject to review by the Supreme Court of the United States upon certiorari, in the manner provided in section 1254 of title 28 of the United States Code.".

(b) Subsection (b) of such section is amended—

(1) by striking out "(1) IN GENERAL" in the paragraph heading and inserting in lieu thereof "(1) United States Courts of Appeals";

(2) by striking out "such decisions may be reviewed by" in the introductory matter preceding clause (A) of paragraph (1) and inserting in lieu thereof "the court of appeals which may review decisions under subsection (a)(2) is"; and

(3) by striking out "such decisions" in paragraph (2) and inserting in lieu thereof "decisions reviewed under subsection (a)(2)".

(c) Subsection (c) of such section is amended—

(1) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) TO MAKE RULES.—Rules for review of decisions of the Tax Court in civil actions for a tax credit or refund of overpayment or for a redetermination of tax deficiencies shall be those prescribed by the Court of Claims. Rules for the review of other decisions of the Tax Court by the courts of appeals shall be the Federal Rules of Appellate Procedure."; and

(2) by inserting immediately after "United States Court of Appeals" in paragraph (4) thereof a comma and "the Court of Claims,".

SEC. 6. Section 1491 of title 28, United States Code, is amended—

(1) by striking out the word "The" at the beginning of the first full paragraph and inserting in lieu thereof the following: "(a) Except as otherwise provided under subsection (b), the"; and

(2) by adding at the end thereof the following new subsections:

"(b) The Court of Claims shall not have original jurisdiction in any civil action against the United States for a tax credit or refund of overpayment or for a redetermination of tax deficiencies.

"(c) Except as provided in section 1255, the Court of Claims shall have exclusive jurisdiction of appeals from all final decisions of the Tax Court of the United States and of the district courts of the United States, including the district courts for the Canal Zone, Guam, Puerto Rico, and the Virgin Islands, in any civil action for a tax credit or refund of overpayment or for redetermination of tax deficiencies.

"(d) The Court of Claims shall have exclusive jurisdiction of appeals from interlocutory decisions of the district courts of the United States, including the district courts for the Canal Zone, Guam, Puerto Rico, and the Virgin Islands, in any civil action for a tax credit or refund or for a redetermination of tax deficiencies.".

"(e) When a judge of the district court or of the Tax Court, in making in any civil action for a tax credit or refund of overpayment or for redetermination of tax deficiencies, an order not otherwise appealable under this section, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, he shall so state in writing in such order. The Court of Claims may thereupon, in its discretion, permit an appeal to be taken from such order, if application is made to it within ten days after the entry of the order: *Provided, however,* That application for an appeal hereunder shall not stay proceedings in the district court unless the district judge or the Court of Claims or a judge thereof shall so order.".

SEC. 7. (a) Section 1291 of title 28, United States Code, is amended by striking out the word "The" and inserting in lieu thereof the following: "Except for final decisions by district courts or the Tax Court of the United States in any civil action for a tax credit or refund of overpayment or for a redetermination of tax deficiencies, the".

(b) Section 1292 of such title is amended by striking out "(a) The" and inserting in lieu thereof the following:

"(a) Except for appeals from interlocutory decisions of the district courts or the Tax Court of the United States in any civil action for a tax credit or refund of overpayment or for a redetermination of tax deficiencies, the".

SEC. 8. Section 2402, title 28, United States Code, is amended by striking out "section 1346(a)(1)" and inserting in lieu thereof "section 1346(a)".

SEC. 9. Section 7453 of the Internal Revenue Code of 1954 is amended—

(1) by striking out the word "The" and by inserting in lieu thereof the following:

"(b) OTHER.—All other"; and

(2) by inserting before subsection (b), as designated by this section, the following new subsection:

"(a) TAX MATTERS.—The proceeds of the Tax Court in any civil action for a tax credit or refund of overpayment or for a redetermination of tax deficiencies shall be conducted in accordance with such rules of practice and procedure as the Tax Court may prescribe. Such rules shall conform as nearly as practicable with the rules of civil procedure for the district courts of the United States.".

SEC. 10. (a) Subsection (c) of section 7422 of the Internal Revenue Code of 1954 is amended by inserting immediately after the phrase "Tax Court" each time it appears the words "or district court".

(b) Subsection (e) of such section is amended to read as follows:

"(e) STAY OF PROCEEDINGS.—If the Secretary or his delegate prior to the hearings of a suit brought by a taxpayer in a district court or the Tax Court for the recovery of any income tax, estate tax, or gift tax (or any penalty relating to such taxes) mails to the taxpayer a notice that a deficiency has been determined in respect of the tax which is the subject matter of the taxpayer's suit, the proceedings in the taxpayer's suit shall be stayed during the period of time in which the taxpayer may file a petition, with the same court in which he has instituted his suit for a tax credit or refund of overpayment, for a redetermination of the asserted deficiency, and for 60 days thereafter. If the taxpayer files such a petition for a redetermination of the asserted deficiency, the United States may counterclaim in the taxpayer's suit, or intervene in the event of a suit as described in subsection (c) (relating to suits agains officers or employees of the United States), within the period of the stay of proceedings notwithstanding that the time for such pleading may have otherwise expired. The taxpayer shall have the burden of proof with respect to the issues raised by such counterclaim or intervention of the United States except as to the issue of whether the taxpayer has been guilty of fraud with intent to evade tax.".

(c) Subsection (e) of such section, as originally enacted or amended by this Act, shall not apply to a suit by a taxpayer which, prior to the date of enactment of the Internal Revenue Code of 1954, is commenced, instituted, or pending in a district court or the Court of Claims for the recovery of any in-

come tax, estate tax, or gift tax (or any penalty relating to such taxes). Subsection (e) of such section, as it existed on the day prior to the date of enactment of this Act, shall apply to a suit commenced, instituted, or pending in the Tax Court, a district court, or the Court of Claims during the period from the date of enactment of the Internal Revenue Code of 1954 through the day prior to the date of enactment of this Act.

SEC. 11. Subsection (c)(1) of section 6212, sections 6213 and 6214, subsections (a) and (b)(1) and (b)(4) of section 6215, and subsection (a)(1) of section 6503 of the Internal Revenue Code of 1954 are amended by inserting immediately after the phrase "Tax Court" each time it appears the words "or district court".

SEC. 12. The section heading and the first sentence of section 6673 of the Internal Revenue Code of 1954 are amended to read as follows:

"SEC. 6673. DAMAGES ASSESSABLE FOR INSTITUTING PROCEEDINGS BEFORE THE TAX COURT OR DISTRICT COURT MERELY FOR DELAY.

"Whenever it appears to the Tax Court, or the district court in any civil action for a tax credit or refund of overpayment or for a redetermination of tax deficiencies, that proceedings before it have been instituted by the taxpayer merely for delay, damages in an amount not in excess of $500 shall be awarded to the United States by the court in its decision.".

SEC. 13. (a) The analysis of chapter 76 of the Internal Revenue Code of 1954, immediately preceding section 7401, is amended by striking out

"Subchapter D. Court review of Tax Court decisions."

and inserting in lieu thereof

"Subchapter D. Court review of tax decisions.".

(b) The analysis of subchapter D of such chapter, immediately preceding section 7481, is amended by striking out

"Subchapter D—Court review of Tax Court decisions"

and inserting in lieu thereof

"Subchapter D—Court review of tax decisions".

SEC. 14. (a) Paragraph (2)(A) of section 7481 of the Internal Revenue Code of 1954 is amended by inserting immediately after "United States Court of Appeals" the phrase "or the Court of Claims, as the case may be.".

(b) Paragraph (2)(B) of such section is amended by inserting immediately before the semicolon the following: "or the Court of Claims, as the case may be".

(c) Paragraph (3)(B) of such section is amended—

(1) by striking out "of the Court of Appeals" in the caption thereof;

(2) by inserting immediately after "United States Court of Appeals", in the introductory matter preceding clause (i), the phrase "or Court of Claims, as the case may be"; and

(3) by inserting immediately after the phrase "United States Court of Appeals" each time it appears in clause (iii) thereof the words "or the Court of Claims".

(d) Paragraph (4) of such section is amended by inserting immediately after the phrase "United States Court of Appeals" each time it appears the words "or the Court of Claims".

"SEC. 15. Section 7483 of the Internal Revenue Code of 1954 is amended by inserting immediately after "Court of Appeals" the phrase "or Court of Claims, as the case may be,".

SEC. 16. Section 7484 of the Internal Revenue Code of 1954 is amended by inserting immediately after "Tax Court" the phrase "or district court".

SEC. 17. Section 7485(a) of the Internal Revenue Code of 1954 is amended—

(1) by inserting immediately after "Tax Court" in the introductory matter preceding clause (1) the words "or district court"; and

(2) by striking out "Tax Court" each time it appears in clause (1) and the last sentence of such section and inserting in lieu thereof "court".

SEC. 18. Section 7486 of the Internal Revenue Code of 1954 is amended by inserting immediately after "Tax Court" the words "or district court".

SEC. 19. Section 171 of title 28, United States Code, is amended by striking out "six" and inserting in lieu thereof "eight".

SEC. 20. Section 175 of title 28, United States Code, is amended—

(1) by striking out the subsection designations "(a)", "(b)", "(c)," "(d)", "(e)", and "(f)" and inserting in lieu thereof "(2)", "(3)", "(4)", "(5)", "(6)", and "(7)", respectively;

(2) by inserting before paragraph (1), as redesignated by this section, the following new language:

"(a)(1) The provisions of this subsection shall apply to a proceeding before the Court of Claims except an appeal from the Tax Court of the United States or a district court arising out of a claim for a tax credit or refund of overpayment or for a redetermination of tax deficiencies."; and

(3) by adding at the end thereof the following new subsection:

"(b)(1) The provisions of this subsection shall apply to an appeal before the Court of Claims from the Tax Court of the United States or a district court arising out of a claim for a tax credit or refund of overpayment or for a redetermination of tax deficiencies.

"(2) The chief judge shall divide the court into panels of three judges, which shall sit at such times and places and hear such cases and controversies as the chief judge determines will afford a taxpayer a reasonable opportunity to appear with minimum expense. The court shall, however, sit en banc to hear or rehear a case whenever a majority of the judges so decide.

"(3) Two judges shall constitute a quorum of a panel; four judges shall constitute a quorum of a court en banc.

"(4) A majority of the judges who actually sit on the panel or court en banc must concur in any decision.".

SEC. 21. Section 1255 of title 28, United States Code, is amended—

(1) by inserting immediately before the text thereof the subsection designation "(a)";

(2) by inserting immediately after the word "Cases" in subsection (a), as designated by this section, the words "of original jurisdiction"; and

(3) by adding at the end thereof the following new subsection:

"(b) Cases in the Court of Claims on appeal may be reviewed by the Supreme Court in the same manner as provided for courts of appeals under section 1254 of this title.".

SEC. 22. Section 2107 of title 28, United States Code, is amended—

(1) by inserting after "appeals" in the section caption the words "and Court of Claims"; and

(2) by inserting after "court of appeals" in the first full paragraph the phrase "or the Court of Claims, as the case may be,".

SEC. 23. The provisions of this Act shall not be applicable to any proceeding commenced prior to the date of enactment of this Act.

S. 1978

A bill to amend title 28 of the United States Code, "Judiciary and Judicial Procedure", to provide for appeals from decisions of the Court of Claims, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Federal Tax Litigation Act.

SEC. 2. Title 28, United States Code, "Judiciary and Judicial Procedure", is amended as follows:

(a) Section 1255 is repealed.

(b) Section 1291 is amended to read as follows:

"§ 1291. Final decisions of district courts and Court of Claims

"The courts of appeals shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, and District Court of Guam, the District Court of the Virgin Islands, and the Court of Claims, except where direct review may be had in the Supreme Court."

(c) Section 1292(a)(4) is amended to read as follows:

"(4) Judgments of such district courts and the Court of Claims in civil actions for patent infringement which are final except for accounting."

(d) Section 1292(b) is amended to read as follows:

"(b) When a district judge or the Court of Claims, in making in a civil action an order not otherwise appealable under this section, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, the district judge or the Court of Claims shall so state in writing such order. The court of appeals may thereupon, in its discretion, permit an appeal to be taken from such order, if application is made to it within ten days after the entry of the order: *Provided, however,* That application for an appeal hereunder shall not stay proceedings in the district court or the Court of Claims unless the district judge, the Court of Claims, or the court of appeals or a judge thereof shall so order."

(e) Section 1294 is amended to read as follows:

"§ 1294. Circuits in which decisions reviewable

"Appeals from reviewable decisions of the district and territorial courts and the Court of Claims shall be taken to the courts of appeals as follows:

"(1) From a district court of the United States, to the court of appeals for the circuit embracing the district;

"(2) From the United States District Court for the District of the Canal Zone, to the Court of Appeals for the Fifth Circuit;

"(3) From the District Court of the Virgin Islands, to the Court of Appeals for the Third Circuit;

"(4) from the District Court of Guam, to the Court of Appeals for the Ninth Circuit;

"(5) from the Court of Claims, to the court of appeals for the circuit in which is located—

"(a) in the case of a plaintiff other than a corporation, the legal residence of the plaintiff,

"(b) in the case of a corporate plaintiff, the principal place of business of the corporation.

If for any reason neither subparagraph (a) nor (b) applies, then such decisions may be reviewed by the Court of Appeals for the District of Columbia. For purposes of this paragraph, the legal residence or principal place of business referred to herein shall be determined as of the time the petition was filed with the Court of Claims."

(f) Section 1504 is repealed.

(g) Chapter 91 is amended by inserting after section 1506 a new section 1507 reading as follows:

"§ 1507. Review of decisions

"Decisions of the Court of Claims may be

reviewed by a court of appeals as provided in sections 1291, 1292, and 1294 of this title."

(h) Section 2107 is amended to read as follows:

"§ 2107. Time for appeal to court of appeals

"Except as otherwise provided in this section, no appeal shall bring any judgment, order, or decree in an action, suit, or proceeding of a civil nature before a court of appeals for review unless notice of appeal is filed, within thirty days after the entry of such judgment, order, or decree.

"In any such action, suit, or proceeding in which the United States or an officer or agency thereof is a party, the time as to all parties shall be sixty days from such entry.

"In any action, suit, or proceeding in admiralty, the notice of appeal shall be filed within ninety days after the entry of the order, judgment, or decree appealed from, if it is a final decision, and within fifteen days after its entry if it is an interlocutory decree.

"The district court or the Court of Claims may extend the time for appeal not exceeding thirty days from the expiration of the original time herein prescribed, upon a showing of excusable neglect based on failure of a party to learn of the entry of the judgment, order, or decree.

"This section shall not apply to bankruptcy matters or other proceedings under title 11."

(i) Section 2110 is repealed.

(j) Section 2511 is amended to read as follows:

"§ 2511. Accounts of officers, agents, or contractors

"Notice of suit under section 1494 of this title shall be given to the Attorney General, to the Comptroller General, and to the head of the department requested to settle the account in question.

"The judgment of the Court of Claims in such suit, or of the court of appeals or the Supreme Court upon review, shall be conclusive upon the parties, and payment of the amount found due shall discharge the obligation.

"The transcript of such judgment, filed in the clerk's office of any district court, shall be entered upon the records, and shall be enforceable as other judgments."

(k) Section 2516(b) is amended to read as follows:

"(b) Interest on judgments against the United States affirmed by the courts of appeals or the Supreme Court after review on petition of the United States shall be paid at the rate of 4 per centum per annum from the date of the filing of the transcript of the judgment in the Treasury Department to the date of the mandate of affirmance. Such interest shall not be allowed for any period after the session or term of the court of appeals, or the term of the Supreme Court, at which the judgment was affirmed."

(l) This Act shall take effect thirty days after its enactment.

S. 1979

A bill to amend title 28 of the United States Code, "Judiciary and Judicial Procedure," to provide that the Court of Claims should no longer have jurisdiction over civil tax refund suits, and to provide that the Court of Claims shall have jurisdiction to review orders of the Renegotiation Board

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 28, United States Code, "Judiciary and Judicial Procedure," is amended to read as follows:

(a) Section 1346 is amended to read as follows:

"§ 1346. United States as defendant

"(a) The district courts shall have original jurisdiction of—

"(1) Any civil action against the United States for the recovery of any internal revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected under the internal revenue laws; and

"(2) any other civil action or claim against the United States, not exceeding $10,000 in amount, founded either upon the Constitution or any Act of Congress, or any regulation of an executive department, or upon any expressed or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort.

"(b) Subject to the provisions of chapter 171 of this title, the district courts, together with the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands, shall have exclusive jurisdiction of civil actions on claims against the United States, for money damages, accruing on and after January 1, 1945, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

"(c) The jurisdiction conferred by this section includes jurisdiction of any set-off, counterclaim, or other claim or demand whatever on the part of the United States against any plaintiff commencing an action under this section.

"(d) The district courts shall have jurisdiction under this section of any civil action or claim for a pension.

"(e) The district court shall have original jurisdiction of any civil action against the United States provided in section 7426 of the Internal Revenue Code of 1954."

(b) Section 1491 is amended to read as follows:

"§ 1491. Claims against United States generally; actions involving Tennessee Valley Authority; actions involving recovery of any internal-revenue tax or penalty

"The Court of Claims shall have jurisdiction to render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort.

"Nothing herein shall be construed to give the Court of Claims jurisdiction in suits against, or founded on actions of, the Tennessee Valley Authority, nor to amend or modify the provisions of the Tennessee Valley Authority Act of 1933, as amended, with respect to suits by or against the Authority; nor shall anything herein be construed to give the Court of Claims jurisdiction in any civil action against the United States for the recovery of any internal revenue tax or penalty under subsection (a) of section 1346 of this title."

SEC. 2. Title 28, United States Code, "Judiciary, and Judicial Procedure", is amended by adding section 1507, which shall read as follows:

"§ 1507. Renegotiation of contracts

"The Court of Claims shall have jurisdiction to review orders of the Renegotiation Board in the manner and to the extent provided in title 50, Appendix, United States Code, section 1218."

SEC. 3. Title 50, Appendix, United States Code, "War and National Defense", is amended to read as follows:

(a) Section 1215(a) is amended to read as follows:

"§ 1215. Renegotiation proceedings

"(a) PROCEEDINGS BEFORE BOARD.—Renegotiation proceedings shall be commenced by the mailing of notice to that effect, in such form as may be prescribed by regulation, by registered mail or by certified mail to the contractor or subcontractor. The Board shall endeavor to make an agreement with the contractor or subcontractor with respect to the elimination of excessive profits received or accrued, and with respect to such other matters relating thereto as the Board deems advisable. Any such agreement, if made, may, with the consent of the contractor or subcontractor, also include provisions with respect to the elimination of excessive profits likely to be received or accrued. If the Board does not make an agreement with respect to the elimination of excessive profits received or accrued, it shall issue and enter an order determining the amount, if any, of such excessive profits, and forthwith give notice thereof by registered mail or by certified mail to the contractor or subcontractor. In the absence of the filing of a petition with the Court of Claims under the provisions of any within the time limit prescribed in section 108 (sec. 1218 of this appendix), such order shall be final and conclusive and shall not be subject to review or redetermination by any court or other agency. The Board shall exercise its powers with respect to the aggregate of the amount received or accrued during the fiscal year (or such other period as may be fixed by mutual agreement) by a contractor or subcontractor under contracts with the departments and subcontracts, and not separately with respect to amount received or accrued under separate contracts with the departments or subcontracts, except the Board may exercise such powers separately with respect to amounts received or accrued by the contractor or subcontractor under any one or more separate contracts with the departments or subcontracts at the request of the contractor or subcontractor. By agreement with any contractor or subcontractor, and pursuant to regulations promulgated by it, the Board may in its discretion conduct renegotiation on a consolidated basis in order properly to reflect excessive profits of two or more related contractors or subcontractors. Renegotiation shall be conducted on a consolidated basis with a parent and its subsidiary corporations which constitute an affiliated group under section 141(d) of the Internal Revenue Code (sec. 141(d) of title 26) if all of the corporations included in such affiliated group request renegotiation on such basis and consent to such regulations as the Board shall prescribe with respect to (1) the determination and elimination of excessive profits of such affiliated group, and (2) the determination of the amount of the excessive profits of such affiliated group allocable, for the purposes of section 3806 of the Internal Revenue Code (sec. 3806 of title 26), to each corporation included in such affiliated group. Whenever the Board makes a determination with respect to the amount of excessive profits, and such determination is made by order, it shall, at the request of the contractor or subcontractor, as the case may be, prepare and furnish such contractor or subcontractor with a statement of such determination, of the facts used as a basis therefor, and of its reasons for such determination. Such statement shall not be used in the Court of Claims as proof of the facts or conclusions stated therein."

(b) Section 1215(b)(1) is amended to read as follows:

"(b) METHODS OF ELIMINATING EXCESS PROFITS.—

"(1) GENERAL PROCEDURES.—Upon the making of an agreement, or the entry of an order, under subsection (a) of this section by the Board, or the entry of an order under section 108 (section 1218 of this appendix) by the Court of Claims, determining excessive profits, the Board shall forthwith authorize and direct the Secretaries or any of them to eliminate such excessive profits—

"(A) by reductions in the amounts otherwise payable to the contractor under contracts with the departments, or by other revision of their terms;

"(B) by withholding from amounts other-

wise due to the contractor any amount of such excessive profits;

"(C) by directing any person having a contract with any agency of the Government, or any subcontractor thereunder, to withhold for the account of the United States from any amounts otherwise due from such person or such subcontractor to a contractor, or subcontractor, having excessive profits to be eliminated, and every such person or subcontractor receiving such direction shall withhold and pay over to the United States the amounts so required to be withheld;

"(D) by recovery from the contractor or subcontractor, or from any person or subcontractor directed under subparagraph (C) (of this subsection) to withhold for the account of the United States, through payment, repayment, credit, or suit any amount of such excessive profits realized by the contractor or subcontractor or directed under subparagraph (C) (of this subsection) to be withheld for the account of the United States; or

"(E) by any combination of these methods as is deemed desirable."

(c) Section 1215(b)(2) is amended to read as follows:

"(2) INTEREST.—Interest at the rate of 4 per centum per annum shall accrue and be paid on the amount of such excessive profits from the thirtieth day after the date of the order of the Board or from the date fixed for repayment by the agreement with the contractor or subcontractor to the date of repayment, and on amounts required to be withheld by any person or subcontractor for the account of the United States pursuant to paragraph (1)(C) (of this subsection), from the date of payment is demanded by the Secretaries or any of them to the date of payment. When the Court of Claims, under section 108 (section 1218 of this appendix), redetermines the amount of excessive profits received or accrued by a contractor or subcontractor, interest at the rate of 4 per centum per annum shall accrue and be paid by such contractor or subcontractor as follows:

"(A) When the amount of exessive profit determined by the Court of Claims is greater than the amount determined by the Board, interest shall accrue and be paid on the amount determined by the Board from the thirtieth day after the date of the order of the Board to the date of repayment and. in addition thereto, interest shall accrue and be paid on the additional amount determined by the Court of Claims from the date of its order determining such excessive profits to the date of repayment.

"(B) When the amount of excessive profits determined by the Court of Claims is equal to the amount determined by the Board, interest shall accrue and be paid on such amount from the thirtieth day after the date of the order of the Board to the date of repayment.

"(C) When the amount of excessive profits determined by the Court of Claims is less than the amount determined by the Board, interest shall accrue and be paid on such lesser amount from the thirtieth day after the date of the order of the Board to the date of repayment, except that no interest shall accrue or be payable on such lesser amount if such lesser amount is not in excess of an amount which the contractor or subcontractor tendered in payment prior to the issuance of the order of the Board."

(d) Section 1216(a)(6) is amended to read as follows:

"(6) any contract which the Board determines does not have a direct and immediate connection with the national defense. The Board shall prescribe regulations designating those classes and types of contracts which shall be exempt under this paragraph; and the Board shall, in accordance with regulations prescribed by it, exempt any individual contract not falling within any such class or type if it determines that such contract does not have a direct and immediate connection with the national defense. In designating those classes and types of contracts which shall be exempt and in exempting any individual contract under this paragraph, the Board shall consider as not having a direct or immediate connection with national defense any contract for the furnishing of materials or services to be used by the United States, a department or agency thereof, in the manufacture and sale of synthetic rubbers to a private person or to private persons which are to be used for nondefense purposes. If the use by such private person or persons shall be partly for defense and partly for nondefense purposes, the Board shall consider as not having a direct or immediate connection with national defense that portion of the contract which is determined not to have been used for national defense purposes. The method used in making such determination shall be subject to approval by the Board. Notwithstanding section 108 of this title (section 1218 of this Appendix), regulations prescribed by the Board under this paragraph, and any determination of the Board that a contract is or is not exempt under this paragraph, shall not be reviewed or redetermined by the Court of Claims or by any other court or agency; or"

(e) Section 1218 is amended to read as follows:

"§ 1218. Review by the Court of Claims

"Any contractor or subcontractor aggrieved by an order of the Board determining the amount of excessive profits received or accrued by such contractor or subcontractor may—

"(a) if the case was conducted initially by the Board itself within ninety days (not counting Sunday or a legal holiday in the District of Columbia as the last day) after the mailing under section 105(a) (section 1215(a) of this Appendix) of the notice of such order, or

"(b) if the case was not conducted initially by the Board itself within ninety days (not counting Sunday or a legal holiday in the District of Columbia as the last day) after the mailing under section 107(e) (section 1217(e) of this Appendix) of the notice of the decision of the Board not to review the case or the notice of the order of the Board determining the amount of excessive profits, file a petition with the Court of Claims for a redetermination thereof. Upon such filing, such court shall have exclusive jurisdiction, by order, to determine the amount, if any, of such excessive profits received or accrued by the contractor or subcontractor, and such determination shall not be reviewed or redetermined by any court or agency except as provided in section 108A (section 1218a of this Appendix). The court may determine as the amount of excessive profits an amount either less than, equal to, or greater than that determined by the Board. A proceeding before the Court of Claims to finally determine the amount, if any, of excessive profits shall not be treated as a proceeding to review the determination of the Board, but shall be treated as a proceeding de novo. In the case of any witness for the Board, the fees and mileage, and the expenses of taking any deposition shall be paid out of appropriations of the Board available for that purpose, and in the case of any other witnesses shall be paid, subject to rules prescribed by the court, by the party at whose instance the witness appears or the deposition is taken. The filing of a petition under this section shall operate to stay the execution of the order of the Board under subsection (b) of section 105 (section 1215(b) of this Appendix) only if within ten days after the filing of the petition the petitioner files with the Court of Claims a good and sufficient bond, approved by such court, in such amount as may be fixed by the court. Any amount collected by the United States under an order of the Board in excess of the amount found to be due under a determination of excessive profits by the Court of Claims shall be refunded to the contractor or subcontractor with interest thereon at the rate of 4 per centum per annum from the date of collection by the United States to the date of refund."

SEC. 4. Section 1219, title 50, United States Code, is hereby repealed.

SEC. 5. This Act shall take effect thirty days after its enactment.

S. 1980—INTRODUCTION OF THE CLASS ACTION JURISDICTION ACT

Mr. TYDINGS. Mr. President, today I introduce, for appropriate reference, a bill designed to make consumer rights meaningful by providing a judicial forum in which they can be effectively protected.

It is a commonplace observation that effective consumer remedies have not kept pace with the increasing recognition of consumer rights. Despite the intensified campaign in recent years against those who defraud and deceive consumers, despite movements in many States to set up consumer councils, such as the Department of Consumer Protection which I proposed for the District of Columbia in the Retail Installment Sales Act, and despite the increasing awareness of consumer problems, the defrauded consumer has very little chance of obtaining satisfactory relief.[1]

Neither administrative regulation nor individual private law suits adequately protect consumer rights. A classic example of their ineffectiveness is provided by the lengthy career of the Holland Furnace Co. Complaints about high-pressure tactics were made against the company as long ago as the early 1930's. In December 1936, the company agreed to a Federal Trade Commission consent order against certain misleading advertising claims. Although complaints against the company continued, a second proceeding was not initiated by the Federal Trade Commission until 1954. Four years later a cease-and-desist order was issued prohibiting Holland "from engaging in a sales scheme whereby its salesmen gain access to homes by misrepresenting themselves as official 'inspectors' and 'heating engineers' and thereafter dismantling furnaces on the pretext that this is necessary to determine the extent of necessary repairs."[2] Holland Furnace Co. ignored the court decree enforcing the cease-and-desist order. Finally in 1965 the company was heavily fined for contempt of court.

The 29 years which it took the Federal Trade Commission to bring the Holland Furnace Co. to task demonstrates the danger of overdependence on administrative agencies for consumer protection. Administrative budgets and personnel are limited and, in some cases, the statutory structure or powers of an agency may inhibit its effectiveness. It is also noteworthy that Holland Furnace Co. con-

[1] See Comment, "Translating Sympathy for Deceived Consumers into Effective Programs for Protection," 114 U. Pa. L. Rev. 395, 396–97 (1966).

[2] 55 F.T.C. 55, 91 (1958) aff'd, 295 F2d. 302 (7th Cir. 1961).

tinued its depredations notwithstanding a number of instances in which it was successfully sued for common-law fraud by individual homeowners, and a number of other instances in which individual homeowners successfully defended contract actions by Holland Furnace Co. on the ground that their contracts had been induced by fraud.

The Holland Furnace saga also illustrates the effect on interstate commerce of widespread consumer frauds. The company did business in some 45 States and had over 15 million customers. In view of the fact that consumer frauds have been estimated to involve several billion dollars worth of purchases annually, it is hardly surprising that fraudulent practices materially affect interstate commerce.

This impact on commerce makes it desirable to have effective remedies for widespread consumer abuses. However, in many instances the financial loss to an individual consumer is not large enough to make individual litigation practicable. A New Jersey lawyer has observed:

> The sad thing is that those people that get cheated often have the legal right to get a judgment against the company. The problem is how to enforce those rights. Since in New Jersey the paperwork for a $150 claim is the same as for a $10,000 claim I just have to turn people down who have lost small amounts.[3]

Very often only one well-heeled finance an individual consumer fraud enough to litigate for principle can suit. Although OEO neighborhood legal service attorneys provide some legal assistance to poor consumers, OEO attorneys are overworked, understaffed, and confined to representing persons below the poverty line.

