from buyer to seller as money, gathering for me, thru the so-called debtors, a perpetual ransom in usury which grows by a geometrical progression. Meanwhile their equivalent notes, even the king's lie immobilized in my strongbox, gathering for them only dust. [Note: Modern dust-free bank vaults prevent the immobilized notes from gathering even dust!]

"Furthermore, in addition to borrowers' notes I also buy property with my notes and ledger entries, which then circulate as money, thus giving me the counterfeiter's advantage, i.e., something for nothing.

"This is my fake-loan, my false-debt, formula. And if I can keep it a secret for a few years I'll collect a fortune that will make Solomon's treasury look like a secondhand store. And eventually I'll totally enslave the people thru false debt yet make them pay the costs of their own enslavement. Better yet, they won't even know they're enslaved, nor who enslaved them, nor how. Now tell me, Wise Man, tell me how I may keep secret this bonanza for mine own profit."

Then said the Wise Man: "Look wise and say little, and only upon little-known matters afar off. Obtain the ear of the town crier. Engage him to spread the impression that money is a mysterious subject which no one understands save thee alone. Be friendly with the king's counselors and grant their favors, that the king may smile upon thee. Have him declare thy notes, including thy ledger-entry notes, the lawful money of the land. And have him forbid the people to exchange thy notes for gold."

And the goldsmith did as he was bid and collected much usury from his phony loan deposits, from his fake loans and counterfeit investments. In fact, he collected the rental value of money, which is the difference in value between whole barter and split barter (i.e., between 2-party and multi-party barter, which money makes possible) which in turn is the value of the division of labor and of all labor-saving devices, which of course is the value of civilization itself. And since all new money created as fake loans can demand and collect that ruinous ransom, all existing money actually loaned or invested can likewise demand and collect the same ruinous ransom. That ruinous ransom is Usury (which the Bible condemns again and again and again. And for good reason; Usury is on the verge of totally destroying Christianity by transforming the world into a totalitarian slave state wherein Christianity will be systematically and ruthlessly destroyed, as was done by the same satanic swindlers who conquered Russia in 1917.) In other words, the goldsmith and his fellow money-creating usurers collected the value of communal living, i.e., the value of living in an organized society. In short, he collected an utterly ruinous ransom for providing the public with a money supply in the form of bank credit, a money supply created as a gigantic, colossal swindle, an utterly evil fraud!

And that is the reason most banks have great marble pillars and bronze doors, so that they may resemble, outside as well as internally, the "place of imaginary money," the false debt factory, if you please which the goldsmith, the banker, using modern banking principles, builded with phony loans and investments on the gold of Omar the Third in the Temple of the Thirteen Suns.

Postscript.—The goldsmith (and today's banker) soon discovered an even more potent and effective method than false-debt usury for dispossessing the public on a grand scale; he discovered the fleecing cycle known as the "Business Cycle." Here is how he explained it to his five sons:

"By increasing or decreasing the flow of my phony loans and investments, I increase or decrease the volume of money and cause a boom or a depression. I buy up and foreclose during the depression, then sell out later at high inflation prices during the following boom, which I create by rapidly increasing the flow of my fake loans and investments, thus increasing the money supply faster than the public can back it (i.e., earn it back) with goods and services; I repeat the cycle again and again, alternately granting and then withholding my phony loans and investments. The people are like unto a great flock of sheep, which I thus periodically fleece on an even grander scale than my constant fleecing of them thru false-debt usury."

Note.—When the volume of money increases faster than the volume of goods and services, we have inflation. But because of the false accounting of the banking system we must have inflation or perish. Why? Because bank credit, which we use almost exclusively as money, is nonexistent debt which carries a perpetual compound interest charge that must be added to prices, causing price inflation. If money inflation does not then follow, a depression does and we perish because businessmen and farmers cannot then recover their costs and so go bankrupt. When producers cannot recover their costs, consumers will have nothing to consume and will perish.

SENATE—*Wednesday, January 21, 1970*

(Legislative day of Monday, January 19, 1970)

The Senate met at 11 o'clock a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. RUSSELL).

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

Almighty God, whose mercies are new every morning, make all things within us new this day. Renew our faith and hope and love. Renew our wills that we serve Thee with all our soul and mind and strength. Renew our longing to know Thee in Thy fullness and to show it by service to all the people. Renew our love of country and give us wisdom to help make her good and great. So lead us through the day that when evening comes we may hear Thee say, "Well done, good and faithful servant."

In the Redeemer's name we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Tuesday, January 20, 1970, be approved.

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

LIMITATION ON STATEMENTS DURING THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business not to exceed 30 minutes, with statements therein limited to 3 minutes.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ATTENDANCE OF SENATORS

The following additional Senators attended the session of the Senate today: DOMINICK, TOWER, and YOUNG of Ohio.

RECESS SCHEDULE FOR THE SENATE DURING THE NEXT SEVERAL MONTHS

Mr. MANSFIELD. Mr. President, for the information of the Senate, the joint leadership has approved a recess schedule for the Senate during the next several months.

It is an abbreviated schedule and does not go beyond the July 4 recess.

I ask unanimous consent that this schedule be printed in the RECORD.

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

Lincoln's Birthday (Thursday, February 12)—From conclusion of business Tuesday, February 10, until Noon, Monday, February 16.

Washington's Birthday (Sunday, February 22)—Reading of the Farewell Address on Monday, February 23, followed by normal legislative matters.

Easter (Sunday, March 29)—From conclusion of business Thursday, March 26, until Noon, Tuesday, March 31.

Memorial Day (Saturday, May 30)—From conclusion of business Thursday, May 28, until Noon, Monday, June 1.

July 4 (Saturday)—From conclusion of business Thursday, July 2, until Noon, Monday, July 6.

Mr. SCOTT. Mr. President, will the distinguished majority leader yield to me?

Mr. MANSFIELD. I am delighted to yield to the Senator from Pennsylvania.

Mr. SCOTT. Mr. President, I thank the distinguished majority leader. We on the minority side agree with the proposed truncated and abbreviated recess schedule. We believe that if we are to get our work done, we must stay on the job. If we are to get the work done, we will have to have long sessions. The distinguished majority leader has indicated that we may well have some Saturday sessions. If we do, it will be our responsibility to be on hand to help him.

Individual Senators will have to accept and assume the risk of being absent if they have already made engagements. Let me say that my heart goes out to all our colleagues who may find themselves in that predicament, and I may

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find myself in the same position. But this we must do.

As I said yesterday off the floor, we should drive hard to comply with the law. The law provides that we adjourn by July 31. We set a bad example for the country, it seems to me, in asking people to obey the law while we ignore it every year because of our superior right to do so.

Therefore, I am sure that the distinguished majority leader agrees with me that we should make our objective one of compliance with the statute and work out an adjournment on that day.

We, over here on this side of the aisle, will do all we can to help.

Mr. MANSFIELD. And we over here will do all we can to be of assistance in that respect.

TRIBUTE TO JOHN D. RHODES, FORMER CHIEF OFFICIAL REPORTER OF DEBATES

Mr. MANSFIELD. Mr. President, I should like to take this occasion to join in the remarks already made by the distinguished Senator from Maine (Mrs. SMITH) and the distinguished Senator from North Dakota (Mr. YOUNG), in extending congratulations and felicitations to our former associate, Mr. John D. Rhodes, who celebrated his 90th birthday anniversary on January 19.

He is now retired. He was an outstanding reporter. He was a gentleman. He was courteous. He was considerate. He was a man of great integrity.

I am delighted that this fine man is enjoying such good health in his retirement and that he has reached the age of 90.

I hope that this will be an occasion which will be marked for many years in the future, to show our regard and good will at all times to this outstanding man.

The PRESIDENT pro tempore (Mr. RUSSELL). I hope that the distinguished senior Senator from Montana will permit the Chair to associate himself with those remarks.

Mr. MANSFIELD. I am delighted.

RAISED RATES TO BANK DEPOSITORS IS KNOCKOUT BLOW FOR HOUSING

Mr. PROXMIRE. Mr. President, last night at 5 p.m., the bank regulatory agencies increased the maximum rate payable on bank savings deposits.

According to the Federal Reserve Board and the FDIC, the ceiling on commercial bank passbook accounts was increased from 4 to 4½ percent, and on 1-year certificates of deposits from 5 to 5½ percent.

The increase in the rates which commercial banks can pay on time deposits can dry up the already dwindling supply of mortgage credit.

We already face a depression in the homebuilding industry, and the increase in the deposit rate ceiling can only make it worse. We are in the throes of the most severe housing shortage in 20 years, and the action by the banking agencies may send this staggering industry down for the count.

Higher deposit rates for commercial banks could divert funds from savings and loan associations which have been the mainstay of the mortgage market.

Since commercial banks only put 25 percent of their funds into mortgages and savings and loan associations put 95 percent of their funds in mortgages, a shift of $1 from a savings and loan association to a bank takes 70 cents out of the funds available for mortgage loans.

Even if savings and loan associations are granted a similar increase—and they will be—many of them could not afford to pay it because their earnings are tied to lower yielding mortgages acquired in earlier years.

Higher rates paid by commercial banks will attract funds away from savings and loan associations and deal the mortgage market another crippling blow.

Mr. President, I say this on the basis of having talked to scores of savings and loan association officials in my State and elsewhere. I am sure that this is the case. They use a very long word to describe what this does. It is "disintermediation." But what it means is the flowout of savings and loans, and that is out of the availability to the housing market, and into the commercial banks, where most of the loans are made to businesses.

It is also counterproductive for the Federal Reserve Board to raise the maximum rate payable on large denomination certificates of deposit to as much as 7½ percent. The restrictive policies of the Federal Reserve have just begun to exert real pressure on large money market banks, who continued to expand their business loans in record volume in 1969.

The increase in the rate paid on certificates of deposit will enable large commercial banks to attract more funds away from housing to feed the corporate investment boom. It is most unfortunate for the economy that the Federal Reserve Board has acceded to the pressures of large banks for an increase in the deposit ceiling.

ORDER OF BUSINESS

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

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

The assistant legislative clerk proceeded to call the roll.

DEATH OF DAVID O. McKAY, PRESIDENT OF CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS

Mr. MANSFIELD. Mr. President, one of the world's great church leaders, David O. McKay, president of the Church of Jesus Christ of Latter-Day Saints has passed on to his reward at the age of 96.

Mr. McKay was an outstanding influence in the Rocky Mountain West; not only in the State of Utah, but also in Nevada, Arizona, Colorado, Montana, and Idaho.

He was responsible for the great expansion of his church; it had a membership of a little in excess of 1 million when he assumed the presidency, and at his death, I understand, the membership had grown to in excess of 3 million.

Furthermore, the number of wards or parishes had increased from 1,660 to approximately 4,500 during his tenure; the number of stakes from just under 200 to more than 500. Scores of new chapels and seminaries have been erected not only in this country but throughout the world.

The Mormons are a great missionary people. And their influence—and it has been most beneficial—has been felt not only in the Rocky Mountain West especially, but also in the islands of the Pacific, in the countries of the Orient, in Western Europe, in Latin America, and in Australia.

The Mormons are a thrifty and very conscientious group of people, who do their best to look after their own recognizing the rights of others to live among them and do as they think best. They have contributed much to the building up of the West as a whole.

They have suffered their share of persecution but they have survived and they have made of the State of Utah a mecca for the members of the Church of Jesus Christ of Latter-Day Saints.

President McKay, the ninth president of the church, was a man of great wisdom who made many contributions to the welfare of the region and to the benefit of his people.

I wish at this time to express my deep sorrow at the passing of this great man who represented such a fine church.

Mr. McGEE. Mr. President, tomorrow the beautiful and historic Mormon Tabernacle in Salt Lake City will be the scene of the funeral of a remarkable man and religious leader, David O. McKay, who died this week at the age of 96.

David O. McKay, who gave his life to the advancement of the Church of Jesus Christ of Latter-day Saints, presided as its president through a period of phenomenal growth which saw this church rise from persecution to a worldwide membership of nearly 3 million souls.

My own State of Wyoming is blessed to have among its citizens a goodly number of those who follow the tenets of the LDS Church for so long directed by Mr. McKay and his colleagues on the Council of the Twelve. To them, as to all of us, he stood as an example of sturdy leadership and enduring qualities through a time when both were in demand. His work and his example will carry on, I am confident, for many more than the 96 short years he was among us.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. YOUNG of Ohio. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURDICK in the chair). Without objection, it is so ordered.

PRESIDENT NIXON SHOULD WELCOME REPORT FROM CYRUS EATON

Mr. YOUNG of Ohio. Mr. President, Cyrus S. Eaton, chairman of the board

of Chesapeake & Ohio Railroad, one of our Nation's leading industralists, and a great American, recently returned with his wife from 8 days in Hanoi. During their visit, Mr. and Mrs. Eaton talked at great length with top officials of North Vietnam. They saw every official they wanted to see, including Prime Minister Pham Van Dong, Communist Party leader Le Duan and National Assembly leader Troung Chin. They were entertained by Premier Pham Van Dong at a 4-hour dinner party.

The Eatons returned to the United States with the definite conviction that only President Nixon can end the Vietnam war, and that leaders of North Vietnam are convinced that he does not want the war to end. Mr. Eaton has presented a detailed plan which he believes would bring an end to our involvement in that immoral, undeclared war in Vietnam—a plan acceptable to Hanoi and in line with President Nixon's announced intentions. He has stated that he expected to transmit his own views and those of North Vietnamese officials to President Nixon and to Henry Kissinger, the President's special assistant for national security affairs.

Cyrus Eaton states that President Nixon could end the Vietnam war now by agreeing to withdraw 100,000 American troops within 60 days and all other U.S. forces in 18 months. He has said from his conversations in Hanoi he is sure if President Nixon agrees to those terms, "all other questions would resolve themselves quickly." He summarized the North Vietnam position this way:

> The people of north Vietnam are concerned that President Nixon really does not want the war to end. If they were convinced that he did, many of the problems would be solved. Leaders in Hanoi study the President's speeches, which are received two or three hours after he delivers them . . . They are disturbed by his statements that if he pulls U.S. troops out of Vietnam, he is going to equip others to continue the fight . . . They are troubled by the fact that President Nixon says he will withdraw combat troops—infantrymen—but that he will leave American support troops, ammunition, and our warplanes and U.S. air personnel and our helicopter crews and our fleet to continue the war.

Mr. Eaton said he told the North Vietnamese leaders that the Nixon administration "is sincere" in seeking an end to the war. However, he noted that they are prepared to continue the war indefinitely. Mr. Eaton stated he has every reason to believe and is optimistic the Vietnam war can be brought to a satisfactory conclusion. "The main task is to convince Hanoi we really want to end it," he stressed.

Mr. President, President Nixon has stated that he has a secret plan and a secret timetable for withdrawing the American forces from Vietnam. To date he has announced the eventual withdrawal of only 110,000 men. However, at the same time he has failed to face up to the fact that the only way this war will be brought to an end is for both sides to compromise on a political and diplomatic solution—a compromise that must include a coalition government in Saigon and free elections properly supervised.

It is obvious that there will never be peace in South Vietnam until and unless a coalition government is established in Saigon composed of all elements of South Vietnamese political life, including representatives of the National Liberation Front. It is equally clear that Thieu and Ky are not going to preside over their own removal from power, so negotiations in which they have a power of veto are doomed from the outset. There can be no escape from this hard truth.

The desire of those Saigon militarist leaders to remain in power is totally inconsistent with President Nixon's statement that "what is important is what the people of South Vietnam want." These incompatible policies hold out the prospect not of peace but of a prolonged military occupation which will continue indefinitely to drain American treasure and lives.

Mr. President, if leaders of the Nixon administration really wish to end the conflict in Vietnam, they should insist that representatives of the legislative body of South Vietnam participate in the peace conference. It appears that the members of the South Vietnamese legislative body do not see eye-to-eye with the Thieu-Ky regime and the clique of generals who control the executive department of that bleeding country. The legislators, I am sure, are closer to the people than the swaggering militarists in their luxurious palaces—palaces, I might add, which were paid for by American taxpayers and the sweat and blood of Vietnamese peasants and American soldiers.

The fact is that while professing a desire for peace, the Nixon administration has failed to create the political conditions in Vietnam under which peace is possible. This raises the question as to whether this administration really seeks to end this war despite the President's repeated statements to the contrary. Until the President begins to make a real effort to solve the central task of forming a coalition government in Saigon, he cannot begin to make good the pledge on which he was elected.

Leaders of North Vietnam are not convinced either by President Nixon's words or by his actions that he sincerely wishes to bring about an end to the war in Vietnam based on the political and military realities. From their point of view, President Nixon has not given a definitive sign of his determination to withdraw all American forces within a reasonable time period. Repeated statements by the President and more recently by Vice President Agnew lauding the militarist regime of Thieu and Ky and assuring our continued support of their corrupt government leave the impression with North Vietnamese leaders, according to Cyrus Eaton, that President Nixon "is not serious about ending the war."

There is a simple way that President Nixon can instantly dispel that impression.

If he really wishes to end the abominable war in Vietnam as soon as possible, he could prove it to the world and signal his sincerity to the North Vietnamese by immediately calling Cyrus Eaton to the White House for a first-hand report on the sentiments of the leaders of Hanoi.

Here is a golden opportunity—through Cyrus Eaton—to cut away the redtape, protocol, and senseless formalities and to begin direct negotiations to end our involvement in the Vietnam quagmire.

Cyrus Eaton has performed a major service to mankind by obtaining the views of the leaders of Hanoi in face-to-face conversations. Now, the responsibility for taking full advantage of this vital information rests squarely on the shoulders of the President.

History and humanity will never forgive the administration if it fails to seize this opportunity to achieve the goal of all sensible men and women throughout the world.

Cyrus Eaton has proposed a plan for ending the war that is not only acceptable to the North Vietnamese, but also affords the United States the opportunity to withdraw in an orderly fashion and to arrange a political compromise in the interim. Eighteen months is a long time. If the President sincerely desires to end our involvement in Vietnam by July 1, 1971, then he should announce that he is willing to accept the proposals brought back by Mr. Eaton and announce immediate steps toward implementing them.

Americans are tired of hearing about secret plans to end the war that do not bring results. They heard about a secret plan from Richard Nixon in October 1968. Now more than a year later, more than half a million American GI's, airmen, marines, and sailors remain in Southeast Asia, many of them fighting and dying each day. Americans are tired of diplomatic doubletalk while their sons and husbands risk their lives daily in Vietnam. Here at last is a positive sign from Hanoi on a way to end the war.

Cyrus Eaton's proposal is a workable plan to end the bloodshed in Vietnam—the continued killing and wounding and the maiming of American GI's and Vietnamese soldiers and civilians. President Nixon should make a forthright response to this plan at the earliest possible date.

Cyrus S. Eaton is one of the best known and most outstanding industrialists in our Nation. He is nationally known and highly respected not only in the United States but also in Canada and various European nations as a great and learned man and as an internationally known industrialist and capitalist who has throughout the last 20 years or more been the world's leading exponent of understanding and permanent peace between all nations of the world. He is a fellow of the American Academy of Arts and Sciences.

The Cleveland Press on December 26, 1969, published an editorial under the caption "Nixon Should Welcome Report From Eaton," I embody this as a part of my remarks and I ask unanimous consent that the editorial be printed in the RECORD at this point.

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

NIXON SHOULD WELCOME REPORT FROM EATON

President Nixon has said frequently he places top priority on his request to end the

war in Vietnam—or, at least, to end the United States' deep involvement there.

Pursuing this cause, he should spare no effort to inform himself as fully as possible of the thinking of North Vietnam's leaders. That's a difficult feat, in the absence of diplomatic channels.

But Cleveland industrialist Cyrus Eaton has just returned from a unique eight-day visit to Hanoi, during which he talked at length with top officials. He said these leaders are convinced that only President Nixon can end the war—and that he does not really want it to end.

A report from Eaton on what he learned in Hanoi could be immensely valuable in Washington. President Nixon should invite him to the White House for a conference.

Mr. YOUNG of Ohio. Mr. President, this editorial, I believe, expresses the sentiments of all Americans who comprehend the terrible price our country and our civilization are paying for the agony of Vietnam.

Every day, every hour that the administration delays ending the Vietnam violence means that the lives of more brave men will be senselessly sacrificed—means that our national image throughout the world will be further tarnished—means that our young people will be further disgusted and disillusioned—means that our treasure and resources will continue to pour into the bottomless pit of a Southeast Asia war in which victory is impossible for anyone, while our whole society shudders and trembles under the stresses and strains of enormous problems that cannot be solved or even confronted without the billions of dollars that are being thrown away to the winds in Vietnam.

It is up to our Commander in Chief to rescue this Nation and this world from the terrible tragedy of Vietnam. It is the legal and moral duty of the Commander in Chief to take dynamic action that will free millions of American families from the threat that their sons will die in dubious battle thousands of miles from home, in a war that cannot be settled by force of arms, involving issues that can only be resolved at the conference table and in the minds of men and women.

Should the administration fail to seize this new opportunity to end a paroxysm that is wracking all humanity, I believe that Congress should seriously consider ending the Vietnam nightmare by cutting off the funds required for the continued conduct of the war.

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

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

THE POSTAL ACADEMY PROGRAM

Mr. GRIFFIN. Mr. President, earlier this month the Post Office Department, headed by Postmaster General Blount, announced a program to provide remedial education and training leading to job opportunities for the disadvantaged in six major cities of the Nation, including Detroit, Mich.

It is encouraging to note this further evidence of a determined policy on the part of the Nixon administration to assist the unemployed, the underemployed, and the dropouts through sound and imaginative new programs.

Mr. President, I ask unanimous consent to have printed in the RECORD two releases from the Post Office Department relating to this new program.

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

GENERAL RELEASE NO. 2

A six city postal academy program to give remedial education and job opportunities to economically disadvantaged school dropouts aged 16 through 21 was unveiled today by Postmaster General Winton M. Blount.

In a joint Washington press conference, Postmaster General Blount, Labor Secretary George Shultz and Office of Economic Opportunity Director Rumsfeld announced the Post Office Department will establish postal academies in the ghettos of six cities to enable young school dropouts to attain basic educational skills, and to give educational help to postal employees who have been unable to qualify for advancement to clerk and carrier positions. The six cities are: Washington, D.C.; Newark, New Jersey; Atlanta, Georgia; Chicago, Illinois; San Francisco, California; and Detroit, Michigan.

Financing for the program will be shared by the three Government agencies. Staffing and operation will be the responsibility of the Postal Service.

Local volunteer postal people, familiar with inner-city conditions, will recruit and train the disadvantaged youths on a full-time basis in storefront academies.

Those enrolled as students in the postal academies will include dropouts without employment as well as underemployed young men and women now working at low-level chores in postal installations.

"The Post Office Department has great potential in manpower, talent and structure to open new doors to the urban youth of America who have dropped out of school," Postmaster General Blount said. "No other institution is so well situated and organized to do this job."

Among the Post Office's strongest assets are the fact that it is a multiple business operation in every city in the nation; employees walk every street, knocking on every door; many employees are known, trusted and respected by most individuals in or out of the ghetto; and employees walk daily in and out of every business establishment where employment opportunities exist.

Postal academies will be staffed by specially trained postal people familiar with the inner-city way of life.

The postal academy program is aimed at helping to upgrade disadvantaged youth educationally by providing basic skills, for instance, in the three R's.

The postal academies will teach these basic skills, while at the same time providing enrolled students with money-earning opportunities at nearby postal installations.

Upon completing basic courses, students can go to work at better jobs in post offices, can be placed in business and industry, or can continue their education further.

Under the six-city pilot program, the new postal academies will have graduated or commenced training of 2,100 dropouts by the end of Fiscal Year 1971. During this time, the academies will also be in the process of training 720 lower-level employees for higher paying jobs.

Kenneth A. Housman, Assistant Postmaster General for Personnel, was credited by Mr. Blount as the organizing force behind the new program. During the past summer, Mr. Housman enlisted the support of 1,660 volunteer postal counselors who took 8,250 inner-city youngsters in tow and successfully kept 94 per cent of them on the job all summer.

"The summer work experience of our Department, when volunteer postal counselors each took personal responsibility for five disadvantaged young people, convinced us that our postal people are anxious to help economically disadvantaged youth if they are permitted to do so. Now we are not only going to ask them—we are also going to provide them with the help and facilities that will enable them to do a community jobs which they have shown they can and want to do," Mr. Housman said.

Cost of the new postal academy pilot program in six cities is estimated at $1,161,746 for Fiscal Year 1970; inclusive of training costs for postal employees, rental of neighborhood storefronts for instruction purposes, and maintenance of small staffs of postal street workers who will assist and counsel enrollees on a 24-hour-a-day basis. The program is jointly financed by the Post Office Department (10%) and the Department of Labor and the Office of Economic Opportunity (90%).

"The cost to the Post Office is justified because it is an excellent source for obtaining new employees as well as enabling large numbers of our fine present postal employees to advance within the service," the Postmaster General said.

After assessing the results of the six-city pilot program, the Department will consider further extension of the postal academy concept. Such expansion would permit postal academies to train thousands of young people and postal employees annually.

"The postal academy program in no way competes with established educational facilities," Mr. Blount said. "The thing to remember is that the youngsters we are going to train are those who have dropped out of the normal stream of education—they are living in the streets, largely unemployed, without the skills to satisfy their needs. The postal academies will give them a chance to work upward, right in their own neighborhoods, under the guidance of postal people who are old hands in the ghetto and who can speak the language of the underprivileged."

Youths eligible for the postal academies must meet certain main qualifications: be at least 16 and not over 21 years of age; be recommended by a postal academy street worker; and have parental permission to attend, if under 18.

The postal academies in the six pilot cities will get under way in May 1970. The intervening months will be used to train postal people to handle the new operation, select candidates for training, and equip neighborhood storefronts which will serve as the academy sites in each of the six pilot studies.

GENERAL RELEASE NO. 3

HIGHLIGHTS OF POSTAL ACADEMY PROGRAM

OBJECTIVES

To provide upward mobility into colleges, business and government for educationally disadvantaged youth and underemployed postal workers through educational units using Post Office Department resources.

THE PROGRAM

Philosophy: Train dedicated and talented Postal employees to provide school dropouts with immediate help through personal concern and by meeting personal needs with community resources.

Program

1. *Street Academy:* It provides motivation for youths 16 through 21 years of age to move

upward and gives them remedial educational help.

2. *Academy of Transition:* Courses to secure for each student either a higher pay level in the postal service or a high school equivalency certificate, making school dropouts eligible for further education and business or civil service employment.

3. *Postal Academy Training Institute:* An institute to train the postal personnel who will be involved in the program.

HOW WILL IT WORK?

It will work by establishing Postal Academies to educate the total youth and enable him to develop his talents.

It will train dedicated urban postal employees to reach and teach youth and be available to you 24 hours a day.

It will provide part-time employment in the Post Office for youth who attend the Academies.

It will involve the entire community in an action program.

TIME TABLE

The plan provides for an initial pilot program in six cities to begin in May 1970 with the extension of the activity to additional cities based on values achieved in the pilot program.

THE CITIES

The program will be instituted in Washington, D.C.; Newark, New Jersey; Atlanta, Georgia; Chicago, Illinois; San Francisco, California; and Detroit, Michigan.

THE COST

The pilot program will cost an estimated $1,161,746 in Fiscal Year 1970, including training costs for postal employees, rental of neighborhood facilities for instructional use, and staffing.

FUNDING

The initial funding, through Fiscal Year 1971, will be provided by the Post Office Department funding 10 per cent of the costs, the Department of Labor and the Office of Economic Opportunity funding the remaining costs. The cost to the Post Office is justified because postal employees will be qualifying for advancement and the program will provide a source for new employees.

WHY THE POST OFFICE?

The Post Office Department has a great existing potential in manpower talent and structure to help America's young urban school dropouts. No other institution is so well situated and organized in the ghetto to do this job:

A multiple business operation in every city and ghetto in the nation;

Employees visiting almost every street almost every day of the year;

Employees who live in the ghetto and have strong community interest and pride;

Employees known, trusted and respected by most individuals in or our of the ghetto; and

Employees in and out of every business establishment daily where employment potential exists.

DROPOUTS AND POSTAL EMPLOYEES AIDED

The Street Academies will operate on a tri-semester basis, with the first six Acadamies opening in May 1970 and a second Academy in each city opening September 1970.

By the end of Fiscal Year 1971 the postal academies will have graduated or commenced training of 2,100 dropouts and will be in the process of training 720 lower-level postal employees for higher paying jobs.

Academies of transition will be phased in as graduates from the postal academies are obtained.

BACKGROUND

Everyone is aware of the disproportionate unemployment among young minority people in urban areas who have dropped out of school. Their talents are being wasted. Through 14 years of experimentation in New York and New Jersey, a fine way to correct this has been found. Ghetto residents have been trained to motivate, discipline, and successfully operate street schools for drop-out youth in their communities.

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

The PRESIDING OFFICER. The clerk will 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.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

APPREHENSION OF DESERTERS, PRISONERS, AND ABSENT WITHOUT LEAVE MEMBERS OF THE ARMED FORCES

A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend section 808 of title 10, United States Code, to clarify the application of that section to prisoners and members who are absent without leave from the armed forces (with an accompanying paper); to the Committee on Armed Services.

REPORT ON THE PROGRESS OF THE RESERVE OFFICER TRAINING CORPS FLIGHT TRAINING PROGRAM

A letter from the Secretary of the Air Force, transmitting, pursuant to law, a report on the progress of the Reserve Training Corps Flight Training program for the calendar year 1969 (with an accompanying report); to the Committee on Armed Services.

ANNUAL REPORT OF THE GOVERNMENT PRINTING OFFICE

A letter from the Public Printer, transmitting, pursuant to law, the annual report of the Government Printing Office for the fiscal year ended June 30, 1969 (with an accompanying report); to the Committee on Rules and Administration.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969—REPORT OF A COMMITTEE—SUPPLEMENTAL VIEWS (SENATE REPORT NO. 91-634)

Mr. PELL. Mr. President, from the Committee on Labor and Public Welfare, I report favorably, with an amendment, the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes. I ask unanimous consent that the report be printed, together with supplemental views of Senators JAVITS, PROUTY, DOMINICK, MURPHY, SCHWEIKER, SAXBE, and SMITH of Illinois.

The PRESIDING OFFICER. The report will be received and the bill will be placed on the calendar; and, without objection, the report will be printed, as requested by the Senator from Rhode Island.

BILLS INTRODUCED

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

By Mr. MANSFIELD (for himself and Mr. METCALF):

S. 3315. A bill for the relief of Warren Bearcloud, Perry Pretty Paint, Agatha Horse Chief House, Marie Pretty Paint Wallace, and Pera Pretty Paint Not Afraid; to the Committee on the Judiciary.

By Mr. SMITH of Illinois:

S. 3316. A bill requiring the Secretary of Health, Education, and Welfare to study and report annually to the Congress on the health hazards of environmental pollution and the availability of medical and other assistance to persons affected by such pollution, especially when such pollution reaches emergency levels, and for other purposes; to the Committee on Labor and Public Welfare.

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

By Mr. EAGLETON:

S. 3317. A bill for the relief of Dr. Jacques Sauvage, his wife, Jacqueline C. Sauvage, and their children, Dominique Jose J. Sauvage, Anne Michele Sauvage, and Jean-Jacques M. Sauvage; to the Committee on the Judiciary.

By Mr. PELL:

S. 3318. A bill to amend the Library Services and Construction Act, and for other purposes; to the Committee on Labor and Public Welfare.

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

By Mr. MOSS:

S. 3319. A bill for the relief of Olga Quintas-Freijo and Susanna Alvarez; to the Committee on the Judiciary.

S. 3320. A bill to provide for the apportionment of funds in payment of a judgment in favor of the Shoshone Tribe in consolidated Dockets Nos. 326-D, 326-E, 326-F, 326-G, 326-H, 366 and 367 before the Indian Claims Commission, and for other purposes; to the Committee on Interior and Insular Affairs.

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

S. 3316—INTRODUCTION OF THE HEALTH HAZARDS OF POLLUTION ACT

Mr. SMITH of Illinois. Mr. President, I introduce for appropriate reference The Health Hazards of Pollution Act. I ask unanimous consent that the text of the bill and a Chicago Tribune article on the air pollution emergency that gripped Chicago on January 15 be printed in the RECORD immediately following my remarks.

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

(See exhibits 1 and 2.)

Mr. SMITH of Illinois. Mr. President, nothing could be more encouraging than the popular concern about environmental matters that is everywhere evident. I have spent all of the time since adjournment in Illinois, visiting with constituents, seeking their views on the issues of the day, and expressing my own. From every corner of our State, the message was the same: "Do something about pollution, and do it now."

Every element of the population shares the urgency of the situation. Many of our young people have turned their boundless energies to the task of informing themselves and others of the pollution menace. Businessmen and housewives have created action programs. Farmers and laboring men are making their concern about the quality of the environ-

ment vocal in co-ops and union halls. While many of our citizens differ on the specifics of how to do the job, all of them echo the President in his "now or never" call for pollution control.

The concern of the people has certainly reached Washington. Many in Congress have already introduced legislation relating to pollution problems. Others, including myself, are preparing constructive proposals. The President's state of the Union message is said to contain important new initiatives in environmental policy.

All of this is, as I said, most encouraging. Yet, sometimes, legislators, like men of every other walk of life, "can't see the trees for the forest." It seems to me, Mr. President, that in the number and variety of our pollution proposals, we have consistently overlooked the principal cause of our concern about the environment, the effects of pollution upon the health of our citizens. We have proposed the establishment of air and water quality standards and their enforcement, increased Federal aid for the construction of antipollution facilities—even the taxation of pollution by the pound.

Our proposals to date vary in scope and in merit, but they all have one thing in common. They all seek pollution abatement or control in the future. They cannot help people overcome the recognized health hazards of pollution now. During the time that we introduce these measures, conduct hearings on them, debate them, pass and begin to implement them—and the time they take hold and succeed in substantially removing the noxious agents now present in our land, air, and water—thousands, maybe scores of thousands, of Americans with respiratory or cardiac ailments will die because they are uninformed about the special hazards pollution creates for them. They will die because no one warned them to stay indoors on a certain day, or to avoid strenuous activity in a heavily polluted atmosphere. They will die because of a lack of personnel to treat them or of equipment to assist them. In times of lengthy temperature inversions and highly toxic air content, they will die—as did 4,000 in London in 1952, 62 in the Meuse Valley of Belgium in 1930, 22 in Donora, Pa., in 1948, as did scores in New York City around Thanksgiving Day in 1966—because their public officers have failed to create air pollution emergency plans.

Many, of course, will not be so dramatically affected. They will suffer aggravation of preexisting health conditions, or slowly develop new, chronic ailments. The strongest—or the luckiest—will sustain only headaches, smarting eyes and burning skin, or nausea. Like the greatest percentage of the thousands in Riverside, Calif., who suffered attacks of gastroenteritis during May and June of 1965, while a Salmonella organism went undetected in the public water supply, they will recover, hopefully without permanent health damage.

All of this is not a very pleasant picture. I do not mean to paint it in a "sky is falling" fashion. But I do mean to start some people thinking about what we know about the health hazards of pollution, what we can do to help those affected, what we can do to cut down on death and disease caused by pollution—while we are fighting to eradicate it. Are our medical schools preparing our doctors to minister to rising populations concentrated in soot and gas-laden atmospheres in or near our urban and industrial centers? Do our family physicians and public health officers know enough about the health hazards of pollution? Are they equipped to alert us, to treat us, to take prompt, effective action especially in emergency situations? These are some of the questions we need answers to right now.

The situation in many ways parallels our concern in recent years over the health hazards of pesticides. For at least two decades researchers conducted independent studies of the effects of cigarette smoking on human health. The results of their work for a long time received only the limited attention of their scientific colleagues through publication in technical and professional journals. It took the initiative of the Surgeon General of the United States to produce the reports that in 1967 and 1968 began bringing the message of smoking's health hazards home to the American people.

Likewise, appreciation of the hazards of DDT was for many years restricted to the exchange of sophisticated technical data among researchers and technicians in professional journals and symposia. Again, it took the initiative of a public officer, Secretary of Health, Education, and Welfare, Robert Finch, to create the report authoritatively linking DDT with malformations of fetuses and the increasing incidence of cancers in experimental animals. The publication of the smoking and pesticides reports, together with the recommendations of those responsible for them, has already begun to save or extend human life, to prevent the onset or advancement of disease in millions. We need a similar rallying point to roll back the toll of avoidable deaths and diseases caused by air and water and other environmental pollution, and we need it now.

Mr. President, the Health Hazards of Pollution Act would require the Secretary of Health, Education, and Welfare to begin immediately three parallel inquiries: First, a study of the nature and gravity of the health hazards created by air, water, and other common pollution; second, a survey of the medical and other assistance available to persons affected by pollution, especially pollution at what might be called "emergency levels," and third, a survey of the measures, outside of pollution abatement, that may be taken to avoid or reduce the health hazards that lurk in the polluted environment. At the completion of his inquiries and within 9 months of the bill's enactment, the Secretary would report his findings, evaluations and recommendations to the Congress. I would hope that his report would result, as did both the Surgeon General's Report on Smoking and Health and the Secretary's Report on Pesticides and the Environment, in a forthright, dispassionate, and authoritative treatment of a vital health question. The Secretary has demonstrated commendable efficiency and industry in organizing and producing the pesticides report in only 8 months. I am sure he shares our sense of urgency about pollution and health.

That is another point, Mr. President. I believe we need the study and report contemplated by this bill, but I do not believe we need this bill to get the study and report. I introduce the bill as much to "sound the call" to the Department of Health, Education, and Welfare and to the medical profession, as to spark legislative action. I would be just as happy—people across the United States would profit as much—if Secretary Finch were to obviate the need for this legislation by beginning this study now, without legislation, and by showing the same efficiency and speed he demonstrated in producing the pesticides report. I urge him to do so. If he does not or cannot. I urge Senators to join me in seeking prompt action on the bill.

This session will surely see environment-related activity, but while we debate alternative methods of pollution control, while we haggle about how much money the Government ought to be making available to abate the fouling of our air and water, while we shuffle to the hopper with bills and resolutions of every variety, hoping to gain a consensus on a course of action, Americans will be suffering and dying. Someone ought to be informing them, warning them, planning to prevent or diminish the threat to their lives and health, while the pollution—and our debate—continues.

The bill (S. 3316) requiring the Secretary of Health, Education, and Welfare to study and report annually to the Congress on the health hazards of environmental pollution and the availability of medical and other assistance to persons affected by such pollution, especially when such pollution reaches emergency levels, and for other purposes, introduced by Mr. SMITH of Illinois, 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:

EXHIBIT 1

S. 3316

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 "Health Hazards of Pollution Act".

SEC. 2. The Congress finds that there is general agreement that air, water, and other common environmental pollution may be hazardous to the health of individuals resident in the United States, but that despite the existence of various research papers and other technical reports on the health hazards of such pollution, there is no authoritative source of information about (1) the nature and gravity of these hazards, (2) the availability of medical and other assistance to persons affected by such pollution, especially when such pollution reaches emergency levels, and (3) the measures, other than those relating solely to abatement of the pollution, that may be taken to avoid or reduce the effects of such pollution on the health of individuals.

SEC. 3. The Secretary of Health, Education, and Welfare shall immediately commence (a) a study of the nature and gravity of the

hazards to human health and safety created by air, water, and other common environmental pollution, (b) a survey of the medical and other assistance available to persons affected by such pollution, especially when such pollution reaches emergency levels, and (c) a survey of the measures, other than those relating solely to abatement of the pollution, that may be taken to avoid or reduce the effects of such pollution on the health of individuals.

SEC. 4. The Secretary shall, within nine months of the enactment of this act, transmit to the Congress a report of the study and surveys required by Section 3, including (a) his conclusions regarding the nature and gravity of the hazards to human health and safety created by environmental pollution, (b) his evaluation of the medical and other assistance available to persons affected by such pollution, especially when such pollution reaches emergency levels, (c) his assessment of the measures, other than those relating solely to abatement of the pollution, that may be taken to avoid or reduce the effects of such pollution on the health of individuals, and (d) such legislative or other recommendations as he may deem appropriate.

SEC. 5. The Secretary shall, within one year of his transmittal to the Congress of the report required by Section 4, and annually thereafter, supplement that report with such new data, evaluations, or recommendations as he may deem appropriate.

EXHIBIT 2

[From the Chicago Tribune, Jan. 16, 1970]

FILTHY AIR BLANKETS CHICAGO; RELIEF IS DUE

Man and His Environment: The Developments Yesterday:

1. City suffers from the highest level of air pollution since last November; officials blame southeast winds that carried the dirty air from highly industrialized areas of South Chicago and Gary. A shifting wind was expected to bring relief.

2. Conservationists win long struggle to bar a huge jetport on the edge of Everglades; National park near Miami in Florida. President Nixon announces a long-sought intergovernmental agreement by federal, state, and county authorities.

3. Gov. Ogilvie creates a $35,000-a-year coordinator of environmental quality. Conservation Director William L. Rutherford to make major policy recommendations to the state on pollution and related problems.

HEALTH PERIL

(By Casey Banas)

A southeast wind carrying dirty air from the heavily industrialized South Chicago and Gary areas was blamed yesterday as the city's air pollution reached its highest level since November.

Relief is expected to begin this morning in the form of rain and drizzle because of warm, moist southerly air. A cold front sometime this afternoon or evening is expected to change the precipitation to snow flurries.

HIGH SULFUR DIOXIDE

City air pollution officials said the city-wide average of eight reporting stations at 11 a.m. for a one-hour period was a sulfur dioxide gas count of .26 parts per million. For the 24-hour period ending at 2 p.m. yesterday, the average was .13 parts per million.

The highest sulfur dioxide 24-hour average was .24 at Lake View High School, 4015 N. Ashland av. The highest one-hour reading at one station was .63, also at Lake View.

The United States public health service considers readings of .11 parts per million over a 24-hour period the point at which minor health problems develop for infants, elderly persons, and persons suffering from respiratory ailments.

Wednesday's count for the 24-hour average was .12 parts per million, compared with a normal seasonal reading of .07 to .09.

"We have had southeast winds bringing in considerable pollution from the highly concentrated industrial areas to the southeast," said Thaddeus Kason, deputy director of the city department of environmental control.

Kason explained that a temperature inversion complicated the pollution problem early in the day. A heavy layer of warm air over a cooler layer acted as a lid over the city, preventing the pollutants from escaping. But as the sun warmed the air later in the day, the pollution eased.

SUNLIGHT IS DIMMED

Even tho no clouds were overhead, the sunlight was dimmed by the polution.

"We'll have air pollution as long as we have winds from the southeast," a weather bureau spokesman said.

The city's last period of air pollution danger—from Nov. 6 thru 11—was caused by a stagnant mass of dirty air hanging over Chicago because winds were nearly calm.

On Nov. 6, the city-wide average for a 24-hour period was a sulfur dioxide gas count of .17 parts per million. The top one-hour city average was .63 parts per million, altho stations at Taft High school and Austin High School reported readings of .69 and .74 for a one-hour period.

DOCTORS TOLD TO ACT

The problem is becoming so serious that one medical expert urged doctors be given daily air pollution reports to guide them in helping patients with continuing respiratory ailments.

"If doctors are told the pollution levels, they can tell their patients to increase dosages of medicine or limit their activity," said Dr. Bertram Carnow, associate professor of preventive medicine at the University of Illinois. For example, certain medicines combat bronchial spasms.

S. 3318—INTRODUCTION OF THE LIBRARY SERVICES AND CONSTRUCTION AMENDMENTS OF 1970

Mr. PELL. Mr. President, I introduce for appropriate reference, a bill to amend the Library Services and Construction Act to be cited as the "Library Services and Construction Amendments of 1970."

This bill simply extends the programs authorized by the Library Services and Construction Act of 1966, Public Law 511, 89th Congress, for 4 years. The extension would be without substantive change in present law and without changes from present authorizations of appropriations. It is being introduced for the purpose of holding hearings on library services and construction programs which are to be held on the 27th of January in the Committee on Labor and Public Welfare hearing room.

The history of this act has been one of steady success. Since its initial enactment in 1956, all 50 States have supported library programs under its provisions. Even more gratifying is the fact that State funds for library improvements have expanded, stimulated by the availability of matching Federal grants. This legislation is helping public libraries meet the needs of the people of this Nation for educational and cultural information. It benefits adults, young people, and children, whatever their educational, cultural, or economic background.

I should like to highlight some of the accomplishments of this legislation since it was first enacted in 1956 as the Library Services Act:

Some 85 million people have benefited from new or improved library service. Every Federal dollar spent on library services has stimulated a $3 expenditure by the States and communities; for library construction, the ratio is 1 Federal dollar to 2 State dollars.

About 27 million books and other library materials were purchased under State plan programs with Federal, State, and local funds during the first 10 years of this program. In fiscal year 1968 alone, public libraries were able to purchase 6.5 million books and related materials.

The stimulation of Federal funds strengthened the State library agencies so that many of them now fulfill more effectively their leadership and supporting roles to the local libraries of the State.

Extension and improvement of library services to rural areas has been accomplished by many methods including the establishment and expansion of larger-unit library systems at the county and regional levels, of State library regional branches, and of area cooperative arrangements. Forty-five library networks were set up under LSCA title III during 1968.

A total of 56 bookmobiles was reported as purchased through the period fiscal year 1957 to fiscal year 1968, with the aid of Federal funds.

Inclusion of urban libraries within the scope of the act in 1964—Public Law 88–269—has resulted, among other things, in three major types of projects: First, improvement in library services to disadvantaged communities; second, extension of high-quality services to urban and suburban areas; and third, strengthening of metropolitan library collections to be used over larger regions of a State.

But despite the phenomenal progress, the need for library services continues to plague our Nation, with many communities still without any library service for their children and adults. Mr. President, it is in the public interest that this vital legislation be extended. Public libraries still lack the necessary financial resources, both from State and local funds, to enable them to perform their essential functions for this great Nation. Continuing advances in science, technology, education, business culture, and everyday life have increased the indispensability of the public library as a basic source of knowledge, understanding, and growing competency for people in all walks of life. Furthermore, the rapidly growing population with its diversity and new patterns of living has added to the complexity of daily life.

This legislation does not even begin to meet the needs for library services in this country, but it will help our people to continue moving toward the goal of quality library service.

To meet the growing needs of greater numbers of readers, public libraries, according to nationally accepted standards, must increase their employment of librarians by 40 percent within the next 12 months. Present employment

levels—fiscal year 1969—of 24,700 persons make it unlikely that the 1970 goal of 35,000 positions can be met without additional help. In that year there will be a gap of 10,300 positions.

Americans were borrowing 3 million books daily from their public libraries in 1968. To meet the increasing need for books in the coming years of the 1970's, public library collections must increase substantially. By next year, 1970, there will be a deficit of 357 million volumes, slightly below 50 percent of recognized requirements—3.5 volumes per capita.

Public library income is expected to reach $575 million in 1970. Eighty-four percent of the library's support will remain at the local level. If income reaches its anticipated 1970 level, it will be far below minimum requirements for national public library development of $1,025,000,000—$5 per capita. A deficit of $450 million is expected in 1970. By 1975, if the present levels of support continue, a gap of approximately $600 million can be anticipated.

As written, the bill extends the Library Services and Construction Act, which expires on June 30, 1971, for an additional 4 years, and provides authorizations for each of those years at the 1971 funding level: Title I—public library services, $75 million for each fiscal year, 1972 through 1976; title II—public library construction, $80 million each year through fiscal year 1976; title III—interlibrary cooperation, $15 million each year through fiscal year 1976; title IV–A—State institutional library services, $15 million each year through fiscal year 1976; and title IV–B—library services to the physically handicapped, $7 million each year through fiscal year 1976.

Mr. President, the Library Services and Construction Act has helped the States and local communities to remedy, in part, some of the glaring deficiencies which still exist in the public library services and facilities of our country. Local communities have far exceeded the matching requirements of the act for the modest Federal funds provided as an incentive, and it is in recognition of this local effort that this legislation is proposed for a 5-year extension. It is my belief that so long as local communities and the States are willing to provide the matching funds, Congress should encourage this desire for good library services.

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

The bill (S. 3318) to amend the Library Services and Construction Act, and for other purposes, was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

S. 3320—INTRODUCTION OF BILL RELATING TO DIVISION OF SHOSHONE JUDGMENT FUNDS

Mr. MOSS. Mr. President, I am today introducing a bill which would apportion a $15,700,000 judgment of the Indian Claims Commission in favor of the Shoshone Indians of Utah, Idaho, and Wyoming. The entire amount of the judgment was appropriated by the act of June 19, 1968 (82 Stat. 239).

This bill is introduced with the hope of settling a controversy between the Northwestern Bands of Shoshones of Utah, the Shoshone-Bannocks of Fort Hall and the Wind River Shoshones of Wyoming in regard to the division of the judgment based upon their consolidated claims against the United States. The three groups consolidated their claims before the Indian Claims Commission in dockets Nos. 326–D, 326–E, 326–F, 326–G, 326–H, 366 and 367. However, they have not been able to agree among themselves how the judgment should be divided.

It is my belief that the equitable interest of the Indians of all three groups should be recognized and fully protected in any attempt at a division of the judgment. My bill is designed to expeditiously divide the judgment in a fair and equitable manner, thus allowing the distribution so long postponed by fruitless negotiations.

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

The bill (S. 3320) to provide for the apportionment of funds in payment of a judgment in favor of the Shoshone Tribe in consolidated dockets Nos. 326–D, 326–E, 326–F, 326–G, 326–H, 366 and 367 before the Indian Claims Commission, and for other purposes, introduced by Mr. Moss, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

ADDITIONAL COSPONSORS OF BILLS

S. 1812

Mr. ANDERSON. Mr. President, I ask unanimous consent that, at the next printing, the name of the junior Senator from Connecticut (Mr. RIBICOFF) be added as a cosponsor of S. 1812, which would amend title XVIII of the Social Security Act so as to include chiropractors' services among the benefits provided by the insurance program established by part B of that act.

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

S. 2461

Mr. RANDOLPH. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Indiana (Mr. HARTKE) be added as a cosponsor of S. 2461, to amend the Randolph-Sheppard Act for the blind so as to make certain improvements therein, and for other purposes.

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

S. 3092

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Maryland (Mr. TYDINGS) 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 Consumer Class Action Act (S. 3092), a bill to amend the Federal Trade Commission Act to extend protection against fraudulent or deceptive practices, condemned by that act, to consumers through civil actions, and to provide for class actions for acts in defraud of consumers.

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

S. 3238

Mr. PACKWOOD. Mr. President, on behalf of the Senator from New York (Mr. JAVITS), I ask unanimous consent that, at the next printing, the name of the Senator from New York (Mr. GOODELL) be added as a cosponsor of the bill (S. 3238) to amend the National Foundation on the Arts and Humanities Act of 1965, as amended.

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

S. 3289

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Maryland (Mr. TYDINGS) 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 National Court Assistance Act (S. 3289), a bill to encourage and help implement improvements in the judicial machinery of our State and local courts by creating an Institute for Judicial Studies and Assistance, the purpose of which shall be to make grants to State and local courts and nonprofit organizations to carry out the objectives of the act and to serve as a reservoir of up-to-date information on court management and organization.

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

SENATE RESOLUTION 313—RESOLUTION SUBMITTED RELATING TO DETOXIFICATION AND DESTRUCTION OF CHEMICAL WARFARE WEAPONS

Mr. PACKWOOD. Mr. President, during the past 2 months, the political leaders in my State have been attempting to devise an alternative to the plans of the Department of the Army to ship lethal chemical munitions from Okinawa to the Umatilla Army Depot near Hermiston, Oreg. Lethal chemicals have been stored at Umatilla for at least 8 years, but public knowledge of this fact was minimal. With local attention focused on the advisability of storing these weapons in Oregon, I sought to understand more clearly our total national posture with respect to chemical-biological warfare.

I was pleased with the initiatives taken by President Nixon in renouncing the first-use of lethal and incapacitating chemical weapons and in asking for the destruction of our stockpile of biological weapons. I now believe we should go further. I cannot see the value in maintaining a stockpile of lethal chemicals that I do not expect we will ever use. The United States is one of the last nations to ratify the Geneva Protocol of 1925. Our policy with respect to the use of tear gas agents in Vietnam has been questioned internationally. The report of the American Academy of Arts and Sciences and the Salk Institute study on chemical and biological warfare July 25, 1969, is very revealing in this respect. I am aware that the President ordered a serious re-

evaluation of our total national posture, however, the events surrounding this incident in Oregon make me believe that one problem has been overlooked.

Based on discussions with Pentagon officials and scientists in the academic community, I discover that if the decision were made today to eliminate our national stockpile of lethal chemicals, the task would not be accomplished very quickly, because the prospect has never even been studied. No adequate plant facilities exist to accomplish the task. No adequate cost estimates are available. No feasibility study has ever hassled with the total problem of where to build detoxification facilities and the various merits of transportation of chemicals to facilities versus building facilities at storage sites. I believe that it is in the interest to national defense—remember that if never used, these chemicals are only dangerous to us—to fund this study, that, due to the necessity for classified data, requires complete cooperation from the Defense Department. I want the President to join with the Senate in asking for the conducting of a thorough investigation of the process of storage, transportation, and detoxification of chemical munitions in this country. Within this study, of timely necessity, is the thorough review of the specific shipment from Okinawa to Oregon. I submit a resolution and ask my colleagues in the Senate to join in this resolution, designed primarily as a serious evaluation of and recommitment to the protection of our people from policies which endanger their lives.

I ask unanimous consent that a copy of the resolution be printed in the RECORD.

The PRESIDING OFFICER. The resolution will be received and appropriately referred; and, without objection, the resolution will be printed in the RECORD.