But while an individual suit is costly, many individuals acting as a defrauded class could afford to enforce their individual rights. A consumer class action compensates for individual consumer's inability to litigate small individual losses by enabling one or more representatives of a group of consumers with similar injuries to place the group injury in issue. The aggregate group claim is generally large enough to make it possible to obtain private counsel on reasonable terms. A number of courts have, therefore, acknowledged that the consumer class action is necessary to prevent a denial of justice to consumers.[4]

It is also worth noting that the mere existence of an effective class action remedy may serve to deter fraudulent conduct. The potential defendant is forced to consider not only the possible economic loss from a class action but also the visibility, publicity, and public reaction which could result.[5]

Although class actions appear to be an indispensable weapon in the consumer protection arsenal, the class action procedure of a number of States is outmoded and archaic. The New York cases, for example, require a unity of interest among the members of a class which approximates the test for compulsory joinder of parties. The result of this restrictive view is that consumer class actions are summarily dismissed in New York. Hall against Coburn Corp.[6] is the case in point.

Hall against Coburn Corp. was a consumer class action against a finance company which had allegedly violated the New York Retail Installment Sales Act by using contracts printed in less than 8-point type. The NAACP legal defense fund sought refund of the service charge, a statutory penalty, on behalf of all consumers who had signed small-type contracts prepared and repurchased by Coburn Corp. within the period of the statute of limitations. However, the action was dismissed on two grounds: First, aside from the request for identical damages caused by identical conduct, the class was not united in interest; second, maintenance of the class action would deprive members of the class of other remedies which they might prefer to pursue against the defendant or against the merchants with whom they had dealt.

Neither of these grounds is compelling. The fact that identical damages are sought for identical conduct makes a case appropriate rather than inappropriate for class action treatment. Furthermore, class members' interests in pursuing other remedies can be preserved by limiting the scope of the judgment in a class action to the remedies that are actually sought. Hall against Coburn Corp. is bad class action law, but, unfortunately, it is typical of the law of a number of States.

The Class Action Jurisdiction Act which I am introducing today, was drafted with the aid of Richard F. Dole, Jr., associate professor of law at the University of Iowa, and Philip G. Schrag, a graduate of the Yale Law School and a former summer legal intern in my office. It is designed to counterbalance restrictive State attitudes toward consumer class actions by permitting class actions based on violation of State consumer protection law to be brought in Federal courts regardless of the domicile of the parties. The act contains no jurisdictional amount. If it did its value would be minimal since the Supreme Court recently held that the claims of a class cannot be aggregated to meet amount in controversy requirements.[7] Federal court jurisdiction makes available the refinements of contemporary Federal court practice, including Federal Rule of Civil Procedure 23, the most modern class action procedure in the United States. The Class Action Jurisdiction Act also makes clear what was already implicit; namely, that class actions are permissible under Federal consumer protection laws which contain private remedies, such as the Consumer Credit Protection or Truth-in-Lending Act.

The Class Action Jurisdiction Act is based on the Federal commerce power. Congress may, in the furtherance of national policy, give the Federal courts jurisdiction to adjudicate State claims which arise in areas subject to congressional regulation.[8] There is a well-established Federal policy in favor of consumer protection.[9] The Class Action Jurisdiction Act of 1969 furthers this Federal policy by insuring that class actions can be maintained for violations of Federal and State laws that are intended for the protection of consumers.

Mr. President, I ask that the bill be printed in the RECORD at this point.

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

The bill (S. 1980) to improve judicial machinery by providing Federal jurisdiction for certain types of class actions and for other purposes, introduced by Mr. TYDINGS, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 1980

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 "Class Action Jurisdiction Act."

SEC. 2. Title 28 of the United States Code is hereby amended by adding thereto a new section as follows:

"§ 1363. Consumers' class actions

"(a) DECLARATIONS.—

"(1) Congress finds that in recent years there has been a desirable increase in the protection of consumers under Federal and State statutes and under the decisions of the courts but that the remedies available to consumers have not kept pace with the rights that are in theory theirs.

"(2) Congress finds further that patterns or practices which violate Federal and State consumer protection laws affect commerce, and that interstate commerce will be fostered by providing an effective remedy for violations of those laws.

"(3) Congress finds further that class actions are an essential remedy for the protection of consumers, because consumer actions usually involve sums too small to justify individual litigation, whereas it is economical and just to try essential identical claims together in one representative action.

"(4) Congress finds further that by consolidating numerous claims in one proceeding, class actions promote sound judicial administration.

"(5) Congress finds further that state class action proceedings are in many instances inadequate to provide consumers with redress.

"Wherefore it is the purpose of Congress to provide a judicial forum in which class actions may be utilized to obtain redress for violations of consumers' rights.

"(b) The district court shall have original jurisdiction, regardless of the amount in controversy or the citizenship of the parties, of civil class actions brought by one or more consumers or potential consumers of goods, services, realty, or intangibles on behalf of themselves and all other consumers similarly situated, where—

"(1) the action involves the violation of consumers' rights under State or Federal

---

[3] Comment, supra, note 1 at 409.

[4] See *Eisen* v. *Carlisle and Jacquelin*, 391 F. 2d 555, 563 (2d Cir. 1968); *Daar* v. *Yellow Cab. Co.*, 67 Cal. 2d 695, 433 P. 2d 732, 746 (1967).

[5] See Dole, *Consumer Class Actions Under the Uniform Deceptive Trade Practices Act*, 1968 Duke L. J. 1101, 1103.

[6] 160 N.Y.L.J., No. 28, p. 2 (Sup. Ct. Bronx County 1968), aff'd mem. (1st Sept. 1969), appeal pending.

[7] Snyder v. Harris, No. 109 (filed Mar. 25, 1969).

[8] See *Osborn* v. *Bank of the United States*, 22. U.S. 9. (Wheat.) 738 (1824); *Textile Workers Union* v. *Lincoln Mills*, 353 U.S. 448 (1957); Mishkin, *The Federal "Question" in the District Courts*, 53 Colum. L. Rev. 157, 184–96 (1953).

[9] "Informed consumers are essential to the fair and efficient functions of a free market economy." 15 U.S.C. § 1451.

statutory or decisional law for the benefit of consumers;

"(2) the action is brought on behalf of numerous consumers or potential consumers of goods, services, realty, or intangibles who were or will be injured by the defendant(s) in substantially the same manner; and

"(3) the alleged violation affects interstate or foreign commerce or occurred with respect to goods, services, realty, or intangibles moving in or affecting interstate or foreign commerce.

"(c) The Federal Rules of Civil Procedure govern the conduct of these actions.

"(d) The district courts may award consumers the relief to which they are entitled under the governing substantive law.

"(e) If the court determines that an action brought pursuant to this section may not properly be maintained as a class action under the Federal Rules of Civil Procedure, it shall dismiss the action without prejudice to reinstitution as an individual action in the district courts under other provisions of law or as an individual or a class action in a State court of competent jurisdiction.

"(f) If a class of consumers prevails in a class action, the court shall award to the attorneys representing the class a reasonable fee based on the value of their services to the class. If the action has resulted in an award of damages or financial penalties to members of the class, the attorney's fee shall equal 10 per centum of the total judgment, unless the court determines that justice dictates the award of a greater or a lesser amount. Attorneys' fees may be awarded from damages or penalties which the defendant owes to members of the class who cannot be located with due diligence.

SEC. 3. The analysis of chapter 85 of title 28, United States Code, is amended by adding at the end thereof a new item as follows:

"Sec. 1363. Consumers' class actions."

S. 1981—INTRODUCTION OF A BILL DEALING WITH JURISDICTION AND ADMINISTRATION OF THE U.S. DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

Mr. TYDINGS. Mr. President, I am reintroducing today a measure which I placed before the Senate near the end of the last session for the purpose of repealing section 863 of title 48, United States Code. That you may better understand the problem which this bill is intended to deal with, I should like to reiterate the remarks I made upon its initial introduction. Section 863 of title 48, United States Code is a special provision covering several diverse aspects of the jurisdiction and administration of the U.S. District Court for the District of Puerto Rico. In most facets it is now duplicated in other sections of the United States Code, and in those areas in which it is not duplicated I believe that we should revise the jurisdiction of the district court.

This action has the suppport of the Judicial Conference of the United States, which in 1967 recommended repeal. The Conference Report, to which I fully subscribe, was as follows:

The Conference agreed to recommend to the Congress the repeal of Section 41 of the Act of March 2, 1917, as amended by Section 20 of the Act of June 25, 1948 (c. 646, 62 Stat. 989, 48 U.S.C. 863). This section of the statute has four separate parts, three of which are regarded as obsolete or fully supplied by other statutes and the fourth not only obsolete but also confusing and unnecessary. The provision with respect to the naturalization jurisdiction has been superseded by Section 310 of the Immigration and Nationality Act of 1952 (8 U.S.C. 1421) which expressly confers upon the district courts of the United States, including the Puerto Rico District Court, jurisdiction of naturalized persons as citizens of the United States. The payment of salaries of the judges and officials and other expenses of the court are now made directly by the Director of the Administrative Office of the United States Courts pursuant to Section 604 of Title 28, United States Code. Authorization for payment is given in several sections relating to court personnel in Title 28, all of which apply to the District Court for the District of Puerto Rico as they do to any other district court of the United States. The provision of the designation by the President of a judge of the Supreme Court of Puerto Rico as a temporary judge of the District Court in the case of the death, absence or disability of the district judge antedates the full integration of the District of Puerto Rico into the Federal judicial system by Sections 41, 119, 132, 133 and 134 of Title 28, United States Code. The provision for special diversity jurisdiction antedates the enactment of 28 U.S.C. 1332 which confers diversity jurisdiction and is applicable to the District Court for Puerto Rico in common with all the other district courts of the United States. By the passage of Public Law 89-571 the Congress has now amended 28 U.S.C. 134(a) so as to confer the same life tenure upon the United States district judges in Puerto Rico as is provided for other United States district judges and thus the last remaining barrier to the full and complete integration of the District Court in Puerto Rico into the federal constitutional judicial system has been eliminated.

The Conference, therefore, agreed that the courts of Puerto Rico should handle so much of that special jurisdiction as is not comprehended within the general diversity jurisdiction granted to all United States district courts by 28 U.S.C. 1332, and that direct action cases should be handled by the local courts as they are now required to be in Louisiana and Wisconsin.[1]

As the last paragraph of the report indicates, the jurisdictional grant of section 863 is slightly broader than the general diversity jurisdiction grant found in section 1332 of title 28. Further, when the jurisdictional amount prerequisite for diversity jurisdiction in section 1332 was revised upward from $3,000 to $10,000,[2] no reference was made in the amendatory bill to increasing the $3,000 minimum found in section 863, and the Federal courts have accordingly construed it as being unaffected.[3] Finally, no reference to section 863 was made when section 1332 was amended to exclude from the diversity jurisdiction direct action suits against insurance companies, and such suits are still entertained by the Puerto Rican District Court.[4] Hence, in three respects it is possible for litigants in the District of Puerto Rico to gain access to a Federal forum where litigants in any of the other districts of the United States could not. The continued existence of this jurisdiction in the Federal court is an anomaly, working to the advantage of a limited class of litigants who, so far as I can see, have no basis upon which to claim this preferential treatment.

The Court of Appeals for the First Circuit, which has appellate jurisdiction over the U.S. District Court in Puerto Rico has, understandably, expressed doubt as to the wisdom af this distinction. As Chief Judge Aldrich stated:

It may be that in the present social and political development of Puerto Rico, the extent of the diversity jurisdiction of the district court should be reconsidered. However, this is a legislative, not a judicial function.[5]

My purpose is to fulfill that function. Litigants who are no longer able to bring suit in the Federal court will still have access to the insular courts of Puerto Rico, where they are afforded procedures basically similar to those employed in the Federal courts. I submit that the insular courts are fully capable of handling the cases that will devolve upon them as a result of this amendment. Thus, I am proposing that we establish equality of treatment among litigants in an area where no jurisdiction for diverse treatment exists.

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

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

The bill (S. 1981) to improve judicial machinery by repealing the provisions of section 41 of the act of March 2, 1917, as amended, concerning the U.S. District Court for the District of Puerto Rico, and for other purposes, introduced by Mr. TYDINGS, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 1981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 41 of the Act of March 2, 1917 (c. 415, 39 Stat. 965), as amended (48 U.S.C. 863) be and hereby is repealed.

S. 1987—INTRODUCTION OF A BILL TO AMEND TITLE 18 OF THE UNITED STATES CODE, DEALING WITH EXPLOSIVES

Mr. THURMOND. Mr. President, I introduce a bill which corrects an oversight in section 837, title 18, of the United States Code. In the prohibition of certain acts involving explosives, the present United States Code omits to prohibit incendiary devices among other explosives. In other words, the use of molotov cocktails is not clearly included in the prohibition under the law. This bill would insert the words "or incendiary devices" in the appropriate places. The growing use of such devices in campus violence and other violence makes it necessary for the law to be explicit on this point.

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

[1] Reports of the Proceedings of the Judicial Conference of the United States 18–19 1967).

[2] 72 Stat. 415 (1958).

[3] *Ritchie* v. *Heftler Const. Co.*, 367 F. 2d 358 (1 Cir. 1966); *Compagnie Nationale Air France* v. *Castano*, 358 F. 2d 203 (1 Cir. 1966); *Firpi* v. *Pan American World Airways, Inc.*, 175 F. Supp. 188 (D.P.R. 1959).

[4] *Lavergne* v. *U.S. Cas. Co.*, 259 F. Supp. 425 (D.P.R. 1966); see Guerra & Fuster, The Development of Federalism in the Commonwealth of Puerto Rico: A Proposal to Annul the Special Diversity Jurisdiction of the U.S. District Court in Puerto Rico, 37 Sobretiro de la Revista Juridica de la Universidad de P.R. 1 (1968).

[5] *Ritchie* v. *Heftler Const. Co.*, *supra*, at 360.

The bill (S. 1987) to amend section 837, title 18, United States Code, to prohibit certain acts involving incendiary devices; introduced by Mr. THURMOND, was received, read twice by its title, and referred to the Committee on the Judiciary.

S. 1988—INTRODUCTION OF THE ACADEMIC FREEDOM PROTECTIVE ACT OF 1969

Mr. THURMOND. Mr. President, I introduce a bill entitled "The Academic Freedom Protective Act of 1969." Everyone is aware of the grave disruptions which are now affecting our universities throughout the land. Most of these disruptions constitute an organized attempt at the subversion of the ordinary conduct and administration of our educational institutions by a small determined group whose motive is anarchy and social disruption. There is no question but what these disruptions are the result of a planned and organized campaign by a radical group designed to involve hundreds of thousands of more or less moderate students who would not otherwise engage in such antisocial actions.

For some reason, there has been a peculiar reluctance by the administration of several of the universities to take proper steps to insure that law and order prevail so that the proper atmosphere conducive to the free play of ideas and contemplation of the truth prevails. We have seen in the past weeks several disgraceful incidents where administrations have given in to blackmail and threats. In some cases, the faculty has not backed the administration and in other cases the administration has not backed the faculty.

Whatever the reasons for this failure of will, the fact remains that thousands of innocent students and teachers are being deprived of their rights to engage in the ordinary pursuit of studies. Last September, the Director of the FBI, Mr. J. Edgar Hoover, warned that this disruption was being planned. He said:

> It is vitally important to recognize that these militant extremists are not simply faddists or "college kids" at play. Their cries for revolution and their advocacy of guerrilla warfare evolve out of a pathological hatred for our way of life and a determination to destroy it. The workshops they hold on sabotage and how to use it to further their objectives are grim forebodings of serious intent.

Mr. Hoover went on to predict the coming disruptions. He said:

> The New Left leaders plan to launch a widespread attack on educational institutions this fall. They are relying on collegiate dissidents and militants to bolster and accelerate this drive. It would be foolhardy for educators, public officials, and law enforcement officers to ignore or dismiss lightly the revolutionary terrorism invading college campuses. It is a serious threat to both the academic community and a lawful and orderly society.

The accuracy of his prediction can be seen by anyone who reads the newspapers. Since September 1968, there have been demonstrations at over 200 colleges and universities. More than 2,000 students have been arrested. There have been 25 cases of arson or bombings on university campuses. All in all, at least a million dollars in property damage has resulted. These statistics show the accuracy of the FBI Director's predictions. Many of our larger universities have been affected, such as the University of California at Berkeley, the University of Wisconsin, American University, Howard University, Harvard University, the University of Oregon, the University of Colorado, Cornell University, not to mention others which may have come under seige this morning.

Since the Federal Government has become deeply involved in the financing of universities and university programs and scholarships, it is obvious that the Federal Government has a significant stake in the orderly operation of these programs. The Federal Government cannot continue to provide such funds without also taking the responsibility to insure that the funds are spent in an orderly manner. I have therefore drafted legislation which would provide for a fine of $5,000 or imprisonment of up to 3 years for any of those who interfere with the orderly administration or operation of a federally assisted institution or conspire with any other persons for such interference.

Mr. President, I ask unanimous consent that the statement of Mr. J. Edgar Hoover of September 1, 1968, from the FBI Law Enforcement Bulletin be printed at this point in the RECORD.

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

MESSAGE FROM THE DIRECTOR TO ALL LAW ENFORCEMENT OFFICIALS

Millions of college students are returning to campuses throughout the country to begin the fall semester. They represent both the hope and the shape of the future. From the standpoint of educational opportunities and intelligence, they are far better equipped than any preceding generation to participate constructively in developing solutions to the many complex problems confronting our Nation.

It can be expected that most of these young people will fulfill the promise they represent to us. In so doing, they will join hands with the millions of Americans of good will who actively seek meaningful solutions to our social life. If our joint progress in this regard is impeded and deterred, much of the trouble will come from a growing band of self-styled revolutionaries who are using college campuses as a base for their destructive activities. This comparatively small group of arrogant, hard-core militants have contempt for the majority and our democratic processes. They regard themselves as the nucleus of an elite dictatorial ruling class of the future.

These extremists openly avow that their aim is to overthrow the existing order. Under the guise of academic freedom and freedom of speech, they profess to seek a dialog, when actually what they seek is a confrontation with established authority to provoke disorder. Through these confrontations, they expect to smash first our educational structure, then our economic system, and finally our government itself.

It is vitally important to recognize that these militant extremists are not simply faddists or "college kids" at play. Their cries for revolution and their advocacy of guerrilla warfare evolve out of a pathological hatred for our way of life and a determination to destroy it. The workshops they hold on sabotage and how to use it to further their objectives are grim forebodings of serious intent.

This New Left movement, as it is known, is growing both in numbers and varied forms of violence. Last spring, major disorders precipitated by the revolutionary adherents of the movement occurred on a number of college campuses. In the violent uprising at Columbia University, militant students and outsiders took over several buildings and committed senseless and deliberate destruction. The incident triggered similar disturbances on other campuses. Changes may be necessary and improvements in any institution can be made, but this is not the way to do it.

Encouraged by their "success" at Columbia, the anarchists in the New Left movement are boldly spreading the word that they intend to "create two, three, many Columbias," in the manner of one of their "heroes," Che Guevara, the Cuban revolutionary who cried "create two, three, many Vietnams!"

The main thrust of the New Left movement arises from the concerted efforts of the Students for a Democratic Society. Many of its members and some of its national leaders openly profess their faith in communist concepts and their determination to "restructure" our society. One of the militant spokesmen of this group stated, for example, that "perhaps 25 universities linked to the movement would be too much for the police—for the dominant class—and we would get what we demand."

The New Left leaders plan to launch a widespread attack on educational institutions this fall. They are relying on collegiate dissidents and militants to bolster and accelerate this drive. It would be foolhardy for educators, public officials, and law enforcement officers to ignore or dismiss lightly the revolutionary terrorism invading college campuses. It is a serious threat to both the academic community and a lawful and orderly society.

SEPTEMBER 1, 1968.

J. EDGAR HOOVER,
Director.

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

The bill (S. 1988) to amend the Internal Security Act of 1950 to prohibit certain obstructive acts and practices; introduced by Mr. THURMOND, was received, read twice by its title, and referred to the Committee on the Judiciary.

S. 1990—INTRODUCTION OF A BILL TO APPROVE AN AGREEMENT ENTERED INTO BY THE SOBOBA BAND OF MISSION INDIANS, THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, AND THE EASTERN MUNICIPAL WATER DISTRICT

Mr. MURPHY. Mr. President, in behalf of my distinguished colleague, Senator CRANSTON, and myself, I introduce, for appropriate reference, a bill which would authorize the Secretary of the Interior to approve the agreement reached by the Soboba Band of Mission Indians, the Metropolitan Water District of Southern California, and the Eastern Municipal Water District resolving their long dispute over interference with the underground water resources of the Soboba Indian Reservation resulting from the construction of the MWD's Colorado River aqueduct in the 1930's.

In the early 1960's a settlement was

finally reached between all concerned parties. It was approved by MWD's board of directors in 1962 and by the Sobobas in 1965. It now requires the approval of the Secretary of the Interior. This bill would authorize the Secretary to approve the settlement and would further authorize the construction of the water distribution system envisioned by the settlement.

The Sobobas have a claim pending before the Indian Claims Commission. The bill provides that any money expended by the Federal Government for construction of the planned water facilities for the Sobobas be offset against any judgment obtained by the Soboba Indians from the Indian Claims Commission.

It is a pleasure to sponsor such a measure. This settlement is evidence of the good faith negotiations between the water districts and the Soboba Indians of California. It definitively resolves a longstanding dispute and it will undoubtedly serve the interests of all parties concerned.

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

The bill (S. 1990) to authorize the Secretary of the Interior to approve an agreement entered into by the Soboba Band of Mission Indians releasing a claim against the Metropolitan Water District of Southern California and Eastern Municipal Water District, California, and to provide for construction of a water distribution system and a water supply for the Soboba Indian Reservation, introduced by Mr. MURPHY (on behalf of the Senator from California (Mr. CRANSTON) and himself), was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

S. 1991—INTRODUCTION OF A BILL TO PROVIDE AN ELECTED MAYOR, CITY COUNCIL, AND NONVOTING DELEGATE TO THE HOUSE OF REPRESENTATIVES FROM THE DISTRICT OF COLUMBIA

Mr. PROUTY. Mr. President, on behalf of the junior Senator from Maryland (Mr. MATHIAS), and at his request, I introduce a bill which is a proposal to enact home rule for the District of Columbia. Senator MATHIAS' proposal embodies the concept of an elected Mayor and City Council, and it would also create the position of a nonvoting delegate from the District of Columbia to the House of Representatives.

Mr. President, I am introducing this bill at the request of the junior Senator from Maryland because he is unavoidably absent from the Senate today.

I know he is deeply interested in the matter of home rule for the District and it is imperative from his point of view that this bill be introduced today so that it might be available in printed form on Monday next.

Mr. President, Senator MATHIAS had intended to introduce this bill himself, and he had prepared remarks to make at that time. I have here a statement by Senator MATHIAS which he would have made, and I ask unanimous consent that it might be included in the RECORD at this point, relating as it does specifically to the introduction of this bill.

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

Mr. MATHIAS. Mr. President, since I am necessarily absent from Washington, Senator Prouty has kindly consented to introduce, at my request, a bill to provide full home rule for the District of Columbia.

I am glad to have this bill introduced today, so that it will be printed and available before the Senate Committee on the District of Columbia begins its hearings on home rule next week Wednesday.

This bill would grant the people of Washington the local self-government which the residents of all other American cities have traditionally enjoyed.

At the same time, it would preserve the Constitutional power of the Congress to oversee the operations of the District government and to legislate directly for the District. It would also provide for a Presidential veto of local acts which adversely affect a Federal interest.

The bill introduced today is essentially an updated version of the comprehensive home rule legislation which I sponsored in the House of Representatives in 1965, and which was passed by the Senate in the same year. It would grant the citizens of Washington the power to elect their own Mayor, an 11-member District Council, and a non-voting Delegate to the House of Representatives. It would give that elected Mayor and Council full powers to administer the day-to-day affairs of the city, to legislate in local matters, and to shape and carry out annual District budgets.

The financial provisions of the legislation are essentially those which were so carefully developed and so extensively debated in 1965. In brief, the bill provides for the automatic annual appropriation of the Federal contribution to the District of Columbia, a Federal payment determined by a formula and reflecting the additional burdens placed on the city by the extensive Federal holdings and operations here which are not subject to local taxation.

In terms of electoral provisions, the bill sets forth machinery for the election of the Mayor, the District Council, and the non-voting Delegate to the House. All elections would be on a non-partisan basis and would follow the general procedures already established for election of the Board of Education. In accord with that model, the Chairman and two other members of the Council would be elected at large, and eight members of the Council would be chosen from the eight wards now being used for election of the Board of Education.

The term of the Mayor would be four years; the Council and the Delegate to the House would serve two-year terms.

I feel that the power to elect at least a delegate to the House of Representatives is an important aspect of home rule and full citizenship for the people of Washington. Ultimately, of course, I believe that Washington's residents should have the full elected representation in both houses of Congress which all other Americans enjoy, and have introduced a proposed Constitutional amendment toward this end. Election of a delegate would be a very constructive interim step, one which I have advocated since 1961.

Let me emphasize that I am having this bill introduced today to re-assert my personal commitment to home rule, and to set before the Congress and the public, for full discussion, the most comprehensive home rule legislation which has been developed in recent years. I do believe that all alternatives and possibilities should be fully analyzed and debated this year, and congratulate the President for his expressed interest in home rule and in early Congressional attention to it.

I trust that this Congress may be the one which, finally, delegates to the people of Washington the local self-government which I believe is fully in accord with the Constitution, with American traditions of democracy, and with the full realization of the potential of Washington as a great city and the nation's capital.

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

The bill (S. 1991) to provide an elected Mayor, City Council, and nonvoting Delegate to the House of Representatives for the District of Columbia, and for other purposes introduced by Mr. PROUTY (on behalf of the Senator from Maryland (Mr. MATHIAS), for himself and Mr. GOODELL), was received, read twice by its title, and referred to the Committee on the District of Columbia.

SENATE JOINT RESOLUTION 101—INTRODUCTION OF JOINT RESOLUTION ON NATIONAL SECRETARIES WEEK

Mr. TYDINGS. Mr. President, for several years during this third week of April, we have observed Secretaries Week for the special purpose of recognizing the important contributions of secretaries to virtually all organizations and professions.

Secretaries Week, which has traditionally been acknowledged by State and local governments, was initiated in 1952 by the National Secretaries Association, International, in cooperation with the U.S. Department of Commerce.

I propose that it be accorded the distinction of a Presidential proclamation and be fixed on the calendar of national observances that are thus proclaimed each year. For that reason, I introduce for appropriate reference Senate Joint Resolution 101 and ask that it be printed in the RECORD at the conclusion of my remarks.

The purposes served by an annual observance of Secretaires Week are several. First and most obvious, it serves as a reminder to busy employers to recognize good service, proficient work, and dependability within their own offices. It is a human failing that we tend to take these qualities for granted, noticing and commenting instead upon office problems as they may arise. National Secretaries Week will afford a special occasion on which to give credit where credit is due and make clear one's appreciation for the day-to-day efficiency of a good secretarial staff.

Moreover, an annual observance of National Secretaries Week will draw to the profession well-deserved attention. We have a shortage of secretarial talent in this country and we need to encourage young people to enter the profession. National Secretaries Week can be the occasion for vocational workshops and seminars, public appearances at schools and civic groups, award ceremonies and office visits for secretaries in training.

Many of these activities are conducted by the National Secretaries Association now and are available to members and nonmembers alike. I think it is important that they be continued and expanded. Many young people facing a career choice

do not have a clear idea of the wide variety of experience and responsibility that can be open to them in a secretarial career. In that connection, I think it is worthwhile to state here the definition of the role used by the National Secretaries Association:

A Secretary shall be defined as an executive assistant who possesses a mastery of office skills, who demonstrates the ability to assume responsiblity without direct supervision, who exercises initiative and judgment, and who makes decisions within the scope of assigned authority.

These are the people who keep an office running smoothly and immeasurably lighten the burden of the men and women with whom they work.

This week is Secretaries Week, and Wednesday was highlighted as Secretaries Day. And so, while I am proposing that the President proclaim National Secretaries Week during this week in April each year in the future, I also want to emphasize this week's observances this year. To my colleagues and to employers everywhere, may I suggest that you pause today to think about the contributions of your secretaries to the orderly working of your offices and to your own efficiency. And say, as Hamlet did, "For this relief much thanks."

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred; and, without objection, the joint resolution will be printed in the RECORD.

The joint resolution (S.J. Res. 101) to authorize the President to issue a proclamation designating the last full calendar week in April of each year as "National Secretaries Week," introduced by Mr. TYDINGS, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S.J. RES. 101

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas the position of a secretary in any enterprise is one of major importance to the orderly functioning of that organization; and

Whereas the skills of a qualified secretary must be acquired through intensive training and practice; and

Whereas the prevailing shortage of trained secretaries indicates that greater national recognition should be accorded the responsibilities and opportunities of a secretarial career: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in recognition of the indispensable nature of the secretarial profession, and the inestimable contributions of secretaries to their communities and the nation, the President is authorized and requested to issue annually a proclamation designating the last full calendar week in April in each year as "National Secretaries Week," and calling upon the people of the United States and interested groups and organizations to observe such week with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTION

Mr. TYDINGS. Mr. President, I ask unanimous consent that, at its next printing, the names of the Senator from Kentucky (Mr. COOPER) and the Senator from Maryland (Mr. MATHIAS) be added as cosponsors of the bill (S. 881) for the relief of Comdr. Edward White Rawlins, U.S. Navy, retired.