The resolution (S. Res. 313), which reads as follows, was referred to the Committee on Armed Services:

S. RES. 313

A resolution relating to the detoxification and destruction of chemical warfare weapons

Resolved, That it is hereby declared to be the sense of the Senate that the National Academy of Sciences should and is hereby requested to (1) promptly appoint a select committee of eminently qualified persons to develop a general plan for the detoxification and destruction of all stockpiles of chemical warfare weapons owned by the United States and to develop a special plan for the detoxification and destruction of those supplies of GB, VX, and HD chemicals planned for shipment by the Department of the Army from Okinawa to Umatilla Army Depot, Hermiston, Oregon, and (2) fully consider and discuss the plans developed by such select committee and submit to the President at the earliest practicable date, but not later than June 30, 1970, a written report on the feasibility, cost, and time required to carry out such plans together with such comments and recommendations as it deems advisable.

SEC. 2. It is further declared to be the sense of the Senate that the Secretary of the Army should delay the planned shipment of any toxic chemicals from Okinawa to Umatilla Army Depot, Hermiston, Oregon, until after the National Academy of Sciences has submitted a report to the President regarding a plan for the detoxification and destruction of such chemicals, and the Secretary is hereby requested to delay such planned shipment until after such report has been submitted to the President.

SENATE RESOLUTION 314—RESOLUTION SUBMITTED AND AGREED TO RELATING TO DEATH OF DAVID O. McKAY, LATE PRESIDENT OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS

Mr. BENNETT (for himself, Mr. Moss, and Mr. MANSFIELD) submitted a resolution (S. Res. 314) relating to the death of David O. McKay, late president of the Church of Jesus Christ of Latter-day Saints, which was considered and agreed to.

(The remarks of Mr. BENNETT when he submitted the resolution appear later in the RECORD under the appropriate heading.)

SENATE RESOLUTION 315—RESOLUTION REPORTED TO AUTHORIZE ADDITIONAL EXPENDITURES FOR COMMITTEE ON APPROPRIATIONS

Mr. RUSSELL, from the Committee on Appropriations, reported the following original resolution (S. Res. 315); which was referred to the Committee on Rules and Administration:

S. RES. 315

Resolved, That the Committee on Appropriations hereby is authorized to expend from the contingent fund of the Senate, during the Ninety-first Congress, $35,000, in addition to the amounts, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act, approved August 2, 1946, and Senate Resolution 204, agreed to June 16, 1969.

SENATE RESOLUTION 316—SUBMITTED CONTINUING, AND AUTHORIZING ADDITIONAL EXPENDITURE BY, THE SPECIAL COMMITTEE ON AGING

Mr. WILLIAMS of New Jersey. Mr. President, I submit a resolution, and ask unanimous consent that it be referred to the Committee on Rules and Administration.

The PRESIDING OFFICER. The resolution will be received; and, without objection, the resolution will be referred to the Committee on Rules and Administration.

The resolution (S. Res. 316), which reads as follows, was referred to the committee on Rules and Administration:

S. RES. 316

Resolved, That the Special Committee on Aging, established by S. Res. 33, Eighty-seventh Congress, agreed to on February 13, 1961, as amended and supplemented, is hereby extended through January 31, 1971.

SEC. 2. It shall be the duty of such committee to make a full and complete study and investigation of any and all matters pertaining to problems and opportunities of older people, including, but not limited to, problems and opportunities of maintaining health, of assuring adequate income, of finding employment, of engaging in productive and rewarding activity, of securing proper housing, and when necessary, of obtaining care or assistance. No proposed legislation shall be referred to such committee, and such committee shall not have power to report by bill or otherwise have legislative jurisdiction.

SEC. 3. The said committee, or any duly authorized subcommittee thereof, is authorized to sit and act at such places and times during the sessions, recesses, and adjourned periods of the Senate, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable.

SEC. 4. A majority of the members of the committee or any subcommittee thereof shall constitute a quorum for the transaction of business, except that a lesser number, to be fixed by the committee, shall constitute a quorum for the purpose of taking sworn testimony.

SEC. 5. For purposes of this resolution, the committee is authorized (1) to employ on a temporary basis from February 1, 1970, through January 31, 1971, such technical, clerical, or other assistants, experts, and consultants as it deems advisable: *Provided*, That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,400 than the highest gross rate paid to any other employee; and (2) with the prior consent of the executive department or agency concerned and the Committee on Rules and Administration, to employ on a reimbursement basis such executive branch personnel as it deems advisable.

SEC. 6. The expenses of the committee, which shall not exceed $215,000 from February 1, 1970, through January 31, 1971, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee.

SEC. 7. The committee shall report the results of its study and investigation, together with such recommendations as it may deem advisable, to the Senate at the earliest practicable date, but not later than January 31, 1971. The committee shall cease to exist at the close of business on January 31, 1971.

ADDITIONAL COSPONSORS OF RESOLUTION

S. RES. 292

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at its next printing, the names of the Senator from Oregon (Mr. PACKWOOD) and the Senator from New Hampshire (Mr. COTTON) be added as cosponsors of Senate Resolution 292, expressing the sense of the Senate with respect to troop deployment in Europe.

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

ORGANIZED CRIME CONTROL ACT OF 1969—AMENDMENTS

AMENDMENTS NOS. 446 THROUGH 448

Mr. KENNEDY submitted three amendments, intended to be proposed by him, to the bill (S. 30) relating to the control of organized crime in the United States, which were ordered to lie on the table and to be printed.

ADDITIONAL COSPONSOR OF AN AMENDMENT

NO. 440

Mr. BOGGS. Mr. President, I ask unanimous consent that at the next printing, the name of the Senator from

Maine (Mr. MUSKIE) be added as a cosponsor of the amendment No. 440 to S. 2838, a bill to establish a comprehensive manpower development program to assist persons to overcome obstacles to suitable employment, and for other purposes.

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

ANNOUNCEMENT OF HEARINGS REGARDING MEDICAL CARE FOR VIETNAM VETERANS

Mr. CRANSTON. I wish to announce, for the information of Senators, that the Veterans' Affairs Subcommittee will on January 27 hold its final day of hearings to inquire into the quality of medical care available in Veterans' Administration hospitals for our Vietnam and other veterans. Previous hearings were held in Washington on November 21 and 25 and December 15 and 16 and in Los Angeles on January 9.

The specific purpose of these hearings is to determine what level of funds and personnel are necesary to insure that VA hospitals are equipped to deliver first-quality medical care. Unfortunately, the subcommittee has received mounting evidence that in many VA hospitals the level of care is far from first quality, due not to a lack of desire and commitment but to funding and personnel shortages.

The hearings will begin at 9 a.m. in the New Senate Office Building, and it is expected that the following witnesses will appear:

Dr. F. Carter Pannill, dean, University of Texas Medical School, San Antonio, Tex.

Dr. Truman Blocker, president, University of Texas, Galveston branch.

Dr. Douglas J. Stewart, second-year resident in medicine, Veterans' Administration Hospital, Miami, Fla.

Dr. Jay Robert Lifton, Foundations' Fund Research, professor of psychiatry, Yale University, New Haven, Conn.

Dr. Joseph Backer, first-year resident in medicine, Veterans' Administration Hospital, Washington, D.C.

Mr. William Page, Jr., executive director, Kessler Institute, West Orange, N.J.

Dr. Stanley J. Dudrick, associate professor of surgery, University of Pennsylvania School of Medicine; chief of surgery, University of Pennsylvania division, Veterans' Administration Hospital, Philadelphia, Pa.

Mr. Ralph Rossignuolo, national programs director, AMVETS, Washington, D.C.

NOTICE OF HEARINGS BEFORE THE SUBCOMMITTEE ON SCIENCE AND TECHNOLOGY

Mr. RANDOLPH. Mr. President, I wish to give notice that the Subcommittee on Science and Technology of the Select Committee on Small Business will hold public hearings on Tuesday and Wednesday, February 10 and 11, to carefully review the technology transfer programs administered by various executive departments and agencies.

Although the committee is concerned with the mammoth sums of money which have been spent by a few giant corporations in this field, we are primarily interested in how the products of this research can be applied to improve the life of the greatest number of our citizens and the prospects of small business firms and other institutions throughout the country.

TRANSFER ACTIVITY SMALL FRACTION OF HUGE RESEARCH AND DEVELOPMENT PROGRAM

The Federal Government now invests approximately $17 billion a year of the taxpayer's money in research, development, testing, and discovery work. The total has reached almost $150 billion since World War II.

This research has been highly concentrated. In a recent year, the Department of Defense financed 47 percent of the total Federal research and development budget; NASA spent another 28 percent; and the AEC spent 8 percent—some of which was for military purposes. Thus, together these three agencies accounted for more than four-fifths of the research and development budget and directed to other-than-civilian applications. The top 10 corporations which perform this research control the spending of about one-third of all research and development money. The top five States account for more than one-half.

During these years the Nation spent perhaps $25 million, or one-twentieth of 1 percent of this amount to distribute the results to the rest of the country. This year, in several of the key programs, the executive branch has cut the effort and the funding to virtually nothing.

SOLUTIONS TO PROBLEMS HAMPERED

This standstill about which we have been hearing means that the country will have to grope for solutions to our most pressing everyday problems of hunger, health, housing, pollution, transportation, and human development largely without the light that could be shed by the $150 billion which American taxpayers have already devoted to what may be the greatest scientific effort the world has ever seen.

But, because a relatively small number of large companies conducted the bulk of research and development work, the great majority of our people have benefited very little from it. To help the average taxpayer, businessman, and citizen, there is an urgent need to turn the technology of warfare toward peace; to bring space technology down to earth; and to improve access to this storehouse of knowledge. With its vast scientific and technical resources, the United States could inspire the community of nations in the hope of the ages by demonstrating how to beat "swords into plowshares." We need a national commitment and a systematic program to do this. At present, it seems that we have neither.

As the Senators will recall, our subcommittee has produced two reports on this subject—"Prospects for Technology Transfer," May 1, 1968; and "Policy Planning for Technology Transfer," April 6, 1967. The reports called on the executive branch to develop such a coordinated system of technology transfer which could increase the participation of small businesses, regional government units, and the general public. Our February proceedings will provide an opportunity to review the response to those recommendations.

Those wishing to make a contribution to the hearings are encouraged to contact the subcommittee staff: Mr. Herbert L. Spira, 424 Old Senate Office Building, Washington, D.C. 20510, area code 202—225–5175.

PUBLIC WORKS COMMITTEE CHAIRMAN URGES GREATER DETERMINATION TO ATTACK PROBLEMS OF ENVIRONMENTAL POLLUTION AND THE NECESSARY FEDERAL FUNDING

Mr. RANDOLPH. Mr. President, the extent of the broadly based awareness of the plight of the Nation's environment and the growing determination to take more and more positive actions to improve environmental quality are not unexpected by those of us who have been serving during the past decade on the Senate Committee on Public Works.

As the committee which has prime jurisdiction over legislation in the fields of air and water pollution and solid waste disposal, our leadership and membership have become aware of the vastness of the pollution and waste accumulation problems. And ours has been a dedicated determination to continuously search for the valid, the practical, the feasible, and the effective solutions.

So, our committee has been a focal point for origination of a substantial portion of the progressive legislation which has been developing into a sound body of public laws pertaining to the identification of air and water pollution problems, to the control and eradication of the pollution creating the problems, and to legal enforcement procedures for abatement and elimination of pollution.

Progress in the development of the body of antipollution laws to which I referred has been more rapid and much greater than has been the funding of research and development to add to the technology available to make possible the control and eradication of the substances, the acids, the gases and other elements and conditions which defile the air, the water, and the land. The January 26 issue of Newsweek magazine is comprehensive in featuring "The Ravaged Equipment."

And the need for funds to provide the facilities so requisite to control of the wastes that contaminate the air, water, and land has been far greater than has been the actual provision of those funds—public and private.

The distinguished junior Senator from Wisconsin (Mr. NELSON) spoke eloquently on the opening day of the session in this body and detailed his version of a broad "environmental agenda for the 1970's." In the course of his discussion he asserted:

> It is possible to wage war on our environmental problems and win . . . In any such effort the continued commitment of millions of people is the most essential resource of all. But, lest anyone be misled or caught unaware, this war will be lost before it is begun if we don't bring other massive resources to it as well. A victory will take decades and tens of billions of dollars. Just to control pollution, it will take $275 billion by the year 2000. Although that sounds like a lot of money, it will be spent over the next 30 years and is

equivalent to the Defense expenditure for the next four years. . . .

The funding aspect of the environmental quality effort has been one of increasing concern to many of us—and especially to the Senator now speaking in the role of chairman of the Committee on Public Works and to the distinguished Chairman of our Subcommittee on Air and Water Pollution, the able Senator from Maine (Mr. MUSKIE).

Knowing that the President of the United States will present to Congress tomorrow his state of the Union message and subsequently will send to Congress his budget message and the budget document, I sent a message to him on January 15, 1970, urging equally high priorities on the Federal funding of environmental quality improvement and pollution abatement research as the priorities his administration will place on the substance of such programs.

Mr. President, I ask unanimous consent to have placed in the RECORD at this point the text of my January 15 letter to President Nixon.

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

U.S. SENATE,
COMMITTEE ON PUBLIC WORKS,
Washington, D.C. January 15, 1970.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: As Chairman of the Senate Committee on Public Works which has primary jurisdiction over legislation in the field of air pollution abatement and water pollution control, I share the urgency you expressed when you recently signed the National Environmental Policy Act. We in the Congress, and those under your leadership in the Executive Branch as well, must more aggressively attack the sources of pollution and strive ever harder to improve the quality of the environment for humans, for wildlife, and for plant life.

But, Mr. President, our Committee has heard much testimony and has accumulated much evidence concerning gaps in the technology necessary to the accomplishment of extensive improvements in pollution abatement and control. This evidence extends also to the costs of technological research and to the price to be paid for achievement of the kind of environmental quality demanded. I feel it is urgently necessary for all of us in leadership roles to be thoroughly forthright with the citizens of our country on these matters.

Our obligations go well beyond proposing and passing strong laws on pollution control—and beyond the verbal demand for more aggressive enforcement of such laws. The requirement is on us to do more than preach and pledge action to vastly improve the quality of the environment in which we live. Indeed, Mr. President, you and those of us in the Congress who urge environmental improvement actions have a joint responsibility to appropriate and allocate adequate funds for technological research in pollution control activities, and for enforcement of air and water quality standards. If we are to pledge massive programs for upgrading the quality of the environment we have the duty to tell the people of the country of the magnitude of the costs and to pledge to place the highest priority on the provision of the funds to meet those costs. We should compensate by lowering priorities on programs less urgent than are those for improving the quality of the environment.

It is neither practical nor feasible, in my view, to place inordinately high percentages of cost responsibilities for pollution control and technological research on the private sector of the economy or on the state and local units of government. On technological research, especially, I feel that prime responsibility for its coordination, program management, and a substantial part of funding, should reside in the Federal Government. I believe the inflationary impacts and implications will be greater if the private sector is overloaded with both research and abatement costs than would be the case if Federal revenues of adequate amounts were to be supplied. The private sector would undoubtedly attempt to recoup such added costs by increasing prices and the cost of living would rise at an accelerated rate.

In consequence of these beliefs and appraisals, I urge, Mr. President, that, in your State of the Union message, and in the Budget Message and Budget Document soon to be sent to the Congress, you place equally high priorities on *the Federal funding* of environmental quality improvement and pollution abatement research as you will place on the substance of such programs. Be assured of my support in the maximum if you do so.

Truly,

JENNINGS RANDOLPH,
Chairman.

Mr. RANDOLPH. Mr. President, yesterday, Senator MUSKIE, as chairman of the Air and Water Pollution Subcommittee, issued a statement in which he said:

The Nixon Administration's warning to the nation's airlines that they must engage in voluntary action to reduce smoke emissions from jet engines or face punitive legislation would substitute private bargains and compromises for an effective public policy on environment improvement.

The Senator from Maine declared that he will continue to press for legislative regulation of jet aircraft emissions, and concluded his statement with this comment:

Offering an alternative between voluntary action and punitive legislation is not an effective approach to achieve environmental quality. Regardless of the reaction of the airlines industry to this offer, I will continue to press for legislative action to develop standards and set effective controls on jet aircraft emissions.

A news story on the second page of today's Washington Post carries the headline: "Airlines Agree to '72 Deadline on Pollution." The first two paragraphs of the article are:

The Nixon Administration and the nation's airlines yesterday agreed to sharply reduce by the end of 1972 the amount of air pollution caused by certain jetliners.

Health, Education and Welfare Secretary Robert H. Finch said the agreement eliminates any need for legislative or regulatory action. "I do not favor further legislation for an industry which has met its responsibility," he said.

Mr. President, I commend Secretary Finch and Transportation Secretary John A. Volpe; Federal Aviation Administrator John H. Shaffer; and representatives of 31 scheduled and charter airlines for meeting yesterday and for agreeing on an objective.

But I am amazed that the Secretary of Health, Education, and Welfare, chief administrator of the air pollution control program for the Federal Government, would suggest that some pollutants and polluters of the air be subject only to "voluntary agreements" with the executive establishment while others are subject to the full impact of law. This is tantamount to categorizing the Clean Air Act and its legally adopted amendments as "class" legislation—applying only to some segments of the citizenry and the economy while others are free to operate under voluntary arrangements.

I am a believer in the validity of the voluntary approach wherever feasible. But the United States has embarked on a comprehensive environmental quality improvement program by law through the Clean Air Act and its amendments and through the Water Quality Act and its amendments.

Our Government cannot, as the Senator from Maine so appropriately said yesterday, "substitute private bargains and compromises for an effective public policy on environmental improvement." And, as Senator MUSKIE further declared:

Offering an alternative between voluntary action and punitive legislation is not an effective approach to achieve environmental quality.

Mr. President, my participation in the antipollution legislative efforts have extended over many years of congressional service but has been especially concentrated during the past decade of membership on and more recent chairmanship of the Public Works Committee. I have been requested frequently to discuss problems of and programs for the environment and to write on the subject for newspapers and magazines.

Two of my most recent articles have been published in the December 1969, issue of the magazine, Outdoor West Virginia, and the January 1970, issue of Government Executive.

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

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

[From Outdoor West Virginia magazine, December 1969]

THE UGLY, COSTLY FACE OF POLLUTION

(By Senator JENNINGS RANDOLPH)

National awareness of the blight of our environment is growing. Americans have become concerned over the air they breathe, the water they drink, the land, the oceans, the atmosphere, even the depths of the earth's crust. They are making it abundantly clear that they will no longer tolerate the physical and psychological abuses of past decades.

In recent years, as the problems of environmental degradation and decay have mounted, we have watched the ledger grow—$10 billion to $100 billion estimated as the cost of cleaning a dying Lake Erie; $20 billion to clear the backlog in municipal sewage treatment plant construction; another $20 billion for the separation of storm and sanitary sewers.

Air and water pollution and solid waste loom as the major identifiable problems. By 1980 we will be producing enough sewage and other waterborne wastes to consume, in dry weather, all the oxygen in the 22 river systems in the United States. We are now generating 142 million tons of air pollutants each year. Our solid wastes continue to mount at a rate well over a billion tons a year.

This statistical barrage conjures a nightmare of our being buried in our own wastes.

Despite this appalling display of figures, the picture is not complete. Today's population of 210 million will undoubtedly reach 250 million by 1980, and, if the population growth rate continues the same, will reach 320 million or more by the year 2000. With the continuing trend of urbanization, our present 145 million city people will be equal to the entire current population by 1980. Unless the trends are radically altered, there will be perhaps as many as 270 million persons on about one percent of our land in less than 30 years.

There is no question that the threat to the quality of life is being escalated at a serious rate. The wastes of our society are being dumped on nature with insufficient consideration of future generations of Americans. The question is whether the crisis can be averted in time.

Philosopher George Santayana wrote: "Those who do not understand history are doomed to repeat it." We have learned, to our sorrow, the wisdom of this statement, particularly when we look at the irrecoverable losses of some of our great natural resources which were plundered and destroyed by the thoughtlessness of preceding generations. As a nation, we are now at a point where, with will and purpose of effort, we can avoid the mistakes of the past in our stewardship over the natural resources of our land and air and water.

It is a sad fact that nearly all of the important and critical environmental health problems—air and water pollution, the growing pervasiveness of pesticides, mounting solid wastes, the effects of smoking—have emerged as health problems only after a series of crises have focused public attention. Each of these problems has been an undesirable and unforeseen by-product of goods or services which society has wanted.

In the past we have relied on the natural capacity of nature to reprocess or destroy most of the waste of our civilization, with little concern for its long-term capability to perform this function. Only recently have we become acutely aware of the fact that we are exceeding nature's ability and capacity to reprocess the kinds and quantities of wastes which are being produced by modern technology.

The majority of the nation's streams and rivers are no longers able to support the life which has for eons processed the wastes of man and the animals and plants upstream. Experience in the late 1950's and early 1960's with detergents which crusted a foamy froth on some of the most beautiful streams in the nation, dramatically underscored the lack of planning and understanding of our waste systems and the effects of our newly-developed materials on water resources.

The urgency of finding new solutions to the problems of water pollution is apparent when we reflect that by 1980 the need for fresh water will increase from our present consumption rate of 370 billion gallons per day to 600 billion gallons a day. Yet the supply of this water is limited. The total daily flow in the United States is approximately 1,100 billion gallons. By the year 2000, because of population growth and industrial expansion, our withdrawal rate will be almost four-fifths of the total available supply, and we will return approximately two-thirds of the total available supply with some degree of waste.

The illusion that man has conquered nature through science and technology has been abruptly challenged by nature herself.

There will never again be—on a nationwide basis—absolutely clean air or pristine pure water. There is a necessary and acceptable amount of each pollutant that society will understand and accept.

I have been encouraged by the increasing civic response and growing sense of social responsibility of the industrial community in recent years, as evidenced by the support of federal legislation in the fields of air and water pollution control.

Industry-government cooperation—particularly in the field of water pollution abatement—has been more than just verbal. A government study shows that an industrial investment of $1.8 billion will be needed during the next five years to compensate for the deficiencies in waste treatment facilities that existed in 1968.

While progress on this front has been promising there are still problems which we face: problems of performance reliability of control facilities, of thermal pollution of water, of noise pollution and the removal of gasses and particles from stacks. There continues a lengthy agenda of unsolved problems. There should be the same sense of urgency regarding the proper and continuing function of pollution abatement facilities and environmental control as there is in the production end of industry.

Other problems of environmental quality are of growing concern to members of the Senate Committee on Public Works, which I chair. The Subcommittee on Air and Water Pollution is looking into the broad problems of solid waste management, just now being recognized as a crisis of gigantic proportions. Americans throw away billions of tons of solid materials each year. The cost is more than $4.5 billion annually, and the figure will nearly double by 1980.

Efforts in air and water pollution by our Committee are more easily seen. We have been concerned with clean air and clean water for several years, and the results are beginning to merge in the quality of the streams and the air.

What we have come to realize however, is that environmental quality goes beyond air and water pollution and solid waste management. Assurance of environmental quality means that every man, woman and child, now and in the future, has the opportunity to live in a world which will in no way insult his body, mind or spirit.

Today, the Committee on Public Works is working with a newly-created advisory panel of experts—scientists, engineers and philosophers from a variety of disciplines—to help determine the problems of environment degradation before they become problems. They are helping us assess the impact of land mismanagement from highway construction, from urban redevelopment, from mining, or from sanitary landfills. We are looking at the question of biological imbalances created by dredging, thermal pollution, pesticides and air pollution. We are probing problems connected with flooding and dam construction, the effects of building reservoirs, ocean dumping, deep well disposal and the use of nuclear energy for power or construction.

Each of these constitutes a potential problem for the environment, and, again, we are trying to find answers before they develop into disasters.

I am aware that the solutions to many of these problems do not now exist and that the search for technology—economically feasible technology—may be a costly one. It is for this reason that I have emphasized so heavily the importance of federal coordination and support for research and development in all of these areas.

The problem is not one of research in itself. Nor can it rest solely on the federal government. Industry must take a big share in the solution, as its share in the product of a clean and wholesome environment will be large.

What we collectively must plan for is insurance for environmental quality for the future. Today, society places higher priorities on the value of our physical environment, and these priorities must be incorporated in the technology that serves us. Americans are ready, I believe, to improve the environment, and in so doing we will build a better society for ourselves and all mankind.

We have a long way to go in restoring the quality of our environment. If we move affirmatively toward the goal of purer water and air and a land uncluttered with society's wastes, we will provide the heritage for future generations that we, ourselves, have failed to achieve.

Man now has the power to control many of the elements of nature. He can destroy the soil, render air and water unusable through pollution, kill every form of life—himself included. He can now manipulate genetics and create life in a test tube.

If he has this power to destroy, he also has the means to conserve and protect. Whether he has the wisdom and self-determination to take effective action in the remainder of this century may well determine the course of man's future years on Earth.

[From Government Executive magazine, Jan. 1970]

Federal Coordination is Needed for R. & D. in Nation's Environment

(By Senator Jennings Randolph)

A widespread rebirth of responsibility is sweeping the Nation. While the methods are not always to be condoned, it is heartening that Americans are stirring to express their beliefs and assert their individual rights.

One right which was not spelled out in our basic laws, and yet is as vital as all others, is fast becoming the call of citizens across the Nation: that is the right to an improved quality of living, as expressed by the absence of pollution or environmental contamination.

Public agitaiton for environmental quality is a healthy sign of the times. The impact can be felt from Coast to Coast and very strongly in the Nation's Capital.

Last October, for example, a strange coalition of unionists, conservationists, health societies, ladies' garden clubs and college-age militants formed a so-called breathers lobby in Pennsylvania and turned the tide in that state against air pollution. With an unpredictable show of strength, this citizens' coalition pressured the state Air Pollution Commission to alter its proposed standards more than one-third to make them the most stringent standards in the Nation. The Commission had originally proposed standards weaker than those recommended by the Federal Government under the 1967 Air Quality Act.

In the states of Wisconsin and Oregon, mass public hearings have condemned the widespread use of DDT and other long-lived pesticides. California took the unusual step of banning the chemical completely because of the clamor.

Minnesota and other states have opened the question of pollution—thermal and radioactive—from nuclear power plants and the future of atomic energy for power may be swayed by the ultimate outcome.

Congress, in recent years, has been actively engaged in dealing with many of the problems of environmental contamination and quality. Though the basic Federal legislation for water pollution control was enacted in 1956, and for air pollution control in 1963, it is accurate to state that the national sense of urgency regarding environmental management began to achieve effective expression in Federal legislation largely in the last three or four years. Here are a few of the major advances enacted during the last four years in an effort to safeguard and enhance the quality of our environment:

The Water Resources Research Act of 1964, which authorized Federal assistance in the establishment of state water resources research centers.

The Water Resources Planning Act of 1965, which set up the Water Resources Council to help establish river basin commissions.

The Water Quality Act of 1965 and the Clean Water Restoration Act of 1966, which established a national policy of enhance-

ment of water quality, required the development of state water quality standards and authorized a multibillion-dollar grant program for municipal sewage treatment plant construction.

The Highway Beautification Act of 1965, which controls junkyards and outdoor advertising, and the Federal-Air Highway Act of 1968, which requires that social and environmental factors be considered in public hearings on location and design in Federal-aid highway projects.

The Clean Air Act of 1965 and the Air Quality Act of 1967, which, among other things, required the establishment of state air quality standards and Federal automobile emission standards.

RELIEF IS ON THE WAY

This is quite a list of achievements. And, although the funding of virtually every one of these programs has suffered because of our heavy commitments in Vietnam, the legislative foundations have been laid on a number of fronts for the assault on pollution.

Yet, while we pride ourselves on our accomplishments, much remains to be done to insure every man, woman and child—now and in the future—the right to an environment which will not insult his body, mind or spirit. Quite obviously, what is needed is a continuing growth in responsibility by all Americans to work together to protect this environmental integrity which is so vital to the health and well-being of mankind.

We are still moving forward.

Recently, the Committee on Public Works, which I am privileged to chair, reported a strong, new water quality bill (S. 7). That bill will provide rigid penalties for such environmental assaults as the disastrous oil well blowout at Santa Barbara, Calif., which polluted the beaches and killed the fish and the wildlife there. In addition, it provides the states and the Federal Government better and broader control over water pollution, adding several categories to earlier legislation, including acid mine drainage, dredging spoils and oil pollution.

LEGISLATION EXPECTED SOON

Our Subcommittee on Air and Water Pollution, chaired by the able Sen. Edmund S. Muskie, has been holding the hearings on the problems of solid waste management, based on S. 2005, the "Resource Recovery Act of 1969," and Sen. J. Caleb Boggs' amendment which would establish a national materials policy. In the second session of the 91st Congress, we expect to report a bill which will help control the growing mountains of solid wastes and garbage that are both a health hazard and an economic waste.

Of interest, too, are the hearings into the air, water and other environmental effects of the underground uses of nuclear energy for excavation and other purposes. Based on a bill (S. 3042) introduced by Senators Mike Gravel, Muskie and myself, the hearings will be aimed at delineating the potential health aspects and environmental contamination of nuclear excavation among other things.

What we have come to realize, obviously, is that environmental quality goes far beyond air and water pollution and solid waste management. The problems of the environment overlap jurisdictional line within the Congress and the Executive Branch.

Assurance of environmental quality is an inalienable right of every citizen. Man was created in a world which was environmentally cleaner than it has become, and we must take steps to protect him from the harsh chemical, biological and psychological catalysts which are changing the total environment.

Today, the Committee of Public Works is taking a new, hard look at many of the environmental problems which have been identified, and some which have only begun to be recognized. Today, we are working with a newly created advisory panel of professionals—scientists, engineers and philosophers from a variety of disciplines—to help determine the problems of environmental degradation *before* they become crises. This is a new approach of obtaining guidance without the encumbrance of bureaucratic departmentalizing. These are "free souls" who serve because they have expertise on problems of national concern.

The environmental quality panel is helping the Committee and staff assess the impact of environmental stresses and strains. We are looking together at questions relating to the effects of nuclear energy for power or construction, the potentials of land management, of water resources, of rural-urban population shifts and a host of pollution questions. We are also looking into problems of biological imbalances created by dredging, thermal pollution, pesticides and solid wastes. And we are probing problems connected with flooding and dam construction, the effects of building reservoirs, ocean dumping deep well disposal and a variety of health-related problems.

I am aware that the solutions to many of these problems do not exist and that the search for technology or new prophylaxis may be a costly one. It is for this reason that I have, as chairman of the Committee on Public Works, emphasized so heavily the importance of Federal coordination and support for research and development.

But the problem is not one of research in itself. Nor can it rest solely on the Federal Government.

THE CITIZEN MUST ATTACK

No one can be exempted from the return to responsibility. While the Federal Government can continue to provide the vehicles for change, it is up to the citizen to press the attack for environmental quality.

It is clear that Americans are assuming the responsibility in this area. And I believe that it is being assumed willingly. We must understand that the material abundance and technical ability which we cherish and enjoy cannot of themselves make us a happy, healthy, stable and useful people.

In the final analysis, the destiny of this Nation and of the entire world rests on individuals and will be determined by their capacity and will to create a world free of the tensions that now tear mankind asunder. Only when this takes place will the soul of mankind have caught up with his engineering genuis. Only then will we be able to live at peace with ourselves and our world.

INTERNATIONAL ASPECTS OF THE SPACE PROGRAM

Mr. ANDERSON. Mr. President, many Senators have expressed great interest in the international aspects of the space program. While recognizing that there is already substantial cooperation in the space program, most would like to see an expansion of this cooperation.

The National Aeronautics and Space Administration has a continuing effort to expand international cooperation in all of its programs. Recently, the Administrator of NASA, Dr. Thomas O. Paine, wrote me about his recent efforts in this direction. I ask unanimous consent that Dr. Paine's letter be printed in the RECORD at the conclusion of my remarks. It is a short letter, and I urge all Senators to read it, as it summarizes the substantial recent effort by NASA to achieve more and better international cooperation in the space program.

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

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington D.C., December 17, 1969.

HON. CLINTON P. ANDERSON,
Chairman, Committee on Aeronautical and Space Sciences, Washington, D.C.

DEAR MR. CHAIRMAN: In view of your own continuing interest in NASA's international activities and in view also of recent discussions in the Senate, it is appropriate that I inform you of the principal current activities in this area.

At the President's request, I undertook a very brief visit in October to the major European capitals to inform ministerial and space agency officials, as well as the senior officials of the European Space Conference, of the nature of our planning for U.S. space activity in the next decades. Our objective was to lay a basis for European participation in our future programs in new and important ways. I made a similar brief trip to Canada this week, and hope to visit Australia and Japan in the next months.

To help the major foreign space authorities gain a base of information for defining their interests in augmented participation, we invited them to sponsor their own industrial participation in the NASA conference on space shuttle concepts held last October. Additional mechanisms are being developed to permit foreign space interests to keep in touch with and even contribute to our studies over the next year, especially in the space shuttle and station programs. They should then be in a position to determine whether and in what degree they wish to commit to extended participation.

With regard to the Soviet Union, I have over the past several months written a series of letters to President Keldysh and Academician Blagonravov of the Soviet Academy of Sciences to (1) invite proposals by Soviet scientists for experiments on our spacecraft, (2) offer for their use the laser reflector left on the moon by the Apollo 11 astronauts, (3) invite Soviet proposals for analysis of lunar surface material samples, (4) invite Soviet scientists to a conference on the Viking Mars 1973 mission and offer to discuss cordination of our respective planetary programs, (5) offer to hold a special meeting for the preceding purpose when President Keldysh said our first invitation came too late, and (6) reiterate our readiness to meet any time, any place, to consider any possibilities for cooperation or coordination between us.

Meanwhile, our established program of cooperation with dozens of other countries is continuing most satisfactorily. As you know, the agreement with Indian agencies for an experiment in broadcasting to five thousand Indian villages has been signed and should be a landmark in experimental approaches to communications development for the less-developed countries. We successfully launched Azur, the first of four cooperative German spacecraft, last month. New cooperative satellite projects are under negotiation with the UK, France, Canada, the Netherlands, and Spain. In close coordination with the Department of Transportation, we are exploring with the European Space Research Organization a potentially important project in pre-operational air traffic control by satellite.

In the field of earth resources survey, our cooperative arrangements with Brazil and Mexico are progressing well and serving increasingly as demonstration projects for other developing countries.

I shall be glad to provide any further information you may have interest in regarding these programs and will, of course, keep you

further apprised of our progress from time to time.

Sincerely yours,

T. O. PAINE,
Administrator.

KILPATRICK COLUMN SAYS THREE FEDERAL JUDGES ERRED

Mr. BYRD of West Virginia. Mr. President, syndicated columnist James J. Kilpatrick has written an extremely interesting analysis on the decision of three Federal judges to deny tax-exempt status to certain private schools in Mississippi. In his column, which appeared January 20 in the Evening Star of Washington, he calls their action "one more intolerable usurpation of judicial power."

Mr. Kilpatrick quotes the section of the U.S. Tax Code, which grants tax exemptions to about 50,000 private educational institutions in America; and he notes that the schools in Mississippi met the criteria for tax-exempt status.

The columnist does not question the sincerity of the three Federal judges; he questions the legality of their decision. Mr. Kilpatrick writes that the judges probably "felt they were following dutifully upon the obsessions of their masters, the Supreme Court of the United States." He adds that the Supreme Court "has commanded integration now, integration everywhere, integration without regard to law, commonsense, or the Constitution."

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

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

CONGRESS MUST UNDO PRIVATE-SCHOOLS RULING

(By James J. Kilpatrick)

The decision by three federal judges here in Washington, denying tax exemption to certain private schools in Mississippi, comes as one more intolerable usurpation of judicial power. The action cannot be condoned; and it must be swiftly undone by the Congress.

The law could not be more clear. Under Section 501(c)(3) of the Tax Code, a nonprofit organization is exempt from federal taxes if it is organized and operated exclusively for religious, charitable, scientific, literary "or educational" purposes, provided only that it stays out of lobbying and politics. Roughly 50,000 such institutions have qualified formally for the cumulative list of exempt organizations maintained by the Internal Revenue Service.

These exempt organizations include institutions that are all black, all white, all Christian, and all Jew. Until the moment of this autocratic court decree, the act of Congress prevailed: It was necessary to ask only if the institution in question met the requirements of law. If so, it qualified automatically, and gifts to such institutions became deductible in computing one's income tax.

The effect of last week's injunction is to elevate the whims, caprices and obsessions of federal judges to a level never contemplated under our form of government. If a drastic change were to be made in the interpretation of Section 501(c)(3), such a change might first be the prerogative of the commissioner of Internal Revenue. No commissioner ever has sought such power. More precisely, such a change involves a profound question of legislative policy: It is the business of Congress. And in its recent comprehensive revisions of the Tax Code, Congress made no move whatever to limit tax exemptions to racially integrated institutions only.

Why did the three judges rule as they did? I do not challenge their sincerity, integrity or competence. Doubtless they felt they were following dutifully upon the obsessions of their masters, the Supreme Court of the United States. The high court repeatedly has commanded integration now, integration everywhere, integration without regard to law, common sense, or the Constitution.

Make no mistake: This profoundly complex question of public affairs has come fully under the sway of a judicial oligarchy. It might be possible, through ordinary political processes, to remove or to reverse a commissioner of Internal Revenue. It still is possible to elect a House and Senate that will insist upon a "Whitten amendment" positively to prohibit the busing of pupils and the closing of schools under the Civil Rights Act. But the judges are unreachable.

In a free country, it ought to be possible for parents in Mississippi, or anywhere else, to set up any kind of educational institutions they please, and to be entitled to the same privileges, immunities, and benefits of all other parents. If they choose to educate their children in factories, Sunday schools, private homes, or pup tents, subject merely to the general police powers of the state, this is—or was—their right.

No longer. Last week's decree was deliberately punitive, deliberately calculated to achieve a certain sociological end regarded by the judges as desirable. The decree, to repeat, is part of a pattern. In Atlanta, parents by the thousands have petitioned the judges for relief from arbitrary action. In Oklahoma City, a federal judge has threatened to jail a 14-year-old boy and his parents if the boy refuses to attend a certain integrated junior high. The high court itself, in royal disdain for practical problems of the real world, last week insisted on a Feb. 1 deadline for the integration of 300,000 children in five Deep South states.

It is just as Plato said, "The people always have some champion whom they set over them and nurse into greatness. . . . This and no other is the root from which a tyrant springs; when he first appears, he is a protector." So with the high court. An acquiescent people, having surrendered their liberties to the judges in what seemed a good cause, have watered the roots. We harvest tyranny now.

EFFECT OF A VETO OF HEW BILL ON CANCER AND HEART RESEARCH

Mr. MOSS. Mr. President, in the last 2 days we have centered our discussion mainly on the extent to which Federal education appropriations would be cut if the President carries out his threat to veto the HEW appropriation bill. Recently the columnist Sylvia Porter pointed out what would happen to both cancer and heart research if the Nixon budget figures prevailed, instead of the $10 million increase in the conference version of the bill for cancer research, and the $10 million for heart research. I ask unanimous consent that the Porter article be printed in the RECORD.

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

[From the Miami Herald, Jan. 12, 1970]

NIXON CUTS IN CANCER, HEART STUDY PERIL YOU

(By Sylvia Porter)

Surely, you know someone who has cancer or you have known a cancer victim—and surely, you dread the thought of ever having cancer yourself.

We still have not discovered a cure for cancer and it's estimated that in 1970 cancer cases will reach a peak of 625,000 while deaths will be at an all-time high. Yet, in the face of this and under the superficial excuse of fighting inflation, the Nixon Administration has proposed a budget for the National Cancer Institute nearly $4.5 million less than the 1969 appropriation.

Across the land, major research centers devoted to the study of cancer are slated to close. No funds are available for research on the feasibility of a vaccine for virus-caused cancers, a vitally important field.

We still do not know the cause of some of the most prevalent and debilitating forms of heart disease, such as atherosclerosis. Yet, in what seems astounding indifference to the cause for more than half the deaths in the United States each year, the Nixon Administration has proposed allocations for the National Heart Institute below even 1969's level.

If Nixon's budget holds, the NIH will have to cut by 40 per cent the number of research projects begun in 1966. An internationally known study of heart attack victims, launched 20 years ago, will have to end in June. Many projects will be axed altogether.

"We shall be courting bankruptcy of America's health if we simply freeze federal support of health research at current levels," warns Dr. Michael E. DeBakey, world-famed heart surgeon at Houston's Methodist Hospital and Baylor College of Medicine. "Unless the Nixon retrenchment is reversed, the great American investment in medical research since World War II stands the risk of crumbling."

Where and what are our priorities?

Funds allocated by the National Institutes of Health for research and training represent only one-tenth of one percent of our total spending (Gross National Product.) Will cutting these funds even more curb inflation? What nonsense!

Our fiscal 1970 budget allocates about $400 per person for defense and about $13 per person for all health. Will slashing the paltry $13 bring us economic balance?

The cut backs requested by the White House are not only for health research but also for health research training—a "subtle budget policy," says the Senate Committee on Appropriations, which implies that "the cutback in health research is not intended to be temporary." As DeBakey remarks, "the slight allocations for health by this administration defy understanding." Do you want to wipe out a whole generation of medical researchers, thereby undermine the chance that cures will be found for diseases of which you might die?

You may not give much thought to health care until illness strikes you or a loved one. But then you know and then you are grateful that the health research of which DeBakey speaks has in this century alone lengthened the life span from 50 to 70 years.

And if you want dollars-and-cents assurance, here's one: in arthritis, studies have shown that for every $1 invested in improved diagnosis and control, $38 comes back to our economy—a benefit-cost ratio of 38 to one. But what matter benefit-cost ratio when it's your life?

At the end of December, the Senate added substantially to Nixon's stripped-down budget for health, education and welfare—but then did not send the bill to the White House because of fear of a pocket veto while Congress was out of session.

Thus, the appropriations bill will come up again when Congress returns Jan. 19. Thus, you still have time to make it clear that you will not sit by and be a "silent" citizen while this administration threatens to paralyze health research in our country.

MEMORIAL SERVICE FOR PAUL KENDALL NIVEN

Mrs. SMITH of Maine. Mr. President, the late Paul Kendall Niven was a good friend of mine just as his parents have been for many years. I watched him grow and mature into a television journalist of great distinction.

In his earlier years it was my good fortune to see him frequently. Although we were of different political persuasion, we found those differences to be stimulating in our friendly discussions. Paul had that extremely rare ability to disagree agreeably.

In 1954 and 1955 I had conferences with the leaders of two dozen nations of the world. Several of these conferences were filmed by Edward R. Murrow and Fred W. Friendly and shown on their "See It Now" regular weekly CBS–TV program. Paul was the manager of all of the filmed interviews in Great Britain, including my debate with Malcolm Muggeridge and Aneurin Bevan, which seemed to delight Paul.

I regret that in recent years I have not been fortunate enough to see Paul with the frequency of earlier years. But I felt a sense of contact with him as I followed with great admiration and interest his distinguished series of interviews on National Education Television Network.

A very moving eulogy was given by Daniel P. Moynihan, Counsellor to the President, at the memorial service for Paul on January 10, 1970, at the Washington Navy Chapel. Mr. Moynihan was chosen by Paul's parents to give the eulogy. That they chose most wisely is evident from the eulogy itself. I cannot imagine anyone having captured the true spirit of Paul Niven as did Mr. Moynihan in his eulogy to Paul.

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

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

MEMORIAL SERVICE FOR PAUL KENDALL NIVEN

(Eulogy by Daniel P. Moynihan)

I rise to celebrate the life of Paul Kendall Niven. It was not, in the received sense, a happy life. Those of us who owe him so very much owe him first of all that standard of truth telling which he set himself, and which left us not untouched, much as a vital quality might flow through the permeable membranes of joined but separate lives.

Happy, no. But joyful, merry, mocking, teasing, laughing; it was that life. So much so, on so grander a scale than any of us contrive that it ought now at the end be acknowledged for what it was: an experience which Paul created and we shared, and which was unlike any most of us have ever known, or any we are likely ever to know again.

If we are lessened by his death, we were so much enlarged by his life as to make it unthinkable that we should do anything now but celebrate him. And so I rise.

Paul Niven was a journalist. That most underdeveloped, least realized of professions. Not a profession at all, really. Rather, a craft seeking to become such out of the need to impose form on an activity so vastly expanded in volume and significance as desperately to need the stabilizing influence of procedure and precedent and regularity. Events have overrun this quest, and the result is an occupation no longer the one and not yet the other. More singular then, more of consequence, is a man who in his work reflected both.

Paul's apprenticeship was prolonged and demanding, and in the hands of masters. First his parents, Paul and Dorothy, later John Beavan of the Manchester Guardian, then Edward R. Murrow and Howard K. Smith of the Columbia Broadcasting System. At CBS he moved from the age of radio to that of television, where of a sudden the potential and demands of technology altogether outreached the simple if arduously acquired disciplines of the written word and printed column. It became necessary in an instant, as the second hand swept past the hour, for him and a handful of other men like him to impose the standards of an older craft, on the swirling chaotic, unformed and unfathomable phenomenon which technology had let loose upon an unsuspecting and too welcoming public. More specifically, a phenomenon which was to penetrate and reshape the innermost processes of democratic society; a phenomenon with the capacity to create, and the capacity to destroy, and a destiny none knew, and even now none knows.

Yet it has gone well so far. Well enough. That this should be so was, to repeat, the work of Paul Niven and that small number on whom a most solemn trust devolved without either they or those who depended upon them ever quite realizing it.

A journalist's life revolves around stories, and stories of Paul will be heard so long as any who worked with him, or knew him, gather in those barrooms around the world where the day's brutality is somehow surmounted with laughter and a comradeship of equality and honor.

Paul was indeed forever bounding, barefoot, up pagodas in quest of some deliquescent Oriental prime minister. His insurance agent in Brunswick did indeed finally give up the account when a claim arrived for the loss of the most recent portable typewriter, this one alleged to have cascaded from the back of a donkey in a mountain pass near Kabul. His depiction of Sir Winston abed of the morning, replete with long Jamaica and short Scotch, added not a little to the dwindling store of rakishness in this dementedly purposeful time. But it is not so much for the practice of his calling as for the evolution of its form that he is to be treasured, and for which he will be remembered. He was perhaps the best television interviewer of his time. He helped create the mode, and in doing so I think can fairly be said to have added a dimension to American democracy. The ancient right of the people to judge their leaders grew immeasurably more significant when of a sudden the ability, the opportunity to do so was vastly enhanced by the extended television interview. Sam Rayburn was of an instant no longer a legend; he was, rather, an old gentleman in one's living room, talking of past Presidents and giving the viewer as much opportunity as any ought to have to speculate what he might be thinking of the newest one. This did not just happen. Men such as Paul, and Paul especially, enabled it to happen by their determined effort to master the new technology, and their unflinching insistence that it embody the ethical standards of the old craft.

He paid for that insistence. As others have. But he forgave those responsible, and so henceforth shall we. The truth of his life was not failure, but achievement. And so I rise to celebrate it.

Charity was for him more than a personal quality; it was a belief. Paul was in the largest and most useful sense a liberal. He believed in truth, not as an inheritance, but as a legacy, something to be acquired through effort and transmitted with pride. He had a simple hatred of injustice, and an altogether sophisticated sense of evil, of how evil is never absent anywhere, and is at times and places pervasive. He had a sense of fairness and of curiosity, such that his circle of friends was, if not more numerous, perhaps wider than any man or woman I, for one, have known, and I think this would be the judgment of many of us. He loved The Gaiety, and the Connaught Lounge, Lockport, New York, and The English Speaking Union; the 1789, Bowdoin College. He even managed not to dislike Moscow. But this I suspect simply reflects the fact he was there, and that meant that a measure of merriment was in the air.

If journalism was his calling, friendship was his art. And how rare it was. Not acquaintanceship, not interdependency, not mutuality of interest or activity, but friendship. Nothing absorbed him more. A few intervals of intense love affairs, perhaps, but such were the nature of his friendships that to separate them from love would be altogether not to understand.

His circle of friendship centered in his parents, and his brother. Their foibles, their provincialisms, their relish in the unexpected and new fangled, delighted him to the last moment of his life. At Christmas he presented his parents with airline tickets for a February trip to the Caribbean, confident he would be rejected with the scornful insinuation that having left Maine he had lost touch with virtue as embodied in endurance, or alternately that the tickets just might be used, but that the trip would be made in July when Jamaica could be counted upon to be uncomfortable. To his delight, the gift was accepted with the greatest pleasure and anticipation. Our regrets at this moment are many, but I suppose what I regret most is that I shall not hear Paul speculating on what hidden springs of sensuality, what prospects of antic orgy, were aroused in the minds of those decent citizens of Brunswick by his wicked and calculating temptation. For so it always was: and never of course without a touch of truth which made all that wild delight a form of plain speaking that each of us recognized and treasured, and by which we have been enlarged.

And so I rise to celebrate my friend, and, not for the last time, but simply for this special time, to think of him. Each of us will have special thoughts. Mine for some reason go back to Berlin in 1953 and the Hotel Kempinski. The abortive, crushed revolt of the workers of East Berlin had just occurred. Paul was there, as he would always be. The hateful thing, in the form it took for that time and that place, was on the other side of the Brandenburg gate. Journalists were forbidden passage. That for Paul simply delineated the difficulty to be overcome. A British friend offered a small car. Paul got hold of a tape recorder, stuffed it under the car seat, and pinned the microphone to the back of his suit lapel. Over they crossed into the East Zone, where they drove about for an hour or so recording for the Western world the first news of what East Berlin was then like. Nothing interferred until they returned to the Brandenburg gate when, of a sudden, a Volkspolizie stepped into their path, submachine gun at the ready. It was a moment of the gravest danger. The policeman-soldier came round to the driver's side and stuck his head into the car. The Briton rose to the moment. "Sir," he barked, "I am your conqueror." "Drive on!" said Paul.

And on and on he drove.

RISING LEVELS OF COMMUNIST ACTIVITY IN LAOS

Mr. FULBRIGHT. Mr. President, yesterday a spokesman for the State Department reportedly announced that the rising level of North Vietnamese and Pathet Lao activity in the Plaine des Jarres area of north central Laos—away from the

Ho Chi Minh Trail—was "sufficient for us to express concern."

The spokesman refused to comment on what the United States would do militarily to cope with what is being described as a large-scale Communist offensive.

The policy of secrecy which has cloaked U.S. military air activities in the Laotian war, which unhappily, the Nixon administration seems to have uncritically accepted from its predecessors, thus again is being invoked to prevent the American people from knowing and understanding a war that slowly but surely is escalating in its cost of money and lives.

By hiding the extent of U.S. military activities that preceded the current Communist buildup, the administration—as its predecessors before—effectively prevented public and objective debate on the merit of these activities and the extent to which they may bring about the very response which yesterday the administration declared as its "concern."

Mr. President, I am concerned about American as well as Pathet Lao and North Vietnamese activity in Laos.

I am concerned that our Government can send U.S. citizens to drop bombs in support of a country with which we have no treaty and blithely say "No comment" when asked to disclose the extent of such activity to the public.

I am concerned over the State Department's apparent desire yesterday to focus public attention on what the Communists are doing in Laos—without telling the same public what we have done in the past, are doing now, or plan to do in the future.

Though I have stated it before, I think it worth stating again what President Nixon said last November 3:

> The American people cannot and should not be asked to support a policy which involves the overriding issues of war and peace unless they know the truth about that policy.

I would hope that in his announced state of the world speech next month he drops the secrecy that has cloaked Laos, reestablishes the credibility he lost when he told the American public last month only that "we are interdicting the Ho Chi Minh Trail as it runs through Laos," and "beyond that I do not think the public interest would be served by any further discussion."

It is time the President frankly puts before the people the extent of our military activities, the reasons for them and the course for the future.

I ask unanimous consent that the article by Tad Szulc be printed in the RECORD.

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

[From the New York Times, Jan. 21, 1970]

U.S. EXPRESSES CONCERN OVER THE RISING LEVEL OF FIGHTING IN LAOS

(By Tad Szulc)

WASHINGTON, January 20.—The United States expressed concern today over the "rising level of activity" by North . . . Department spokesman said it appeared that North Vietnam might be preparing to launch a "dry season offensive" there.

The spokesman, Robert J. McCloskey, said that the number of North Vietnamese troops in Laos had increased. He said the increase, together with Vietnamese and Pathet Lao forces in the strategic Plaine des Jarres area recently were "sufficient for us to express concern."

The dry season in Laos, as in South Vietnam, began last November. It will end in mid-spring.

Mr. McCloskey, had only a "no comment" to questions from newsmen as to how the United States proposed to show this concern militarily or diplomatically.

The extent of United States military involvement in Laos remains a highly sensitive issue here. Last month the Congress wrote into the defense appropriations legislation a prohibition against any commitment of American ground combat troops in Laos or Thailand without specific Congressional consent.

The Senate subcommittee on United States commitments abroad and the State and Defense Departments remain deadlocked over whether to make public a transcript of the proceedings at closed hearings on American military activities in Laos. The hearings were held last October before the subcommittee, which is headed by Senator Stuart Symington, Missouri Democrat.

The two Government agencies insist on making numerous deletions in the transcript for security reasons. The affected passages touch on the degree of direct American support for the Royal Laotian Army and a clandestine army of Meo tribesmen that is believed to be financed, equipped, trained and possibly led by United States officers and men.

The acknowledgment by the State Department today that the developing situation in Laos is a matter of concern to the Nixon Administration served to raise, therefore, the questions of whether and how the United States may assist the Laotian Government to resist the expected Communist offensive.

While enemy offensives during the dry season in Laos occur annually, Mr. McCloskey said today that this year the North Vietnamese will be attacking from "more advanced positions."

United States estimates are still that there are some 50,000 regular North Vietnamese troops in Laos—there are more than 100,000 such troops in South Vietnam.

To cope with a large-scale offensive, if one indeed develops, the Laotians will require some form of United States assistance, officials here conceded. But for political reasons American help in the foreseeable future is to be confined to air and logistic support.