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

Mr. JAVITS. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from Illinois (Mr. PERCY) be added as a cosponsor of the bill (S. 1300) to improve the health and safety conditions of persons working in the coal mining industry of the United States.

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

Mr. HART. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from Pennsylvania (Mr. SCOTT) be added as a cosponsor of the bill (S. 835) to amend the Act of September 5, 1962 (76 Stat. 435), providing for the establishment of the Frederick Douglass home as a part of the park system in the National Capital.

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

Mr. JAVITS. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from Arizona (Mr. GOLDWATER) be added as a cosponsor of the bill (S. 1478) for the establishment of a Commission on Revision of the Antitrust Laws of the United States.

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

Mr. TYDINGS. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from Massachusetts (Mr. KENNEDY) be added as a cosponsor of the bill (S. 1506) to provide for improvements in the administration of the courts of the United States, and for other purposes.

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

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that, at its next printing, my name be added as a cosponsor of the bill (S. 1519) to establish a National Commission on Libraries and Information Science, and for other purposes.

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

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Minnesota (Mr. MONDALE), I ask unanimous consent that, at its next printing, the name of the Senator from Tennessee (Mr. GORE) be added as a cosponsor of the bill (S. 1788), to assist in removing the financial barriers to the acquisition of a postsecondary education by all those capable of benefiting from it.

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

Mr. TALMADGE. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from North Dakota (Mr. BURDICK) be added as a cosponsor of the bill (S. 1851) to enable honey producers to finance a nationally coordinated research and promotion program to improve their competitive position and expand their markets for honey.

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

Mr. PELL. Mr. President, I ask unanimous consent that, at its next printing, the name of the junior Senator from Pennsylvania (Mr. SCHWEIKER) be added as a cosponsor of the bill (S. 1611), to amend Public Law 85-905 to provide for a National Center on Educational Media and Materials for the Handicapped and for other purposes.

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

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Wisconsin (Mr. NELSON), I ask unanimous consent that, at its next printing, the name of the Senator from New Jersey (Mr. WILLIAMS) be added as a cosponsor of the bill (S. 1799) to establish a National Commission on Pesticides, and to provide for a program of investigation, basic research, and development to improve the effectiveness of pesticides and to eliminate their hazards to the environment, fish and wildlife, and man.

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

Mr. TALMADGE. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from North Carolina (Mr. JORDAN) be added as a cosponsor of the bill (S. 1864), to amend the Food Stamp Act of 1964.

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

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from Hawaii (Mr. INOUYE), I ask unanimous consent that, at its next printing, the names of the Senator from Washington (Mr. JACKSON) and the Senator from Hawaii (Mr. FONG) be added as cosponsors of the bill (S. 1872) to repeal the Emergency Detention Act of 1950 (title II of the Internal Security Act of 1950).

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

Mr. MILLER. Mr. President, at the request of the junior Senator from Kentucky (Mr. COOK), I ask unanimous consent that, at its next printing, the name of the Senator from Texas (Mr. YARBOROUGH) be added as a cosponsor of the joint resolution (S.J. Res. 91), establishing the Federal Committee on Nuclear Development.

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

ADDITIONAL COSPONSOR—CORRECTION OF COSPONSORSHIP

Mr. SPARKMAN. Mr. President, I rise to ask unanimous consent that, at its next printing, the name of the Senator from Wyoming (Mr. HANSEN) be added as a cosponsor of the bill (S. 1832) which I introduced recently.

Unfortunately, the RECORD of the date of introduction, shows the wrong number; therefore I now ask, first, that the permanent RECORD be corrected; and, second, that at its next printing the name of the Senator from Wyoming (Mr. HANSEN) be added as a cosponsor of the bill (S. 1832) to provide for the more efficient development and improved management of national forest commercial timberlands, to establish a high-timber-yield fund, and for other purposes.

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

SENATE RESOLUTION 183—SUBMISSION OF A RESOLUTION TO EXPRESS THE SENSE OF THE SENATE IN OPPOSITION TO THE SHUTDOWN OF THE JOB CORPS INSTALLATIONS BEFORE CONGRESSIONAL AUTHORIZATION AND APPROPRIATION ACTION

Mr. CRANSTON. Mr. President, I ask unanimous consent that I may be permitted to proceed for 15 minutes.

The PRESIDING OFFICER (Mr. SPONG in the chair). Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I am submitting today, for appropriate reference, a resolution to express the sense of the Senate in opposition to the shutdown of Job Corps installations before congressional authorization and appropriation action.

I am joined in this resolution by 23 cosponsors whom I will name later.

On April 11, Secretary of Labor George Shultz announced that the Job Corps would be integrated into the Labor Department, and that 59 of the 106 Job Corps centers and conservation camps were to be closed—to yield an estimated $100 million savings in fiscal year 1970.

The origins of this action are laudatory. They come from the President's desire to cut spending, to arrest inflation, and to balance the budget. But the results, I believe, are highly dubious in this particular place. These closings would eliminate more than 17,000 openings for hard-core disadvantaged young persons in comprehensive, live-in, job training centers.

At the same time, Secretary Shultz announced that 30 inner-city and near-city skill centers are planned to offer 4,500 new training openings.

But since those skill centers are not yet authorized or funded, the some 4,500 openings should not be considered now as reducing the 17,000 figure.

The House Education and Labor Committee has already held several hearings on the Job Corps, and has scheduled a number more on the total poverty program over the next few weeks.

Senator NELSON'S Subcommittee on Employment, Manpower, and Poverty has also conducted 2 days of hearings on the Job Corps program, and has held 2 days of hearings on Senator NELSON'S recently introduced poverty bill, S. 1809.

Both House and Senate bills authorize a continuation of the $280 million appropriation for the Job Corps—the fiscal year 1969 level.

At the Poverty Subcommittee hearings on Friday, April 18, Mr. Louis Harris testified at length about his firm's very extensive study of the Job Corps—based on over 10,000 interviews. That study was ordered by the Government, and it cost approximately a quarter of a million dollars. Yet, the Government proceeded to decide what to do about the Job Corps without waiting to receive that report.

After hearing the testimony, based upon that report, I announced my intention to introduce this resolution to prevent what might well be irreparable damage to many lives and futures, as well as attitudes, until Congress could act on the proposed cutbacks through its normal legislative processes—without undue haste and with careful consideration.

The Harris study undeniably shows a substantial positive impact of the Job Corps training.

Whether or not the program should be continued—in what form, and at what level, and at what cost—is another question, which I believe Congress should have an opportunity to answer without being confronted with a fait accompli.

Sterile manpower statistics do not tell the story of these shutdowns.

It is very difficult for the statistician to measure despair and hopelessness.

It is equally difficult to quantify bitterness and alienation.

I fear that in time these shutdowns may engender a great deal of discontent and hostile reactions.

I have just come from hearings where Secretary of Labor Shultz pledged that every corpsman who wanted to be transferred to another training program would be transferred. But upon questioning, it became plain that he was relying mainly upon hopes; that there were not necessarily programs at the same level, for the same skill, available for transfer from those camps where young men and women will be closed off from their present training.

It was made plain, also, that there will now be a total shutdown of interviewing, even though some young men and women were on the verge of going to some Job Corps training center. That opportunity has now been suspended.

The Secretary's pledge overlooks two very critical factors:

First. After the disruptions of the shutdowns, we must realize that many of these young people will be prone to lose the will to keep trying, even though they were making progress in their present centers.

Second. The basic reason most corpsmen are in the Job Corps is their need for concentrated, comprehensive, residential facilities that put them in new environments and remove them from unfortunate family situations.

Hence, transfers to Labor Department manpower programs which do not offer these services will, in many instances, be unworkable and unacceptable.

Moreover, it has been authoritatively estimated to me that there will be no room in those remaining Job Corps centers to receive as many as 4,000 present Job Corpsmen whose training will not be completed by July 1.

Even assuming that the Labor Department programs are adequate for many Job Corps enrollees, I have been advised that there are no openings in Department of Labor manpower programs in the vicinity of western regional office Job Corps centers.

A particular problem is posed in California, where, I gathered from what Mr. Shultz had to say today, it may be found necessary now to send people from California, I think, at wasteful expense, to Oregon, Washington, Utah, or farther away, to complete training they are presently receiving in California.

Given the difficulty of placing youths with this background initially, it takes little imagination to conceive of the problems in relating to, and maintaining contact with, an enrollee whose first real-life opportunity to make it was rudely and cruelly torn from him.

We have undertaken an obligation toward those to whom we have held out the hope of the Job Corps.

Though they may have been without hope before and may not be materially worse off when they are abandoned and hope is pulled back, the detriment to their spirit may be far greater than had society never offered them a chance in the first place.

Added to these unrealized expectations are the promises of other placements which will now be held out and, inevitably in many instances, will not materialize.

We must not risk piling broken promises on top of broken promises.

Secretary Shultz and his manpower people have presented a great many figures and statistics.

Let us examine a few which show the casualties of these shutdowns.

I have mentioned the 17,000 fewer beds in Job Corps facilities, for that is the most commonly heard figure.

But what is actually involved is 34,000 fewer opportunities for Job Corps-type training for disadvantaged young people, since the average enrollee stay is about 6 months.

We are also talking about the dismissal of thousands of dedicated employees from many of the centers. They have learned this particular work; they are devoted and dedicated to it; and now they are told, "We no longer need you."

And, what about the Forest Service and Department of Agriculture employees who have run conservation camps, many of whom have become deeply involved in the lives and aspirations of their corpsmen?

For them it is a return to some desk, or to some hastily contrived job that has little relevance to the fundamental problems of our society, with which many of them had become intimately involved for the first time.

Then there is the more than $65,000,000 worth of federally financed facilities which will be wasted by the shutdowns, to say nothing of the cost of constructing some 30 new substitute facilities.

This hardly seems good economics in this time of competition among important Federal programs for the nondefense tax dollar.

It seems an especially dubious switchover, since the one present Job Corps Inner-City Skill Center in Baltimore has been a tragic failure due to astronomically high absenteeism.

I see on the floor at the present time the Senator who is well aware of that particular center, because that unhappy experience occurred in his State.

Since the Louis Harris & Associates study casts significant doubt on whether the administration's view of the lack of success of conservation camps is correct, I ask again, as I did in my April 9, 1969, letter to the President:

Why not proceed with the four new skill centers already planned and authorized within the fiscal year 1969 appropriations, see how they work out over the next year and then, after having administered the full Job Corps program for a year, make decisions for any orderly phaseouts and switchovers which then seem warranted?

On April 21, a special assistant to the President responded to my April 9 letter by stating that my comments were being shared with others concerned, and that I would be further advised shortly.

This further advice was apparently provided this morning by Secretary Shultz who wavered not a bit in his determination to proceed with the shutdowns and who, incredibly to me, found nothing in the Harris study to give him pause.

So I initiate this last-ditch effort to have the Senate express its sense of opposition to the lack of careful thought and study, that has lead to the shutdown decision.

Our prior efforts have unfortunately been in vain—efforts including an April 10 telegram to the President, prepared by the Senator from Wisconsin (Mr. NELSON) and signed by all 14 of the cosponsors of this resolution as well as 12 Congressmen; my April 9 letter to the President; and an April 18 telegram sent when I learned of the immediacy of the shutdown actions being directed.

Mr. President, I ask unanimous consent that the documents referred to above be printed in the RECORD at this point.

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

APRIL 10, 1969.

As members of Congress, we were deeply disturbed to read in today's newspapers that the Administration plans to close a large number of Job Corps camps on short notice. This decision appears to have been reached without consulting the Congress and also without consulting those presently responsible for administering Job Corps camps.

Sudden closing of camps is bound to spread disillusionment among recruits whose training is abruptly terminated, and to disappoint thousands of community leaders who have worked to make camps in their area a success.

Members of Congress are concerned, just as we know you are, that Job Corps programs, along with other programs to fight poverty, should be as efficient and effective as possible. A number of studies have recently been completed which make recommendations on how these programs can be improved. We believe that Congress could make a valuable contribution in a cooperative effort with the Administration in improving those programs in the light of the experience of the past four years.

We would surely hope that the Administration would delay any final decision on closing Job Corps camps until Congress has had an opportunity to make this contribution. We would certainly hope that some solution could be developed which would not abruptly terminate the training of those already enrolled, and send them back to their disadvantaged environments.

We would hope that a clearer picture could be developed of the role the Office of Economic Opportunity can be expected to play in poverty programs which are delegated to other agencies. We feel the course of action we suggest would be consistent with your Feb. 19 message to the Congress which proposed that the present anti-poverty program be extended temporarily to give the Administration and Congress an opportunity to consider long range improvements with "full debate and discussion.

GAYLORD NELSON, RALPH YARBOROUGH, WALTER F. MONDALE, ALAN CRANSTON, HAROLD E. HUGHES, THOMAS F. EAGLETON, CLAIBORNE PELL, EDWARD M. KENNEDY, LEE METCALF, EDWARD W. BROOKE, HARRISON A. WILLIAMS, JR., PHILIP A. HART, GEORGE S. MCGOVERN, EDMUND S. MUSKIE, JOSEPH M. MONTOYA, U.S. Senators.

ALVIN O'KONSKI, WILLIAM L. CLAY, DAVID OBEY, CARL PERKINS, LOUIS STOKES, HASTINGS KEITH, FRANK THOMPSON, PATSY MINK, ARNOLD OLSEN, WILLIAM D. HATHAWAY, KENNETH J. GRAY, CARL ALBERT, U.S. Congressmen.

U.S. SENATE,
Washington, D.C., April 9, 1969.

Hon. RICHARD M. NIXON,
The President,
The White House.

DEAR MR. PRESIDENT: I have been deeply disturbed by the reports that a very substantial number of Job Corps Centers will begin to be closed in the next week or so to prepare for a June 30 final shut-down date. On the basis of all the information available to me, this seems a premature move at this time for the reasons I will set forth below, and I very much hope you will reconsider any decision you have made on this question.

First, I wish to make clear that I fully appreciate that significant changes may well be in order for the Job Corps program on the basis of recommendations in the recent General Accounting Office report, the Office of Economic Opportunity's response and the upcoming report of Louis Harris & Associates. But I find totally unacceptable the notion that fully informed and enlightened decisions on such changes can be made—as I understand they have—by those who have not been directly involved in the management of the program. I recognize, of course, that decisions such as these cannot be made entirely by the managers, but they should be directly involved and consulted.

And I find equally unacceptable the making of such sweeping decisions—adversely affecting the otherwise largely hopeless futures of over ten thousand disadvantaged young men and women each year, resulting in the loss of an estimated six thousand jobs by dedicated Center employees and the waste of seventy-five million dollars worth of federally-financed facilities—before receipt of and an opportunity to review the Harris report.

This report, based on ten thousand interviews with Job Corps graduates and one thousand six hundred references is, I understand, by far the most complete report yet compiled on the Job Corps—it is many times more extensive than the special GAO report—and apparently does not support any broadside closure of facilities and reduction of Job Corps members.

To the extent that the appeal of a one hundred million dollar savings by such actions is a motivating factor, I deplore an ordering of priorities which somehow finds billions for armament and expansions of the nuclear weapons race at the expense of rushed reductions of fractions of those billions for expenditures to help hard-core unemployable youth.

In any event, this is false economy in most respects, for the costs of reaching young people through the Job Corps is returned over the years as they become productive wage-earning members—rather than destroyers—of society. Given your recent decision regarding funds to assist cities in rebuilding riot-torn areas, I should think that the economics of this situation would be clearly in mind.

It also seems questionable economic tactics not to take the fullest advantage of the Harris in-depth study of the Job Corps, for which over a quarter of a million federal dollars have already been spent, and which may well support the present level—or an increase—of expenditures for the program.

I have heard that there are plans to open large numbers of urban skill centers in lieu of many conservation camps. I doubt the efficacy of such a large switch-over at this time, especially in light of what I understand are at best marginal results at the one skill center now operating—in Baltimore. Why not proceed with the four new skill centers already planned and authorized within the FY 1969 appropriation, see how they work out over the next year and then, after having administered the full Job Corps program for a year, make decisions for any orderly phase-outs and switch-overs which then seem warranted?

In this regard, I have the greatest trepidation about our reneging so substantially on the promise of Job Corps opportunities for our disadvantaged young people who have only recently begun to receive the attention and concern they so badly need. I hope it will not be necessary, if you proceed with any phase-out now, to disrupt or interrupt the training of present Job Corps members; such an action could have a highly damaging effect on them and a similar multiplier effect when they return to their communities.

Nor do I think that transfers to other Centers are any answer. Young people participating in Job Corps training cannot by definition be expected to have the personal resiliency to make such an adjustment effectively. Such a stop-gap measure will, I think, cause great alienation and waste of efforts and dollars already expended.

For these reasons, I ask you not to make any drastic cuts or changes in the Job Corps until your Administration has actually faced the practical problems entailed in operating the program for a fair period of time and had the opportunity to fully consider all the available studies and reports on this very vital program.

Sincerely,

ALAN CRANSTON.

APRIL 18, 1969.

I understand that telegrams have been sent today to seven Job Corps Installations terminating contracts, effective immediately, and that on Monday shutdown notices will go to the Departments of Agriculture and Interior regarding 45 Conservation Camps and to one Men's Center in California. Thus, beginning immediately, job corps enrollees will be told that they are to be moved out of the Job Corps or transferred to another center.

I announced today at the Senate Employment, Manpower and Poverty hearings my intention to introduce next week a Senate resolution that no action to close any job corps installation be taken until the Congress has had an opportunity to complete action on the authorization and appropriation bills for this program.

The resolution will be intended to prevent possibly irreparable damage to the lives and futures of thousands of disadvantaged young people, along with the waste of tens of millions of dollars in federal facilities.

If these installations are precipitously closed, if thousands of enrollees are transferred out and dedicated employees dismissed, the Congress will be powerless to remedy the damage if it decides that the Job Corps should continue at its present level, or be expanded.

The Congress and the American people deserve a full and fair opportunity to be heard on this vital issue and have time to consider the important findings of the Louis Harris Report, and other evidence relating to the Job Corps.

I respectfully ask that you rescind the shutdown notices already sent, and cancel those which are planned so that the Congress

can proceed meaningfully with its consideration of this vital matter.

ALAN CRANSTON,
U.S. Senator.

Mr. CRANSTON. Mr. President, I deeply regret that despite these and many other appeals, the administration felt compelled to move ahead and to send out notices to almost all of the 59 centers to begin shutdown procedures immediately.

As a result, at this moment corpsmen around the country are leaving centers, some with the hope of other opportunities, which may well prove to be illusory, and others already in despair.

I truly deplore this cattle-shute mentality of the manpower people.

Their lack of concern or compassion for the individuals they propose to herd about in this callous fashion now leads me to have grave doubts about whether the Job Corps program should be permitted to be switched to the Labor Department.

The Job Corps program was never devised as a manpower program as that term is commonly used.

Its impact on numbers of subjects is far too modest. Rather, it is an attempt to reach some of the most hopeless of our disadvantaged young people in a carefully developed and individually attentive program providing a comprehensive range of services.

This requires a very personal-type of approach, and I wonder at the future of such a program in the hands of the manpower brokers of the Labor Department.

For the past several weeks we have witnessed a tragic spectacle.

Budget men told program men, who knew little or nothing about the program in question "cut $100 million from that program."

Then these so-called program men, who seem to be only statisticians and computer programers in disguise, scurried about to devise so-called objective measures to determine which facilities to eliminate.

They based their decision on the best statistics available—but everyone, including the data-gatherers themselves, admitted the figures were incomplete and that some were demonstrably unreliable.

Despite the insufficiency of data, the decisionmakers chose not to wait even a few weeks for the findings of a Government-ordered quarter of a million dollar study which contains the best performance data ever gathered on the program.

The decision was made without consulting with the Job Corps administration about which centers to close, and without any attempt to get a picture of the operational and personnel difficulties that may have skewed the statistics used.

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

Mr. CRANSTON. I yield.

Mr. TYDINGS. Does the Senator agree that the handling of the proposed Job Corps center shutdowns, the conservation camp shutdowns, is an example of bureaucracy at its worst? Would that be a fair statement?

Mr. CRANSTON. Yes; I really think it was because there was no consultation and there was no waiting for the facts. There was simply faithless bureaucracy pushing and shoving individuals around and tagging them as mere statistics.

Mr. TYDINGS. I would appreciate the comments of the Senator on the proposed closing of a Conservation Corps center at Catoctin, Md. Admittedly, that center has one of the best achievement records in the Nation, a per enrollee cost of $1,500 below the national average, and an annual budget of $600,000. At the same time it produces capital improvements in the parks, forests, playgrounds, and schools in Maryland, Virginia, and the District of Columbia, valued at $500,000 a year.

Would the Senator agree that the shutting down of a camp such as this, which has made a major contribution to three States, is illustrative of the really slipshod, bureaucratic, nonsensical approach that the Department of Labor has taken to the entire Job Corps problem?

Mr. CRANSTON. I would most certainly agree with the distinguished Senator from Maryland, whose interest is devoted not only to the Job Corps program in his State but to this program all over the country. He may or may not be aware of the fact, which we discovered in committee sessions, that those who ordered shutdowns did not consult the Job Corps itself as to which centers were doing the best job, as to which centers should be kept open and which should not be kept open. The procedure followed in the shutdowns is incredibly wasteful of taxpayers' money.

Mr. TYDINGS. Mr. President, a great many people across the Nation are indebted to the Senator from California for his leadership in proposing a resolution which I hope will be agreed to by the Senate shortly, and for bringing to the attention of the American people the incredible stupidity and blundering of the Secretary of Labor in the Job Corps center shutdowns.

To pick on the Conservation Corps centers, which are making a great contribution to the preservation of our forests, parks, and playgrounds across the Nation, to pick on the rural Job Corps centers, and to arbitrarily shut them down without any regard to whether or not they are doing a good job, without regard to whether or not they are more efficient than those programs in the cities, without even consulting the very Job Corps people who operate the entire program, seems to me to be the most irresponsible type of bureaucracy.

I wish to say to the distinguished Senator from California that a great many people in our State of Maryland are grateful to him for taking the lead in this fight. It is a fight for the entire Nation. I sincerely hope the Senator's resolution will be promptly agreed to.

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

Mr. CRANSTON. I ask unanimous consent that I may proceed for 10 additional minutes.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. CRANSTON. Mr. President, first, I wish to thank the Senator from Maryland for his generous comments.

Second, I wish to add that I talked last night with the director of the facility to which the Senator just referred, and to two men, one black and one white, who have been taking training there. The director is deeply devoted to this work. He feels a great sense of loss in what he has accomplished because of the order to shut down. The two young men working there both feel they have found themselves and they say there are others at that Center whose training will be interrupted and who will be back on the streets of Baltimore or elsewhere because they are being cast adrift.

Mr. TYDINGS. I wish to ask the Senator if it is not a fact that a great many of these young men who are in the rural Job Corps centers are young men with criminal and prison records who will return to the streets without the completion of their training or without a job. They might very well become a ward on society, and in the long run this will cost communities many, many more dollars than the cost of continuing these rural conservation Job Corps programs.

Mr. CRANSTON. The Senator is absolutely correct. It seems to me to be totally out of line to have a great war on crime, which is necessary, announced at the very time there is this cutback on something that goes to the roots and causes of crime.

Mr. TYDINGS. Would the Senator agree with me that the arbitrary decision to shut down these Job Corps centers might have a very material relation to the problem of crime and law enforcement in the cities and urban areas from which these young men came and from which future young men would be enrolled?

Mr. CRANSTON. I agree. It could lead to more young men being placed in prison instead of becoming productive members of our society.

Mr. President, I should like to refer to a specific camp. The director of the Fenner Canyon conservation camp stated his views to the Los Angeles Times on April 21, and I ask unanimous consent that the story written by Jack Jones be printed in the RECORD.

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

[From the Los Angeles Times, Apr. 21, 1969]

JOB CORPS CLOSINGS BAD NEWS TO YOUTHS AT PALMDALE CENTER

(By Jack Jones)

The chill of Big Rock Creek carrying the melting snow down from Mt. Baden-Powell past the Fenner Canyon Civilian Conservation Center near Palmdale may not be as icy as the chill the camp's Job Corpsmen feel in the runoff from Washington, D.C.

"These kids are concerned about what's going to happen to them," said Robert Lucy, a U.S. Forest Service carpentry instructor at the center which is among those Labor Secretary George P. Shultz has announced will be shut down. "You can't blame them."

"I loved it here," said Henry Thomas, a 19-year-old Negro corpsman from Cuthbert, Ga., who arrived a year ago barely able to read and write. "I learned more in Job Corps than I ever did in school."

Thomas did, indeed learn, Fenner Canyon camp officials say. He progressed so rapidly that he became a corpsman leader and was being considered for permanent staff employment—if the center were to remain open.

NO DENIAL OF TRAINING

In disclosing that 59 of the nation's 106 Job Corps centers will be scrapped with a shift in emphasis from conservation work to urban vocational education facilities, Secretary Shultz said no enrollees will be denied training—somewhere.

But he insisted that the conservation centers cost too much to operate, are unable to keep enrollees in the program, do not adequately improve reading and math skills and do not place enough graduates in jobs.

Training, he suggested, should be in the cities, closer to the youths who need the program and closer to potential jobs. "Long-distance hauling of trainees from cities to remote camps, he said, contributes to a high dropout rate.

He said three out of 10 enrollees drop out between signup and arrival at camp. Of the arrivals, 38% drop out within 90 days, he added.

But Stanley Lynch, 49, U.S. Forest Service professional who has been director of the 4-year-old Fenner Canyon center since last summer, said he cannot agree that transporting young men from city slums and ghettos to the clean air isolation of conservation camps is not worth the money.

NEED SOCIAL GRACES

"Removal from the environment is a big thing," he said. "A lot of these boys have never been treated with kindness and respect before. When they get there, many aren't socialized. They have to learn to get along with people . . . and that all adults are not against them."

In the city, he pointed out, "they would still be in their old neighborhoods with all the same old distractions and influences. Who's going to get them to show up at the training center every day?"

While Lynch and his staff are convinced the dropout rate for city training centers would be higher than at the Forest Service-administered Fenner Canyon camp and other conservation centers, homesickness and the feeling of isolation do take a toll of incoming trainees.

Eugene Norris, counselor and placement officer for Fenner Canyon, agreed that about one-third leave for home within the first 90 days, "but once a boy gets past the first few weeks, he'll probably stick it out."

Lynch hastened to note, "Remember that all of these boys have dropped out of school in their home towns. They are the very kind who have to learn to finish what they start."

A similar point was made last Thursday in Washington by pollster Louis A. Harris, who told a congressional committee that a massive study of Job Corps for the Office of Economic Opportunity showed the program has had a positive impact on the employment and earnings capabilities of "bottom-of-the-barrel" youths.

Harris said the survey also showed that Negro youths "can make it" in society if given an equal opportunity with whites and added that any evaluation of Job Corps must take into consideration the type of person it is dealing with.

HIGHER EARNINGS

The annual earnings of the enrollees who completed training were $1,147 higher six months after leaving Job Corps than they had been before training, Harris said. But he noted that earnings gains trail off later—possibly because the ex-trainee finds himself back in "the same world of disadvantage, discrimination and don't care" he once left.

As for one of the other objections raised by the Department of Labor as it takes Job Corps over from the Office of Economic Opportunity, Lynch said he is "very proud" of Fenner Canyon's educational program.

Corpsmen spend about half their time in a remedial program that stresses reading and math with each being taught individually at his own pace. The goal is to get him to pass a high school equivalency test.

Lynch said the average enrollee makes about three times the reading and math progress at Fenner Canyon than he would make in a city school. In nine months, he advances three full years.

Fenner Canyon corpsmen generally do conservation work—cleaning trails, building campgrounds and the like—only during the first 30-to-60-day prevocational training period. Once in vocational training, they are not out on the trail work crews.

PART-TIME STUDENT

The vocational training program includes automotive servicing, masonry and bricklaying, culinary services, heavy equipment operating, carpentry and welding. Each corpsman must go through standard steps to reach apprentice level.

In the meantime, he is spending half his time learning to read and do math, being taught the attitudes expected of him by the "world of work," handwriting, language skills and the simple business of how to study.

Lynch pointed out that since the Fenner Canyon center opened in June, 1965, early stage trainees have done $592,800 worth of improving in that part of the Angeles National Forest—public campgrounds, trails, water systems and reforestation, among other things.

"We couldn't have done all this without them," commented Lynch. "A lot more people are using the forest than ever before and we just don't have enough campgrounds."

Winter rains and flooding downed so many trees and eroded so many roads that "we have more work to do now than we can handle. If they close the camp, it's going to take a lot longer."

More than 650 young men from the poverty neighborhoods of the nation have completed the course (several months to a year, depending upon individual advancement) at Fenner Canyon since 1965.

Although figures on those who went on to become steadily employed taxpayers are not easy to compile, placement officer Norris said 75 of the 126 who have been graduated since August, 1967, have gone on to advanced training at urban centers, to specialized conservation centers and heavy-equipment training programs operated by unions.

Thirty-three of the 126 have been placed in jobs in the Los Angeles and Antelope Valley areas or have gone into military service.

Tracking down the employment status of those who left Southern California is next to impossible, but in June, 1967, the Job Corps said 53% of those finishing training had gone on to jobs. (That figure, however, included urban centers—many of those for women—as well as conservation camps.)

Lynch said the national figure for the graduates who have gone to jobs is now 72%.

Although the Fenner Canyon staff has yet to receive official notice that the center will shut down (presumably about July 1), reports of the Labor Department's intentions produced an immediate reaction among the 132 corpsmen now there.

"They just don't want to go back to their home environments," Lynch said. "They felt something had been taken away from them. We explained that we'll probably be able to place them in other training programs . . . but they had been told before that this was their last chance."

DETERMINED TO STAY

Surprisingly, the news did not trigger any sudden surge of dropouts. Norris said there was, instead, an apparent determination by the corpsmen to hang on.

One approached Lynch and pleaded for more time each day in his concrete block-laying training so the center could not close before he had enough ability to find himself a job.

In the mess hall, a 16-year-old Negro from Ft. Gibson, Miss., said he had been at Fenner Canyon only a week and was hoping that he can be transferred to an urban center to get into computer training.

Speaking with polite shyness, he said he had seen a science class film about computers while still in high school ("I was starting to mess up in school and knew I had to go someplace to learn").

He wants to stay in Southern California, he said, because his chances of getting such training in Mississippi would not be good.

LIKES THE PLACE

Joe Almarez, 16, of Huntington Park, had been at Fenner Canyon three weeks and had been looking forward to learning to operate heavy equipment. "I like this place," he said. "You feel like learning something."

Lynch said his 29-member staff is more concerned about the program than about their own jobs (many would simply move to other U.S. Forest Service posts) "because they've put so much of themselves into this place."

Looking over the scattering of dorms and vocational shops, the education building and the gymnasium—a complex built from scratch—he drew on his pipe and said:

"It really make me want to cry when I think of the waste. That's what really hurts."

Mr. CRANSTON. Mr. President, despite the shutdown actions already taken, I believe there is still time for the Senate to accomplish much good by adopting this resolution.

I have solicited bipartisan support in the same spirit which was portrayed on this floor a wee bit ago by the Senator from Montana (Mr. MANSFIELD) and the Senator from New York (Mr. JAVITS), who were speaking with a bipartisan approach concerning the ABM system and the impending battle thereon, I have, in the same way, sought bipartisanship support for this effort which I think is, in every sense of the term, a bipartisan issue, in seeking responsible treatment for thousands of young men and women. I will continue to seek—and will, of course, welcome—the broadest possible support.

The resolution is now cosponsored by 23 other Senators, including the distinguished chairman of the Labor and Public Welfare Committee, the Senator from Texas (Mr. YARBOROUGH); the distinguished chairman of the Employment, Manpower, and Poverty Subcommittee, the Senator from Wisconsin (Mr. NELSON); and all of the remaining Democratic members of the Labor and Public Welfare Committee, Senators RANDOLPH, WILLIAMS of New Jersey, PELL, KENNEDY, MONDALE, EAGLETON and HUGHES.

We 10 of the Labor and Public Welfare Committee are joined by the distinguished chairman of the pertinent Appropriations Subcommittee, the Senator from Washington (Mr. MAGNUSON), and by 12 other colleagues: Senators BAYH, BROOKE, GORE, HART, INOUYE, MCGEE, MCGOVERN, METCALF, MOSS, MUSKIE, RIBICOFF, and TYDINGS.

These cosponsoring Senators represent every region of this country, demonstrating the grave nationwide concern felt about this precipitous decision.

I have stressed the 23 cosponsors of the resolution and their geographical

spread because I think that the submission of a resolution with that substantial degree of support, gathered over the past few days, should by itself convey an urgent message to the President; namely, to reconsider the potentially disastrous course that has been chartered.

Mr. President, I close by reading a few lines from a letter sent me by one of my constituents—the mother of a high school dropout son who has been a Job Corps enrollee at the Parks Job Corps Center in California, one of the 59 to be closed.

I ask unanimous consent that the full text of the letter be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. CRANSTON. Mr. President, this lady writes:

For the first time in years, my son is happy and *wants to* learn. He says, "Mom, I have chosen electronics and boy am I fascinated with everything here. I really like this place. I am really happy here. I am learning to get along with all kinds of people here.

Our instructors care about us and help us when we don't understand something."

For the first time—

The mother says of her son—

He is beginning to show respect for authority, whereas before, authority was a threat to him. This, in turn, has made us very proud of him. My son will be a taxpayer, in a few short months if given the chance to learn the skill he has chosen now, instead of a potential thug on the streets, with nothing to do. Do you know why there are so many crimes? It's because people are not given the chance to live.

A person, to sustain himself, must work and receive wages so that he can make his purchases, whatever they may be, instead of roaming the streets and stealing from innocent people.

Do you want my son to be that way?

There is nothing worse than for a boy to be a vegetable and a parasite.

Can you imagine what will happen to the next generation if the centers are closed down? There will be thousands upon thousands of useless boys on the streets.

I really can't believe that closing down this center will help the budget. I can tell you right now, if anything, it will be more expensive because these thousands and thousands of boys are likely (to) get into trouble because they cannot get work. They will take their anger and frustrations out into society by robbing banks, injuring innocent people, damaging public property, and filling our prisons as a result of their crimes. These boys have one chance to get out of their ruts and better themselves, but that chance will be taken away.

This is their only chance to be something and they will be proud to say, "I have been given a chance to do for myself instead of depending on someone else, and I want to show my gratitude by going out into society and work with what skill I have been trained for." They will help build our economy, not destroy it.

This will be a great fulfillment in every sense of the word.

Mr. President, I earnestly hope that the Senate will heed these very poignant sentiments, and will adopt the resolution I introduce today in order to demonstrate our concern for the individual and our rejection of calculated decisions made and implemented in such a way as to overlook the impact in human terms.

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

The resolution (S. Res. 183) which was referred to the Committee on Labor and Public Welfare, is as follows:

Whereas the current administration has announced its intention and taken steps to begin immediately to shut down 59 Job Corps centers and camps; and

Whereas the Congress has under active consideration bills regarding the continued authorization of the Job Corps program; and

Whereas recent studies of the Job Corps program have produced apparently conflicting findings; and

Whereas irreparable damage to the future lives of many thousands of disdavantaged young men and women and substantial depletion of available trainers and instructors for such programs will be caused by the closing of Job Corps installations if Congress decides they should be retained: Now, therefore, be it

Resolved, That it is the sense of the Senate that any action to shut down any Job Corps installation be suspended until the Congress has had an opportunity to review the Job Corps program and decide upon extension of the Economic Opportunity Act of 1964, as amended, and appropriations for that program.

Mr. CRANSTON. Thank you, Mr. President, and may I make an additional request. The Senator from Texas (Mr. YARBOROUGH), the distinguished chairman of the Labor and Public Welfare Committee, has asked me to have printed in the RECORD a statement in support of my resolution. I ask unanimous consent that it appear in the RECORD after my statement and the material I have inserted.

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

EXHIBIT 1

APRIL 11, 1969.

DEAR MR. CRANSTON: Please do not let Mr. Nixon close down the Parks Job Corp Center. The boys are in dire need of this training center. As my Senator, I am pleading with you to do everything in your power to stop him.

My son, who has dropped out of school because he was bored to death with the Jefferson High School system in Daly City, California, is now given a second chance to be productive instead of destructive.

He had no motivation while going to Jefferson High and was increasingly frustrated with the school and home conditions. He was in trouble most of the time. In working with his Juvenile Officer, we decided to send him to the Job Corp.

For the first time in years, my son is happy and *wants* to learn. He says, "Mom, I have chosen electronics and boy am I fascinated with everything here. I really like this place. I am really happy here. Everyone are nice and I am learning to get along with all kinds of people here. Our instructors care about us and helps us when we don't understand something.

For the first time, he is beginning to show respect for authority whereas before, authority was a threat to him. This, in turn, has made us very proud of him. My son will be a taxpayer in a few short months if given the chance to learn the skill he has chosen now. Instead of a potential thug on the streets, with nothing to do. Do you know why there are so many crimes? It's because people are not given the chance to live. In order for one to live, that person must have sustenance. In order for a person to sustain himself, he must work and receive wages so that he can make his purchases whatever they may be. Instead of roaming the streets and stealing from innocent people.

Do you want my son to be that way? He has a good head but we must all work together to help him be a man. There is nothing worse than for a boy to be a vegetable and a parasite. A boy's stand in this world must be strong more so than a girl's. We, who do not have much money, need a training center like this. Mr. Nixon wants a cut in the budget—the answer is—*Stop the Vietnam War and the out of Space Explorations!* He must come down to earth and tend to the people here and now. There is absolutely no reason enough to close the centers down.

I am sure a great deal of the boys at Parks Job Corp Center have had the same problems as my son but are now on the road to recovery, so to speak. As you know, the California School System is very lacking in many ways. The children are not learning. They have very little stimulation, if any at all. The teachers are not to blame. They try their utmost but it's the system that needs overhauling.

All that money going to Vietnam and outer space should have gone to stop this Narcotic Invasion. Can you imagine what will happen to the next generation if the centers are closed down? There will be thousands upon thousands of Useless boys on the streets. And I really don't have to tell you what this can mean.

I earnestly believe that every state in the union should have a Job Corp Center and I know it's about time we get together both you, the lawmakers, and we, the citizens, and work for the benefit and betterment of all. Who will benefit by the closing down of the centers? No one! We will all lose out. It will be a tragic mistake if the center is closed down and the result of its closing will be turmoil, there is no doubt in my mind at all.

Why is Mr. Nixon allowed to spend billions of dollars on the ABM system??? Does he think that by doing this, he is cutting down on inflationary cost????? What a hyprocrite! How shrewd can he be? Does he think that he is fooling us????? Definitely not! He must be stopped!!

I really can't believe that Mr. Nixon thinks that closing down this center will help the budget. I can tell you right now, if anything, it will be more expensive because these thousands and thousands of boys, who are more likely than not, will get into trouble because they cannot get work. They will take their anger and frustrations out into society by robbing banks, injuring innocent people, damaging public property, and filling our prisons as a result of their crimes. Is this what Mr. Nixon wants? How unreasonable can he be? These boys have one chance to get out of their ruts and better themselves, but that chance will be taken away if Mr. Nixon succeeds.

This is their only chance to be something and they will be proud to say I have been given a chance to do for myself instead of depending on someone else (which is very depressing in itself when one has to depend on someone else) & I want to show my gratitude by going out into society and work with what skill I have been trained for. They will help build our economy, not destroy it.

This will be a great fulfillment in every sense of the word.

Please, Mr. Cranston, by emphasizing the need for these training centers in the Senate, you can help these boys. A great number of these boys come from poor homes like ours, please don't let Mr. Nixon take this opportunity from them. Please give them a chance to see that life can be beautiful and that they can be part of that beauty. And that life does not have to be forever dismal.

As one boy said on the news today, "If the center is closed down, it will be like having a car with all of its wheels taken away, you just can't make it go."

Please let me know your feelings and opinion on this subject. I will be most anxious to hear from you as soon as possible. I thank God for people like you, Mr. Cranston. On behalf of our boys, I beg of you to try your utmost to show Mr. Nixon how ridiculous he is and what a grave mistake he will be making.

Respectfully yours,

———, ———

The statement of Mr. YARBOROUGH is as follows:

I am pleased to join with the junior Senator from California in co-sponsoring his resolution which indicates that it is the sense of the Senate that the Administration should take no action to shut down Job Corps Centers until this body has had a chance to evaluate the Job Corps and the Administration's proposals for change.

On February 19, 1969, President Nixon outlined his views on the poverty program in a message to Congress. At the time I was hopeful that a close working relationship would develop in this area, since the message indicated:

"How the work begun by OEO can best be carried forward is a subject on which many views deserve to be heard—both from within Congress, and among those many others who are interested and affected, including especially the poor themselves. By sending my proposals well before the Act's 1970 expiration, I intend to provide time for full debate and discussion."

During the first weeks of April there were press reports that the Administration was considering closing certain of the Job Corps Centers, thereby making some of the very decisions which the President indicated were to be subject to full debate and discussion. However, since Congress was in recess and since hearings on the entire poverty program were just about to begin after the recess, I was hopeful such closing actions would be delayed.

On April 11, 1969, the Administration announced the closing of 57 Job Corps Centers. I do not believe that full debate and discussion are possible when the operative decisions over which debate is to occur has already been taken. I am, accordingly, co-sponsoring this resolution in the hope that the Administration will reconsider its decision to close these Job Corps centers and allow proper hearings by the Congress on the scope and size of the Job Corps program.

Mr. TYDINGS. Mr. President, again I should like to take this opportunity to commend the distinguished freshman Senator from California (Mr. CRANSTON) on his very fine statement.

Last Monday, with the Senator from Wisconsin (Mr. NELSON) and the Senator from Iowa (Mr. HUGHES), I spent the day at a rural Job Corps conservation camp at Catoctin, Md. In many respects, it was just like the old CCC camps in the 1930's. when so many young men were literally saved during the depression.

The facts which we gathered at the Catoctin camp substantiate in every detail the eloquent message just delivered by the distinguished Senator from California.

Young men were there, both black and white, from the inner city and rural areas. These men are being trained in welding, mechanics, carpentry, and in building. They recently constructed 9 miles of fence around the Gettsyburg battlefields, a capital improvement of $120,000. They have built two major buildings in the Catoctin area for the Department of the Interior's teaching programs, valued at almost one-quarter of a million dollars.

They have also helped to fight fires, to build recreational areas and playgrounds in the schools of Maryland, Virginia, and the District of Columbia.

They work 1 week on conservation projects, go to school for another week, and then repeat the process.

The average reading level of these young men when they arrived at the camp was less than third grade. Yet, by the time they had left, they were able to read above an eighth grade level. This was accomplished in less than a year.

Therefore, in every respect, I think it is a tragedy, a tragic blunder, to close these rural conservation Job Corps centers without any regard to how effective they are, or how economical they are, just because some bureaucrats who have never even visited these centers made a decision based on scanty and weak facts gathered by statisticians who themselves have never visited any of these camps.

Mr. President, this is like going in reverse to meet the problems of crime in our cities.

Again, I congratulate the distinguished Senator from California for his leadership in this area, and I can assure him that he can count on my full support every step of the way.

THE PRICE IS TOO HIGH

Mr. HART. Mr. President, I recently met with students at several colleges in Michigan.

While their questions were varied, their basic concern was the weakness of the Nation's, or more specifically, the establishment's commitment to act on the ills which afflict our society.

Mr. President, I could do little to erase those doubts, for in all candor I share the same concern.

And now, unfortunately, with the announcement that 59 Job Corps centers are to be closed in the name of economy and the fight against inflation, the establishment has added strength to those doubts and numbers to the ranks of the doubters.

The wisdom of the decision is open to serious doubt even if viewed just in terms of cold economic figures.

The administration estimates the closings will save $100 million.

Does that figure include the cost of closing and maintaining the facilities? The Government has an investment of $2 million to protect in two Michigan facilities alone.

Does the savings include the loss of income to the areas in which the centers are located? For example, it has been estimated that closing of the Ojibway Civilian Conservation Center near Marenisco, Mich., will take $1 million out of the local economy which, incidentally, is already economically depressed. It should not be difficult to guess what the people think of an establishment which makes an economically depressed area pay the price of fighting inflation for an affluent society.

Does the saving include the value of work which now will not be done by corpsmen to upgrade national forests and recreation areas? And how about the loss of the revenue which might have been generated by visitors who would have been attracted had these facilities been upgraded?

Ojibway corpsmen alone will not be able to carry out $750,000 in recreation improvements.

But, Mr. President, while it may be possible to measure the economic effect in dollars and cents, how does one measure the price of the decision in terms of broken commitments to corpsmen, shattered dreams of self-improvement and growing cynicism among our youth and disadvantaged about the worth of the establishment's word to help the poor?

Mr. President, a letter from a job corpswoman at the women's center located on the campus of Northern Michigan University suggests how dear the price of this decision is in human terms for participants in the program.

I ask unanimous consent that the letter as it appeared in the Marquette Mining Journal be printed at this point in the RECORD.

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

EDITOR'S MAIL—FROM JOB CORPSWOMAN

NMU JOB CORPS,
Marquette.

SIR: The enrollees of the Northern Michigan Women's Job Corps Center feel in many ways as I do. We feel that Job Corps is the best thing that could have come to us and the best opportunity that has been offered to us. We have come from homes that were not the best of homes, but our homes. We have come from places that were not the most desirable of places, but we are from these places. We have had to encounter problems that the average 50-year-old man or woman may have never known existed, but we've had to face these problems. We have had to climb over the hills of trials and tribulations, things that have been beyond the face of belief.

Many of us have dropped out of school and found that life wasn't as easy as we thought it would be. But the opportunities of a new life were revealed through the Job Corps. We have come here and been able to obtain our high school diplomas and to get a vocational skills that will help us a great deal in the future.

Meanwhile, while we are here getting our high school diplomas, we have learned to live with girls of different races, from all parts of the United States. We've talked among ourselves and decided that our problems weren't bad after all or that we weren't the only ones with these problems.

Here at Northern things have gone well for us. It means a lot to be the only one of 17 Women Job Corps centers located on a university campus. Just being here has inspired many of our girls to seek a college education. We have many different activities and are presently being taught such fine arts as drama, modern dance, drawing, weaving, poetry and sculpting and many more. These arts are being taught by volunteer teachers from the university. In case any one is wondering, the girls are very happy and pleased to see that these people are interested enough in us that they would leave their families to come and help us and be patient with us.

Our staff at our school is just wonderful. The way they've helped us is remarkable. They've helped us to gain the confidence that some of us never knew we had.

But we can't understand the people in the community, the university staff and whoever is really trying to put us out in the "streets." We have something here that we love and we want it to stay. Now after we thought we were over the biggest of our problems, we are confronted all over again with the type of things we thought we had left behind. Yes, we love our Job Corps center and we want to stay.

SHERRY LEE.

Mr. HART. The letter states the case for the men and women of the Job Corps.

The case for our youth who question the sincerity of our commitment to eliminating inequities in our society may well be stated by increased disdain for our established institutions. They may well, with justification, view the decision as another example of how the government can promise something, then snatch it away.

For those who think we can measure the effect of programs such as the Job Corps in terms of money alone, I urge that they consider the thoughts of at least one woman who attends one of the centers and ponder what the reaction of our youth might be.

Mr. President, even if the closings of the Job Corps centers actually save $100 million, I suggest that the price of that decision in terms of broken commitments, shattered dreams among the poor, and increased cynicism among our youth is too high.

It is for that reason that I have cosponsored the resolution just introduced by the able junior Senator from California (Mr. CRANSTON) urging the administration to halt all steps to close Job Corps Centers until Congress has had a chance to review the program. I have listened to Senator CRANSTON's remarks as he introduced the resolution. His remarks are most compelling and I hope we will adopt the resolution very soon.

It has been brought to my attention that the center at Marquette will be closed in 3 weeks.

Mr. President, if the center were to remain open until at least June 30, 100 of the 218 participants could complete their program, thereby eliminating the cost of reassigning them.

In taking away the promise of a new start, the administration undermines confidence in any future commitment it may make to aid the poor.

The poor will be hesitant to sign up.

The concerned citizen willing to work with the poor will think twice before investing time in antipoverty programs.

The cost of the decision to close Job Corps centers is high indeed.

Mr. President, I have received many letters from people—educators, Job Corps participants, and interested citizens from all economic levels and from many parts of the country—all of them concerned about the closing of the Job Corps centers. I ask unanimous consent that these letters be printed in the RECORD.

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

APRIL 16, 1967.

DEAR SENATOR HART: Please fight to save the Job Corps Centers and the Headstart program. They are needed desperately.

Sincerely,

HENRY C. NORRIS.
EMILIE M. NORRIS.

MARQUETTE, MICH.,
April 17, 1969.

Hon. PHILIP HART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HART: As a citizen of Marquette, Michigan, I must vigorously protest the removal of the Women's Job Corps Center from Northern Michigan University.

The decision to close this Center was one not based on objective information. Rather, it was closed over social issues for which it was designed to remediate. Yes, there were objections to this program, but so have there been to the A.B.M. Program.

I urge you to do all you can to see that this decision be reconsidered.

Sincerely,

CHARLES M. MYRBACH.

MARQUETTE, MICH.,
April 16, 1969.

Hon. PHILIP A. HART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: This letter is an appeal to you to use your powers as a member of the United States Senate to provide for the continuation of the Job Corps at its present strength. I am against the closing of some sixty centers and replacing them with day-school vocational training in big city classrooms.

One of the most important concepts in the Job Corps program is getting underprivileged young men and women away from their former environments into a new atmosphere which fosters acceptable social and personal values as well as giving a basic education and vocational training. Only in a residential program can these goals be accomplished. To replace existing centers with day-school training is to destroy the program totally.

These are arguments that can be read in any newspaper. However, my feelings are backed by a year's work experience as a Resident Leader with the Job Corps. I am 23 years old, and I work as a residential counselor within the dormitory which houses the enrollees. Each day I have the opportunity to see these young women achieve various kinds of success. Each day I can see signs that a young woman has been learning and growing into a fine citizen with a useful vocation to contribute to society. Each graduation warms my heart when I consider what these girls were when they first came to the Job Corps Center and what they are as graduates.

The closing of Job Corps Centers will save tax money, but what about the problems of poverty and lack of education that this money was being used to alleviate. These problems are still here, and they cannot be ignored. If the centers are closed, then a better solution must be offered. No one has proposed such a solution.

Today's youth are this country's hope for the future. We must equip them, all of them, to meet this challenge. Believe me, the Job Corps enrollees deeply appreciate perhaps their only chance.

Sincerely yours,

SUSAN BOHN.

NORWAY, MICH.,
April 19, 1969.

Senator PHILIP HART,
U.S. Senate, Washington, D.C.

DEAR SENATOR HART: The decision to close some 59 or so Job Corps Centers has disturbed me greatly. In particular, I feel it would be a mistake to close the Center operated by the Public Services Division of Northern Michigan University at Marquette, Michigan—I am familiar with the accomplishments of this center.

Establishing vocational training centers near large cities certainly will not do for these young people what the Job Corps does. It is an established fact that generation after generation remains on the welfare rolls and taking these young people out of that environment and giving them an opportunity to learn to live in a different environment while they are also learning trades and skills with which to support themselves, should break that chain.

The situation we are facing at this time with our young people certainly indicates the need to start this generation on the right road.

Closing these centers will certainly save "War on Poverty" funds but what does it do for the problems the "war on poverty" was established to alleviate?

It isn't necessary for me to list some very excellent means of cutting the Federal budget—cuts which will not cut off help for the poor and needy but which will neither "hurt" those affected. It is rather disillusioning to know where and how so much money is spent and then have funds cut where a start had been made to help those who need it badly.

Very truly yours,

SERENA BOHN.

MARQUETTE, MICH., *April 19, 1969.*

DEAR SENATOR HART: As an instructor at NMU, I have been exposed to the pros and cons of the current Job Corps pull-out controversy. There are two aspects of the proposed changeover to a "Skills Center" setup which concern me.

First, if the students are returned to their homes, the Skills Centers will face all the difficulties which now plague the ghetto schools. The students will be expected to learn while at Michigan University.

Sincerely,

DOROTHY KAHLER.

NEGAUNEE, MICH.,
April 21, 1969.

Hon. PHILIP HART,
Senator from Michigan,
Washington, D.C.

DEAR MR. HART: I feel that Northern Michigan University's Job Corps Center should continue to operate indefinitely. Statistics regarding graduates of the Center, paint a false picture, in that some trainees are transferred for further training and are not then listed as graduates at the NMU Job Corps.

It seems unlikely that the number of city-based centers suggested as Job Corps replacement will provide continuity of training for those now reached by Job Crops.

I hope you will find it possible to influence favorably a decision to retain NMU Job Corps.

Sincerely,

E. MIRIAM CARTER.

APRIL 22, 1969.

DEAR SENATOR: I am writing to you to appeal to you to see if there is anything you can do to stop Mr. Nixon from closing the Job Corps Centers.

We are people with an income of a low bracket. These young men and women in the Job Corp are from families of even lower income.

The young people are learning a trade, getting schooling so very important in this day and age.

Now it seems our tax dollars have to go for bigger missiles etc. to keep ahead of other countries. Seems wasted tax dollars to me.

Money spent on job training and education of our young people seems to me to be no waste what so ever.

Please try to help these young people that are willing to learn and help themselves.

Thank you sir for the time you took to read my letter.

Most sincerely,

Mrs. NORBERT G. RAY.

SCOTTVILLE, MICHIGAN.

HUNTINGTON WOODS, MICH.,
April 21, 1969.

DEAR SENATOR HART: This note is to say that we oppose the ABM system and are distressed by plans to close Job Corps Centers.

Sincerely yours,

STANLEY AND JUDI FISHER.

SOUTHFIELD, MICH.,
April 14, 1969.

Senator PHILIP A. HART,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HART: A recent news report stated that with the transfer of the Job Corps Program from the Office of Economic Opportunity to the Labor Department a drastic curtailment of the program would be undertaken. This is a disturbing report. We hope it is not true. We request that you make every effort to assure continuance of this needed program.

Much of the criticism of the program comes from those who either live near Job Corps Centers or object to the cost. If the program were to run smoothly causing the surrounding communities no trouble then it would seem that the program was not reaching the right kids. It is not so much how these kids behave when they start but rather how it affects their lives after they finish.

It has been said that it costs less to send a boy to Harvard than to train a Job Corps recruit. It's true, and why shouldn't it? Look at the raw material and the finished product in both cases. Also, look at the alternatives. Without Harvard, the same boy would have little trouble finding success in a state university. Without the Job Corps this boy or girl often costs society more in welfare, unemployment, crime, etc., than Job Corps does.

We hope that you will be able to at least block the proposed reduction if not increase the number served.

Thank you.

Sincerely,

GEORGE I. S. CORCORAN.

YOUNGSTOWN, OHIO.

DEAR SENATOR HART: My name is Constance Saddler. I live in Detroit, Michigan. But I'm now in Youngstown, Ohio, on Job Corps extention program here at the YWCA. I'm a graduate from Clinton Job Corps Center in Clinton, Iowa. This is my last month in J.C.

I would like to express my experience and my feel toward Job Corps. I was in Job Corps for a year and two months. I'm a nurses asst. I had work in the States Hospital here for more experience. I'm not a high school graduate. But I have one more year of school. I feel you get out away from home and try to have your own responsibility. I need get away because I wasn't getting along with my mother and couldn't fine a job. I always want to be a nurse but I didn't know how to go about. I need some one help me fine my way in life and Job Corps help me. I'm a Negro. But I learn in Job Corps. There all nationality. We all learn to get along with one another.

I learn going out and having good times is not having fun. I learn to try and get education, and a good job. You can all your fun I feel that if they close now down job. They are stopping the young people from getting ahead. Some peoples needs a helping hand, and that's what a Job Corps is. The only thing I can say is thank you, Job Corps and the people who help me on the right road. Thank you very much. I hope other young ladies and men will be able to experience Job Corps.

Thank you for taking time to read this letter, and please excuse my mistake.

Sincerely yours,

CONNIE.

TRAVERSE CITY, MICH.,
April 22, 1969.

Senator PHILIP A. HART,
Senate Office Building,
Washington, D.C.

HON. SENATOR HART: Thank you for your news report of April, "More on ABM." I am in complete agreement with your views and meant to write almost a year (or more?) ago when you first presented them. (In Traverse City Record-Eagle item from Washington, D.C.) There does seem to be a more alert attention to military expenditures and a more sane approach to political solutions than before . . . hope this becomes a majority opinion!

Now, if you can also convince your colleagues that cutting back on the anti-poverty programs such as the Job Corps is foolish, and the voters informed that the War on Poverty is our real concern, perhaps the young, under-privileged (a sad commentary in these affluent times to admit having in U.S.A.) and rebellious could help restore the image of an American Idea—the worth of the individual.

There may be better programs for training the unemployed on the drawing board, but the closing of the now existing Centers would be another disillusionment. Maybe when these new—mini-skill centers?—are operating, we can afford to cut back on some of the Job Corps Centers we now have. However, unless long range planning and budgets can be realized, there is bound to be discouragement and inefficiency.

As immediate past president of the local League of Women Voters of Grand Traverse County, I can report that most of us are concerned in this cut-back in programs and funds.

Yours truly,

ESTHER WILLMAN.

DETROIT, MICH.,
April 21, 1969.

Hon. PHILIP A. HART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HART: I respectfully ask that you give some attention and efforts to keep open the job corps centers which strive to show girls that there is something better in life for them.

We the "Women in Community Services" (known as W-I-C-S) are somewhat gratified that many girls have returned to the cities as graduates from these centers and are filling creditable positions.

Moreover, these centers are training and inspiring girls to attain the things so necessary for their survival in our society.

Therefore, these doors of opportunity must be kept open and we earnestly ask your help to see to it that the job corps centers are maintained.

With all goood wishes,

Very truly yours,

Mrs. JOHNNIE MAE KENDRICK.

MARQUETTE, MICH.,
April 22, 1969.

Senator PHILIP A. HART,
Senate Office Building,
Washington, D.C.:

Urge continuation of Women's Job Corps program at Northern Michigan University. If this is not possible strongly urge 90 day extension beyond June 30, 1969 to enable majority of enrollees to complete their occupational training.

J. R. ROMBOUTS,
Chairman, Human Relations Commission.

MIDLAND, MICH.,
April 18, 1969.

Senator PHILIP A. HART,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HART: I am greatly concerned about the closing of numerous Job Corps Centers, as well as the Head Start programs, which are considered a failure, according to government studies and mass communication.

I am the project director of the Midland WICS (Women in Community Service). WICS is sponsored by the Church Women United, the National Council of Catholic Women, the National Council of Jewish Women and the National Council of Negro Women, with national headquarters in Washington. WICS recruits and screens women, 16–21 years of age, for the Job Corps Training Centers in cooperation with the Office of Economic Opportunity.

Senator Hart, I can well understand some of the protests that these programs have been a waste of the taxpayers' money to some extent, unproductive in some cases and problems have occurred. But, where in our soceity and American history, have not such circumstances arisen? I am convinced that we expected a miracle instantly, without knowing and understanding the backgrounds of these poor, uneducated young people. I firmly believe that the Job Corps and Head Start programs are wonderful and excellent in that they have given opportunity, an education and training and moral philosophy to the many youth who are deprived of a favorable home environment and background, resources and are severely underprivileged in many areas. Too many of us have taken for granted our democratic society—life, freedom and happiness—and have become apathetic to our poorer classes.

However, there are many things I do not know or understand. When citizens demand services, someone must be willing to pay for them. To say a program is wasteful or the failure outweighs success, without giving consideration that the Job Corps program is relatively new and the number of men and women that are successful through this opportunity, is unrealistic. I believe this program and the Head Start project need improvement; they should not be discontinued and new programs initiated in their stead.