MINNEAPOLIS TRIBUNE SUPPORTS HIGHER FUNDING FOR EDUCATION

Mr. MONDALE. Mr. President, yesterday I was proud to vote in support of the conference committee bill on HEW appropriations which provides a desperately needed $1¼ billion addition for education and health programs above what the President's budget requested. At that time, I summarized my reasons for supporting these added education and health funds. I pointed out that even with this needed addition the Congerss had made a net reduction of $5.6 billion in the President's total budget request, and was therefore acting responsibly to halt inflation. I pointed out that in the context of this major budget cutting in other less important programs, the additional funding for health and education represented a reordering of national priorities, not a question of inflation.

Recently an editorial and an excellent, in-depth two-part series on Federal aid to education appeared in the Minneapolis Tribune. They underscore the importance of these additional funds, and the need for the Congress to override the President's threatened veto of this appropriation. On the question of national priorities, the editorial concludes:

> The struggle between Congress and the President over the money is part of a long-needed effort to shift national priorities from spending on space and the military, to spending on urgent domestic problems. Congress did reduce other spending levels to help in the fight against inflation. The increase in the education outlays is a logical move to assist those who suffer most from this same affliction.

The conclusion reached by this editorial is supported by a thorough review of the impact of Federal aid to education in Minneapolis which appeared in two articles written by Joe Rigert. Mr. Rigert thoroughly documents the benefits that Federal assistance has brought the schools in Minneapolis in general, and to Lincoln Junior High School in particular. In addition to providing some 16,000 schoolbooks, hot lunches, opportunities in New Careers programs, Teacher Corps, and Headstart assistance, these funds have helped to produce 2-year gains in reading and arithmetic in a 1-year period for students at the Lincoln Learning Center.

While all the problems have not been solved, and some new ones have developed, Mr. Rigert's review indicates that important progress is being made.

I ask unanimous consent that the editorial entitled "The Need for Federal Education Aid" and Mr. Rigert's two articles entitled "Lincoln Junior High: From Conflict to a Basis for New Optimism" and "Federal Aid Begins To Show Results in City Schools" be printed in the RECORD.

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

THE NEED FOR FEDERAL EDUCATION AID

The battle over federal spending on education is reaching a climax in Washington. Congress has added $1.1 billion to President Nixon's education request after cutting back on other budget requests. The President is expected to veto the bill on grounds that it is inflationary. Congressional leaders hope to over-ride the veto.

Our view is that the additional funds should be approved. One of the unfortunate results of the fight against inflation is that it hits so hard at low- and middle-income Americans. High interest rates raise housing costs. Deceleration of the economy increases unemployment. Cutbacks in federal spending often are applied to already-underfunded social programs.

The two-part series concluding today on this page points up the importance of one federal education program for one city. The Title I money for education of poverty pupils has enabled Minneapolis to begin to deal with what James Conant termed the "social dynamite" of educational deprivation. The improvements at Lincoln Junior High, which suffered such a crisis of confidence that it had a net loss of 215 white children in two years, would not have been possible without Title I money. Such funds also are being used to advantage in many other poverty-area schools of the city.

But the present levels of federal aid are far from adequate. Additional teachers hired

through Title I money in Minneapolis reduced average class size in poverty-area elementary schools by only one pupil, in junior highs by 2.5 and senior highs by 4.1. Now that the money is being directed more heavily at aiding pupils with the most severe learning problems, it will reach only half of the 14,000 school children of AFDC and low-income families. Some pupils will benefit less than others because of the limited funds.

The additional money voted by Congress covers much more than poverty-area education. While a $300-million increase includes money for education of poor children, it also includes funds for supplies and innovative programs that can be used for all pupils. Among other increases for all students are $400 million for schools in federally-impacted areas, $209 million for vocational education, $84 million for higher education, and lesser amounts for equipment, libraries, the handicapped and teacher-development. Minneapolis could receive up to $1.5 million in additional funds—including $500,000 in "federal-impact" aid, $350,000 for poverty pupils, $300,000 for vocational education and $160,000 for innovative programs.

The struggle between Congress and the President over the money is part of the long-needed effort to shift national priorities from spending on space and the military, to spending on urgent domestic problems. Congress did reduce other spending levels to help in the fight against inflation. The increase in educational outlays is a logical move to assist those who suffer most from that same inflation.

LINCOLN JUNIOR HIGH: FROM CONFLICT TO A BASIS FOR NEW OPTIMISM

(By Joe Rigert)

The front office at Lincoln Junior High school, crowded two years ago with noisy students awaiting disciplinary action, is relatively quiet now. Principal Harvey Rucker interrupts a conversation to let a girl go through his office to see the school nurse.

"I hope we are on the upswing," Rucker says tentatively. "If the pendulum is swinging, I think it is swinging in the right direction." Two years ago Rucker, as assistant principal, was practically buried under a pile of blue discipline slips.

Upstairs, a teacher joshes with a student after class and comments to a visitor, "I'm optimistic. Things are going on that are good." Two years ago, that teacher was not optimistic.

Across town in the Minneapolis school system's central office, officials say that more parent involvement, more staff and more programs have helped Lincoln to "turn the corner." Two years ago, they were contending with racial incidents, a climate of tension and a "crisis orientation" at Lincoln—in the words of a task force study.

Lincoln revisited, after two years, is not the Lincoln that had gained a reputation for conflict and failure. Now there is a mood of hope—hope, as Rucker puts it, that the school is on the way to regaining the confidence of parents and students.

Part of that hope is based on parent interest. Half the parents turned out for an open house at the beginning of the year, nearly double the attendance of the previous year. Teachers visited parents in their homes and are making more contacts to keep them advised of student performance. Adult education has been expanded to attract hundreds of additional parents in the area.

Part of the hope is based on teachers. The staff has been increased from 61 to 71 even though enrollment has declined, and the number of black teachers has risen from 5 to 22. Average class size has been reduced from 25 to about 18 pupils. More teachers are living in the community. One teacher has turned part of his house over to a recreation center where students can play pool and talk over problems with him. Another teacher is experimenting with Montessori concepts in a class for slow learners.

Part of the hope is based on a new school structure. Each of the three grades is now a school within a school, with its own floor, its own assistant principal and its own social worker and counselor. No more is there the disruptive mixture of age groups in the halls—or the deluge of "problems" at the front office. Now there is more individual attention for each student and his needs.

Part of the hope is based on programs. Each grade has a learning opportunity center for pupils with problems in basic skills. A master teacher, a teacher for pupils with special learning disabilities, and tutors work with groups of 10 to 15 students at a time. Ability groupings that segregated students by race and class have been eliminated, and individualized instruction has been emphasized. The library has been stocked with $11,000 in new books, records and film strips.

And part of the hope is based on the students. "There is a different attitude,," says Rucker, son of a hotel porter. "They are not as hung up on problems as they once were, or on what is Black Power. We still have some of the 'get honkie' bit. But they are beginning to take a look at what education is all about. There is more pride in the school. They make more comments like, 'Let's shape up.' I think they see now they have to have the tools for achievement to go with the black pride."

School officials have some limited test data now to indicate that all this is leading to gains in student performance. Pupils in 8th and 9th grade basic classes showed a two year advance, on the average, in reading comprehension in 1967–68, although they reached only a mid-6th-grade level by the end of the year. Gains also were recorded last year in school-wide testing, after the ability groupings were eliminated.

Rucker says it is too early to make any flat assertions that Lincoln has solved its problems. "All we can do is hope that we continue to improve and have no incidents, so that people can have some confidence in the school again. I think 1970–71 will be the year to take a look at it."

Lack of confidence took a big toll in the past two years. The loss of 215 white students in that time caused the school to shift from 45 percent to 65 percent black. Many black parents also lost confidence in the school, as shown by the fact that 52 black children are busing to other schools this year under the voluntary transfer program.

Some problems, in fact, have become worse. The absentee rate climbed from 10.6 percent in 1967–68 to 13.2 percent last school year. Student turnover also has increased.

Faculty losses have remained high, too. Lincoln had to hire 22 new professionals this year. One encouraging development is that only two of the 22 were rookies without experience in the inner city or as teachers elsewhere.

One teacher expressed a continued concern about absenteeism, classroom disorder, turmoil in the halls, hostility of students. "I feel so frustrated and completely disappointed. There has been nothing significant in the way of change. I think I can understand the depth of the problem. It bothers me a great deal."

Rucker does not minimize the task ahead. "We still have a long way to go to meet the educational needs of the children. We've got to make changes in educational programs, in all schools. This is what we are doing."

Much of what is being done at Lincoln, and at a detached Lincoln Learning Center, is made possible through more than $200,000 in federal funds each year. Minneapolis school officials cite this as one example of the impact this money is exerting on poverty-area education.

FEDERAL AID BEGINS TO SHOW RESULTS IN CITY SCHOOLS

(By Joe Rigert)

The Federal government has provided $4.3 billion for the teaching of poverty pupils in the past four years under the 1965 education act—about equal to the outlay in one year for the space program.

Critics including high officials in the Department of Health, Education and Welfare, contend that the money has been poorly used. One study in which the NAACP took part alleges that millions of dollars were wasted, diverted or otherwise misused by state and local authorities, thus depriving the children of the poor of another chance to close the educational gap between them and the affluent society.

Minneapolis has received $9.6 million in Title I poverty aid in the past four years—about equal to the police budget for one year. But school officials here cite tests and otherwise observable results to support their view that the money has been put to good use in this city.

EXAMPLES

Students at the Lincoln Learning Center, a detached facility with a low student-teacher ratio, showed a two-year gain in reading comprehension and arithmetic in one year. A similar center now is in operation at Bryant Junior High and the concept has been carried out partially in learning centers in Lincoln Junior High.

Grades 2 and 3 in all but two poverty-area schools showed the expected growth of one year from February 1967 to February 1968. The pupils at least were not slipping behind as they have been found to do in some school systems.

Children in kindergarten classes with teacher aides improved more on a readiness test than did children in classes without aides.

Preliminary evidence indicates that pupils in a talking-typewriter program, financed in part with Title I money, gained more on word and paragraph meaning than did a comparison group not participating in the program.

Ninety-four percent of the teachers who received training for inner-city work said the training made them feel more adequately prepared to teach in a poverty-area school.

Teachers say a hot-lunch program improved afternoon attendance for elementary schools; 87 percent of the parents of children receiving hot lunches said their children benefited from the program.

Pupils in a learning disabilities resource program, also financed partly under Title I, made normal or above normal progress in five of six tested areas, while children with similar learning problems who were not enrolled in the program failed to make average gains in any of the six areas.

Minneapolis also has received another $8.6 million in federal funds for other programs in the past four years. The money has helped the schools to buy 16,000 books, train 1,883 youths at a work opportunity center, increase the number of community resource volunteers from 100 to 900, launch low-income adults on new careers, enroll nearly 6,200 students in the neighborhood youth corps, expand adult education, operate a Head-Start project, provide human relations training for teachers, use teacher-corps interns, operate a music demonstration center and offer programs for talented youths.

Impressive as such results may be, however, the federal money has not yet produced any profound improvements in Minneapolis any more than the billions have left a deep imprint on the education of poor children nationally. Minneapolis officials concede that the money was dispersed too widely at first

to be fully effective. The amount of money is not nearly enough to meet the problems. And the problems are increasing rather than diminishing.

Hence, while achievement levels have been rising on a national basis, they have not been rising in Minneapolis and other large cities. At Lincoln Junior High, the ratio of 7th grade students reading near or below the 4th grade level rose from 25 percent in 1966 to 40 percent this year. The percentage of Lincoln 8th graders who are three or more grades behind in reading comprehension doubled in three years.

Results like these, say officials, probably reflect the fact that cities like Minneapolis are getting more and more poverty pupils who have learning problems. The number of AFDC children (in and out of school) has nearly doubled to a total of 15,000 in Minneapolis since 1962 (see chart below).

While the educational problems mount, the amount of federal money fails to keep pace. The Title I money per child, in fact, dropped from $162 last year to $146 this year in Minneapolis.

Minneapolis used much of its Title I money in the beginning to reduce class size in poverty-area schools. The additional teachers did reduce class size, but not enough, and tests showed no academic gains from the reduction. Money also was dispersed to a wide range of other programs—a dispersal that again lessened its impact.

Partly as a result of this experience, and because of congressional insistence, the federal money is being concentrated now on the teaching of basic skills—reading, writing and arithmetic—to those students needing it most. The hope in Minneapolis is that the measured progress at the Lincoln Learning Center, for example, can be expanded to more students—especially at the elementary level.

The Board of Education, meantime, is using local funds to support many of the programs that had been financed under Title I—the additional teachers in poverty-area schools, field trips, symphony concerts, hot lunches and closed-circuit television.

Even with the concentration of effort, the overall impact of the federal money on poverty-school education will be limited, because the funds are limited. A fourth of the Title I money is being spent on Hay-Lincoln and Mann-Bryant concentrated education centers, mostly for more teachers, counselors, psychologists and social workers. Other poverty-area pupils do not receive the benefits of such concentrated spending.

The other poverty-area schools do share in the Title I money being used for 415 teacher aides, 20 special learning disability teachers for instruction in basic skills, reading teachers to supervise 600 tutors, an instructional materials center, in-service training in use of audio-visual equipment, and personnel in the talking typewriter program.

The results so far indicate it is a beginning, but not much more.

Poverty up, aid down in Minneapolis

NUMBER OF AFDC CHILDREN

1962	8,500
1967	12,600
1969	15,000

TITLE I FEDERAL AID

1962	$0
1966	2,500,000
1967	2,400,000
1969	2,300,000

IT IS TIME FOR GE MANAGEMENT TO BARGAIN

Mr. YOUNG of Ohio. Mr. President, all Americans have noted with concern the length and scope of the strike of employees of the General Electric Corp.

The lost production, continuing unemployment, and loss of wages, and the resultant loss of profits represent a tragedy for the workers, a heavy blow to stockholders, and a deepening economic setback to the Nation, especially to the communities where GE plants are located.

It is time for those who have no direct stake in the dispute to use their good offices to bring about a resumption of negotiations. The Communications Workers of America, AFL–CIO, has taken a responsible and constructive step in that direction by appealing to GE and its officials, through newspaper advertising, to return to the bargaining table. The advertisements I refer to appeared in the New York Times, the Washington Post, and the Schenectady Gazette. Union officials reminded GE executives that the strikers are loyal GE employees who want only to return to work on a fair and reasonable basis.

The long record of the Communications Workers of America as a responsible and civic-minded organization and of CWA President Joseph A. Beirne as a tough-minded and fair advocate of responsible trade unionism and community service makes the CWA plea especially compelling. The attempt to clear the air is all the more impressive because CWA itself has no direct stake in the strike, since it does not represent any of the striking workers.

The plea does not seek to force GE management to do anything. It merely asks GE to follow in the proven and traditional path for resolving labor-management disputes in this country: a fair and reasonable give-and-take that can produce an agreement satisfactory to both management and workers.

I ask unanimous consent that the full text of the CWA advertisement be printed in the RECORD.

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

IT'S TIME FOR GE TO SETTLE THIS STRIKE!

After nearly three months of strike at General Electric, we think it's about time that reasonable people on both sides of the GE collective bargaining table find a way to bring the dispute to a satisfactory settlement.

The unions, in our opinion, have shown a reasonable approach. Their proposals for improvement in pay and benefits are in line with the going rate in other major American manufacturing industries. The unions have even offered to arbitrate the issues in dispute.

But General Electric has refused. Obviously, the company has felt that its position is justified. In our opinion, GE should give some serious top-level review to this whole matter.

As citizens interested in economic progress, we think GE's top management should take a fresh look at the strike, the issues in the strike, and—most of all—the attitudes of the people involved in this strike.

These people, after all, are loyal employees of General Electric.

These men and women have manned the picket lines for over ten weeks.

They have been on strike during the entire holiday season, and the coldest weeks of this cold winter season.

Pretty obviously, they believe in what they're doing. Pretty obviously, they believe there's justice in their cause. Pretty obviously, the offers that have been made by General Electric so far in this strike are not enough to meet their needs and produce an end to the strike.

Isn't it time, therefore, for top management of General Electric to take a fresh new look at this whole issue?

Doesn't the fact that nearly 150,000 men and women have stayed out on strike during this freezing winter make any impression on top GE decision-making executives?

Doesn't GE's top management realize that attacking the union leaders is irrelevant . . . that it's the deeply-felt grievances of the rank-and-file workers which caused this strike and which keep it going?

Doesn't GE's top management realize that these men and women on strike are not agitators or demonstrators or radicals but skilled company employees who, under decent conditions, would far prefer working to striking?

Doesn't GE's top management realize that millions of dollars in advertising obviously haven't convinced these hard-working men and women on strike that GE understands their problems, in these days of a rapidly rising cost of living?

In other words, doesn't GE's top management appreciate that propaganda is no substitute for realistic give-and-take negotiations that will produce a mutually satisfactory settlement? That kind of fair settlement would permit General Electric to move ahead as one of the great engineering and manufacturing corporations in this country. That kind of fair settlement would permit GE's thousands of workers to do their job turning out the products that have made the GE trademark a symbol of electronic excellence throughout the entire world.

For years, General Electric has proclaimed that progress is its most important product. In recent months, General Electric hasn't been producing products and it certainly hasn't produced any progress.

As citizens who believe that economic advancement is meaningful only when it is achieved by the great majority of the American people, we say it's time GE got back to economic reality . . . back to negotiating a fair settlement on realistic 1970 terms . . . back to producing the goods that have made it famous as a great American corporation.

That's why we appeal to GE's top executives to take another look at this strike situation . . . and to apply their creative talent to a satisfactory solution. On a reasonable basis. Now.

Communications Workers of America, AFL–CIO, 1925 K Street N.W., Washington, D.C. 20006.

Joseph A. Beirne, President.

Glenn E. Watts, Secretary-Treasurer.

PROPOSED VETO OF LABOR, AND HEW APPROPRIATIONS

Mr. MOSS. Mr. President, education groups throughout the country have been vocal in their opposition to President Nixon's threatened veto of the HEW appropriation bill which the Senate passed yesterday.

One such group, the American Council on Education, has issued a statement which expresses the various points of the controversy very well. I ask unanimous consent that the statement be printed in the RECORD.

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

STATEMENT ON THE PROPOSED VETO OF LABOR AND HEW APPROPRIATIONS

The Board of Directors of the American Council on Education is profoundly distressed by reports that the President may veto the 1970 appropriations for Labor and Health, Education, and Welfare. Such a veto would be a direct and severe blow to education in this country. We believe that the

Congress, through its substantial and bipartisan votes, has accurately reflected the will of the country that the education of our people shall be a matter of first priority.

The President himself, when a candidate for the office to which he was later elected, stated on October 1, 1968, "When we talk about cutting the expense of Government—either Federal, state, or local—the one area we can't short-change is education." A year later a Harris poll indicated that of all Federal programs, 60 percent of those queried believed that Federal expenditures for education should be the last to be cut. No other programs received more than 38 percent support. Yet the first budget submitted by the President called for $454 million less for education than had been appropriated for the previous Fiscal year.

The Congress, we believe wisely and with a sense of fiscal responsibility, has seen fit to increase the budgeted figure for education by $1.3 billion—far less than the authorizations or the need, but closer to both. Charges that such an increase is inflationary are scarcely persuasive when it is considered that Congress has enacted appropriations totaling $5.6 billion below the President's budget.

The Congress, we believe, has acted responsibly and reflected the will of its constituency by giving education a higher place in a reordering of national priorities. We trust that its actions will be sustained and that if the bill is vetoed, the veto will be overridden.

THE NIXON BUDGET AND NATIONAL PRIORITIES

Mr. PROXMIRE. Mr. President, in a syndicated column by James Reston, published in the Wisconsin State Journal of Sunday, January 18, 1970, some very interesting and profound questions were raised about both our foreign and domestic priorities.

Mr. Reston points out that President Nixon is profoundly reducing our overseas commitments. At the same time, there is no comparable reduction in the total defense budget.

On the other hand, the rhetoric of the President indicates that while he is increasing our commitments at home on domestic matters—his words on environmental problems are a principal example—he is reducing our relative expenditures.

Ample proof of Mr. Reston's thesis abounds. Secretary Laird has told us that the Vietnam expenditures have dropped from $30 to $17 billion a year, or by $13 billion. Yet, at best, the defense budget will represent a $6 or $7 billion reduction over last year, and probably much less than that in actual outlays. When one considers that severe additional cuts should be applied in the non-Vietnam area, this fact has the most serious overtones.

What it indicates is that that both the peace dividend and the other cuts in defense spending are being usurped by the military-industrial complex. Instead of applying these long overdue savings to meet the urgent domestic needs at which the President's rhetoric is directed, they will continue to go to overruns on weapons systems, delays in deliveries, and malfunctioning avionics. New and ill-advised strategic weapons which raise the level of terror while they diminish the Government's exchequer will once again be forthcoming.

Meanwhile, the problems of pollution and welfare and health and education are relatively starved for funds. And when we attempt to reorder those priorities and right the balance, the President threatens to veto our efforts.

We in Congress, contrary to the overwhelming propaganda put out by the White House and gobbled up by much of the press, have made a beginning on reordering priorities. We cut $6 billion from President Nixon's request for military construction funds and for the Defense Department itself. We returned a small portion of those and other budget savings, which totaled $7.6 billion, to the problems of health and education. In addition, we cut the President's overall budget requests by $5.6 billion.

Mr. President, we should reduce the military budget in line with the reduction in our obligations and, even as important, to bring efficiency and productivity to the Pentagon's wasteful empire. We should match our commitments to domestic problems to the needs they represent and to the rhetoric by which they are described.

I commend Mr. Reston's article to the Senate and to the country. If I may add one additional note, I hope the President will both read and act on it.

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:

[From the Wisconsin State Journal, Jan. 18, 1970]

NIXON'S BUDGET CARVING: A QUESTION OF PRIORITIES

(By James Reston)

WASHINGTON.—The President has gone off to Camp David to work on the national budget.

It is not an ideal way to spend a weekend. Nevertheless, if we think of him as the head of our vast and diverse American family—which, poor man, he is—then we may be able to see his devilish task in somewhat simpler terms.

Like any other responsible husband, he has to provide for the family's needs in the order of their importance—only he has to think of his family in hundreds of millions of people and hundreds of billions of dollars and plan on the scale of the continent and even the world.

The Federal budget, which President Johnson was determined to keep below $100 billion only a few short years ago and President Nixon is trying to keep around $200 billion, is one of the great mysteries of American life.

The budget gets all mixed up in theories of taxation, the gross national product, inflation, the balance of payments, Communist intentions, weapons systems, and many other important but confusing concepts. But in the end it is primarily a question of good housekeeping—of matching the nation's money to its problems in the order of their importance.

There is an argument in the family this year, as usual, about how the President is cutting the pie, and the argument is a little noisier, because he doesn't seem to be following the logic of his own lectures.

He obviously is cutting his overseas promises. He is bringing men home from Vietnam, and telling our friends in Europe and Asia not to count on us unless there is some spectacular catastrophe, and almost everybody here agrees with his objectives but not with his mathematics.

For while he is cutting United States commitments overseas dramatically, he is reducing the military budget only marginally. While he is dramatizing the problems of the homefront and providing more money to deal with domestic problems, he still is proposing a military budget of more than $70 billion and this is what is producing the argument both about his logic and his budget.

The Allies overseas have got the message. They have listened to the President and the vice-president in Asia. They see the trend of American policy. They have been told to count on themselves unless there is a major Communist military aggression.

So Willy Brandt in Bonn, and Golda Mier in Israel, begin to count more on themselves, which is what the Nixon Administration wants.

But the U.S. military budget remains high while the U.S. overseas commitments are reduced, and even the President's own violence commission says the main threat to U.S. security is internal and not external, but the budget does not reflect this conclusion.

Accordingly, the argument over Mr. Nixon's budget this year is going to be sharp and even violent, especially in the light of the inflation and its effects on business and particularly on the poor. Is the President really providing for the nation's needs "in the order of their importance?"

Is he cutting the military budget as much as he is cutting his overseas commitments? OR is he merely reducing it a little and still over-financing the military overseas threat and underfinancing the internal threat of inequality and disorder within the American family?

If the President, who is writing his State of the Union Message at Camp David, would really answer these questions, the people and the Congress undoubtedly would accept his conclusions. But they don't have the answers now. There is a great deal of talk about reordering the priorities of the nation, which really means dividing up the money in a different way, but nobody in the Administration, from the President down, has yet explained why the overseas commitment should be reduced while the military budget remains higher than the domestic general welfare budget.

All of which brings us back to the central questions where does the chief threat to the U.S. lie at the beginning of the 1970's—from military aggression abroad or poverty and social turmoil and division at home?

Experienced men like Robert McNamara argue the military budget can be reduced safely to between $58 and $63 billion, rather than the $70 billion now being proposed, but the American people are divided on the question, and the President, who has the facts, has not yet explained "the needs of the nation in the order of their importance."

HOW TO SOLVE OUR PROBLEMS

Mr. TOWER. Mr. President, I ask unanimous consent to have printed in the RECORD an article written by Bill Gold and published in the Washington Post of January 14, 1970. Mr. Gold makes a point which I believe we should all keep in mind:

In order to solve our problems, we must understand them. This is particularly relevant in the case of our Nation's youth; surely understanding can help to erase the so-called generation gap.

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

[From the Washington Post, Jan. 14, 1970]

THOUGHTS ON THE CARE AND FEEDING OF HIPPIES

(By Bill Gold)

The ghastly Mattingly murder case has set many of us in the "straight" community to thinking about the hippie mode of life. Our ambivalence is noteworthy.

Believing as we do in freedom, we think that each of us should be free to indulge himself in any eccentricity that does not impinge upon the rights of others. On this basis, we find hippie conduct bizzare, but tolerable.

However, each time a sensational crime involves individuals whose lives are dominated by drugs and indolence, we must wonder anew where freedom stops and impingement begins. And what can or should be done about it.

I don't know the answer to that. I don't even know what a hippie is. Is he merely a carefree nonconformist who doesn't really bother anybody, or is he a potential danger to the community?

Are there two separate types? Do they remain so, or does the former tend to drift into the latter category?

Again: I don't know. I would not want to sit in judgement of one who is merely an individualist who has learned to meet his material needs with a minimal amount of work while I toil like a fanatic to meet mine. Maybe I'm the kook and he's the sound citizen, so who am I to be analyzing him?

On the other hand, one can wonder whether it is really possible in this hard world for anybody to spend his life smelling the flowers without impinging upon the rights of those who grow flowers and weed flower beds.

We straights work because we want the things work produces. Even minimal amounts of food, clothing and shelter require expenditure of effort. The Lord has given us the raw materials—and the free will to waste them or make something of them. By our standards, an able-bodied person who wants material things should be willing to work for them, and if he is not willing to exert himself he should be resigned to doing without.

We cannot envision a functioning economy in which any able-bodied individual who chose to would be free to exempt himself from the requirement for work without forfeiting the product of such work.

So there is inevitable conflict between us and the hippie philosophy that puts extremist emphasis on drugs and on devoting as little time as possible to work.

Drug-induced conduct is irresponsible, and often vicious. Supporting a drug habit creates a concurrent course of antisocial activity. One who has lost contact with the working world cannot rejoin it at will and immediately find a productive role that will earn enough for his wants or needs. In fact, productive employment is seldom capable of supporting a drug habit.