If all citizens would become more involved in issues, not only through study, but active participation and would weigh the pros and cons objectively, instead of emotionally, we would have a society that is willing to better itself and its neighbors. We are most apt to criticize when it comes to money we have to pay for the betterment of others.

Senator Hart, I can see and understand closings of some of the conservation centers, due to lack of job opportunities, but to close so many of them and how do we explain the girls' centers that have been closed? I believe the success of their program has been close to 80%. Am I correct?

Also, how was Michigan chosen to have all three (3) centers closed? What criteria was used to decide which centers should be open? What is the comparison of cost, quality and performance by which we decide what is the best program to serve the needs of all people, especially in deprived circumstances?

My dear Senator Hart, I would like some answers as to why this particular measure was taken? If reports are available on the Job Corps centers and Head Start programs, may I please have a copy of the situation, pro and con?

The proposed "skill centers" have been mentioned in the newspapers. Could I have more details about them? What will they provide that could not have been accomplished through improvements in the Job Corps program? How will transportation be provided? This is a problem in the Midland area. One great advantage of the Job Corps

program is removing the youth from the home situation, which was unbearable in many cases. How will this problem be met through the skill centers?

I love my God, my country and all its people, Senator Hart, and I want to do as much as I am able through constructive action, not reaction.

Thank you for listening to my problems and questions. I, certainly, would appreciate information on the Job Corps and Head Start programs at your convenience.

Sincerely,

MRS. EDWARD P. DURIS.

WOMEN IN COMMUNITY SERVICE,
Detroit, Mich., April 18, 1969.

Hon. PHILIP HART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HART: We have written to the Chairman of the House Education and Labor Committee and to Senator Yarborough of the Senate Labor and Welfare Committee concerning the President's edict to close seven Women's Job Corps Centers and to establish Mini-centers instead. You have great influence in the Senate and House and we ask you to work for the best interest of those who need these programs. The administration is putting the reduction of the budget before the needs of people. Reductions could be made in other areas of governmental spending, armaments, space, roads, to name a few. People are still our most important product.

We, who have been working with the girls, are disturbed by this ruthless decision and believe that the Congress which represents the people should be helping to make these decisions which have frightening implications and will affect thousands of human beings. Is money or people most important to our government? Does it really save dollars by closing existing Centers if this is replaced by tax cuts to business and the opening of new Mini-centers?

We must be sure that our girls are not summarily dismissed from their training Center, but are transferred automatically to another Center, even if that means keeping the Centers open longer so that a systematic phasing-out process can take place. Our girl comes from the ghetto and considers herself a failure. If she is terminated without completion of her training, she may never again try to achieve a better life. Her government has broken a promise to her, which we consider a dishonest act, and as a result she may despair, lose faith in her government, and no longer respect any authority.

This period of crisis is a good time for reassessment of Job Corps. Residential Centers are the answer for the girls from the inner-city who need to be removed from a crippling environment in order to be able to achieve their training. The proposed mini-center can be the answer for the girl whose home conditions are fair or who does not want to leave her child or her home. We urge that the proposed mini-center for Detroit be planned for Women. Detroit is a heavily industrialized city, and the automobile companies and other private enterprises offer training programs and jobs for men. However, there are only limited and scattered opportunities for women, (we presently have 300 names in our files to fill a Center today.)

We urge that the mini-centers open as soon as possible, but that the program be most carefully planned to meet the needs of the total person. We offer the following suggestions:

1. Use the trained personnel from the closing Centers, they already have the experience in working with the hard-core girl. It will not be necessary then to spend additional funds for recruitment of personnel.

2. Along with skill and basic educational training, there should be included group counseling, home and family guidance, grooming techniques, on-the-job training, and recreation.

3. Tie-in with big business in the city for training possibilities.

4. Have carefully thought-out screening procedures for both residential and mini-centers. Increase the age limit to 25 for mini-centers.

5. Use existing centers and equipment. (If Chicago is closed as a residential center, it can be used as a mini-center with existing facilities and staff.)

We urgently request the Congress to support effective training programs for our inner-city youth and to keep these in the hands of creative persons. Congress holds the keys for responsive government.

We in Detroit W.I.C.S. are ready to continue screening and to assist in the mini-center in any way possible on a volunteer basis. The girl is our main concern. She needs to be assured a hope that it is possible for her to control her own life and a faith that people in government and in the community are working for her welfare and will sustain her until she can assume her rightful place in society.

Sincerely,

MRS. DONALD TRACY,
Project Director—Detroit.

THE SISTERS OF ST. PAUL
DE CHARTRES,
Marquette, Mich., April 18, 1969.

DEAR MR. HART: I am writing in protest of the closing of the Job Corps Center on the campus of Northern Michigan University. There are approximately 300 girls here who will be affected by this decision.

I propose that you work for the retention of this Job Corps Center at least until the new type of training center proposed by the President is built and ready to use. Also, in the event that this administration wishes to discontinue the Job Corps program, as such, completely, I urge you to work for the utilization of the facilities on this campus for the purpose of educating and training some of the poor people (especially Indians) in the Upper Peninsula of Michigan.

Sincerely yours,

Sister RONALD JOSEPH.
Sister COLUMBIA.
Sister MICHAEL PAUL.

APRIL 15, 1969.

DEAR SENATOR HART: I'm writing in regard to the President's recent cut back in our nation's budget. I feel he is cutting out a most important and vital program, that being the Job Corps.

I am a student at Northern Michigan University, which is located in Marquette, Michigan. There is a Job Corps Center located on our campus. This Center like all others should not be closed. These girls are taking advantage of this wonderful opportunity to better themselves. This Center has brought a realization of the need to educate these girls to the university students. We want this Job Corps Center to remain open.

Training and educating them today will keep them out of the welfare lines of tomorrow.

This is not a program to cut out, it will only postpone the problem of educating the poor. The longer this problem is postponed the greater the tensions shall become.

Many of these girls, if this Center is closed, will have no home to return to. They have no families, no education, no training. What will become of them? Surely the remaining forty some Centers and the promised Urban Centers can not compensate all of the young men and women now in the Centers.

This program must be continued not only for the benefit of the men and women involved, but for the betterment of the nation. Here on campus an understanding is being built between races and economic classes, a break in the wall of prejudice, a door has been opened for this people, a door of opportunity we have no right to slam that door in their faces.

With these thoughts in mind I trust you will not hesitate to do all you can to make sure the Job Corps program is not eliminated from our nation's budget.

With Great Sincerity

SYLVIA WASSON.

DETROIT, MICH.,
April 18, 1969.

Senator PHILIP A. HART,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HART: I have served as a volunteer for WICS (Women in Community Service) for four years. Church Women United are happy having a part in helping disadvantaged girls go to a Training Center through Job Corps.

We are greatly concerned about the new stories of serious cutbacks on the Job Corps Program.

Our several years' experience in recruiting girls for Job Corp has convinced us of the value of a residential training program.

We have seen girls' lives dramatically changed because they were able to have the living as well as training experience that Job Corps has brought them.

I hope you will give careful and prayerful consideration to a continuation of residential program for youth from poverty areas.

Thanking you, I am

Sincerely yours,

(Mrs. Earl) MYRTLE I. WILLOUGHBY.

CARLETON, MICH.,
April 1969.

Senator PHILIP A. HART: I am enrolled in a U.S. Government course adult continuing education, and I understand that the Government threatens to discontinue O.E.O. and cut back in O.E.O. funds. Is this true? I think this is a great opportunity for the less fortunate people in the U.S. Could you give me a personal reply on this subject, please? I am trying to go to these classes O.E.O. is offering for a better education and understanding, and also I would like to know what could be done about prejudice in a State-employed job such as Ypsilanti State Hospital cultenary department of Ypsilanti, Mich. It is bad. I wish someone could investigate the Y.S.H. cultenary dep. and make the heads stick to the rules that the state put out, for everyone no matter what the color of a person's skin may be.

Truly yours,

ZEPHREE ADAMS.

WAKEFIELD, MICH.,
April 11, 1969.

Hon. PHILIP A. HART,
U.S. Senate,
Washington, D.C.

Closing of the Ojibway Civilian Conservation Center was announced today in the Daily Glove. In view of the service being performed for the youth of our Nation and the economic benefits to Wakefield and surrounding areas, I urge that you do everything possible to keep Ojibway in operation.

JOSEPH P. CLOON.

BROTHERHOOD OF PAINTERS, DECORATORS AND PAPERHANGERS OF AMERICA, AFL–CIO,
Washington, D.C., April 15, 1969.

To: All Cabinet Members; All Members of the Congress.

I previously wrote to many of you in a much happier vein, informing you of our joint participation with the Job Corps in preparing disadvantaged youth for gainful employment in the Painting and Decorating Industry, with the ultimate goal of fitting this group into the mainstream of our society as employed taxpayers rather than having them face a future as recipients of wel-

fare doles or prison rehabilitation. This appears to no longer be the goal of this Administration.

It saddens and alarms me to see that we are again turning our backs on a major segment of our population; for while we do not like to believe it, we still must recognize that this hardcore, disadvantaged does exist.

We must not stand idly by and see our most precious resource, the youth of this country, wasted from lack of opportunity. It is my studied opinion that one of the very best and most practical ways to refine this flow of undereducated, disadvantaged, raw youth into our machine of progress is through the Job Corps Civilian Conservation Centers Program. This is practical on the job training for a practical job and no substitute has ever been found for this method by any administration since the dawn of the world.

Now is the time to search our conscience as representatives of our people and ask ourselves some basic questions. Is it really more costly to prepare a youth for employment than to keep him in prison, or on the pubilc welfare rolls along with his future family and their future families ad infinitum? I know what my answer and the answer of the membership I am privileged to represent is to this, and hope that you are of the same mind.

Therefore, on behalf of the 210,000 members which I have the honor of representing, I ask that you exercise your influence to have this most critical decision on the part of the Administration either rescinded or modified. I would indeed hate to see the Great American Dream be turned into a nightmare for these now forgotten and disillusioned youth.

With best personal regards, I remain,

Sincerely,

S. FRANK RAFTERY,
General President.

MARENISCO SCHOOL DISTRICT,
Marenisco, Mich., April 16, 1969.

Hon. PHILIP HART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HART: By resolution, the Marenisco Board of Education went on record opposing the closing of the Ojibway Civilian Conservation Center located in this township.

It was the feeling of the board that while the program has some defects it has accomplished a great deal, and with some changes it could accomplish more.

We urge you to support the program both to help the boys concerned and also to help the area which is still trying to recover from the effects of the closing of the iron mines on the Gogebic Range.

Yours truly,

ROBERT GRIVICICH,
Secretary, Board of Education.

MARENISCO SCHOOL DISTRICT,
Marenisco, Mich., April 16, 1969.

Hon. PHILIP HART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HART: I urge you to use your influence to oppose the closing of the Ojibway Civilian Conservation Center which is located in this township.

As an educator I have been particularly interested in this program, as they have been using the latest in educational techniques and we have studied them for possible use in our own program and have adopted those adaptable to our situation. I feel that the Center has done an outstanding job and its closing would be a great loss.

I had often used the word illiterate but until I came in contact with some of these boys at the Center, it was quite remote because in our district the dropout rate is negligible and even those few who have dropped out can read and write. So the people teaching at the Center often have to start at the lowest level.

I see that to replace these centers "Skill Centers" are being proposed in or near the so called ghetto areas. Since many of the problems of these boys are caused by their environment and as they have failed in this environment, I seriously question if they will do any better in a "Skill Center" in the same environment, and these kids really need help.

The cost of these conservation centers is high but measured against a possible life time of welfare support, the cost is small indeed.

It seems a little bit foolish after the huge capital investment the government had made to close these camps on what seems to me to be political grounds.

The closing of this Center would also adversely affect this area which is still trying to recover from the closing of the iron mines on the Gogebic Range.

Again I urge you to use your influence to oppose the closing of these centers.

Yours truly,

THOMAS M. WALIN,
Superintendent.

[From the Duluth (Minn.) News Tribune, Apr. 12, 1968]

FIFTY-NINE JOB CORPS CENTERS TO BE CLOSED OUT

(By Ernie Hernandez)

WASHINGTON.—Asserting the government shouldn't "spend good money after bad," Labor Secretary George P. Shultz Friday announced scrapping of 59 of the nation's 106 Job Corps centers.

The 59, which represent an investment of $65 million, should be closed by July 1, said Shultz. However, closeout might take a little longer, and he stressed "none will be denied training because of the closings."

The closeout is part of a plan, approved by President Nixon, to integrate the five-year-old Job Corps of the Office of Economic Opportunity (OEO) into the Labor Department's Comprehensive Manpower Program.

Shultz said there will be a shift in training emphasis from conservation work to industrial occupations and job placement. To accomplish this, he announced the eventual establishment of 30 in-city or near-city training centers. As in the Job Corps, trainees reside in some of these centers.

The 59 include two large men's centers, seven women's centers and 50 conservation camps. Shultz was unable to say how much it would cost to close them, but said he's considering how best to dispose or put to other use the equipment so far invested in them.

The labor secretary said the centers essentially were failures in that they were too costly, they were unable to keep enrollees in the program, they didn't adequately improve trainee's reading and mathematic skills, and most important, they didn't result in jobs.

He pointed to a profile of corpsmen in residence and noted that only 28 per cent came from metropolitan areas. This suggested to him, he said, that training should be moved to the "in-city, ghetto" areas where the need is greatest.

Shultz said three out of 10 enrollees drop out between signup and arrival at camp. Of those who stay, 33 per cent drop out within 90 days, he noted.

"The notion of long-distance hauling has something to do with the dropouts," he said. "Also, job placements are more difficult."

Schultz made it clear that he didn't—and wouldn't—submit to congressional pressures in the decision to close the 59 centers.

(DEAR CONGRESSMAN: I did have the impression that when we elected you that you would have some say in government operations.

THOMAS M. WALIN.)

Noting that the department set a record for phone calls from congressmen because of newspaper reports of the closeouts, he said the centers were closed because they weren't successful and some remained open because of merit.

Earlier news accounts set the number of centers closing from 57 to 63, but until Shultz' press conference, the only Labor Department statement was that those accounts were "inaccurate".

Shultz said the integration of Job Corps with the manpower program and establishment of 30 new centers will result in a program cost in fiscal year 1970 of $189 million—$100 million less than projected by President Johnson.

* * * * *

MUSKEGON PUBLIC SCHOOLS, MUSKEGON AREA SKILL TRAINING CENTER,
Muskegon, Mich., April 15, 1969.

Hon. PHILIP A. HART,
Senate Office Building,
Washington, D.C.

DEAR MR. HART: It has been brought to our attention the government is planning on closing Job Corps Centers throughout the nation and the implementation seems to be that Manpower Programs will be used more extensively.

We would urge that you continue to work for more funds for the State of Michigan and Muskegon, for institutional training in Skill Centers.

As you know the Muskegon Skill Center is near the completion of its fourth successful training program. When you are in the area we would like very much to have you visit our Skill Center.

Sincerely yours,

FRED ROYS, *Director.*

DEERTON, MICH.,
April 15, 1969.

SIR: Closing of Job Corps Centers will certainly save dollars in the war on poverty, but will not help win the war being fought by unskilled people. I urge your support to help keep the Job Corps Centers open.

Yours truly,

GLENN BOODY.

IRONWOOD, MICH.,
April 14, 1969.

Hon. PHILIP A. HART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HART: It has been announced that the Ojibway Civilian Conservation Center near Marenisco in Gogebic County, Michigan, will be closed on July 1.

This Center has been in operation for over three years. It is my feeling that the staff at Ojibway has done a good job in educating and training the young men who have been assigned to the Center. They have also completed a number of needed conservation projects on the Ottawa National Forest such as in Sylvania and Black River Harbor as well as numerous projects in the surrounding communities.

In addition to helping the young men, the Ojibway Center has provided a number of jobs for our local people. Expenditures for the operation of the camp have also made a considerable contribution to our local economy.

I urge that all possible action be taken to reverse the decision to close the Ojibway Center. Your help in this matter is asked.

Sincerely yours,

VICTOR F. LEMMER,
Past President, Michigan Historical Society.

DETROIT, MICH.,
April 15, 1969.

Hon. PHILIP A. HART,
Senate Office Building,
Washington, D.C.

MY DEAR SENATOR HART: Please do all you can to save the job corps, I consider it to be the most important of poverty programs.

What I do not understand is, how can the Nixon administration be so willing to spend billions on a questionable ABM system—which I hope that you will continue to oppose—and while, at the same time, unwilling to invest a few measly millions to train many thousands of poor Americans for gainful employment.

I am very unhappy, thus far, over the Nixon administration methods being used to battle inflation—higher unemployment, less money for vitally needed domestic programs—to name a few items.

I am also deeply concerned with all this hunger in America, I would also urge you help formulate legislation programs that will aid the starving Americans. I can think of nothing that is horrible as human beings dying of starvation, as I recently witnessed on the NBC Today Show.

With very warm regards, I am,

Very truly yours,

FRED D. JORDAN.

INTERNATIONAL UNION OF OPERATING ENGINEERS,
Washington, D.C., April 10, 1969.

Hon. PHILIP A. HART,
U.S. Senate,
Washington, D.C.

SIR: Recent news stories regarding proposed cutbacks in the Job Corps program have caused serious concern among the members of our union. Our membership of 360,000 has supported the concept of a "latter-day CCC" since first proposed in Congress a number of years ago. We were very pleased to see the idea become a reality in the Job Corps Civilian Conservation Centers.

Not only have we supported the Job Corps in principle, we have supported it in action. Since 1966, our International Union has provided training as heavy equipment operators for sixty-five to seventy Corpsmen annually at Jacobs Creek, Tennessee. In July of 1968, we extended this program to the Conservation Center at Anaconda, Montana where we have a trainee census of about fifty. We have placed almost all of the Jacobs Creek graduates in union jobs across the country, and anticipate placing some one hundred more graduates from Jacobs Creek and Anaconda this summer. I am attaching typewritten copies of several of the many letters received by the Center staff from young men who have gone to work and become taxpayers instead of "tax eaters."

While not all Job Corps graduates can tell as significant a story, there is one overriding reason that this program should remain intact. About sixty per cent of the Job Corps Civilian Conservation Center entrants have reading achievements below grade level 3.5, making them—for all intents and purposes—functionally illiterate. Where will they go? Our society cannot afford to carry them forever and they are not capable of caring for themselves.

I earnestly solicit your assistance in maintaining the conservation centers so that we, along with others, may continue to help these youngsters who want to help themselves.

Very truly yours,

HUNTER P. WHARTON,
General President.

GARY, IND.,
November 6, 1967.

DEAR SIR: This is a short brief letter to you and the heavy equipment staff and Corps. I don't know how to start it, but I hope you know how I feel about Jacobs Creek. It was very wonderful there taking the training with the fellows. Take a little advice—stay there and get all you can because you will need it. Don't be a high school drop-out and then go to Job Corps and be the same thing. I dropped out of school but I tried to better myself and I did. It was hard, but I stayed with it so why don't you do that.

I don't have much to say. Smokey, you were something special to the Corps. You were so kind and understanding and you articulated yourself very nicely.

I will close for now. I should have written before now, but I guess it is one of those things—you know—having fun Smokey. We are in Local 150, making $5.00 an hour on a 40-hour week. It is very cold up here. We are on a dirt moving job. To me, I wish we were on a road job. Is there any chance for us to go to Florida to work for the winter? We haven't missed a day of work and we don't intend to.

Yours truly,

JOHN W. THOMAS.

SELMA, ALA.,
September 24, 1968.

DEAR SMOKEY: How are you and the Heavy Equipment Corpsmen at Jacobs Creek doing?

That's where it's at—a little push gave me a big start and I owe it to all of the instructors at the Center. I know that there were many times that I wanted to leave, but nice people like you changed my mind. You know more about me than I know myself, because you knew what I needed and showed me how to get it.

I am making $4.35 an hour, ten hours a day, with two hours overtime, and working six days a week. Last week, I made $290. Before I same to the Job Corps, I was making $24.50 a week—now, I get more than that in a day. The Job Corps did more for me in a year than I did for myself in 20. I am not in the union yet—looks like they don't want me. (smile)

Well, so long for now.

Sincerely from,

WILLIE.

NEW HAVEN, CONN.,
July 28, 1968.

DEAR SMOKEY: While sitting here thinking of you, I decided to let you hear from me. I would have written earlier but I thought I was going to get to call you. When I got off work its too late to call. Well, how is everything going down there. I got started to work the next day after I got here. I went to work on a backhoe and worked two days and got laid off, but I also got a check for $70.00. I went back to the hall Monday and they sent me on a job operating a scraper. I like operating an electric scraper.

I am working for Cosgrove Construction Company building an airport. I didn't know it got so tiresome sitting in that seat all day. I was making more money an hour operating the backhoe than I was the scraper and that scraper work was the hardest. I am well satisfied with my job. The people up here are very nice. They are willing to help you any way they can. I haven't had any trouble getting to work. They assigned a man to take care of me until I get straightened out and he does a good job of it. He let me use his truck for four days to get to work and I have been catching my way to work every day since then with some guys on the job. I have been saving my money for this occasion. When I got here, I called my mother and told her to send me $400 to buy me a car because I had to get to my job. In about four days she sent me a check. I bought me a '60 Ford in good shape for $300. I paid him cash for it, so now I can go to work in my own car. I have two checks that I never cashed and don't need them for anything. I don't know how to thank you, the Job Corps and the people at Jacobs Creek for what they have done for me and I will never forget it. I am coming to see you when it gets too bad to work. I am going to save every penny I own. The contractor told me he didn't know that they taught us to move dirt like that. They all stand and watch me when I come in the cut and when I get loaded dirt is falling at the side. I move more dirt in a week than I moved at Jacobs Creek in a year. I also found Eli Lampton. He lives about three blocks from me. I go over to his house all the time. He's been married for 9 months. He told me he was going to call you when he got a chance. I went over in my car and we went riding, learning the way around. We went on the beach Sunday and stayed all day. I like the seashore out here, it stays cold all the time. This lady I rented the apartment from treats me like a son. When I leave, I have to tell her I'm going and when I'm coming back. She's a very nice lady to live with. I pay $20 a week for the apartment and all I have to buy is my food. I guess you're saying I am going to write ten pages, but I just want to let you know I appreciate everything you did for me. There's plenty of work up here. You ought to send some more guys up to work. I think they would like it up here. I think I have talked enough. Tell all of the instructors I said hello. So, I will bring this letter to a close.

Sincerely yours,

WALT MITCHELL.

SEPTEMBER 24, 1967.

HI RUSTY: I am sorry I didn't write sooner, but I smashed up my car and I've had to go through a lot of trouble.

I am still trying to find out who the lady is that ran into me.

I got a job 5 days ago as a mechanic helper. I am making $3.70 an hour. I am doing all right except we are working on a caterpillar—the part we never got in. And that is the final drive. We had the whole track off, and the steering clutch out, and the final drive apart, because a bearing rode up the inside of the final drive. We just got it together today.

And now we have got to take the engine out of a cat scraper and put a clutch plate in it, so I guess I am going to be pretty busy for a while.

I am working in Edina, Minnesota for a Mr. Carl Kraul. I am renting a place about 20 miles from there called Hopkins, Minnesota.

But I want you to write to my home address because I don't know how long I am going to stay here in Hopkins.

The rent is cheap here—$28 a month. So bye for now. Write soon.

As always,

WILFRED J. HILTON.

CLEVELAND, OHIO,
September 28, 1967.

Mr. JACK KELLY.

DEAR MR. KELLY: Just a few lines to let you hear from me. This leaves me well and hope when these few lines reach your hand it will find you in the best of health.

Mr. Kelly, I am sorry it took so much time to write, but I have been working hard and now I got use to the work, I am o.k. Tell all the boys to stick with it at J. C. because in the long run it pays off. If they think we are lying, we will be there in two months and we can tell them ourselves. I say we, that is Tift, Pat McCary and me, we all are working now nice and hard. I make $5.22 an hour, and .50 an hour, that is why I say it pays off. Tell Maxwell hello and I miss him, and tell Smokey I thank them for all they taught me, and tell Big Clee hello and I want to write him, but I lost my wallet and I don't have his address. Tell all the guys hello and stay with it at Jacobs Creek.

From,

EARTHEL ALFORD,
as (Slick).

MARIENVILLE, PA.

Senator HART,
Senate Office Building,
Washington, D.C.:

I have just heard that Blue Jay Job Center may be closed. As a faculty member of Clairton State College, Clairton, Penn., Special Education Dept. and as a supervisor of student teachers who are now and have been getting very valuable experience at Blue Jay

Job Corps Center, I wish you would do all in your power to have this Job Corps Center re-evaluated before a decision to close it is acted upon. Thank you.

L. D. SAUVAGE,
Associate Professor of Special Education.

CHURCH WOMEN UNITED OF DETROIT,
Detroit, Mich., April 14, 1969.

Hon. PHILIP HART,
The Senate,
Washington, D.C.

DEAR SENATOR HART: As you probably know Church Women United is one of the four sponsoring agents which formed Women In Community Service (WICS). We contract voluntarily to screen and recruit Girls for Job Corps.

We are very distressed at President Nixon's actions as well as the actions of the Department of Labor in the proposed closing of some 65 centers.

Besides all the ideas that I know you have about this—we wish to stress that we are interested in the total personality of the girl—which is unique in the present Job Corps centers and for local industry to just stress skills—this negates part of the uniqueness of Job Corps.

Thanks for your help and interest.

Sincerely,

WINEFRED K. ALBERTI,
Chairman, Action Committee.

P.S.—As a WICS visitor myself I am deeply concerned personally—our Detroit School leaves so much to be desired! These kids need something!

SOUTHFIELD, MICH.,
April 14, 1969.

Senator PHILIP A. HART,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HART: A recent news report stated that with the transfer of the Job Corps Program from the Office of Economic Opportunity to the Labor Department a drastic curtailment of the program would be undertaken. This is a disturbing report. We hope it is not true. We request that you make every effort to assure continuance of this needed program.

Much of the criticism of the program comes from those who either live near Job Corps Centers or object to the cost. If the program were to run smoothly causing the surrounding communities no trouble then it would seem that the program were not reaching the right kids. It is not so much how these kids behave when they start but rather how it effects their lives after they finish.

It has been said that it costs less to send a boy to Harvard than to train a Job Corps recruit. It's true and why shouldn't it. Look at the raw material and the finished product in both cases. Also, look at the alternatives. Without Harvard, the same boy would have little trouble finding success in a state university. Without the Job Corps this boy or girl often costs society more in welfare, unemployment, crime etc., than Job Corps does.

We hope that you will be able to at least block the proposed reduction if not increase the number served.

Thank you.

Sincerely,

GEORGE I. S. CORCORAN.

UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA,
Washington, D.C., April 14, 1969.

Hon. PHILIP A. HART,
U.S. Senate, Washington, D.C.

MY DEAR SENATOR HART: We have been advised that a severe curtailment of the Job Corps Program is being considered.

Since May of 1968, we have had the opportunity of working very closely with the Job Corps Conservation Centers Program through the Department of Agriculture Forest Service and more recently with the Department of Interior in the operation of seven (7) Carpentry Programs, wherein we are providing related and manipulative experience to sixty (60) of the underprepared and underprivileged youth in each of the seven (7) centers.

Although none of our programs have run the full cycle, we have already placed fifty two (52) young men that we were able to qualify into our Apprenticeship Programs throughout the country and we expect to place all of the young men now in our programs in the industry upon the completion of their program, some of which will be completed in June, 1969 and others in July, 1969.

Therefore, we request that serious consideration be given to the continuance of the Job Corps Conservation Centers in that we feel an excellent job is being done in the training and placement of young men in gainful employment who will take their place in their community as active citizens and workers in the industry, who, otherwise, will be a burden, as well as a problem, for society.

If curtailment is essential of some of the Conservation Centers, it should be done on a selected basis after full investigation of the quality of training and job placement that has been accomplished at each center.

Sincerely yours,

M. A. HUTCHESON,
General President.

CADILLAC, MICH.,
April 15, 1969.

Hon. PHILIP A. HART,
Senate Office Building,
Washington, D.C.:

The following resolution was adopted by the city commission Cadillac, Michigan.

"Whereas, the administration in Washington has decided to close the Hoxey Civilian Conservation Center at Hoxeyville,

"And, whereas, said Job Corps center has 131 young men and 36 staff members at its facility and has been a substantial contribution to the economy of the area since 1965,

"And, whereas, the work performed in training young men to assume employment and become responsible citizens is so vital to the young men and the country as to preclude its importance being measured in dollars, the people of the city of Bessemer oppose the closing of the Ojibway Job Corps Center, Marenisco."

Please do everything in your power to keep this Job Corps Center open.

ELMER V. SANDIN,
Mayor, City of Bessemer, Mich.

TOWNSHIP OF WATERSMEET,
Watersmeet, Mich., April 11, 1969.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: I have just heard that not only are the appropriations for the Job Corps program being drastically cut, but that many of the existing Centers are to be closed by July 1. Included in the list to be closed was the Ojibway Job Corps Center, located at Marenisco in Gogebic County, Michigan.

The Ojibway Civilian Conservation Center has done a good job in educating and providing work skills to the young men fortunate enough to have been assigned there. They have completed many worthwhile projects including a number of benefit to this community. In addition to the primary purpose, of aiding these young men, the Ojibway Center has provided employment for a number of local people and its expenditures for operation have been a help to our local economy.

I am hopeful that this worthwhile program and any cuts in it will be carefully considered. Should the closing of some Centers become necessary, we urge that the Ojibway Center remain in operation.

Sincerely yours,

FRANK BASSO,
Township Supervisor.

CHAMBER OF COMMERCE,
WATERSMEET, MICH.,
April 8, 1969.

Hon. PHILIP A. HART,
U.S. Senate,
Washington, D.C.

DEAR MR. HART: A recent article in the Ironwood Daily Globe indicates that a deep cut in funds is being considered for the Job Corps program. If this cut in funds is put into effect many of the existing centers would be closed.

Our Ojibway Civilian Conversation Center at Marenisco in Gogebic County, Michigan has been operated for three years. I have visited this center and seen the good job they are doing in educating and providing work skills to the young men assigned to it. In addition they have completed many worth while projects, of benefit to our community and for the benefit of the thousands of tourists who visit our area each year. I am particularly pleased with the help they have provided in the development of our Sylvania Recreation Area and Black River Harbor. In addition to the many benefits to these men our Ojibway Center has provided employment for our number of local citizens. Expenditures for the operation of the center has made a significant contribution to our local economy.

We are all hopeful that the necessity for cuts in the Job Corps progam will be carefully considered. Should the closing of the center become necessary we urge that the Ojibway Center remain in operation.

Sincerely yours,

JAY B. SHIFRA,
President, Chamber of Commerce.

GLADSTONE, MICH.,
April 11, 1969.

Hon. PHILIP A. HART,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HART: The recent developments in the status of the Job Corps Program are of considerable concern to me. During the Lenten season the congregation which I serve in Gladstone, Michigan, conducted a sound, though not exhaustive, study of the Marquette Job Corps Center for Women. Based on information received and on personal contact with individual enrollees, the program has earned my support.

It is my opinion that the government has chosen a relatively safe, although not particularly intelligent approach to decreased spending. The Job Corps is not tremendously popular on the national scale; it does not appear critical; it does not demonstrate immediate and spectacular benefits. Its démise will probably not create an outcry from respective constituencies.

The Labor Department's announcement should, however be very upsetting. The Basic philosophy of the Job Corps is sound. People who are trained and hence capable of working are healthier people, personally and nationally, than are people on welfare. The types of training the Job Corps offers are useful to the economy and offer the trainee some self-respect. This type of "building from the bottom" program marks the area in which we should be studying, experimenting, and developing more comprehensive help programs.

I fear that the planned closures will result in a diminished, rather than an increased, concentration on one of the most rational and realistic social developments in recent years. Perhaps the Job Corps should not continue in its present form. As a step in the right direction it should be varied, expanded,

studied, and improved—not dumped. I urge you to support the Job Corps and to resist the withdrawal of funds from this area of need.

In response to demands for funds in other areas, I feel this way. The strength of our nation is in the people who love it and are treated well by it, not in military muscles flexed hither and yon. The nation's defense depends more on the building of firm foundations than on thin missile defense systems built to protect what may not exist. Our cosmic responsibility is to cure ourselves before we spread our particular concern of prejudice and dis-respect to the entire solar system.

Thank you for your consideration of a letter which turned out longer and more involved than I had intended. I cannot apologize, because the issue is crucial.

Respectfully yours,

The Rev. PHILIP J. NANCARROW.

PAINESDALE, MICH.,
April 14, 1969.

Hon. PHILIP HART,
U.S. Senator, Michigan,
Washington, D.C.

SIR: I ask you to work and fight for the continuation of the Ojibway Civilian Conservation Center, located in the heart of our Ottowa National Forest, in the Upper Peninsula of Michigan.

Staffed by dedicated administrators, teachers, work project engineer, this on the job training program has opened the door to a new way of life for hundreds of 16–18 year old youth, by fostering, through a carefully planned program, the hidden talents, the abilities as well as alerting the enrollees of the importance of working to perpetuate and preserve the precious natural resources found in a National Forest, such as ours, in the Water Wonderland of Michigan.

Should we allow the "cancelling out" of a center, such as this, thus shattering a ripening of the much needed, energetic young man power in our conservation area of the Upper Peninsula?

Should we, sit back and allow our voice in the Senate and Congress "wipe out" a pertinent issue of our home area, the Job Corp or the school drop-out, the disadvantaged, the undesired, the training, so well and meaningly established, in a natural classroom, which has proven to them to be "something of value" found in living on God's good earth?

Dare we permit, the acclaimed economist to send back to our bulging cities, to the same conditions which we so loudly claim where the instrument which contributed to the youth's unrest, during their vibrant growing years?

Do we dare allow our future generations to read our records of 1969–70, when we sanctioned the "throwing to the winds" these youth whose greatest need was to be needed, while we were content with a "balanced budget" and the showing of a "surplus" at the end of a fiscal period?

Let us give more than lip service when we advocate aid to the underprivileged on one hand, and at the same time employ experts, at great costs, to present programs of every conceivable nature, yet to be proven, to be what is claimed to be a more stable economy?

We have been generous with our tax money in raising the scale of living for those who work for us in our government, on all levels, yet we continually quibble and hesitate and become complacent, as we allow, often, the "nays" and "yeas" to cut from "the least of these" a small share in our professed abundance.

I feel humble, indeed, when I think of those men and women, young and old, who worked together to raise a great nation from a wilderness, and through their forsight and writing created our constitution, thus carving and opening a door for a government "of the *people*, by the *people* and for the *people*."

Let us not "rip out" Ojibway where so much has been done, for so many, in such a short time among whom are those, who we were told about ages ago, "we'll always have with us." Let us not "tear down the entrance" of a key to the youth, who are willing to study and work for a new way of life and replace the sign with "closed because of a cut-back" which would add another frustration to the problemed youth of our country, not excluding those from our Upper Peninsula. Let us not allow the needs of our dependent youth to be "cut down or cut out."

We ask those who represent the final authority in this most important issue to come and see for themselves the program in action at Ojibway Civilian Conservation Center, in the Ottawa National Forest of the Upper Peninsula of Michigan, where they will witness, I think, the most successful tool yet conceived in helping the 16–18 years olds to better help themselves.

Thank you.

Sincerely yours,

Mrs. VALL DUNSTAN,
An interested citizen.

MARQUETTE, MICH.,
April 21, 1969.

Senator PHILIP A. HART,
Senate Office Building,
Washington, D.C.:

I want to express my strongest personal and institutional objection to the announcement indicating the possibility of closing the Marquette Job Corps Center prior to June 30, 1969. This would be an injustice to the enrollees who should be given maximum time to complete as much of their program as possible. It is an injustice to the dedicated staff members in our program who should be given the opportunity and courtesy to seek new employment for next year. Several have already taken positions for next year but would not have financial resources prior to July 1. Your support for the continuation of the program through June 30, 1969 and its orderly phasing out by that date is very important to the integrity of the program.

JOHN X. JAMRICH,
President, Northern Michigan University.

SENATE CONCURRENT RESOLUTION 20—SUBMISSION OF A CONCURRENT RESOLUTION EXTENDING TO THE HONORABLE HARRY S. TRUMAN, 33D PRESIDENT OF THE UNITED STATES, THE BEST WISHES OF CONGRESS ON HIS 85TH BIRTHDAY

Mr. MONTOYA submitted a concurrent resolution (S. Con. Res. 20) which was referred to the Committee on the Judiciary, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States hereby extends to the Honorable Harry S. Truman, 33d President of the United States, its best wishes on the occasion of his 85th birthday, May 8, 1969.

SEC. 2. The Congress expresses its appreciation to President Truman for his distinguished service as United States Senator, as Vice President of the United States and as President of the United States during the period from 1935 to 1953.

SEC. 3. The Congress expresses its appreciation for President Truman's determined and firm policies in respect to foreign affairs which, with invaluable bipartisan support, (1) helped in the immediate years after World War II to reconstruct a ravaged and weakened Western Europe; (2) firmly set the face of the United States against aggression in both Europe and Asia; and (3) provided desperately needed technical aid and other assistance in the best tradition of American generosity to developing nations struggling to create free and prosperous and democratic conditions for their peoples.

SEC. 4. The Congress further recognizes that President Truman no less heeded the plight of all Americans whom prosperity and justice had passed by and that he boldly advocated programs designed to translate the promise of a bountiful America into fulfillment for each and every American.

SEC. 5. A copy of this concurrent resolution of the Congress of the United States shall be promptly transmitted to the distinguished "Man from Independence," Harry S. Truman.

S. RES. 182—RESOLUTION AUTHORIZING THE PRINTING OF A SUMMARY REPORT OF SOUTH VIETNAMESE LAND REFORM AS A SENATE DOCUMENT

Mr. PACKWOOD submitted the following resolution (S. Res. 182); which was referred to the Committee on Rules and Administration:

S. RES. 182

Resolved, That the summary report on land reform in South Vietnam, prepared by the Stanford Research Institute for use by the United States Agency for International Development, be printed as a Senate document.

SENATE RESOLUTION 183—SUBMISSION OF A RESOLUTION TO EXPRESS THE SENSE OF THE SENATE IN OPPOSITION TO THE SHUTDOWN OF THE JOB CORPS INSTALLATIONS BEFORE CONGRESSIONAL AUTHORIZATION AND APPROPRIATION ACTION

Mr. CRANSTON (for himself, and Mr. BAYH, Mr. BROOKE, Mr. EAGLETON, Mr. GORE, Mr. HART, Mr. HUGHES, Mr. INOUYE, Mr. KENNEDY, Mr. MAGNUSON, Mr. MCGEE, Mr. MCGOVERN, Mr. METCALF, Mr. MONDALE, Mr. MONTOYA, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. PELL, Mr. RANDOLPH, Mr. RIBICOFF, Mr. TYDINGS, Mr. WILLIAMS of New Jersey, and Mr. YARBOROUGH), submitted a resolution (S. Res. 183) to express the sense of the Senate in opposition to the shutdown of Job Corps installations before congressional authorization and appropriation action.

(See the above resolution printed in full when submitted by Mr. CRANSTON.)

AMENDMENT OF THE FEDERAL MOTOR VEHICLE AND HIGHWAY SAFETY ADMINISTRATION—AMENDMENT

AMENDMENT NO. 14

Mr. RIBICOFF. Mr. President, I submit for appropriate reference an amendment intended to be proposed by myself and Senator NELSON, to S. 1245, the National Traffic and Motor Vehicle Safety Act of 1969, and ask that it be printed at this point in the RECORD.

The PRESIDING OFFICER. The amendment will be received, appropriately referred and printed; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 14) was referred to the Committee on Public Works, ordered to be printed, and printed in the RECORD, as follows:

On page 3, after line 5, insert the following new section:

"THE FEDERAL MOTOR VEHICLE AND HIGHWAY SAFETY ADMINISTRATION

"SEC. 5. (a) section 3(e)(1) of the Department of Transportation Act (80 Stat. 931; 49 U.S.C. 1652(e)(1)) is amended by inserting after 'Federal Railroad Administration' in the first sentence thereof a semicolon and the words 'Federal Motor Vehicle and Highway Safety Administration'.

"(b) Paragraph (1) of section 3(f) of such Act is amended to read as follows:

"'(1) The Secretary shall, through the Federal Motor Vehicle and Highway Safety Administration, carry out (A) the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (80 Stat. 718), (B) the provisions of the Highway Safety Act of 1966 (80 Stat. 731), (C) the provisions of chapter 4 of title 23, United States Code, and (D) his functions relating to motor carrier safety conducted through the Bureau of Motor Carrier Safety of the Department.'

"(c) Paragraphs (2) and (3) of section 3(f) of such Act are hereby repealed.

"(d) Paragraph (4) of section 3(f) of such Act is amended by striking out the designation '(4)' and inserting in lieu thereof '(2)'.

"(e) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new clause:

"'(54) Administrator, Federal Motor Vehicle and Highway Safety Administration.'

"(f) Clause (125) of section 5316 of such title 5 is hereby repealed."

Mr. RIBICOFF. Mr. President, I also ask unanimous consent that my testimony before the Commerce Committee proposing this legislation and a strengthening of the Federal traffic safety program be printed immediately following the text of the amendment.

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

Mr. RIBICOFF. Mr. Chairman, just three years ago I testified before this Committee in support of the first national traffic safety legislation. After a long struggle, the time for meaningful action had arrived. In the spring of 1966 we had great hope of reversing the rising trend of highway deaths and injuries.

This Committee reported an excellent bill which passed the Senate unanimously and became law in September, 1966. We believed that Congress and the Executive had made a firm commitment to improve traffic safety.

I regret to say it today—but we were wrong. The record of the past three years is disappointing. Though some progress has been made, the hard facts are that in 1968, 2,500 more people were killed and over 100,000 more injured than in 1966.

We do not have to look far to find the causes of failure in the traffic safety program. Lack of funds, personnel freezes and organizational difficulties have prevented the program from realizing its potential. And the American people have had to pay the price in higher deaths and injuries.

Mr. Chairman, there are three essential ingredients in any successful program—adequate funds, sufficient personnel and good organization. The Highway Safety Bureau is lacking all three.

Congress authorized a total of $51 million for motor vehicle safety in FY 1967–69. The Administration requested only $36.4 million however, and just $27.4 million was appropriated. Thus the Bureau received only 53 percent of the amount we believed was necessary to carry out this program.

The outlook for the future is little brighter. It was reported last week that President Nixon will support the previous Administration's recommendations of $23 million for FY 1970, but will cut the request for FY 1971 by $5 million.

Since it began, the safety program has been operating under a yellow caution light of budgetary restraint, far below its potential. Now is the time to give it the green light to proceed at full speed with its efforts to save lives. I urge you to increase the funds for this program by at least 50 percent, as Dr. Haddon recently recommended.

The problems of traffic safety are solvable. Vehicle defects *can* be detected and corrected before they cause accidents. New safety equipment *can* reduce the death toll and minimize injuries. But this requires more funds. There are no bargain basement solutions.

The Safety Bureau has also suffered from severe restrictions on the size of its staff. Right now it has only 87 full time professional employees engaged in motor vehicle safety work. Ten of these are assigned to defect review. But 10 people cannot ferret out the safety defects in the 20 million cars produced since the safety law took effect. It is not surprising then that major defects, like those which caused the recall of 4.9 million General Motors cars recently, go unnoted for long periods of time.

Major divisions, such as Motor Vehicle Inspection and School Bus Safety, have only one professional employee. The office of Cost and Lead Time Analysis, which my Subcommittee on Executive Reorganization was told would be established last year, is without a single employee, it exists only on paper.

Mr. Chairman, the American people are not getting their money's worth from the Safety Bureau. They think their hard earned tax dollars are buying an effective program, but they are not. The Bureau has issued only 28 safety standards, many of them minor or calling for no real change. Just two new standards and two amendments are scheduled to become effective on January 1, 1970, none is a significant safety innovation.

The plain fact is that the Bureau has lost the initiative on vehicle safety development to the industry and one reason is that it does not have enough personnel to do the job. Ultimately, it is people who must do the work—or it doesn't get done. In the Bureau the work has not been done. The Bureau has been severely handicapped by budgetary or employment restrictions for 17 of the 29 months of its existence, so its performance is understandable, if not excusable.

This situation must not continue. Like the authorization, the staff of the Bureau should be increased by 50 percent. Then, I believe we will see real advances in vehicle safety.

Beyond money and personnel, there must be organizational changes if the Bureau is to function effectively. Presently, the Safety Bureau is part of the Federal Highway Administration, along with the Bureau of Public Roads and the Bureau of Motor Carrier Safety. The Bureau of Public Roads far overshadows the other two agencies. It will administer about $4 billion in highway construction funds in fiscal 1969. By contrast, the Safety Bureau has a budget of $26.5 million and the Bureau of Motor Carrier Safety—which regulates interstate carriers—about $2 million.

In this organization the voice of traffic safety is muffled by those whose interest is building roads. Safety is a secondary concern in the Federal Highway Administration. The primary interest is simply extending the road network of the Nation.

The organization of the Highway Administration has interfered with the operation of the Safety Bureau. For example, the regional offices of the Highway Administration are under the control of the Administrator. These regional offices have advised officials in many states that they need not comply with the standard requiring a safety inspection of all registered vehicles once a year. They have told the states that a random inspection program would be acceptable. Despite repeated pleas by the Safety Bureau, the Administrator has failed to support the established standard.

Mr. Chairman, the Highway Administration cannot be trusted to enforce the safety laws in a satisfactory manner. Its interests are just too different from those of the Bureau.

The remedy for this organizational conflict is to separate the Safety Bureau and the Bureau of Motor Carrier Safety from the Bureau of Public Roads. A Highway Safety Administration should be formed, with an Administrator reporting directly to the Secretary of Transportation.

The new Administration should be composed of a headquarters unit and a group of regional offices, each headed by a regional administrator.

The headquarters staff would be responsible for establishing national safety policy, goals, and standards; providing specialized technical guidance and support; reviewing the adequacy of State highway safety program plans; performing technical and fiscal audits of State program performance; and planning and carrying out the research, development, and training programs.

The regional offices would have full responsibility and authority within their assigned geographic areas to implement the program, including the approval of grant applications and providing technical advice and assistance to the States in the carrying out of their programs.

This would give highway safety the voice and status it deserves in the Department of Transportation. The new Administration would have clear jurisdiction and authority to deal with all the human and vehicular aspects of traffic safety. Its work would be coordinated with that of the Bureau of Public Roads by the Office of the Secretary. I believe this is the most effective and efficient way to organize our highway safety program.

Accordingly, I shall soon introduce legislation to establish a separate Safety Administration in the Department of Transportation. I hope that you will give it favorable consideration.

Mr. Chairman, these hearings are a reflection of the furious debate over our national priorities. Some talk about "guns or butter". But I think it is more aptly described as lives verus hardware. For what is at stake here is how many people will be killed and injured on our highways in the next few years. Some deaths and injuries are unavoidable, but many can be prevented. The resources we devote to traffic safety will directly affect the accident roll.

None of us know what will happen in the trouble spots of the world tomorrow. But we do know what will happen on our streets and highways. I urge you to put the health and safety of our people first.

NEW STATUS FOR TRAFFIC SAFETY

Mr. NELSON. Mr. President, I am pleased to join with Senator RIBICOFF today as a cosponsor of his amendment to create a separate Motor Vehicle and Highway Safety Administration in the Department of Transportation.

Senator RIBICOFF's proposal would lift the National Highway Safety Bureau, which administers the traffic and highway safety programs authorized by Con-

gress in 1966, out of the Federal Highway Administration and give it independent status, reporting directly to the Secretary of Transportation.

Today, the National Highway Safety Bureau is at a critical crossroads. The fact is that the Bureau has made very little substantive progress in the 3 years of its existence in combating the highway death toll. One of the major reasons is that it has been severely hampered in administering the law by the law status accorded it in the Department of Transportation.

To function effectively, the National Highway Safety Bureau must have the freedom to act and react quickly, to make policy decisions and legal judgments independently, and to deal openly and honestly with the Congress and the public.

Under the present structure, this does not seem possible.

Today, the Bureau is buried deep in the Department of Transportation. It is one of three entities in the Federal Highway Administration. The others are the Bureau of Public Roads, by far the largest with a $4 billion annual budget and overwhelmingly dominant, and the Bureau of Motor Carrier Safety.

The National Highway Safety Bureau must rely on the FHA for all its legal, public information, administrative, and policy planning services.

Dr. William Haddon, former Director of the Bureau, strongly indicated in his testimony before Congressman Moss' subcommittee in the House, that this administrative setup was totally unworkable. And since his departure, it has been complicated by the establishment of a management council which is ruling as a troika on all policy matters concerning the Safety Bureau. The independence of the Bureau and the authority of its Director, who is outnumbered on the council by two FHA officials, have been severely reduced by this action.

The Bureau cannot possibly function effectively when it must rely on FHA for all its legal and policy planning services, and when every minor policy decision must be scrutinized by an administrator whose program very often conflicts with the Bureau's goals.

Many people in the Bureau feel strongly that the effectiveness of the Bureau lies in its independence and that the importance of its work demands that it be a separate entity reporting directly to the Secretary of Transportation. It was never the intent of Congress to include the Bureau in FHA. And now that it has proven clearly unworkable, it is time to remove it and upgrade its status to where it was originally intended.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

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

Shiro Kashiwa, of Hawaii, to be an Assistant Attorney General, vice Clyde O. Martz, resigned.

Robert K. Fukuda, of Hawaii, to be U.S. attorney for the district of Hawaii for the term of 4 years, vice Yoshimi Hayashi, resigning.

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 Friday, May 2, 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.

NOTICE OF HEARING

Mr. McCLELLAN. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Friday, May 2, 1969, at 10 a.m., in room 2228, New Senate Office Building, on the nomination of William E. Schuyler, Jr., of Maryland, to be Commissioner of Patents, vice Edward J. Brenner.

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 Michigan (Mr. HART), the Senator from North Dakota (Mr. BURDICK), the Senator from Pennylvania (Mr. SCOTT), the Senator from Hawaii (Mr. FONG), and myself as chairman.

NOTICE OF HEARING

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

George E. MacKinnon, of Minnesota, to be U.S. circuit judge for the District of Columbia circuit, vice Charles Fahy, retired.

Roger Robb, of the District of Columbia, to be U.S. circuit judge for the District of Columbia circuit, vice John A. Danaher, retired.

Thomas A. Flannery, of Maryland, to be U.S. attorney for the District of Columbia for the term of 4 years, vice David G. Bress.

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 Nebraska (Mr. HRUSKA), and myself.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

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

Victor R. Ortega, of New Mexico, to be U.S. attorney for the district of New Mexico for the term of 4 years, vice John F. Quinn, Jr.

Thomas F. Turley, Jr., of Tennessee, to be U.S. attorney for the western district of Tennessee for the term of 4 years, vice Thomas L. Robinson.

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 Friday, May 2, 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.

ANNOUNCEMENT OF HEARING ON NOMINATION OF EDWARD E. JOHNSTON TO BE HIGH COMMISSIONER OF THE TRUST TERRITORY OF THE PACIFIC ISLANDS

Mr. MANSFIELD. Mr. President, on behalf of the chairman of the Committee on Interior and Insular Affairs (Mr. JACKSON), I wish to announce that the committee has scheduled a hearing on the nomination of Mr. Edward E. Johnston, of Hawaii, to the post of High Commissioner of the Trust Territory of the Pacific Islands. The hearing will be held at 9:30 a.m., Wednesday, April 30, in room 3110, New Senate Office Building.

I ask unanimous consent that a biographical sketch of the nominee be included at this point in the RECORD.

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

BIOGRAPHICAL INFORMATION

I. Personal: Name, Edward E. Johnston; spouse's name, Clare; home address, 4924 Waa Street, Honolulu, Hawaii; zip code, 96821; home telephone, [redacted] business telephone, 536-2777; place and date of birth, Jacksonville, Ill., 1/3/18; marriage date, 8/26/50; children, Janice, 16, born May 24, 1952; Karen, 13, born October 21 1965; resident of Hawaii since 1946.

II. Education: Illinois College Jacksonville, A.B. in psychology and economics, 1939; Phi Beta Kappa; Active on debate teams both high school and college; State High School Champion of Illinois 3 years; reached final round of National Forensic Tournament in 1934 and 1935.

III. Business: Advertising, newspaper and radio fields prior to World War II. In insurance industry in Hawaii since 1948. President and general manager of the 50th State Insurance Associates, Inc., 1960–66; Merged into Hawaiian Insurance and Guaranty, Ltd., 1966, and became vice president of the firm.

IV. Military: United States Air Force, Private to Captain, 1942–48; Captain to Major, 1951–52.

V. Political: Chairman, Honolulu County Committee, 1955–58; National Convention—Delegate 1960 and 1968; Alternate Delegate, 1964; Chairman, Republican Party of Hawaii, 1965.

VI. Government: Secretary of Hawaii (Lieutenant Governor), 1958–59; chairman, Hawaii State Board of Economic Development, 1960–63.

VII. Civic: President, Hawaii Chapter of Chartered Property and Casualty Underwriters; Director and former president, Easter Seal Society; Honorary member of the Ala Moana Kiwanis Club; Member of the Waialae Iki Community Association; Pacific Club; and Member of the Central YMCA.

ORDER FOR ADJOURNMENT UNTIL TUESDAY, APRIL 29, 1969

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon on Tuesday next.

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

AUTHORIZATION FOR SECRETARY OF THE SENATE TO RECEIVE MESSAGES DURING ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to receive messages from the President of the United States during the adjournment of the Senate until Tuesday, April 29, 1969, and that they may be appropriately referred.

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

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS

Mr. BYRD of West Virginia. Mr. President, I also ask unanimous consent that, during that same period of time, all committees may file reports, together with individual, minority, or supplemental views.

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

THE 85TH BIRTHDAY OF FORMER PRESIDENT HARRY S. TRUMAN

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House on House Concurrent Resolution 216 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The Chair lays before the Senate House Concurrent Resolution 216, which the clerk will read by title.

The LEGISLATIVE CLERK. A concurrent resolution (H. Con. Res. 216) that the Congress of the United States hereby extends to the Honorable Harry S. Truman, 33d President of the United States, its best wishes on the occasion of his 85th birthday anniversary, May 8, 1969.

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

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. BYRD of West Virginia. Mr. President, I wish to comment briefly that the distinguished junior Senator from New Mexico (Mr. MONTOYA) has submitted a similar resolution, but, for the purpose of convenience and in order to expedite final action, we have decided to proceed with the resolution which has already received approval in the other body.

The PRESIDING OFFICER. The question is on the adoption of the concurrent resolution.

The concurrent resolution (H. Con. Res. 216) was unanimously agreed to, as follows:

H. CON. RES. 216

Resolved by the House of Representatives (the Senate concurring), That the Congress of the United States hereby extends to the Honorable Harry S. Truman, 33d President of the United States, its best wishes on the occasion of his 85th birthday, May 8, 1969.

SEC. 2. The Congress expresses its appreciation to President Truman for his distinguished service as United States Senator, as Vice President of the United States and as President of the United States during the period from 1935 to 1953.

SEC. 3. The Congress expresses its appreciation for President Truman's determined and firm policies in respect to foreign affairs which, with invaluable bipartisan support, (1) helped in the immediate years after World War II to reconstruct a ravaged and weakened Western Europe; (2) firmly set the face of the United States against aggression in both Europe and Asia; and (3) provided desperately needed technical aid and other assistance in the best tradition of American generosity to developing nations struggling to create free and prosperous and democratic conditions for their peoples.

SEC. 4. The Congress further recognizes that President Truman no less heeded the plight of all Americans whom prosperity and justice had passed by and that he boldly advocated programs designed to translate the promise of a bountiful America into fulfillment for each and every American.

SEC. 5. A copy of this concurrent resolution of the Congress of the United States shall be promptly transmitted to the distinguished "Man from Independence," Harry S. Truman.

EXECUTIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination at the desk, which was reported earlier today.

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

DEPARTMENT OF TRANSPORTATION

The PRESIDING OFFICER. The nomination will be stated.

The legislative clerk read the nomination of Walter L. Mazan, of Vermont, to be Assistant Secretary of Transportation.

The PRESIDING OFFICER. Without objection, the nomination is considered; and, without objection, it 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, the President will be immediately notified.

LEGISLATIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. SCHWEIKER in the chair). Without objection, it is so ordered.

AMERICAN DESERTERS IN SWEDEN

Mr. BYRD of Virginia. Mr. President, in a private conference today with the President of the United States, he showed me a letter he had received from a resident of Xenia, Ohio. She is Mrs. Richard F. Keyer, Sr.

In her letter to the President, Mrs. Keyer stated that her son had been killed in Vietnam; and she ended with this sentence:

> We are most proud of our son and pray his life was not taken in vain.

What prompted Mrs. Keyer's letter was a letter she had received from the American Deserters Committee in Sweden.

Mr. President, to desert one's country in time of war is a very grave offense, but I do not know of anything more contemptible than for those who desert their country, those who run away from battle, to write to the mothers of those who have been killed in action, serving their country, and to tell those mothers that their sons have died in vain.

Mr. President, I speak as one who from the beginning of the war in Vietnam felt that it was a grave error of judgment to become involved in a ground war in Vietnam. But our country has sent to Vietnam hundreds of thousands of American troops, and I say that those troops, so long as they are there, must have full support.

President Nixon replied to this letter from our fellow citizen of Ohio. The President's letter is dated April 21, and he begins this way:

> I have read your letter with both sadness and admiration: sadness that the mother of a slain American soldier was subjected to the further distress of being made the unwilling recipient of such a letter as the one you received from the "American Deserters Committee," and admiration for the spirit you showed in responding as you did.

The letter signed by President Nixon, addressed to Mrs. Richard F. Keyer, Sr., of Xenia, Ohio, I feel, is beautifully handled. It shows not only a tenderness and a sensitivity for the feelings of those who have lost sons in combat, but also, it shows a deep concern for those men who are even now fighting the battles of Southeast Asia.

I ask unanimous consent, first, that the text of the letter addressed to the President of the United States by Mrs. Keyer, of Xenia, Ohio, be printed in the RECORD, immediate following my remarks.

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

(See exhibit 1.)

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent that following that letter, the reply to her, signed by the

President of the United States, be printed in the RECORD.

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

(See exhibit 2.)

Mr. BYRD of Virginia. Finally, I ask unanimous consent that the message which was sent to Mrs. Keyer by the American Deserters Committee in Sweden be printed in the RECORD.

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

(See exhibit 3.)

Mr. BYRD of Virginia. In conclusion, Mr. President, I want the RECORD to show that when the President showed these letters to me today, I asked, and he readily gave his consent, that Mrs. Keyer's letter be made available for publication in the RECORD, and that his reply to her letter also be made available for printing in the RECORD.

EXHIBIT 1

XENIA, OHIO,
April 9, 1969.

Hon. RICHARD M. NIXON,
President of the United States,
Washington, D.C.

MY DEAR MR. PRESIDENT: In this morning's mail, much to my dismay, I received a letter from the American Deserters Committee, Stockholm, Sweden. Enclosed is a copy of same. The letter speaks for itself.

What I would like to know is how and from whom they received our names and address? Who is responsible? What makes these "so-called" men, believe we would do anything to help them get back to this country. Personally, I have no sympathy for these men whatsoever.

Mr. President, our son believed in this Country and in what he was doing. He was not ordered, but was a volunteer. He was very close to the South Vietnamese people. He was a fine young man. The one truth in their letter is the loss of the "cream of the crop" of young men.