Police records throughout the nation make it clear how these stresses are resolved by addicts and indolents. They take to panhandling, then to shoplifting, "dealing" in narcotics, thievery of various kinds, pimping and prostitution, and finally to crimes of violence.

The innocent child who "just wanted to escape from the materialistic rat race" to ponder the grandeur of Love and Peace and Mankind ends up in a stinking jail cell.

I do not pretend to know what we can do about the situation as a community, but as an individual I took one small step some months ago. I stopped giving quarters to young hippies who looked as if they hadn't eaten recently.

One who grew up with patches on his pants finds it difficult to turn down even a whisky-nosed bum. But in this matter, I finally concluded that people like me have been encouraging a flight from reality among juvenile runaways.

I am now of the opinion that giving money to an able-bodied panhandler is more an act of folly than an act of charity. On this level, at least, I am opposed to giving material aid to runaway kids with hippie notions.

For parents of children who run away, the question of material aid is far more difficult. Parents must take into account such complex factors as the child's age, degree of maturity, readiness to make his own way and general attitude. Nevertheless, the same basic test needs to be applied, with the parent wondering: "If I keep sending him money, am I acting in an understanding and charitable manner to ease a difficult transitional period for a mixed up kid, or am I showing him how easy it is to become a permanent bum?"

And what of institutions dedicated to helping runaway juveniles? Is it humane and constructive to provide a temporary haven for runaways? Or does the easy availability of havens encourage children to run away—and stay away?

My guess is that it can work either way, depending on the child and the institution. And if my guess is right, then we "straights" have an important stake in the wisdom—or lack of it—with which these institutions are supervised.

But how much do we really know about them, or about the problem they are trying to help solve? Very little, I suspect. Perhaps the first thing we must do is admit that we don't really understand why so many young people dislike the world we built for them, yet even greater numbers of them like our world enough to want to take a hand in making it better. Why do so many children hate us while even greater numbers of them love us? Before we solve any problems, we're going to have to understand them.

PUNITIVE DRAFTING IS BARRED

Mr. KENNEDY. Mr. President, last November, in hearings before the Subcommittee on Administrative Practice and Procedure, on the administrative practices of the Selective Service System, several witnesses urged the abolition of punitive reclassification by local draft boards. Recognizing that there are adequate provisions in State and Federal law for registrants who violate selective service regulations or engage in illegal protests, these witnesses felt that the use of accelerated induction as an administratively imposed penalty raised serious constitutional questions. Foremost among these witnesses was former Attorney General Ramsey Clark who, urging the repeal of the delinquency regulations, stated that the "present delinquency regulations, history shows, have been invoked without clear standards set by Congress, have provided no adequate definition of what constitutes delinquency, and they have reached far beyond what may be necessary to the effective performance of local draft boards."

During the hearings Gen. Lewis B. Hershey stated that he does not consider the draft "punishment." I feel that if it is not to be considered punishment, however, then the draft should not be used as such. Based on these hearings, the Subcommittee on Administrative Practice and Procedure has prepared a study of the Selective Service System with recommendations which should be in print by the end of this month. One of the recommendations of the subcommittee is the termination of punitive reclassification and accelerated induction for delinquents. The subcommittee states that proper action could be taken immediately by the executive; as it has developed, however, the judiciary has acted first.

The U.S. Supreme Court the day before yesterday delivered its opinion in Gutknecht against United States, holding that accelerated induction for delinquents was not authorized by Congress. The opinion states:

> We search the Act in vain for any clues that Congress desired the Act to have punitive sanctions apart from the criminal prosecutions specifically authorized. Nor do we read it as granting personal privileges which may be forfeited for transgressions which affront the local board. If federal or state laws are violated by registrants, they can be prosecuted. If induction is to be substituted for these prosecutions, a vast rewriting of the Act is needed. Standards would be needed by which the legality of a declaration of "delinquency" could be judged. And the regulations, when written, would be subject to the customary inquiries as to infirmities on their face or in their application, including the question whether they were used to penalize or punish the free exercise of constitutional rights.

I believe that this is an important step in reforming the present draft system to the point where young men can have respect for it. I ask unanimous consent that the article in yesterday morning's Washington Post on this decision, as well as the opinion itself, be printed in the RECORD at the conclusion of my remarks, together with a second article in yesterday's Washington Post which focuses on another area of the draft reform, which has been discussed for many years: Student deferments.

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

(See exhibits 1, 2, and 3.)

Mr. KENNEDY. Mr. President, the American Council on Education yesterday urged that undergraduate deferments be discontinued and that inductions be made randomly from a national pool. Once again this follows closely recommendations made by witnesses at the hearings last November and recommendations to be released by the subcommittee later this month.

Equality of treatment of all registrants, wealthy or poor, is extremely important at all times. It becomes most critical however during time of war when those who are inducted face high risk of casualty, while others can defer service until time of peace. I think that while arguments can be made for retention of undergraduate deferments during peacetime, there can be no valid reasons for such deferments when this Nation is at war. The burden of casualties should be borne equally among all young men, regardless of wealth, education, or influence.

Congressional action will be needed to alter the present student deferment system. I hope that the hearings before the Committee on Armed Services next month will provide a forum for full discussion of this and other issues.

EXHIBIT 1

[From the Washington Post, Jan. 20, 1970]

PUNITIVE DRAFTING IS BARRED—COURT DENIES AUTHORITY TO LOCAL BOARDS

(By John P. MacKenzie)

The Supreme Court ruled yesterday that the Selective Service System may not speed a young man's induction as punishment for draft delinquency.

Reversing the conviction of a war protester who turned in his draft card and later resisted induction, the court noted that "punitive" regulations have been used since 1943, although Congress never conferred the punishing power on the system headed by Gen. Lewis B. Hershey.

The court's decision seemed certain to require massive readjustments by the nation's 4,000 draft boards—the kind of "litigious interruption" of the system's operation that Hershey has sought to avoid.

Latest government figures show that more than 31,000 young men were listed in the "delinquency" category among the 38 million men who are classified 1–A. It was assumed that these men will be entitled to regain the draft status they enjoyed before boards found them delinquent, though many may face criminal prosecution for other draft law violations.

By comparison with those declared delinquent, the number of men entitled to release from prison was expected to be quite small. Most draft violation prosecutions are not related to draft card turn-ins or other actions involving delinquency.

The court was unanimous in overturning the conviction and four-year prison sentence of David E. Gutknecht, 22, whose induction was accelerated after he dropped his draft papers at the feet of a deputy U.S. marshal during a 1967 demonstration in St. Paul, Minn.

Two justices—Chief Justice Warren E. Burger and Potter Stewart—refused to accept the broad ruling of the majority and filed concurrences based on the failure of Gutknecht's local board to observe its own regulations.

The court's opinion by Justice William O. Douglas was joined in full by Justice Hugo L. Black, William J. Brennan Jr. and Thurgood Marshall. Justice John M. Harlan filed an opinion agreeing that the regulations were illegally "punitive" but stating that new, non-punitive rules could be issued legally. Justice Byron R. White joined the majority in saying Congress never "delegated" so much power to the Executive Branch.

Hershey, who is leaving the Selective Service after nearly 30 years as director, has maintained that his rules never were designed for "punishment" but were a legitimate way to raise armies.

Civil liberties groups argued that Hershey's suggestion in 1967 that antiwar demonstrators be conscripted amounted to punishment and intimidation of dissenters. Douglas avoided that argument but said the history of the regulations showed that the Selective Service meant them to be used as added punishment.

But in the history of draft laws, said Douglas, "there is nothing to indicate that Congress authorized the Selective Service System to reclassify exempt and deferred registrants for punitive purposes." Instead, Congress repeatedly called for "impartial" conscription, he said.

Stewart's separate opinion, in which Burger said he joined "generally," said it wasn't necessary to reach the question of the systems legal authority since Gutknecht's local board had denied him a chance to appeal his delinquency finding.

Solicitor General Erwin N. Griswold split with the Nixon administration over the Gutknecht case, refusing to argue the government's position or sign its brief. Assistant Attorney General William D. Ruckelshaus argued for the government. Gutknecht's lawyer was UCLA law professor Michael E. Tigar.

The court has taken no action in a delinquency case in which a draftee failed to tell his board that he was not a member of a reserve unit. Harlan's opinion indicated that such a delinquent could still be legally inducted.

Still pending before the court is a challenge to the constitutionality of a 1967 law that forbids lawsuits challenging allegedly punitive reclassifications. The law said the draftee could contest his board's action only as a defense to a criminal prosecution—such as Gutknecht's—or in a habeas corpus petition filed after he was in uniform.

In a separate action yesterday the court agreed to hear a registrant's claim that he is entitled to conscientious objector status based on nonreligious beliefs.

EXHIBIT 2

[From the Washington Post, Jan. 20, 1970]

COLLEGE GROUP ASKS END TO DEFERMENTS

(By Eric Wentworth)

The American Council on Education, reversing a longstanding policy, called yesterday for an end to draft deferments for college students.

The council's switch swung important new support behind anti-deferment plans afoot within the Nixon administration. The council's members include some 1,556 colleges, universities and education associations.

In a statement released yesterday, it said that dropping II-S deferments would "bring us closer to equity" by according all young men of a given age "exactly the same probability of induction."

A council spokesman said the groups directors approved the new policy unanimously at a weekend meeting.

The council's statement said its previous position, dating back to the Korean War, "was based on the belief that the nation's welfare demanded a steady flow of highly educated young people through the colleges and into the civilian as well as the military economy."

However, the council continued, "Clearly, the situation has changed. The available pool of draft eligible men is so large as compared with the numbers likely to be called into service that a termination of student deferments cannot seriously affect the regular flow of highly educated manpower.

"Thus the question of the national welfare is no longer at issue. At issue is the question of equity."

The council said it supported the thrust of last year's draft law under which the Nixon administration has set up a lottery system.

Under this system, college undergraduates continue to enjoy deferments while enrolled but face the same draft prospects as 19-year-olds after they graduate. A council source said some 1,705,000 students had 11–S deferments as of last month.

The council proposed both an end to new deferments and a Presidential order providing a "transition period" for students already deferred.

"With a random selection system in place," it concluded, "and with the elimination of student and, we trust, occupational deferments, induction should be based on a national call-up in the order of randomly selected numbers."

Dropping undergraduate deferments would require amending the 1967 Selective Service Act, which eliminated deferments for most graduate students but guaranteed that undergraduates would stay immune.

The Senate Armed Services Committee is pledged to hold new draft-reform hearings this winter to satisfy lawmakers who want a broader overhaul than last year's measure provided. Defense Secretary Melvin R. Laird disclosed recently that the administration is planning moves toward eliminating student, occupational and parental deferments.

EXHIBIT 3

[Supreme Court of the United States, No. 71.—October Terms, 1969]

DAVID EARL GUTKNECHT, PETITIONER, *v.* UNITED STATES

On Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit

[January 19, 1970]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

This case presents an important question under the Military Selective Service Act of 1967. 62 Stat. 604, as amended, 65 Stat. 75, 81 Stat. 100.

Petitioner registered with his Selective Service Local Board and was classified I–A. Shortly thereafter he received a II–S (student) classification. In a little over a year he notified the Board that he was no longer a student and was classified I–A. Meanwhile he had asked for an exemption as a conscientious objector. The Board denied that exemption, reclassifying him as I–A, and he appealed to the State Board. While that appeal was pending, he surrendered his registration certificate and notice of classification by leaving them on the steps of the Federal Building in Minneapolis with a statement explaining he was opposed to the war in Vietnam. That was on October 16, 1967. On November 22, 1967, his appeal to the State Board was denied. On November 27, 1967, he was notified that he was I–A.

On December 20, 1967, he was declared delinquent by the local board. On December 26, 1967, he was ordered to report for induction on January 24, 1968. He reported at the induction center, but in his case the normal procedure of induction was not followed. Rather, he signed a statement, "I refuse to take part or all [*sic*] of the prescribed processing." Thereafter he was indicted for wilfully and knowingly failing and neglecting "to perform a duty required of him" under the Act. He was tried without a jury, found guilty, and sentenced to four years' imprisonment. 283 F. Supp. 945. His conviction was affirmed by the Court of Appeals. 406 F 2d 494. The case is here on a petition for a writ of certiorari 394 U.S. 997.

I

Among the defenses tendered at the trial was the legality of the delinquency Regulations which were applied to petitioner. It is that single question which we will consider.

By the Regulations promulgated under the Act a local board may declare a registrant to be a "delinquent" whenever he "has failed to perform any duty or duties required of him under the selective service law other than the duty to comply with an Order to Report for Induction (SSS Form No. 252) or the duty to comply with an Order to Report for Civilian Work and Statement of Employer (SSS Form No. 153) . . . ." 32 CFR § 1642.4.

In this case, petitioner was declared a delinquent for failing to have his registration certificate (SSS Form No. 2) and current classification notice (SSS Form No. 110) in his personal possession at all times, as required by 32 CFR §§ 1617.1 and 1623.5 respectively.

The consequences of being declared a delinquent under § 1642.4 are of two types: (1) Registrants who have deferments or exemptions may be reclassified in one of the classes available for service, I–A, I–A–O, or I–O, whichever is deemed applicable. 32 CFR § 1642.12. (2) Registrants who are already classified I–A, I–A–O, or I–O, and those who are reclassified to such a status, will be given first priority in the order of call for induction, requiring them to be called even ahead of volunteers for induction. 32 CFR § 1642.13. The latter consequence deprives the regis-

trant of his previous standing in the order of call as set out in 32 CFR § 1631.7.[1]

The order-of-call provision in use when petitioner was declared "delinquent" [2] is set out in 32 CFR § 1631.7(a). The provision lists, in order, six categories of registrants and provides that the registrants shall be selected and ordered to report for induction according to the order of those categories. The first category is delinquents; the next category is volunteers; the other four categories are comprised of nonvolunteers. In this case, the petitioner was in the third of the six categories at the time he was declared to be a "delinquent." By virtue of the declaration of delinquency he was moved to the first of the categories which meant, according to the brief of the Department of Justice, that "it is unlikely that petitioner, who was 20 years of age when ordered to report for induction, would have been called at such an early age had he not been declared a delinquent."

If a person, who is ordered to report for induction or alternative civilian service, refuses to comply with that order, he subjects himself to criminal prosecution. See 32 CFR §§ 1642.41, 1660.30.

There is no doubt concerning the propriety of the latter criminal sanction, for Congress has specifically provided for the punishment of those who disobey selective service statutes and regulations in § 12 of the Military Selective Act of 1967, 50 U. S. C. App. § 462. The question posed by this case concerns the legitimacy of the delinquency. Regulations, which were applied to the petitioner, so as to deprive him of his previous standing in the order of call.

II

There is a preliminary point which must be mentioned and that is the suggestion that petitioner should have taken an administrative appeal from the order declaring him "delinquent" and that his failure to do so bars the defense in the criminal prosecution.

The pertinent Regulation is 32 CFR § 1642.14, which gives a delinquent who "is classified in or reclassified into Class I–A, Class I–A–O or Class I–O" three rights:

(a) the right to a personal appearance, upon request, *"under the same circumstances as in any other case";*

(b) the right to have his classification reopened *"in the discretion of the local board";* and

(c) the right to an appeal *"under the same circumstances and by the same persons as in any other case."*

The right to a personal appearance "in any other case" is covered by 32 CFR § 1624.1 (a). That section gives the right to "every registrant *after his classification is determined by the local board*" provided a request is made therefor within 30 days. The action taken against this petitioner, however, did not involve classification. The term "classification" is used exclusively in the Regulations to refer to classification in one of the classes determining availability for service, *e.g.*, I–A, I–O. See 32 CFR Pts. 1621–1623. "Delinquency" is not such a classification, and a registrant is "declared" a delinquent, *not* "classified" as a delinquent. See 32 CFR Pt. 1642.

The right to reopen his classification is also irrelevant to petitioner as he is not attacking his classification, but only his accelerated induction.

The right to appeal "in any other case" is covered by 32 CFR § 1626.2(a). That section provides that "the registrant . . . may appeal to an appeal board *from the classification of a registrant by the local board.*"

Again, since petitioner was not classified in conjunction with his delinquency, but only had his induction accelerated, it would mean that he did not have the right to an appeal under the Regulations.[3] We are not advised in any authoritative way, that this interpretation of the Regulations is contrary to the administrative construction of them or to the accepted practice.[4]

III

We come then to the merits. The problem of "delinquency" goes back to the 1917 Act, as shown in the Appendix to this opinion. The present "delinquency" Regulations with which we are concerned stem from the 1948 Act.

The Regulations issued under the 1948 Act were substantially identical to the present delinquency regulations. 32 CFR, Pt. 1642. Nothing in the 1948 Act or in any prior Act makes reference to delinquency or delinquents. The regulations purport to issue under the authority of § 10 of the 1948 Act. Section 10, however, relates neither to selection (§ 5) nor to deferments and exemptions (§ 6), but simply to the administration of the Act as delegated to the President: "The President is authorized—(1) to prescribe the necessary rules and regulations to carry out the provisions of this title." 62 Stat. 619.

The delinquency provisions of 32 CFR, Pt. 1642, survived the 1967 Military Selective Service Act largely intact. Again, however, there is nothing to indicate that Congress authorized the Selective Service System to reclassify exempt and deferred registrants for punitive purposes and to provide for accelerated induction of delinquents. Rather, the Congress reaffirmed its intention under § 12 (50 U.S.C. App. § 462), to punish delinquents through the criminal law.

It is true, of course, that Congress referred to "delinquents" in § 6(h)(1), 81 Stat. 102, 50 U.S.C. App. § 456(h)(1):

"As used in this subsection, the term 'prime age group' means the age group which has been designated by the President as the age group from which selections for induction into the Armed Forces are first to be made *after delinquents* and volunteers." (Emphasis added.)

This reference concerns only an order-of-call provision which institutes a call by age groups, 32 CFR § 1631.7(b), a provision which has never been used. This casual mention of the term "delinquents," moreover, must be measured against the explicit congressional provision for criminal punishment of those who violate the selective service laws, 50 U.S.C. App. § 462, the congressional provision for exemptions and deferments, 50 U.S.C. App. § 456, and congressional expressions emphasizing the importance of an impartial order of call, 50 U.S.C. App. § 455; H. R. Rep. No. 346, 90th Cong., 1st Sess., at 9–10. Thus it was that the Solicitor General stated in his brief in *Oestereich* v. *Selective Service Board*, 393 U.S. 233:

"'It is difficult to believe that Congress intended the local boards to have the unfettered discretion to decide that any violation of the Act or regulations warrants a declaration of delinquency, reclassification and induction. . . .' Brief for the United States, at 54.

Judge Dooling stated in *United States* v. *Eisdorfer*, 299 F. Supp. 975, 989:

"The delinquency procedure has no statutory authorization and no Congressional support except what can be spelled out of the 1967 amendment to 50 U.S.C. App. § 456(h)(1). . . . The delinquency regulations, moreover, disregard the structure of the Act; deferments and priorities-of-induction, adopted in the public interest, are treated as if they were forfeitable personal privileges."

Oestereich involved a case where a divinity school student with a statutory exemption and a IV–D classification was declared "delinquent" for turning in his registration certificate to the government in protest to the war in Vietnam. His Board thereupon reclassified him as I–A. After he exhausted his administrative remedies, he was ordered to report for induction. At that point he brought suit in the District Court for judicial review of the action by the Board. We held that under the unusual circumstances of the case, pre-induction judicial review was permissible prior to induction and that there was no statutory authorization to use the "delinquency" procedure to deprive a registrant of a statutory exemption. We said:

"There is no suggestion in the legislative history that, when Congress has granted an exemption and a registrant meets its terms and conditions, a Board can nonetheless withhold it from him for activities or conduct not material to the grant or withdrawal of the exemption. So to hold would make the Board's free-wheeling agencies meting out their brand of justice in a vindictive manner.

"Once a person registers and qualifies for a statutory exemption, we find no legislative authority to deprive him of that exemption because of conduct or activities unrelated to the merits of granting or continuing that exemption." 393 U.S. at 237.

The question in the instant case is different because no "exemption," no "deferment," no "classification" in the statutory sense is involved. "Delinquency" was used here not to change a classification but to accelerate petitioner's induction from the third category to the first; and it was that difference which led the Court of Appeals to conclude that what we said in *Oestereich* was not controlling here.

Deferment of the order of call may be the bestowal of great benefits; and its acceleration may be extremely punitive. As already indicated, the statutory policy is the selection of persons for training and service "in an impartial manner." 50 U.S.C. App. § 455 (a)(1). That is the only express statutory provision which gives specific content to that

[1] Under the terms of 32 CFR § 1631.7(a)(1) in effect at the time of petitioners trial, the first in line for induction were "Delinquents who have attained the age of 19 years in the order of their dates of birth with the oldest being selected first." That provision has been included in the new § 1631.7(a) promulgated after the random system of selection, discussed hereafter, was adopted.

[2] The order of call provided for by 32 CFR § 1631.7(b) concerned calls of designated "age group or groups," a system never used.

[3] Cf. *McKart* v. *United States*, 395 U.S. 185. In *McKart*, the petitioner, who challenged his I–A classification, was given a right to appeal under the Regulations but failed to exercise it. This Court held that this failure did not preclude the petitioner from raising the invalidity of his I–A classification as a defense to his prosecution for refusal to report for induction. The doctrine of exhaustion of remedies, we held, was inapplicable where the question sought to be raised was solely one of statutory interpretation, *id.*, at 197–199, and where application of the doctrine would serve to deprive a criminal defendant of a defense to his prosecution. *Id.*, at 197.

[4] The Department of Justice does not suggest that a registrant who has been declared a "delinquent" has administrative remedies for a review of that action. It points out, however, that the Regulations, 32 CFR § 1642.4(c), provide that "A registrant who has been declared to be a delinquent may be removed from that status by the local board at any time." It suggests that "at least up to the time of the issuance of the order to report for priority induction, it would be an abuse of discretion for a board to refuse removal in the case of a registrant who sought in good faith to correct his breach of duty." Whatever may be the ultimate reach of 32 CFR § 1642.4(c), it seems to be conceded that it has little relevance to the present case where the Department states, "the local board has solid evidence that petitioner had dispossessed himself of his draft card."

phrase. That section does permit people registered at one time to be selected "before, together with, or after" persons registered at a prior time. Moreover, those who have not reached the age of 19 are given a deferred position in the order of call. But those variations in the phrase "in an impartial manner" are of no particular help in the instant case, except to underline the concern of Congress with the integrity of that phrase.

We know from the legislative history that, while Congress did not address itself specifically to the "delinquency" issue, it was vitally concerned with the order of selection, as well as with exemptions and deferments. Thus in 1967 a Conference Report brought House and Senate together against the grant of power to the President to initiate "a random system of selection"—a grant which, it was felt, would preclude Congress from "playing an affirmative role" in the constitutional task of "raising armies." H. Rep. No. 346, *supra*, at 9–10. It is difficult to believe that with that show of resistance to grant of a more limited power, there was acquiescence in the delegation of a broad, sweeping power to Selective Service to discipline registrants through the "delinquency" device.

The problem of the order of induction was once more before the Congress late in 1969. Section 5(a)(2) of the 1967 Act, 50 U.S.C. App. § 455 (a)(2) provided:

"Notwithstanding the provisions of paragraph (1) of this subsection, the President in establishing the order of induction for registrants within the various age groups found qualified for induction shall not effect any change in the method of determining the relative order of induction for such registrants within such age groups as has been heretofore established and in effect on the date of enactment of this paragraph, unless authorized by law enacted after the date of enactment of the Military Selective Service Act of 1967."

While § 5(a)(2) gave the President authority to designate a prime age group for induction, it required him to select from the oldest first within the group. S. Rep. No. 91–531, 91st Cong., 1st Sess., p. 1. The Act of November 26, 1969, 83 Stat. 220, repealed § 5(a)(2) pursuant to a request of the President that a random system of selection be authorized. See S. Rep. No. 91–531, *supra*, pp. 3–4; H.R. Rep. No. 91–577, 91st Cong., 1st Sess., pp. 2, 9.[5] The random system has now been put in force.[6] It applies of course only prospectively. But its legislative history, as well as the concern of the Congress that the order in which registrants are inducted be achieved "in an impartial manner," emphasizes a deep concern by Congress with the problems of the order of induction as well as with those of exemptions, deferments, and classifications.

While § 5(a)(1) provides that "there shall be no discrimination against any person on account of race or color," 50 U.S.C. App. § 455(a)(1), there is no suggestion that as respects other types of discrimination the Selective Service has free-wheeling authority to ride herd on the registrants using immediate induction as a disciplinary or vindictive measure.

The power under the regulations to declare a registrant "delinquent" has no statutory standard or even guidelines. The power is exercised entirely at the discretion of the local board. It is a broad, roving authority, a type of administrative absolution not congenial to our law-making traditions. In *Kent* v. *Dulles*, 357 U.S. 116, 128–129, we refused to impute to Congress the grant of "unbridled discretion" to the Secretary of State to issue or withhold a passport from a citizen "for any substantive reason he may choose." *Id.*, at 128. Where the liberties of the citizen are involved, we said that "we will construe narrowly all delegated powers that curtail or dilute them." *Id.*, at 129. The Director of Selective Service described the "delinquency" regulations as designed "to prevent, wherever possible, prosecutions for minor infraction of rules" during the selective service processing.[7] We search the Act in vain for any clues that Congress desired the Act to have punitive sanctions apart from the criminal prosecutions specifically authorized. Nor do we read it as granting personal privileges which may be forfeited for transgressions which affront the local board. If federal or state laws are violated by registrants, they can be prosecuted. If induction is to be substituted for these prosecutions, a vast rewriting of the Act is needed. Standards would be needed by which the legality of a declaration of "delinquency" could be judged. And the regulations, when written, would be subject to the customary inquiries as to infirmities on their face or in their application, including the question whether they were used to penalize or punish the free exercise of constitutional rights.

Reversed.

MR. CHIEF JUSTICE BURGER concurs in the result reached by the Court generally for the reasons set out in the separate opinion of MR. JUSTICE STEWART.

MR. JUSTICE WHITE joins the opinion of the Court insofar as it holds that Congress has not delegated to the President the authority to promulgate the delinquency regulations involved in this case.

APPENDIX

Under the Selective Service Act of 1917, 40 Stat. 76, if a registrant failed to return his questionnaire or to report for physical examination, he was mailed a special order directing him to report for military service at a specified time. The registrant became a member of the service on the date specified in his order; any refusal to obey that order subjected him to prosecution under military law for desertion. "Since in most instances the delinquent registrant would never receive the order, due to not being in contact with his local board, he would normally acquire the status of a deserter without having any knowledge of his induction." Selective Service System, Enforcement of the Selective Service Law 13 (Special Monograph No. 14, 1950). Thus, enforcement of the 1917 Act rested principally with the military, with court martial being the main weapon of enforcement.

In passing the Selective Training and Service Act of 1940, 54 Stat. 885, Congress specifically ended the practice of subjecting delinquent registrants to military jurisdiction immediately upon receipt of their orders to report. Rather, § 11 of the Act provided that no registrant should be tried in a military court for disobeying selective service laws until he had been actually inducted, vesting criminal jurisdiction until such time in the United States district courts.