I have no answer for ending the war in Vietnam, but I am positive our government shall find a way in given time.

The many times I have seen our Flag desecrated sickens me. If we cannot believe in our Country and in a merciful God, then I ask—what shall we believe in? Certainly not American deserters!

Most of all, I resent the intrusion of my privacy in my home by these people. Certainly, they must have thought this was the right time to write us. Our son, Dennis, was killed in Vietnam on May 1, 1966. We are most proud of our son and pray his life was not taken in vain.

Hoping you may give some of the answers, I remain,

Respectfully yours,
Mrs. RICHARD F. KEYER, Sr.

EXHIBIT 2

APRIL 21, 1969.

Mrs. RICHARD F. KEYER, Sr.,
Xenia, Ohio.

DEAR MRS. KEYER: I have read your letter with both sadness and admiration: sadness that the mother of a slain American soldier was subjected to the further distress of being made the unwilling recipient of such a letter as the one you received from the "American Deserters Committee," and admiration for the spirit you showed in responding as you did.

Next to the men whose own lives have been lost, the heaviest burdens of the war are borne by the persons, like yourself, who loved those who have been lost. Other Americans, whatever their feelings about the war, should at least respect the privacy of grief.

We live in an age of great uncertainties, of a clash of faiths and ideologies, and of great impatience. In their zeal for one cause of another, people often become impatient not only of time, but also of such ordinary decencies as respect for the other person's rights, willingness to listen to his point of view, and consideration for his feelings.

I can understand the feelings of those who cry out against war, and demand its end now; I can also understand your feelings in writing that you pray your son's life was not lost in vain. It was not. Your own letter is evidence that the things he died to defend are still alive and vital: the love of country, the great humane traditions, the thoughtfulness of others that is the true cement of civilization.

One of the greatest tragedies of mankind is that so often, through the centuries, the best of our young have been called on to die in the defense of those values. But as we look back over history, we see that it was their sacrifice that kept those values alive.

You write: "If we cannot believe in our Country and in a merciful God, then I ask—what shall we believe in?" I think you have provided the answer yourself. If we begin with belief in a merciful God; if we proceed to belief in our Country—not merely because it is ours, but because its ideals are precisely those that mankind has strived through the centuries to achieve—and if we round this out with belief in the essential goodness and dignity of man himself, then I think we have the elements of a faith which can withstand the assaults even of those who would intrude on a mother's grief.

You can be proud of your son. And I am sure that he would be proud of you.

With every good wish,

Sincerely,

RICHARD M. NIXON.

EXHIBIT 3

A MESSAGE TO THE PEOPLE OF THE UNITED STATES

STOCKHOLM, SWEDEN.

We, the American Deserters in Sweden, having been compelled by conscience to temporarily forsake our homeland in protest against the senseless war conducted by our country against a small Asian nation, appeal to you, the American People, to take action to force our government to cease and desist in the bloody war in Vietnam and aggression against the Vietnamese People.

We are addressing our appeal to you, the Gold Star Mothers of America, surviving widows, as well as other relatives, since you have directly suffered a tragic loss. A loss which is made even more tragic since it resulted from a futile and senseless war which our government refers to as "our cause," and against an innocent people whom our government claims are "our enemies." The senseless War of Aggression conducted by the United States in Vietnam is causing untold suffering to millions of Vietnamese, including women and children, who at no time, nor even now, pose a threat to the United States. Tens of thousands of young Americans, who either lose their lives in the wild jungles of Vietnam, or who return home maimed, mutilated, marked for the rest of their lives, are paying the price of this senseless war in Vietnam. Despite our unanimous opposition to the Vietnamese conflict we deeply grieve the loss of our fallen comrades. Comrades, who although having serious doubts about the sense of this war fulfilled orders given them, and in so doing died for a cause which is entirely alien to the best traditions and ideals of America.

We are all too aware that assignment to Vietnam means, "kill or be killed." Is this a true expression of American patriotism? We do not desire that throughout the world the term "American" be automatically connected with aggression in Vietnam, and the slaughtering of the Vietnamese population by Napalm and other modern weapons of destruction. Resistance toward the senseless policies of our government in Vietnam is growing throughout the world; anti-American sentiment is increasing in Asia and Latin America, and in Europe they look upon us with growing criticism and skepticism. The recent recognition of North Vietnam by the Swedish government and intentions of other countries to follow is a direct consequence of this situation.

Convincing evidence of this resistance among other things, is the generous and prompt support which we, the American Deserters and opponents of the war in Vietnam, are receiving here in Sweden. We, who found in ourselves sufficient courage and determination to refuse to obey the commands of our government which are in opposition to all humanitarian principles, and whom favorable circumstances enabled to carry out our decision. Although compelled to seek asylum, support and work here in Sweden, we would prefer to live in our homeland provided we could live and work there peacefully, as here.

It is within your power to change this tragic lot of the young people of the United States. Even more so, it is your moral responsibility to preclude additional thousands of American families from suffering the tragic loss of fathers, husbands, sons, and brothers, similarly as you have. Only your decisiveness and civic courage can help put an end to the unjust war in Vietnam, and thereby enable thousands of American soldiers to return home. Eventually, this might enable even us to return home.

Write to your Representatives and Senators in Congress and demand that they decisively act to put an end to the Vietnamese conflict. Similarly, turn to President Nixon with the request that he stop the war in Vietnam, thereby showing the same resoluteness of decision as did President Eisenhower during the Korean conflict.

Write to your newspapers, convince your friends and acquaintances of the senselessness and futility of the war in Vietnam, which is robbing America of thousands of young men, the cream of her manhood, and undertake all further steps which you consider appropriate and which are within your means, in order to achieve this goal. It is the most effective means by which you can fulfill the legacy of your dear departed one, and also that of other young Americans who have perished on the battlefields of far-off Vietnam.

AMERICAN DESERTERS COMMITTEE.

CAMPUS DISORDERS

Mr. BYRD of Virginia. Mr. President, the faculty and administration of Cornell University have done our Nation a grave disservice. What occurred there—and how it was handled—is almost unbelievable.

Militant students seized one building on the New York State campus, armed themselves with rifles and shotguns, and when threatened with discipline, threatened further violence.

But however badly the militant students acted, the officials of the university acted even more outrageously.

The faculty and administration capitulated to every demand of the student radicals, guaranteeing to nullify all charges against the militants. They even offered the university's legal assistance in case any civil charges might be brought against the dissidents by outraged taxpayers.

The university agreed that it would not even issue a reprimand to the armed militants.

I share the disgust of Prof. Walter Berns, of the Cornell faculty, who resigned his post and called the university's action "abject surrender." Some of Dr. Berns' colleagues offered a sickening contrast to his own firm stand: at one point, incredible though it may seem, a group of faculty members actually threatened to seize a building themselves if the militants were not granted all their demands and full amnesty for their unconscionable actions.

What is our Nation coming to?

Not only did most of the faculty, the president, and the administrators of Cornell University display a complete lack of courage, but, in my judgment, a complete lack of commonsense.

Yes, commonsense—the most elemental commonsense should tell any college official that supine capituation to the demands of any armed group can only lead to more outrageous demands and more chaos.

Cornell has achieved no peace, no victory. It has achieved only a Munich. It has said to the students, "The way to get what you want is to obtain shotguns and rifles and seize a building."

Now there is a ray of hope at Cornell. Reports today indicate that the surrender to armed force is bringing about a faculty rebellion. Several professors have resigned and others are petitioning for firm action against the student rebels.

But Cornell remains, as of today, a tragedy. It is not an isolated incident—except for the presence of rifles and shotguns. It is but one of hundreds of campus disorders.

At the same time that the Cornell affair was in the headlines, the news from campuses in the Washington area was also full of strife: a building seized at George Washington University, another at American University, and a boycott at Howard University.

I was pleased to hear that George Washington University is bringing action against those who brought on the disorder there.

And in my own State of Virginia, Hampton Institute was closed after students seized the administration building.

Perhaps it is significant that it was students who ejected the militants from the seized building at American University, and that shortly afterward a band of students at the University of Maryland prevented a takeover of a building there by forming a wall and keeping out the militants.

These students were taking the law into their own hands, and that is a dangerous business. But it is hard to blame them, when college officials fail to act to uphold the order and rule of reason that are the soul of any academic community.

Maintaining order on campus is not the responsibility of students. And it is not the responsibility of the Federal Government.

Ultimately, the officials of the Nation's colleges are going to have to show some courage. The alternative is the destruction of our educational system.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ADJOURNMENT UNTIL TUESDAY, APRIL 29, 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 previous order, that the Senate stand in adjournment until 12 o'clock noon on Tuesday next.

The motion was agreed to; and (at 3 o'clock and 16 minutes p.m.) the Senate adjourned until Tuesday, April 29, 1969, at 12 o'clock noon.

NOMINATIONS

Executive nominations received by the Senate April 23, 1969, under authority of the order of the Senate of April 22, 1969:

U.S. Circuit Judges

George E. MacKinnon, of Minnesota, to be U.S. circuit judge for the District of Columbia Circuit vice Charles Fahy, retired.

Roger Robb, of the District of Columbia, to be U.S. circuit judge for the District of Columbia Circuit, vice John A. Danaher, retired.

Atomic Energy Commission

Theos J. Thompson, of Massachusetts, to be a member of the Atomic Energy Commission for the remainder of the term expiring June 30, 1971, vice Gerald F. Tape, resigned.

In the Air Force

The following cadets, U.S. Air Force Academy, for appointment in the Regular Air Force, in the grade of second lieutenant, effective upon their graduation, under the provisions of section 8284, title 10, United States Code. Date of rank to be determined by the Secretary of the Air Force:

Abbott, James R.
Abbott, Richard L.
Adams, Richard B.
Adkins, Alfred L.
Aldrich, Charles L.
Alexander, Robert D.
Alexander, William L.
Allen, Edward H.
Allen, Robert W., Jr.
Allen, Thomas L.
Ambrose, David E., III
Andersen, David B.
Anderson, James E.
Anderson, James N.
Anderson, Terrance M.
Andrus, Burton C., III
Arn, Robert M.
Arnold, James L.
Astle, David L.
Baer, Howard S.
Bailey, Maxwell C.
Bailey, Roger W.
Baker, Hab, III
Baldwin, Charles G.
Ball, Gerald D.
Balven, Terry L.
Banbury, John Q., II
Barnett, Steven D.
Bassi, Richard A.
Bauer, David L.
Baumgardner, Thomas R.
Bear, Jonathan R.
Beavers, Jessie K.
Becker, Michael L.
Beezley, Michael J.
Belden, Richard P., Jr.
Bell, Robert G.
Bench, Patrick S.
Bendjebar, Ralph H.
Bennett, George M.
Bennett, Robert W.
Bennett, Robert W.
Berg, Walter R.
Berry, Allison S.
Berry, Carlis G., Jr.
Bigler, John M.
Bitterman, Thomas L.
Black, Thomas J., III
Blonshine, Brandon P.
Boesche, Gerald V.
Bogusch, Roy J.
Bond, Ronald L.
Bolme, Gerald D.
Bond, Ronald L.
Bone, Gary M.
Bonelli, George W.
Boon, Thomas S.
Bose, Clarence M.
Bottomly, Roc
Bower, Jeffrey H.
Boyd, Norris D., Jr.
Boyer, Charles A.
Boyer, John P.
Bradley, Donald M., Jr.
Brady, Terrence J.
Brau, James Edward
Brewer, Dwight C.
Brieschke, Larry R.
Brothers, Kenneth G.
Brown, Gerald E.
Brown, Ronald K.
Brown, Russell A.
Bruce, Karl N.
Brummitt, John D.
Buchanan, Edwin C.
Buckingham, William A., Jr.
Buckner, John H., Jr.
Bunton, Clark J.
Burmeister, Michael D.
Burns, John J., Jr.
Busching, Richard K.
Byington, Kent L.
Cain, Donald D.
Callen, Ronald C.
Cameron, George C.
Camm, John A., Jr.
Camp, Gene P.
Campbell, Donald G.
Campbell, James C.
Campbell, Jeferey S.
Cargill, Lance R.
Carlton, Paul K., Jr.
Carney, Robert J.
Carrier, Michael H.
Carter, Stephen P.
Caruthers, Timothy D.
Case, Thomas R.
Cavato, Marty J.
Censullo, Francis X.
Chapman, Frank W.
Chase, James A.
Cherry, Clyde S., Jr.
Chipman, Michael A.
Chisholm, Robert H.
Clark, Dwight E.
Clark, Ernest S.
Clark, Nathan B.
Clemmensen, Charles E.
Cline, Barry P.
Collier, Thomas W., Jr.
Collins, Richard C.
Colvin, Dennis P.
Combs, Gary D.
Cook, Daniel B., Jr.
Cook, David C.
Cook, Michael J.
Coppinger, Roy W.
Corbett, Philip J.
Cornella, Robert P.
Countryman, Frank W., Jr.
Courington, Timothy H.
Creighton, Barry F.
Crittenden, Burr L., Jr.
Croft, Frank C.
Crowder, George E., Jr.
Crutchfield, Clifton D., Jr.
Cummings, James B.
Curetmendez, Juan A.
Curtis, Christopher L.
Daeke, Lynn E.
Dalecky, William J.
Dallager, John R.
Daly, Robert P., II
Daniel, David S.
Daves, George L.
Davidson, John A., II
Davis, Daniel R.
Davis, Gary K.
Davis, Jack W.
Davis, John M.
Davis, Robert C.
Dawson, Donald E.
Deaustin, Bradley J.
Deaver, Maurice A., Jr.
Defilippi, George, Jr.
Degroot, Douglas A.
Delcavo, Anthony
Delvecchio, Philip, Jr.
Demmert, Paul F.
Denault, Richard K.
Denney, William A.
Dessert, Donald M., Jr.
Devenger, Denny J.
Deweese, Garrett J.
Dewitte, Michael D.
Dezonia, John M.
Diehl, Ronald L.
Dodson, Thomas L., III
Doherty, Thomas J.
Dolan, Kevin
Donnelly, James L.
Dowell, William J.
Downes, Earl R.
Downey, James W.
Doyle, Richard B.
Dryden, James A.
Dunham, Alan D.
Dupre, David R.
Dyer, Leslie R., III
Dyer, Stephen L.
Dyre, Rulin T.
Early, Charles L., Jr.
Eaves, James B.
Eberhardt, James A., Jr.
Edelman, Steven H.
Edwards, John O., Jr.
Ellis, William H., Jr.
Enger, James M.
English, Lewis W.
Erickson, James A.
Erickson, Ronald C.
Evans, Elmo A., Jr.
Evans, John H., III
Evans, Thomas H.
Fagerson, Thomas D.
Farrell, Paul W., II
Fenno, Donald K.
Fischer, Mark W.
Fitzpatrick, John D.
Fleming, Thomas D., Jr.
Fletcher, Dennis A.
Forsythe, Hugh H.
Foster, Eugene A.
Foster, James A.
Fratt, Robert D.
Freeman, Michael S.
Freeman, Ralph H., Jr.
French, Craig S.
Freshwater, Kenneth B., Jr.
Froehlich, Ralph A.
Fuller, George A.
Galli, Paul Jr.
Gardner, Guy S.
Garrard, Walter E., Jr.
Garrison, Donald L.
Garvey, Robert P.
Gattie, Jeffrey L.
Gemignani, Robert J.
Giffard, Kenny N.
Gillette, Stephen C.
Gillig, Michael G.
Goettler, Stephen J., II
Golart, Craig S.
Goldfain, Gary D.

Gonzales, James J.
Goode, Michael L.
Gorman, Charles D.
Graham, John F.
Grandjean, Richard L.
Gray, Terry D.
Green, William V., IV
Grenard, Michael R.
Griffith, William M.
Grime, Jeffrey R.
Gukich, Michael R.
Guyote, Michael F.
Haas, Richard J., Jr.
Haber, William F.
Hagelin, Richard H., III
Hagins, Ralph T., Jr.
Hakeman, Thomas G.
Hallenbeck, Ralph G.
Hallett, John W., Jr.
Halvonik, Peter P., Jr.
Hamilton, David
Hamlin, Goeffrey R.
Hamlin, Kenneth E.
Hammond, Charles H., Jr.
Hammond, Stephen O.
Hammond, Terry A.
Haney, William R.
Hannah, Steven R.
Hansen, James G. R.
Hanson, Robin H.
Harrington, Steven
Harris, Lawrence H., II
Harris, Robert H.
Hart, Robert L.
Hartman, Roger D.
Hartmann, David H.
Hasek, Joseph
Havrilla, Robert J.
Haygood, Ray
Haynes, Michael L.
Head, Charles W., III
Hefner, Richard S.
Hendrix, Dale A.
Henkelman, Alan W.
Henry, David T.
Henry, William C.
Herbert, Randy P.
Herklotz, Robert L.
Herrington, Clarence O., Jr.
Herrington, Norman L.
Hewitt, James U.
Hinchey, John A.
Hindmarsh, George R.
Hinman, Craig G.
Hodges, Terry B.
Hoe, Gary L.
Hogan, Jimmy D.
Holder, Ronald C.
Honaker, Raymond R.
Hope, Christopher
Hokpins, Stephen V. C., III
Hopper, John D., Jr.
Horacek, Jack W.
Hoskins, James A.
Hosmer, Charles R.
Howe, Gary S.
Howe, Robert M., Jr.
Howell, Lawrence D., Jr.
Howland, Walter T.
Huber, Benedict E., Jr.
Huber, Thomas P.
Hughes, David E.
Humphreys, Elton R.
Hunt, Allan R.
Huntley, Jerry S.
Ingersoll, Howard J.
Ingram, Scott D.
Jackson, Charles A.
Jackson, Michael B.
Jaeger, Warren P.
Jarvi, Kenneth T.
Jenkins, William T.
Johannes, William E.
Johnson, Christopher W.
Johnson, Lee S.
Jones, Dennis D.
Jones, Edward R.
Jones, Robert R.
Jones, Thomas D., Jr.
Joyal, George W.
Judas, Robert A.
Justin, Joseph E.
Kaiser, Carl F., Jr.
Kalmus, Dennis E.
Kamnicky, George W.
Kane, Glen J.
Katnik, Dana R.
Kay, Steven A.
Kaylor, Michael H., III
Keating, Raymond
Keck, Philip W.
Keck, Thomas J.
Keil, Carl R.
Kells, Richard E.
Kendall, Thomas R.
Kennedy, William S.
Keyserling, Steven
Kieffer, William R.
Kile, Raymond L.
Killeen, Joseph M.
Killian, Kirby L.
King, Randall B.
Kirby, Stephen W.
Kirkpatrick, Robert J., Jr.
Kleiner, Eric J.
Klindt, Michael J.
Kline, David R.
Knox, Norman H., III
Koerner, William S.
Kohlmyer, Kenneth J.
Kohn, Robert A.
Kolet, Steven A.
Kolodzinski, David C.
Kotti, George H.
Kronberg, Gergory M.
Kruppa, Joseph N., Jr.
Kubicz, Lawrence
Kudiac, Milton P.
Kula, James D.
Kumabe, Bert T.
Lacey, Michael R.
Lake, Peter G.
Land, Edward C., II
Larkins, Richard D.
Laws, Harry F., II
Laws, Warren P., II
Leatherbee, William E.
Lee, Charles W.
Leland, Alanson H.
Lempke, Roger P.
Lenny, William H., III
Lesberg, Martin J.
Leuthauser, James L.
Lewis, Joseph B., Jr.
Lindner, Gary L.
Lisowski, Ronald J.
Little, Kenneth H.
Loberg, James C.
Lobritz, Richard W.
Lockhart, George B.
Louden, Larry C.
Lough, John M.
Love, James E.
Love, Ronald H.
Love, Tommy L.
Lovejoy, John H.
Luallin, Gerald D.
Luders, James R.
Lumme, Terry A.
Lutterbie, Thomas P.
Lykins, Thomas W.
Lynch, Theodore D.
Lynn, David K.
Mabry, Charles E.
Macaluso, Kenneth B.
Magill, William S., III
Maher, Joseph P.
Maisey, William A., III
Malinovsky, Raymond A.
Mang, Douglas K.
Marcotte, Ronald C. J.
Mars, Stanley E.
Marsh, Cary R.
Martin, Douglas K.
Martin, John W., Jr.
Martin, Michael E.
Martin, Victor M.
Marvel, William M.
Mason, Timothy H.
Materna, Robert D.
Matheson, Scott W.
May, Michael G.
Mays, Denton L.
McBride, James W.
McCarthy, Dennis T.
McCormick, Joel C., III
McCracken, Ronald W.
McCree, William A., III
McDonald, James M., Jr.
McElmurry, Thomas T.
McGalliard, Michael R.
McGrain, Thomas R.
McGrath, William J.
McGuirk, Dennis P.
McKellar, Larry W.
McKenzie, Burton E. Jr.
McMurphy, Michael A.
McNally, Edward
McNaught, William, III
McNear, Alan B.
McSwain, Donald L.
Medlin, Kenneth A.
Meece, Jeffrey W.
Mellor, Guy L.
Melly, Peter J.
Merell, John C.
Metts, Richard D.
Metzler, Douglas L.
Mikolajcik, Thomas R.
Miller, Glenn O.
Miller, James E., Jr.
Miller, John C.
Miller, William T.
Mitchell, Douglas J.
Mobley, Michael W.
Modzelewski, Michael F.
Monico, Paul D.
Moore, Lynn H.
Moore, Richard P.
Moore, William F.
Moorhead, Glen W., III
Morehouse, Merl A.
Morgan, John R.
Morrison, Wade B.
Morton, Larry E.
Mosley, Thomas W.
Mraz, Mark A.
Mueller, Timothy A.
Mumme, David
Munninghoff, Paul
Murawski, Robert
Murphy, Terance P.
Musholt, Michael J.
Nadolski, John M.
Nall, Robert H.
Nelson, Brian W.
Nelson, David A.
Nelson, Jon L.
Nelson, Ronald E.
Nenninger, Joseph C.
Neumann, Robert W.
Nielsen, David J.
Nielsen, Ronald A.
Noltensmeyer, David G.
Nuss, Kenneth C.
Ogg, Robert K.
Ogilvie, James W.
Ohagan, Richard B.
Olafson, Frederick K.
Olds, Ronald L.
Oliver, Thomas W.
Orgeron, James J.
Ortmeier, Richard H.
Orzechowski, Sigmund
Osterthaler, Robert T.
Osthoff, William M.
Ottofy, Frank B., III
Overstreet, Jack C., Jr.
Ownby, Harrold K.
Padlo, Richard A.
Page, Martin L.
Paglia, Ralph F.
Paine, Robert L.
Park, Tom N., Jr.
Parker, Roy E., II
Parris, Howard L., Jr.
Parsons, Julius C., Jr.
Paul, Craig A.
Paulson, Christopher R.
Pavel, Arthur L.
Pavel, Richard A.
Percy, James R.
Personnett, Joseph A.
Petek, James M.
Peterson, Ronald J.
Phillips, Robert D.
Pierce, Ronald L.
Pillari, Thomas
Pittman, Stephen R.
Platt, Peter R.
Polnisch, Arthur B., Jr.
Posner, Jeffrey M.
Powell, Ralph E., Jr.
Powell, William M.
Praser, Donald E.
Prenger, Larry B.
Puryear, Armistead D.
Quinn, Francis J., Jr.
Raab, Henry S.
Rakestraw, Don W.
Ransdell, Stephen J.
Reddy, John A.
Reed, Roy L., Jr.
Reiter, Berwyn A.
Rhodes, Tracy
Richards, John A.
Rifenburg, Gerald L.
Riley, John E., Jr.
Rittenmeyer, Kenneth A.
Rivers, Richard F.
Roberts, Earl E., III
Roberts, Lance W.
Robinson, James N.
Robinson, King S.
Rose, Michael T.
Rosen, Stanley G.
Ross, William D., II
Rue, Robert C.
Ruth, Robert L.
Ryan, John H.
Ryan, Patrick W.
Ryan, Robert E.
Rydlewicz, John M.
Ryll, Dennis L.
Salas, Jesus T.
Salmon, Thomas J.
Sammonds, Ronald F. Jr.
Samuel, Thomas H.
Santillo, Vincent J., II
Savage, Bryan J.
Savage, James W., Jr.
Schaffer, Harold A.
Schaller, Robert N.
Schilling, David A.
Schlabs, Glenn H.
Schmeer, Franklin C.
Shuckemoehl, John A.
Schott, Douglas W.
Schreck, Ronald L.
Schutt, Robert C., Jr.
Schwalier, Terryl J.
Schwall, Arthur W., Jr.
Schwartzel, Gerard D.
Schwarze, Frederick C., Jr.
Scott, Val L.
Scyocurka, Mark L.
Seltzer, Stanley R.
Sezna, Edward W.
Shinoskie, John J.
Shortridge, Dennis L., Jr.
Shumway, Thomas R.
Sicilio, Lee
Simons, James R.
Sisson, Patrick L.
Skinner, Ernest M.
Skorupa, John A.
Smiley, Jeffrey L.
Smith, Joel A.
Smith, Joel A.
Smith, Niles E.
Snapp, Elbridge L., III
Snead, Joseph K.
Snyder, Jeffrey L.
Solomon, Tommy D.
Sonnenberg, Scott B.
Soteropoulos, Steve M.
Speace, Lyle M., Jr.
Spears, Daniel I., Jr.
Spencer, David C.
Spooner, Richard E.
Spradling, William O., Jr.
Stake, Terry L.
Stanicar, David
Starr, Benjamin F., III
Stavely, Johnny A.
Stearns, Michael L.
Stellmon, Lawrence E.
Stephenson, Blair Y.
Stephenson, Thomas J.
Stevenson, Kenneth E., Jr.
Stewart, Fredric G.
Stewart, Kirk D.
Stober, Mell J.
Storey, James
Stowe, Stephen D.
Sturm, Steven R.
Sullivan, Ronald J.
Sullivan, William G.
Summers, Wilson, IV
Sutter, Robert J.
Swanson, Richard E.
Taggart, David A.
Talladay, Keith R.
Tambone, Victor J.
Taraska, Joseph M., Jr.
Tausch, Hans J., Jr.
Taylor, Gregory F.
Taylor, James R.
Telizyn, James G.
Terhune, James A.
Tetlow, Lewis J., III
Thiessen, Michael R.
Thode, Paul T.
Thompson, Steven A.
Thompson, William C., III
Tibbetts, Daniel M.
Tobolski, Jeffrey J.
Toews, Robert H.
Toops, Thomas A.
Topper, Dennis R.
Toth, Robert S.
Tousley, George H., III
Travers, Samuel S., Jr.
Trenton, Jefferson E.
Troy, Robert W.
Tsetsi, Steven M.
Tucker, Barton C.
Turco, John A.
Turner, David C.
Turner, Henry M., Jr.
Tuttle, William T.
Tyre, Larry W.
Upton, Craig P.
Utter, Harry W.
Vanderhorst, Daniel R.
Vandoren, Alan S.
Vanmeter, Robert H.
Vanzelfden, Eugene A., Jr.
Vollmer, Charles D.
Vreeland, Alan D.
Wade, Billy K.
Wade, Richard G.
Wagner, David J.
Wagner, Hans E.
Waldron, Matthew B.
Waldrop, James M.
Walinski, Carl O.
Walker, Robert A.
Waller, William C., Jr.
Walls, Donald W.
Walti, James R.
Walton, Larry K.
Walts, Gregory L.
Ward, Malcolm R.
Warner, John J.
Warren, Wayne W.
Wax, Charles J.
Weinert, Charles L.
Wiese, Edward W.
Wetterer, Michael T.
Weyermuller, Arthur P.
Whalen, Eugene R.
Whitcomb, Darrel D.
White, Roy M.
Wieringa, Ross W.
Wigle, Richard L.
Wilkins, Richard G.
Willett, Thomas E.
Williams, James E.
Wilson, Ralph W.
Wise, Jeffrey L.
Wiseburn, Lawrence P.
Wittwer, Leon A.
Wood, Frank R.
Wood, George W.
Wood, John J.
Wood, Rodney W.
Yost, Robert D.
Young, John H.
Younghanse, John M.
Zier, George S.
Zimmerman, Donald A.

The following cadets, U.S. Military Academy, for appointment in the Regular Air Force, in the grade of second lieutenant, effective upon their graduation, under the provisions of section 8284, title 10, United States Code. Date of rank to be determined by the Secretary of the Air Force:

Andrews, John M.
Blay, Barry C.
Champagne, John A.
Crenshaw, Kent R.

Dunaway, David W.
Fell, Frank B., III
Fly, Hugh G., III
Fowler, Richard T.
Funderburke, Charles R.
Goff, Lerop R., III
Hatch, Andrew M.
Himes, David A., Jr.
Hozier, George C., Jr.
Jarman, Richard S.
Kirby, David D.
Logan, Henry R., III
Marshall, Douglas W.
McDermott, David W.
Morrill, Brian E.
Murr, Paul E.
Neeley, Patrick F.
Nigro, Arthur J.
Nix, Warren S.
Payne, John B.
Seiler, James R., Jr.
Turk, Charles F.
Walkenbach, James E.

Executive nominations received by the Senate April 24, 1969, under authority of the order of the Senate of April 22, 1969:

DIPLOMATIC AND FOREIGN SERVICE

Guilford Dudley, Jr., of Tennessee, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark.

COMMUNICATION SATELLITE CORP.

George Meany, of Maryland, to be a member of the Board of Directors of the Communications Satellite Corp. until the date of the annual meeting of the corporation in 1972. (Reappointment.)

TRUST TERRITORIES, PACIFIC ISLANDS

Edward E. Johnston, of Hawaii, to be High Commissioner of the Trust Territory of the Pacific Islands.

Executive nominations received by the Senate April 25, 1969:

DIPLOMATIC AND FOREIGN SERVICE

Francis J. Galbraith, of South Dakota, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Indonesia.

Robert H. McBride, of the District of Columbia, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mexico.

Sheldon D. Vance, of Minnesota, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of the Congo.