No mention was made in the 1940 Act of "delinquency" or "delinquents." These terms were first introduced by the Selective Service regulations issued under the Act, 32 CFR, c. VI (1940 Supp.), which prescribes various duties for registrants and defined a "delinquent" as one who fails to perform them:

"A 'delinquent' is . . . (b) any registrant who prior to his induction into the military service fails to perform at the required time, or within the allowed period of given time, any duty imposed upon him by the selective service law, and directions given pursuant thereto, and has no valid reason for having failed to perform that duty." 32 CFR § 601.106 (1940 Supp.).

Furthermore, the Regulations provided definite procedures for processing delinquents: after giving them notice of their suspended delinquency, 32 CFR § 603.389 (1940 Supp.), and after investigating those suspected charges, 32 CFR § 603.390 (1940 Supp.), the Selective Service System provided for two possible dispositions:

On the one hand—

"If the local board is convinced that a delinquent is not innocent of wrongful intent, or if a suspected delinquent does not report to the board within 5 days after the mailing of the Notice of Delinquency . . . , the board should report him to a United States District Attorney for prosecution under section 11 of the Selective Service Act." 32 CFR § 603.391 (a) (1940 Supp.).

On the other hand—

"If the board finds that the suspected delinquent is innocent of any wrongful intent, the local board shall proceed with him just as if he were never suspected of being delinquent." 32 CFR § 603.390(a) (1940 Supp.).

The February 1942 amendments to the Regulations added a provision by which local boards would advise the United States Attorney in the exercise of his discretion not to prosecute those who had violated the selective service laws:

"If it is determined that the delinquency is not willful, or that substantial injustice will result, the local board should encourage the delinquent to comply with his obligations under the law and, if he does so or offers to do so, should urge that any charge of delinquency against him or any prosecution of him for delinquency be dropped." 32 CFR § 642.5 (1938–1943 Supp.).

This process was called the "enforcement procedure of education and persuasion." Selective Service System, Enforcement of the Selective Service Law, *supra*, at 1–3.

"The first steps of the board were to try educating and persuading [the delinquent] to comply, but if such failed his case was referred to the United States attorney for further education and persuasion, or if such also failed, for prosecution." Selective Service System, Organization and Administration of the System 241 (Special Mono. No. 3, 1951).

If it was determined that the delinquency was "willful" or that for any reason the United States Attorney should not exercise his discretion not to prosecute, the registrant was given an opportunity to avoid prosecution by "volunteering" for induction.

"[T]he registrant could volunteer for induction from any classification, not just I–A, any time he so desired, and if he was a delinquent under prosecution such volunteering was often allowed from any stage of the proceedings." *Ibid.*

This procedure made it possible for the

[5] And see Cong. Rec., vol. 115, pt. 24, p. 32077 *et seq.*, *ibid.* October 30, 1969, pp. 32426 *et seq.*, 32438 *et seq.*, *ibid.* November 19, 1969 p. 34828 et seq.

[6] The random selection was established by the President through Proclamation 3945, on November 26, 1969. 34 Fed. Reg. 19017 (November 29, 1969).

[7] "The escalation of the United States military involvement in Vietnam increased the draft calls, and there was an upsurge of public demonstrations in protest. Some of these protests took the form of turning 'draft' cards in to various public officials of the Department of Justice, the State or National Headquarters of Selective Service System, or directly to local boards. By agreement with the Department of Justice, registrants who turned in cards (as contrasted to those who burned cards) were not prosecuted under section 12(a) of the Military Selective Service Law of 1967, but were processed administratively by the local boards. In many instances, the local boards determined that a deferment of such registrant was no longer in the national interest, and he was reclassified 1–A delinquent for failure to perform a duty required of him under the Act, namely retaining in his possession the Registration Card and current Notice of Classification card." Hershey, Legal Aspects of Selective Service 46–47 (1969).

boards to siphon into military service some delinquents who might otherwise have traveled to jail:

"Since the purpose of the [selective service] law is to provide men for the military establishment rather than for the penitentiaries, it would seem that when a registrant is willing to be inducted, he should not be prosecuted for minor offenses committed during his processing." Selective Service System, Legal Aspects of the Selective Service System, at 42 (1963).

In November 1943, a new and substantially different set of regulations were issued. These regulations did not rely upon a delinquent's "volunteering" for induction; instead they provided for reclassification of deferred or exempted delinquents into classes available for service, 32 CFR § 642.12(a) (1943 Supp.), and provided for their priority induction without regard to the order of call established elsewhere in the regulations, 32 CFR § 642.13(a) (1943 Supp.).

A deferred or exempted registrant who was reclassified into a class available for service was accorded the procedural rights of personal appearance and appeal to which he would otherwise have been entitled. 32 CFR § 642.14(a) (1943 Supp.). In the case of a registrant who was not reclassified as a result of his delinquency, the local board could "reopen" the classification and accord rights of personal apearance and appeal "at any time before induction." 32 CFR § 642.14 (b) (1943 Supp.). If the local board determined that the registrant "knowingly became a delinquent," however, it was directed to decline to reopen the registrant's classification. *Ibid.*

With respect to those registrants who were given appeal rights under § 642.14, the appeal board would determine if they had "knowingly" become delinquents. If they had, they were to be retained in a class available for service. If they had not, they were to be "classified on appeal in the usual manner" and their status as delinquents was to be "disregarded." 32 CFR § 642.14(c) (1943 Supp.).

The purpose of these regulations was *"to prevent delay* in the induction of apprehended delinquent registrants." Selective Service System, Enforcement of the Selective Service Law, *supra*, at 56 (1950). More important, the Service recognized that the procedure had little to do with the statutory exemptions delineated by Congress but, rather, was punitive in nature:

"[T]he Selective Service Regulations concerning delinquents were amended again on November 1, 1943. The purposes of these changes were . . . *To provide for the administrative penalty to a delinquent* of prompt classification into Classes I–A, I–A–O or IV–E, as available for service, *in addition to the existing criminal sanction.*" (*Ibid.*) (Emphasis added.)

The regulation of November 1, 1943, purportedly drew its authority from § 3 of the 1940 Act. 54 Stat. 885. Nothing in that section, however, gives the Service powers of punitive reclassification and accelerated induction. Moreover, to the extent that § 3 has been so construed, it would conflict with the spirit of § 4(a):

"The selection of men for training and service under section 3 . . . shall be made in an impartial manner, under such rules and regulations as the President may prescribe, from the men *who are liable for such training and service* and who at the time of selection are registered and classified *but not deferred or exempted.*" 54 Stat. 887 (emphasis added).

The delinquency provisions under the 1940 Act expired in March 31, 1947. The provisions issued under the 1948 Act are discussed in the text, *supra*.

[Supreme Court of the United States No. 71.—October Term, 1969]

DAVID EARL GUTKNECHT, PETITIONER, *v.* UNITED STATES

On writ of certiorari to the United States Court of Appeals for the Eighth Circuit

[January 19, 1970]

MR. JUSTICE HARLAN, concurring.

I join the Court's opinion with the following observations. First, as I see it, nothing in the Court's opinion prevents a selective service board, under the present statute and existing regulations, from classifying as I–A a registrant who fails to provide his board with information essential to the determination of whether he qualifies for a requested exemption or deferment. Section 1622.10 of 32 CFR provides that: "In Class I–A shall be placed every registrant who has failed to establish to the satisfaction of the local board, subject to the appeal hereinafter provided, that he is eligible for classification in another class." I assume, of course, that under this regulation a board has no authority to keep a registrant classified I–A once it has information which justifies some lower classification.

Second, I think it entirely possible that consistent with our opinion today the President might promulgate new regulations, restricted in application to cases in which a registrant fails to comply with a duty essential to the classification process itself, that provide for accelerated induction under the existing statute. However, in order to avoid those punitive features now found to be unauthorized under existing legislation, any new regulations would have to give to a registrant being subjected to accelerated induction the right (like a person held in civil contempt) to avoid any sanction by future compliance. In other words, while existing legislation does not authorize the use of accelerated induction to punish past transgressions, it may well authorize acceleration to encourage a registrant to bring himself into compliance with rules essential to the operation of the classification process.

[Supreme Court of the United States, No. 71.—October Term, 1969]

DAVID EARL GUTKNECHT, PETITIONER, *v.* UNITED STATES

On writ of the certiorari to the United States Court of Appeals for the Eighth Circuit

[January 19, 1970]

MR. JUSTICE STEWART, concurring in the judgment.

I do not reach the question whether Congress has authorized the delinquency regulations, because even under the regulations the petitioner's conviction cannot stand. After the petitioner's local board declared him delinquent, he had 30 days as a matter of right to seek a personal appearance before the board and to take an appeal from its ruling. Yet the board gave him no chance to assert either of those rights. Instead, it ordered him to report for induction only five days after it had mailed him a notice of the delinquency declaration.

The local board thus violated the very regulations it purported to enforce. Those provisions seek to induce Selective Service registrants to satisfy their legal obligations by presenting them with the alternative prospect of induction into the armed forces. The personal appearance and appeal are critical stages in the delinquency process. They enable the registrant declared delinquent by his local board to contest the factual premises on which the delinquency declaration rests, to correct his oversight if the breach of duty has arisen merely from neglect, or to purge himself of his delinquency if his violation has been willful. In any event, the regulatory objective is remedial. The board's authority to reclassify a registrant based on his delinquency and to accelerate his induction is analogous to the age-old power of the courts to pronounce judgments of civil contempt. In each case the subject of the order "carries the keys . . . in his own pocket" to the termination of the order's effect.[1]

The Government has advanced the civil-contempt analogy not only in this case, but also in others before the Court both this Term and last.[2] Such an interpretation of the delinquency regulations comports with the view of the agency charged with their administration—that their purpose is to provide young men for the armed services, not the penitentiaries.[3] It comports, as well, with the regulatory scheme itself, under which the local board may reopen its classification of a delinquent registrant without regard to the usual restrictions against such action,[4] and remove the registrant from delinquency status at any time, even after it has ordered him to report for induction.[5]

The civil-contempt interpretation draws further support from the historical development of the law of Selective Service delinquency. In the First World War, one who failed to fill out his questionnaire was simply inducted into the military, and his failure to report for duty led to a court-martial for desertion. See *United States ex rel. Bergdoll* v. *Drum*, 107 F. 2d 897, 899 By the Second World War, when the precursor of the present delinquency regulations first appeared, 32 CFR §§ 601.106, 603.389–603.393 (Supp. 1940), the law provided compliance procedures for registrants who offered to satisfy their obligations, even after their boards had referred their cases to the United States Attorneys for prosecution. 32 CFR § 642.5 (Supp. 1938–1943). However, from 1943 on, the regulations required denial of reopenings for knowingly delinquent registrants. 32 CFR § 642.14(b) (Supp. 1943). Under the present regulations even a registrant whose delinquency is willful may redeem himself before his local board. Surely this historical progression demonstrates that whatever may have been the punitive nature of the draft law's initial response to the delinquency problem, its present character is remedial: recalcitrant registrants are handled in civilian rather than military proceedings, and receive an opportunity to recant even where their dereliction has been purposeful.

Such an understanding of the delinquency regulations underlies recent decisions in the federal courts, *e.g.*, *Wills* v. *United States*, 384 F. 2d 943, 945–946, cert.

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[1] Cf. *Shillitani* v. *United States*, 384 U.S. 364, 368–372; *Green* v. *United States*, 356 U.S. 165, 197–198 (BLACK, J., dissenting); *Penfield Co.* v. *SEC*, 330 U.S. 585, 590; *United States* v. *United Mine Workers*, 330 U.S. 258, 330–332 (BLACK and DOUGLAS, JJ., concurring in part and dissenting in part).

[2] The Government has spelled out the analogy in its briefs in *Oestereich* v. *Selective Service Local Bd. No. 11*, 393 U.S. 233; *Breen* v. *Selective Service Local Bd. No. 16*, *post*, p. —; *Troutman* v. *United States*, *No.* 623, cert. pending; and the present case. See also Griffiths, Punitive Reclassification of Registrants Who Turn in Their Draft Cards, 1 Sel. Serv. L. Rep. 4001, 4010–4012.

[3] L. Hershey, Legal Aspects of Selective Service 47 (1969).

[4] 32 CFR § 1642.14(b) (Supp. 1969); cf. 32 CFR § 1625.2 (Supp. 1969).

[5] 32 CFR § 1642.4(c) (Supp. 1969). Of similar import is the board's authority, before notifying the local United States Attorney that a registrant has failed to report for induction, to wait 30 days if it believes it may be able to locate the registrant and secure his compliance. 32 CFR § 1642.41(a) (Supp. 1969).

denied, 392 U.S. 908; *United States* v. *Bruinier*, 293 F. Supp. 666, including those upholding the constitutionality of the regulations, *e.g.*, *Anderson* v. *Hershey*, 410 F. 2d 492, 495–496, n. 10, 498, nn. 15–16, 499, cert. pending; cf. *United States* v. *Branigan*, 299 F. Supp. 225, 236–237; but see *United States* v. *Eisdorfer*, 299 F. Supp. 975, 984–989, prob. juris. pending.

Accordingly, even though the regulations seem to say that such reopening and removal lie within the discretion of the local board,[6] the Government agrees that the board would abuse its discretion if it refused such remedial relief to a registrant who breached his duty inadvertently or carelessly, or who sought to correct the breach, even if originally willful, and to return to compliance with his obligations.[7] But the Government argues that in this case the petitioner cannot avail himself of these provisions in the delinquency regulations, because he made no effort to correct his delinquency. The fact is that the petitioner's local board never gave him a chance to purge his delinquency. It declared him a delinquent on December 20, 1967, sent him a notice to that effect the next day, and five days later ordered him to report for induction, more than two weeks before the expiration of the petitioner's time to seek a personal appearance or take an appeal.[8] In these circumstances the petitioner's failure to seek his local board's advice on what he should do, as suggested by the delinquency notice, does not detract from the force of his attack upon the validity of his criminal conviction.[9]

The Government also argues that the petitioner was not prejudiced by the local board's departure from the prescribed regulatory routine because when he was declared delinquent he was already classified I–A. But the Court of Appeals noted that the petitioner's induction date was advanced as a result of the declaration,[10] and the Government concedes that since the petitioner was only 20 years old at the time, it is unlikely that he would have been called at such an early date had he not been declared a delinquent. That the petitioner might eventually have been called—by no means a certainty, given the variations in draft calls and the possibility that he might subsequently have qualified for a deferment or exemption—does not mean he cannot complain that he was ordered to report for induction earlier than he should have been.[11]

[6] Sec. 32 CFR §§ 1642.4(c), 1642.14(b) (Supp. 1969).

[7] The Government qualifies its interpretation by implying that a local board might not abuse its discretion in refusing removal in the case of a registrant who sought in good faith to correct his breach of duty *after* the board had issued its order to report for induction. But that limitation has no application in the present case, where the local board improperly issued the order to report before the petitioner had a chance to bring himself into compliance. In *Troutman* v. *United States*, *supra*, where the Solicitor General has conceded that the local board erred in refusing to remove the petitioner's delinquency after he sought to bring himself into compliance with his Selective Service duties, nearly six months intervened between the board's declaration of delinquency that the petitioner sought to cure and its order to report for induction that gave rise to the prosecution for failure to submit to induction.

[8] 32 CFR §§ 1642.14, 1624.1(a), 1642.2(d), 1626.2(c)(1) (Supp. 1969).

[9] Cf. *McKart* v. *United States*, 395 U.S. 185, 197.

[10] 406 F. 2d 494, 496.

[11] *United States* v. *Baker*, 416 F. 2d 202, 204–205; *Yates* v. *United States*, 404 F. 2d 462, 465–466, rehearing denied, 407 F. 2d 50, cert. denied, 395 U.S. 925; *United States* v. *Smith*, 291 F. Supp. 63, 67–68; *United States* v. *Lybrand*, 279 F. Supp. 74, 77–83.

[12] See 32 CFR § 1631.7(a) (Supp. 1969).

[13] Cf. 32 CRF §§ 1642.12, 1642.13 (Supp. 1969).

Finally, it is said that the petitioner had no right to a personal appearance before the local board and an appeal from its ruling because its delinquency declaration did not entail his removal into Class I–A from some other category. Since the petitioner was already I–A, the argument runs, his local board never "reclassified" him; it just shifted him from a lower to the highest category within the I–A order of call.[12] Neither logic nor policy supports such a narrow reading of the regulations. Section 1642.14 specifically provides for a personal appearance and appeal not only upon a "reclassification into" I–A, but also upon a "classification in" that category.[13] The regulation thus covers precisely those registrants who are already "classified in" Class I–A, and whose declaration of delinquency automatically elevates them to the head of the order of call, as well as those registrants who are not yet in I–A, and who must be "reclassified into" that category before they can be put at the top of the list. The regulation, recognizing that the status of the registrant prior to his being declared delinquent and placed at the head of the order of call is irrelevant to the delinquency process, ensures that all registrants declared delinquent will enjoy the same rights of personal appearance and appeal without regard to their previous status.

Because the challenged regulations afford the petitioner procedural rights that his local board never gave him a chance to exercise, I would reverse the judgment of conviction.

GENOCIDE AND NIGERIA

Mr. PROXMIRE. Mr. President, the bloody Nigerian civil war is over. All war is hell; civil wars with brother pitted against brother are particularly brutal and ugly. Issues tend to be hazy and emotional; formal battlelines are hard to determine; and usually the civilian population suffers the greatest destruction.

It was not pleasant to watch the breakup of the Nigerian Federation when the eastern region withdrew to form the political entity of Biafra. To recall the assassination of northern leaders by a group of predominately Ibo army officers and the ensuing massacre of thousands of Ibos in the north leading to Biafra's succession is but to agonize over history.

The brutality and suffering is hopefully behind. I look to the reemergence of Nigeria as a strong united African nation—a model of how different tribal groups can live and work together developing a strong viable state.

My concern, though, is with the immediate problem of feeding the population in the eastern region, the Ibos as well as those from other tribes, the civilians as well as the military. I am concerned with sheltering the homeless and caring for the sick and wounded.

I shall not attempt to either refute or substantiate the charges of "genocide" which some Ibos in this country now raise. International observers, the Secretary General of the United Nations, and newsmen in Nigeria deny the existence of any policy of genocide and report that the Federal Government is taking immediate and effective steps to prevent death from starvation and disease. I support the efforts of the United States and other countries to send food, medical supplies, and relief equipment to Nigeria through the Federal Government. I only urge that we continue and increase these humanitarian efforts and do all in our power to cut through the redtape making certain all relief supplies benefit the intended recipients. The problem of distribution is both critical and crucial.

Given the traditional tribal animosity which has existed, it is understandable that the Ibos might fear and mistrust the Federal officials who are administering the relief aid and attempting to reestablish civilian government. But the statements of General Gowon eschewing genocide and holding out the hand of friendship to his Ibo countrymen are most encouraging. I am also heartened by reports that the Ibos are coming out of the bush to accept help from the Federal Government.

I am bothered, though, by the fact that Nigeria has not yet ratified the Human Rights Convention on the Prevention and Punishment of the Crime of Genocide; and as I have repeatedly urged the U.S. Senate to ratify the convention, I now strongly urge the Federal Nigerian Government to take immediate steps to ratify the Genocide Convention.

FINANCIAL STATEMENT OF SENATOR SPONG

Mr. SPONG. Mr. President, I ask unanimous consent to have printed in the RECORD a letter addressed to the Secretary of the Senate dated January 19, 1970, wherein I certified as true a complete statement of the financial assets of my wife and myself. I have done this each year since my service in the Senate began.

In addition to the information outlined in the letter, I should like to make an additional comment. For the 3 years I have served in Congress, my salary has been supplemented by income from the law firm with which I have been associated for many years. This has been reflected in the copy of my tax returns filed each year with the Secretary of the Senate. Although the income was limited as to source to avoid conflict of interest, I have elected to no longer participate financially in the firm's proceeds, regardless of source, and will not do so after the end of this month.

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

U.S. SENATE,
Washington, D.C., January 19, 1970.

Hon. FRANCIS R. VALEO,
Secretary of the Senate,
Washington, D.C.

DEAR MR. SECRETARY: My purpose in writing this is to again report to you a statement of the financial status, holdings, and liabilities for my wife and myself. This statement is as of January 1, 1970.

ASSETS

Cash in checking and savings account (after provision for federal income tax for 1969 and other obligations) approximately	$1,000.00
Life insurance policies with the following insurers (currently providing for death benefits	

ASSETS—continued	
totaling $129,500.00): Minnesota Mutual Life Insurance Co.; National Service Life Insurance Co.; Aetna Life Insurance Co.; Southwestern Life Insurance Co.; Jefferson Standard Insurance Co.; Continental Assurance Co.; Federal Employees Group Life Insurance: cash surrender value and accumulated dividends	$16,304.93
Stocks as listed on Schedule A	61,287.00
Note of Cherdel Corp. secured by deed of trust on 200 acres of unimproved property at Great Bridge, Chesapeake, Va	40,000.00
Real Estate: consisting of residence at 316 North St., Portsmouth, Va.; one-half interest in service station at Gosport Rd., Portsmouth, Va	35,000.00
Tangible personal property in Portsmouth home and rented home in Alexandria, Va., estimate	11,000.00
1968 Ford station wagon, Country Squire	2,000.00
Notes Receivable and accounts receivable, estimate	7,750.00
LIABILITIES	
Notes at First National Bank of Norfolk, Norfolk, Va	26,200.00
Note at American National Bank, Portsmouth, Va	5,000.00
Mortgage on home in Portsmouth, Va., at Norfolk Federal Savings & Loan Assn	8,926.94
These figures disclose a net worth of approximately	$134,214.99

The foregoing, Mr. Secretary, I attest as being a true and accurate statement of the financial holdings and liabilities of my wife and myself.

Yours very truly,

WILLIAM B. SPONG, Jr.

JANUARY 19, 1970.

Schedule A

Stocks:	*Number of shares*
Fidelity American Bankshares, Inc.	2,113
Charter Co	150
Old Town Corp	15
Crawford properties	10
Poplar Hill Farm, Inc	21
Cedar Point Country Club	1
Russell Island Corp	3

REPORTS OF DANGEROUS RACIAL CRISIS IN THE NATION'S PUBLIC SCHOOLS

Mr. GURNEY. Mr. President, I have read a very disturbing article in this morning's Washington Post. It was written by Mr. Joseph Alsop and is entitled "Interracial Violence in Schools Requires a Nationwide Survey."

Mr. Alsop reports a recent survey of public schools was conducted by the U.S. Office of Education at the direction of Commissioner James Allen. The results, in Alsop's words, were "hair raising." It is estimated that half the Nation's urban schools and 30 percent of the suburban schools have serious hard-core drug problems. Equally serious is the report that racial tensions are heightening in all of our public schools, North and South.

We are, it seems to me, now confronted with a most urgent and a most dangerous national problem. Mr. Alsop suggests that a new nationwide survey is needed. Perhaps that is the first step; perhaps something more drastic is required. It is a situation that demands our attention and demands remedial action on the national level. It is my hope that this session of the 91st Congress will address itself to these problems immediately.

I ask unanimous consent that Mr. Alsop's penetrating article be printed in the RECORD.

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

INTERRACIAL VIOLENCE IN SCHOOLS REQUIRES A NATIONWIDE SURVEY

(By Joseph Alsop)

It is a hundred to one bet that President Nixon's report on the state of the nation will take no note of a key fact so dangerous that everyone in this nation ought to be thinking about it.

The fact is that something perilously close to race war has now begun in just about every integrated high school in the United States. This is not a Southern problem. It is a nationwide problem, with future political implications so grave that we dare not go on being ostriches about it.

First, however, let us examine the facts, which are not easy to ascertain with absolute precision. This reporter began the attempt about 10 days ago. The spur was a talk with young men in the Office of Education, whom Commissioner of Education James Allen had told to go out and find out, on the spot what was really happening to the U.S. school system.

Their story, as some may remember, was downright hair-raising. They estimated that one-half the center city high schools and about 30 per cent of the suburban high schools had serious hard-drug problems. They further told a melancholy tale of widespread interracial violence in the high schools.

This seemed serious enough to call for further inquiry, and inquiries were duly made. School officials were queried. So were leading figures in the academic-educational world, like Dr. John Naisbitt, of the Urban Research Corporation, which is linked to the University of Chicago, and Prof. Mark Chesler, of the Institute for Social Research at Wisconsin University.

Concerning the racial problem, the results of these inquiries were so disturbing that a more scientific, high-school-by-high-school nationwide census is clearly in order. God pray such a census, if taken, will show different results from the spot checks thus far made.

One must make that prayer, because the spot checks failed to reveal *any* integrated high school, anywhere at all, that was free of the poison of simmering racial conflict. Mercifully, is mostly just simmering—taking the form, that is, of minor aggressions between whites and blacks.

In too many places, moreover, the simmering conflict has already boiled up, or may soon boil over, into major violence between whites and blacks. And in New York, Chicago and elsewhere, there are actually high schools where the race war is so serious that large numbers of police have to be continuously stationed in the school buildings.

The trouble centers in the high schools for two obvious reasons. One is the fact that high school pupils have reached fighting-age. The other is the fact that pupils from different neighborhoods, often with little prior experience of integrated schooling, naturally tend to be mixed up together when they go on to high school.

With reason, Commissioner Allen is deeply concerned about this problem. Last Monday, he held a meeting with men from other potentially interested federal agencies, in the Justice Department and elsewhere. The topic was possible federal leadership in the search for a solution of the problem.

In a few high schools again, although the conflict is still there, something is at least being done about it. In Cleveland, for instance, Shaker Heights High School has inaugurated what are called "dialogue groups" And it also offers human relations courses, and is experimenting with other ways to keep things cool.

Yet the widest inquiries have failed to locate any truly informed man of goodwill who is not deeply discouraged. If you consider the problem politically, moreover, this problem is not just a source of discouragement about the orneriness of human nature. It is a source of really frightening danger to the American political future.

Anyone ought to be able to figure out the automatic effect on racial attitudes of both parents and pupils of virtually omnipresent racial conflict in the integrated high schools. Even if there are no more than minor aggressions, requiring no outside intervention, causing no public clamor, the effect must still be the widespread promotion of prejudice and hatred.

The nauseous George C. Wallace has already spotted that. He is now out to solidify his Southern support by exploiting the special Southern school situation. But he will surely be heard from all over the country, unless the decent majority of both the races goes into action pretty quick.

DICK DUNHAM, RETIRED HEAD OF SPEECH AND DRAMA DEPARTMENT, UNIVERSITY OF WISCONSIN

Mr. McGEE. Mr. President, Dick Dunham, the retired head of the Speech and Drama Department at the University of Wyoming, is, I can attest, a friend of mine. More, he is a distinguished man of the theater whose observations on the modern theater bear some attention.

Recently, while Dunham was directing "Amdromache" at the Changing Scene in Denver, Colo., drama editor Frances Melrose of the Rocky Mountain News, exposed some of his opinions, and something of the man, to public view. I ask unanimous consent that Miss Melrose's article be printed in the RECORD.