U.S. ATTORNEYS

Lincoln C. Almond, of Rhode Island, to be U.S. attorney for the district of Rhode Island for the term of 4 years vice Edward P. Gallogly.

David J. Cannon, of Wisconsin, to be U.S. attorney for the eastern district of Wisconsin for the term of 4 years vice James B. Brennan, resigned.

Ira De Ment, of Alabama, to be U.S. attorney for the middle district of Alabama for the term of 4 years, vice Ben Hardeman, resigned.

Sherman F. Furey, Jr., of Idaho, to be U.S. attorney for the district of Idaho for the term of 4 years vice Sylvan A. Jeppesen, resigned.

U.S. MARSHALS

Harry D. Berglund, of Minnesota, to be U.S. marshal for the district of Minnesota for the term of 4 years vice William F. Melchow.

Victor Cardosi, of New Hampshire, to be U.S. marshal for the district of New Hampshire, for the term of 4 years vice Paul G. April, resigning.

Thomas K. Kaulukukui, of Hawaii, to be U.S. marshal for the district of Hawaii for the term of 4 years vice Wesley H. Petrie.

IN THE ARMY NATIONAL GUARD

The Army National Guard of the United States officers named herein for promotion as Reserve commissioned officers of the Army, under provisions of title 10, United States Code, sections 593(a) and 3392:

To be major general

Brig. Gen. John R. Carson, [redacted]

To be brigadier generals

Col. Jack W. Blair, [redacted], staff specialist corps.
Col. Larry C. Dawson, [redacted], Artillery.
Col. John N. Owens, [redacted], Armor.
Col. Alberto A. Pico, [redacted], Infantry.

IN THE ARMY

The following-named person for reappointment in the active list of the Regular Army of the United States, from the temporary disability retired list, under the provisions of title 10, United States Code, section 1211:

To be colonel

Goodhand, O'Glenn, [redacted].

The following-named persons for appointment in the Regular Army, by transfer in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294:

To be captains

Harrington, George S., [redacted].
Labat, Roger J., [redacted].
Metz, Leon B., Jr., [redacted].

To be first lieutenants

Berliner, Daniel S., [redacted].
Dalton, Bruce A., [redacted].
Ficara, Anthony J., [redacted].
Goodloe, Samuel Jr., [redacted].
Kingry, Roy L., [redacted].
Kramer, Kenyon K., [redacted].
Seglie, Floyd R., [redacted].

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of title 10, United States Code, sections 3283 through 3294 and 3311:

To be lieutenant colonel

Pezzelle, Roger M., [redacted].

To be majors

Blanton, Duane H., [redacted].
Blasingame, Robert M., [redacted].
Butler, Alman I., [redacted].
Cronen, James S., [redacted].
De Shields, William A., [redacted].
Gentry, William R., [redacted].
Lippert, Gerald D., Sr., [redacted].
Marett, James D., [redacted].
Martina, John R., Jr., [redacted].
Moore, Clyde F., [redacted].
Orr, Clyde H., [redacted].
Peachey, William N., [redacted].
Reaser, Clarence L., [redacted].
Stevens, Ronald J., [redacted].
Treuer, Warren L., [redacted].
Williams, Allen C., [redacted].
Wood, Theodore D., [redacted].

To be captains

Alton, Carlly L., [redacted].
Bibbins, George L., [redacted].
Biegel, Alfred, [redacted].
Blanford, Raymond V., [redacted].
Boger, James A., [redacted].
Bruns, James D., [redacted].
Burnett, Lewis G., [redacted].
Calderone, Joseph E., [redacted].
Carroll, William P., [redacted].
Erickson, Ralph D., [redacted].
Estes, Ernest F., [redacted].
Fechner, Martin A., [redacted].
Felder, Ned E., [redacted].
Flemming, Herbert M., [redacted].
Flippen, Edward A., Jr., [redacted].
Gardai, La Vern W., [redacted].
Hanft, John W., [redacted].
Hart, Michael N., [redacted].
Higgins, John J., [redacted].
Hines, Eugene D., [redacted].
Hoh, David W., [redacted].
Hopkins, David G., Jr., [redacted].
Hrabal, Teddy H., [redacted].
Hudnall, William R., [redacted].
Hunt, Dennis R., [redacted].
Irwin, David S., [redacted].
Jesmer, David G., [redacted].
Johnson, Howard W., [redacted].
Johnston, Carl F., [redacted].
Lacaprucia, Anthony W., [redacted].
Lauck, Lawrence P., [redacted].
Lawrence, Ronald A., [redacted].
Lebeau, Richard L., [redacted].
Lerman, Robert H., [redacted].
Lister, Robert C., [redacted].
Little, Clarence D., [redacted].
Marlor, Gordon E., [redacted].
Menking, Hugh M., [redacted].
Miller, Murray J., [redacted].
Morris, Jerry J., [redacted].
Nass, Bernard F., [redacted].
Parker, Ellis D., [redacted].
Parmesano, Vincent, [redacted].
Plank, Harold E., [redacted].
Plooster, Orin D., [redacted].
Prescott, Donald P., Jr., [redacted].
Price, Edward E., [redacted].
Puopolo, Anthony D., [redacted].
Rodman, Orlando G., Jr., [redacted].
Rose, Harold L., [redacted].
Ruben, Harvey L., [redacted].
Schumacher, John W., [redacted].
Sims, Emmett W., [redacted].
Smith, Byrd, [redacted].
Stivison, James R., [redacted].
Tate, George W., [redacted].
Thompson, Flora G., [redacted].
Todd, Robert A., [redacted].
Vanderburgh, Daryl C., [redacted].
Van Horn, John T., [redacted].
Walker, Conrad N., [redacted].
Warren, Daniel C., [redacted].
Williams, David W., [redacted].
Wootton, Robert J., Jr., [redacted].

To be first lieutenants

Anderson, Lewis C., [redacted].
Arturo, Louis A., [redacted].
Bailey, Harvey E., [redacted].
Behlendorf, Jack R., [redacted].
Beidleman, Robert T., [redacted].
Bell, Richard A., II, [redacted].
Brick, Samuel T., Jr., [redacted].
Canar, Robert B., [redacted].
Cape, James W., [redacted].
Casalengo, Roger W., [redacted].
Clements, Kenneth B., [redacted].
Close, Dale H., [redacted].
Cole, Robert A., [redacted].
Cole, William C., [redacted].
Creel, Joe C., [redacted].
Dalton, Robert B., [redacted].
Dombrowski, Robert J., [redacted].
Endress, James R., [redacted].
Fike, John A., [redacted].
Franklin, Jerry L., [redacted].
Frye, Richard H., [redacted].
Gaskins, Philip W., [redacted].
Goodman, Michael J., [redacted].
Greenberg, Stanley I., [redacted].
Guenther, Raymond, [redacted].
Gunn, Wilburn J., [redacted].
Gunton, Joseph A., Jr., [redacted].
Handley, William M., Jr., [redacted].
Harvill, Daniel O., Jr., [redacted].
Hedgpath, Donald R., [redacted].
Heuple, Larry W., [redacted].
Hickok, Philip J., [redacted].
Hicks, Lewis P., [redacted].
Hilliard, Henry C., Jr., [redacted].
Hobbs, Charles H., [redacted].
Johnson, Charles W., [redacted].
Johnson, Joyce G., [redacted].
Johnson, Judd R., [redacted].
Jordan, Ernest A., Jr., [redacted].
Kahn, David S., [redacted].
Kaplan, Michael P., [redacted].
Kelly, David S., [redacted].
Kirbo, Thomas L., III, [redacted].
Kohler, William F., Jr., [redacted].
Kraus, Kenneth L., [redacted].
Larson, Roy L., [redacted].
Lees, Matthew N., [redacted].
Lomonaco, Lawrence J., [redacted].
Mack, John S., [redacted].
Magee, Douglas M., [redacted].
Martin, Bonnie E., [redacted].
Martin, Robert J., Jr., [redacted].
Mayer, Frank H., [redacted].
McCann, Don B., [redacted].
McCannel, Michael K., [redacted].

McKinney, James H., xxxxxxxx.
McMonigle, James D., xxxxxxxx.
Meade, Dillard W., xxxxxxxx.
Miller, Joe D., xxxxxxxx.
Mittag, Carl F., xxxxxxxx.
Moch, Ronald W., xxxxxxxx.
Mohr, Richard J., xxxxxxxx.
Mulroy, Patrick D., xxxxxxxx.
Murray, George T., xxxxxxx.
Nebergall, Allen V., xxxxxxxx.
Norris, James R., xxxxxxxx.
Oney, Jerry T., xxxxxxxx.
Palmer, James E., xxxxxxxx.
Pape, Dean G., xxxxxxxx.
Pape, John C., xxxxxxxx.
Pearce, Maurice C., xxxxxxxxx.
Peterson, Jon M., xxxxxxxx.
Phillips, Stephen N., xxxxxxxx.
Pipkin, Marvin L., xxxxxxxx.
Ray, Max A., xxxxxxxx.
Reid, Wilbur R., xxxxxxxx.
Reiman, Lawrence N., xxxxxxxx.
Rinaldo, Richard J., xxxxxxxx.
Roche, John J., xxxxxxxx.
Rose, Richard J., xxxxxxxx.
Segler, Roger L., xxxxxxxx.
Shaw, Michael L., xxxxxxxx.
Shirley, Bobby G., xxxxxxxx.
Slapkunas, Raymond, xxxxxxxx.
Stephens, Charles D., xxxxxxxx.
Trowbridge, Joseph W., xxxxxxxx.
Ward, Franklin M., xxxxxxxx.
Wolcott, Charles H., xxxxxxxx.
Woodard, Larry H., xxxxxxxx.
Wylie Alexander C., xxxxxxxx.
Wyrosdick, James D., xxxxxxxx.

To be second lieutenants

Anderson, Charles W., xxxxxxxx.
Barham, Edgar D., xxxxxxxx.
Batistoni, Joseph M., xxxxxxxx.
Bendele, James C., xxxxxxxx.
Berkley, Nathan R., xxxxxx.
Bijold, Gerald P., xxxxxxxx.
Bischoff, Jerome F., xxxxxxxx.
Boswell, Robert E., xxxxxxxx.
Campbell, Robert W., Jr., xxxxxxxx.
Crews, Gerald L., xxxxxxxx.
Evans, John M., Jr., xxxxxxxx.
Evans, Richard A., xxxxxxxx.
Gauthier, Alfred T., xxxxxxxx.
Hobrle, John W., xxxxxxxx.
Huckabee, Robert H., xxxxxxxx.
Jacks, Clyde E., Jr., xxxxxxxx.
Johnson, Richard C., xxxxxxxx.
Karpman, Lawrence I., xxxxxxxx.
King, Roger S., xxxxxxxx.
Lancaster, Henry W., xxxxxxxx.
Long, Dallas L., Jr., xxxxxxxx.
Nixon, Woodard L., xxxxxxxx.
Rand, James T., xxxxxxxx.
Redding, James K., xxxxxxxx.
Rhame, William F., Jr., xxxxxxxx.
Spencer, Robert W., xxxxxxxx.
Strabel, Edward W., xxxxxxxx.
Swanson, Walter W., Jr., xxxxxxxx.
Thomas, John H., xxxxxxxx.
Todd, James C., xxxxxxxx.
Trahey, John H., xxxxxxxx.
Weinberg, Michael H., xxxxxxxx.
Wieczorek, Robert L., xxxxxxxx.

The following-named scholarship students for appointment in the Regular Army of the United States in the grade of second lieutenant, under provisions of title 10, United States Code, sections 2107, 3283, 3284, 3286, 3287, 3288, and 3290:

Alexander, Richard B.
Alvarez, Encarnacion Vicen A.
Barber, Frank A.
Bassham, Lanny R.
Borgen, Mack W.
Brownback, Peter E., III
Carpenter, Fred V.
Carrese, Francis P.
Carter, Victor S., Jr.
Caryl, Michael R.
Crane, Edward P., II
Daniels, Lawrence R.
Donnelly, Terence M.
Dowell, David R.
Dunegan, Michael W.
Durgin, Chesley F., Jr.
Ebertz, David C.
Ferrell, Richard J.
Frye, Phillip R.
Greer, Jason H.
Hall, John B.
Hansen, Chris J.
Hargus, Patrick K.
House, George W.
Howe, Stephan D.
Kaukl, Douglas J.
Kiesling, Victor J., Jr.
Knapp, Dennis R.
Knight, Sammie S.
Madden, John J., Jr.
Martinez, Carlos G.
Merrill, Charles F., III
Midgette, Hallas C., II
Mills, Warren E.
Mortimer, Evan E.
Mote, Doyle K.
Neitzke, Walter C.
O'Cain, James M.
Oetgen, William J.
Palmer, Charles M.
Pendlyshok, Charles A., Jr.
Petterson, Maurice E.
Phillips, George L., Jr.
Piacente, David A.
Rank, John T.
Rathofer, Steven A.
Rupp, James A.
Sauer, John G.
Slay, Robert D., Jr.
Smith, Steven R.
Stevens, Gary L.
Sutton, Ernest L.
Taylor, Vaughn E.
Thrasher, Warren A., Jr.
Vagt, Robert F.
Vickery, Arnold A.

The following-named cadets, graduating class of 1969, U.S. Air Force Academy, for appointment in the Regular Army of the United States in the grade of second lieutenants, under the provisions of title 10, United States Code, sections 3284 and 4353:

Griffin, Riley T.
Thrasher, Jack H.

The following-named distinguished military students for appointment in the Regular Army of the United States, in the grade of second lieutenant, under the provisions of title 10, United States Code, sections 2106, 3283, 3284, 3286, 3287, 3288, and 3290:

Abbott, Lloyd M., Jr.
Abbott, Wayne E.
Adkins, Glenn D.
Aldridge, Marion J., Jr.
Alfieri, Ronald J.
Allen, James H.
Anderson, Richard T.
Armstrong, Robert B.
Arner, Mark C.
Bailey, John D., IV
Balding, Larry D.
Ballenger, John P.
Banks, John T.
Barber, Dana Q.
Barnett, Thomas H., II
Bartell, Frank J., III
Bass, Selman L.
Battin, James D.
Bauer, William T.
Bauslaugh, George C.
Beach, Donald W.
Beck, Steven R.
Bell, David M.
Beller, Robert E.
Benowicz, William E.
Berry, Edmund F.
Besozzi, Paul C.
Bezpaletz, Reuben D.
Bicad, Jesse A., Jr.
Black, Donald C.
Blegen, Jon A.
Bliss, Thomas C.
Blood, Leigh J.
Bobb, Arthur L.
Boucek, William C., II
Bowers, William T.
Boyer, Craig S.
Braddy, John R.
Bradford, Ralph E.
Brandt, William M.
Braud, Gerald R.
Brillon, Joseph L.
Briscoe, Charles A.
Brown, Chandler R., Jr.
Brown, James D.
Brown, Peter L.
Bryant, James K.
Bryant, John L.
Bryant, Robert B.
Buckley, John S.
Burdulis, Darryl J.
Busa, Joseph L., Jr.
Butler, Larry K.
Butler, Victor D.
Cafarelli, John T.
Cardwell, Barry E.
Carpenter, Daniel E.
Carpenter, Michael E.
Case, Steven T.
Cassidy, John J.
Cassidy, Richard P.
Cates, Robert W.
Chamberlain, William N.
Chapin, Beverly R.
Chase, Harry J.
Chenault, Thomas D.
Christensen, Alan B.
Cloyd, Walter L., III
Colby, William H.
Cole, Charles R.
Coling, James H.
Collins, Rollins J.
Comstock, James W.
Connallon, Peter F. Jr.
Cook, Phillip A.
Coram, Henry G.
Cornwell, Ronnie J.
Costner, Gerald R.
Cowden, John W.
Creek, James H.
Cregler, Anthony L.
Croswhite, Timothy L.
Cruz, Juan A.
Curry, Robert A.
Dahlgren, Steven L.
Dalby, Garry M.
Dalelio, John A.
Dashawetz, Stanislaus
Daugherty, Stanley A.
Dean, Joseph S.
Deeker, Donald L.
Degenova, Ben A.
Delaney, Michael F.
Delong, Robert F.
De Los Santos, Arthur
Delpizzo, Dennis J.
Dent, Samuel R.
Depew, Richard L.
Desanzo, Louis R.
Dessel, Gregory F.
Dickinson, Rollie M.
Dohanos, Dennis W.
Donegan, George M.
Dorsey, John E.
Douglas, Edward E., III
Dow, Steven H.
Draganac, John R.
Drake, Randall V.
Drusendahl, Robert J.
Duggan, Dennis
Dugger, James D., Jr.
Dunn, Michael D.
Durham, Jesse C., Jr.
Dwyer, John T.
Dyer, David R.
Dyer, Joseph C.
Eaton, Gary H.
Emig, Calvin L.
Engel, James L.
Englisby, John M.
Evans, Ronnie D.
Fairchild, William V.
Fender, Keith M.
Ferrell, James C.
Fine, Gregory L.
Finnell, Martin W.
Fiorito, Michael J.
Fisher, John S.
Fortune, John O.
Frank, Larry S.
Freehan, Richard T.
Fullenkamp, Daniel R.
Furnish, Kenneth N., Jr.
Galbraith, Patrick J.
Gardner, Philip G.
Garwood, Charles E., III
Gatza, Daryl W.
Gehring, Frederick C.
Geis, John P.
Gerlich, Mark S.
Gfeller, Larry D.
Givin, Robert J.
Goff, Stephen L.
Gordon, Wilson J., III
Gossett, Warren C.
Griffin, John C.
Griffin, Troy D., Jr.
Griswold, Terry A.
Grochowski, Gerald W.
Grodi, Kenneth D.
Gronemeyer, Steven A.
Gunst, Richard F.
Haburchak, David R.
Hagy, James T.
Hall, Richard W.
Hallen, Dale W.
Halverson, Francis D.
Hand, William M.
Hand, William T., Jr.
Hanna, George M.
Hanson, Richard M.
Hardison, Stanley I.
Harris, Aubrey L., Jr.
Harris, Joseph R., Jr.
Harsh, Michael K.
Hatley, Curtis D.
Hatton, Sam E.
Hays, William J., Jr.
Helsing, Roy M.
Hendel, Gregory A.
Henslee, Don R.
Henson, Leonard A.
Heringer, Wayne L.
Herzer, William A.
High, Blanco T., II
Hightower, William E., III
Hill, Bruce G.
Hill, Frederick W.
Hillis, Lee E., Jr.
Hogan, Gary F.
Hokana, Warren R.
Holmes, John J.
Houser, Richard F.
Houston, Donald A.
Howe, Gregory A.
Hurt, Duane F.
Ingrum, John D.
Ives, Warren C.
Jacobs, John C., IV
Jagger, John F.
Jaudzimas, Walter J.
Johns, Richard C.
Johnston, James R.
Kahlert, Thomas A.
Kain, John M.
Kaminski, Dennis J.
Keeler, Russell L., Jr.
Keller, John B., Jr.
Keller, Larry R.
Keller, Raymond L.
Kelly, Craig S.
Kline, Michael C.
Kozlowski, Michael M.
Krieger, Donald A.
Kriz, Joseph R.
Kuklok, James G.
Lamb, Donald W.
Leddicotte, George C.
Lee, Bernard N., Jr.
Leighty, Joseph W., Jr.
Lewis, Robert R.
Lindsay, Jerome A.
Linebarger, James D.
Lowrey, Gerald B., Jr.
Lyle, William D.
Lynch, Stephen W.
Lynd, Patrick A.
MacPherson, John R.
Magruder, Lawson W. III
Makriyianis, Panos
Mallory, James E.
Marron, John F.
Martin, Edward T.
Martin, George K., Jr.
Mason, Kent A.
Maurer, Henry H.
Maxfield, Roger A.
McBrayer, Craig V.
McCabe, Tommy L.
McCathern, Rody L.
McGrew, Gary L.
McKendrick, John T.
Melton, John C.
Metzger, Stephen L.
Middleton, Richard L.
Miller, Charles E.
Miller, Gary R.
Miller, John F.
Miller, Ralph I.
Millis, Philip J. III
Mitchell, Robert A.
Mitchell, Thomas E.
Montgomery, Vernell T.
Moore, Harold D.
Muniz, Victor
Morgan, Jerry L.
Morrison, James E., Jr.
Munn, Raymond S.
Murphy, Joseph L.
Musgrove, Howard W.
Nabonne, Ronald P.
Nahay, Stephen A., Jr.
Nakanishi, Calvin T.
Nelson, Paul R.
Nessler, John P.
Norwood, James A.
Nosse, Richard L.
Oestreich, Henry B., Jr.
Olson, Marc R.
Onks, Paul F., Jr.
Ostrom, Wilson S.
Owens, James H., Jr.
Owsley, Seth C.
Page, Clarence W.
Parel, Robert J.
Pasko, Chester E.
Peiser, Robert S., Jr.
Perry, Michael A.
Petersen, Phillip A.
Peterson, Coleman H.
Peterson, Kenneth M.
Peyton, Virgil B.
Pichon, Gary W.
Pinkson, Reuben G.
Powell, Terry E.
Preston, Kenneth A.
Price, James C.
Puryear, James A.
Pyrek, John F., Jr.
Quaintance, John C.
Rader, Gilbert D.
Rakauskas, Vincent T.
Raybourn, Robert D.
Redmon, Alonzo L. II

Reierson, Richard C.
Reinhardt, Nelson K.
Retson, Nicholas P.
Reynolds, George D.
Reynolds, Richard W.
Reynolds, Robert Y.
Rindt, John W.
Robbins, Calvin L., Jr.
Robinson, Stanley L.
Rodrigues, Alfred B.
Rodriguez, Federico J.
Rose, Robert G.
Rowe, Stephen F.
Rowton, Joe R.
Roy, James W., Jr.
Rusk, James E.
Rystrom, Robert E.
Sandoval, Saul
Sandoz, Clark A.
Schepker, Lawrence W.
Scherer, William M.
Scherrer, Richard B.
Schmus, Donald J.
Schnittker, Gerald L.
Schroeder, Gerald A.
Schroeder, Waldo, Jr.
Schwan, Carlton F., II
Schwankl, David N.
Scott, Harry A.
Scott, James M.
Scott, Robert W., Jr.
Seymour, John F.
Shaw, David L.
Shea, Michael C.
Shelton, Travis D.
Shoemaker, Mark R.
Short, Earl H., III
Short, Noal S.
Shrouds, Robert H.
Slack, Rinner
Slade, Randall E.
Smith, Brian K.
Smith, Charles T.
Smith, David O.
Smith, Dean E.
Smith, Dean T.
Smith, Frederic F.
Smith, Rayburn L., III
Smylie, Robert P.
Snyder, Linden E.
Snyder, Shelton G.
Soff, Jeffery L.
Soriano, Edward
Southall, Valentine W.
Spevak, James A.
Sprout, James P.
Starr, Kenneth J.
Stavinoha, Raymond J.
Stebbins, David N.
Stephens, Thomas M.
Stephenson, George M.
Stone, Michael P.
Stroh, Timothy J.
Stump, Joseph E.
Suchke, Robert K.
Sullivan, Daniel B.
Sullivan, John K.
Sykes, Fred L.
Taff, George T., Jr.
Taylor, Thomas W.
Tharp, John R.
Thede, Peter J.
Thompson, Eugene E.
Thompson, Larry D.
Tibbetts, Carlos C. J.
Timmons, David W.
Torres, Ramul E.
Trinidad, Antonio J.
Trinidad, Wilfredo
Trounson, James W.
Tucker, Ray A.
Underhill, Carl J.
Uzzell, Rudyard S., III
Vaxmonsky, Albert L., Jr.
Verity, James E.
Vogas, James L.
Voss, Larry D.
Walker, Lewis H., Jr.
Walker, Marshall R.
Wall, William J.
Warlow, John D.
Warnke, Fred W.
Warren, James C., II
Washington, Darryl M.
Weatherholtz, Ruben E. III.
Webster, James M., Jr.
Weinnig, Albert F.
Weller, Michael P.
Welles, Reginald T.
Welsh, Frederick L.
Wharton, Paul D.
Wheeler, James A., Jr.
Whitlow, William D.
Wight, Michael G.
Wilcox, Thomas M.
Williams, Alfred E.
Williams, Barry O.
Williams, Michael L.
Wilson, Raymond W.
Wingeld, Maurice A., Jr.
Woelfer, Carl W.
Wolf, Curtis R.
Wolz, James P.
Wonnell, Donn T.
Wood, Ernest E., Jr.
Woodard, Robert R.
Wyss, John A., Jr.
Wozniak, Timothy A.
Yonz, Leroy A.
Young, Randolph S., III
Youngblood, Lloyd A.
Zunka, John W.
Zink, Francis E., Jr.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 25, 1969:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Harold B. Finger, of Maryland, to be Assistant Secretary of Housing and Urban Development.

INDIAN CLAIMS COMMISSION

Brantley Blue, of Tennessee, to be a Commissioner of the Indian Claims Commission.

DEPARTMENT OF THE TREASURY

Dorothy A. Elston, of Delaware, to be Treasurer of the United States.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Lewis Butler, of California, to be an Assistant Secretary of Health, Education, and Welfare.

Robert C. Mardian, of California, to be General Counsel of the Department of Health, Education, and Welfare.

DEPARTMENT OF TRANSPORTATION

Walter L. Mazan, of Vermont, to be an Assistant Secretary of Transportation.

EXTENSIONS OF REMARKS

SHADOWS OVER HOMECOMING

HON. LOUIS C. WYMAN

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 24, 1969

Mr. WYMAN. Mr. Speaker, I wonder what the boys—now men—who have been fighting for us in Vietnam would do with the youthful punks and yellowbellies back home if they were free to do so. It must be one heck of a note to lie in the jungle over 10,000 miles away from home facing enemy mortar fire, snakes, malaria, and what have you, only to learn about certain young people back home throwing Molotov cocktails and invading faculty offices to prevent Reserve officer training courses.

Physical beating would be as inadequate as temporarily satisfying. Perhaps conscription and assignment to Vietnam would help. Once there, the men might form a special division for these SDS-type draftees and give them the option of a gun or a flower. Facing the enemy, whether Vietcong or North Vietnamese, it would be interesting to see what those, who protest back home an unwillingness to stand up for their country, would do. Slavery in a Communist nation is not a pleasant prospect, yet this once again would be their option, just as on a broader basis it is world option at this time. Stand up and fight for freedom or lie down and lose everything else sacred among mankind since the beginning of civilized society. In this connection a recent column by James Kilpatrick appearing in the Washington Star speaks volumes:

SAILOR'S RETURN HOME PUNCTUATED BY DISORDER

(By James J. Kilpatrick)

SAN FRANCISCO.—The aircraft carrier Coral Sea left Alameda, Calif., bound for Vietnam, on Sept. 7, 1968. She returned this past Friday, a great gray bulk of a ship, her fourth tour of combat duty behind her. Her aging hull was stained with rust, but her flags were flying as happily as so many tropical birds.

As combat cruises go, Coral Sea's last tour on Yankee Station offered no more than a footnote to the chronicles of war. She had been on the line only a few weeks before bombing was halted north of the 17th parallel. The rest of the time was spent in ground support, reconnaissance, and routine patrol.

To the 4,500 officers and men, the tour was a tour of duty—hard and exhausting duty, performed under constant tension. The steam catapults were forever pounding and the jet engines screaming for release. There was danger and there was death: Marvin Naschek, Tom Bitter, and Norman Ridley, dead; Quinlin Orell, James Hunt, and Larry Stevens, missing in action.

When a great ship comes into port, especially to its own home port, the crowds turn out. So it was on Friday morning. By 8 o'clock, they had begun to gather, wives and parents and children, bearing their hand-lettered signs: "Scott says 'Howdy'" . . . "Welcome Eddie Schofield from Dalles, Ore." . . . "Hi, Jerry Schur" . . . The 12th Navy District band gave forth; gulls figure-skated on the sky; balloons, like airborne tulips, flowered above the pier.

A little before 9 o'clock, the ship could be seen beyond Golden Gate Bridge, an unmistakable speck on the sea. It would be an hour before she docked, There was time for a visiting father to glance at the papers.

Student militants at Stanford University called off their nine-day occupation of the Applied Electronics Laboratory today, amid indications that the university administration would yield to demands that war-related research be halted . . .

On Pier 3, Lorette Harvey of Lisbon, Maine, pushed a stroller back and forth. Before long, her husband, Aviation Supplyman Raymond Harvey, would see his newborn baby Kevin. Phil Duncan's mother was there from San Jose to meet her sailor son, just as she used to meet her husband 20 years ago.

Meanwhile, at Merritt College in Oakland, thirty members of the faculty Senate were locked in a conference room by angry students demanding a "retraction." The students, aroused by conflicting reports on the development of a Mexican-American Studies Program, kept the professors imprisoned for three and a half hours . . .

By 9:20, Coral Sea was plainly coming in. You could see the sailors lined in dress blues on the flight deck. The whole Vinton family had come from Medway, Mass., to meet Petty Officer Donald Vinton—father, mother, brother, girl friend. Mrs. Charles Brinegar was there; her husband, a chief in aviation ordnance, has served his country for 22 years.

At Harvard, agreement was reached on a plan to reduce the university's Reserve Officer Training Corps program to an extracurricular activity. The agreement represents a victory for student militants who last week seized a university building. In New York, 200 young men, demanding an end to the university's program for training Naval Reserve officers, held a seven-hour sit-in . . .

Now the ship was nudging her 63,000 tons against the pier, and the moment of reunion was close at hand—the moment when man and woman, mother and son, father and child, could cling to one another. We scanned the crowded decks, searching for a single face.

A radical student at Stanford University pleaded to have the group continue the sit-in until troops or police were ordered in. At that point, he said, the students could abandon the laboratory to wage some form of guerrilla warfare on campus. . . .

High in a crow's nest, 75 feet above the flight deck, a slim young sailor skimmed his white cap toward the pier. It landed with fine precision right at this reporter's feet. I