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

OPINIONS OF DICK DUNHAM: A FORCEFUL CHANGE FOR GOOD THEATER

(By Frances Melrose)

Underneath the nudity and the four-letter words which are one of the distinctive marks of modern theater, Dick Dunham sees a forceful change for good theater development.

Dunham, retired head of the Speech and Drama Department at the University of Wyoming, is directing his own colloquial English version of "Amdromache," which opens at the Changing Scene Friday night.

Dunham is a tall, tweedy kind of man with a craggy face and bushy mustache. He's a New York native who was "just lucky" and became a member of an East Coast stock company when he was barely out of high school.

After a few months of acting, he enrolled in Cornell University, majoring in literature and theater.

The theater class at the time included names that were to become famous—Sidney Kingsley, playwright; Franchot Tone and Dan Duryea, actors.

Following his graduation, Dunham went to Wayne State University, in Detroit, and later headed the university theater department. He also organized the Wayne State Civic Players which he directed.

"The Players group included Whitfield Connor (later leading man for several seasons at Elitch's Summer Theater in Denver, and now producer of the theater) and Shelley Winters," Dunham recalls.

"I can't claim credit for developing either of them; they just happened to be there. Shelley Winters was working in a nightclub in Detroit at the time, and she came and tried out for the role of Ariel in 'The Tempest.' She did a wonderful job for us."

A love of the out-of-doors eventually brought Dunham and his wife West, to wind up at the University of Wyoming.

Returning to the subject of modern theater, Dunham said: "The new theater that is developing will be different from any theater as we have known it. If you want reality and true-to-life stories, movies and TV are better at depicting them.

"Theater now is going toward the frankly theatrical. Theatricality is being stressed; the idea is to show you that this is a bunch of actors performing."

Dunham chose "Andromache" for his debut at the Changing Scene because he felt it might be of particular interest to members of the Modern Language Association which will be convening in Denver over Christmas.

"I've dabbled in poetry from time to time and decided to try translating these rather formal works into colloquial English," Dunham said.

The cast presenting the show at the Changing Scene will be comprised largely of former students of his.

"The characters of 'Andromache' are violently in love with the wrong persons," Dunham describes the drama. "Through their emotions they tend to show themselves in all their pettiness and spite. While the play is classed as a tragedy, there is a great deal of ironic humor in it."

Dunham will direct other shows at the Changing Scene, and next month will start acting classes there.

"Andromache" will be presented Friday and Monday at 8:30 p.m., and Saturday and Tuesday at 3:30 p.m.

The play is a part of the Changing Scene's Holiday Festival which will run through Dec. 30.

Other offerings in the festival include "Lightscapes," by Alfred Brooks, featuring paintings by Angelo di Benedetto, projections by Susan Maxwell, and music by Tony Scott; Dances, including a premiere by Maxine Munt; John Glam, percussionist in a duo with an electronic tape, and a live accompaniment to film; a monologue by Maria Irene Fornes, performed by Bob Breuler; and a selection of films by Stan Brakhage.

With the exception of "Andromache," which is presented alone, these presentations are offered in different groupings on different nights.

The Changing Scene, 244-5777, will tell you what's playing which night.

THE KIND OF THING YOU JUST DO

Mr. DODD. Mr. President, preoccupied as we are with a troublesome minority, we sometimes have a tendency to forget how many fine young people are making valuable contributions to our society.

Occasionally, however, an incident occurs which reminds us that most of our young people are good, conscientious, and at times, heroic.

Such an incident took place last week in Fort Lauderdale, Fla., where hundreds of college students gather annually to pay tribute to the institution known as "semester break."

Among these vacationers was a young man from Greenwich, Conn., named James Coleman. Mr. Coleman is a senior at American University, and, I am proud to say, he is a member of my staff.

Last Wednesday, a sailboat capsized off the coast of Fort Lauderdale, endangering the lives of four people. Jimmy Coleman happened to be nearby, and without hesitation he "threw my glasses down and ran in," because "it's the kind of thing you just do."

To counter the many stories of violence, drug use and criminal activity of young people and as a well deserved tribute to a fine young man, I ask unanimous consent that an article published in the Fort Lauderdale News be printed in the RECORD.

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

[From the Fort Lauderdale (Fla.) News, Jan. 15, 1970]

SWIMMERS REACH CAPSIZED BOAT; FOUR SAVED FROM SEA

(By Mike Ciochetto)

Two young bystanders have been credited by witnesses with savings the lives of four persons who nearly drowned yesterday afternoon when their boat capsized in the heavy surf just north of the port entrance channel.

Witnesses said the youths, Larry Allison and James Coleman, swam 300 to 400 yards through the pounding waves against heavy winds to reach the floundering boat.

Allison, 17, who lives at 1710 SW 24th St., Ft. Lauderdale, said he was working at the Point of Americas construction site when he saw a wave knock three persons from the boat.

"At first, I thought everything was okay, because two of the people managed to get back into the craft. But before the third person was taken aboard, another wave flipped the boat completely over."

Allison then ran 300 yds. across the sand, removing his boots as he went, and dove into the waves.

Coleman, 21, a winter visitor staying at the Atlantic Tower Apts., 1920 S Ocean Dr., was standing on the beach and joined Allison at this time.

Together, they swam past one of the boaters, Mrs. Eleanor Barsin, stopping only momentarily to assist her in reaching shore.

Once on shore Mrs. Barsin, of 2323 State Rd. 84, was aided by other bystanders.

The youths then swam to the boat and helped two men hang on until a Coast Guard cutter arrived. One of the men had to have his foot, which was caught under the boat, freed by Allison.

Once the boat neared the beach, bystanders grabbed Mrs. Cooney and pulled her to shore where she was taken by helicopter to Holy Cross Hospital.

Allison returned to work.

Asked later if he had given any thought to the danger involved in swimming in the heavy surf, "I thought about it, but I went out anyway."

Coleman, whose home is in Greenwich, Conn., said he has been swimming since he was three years old and when he saw the boat capsized he simply "threw my glasses down and ran in.

"I'm used to the ocean or I don't think I would have plunged in," he admitted today. "It was choppy and when you got about halfway out you wonder about yourself.

"There were big swells out there and just hanging onto the boat was a real effort," he said.

However, he did not consider those factors when he went to the aid of the four persons.

"It's the kind of thing you just do. You don't think about it," he said.

SUMMARY OF UNITED STATES-UNITED NATIONS INITIATIVE ON PRISONER-OF-WAR ISSUE

Mr. MONTOYA. Mr. President, as a followup to my November 20, 1969, statement before the Senate, I requested and have received from the U.S. Department of State a summarization of United Nations activity in behalf of proper treatment of prisoners of war which occurred during the omnibus debate in U.N. Committee III on violations of human rights and fundamental freedoms. Additionally, I have received from the U.S. Representative to the United Nations, Ambassador Charles W. Yost, a letter containing his thoughts on what of value transpired during that debate, and I ask unanimous consent that the text of his letter to me be printed in the RECORD at the conclusion of my remarks.

While I regret that the prisoner-of-war issue has not yet gone before the General Assembly for further debate and eventual adoption of a resolution, nevertheless it is useful and instructive to review efforts made thus far within the United Nations forum on this important humanitarian problem.

Mr. President, you will recall that Mrs. Rita Hauser, U.S. Representative to the Social, Humanitarian, and Cultural Committee of the 24th General Assembly of the United Nations, delivered a strong statement in the Committee on November 11, 1969, concerning American POW's held by North Vietnam, which, along with her November 12, 1969, reply to certain allegations made by Algeria, Cuba, and the U.S.S.R., appeared in the CONGRESSIONAL RECORD, volume 115, part 26, page 35104.

In addition to Mrs. Hauser's statement on the opening day of the Third Committee's omnibus debate, 57 U.N. representatives took part in the debate on the broad general subject of violations of human rights.

According to the summary furnished by the State Department:

There were 18 of these 57 representatives who made statements which included favorable references either specifically to the United States initiative or, equally satisfactory, to the Geneva Convention on treatment of prisoners of war or the need for humanitarian treatment of victims of armed conflicts, including prisoners.

Those 18 representatives were from Australia, Canada, Chile, Costa Rica, France, Greece, Honduras, Iran, Japan, Mexico, Nepal, Netherlands, Nicaragua, Norway, Peru, Tunisia, United Kingdom and Venezuela.

Only the Soviets, some but not all of their Eastern European allies, Algeria, and Cuba spoke against the US initiative. The theme of their attacks generally was that the US, as the "aggressor" in the war, should not raise humanitarian problems since there were greater humanitarian problems for the Vietnamese and since the war ought not to be dealt with in the United Nations.

Because the debate was of an omnibus nature, many delegations spoke only to the particular human rights violations of particular concern to them. Arab delegations spoke virtually exclusively to the Middle East,

and Africans were preoccupied with the problems of Southern Africa.

It was noteworthy that with the exception of some harsh Syrian comments, the Arabs ignored the US in their statements. In their arguments against alleged Israeli violations of human rights in the occupied territories, however, a number of them, particularly Kuwait, Lebanon, and the UAR stressed Israel's obligation to apply the Geneva Convention on treatment of civilian persons in broad language to the effect that a state of war is no excuse for the slightest deviation from a humaritarian convention adopted specifically to alleviate suffering in time of war. This arguments, while applied by the Arabs obviously to a different case than that raised by the US, is virtually identical to that made by the US.

Mr. President, I ask unanimous consent also to have printed in the RECORD, following my remarks today, the verbatim text of excerpts from statements by representatives of Nepal, France, and the Philippines. My November 20, 1969, statement included similar excerpts of statements delivered by representatives of the United Kingdom, Japan, the Netherlands, and Australia, in the CONGRESSIONAL RECORD, volume 115, part 26, pages 35102–35103.

The U.S. Department of State reports that several other statements were particularly helpful, as follows:

Norway's Ambassador Hambro stated just before Mrs. Hauser's speech that "We demand, and I must underline that, we demand full and complete implementation of the four Geneva Conventions by all."

Chile said that any war was a totally unsatisfactory way of solving an international problem but "until such time as combatants settled their disputes by peaceful means there was an obligation to alleviate in some way the disastrous effects of war, not only in relations to the prisoners but in respect of innocent civilian populations.

The *Greek* Representative, Mrs. Daes, spoke in a personal vein, recalling her Red Cross service during World War II as illustrative of the need for war-time enemies to treat their prisoners according to an international humanitarian standard.

Costa Rica said that without regard to political considerations the Committee should be able to express its humanitarian concern for prisoners in Vietnam, not the less because the U.S. appeal was in humanitarian terms and the political organs of the UN have refused to deal with that war.

Iran associated itself with Norway's statement and said it "earnestly hoped" that the Geneva Conventions of 1949 would be applied as the appropriate basis for protecting human rights in all armed conflicts.

Honduras referred to the U.S. statement, said all suffering stemming from an armed conflict was properly in the province of the committee, and that Honduras was impressed at the way the U.S. allows free expression of opposition to government policy on the war.

Tunisia referred to the U.S. statement and said it could not but support calls that the principles of the Geneva Convention be applied in armed conflicts as it had in the same spirit supported a similar call at the International Conference of the Red Cross in Istanbul in September.

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

U.S. REPRESENTATIVE
TO THE UNITED NATIONS,
New York, N.Y., December 2, 1969.

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

DEAR SENATOR MONTOYA: Thank you for your most gracious letter of November 21 concerning our efforts on behalf of United States prisoners of war in North Vietnam. I have shown your letter to Mrs. Rita E. Hauser, who has done a superb piece of work in the careful preparation and explanation of our position.

We were particularly gratified with the response by other delegations to our presentation. The following countries made reference to the need for observance by parties of the provisions of the Convention on Protection of Prisoners of War: Australia, Canada, Chile, Costa Rica, France, Greece, Honduras, Iran, Japan, Mexico, Nepal, Netherlands, Nicaragua, Norway, Peru, Tunisia, United Kingdom, Venezuela. Several delegations referred specifically to American prisoners of war.

Although we were predictably attacked by the USSR, some other Eastern European countries and Algeria, we felt that these attacks were *pro forma* in nature and did not damage our position. On balance, we received an overwhelming measure of support and sympathy which we can only hope will have some impact on Hanoi.

We admire the efforts you are making on behalf of our prisoners of war and we will continue to do all we can at the United Nations to direct international attention to the need for respect for the Geneva Convention.

Sincerely,

CHARLES W. YOST.

EXCERPT FROM STATEMENT BY THE REPRESENTATIVE OF NEPAL

References have been made in the course of these debates to the 1949 Geneva Convention on the Treatment of Prisoners of War. We are aware that differences of opinion exist regarding the categories of combatants entitled to the protection of that Convention as well as its applicability in differing situations of armed conflicts. The greatest merit of the Geneva Convention lies in the spirit of humanitarianism that pervades it. It lays down a minimum standard of international conduct to which all parties to an armed conflict are required to adhere. Without prejudice to the political position of my Government with regard to any particular conflict or conflicts, we have consistently maintained the view that the spirit of that Convention should govern the conduct of all parties to an armed conflict. We support the Secretary-General U Thant's renewed call to Hanoi to allow access to the prisoners by international humanitarian organization, the Red Cross for example. We cannot conceive that Hanoi would flout civilized practices and procedures by ignoring the humanitarian obligations after signing the convention on the Prisoners of War. May I also inform the Committee that my delegation has voted for General Assembly resolutions calling for an extension of the protection of that Convention to Political Prisoners held in course of their fight for freedom.

EXCERPT FROM STATEMENT BY THE REPRESENTATIVE OF FRANCE

"But apartheid is not, by any means, the only instance of serious violation of human rights. There are many others and among the most serious are those present in the minds of all and which have not even been cited here.

"Without wishing to encroach on the examination of a particular agenda item, the French delegation acknowledges that one could remedy most of the violations linked to the existence of armed conflicts if one applied strictly the humanitarian conventions as well as the modalities of control which they provide for. It is not in hurling mutual accusations that parties in conflict will find the solution to the most flagrant and cruellest violations of human rights which are the dishonor of our age. They can be, alas, difficult to dissociate from the contest in which they are found; it is in striving, on the contrary, for the pacification of spirits that one can create a favorable climate for their solution.

"The French delegation is anxious to record here its deep solicitude for all those who are the innocent victims of conflicts, to whichever side they belong. But it considers that it is not possible, that it can not be sound [légitime] to treat concrete cases of violations by abstracting them from the conflicts, the crises for which the violations are only the effects. I should like, with regard to this, to recall to the members of our Committee the text of paragraph 10 of the Proclamation of Teheran:

" 'Massive denials of human rights, arising out of aggression or any armed conflict with their tragic consequences, and resulting in untold human misery, engender reactions which could engulf the world in ever growing hostilities. It is the obligation of the international community to co-operate in eradicating such scourges . . .'

"If one considers the conflicts which are occasioning the most grievous violations of human rights, in the Middle East, in Vietnam and elsewhere, one realizes that my country is striving everywhere to contribute, as much as it can and in circumstances often very difficult for the creation of a climate which could permit or at least facilitate the settlement of conflicts. But it is clear, Madam President, that in such a domaine the limits of the competence of our Committee are rapidly reached, for in each of these cases is not the most serious violation of human rights the conflict itself?"

EXCERPT FROM STATEMENT BY THE REPRESENTATIVE OF THE PHILIPPINES

As I turn to agenda item 57, the Question of the Violations of Human Rights, I am reminded that our Committee has not been quite as vigilant as it should be in its continuing review of *all* violations of human rights and fundamental freedoms. While armed conflicts continue to break out, much to our regret, we have not given the question of protecting the human rights of prisoners captured in war the attention it deserves. Because of the number of prisoners that continue to be held captive by both sides of the war in Vietnam, this particular question has assumed important proportions. Deeply concerned with this question of the plight of the prisoners, no doubt, the Secretary-General has been impelled recently to address an indirect appeal to the "Government of North Vietnam" to give an international humanitarian organization such as the League of Red Cross Societies access to the Americans detained in North Vietnam.

My delegation cannot look with indifference at this vital question. The Philippines joins the urgent plea of the other members of this Committee for all governments of States Members of the United Nations to persuade the Governments of North Vietnam to allow at least the representatives of the League of Red Cross Societies to visit the prisoners in the Vietnam war under its detention. This humanitarian gesture on the part of North Vietnam will only be in keeping with the principle of reciprocity, since the other side in the war has done this and continues to do it.

War in itself alone is already horrible. It should not be aggravated by inhumane treatment of prisoners who no longer serve the purpose of the adversary.

THE SCHOOL LUNCH PROGRAM

Mr. HARRIS. Mr. President, the Committee on Agriculture and Forestry last year concluded hearings on several bills which would amend the National School Lunch Act and the Child Nutrition Act of 1966 in order to expand the provision of free or reduced cost lunches

to needy children under the school lunch program.

According to an Elementary and Secondary Act statistical study, 6 million children in the United States come from families having incomes of $2,000 per year or less or receive aid to families with dependent children. Studies also show that these children are not receiving adequate diets and many of them are suffering from hunger and malnutrition. We are, at the present time providing free or reduced cost meals to approximately 2 million or one-third of these 6 million children through the school lunch program. I am sure we would all agree that this is grossly inadequate and that we must take the necessary steps to make funds available to State and local school districts for the provision of free and reduced cost meals for every child who is suffering from hunger and malnutrition. Every child has the right to a hot lunch at his school lunchroom, and we have an obligation to see that this right is fulfilled.

Mr. President, part of the problem is of an immediate nature and demands our immediate attention. Unless additional funds are made available right away, literally thousands of children who are now receiving free or reduced cost meals will be denied that right in the near future.

In order to point out the urgency of the matter, let me use my own State of Oklahoma as an example. In Oklahoma some 237 school districts are now serving free and reduced cost meals under the provisions of section 11 of the National School Lunch Act. As you know, in order to qualify for financial assistance under section 11 of the National School Lunch Act, a school district must show that 25 percent or more of the students enrolled in that school system come from families of incomes of $3,000 per year or less. There are 237 such school districts in Oklahoma and the percentage of students in some of these school districts which come from families with incomes under $3,000 reaches as high as 80 percent. Oklahoma schools are presently serving between 260,000 and 290,000 meals per day under the school lunch program. Of these meals, 90,000, or one-third, are served free or at a reduced cost, because these children come from families who cannot afford to pay full prices for their lunches.

Oklahoma's allocation of funds to help offset the cost of providing free and reduced cost meals for these 90,000 children under section 11 of the National School Lunch Act is $550,036 for the school year 1969–70. In the first 55 days of this school year Oklahoma has spent $549,382, or, for all practical purposes, Oklahoma has depleted its allocation of funds under section 11 for provision of free or reduced cost meals to needy children.

The State also receives $1,066,434 of section 32 funds which are used to supplement the section 11 funds and to assist the schools in purchasing equipment and other items necessary to conduct their school lunch programs. The State of Oklahoma, recognizing the need to first provide meals for those children who are hungry and who are malnourished, has chosen to use practically all of its section 32 allocation to offset the cost of providing free and reduced cost meals.

Mr. Al Jennings, State school lunch director for the State department of education, has informed me that at the present rate Oklahoma will run out of funds in the first part of March of this year and will have to discontinue their efforts to provide free and reduced-cost meals to needy children at that time. This would mean that 90,000 youngsters would no longer be able to look forward to a hot meal at lunchtime during the remainder of the 1969–70 school year.

I think this demands our immediate attention, and under the provisions of H.R. 11651, a bill which has already passed the House of Representatives and is pending in the Senate Committee on Agriculture and Forestry, an additional $100 million would be made available for allocation to the States during the 1969–70 school year in order to assist them in offsetting the cost of providing free and reduced-cost meals to needy youngsters. This $100 million would not require a new appropriation but would represent a transfer of funds now available under section 32 of the Agriculture Adjustment Act.

I think that this legislation should be enacted immediately in order to make funds available for local school districts to continue to provide free and reduced-cost meals to these children.

Legislation is also pending before the Senate Agriculture Committee which would provide us with the tools and the funds necessary to make free and reduced-cost meals available to needy children on a greatly expanded and long-term basis. The committee has under consideration S. 2548, which proposes significant changes in the present School Lunch Act and the Child Nutrition Act. Under the present law a needy child can receive the benefit of special assistance funds for a free or reduced-price lunch only if he attends a school designated as a special assistance school under section 11 of the School Lunch Act, and under present law, a school can only be designated as eligible for section 11 funds if 25 percent or more of its enrollment is made up of children who come from families with an income of $3,000 per year or less. But what of the school that has 23 percent or 24 percent of its enrollment made up of needy children? Are these children any less hungry than other needy children or are they any less entitled to a free or reduced-cost meal simply because 75 percent of the children in their school come from affluent families? I think not, and under the provisions of the legislation proposed by the distinguished Senator from Georgia (Mr. TALMADGE) funds would be available to provide free and reduced-cost meals to needy children regardless of where they attended school.

This legislation also suggests the appropriation of a minimum of $200 million in fiscal year 1970, $250 million in 1971, and $300 million in 1972 to meet the growing needs of the school lunch program under section 11 of the School Lunch Act. Although the original authorization for funding under section 11 was unlimited, the appropriations have amounted to only $2 million for fiscal year 1967, $5 million for fiscal year 1968, $10 million for fiscal year 1969, and approximately $44 million for fiscal year 1970. Even with these increases the funds are still grossly inadequate to meet the growing needs.

Senator TALMADGE's bill also suggests other changes in the free and reduced-cost school lunch program such as establishing a maximum price of 20 cents on reduced-cost school lunches and guarding against discrimination for children who receive free and reduced-cost lunches and changing the ratio of Federal-State matching funds. This legislation as I have previously stated would meet some of the long-range requirements of the school lunch program and would strengthen the program so that perhaps 4 million or more children who are not now receiving free or reduced-cost hot meals could be brought under the program and would be assured of receiving a nutritious lunch every day during the school year.

I am certainly hopeful that the pending legislation can be enacted and that continuing review of the school lunch program will take into consideration the increased costs and the increased demands on local school districts in providing this vital service to our Nation's children.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of a letter I wrote last December 4 to the chairman of the Committee on Agriculture and Forestry (Mr. ELLENDER) on this subject. The situation is the same now as on December 4, and if we do not act now to provide additional funds, needy children all across the Nation will lose the benefit of free and reduced-cost meals and we will not be meeting our responsibility to reduce hunger and malnutrition in this country.

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

U.S. SENATE,
December 4, 1969.

Hon. ALLEN J. ELLENDER,
Chairman, Agriculture and Forestry Committee, Washington, D.C.

DEAR MR. CHAIRMAN: The School Lunch program is vitally important to the health and education of young children throughout the United States. Your committee has recently concluded hearings on legislation which would significantly increase the funds available for providing nutritious meals to underprivileged children who otherwise might not be able to afford them.

House Bill 11651, which has passed the House, and S. 2548, which was introduced by Senator Talmadge, both make provision for additional funds for school lunches for needy children. While I am not tied to the specifics of either one of these pieces of legislation, I do feel very strongly that we must guarantee nutritious meals to all of our children regardless of their economic condition and ability to pay. My state of Oklahoma has launched on a bold program to make meals available to all our children, and without the additional funds provided in either H.R. 11651 or S. 2548 the program in Oklahoma will fall far short of its aims and funds will be depleted by March of 1970.

I, therefore, urge your committee to act

expeditiously and favorably on either H.R. 11651 or S. 2548 or a combination of the two. We must not risk permanent damages to a child because of inadequate nutrition.

Sincerely,

FRED R. HARRIS.

TWO GREAT LOSSES FOR CONNECTICUT

Mr. DODD. Mr. President, the State of Connecticut lost two outstanding leaders and fine citizens on Sunday, January 18, with the deaths of the Honorable Leroy D. Downs of Norwalk and the Honorable Alfred N. Phillips, Jr., of Darien.

Mr. Downs was elected to the U.S. Congress in 1940 and represented Connecticut's Fourth District for one term.

Born in Danbury, he began his career as a reporter with the South Norwalk Sentinel, of which he eventually became the publisher. He was also active in the American Legion, and he served as chairman of the State veterans home commission.

Mr. Phillips served for three terms as mayor of Stamford, and he represented Fairfield County in the House of Representatives for one term, which began in 1936. He was also publisher of the Darien Review and past president of the Connecticut League of Municipal Executives.

I knew Al Phillips and Leroy Downs well. They were good public servants, and they made a good record for themselves and for the people they represented.

All who remember them are saddened by their deaths.

MINNESOTA ENCOURAGES INNOVATION IN EDUCATION

Mr. MONDALE. Mr. President, the December issue of American Education contains an excellent article entitled "Swinging With Mini-Projects," written by Mr. Edwin Cain and Miss Anne St. Pierre.

In their article, the authors describe an exciting program in the Bloomington, Minn., public school system which encourages the teachers to develop and experiment with innovative approaches to education.

I believe experimentation in educational matters is terribly important. We simply must devote more of our time and resources to finding new and more effective ways to educate our children and ourselves. Title III of the Elementary and Secondary Education Act provides funds to encourage this type of innovation and experimentation. I am very proud that the town of Bloomington has developed its own "little title III" to supplement and reinforce the national goal of promoting educational innovation.

I commend this thoughtful article 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:

SWINGING WITH MINI-PROJECTS

(By Edwin Cain and Anne St. Pierre)

A chance to try . . . even to try and to fail. This is what the Bloomington, Minn., public school system gives its teachers through a "little title III" program. Like title III of the Elementary and Secondary Education Act, the program encourages educators to develop ideas for innovative practices. But in contrast to the Federal title III program, Bloomington's version is run by the local board of education. Teachers need only have the board's approval to get money to put their best ideas into practice.

The miniature title III program is Bloomington's assurance that a teacher with a good idea for a new educational program or technique will have the resources to develop that idea, even if it serves only a relatively small group of students. Thus, classroom teachers can become initiators of educational change.

"We know that innovation costs money," explains Bloomington superintendent Fred M. Atkinson, "and because Federal funds are so competitive, we couldn't risk the chance that projects of value to our students would not be funded. We believe that if an idea is worthwhile then we should do it—if only on a limited basis."

Since the school system established a special projects office to handle the little title III program in 1967, ideas have been submitted for innovations at every grade level. Educators have thought up schemes for such things as individualizing math instruction, modifying the school-year structures, starting an artists-in-residence program, and adapting physical education exercises for handicapped youngsters.

When a teacher gets an idea for an innovative program he drops in to see Wallace Kennedy, coordinator of special projects for the school system. The two of them brainstorm the idea, making sure that it has a good chance of working as planned. Then the teacher sets out his ideas in a formal proposal which goes to a special projects committee composed of teachers, administrators, and other educators, who further develop and sometimes revise it.

Once past the special projects committee, the proposal must be recommended to the board of education by school administration officials. If the board approves it, the educator who thought up the idea gets the money he needs to carry it out, usually in time to start his project the following school year.

To finance the special projects, the board of education draws on a combination of Federal, local, and private foundation monies. Federal funds make up the bulk of the financial resources—$744,735 so far—but Bloomington has invested over $169,000 of local money in special projects during the last four years.

The school system treats the special projects as trial balloons. New techniques or programs are tried on small groups of students to see if they are feasible on a larger scale. "The main thing is to give teachers an opportunity to try," says Stanley Gilbertson, assistant superintendent in charge of curriculum and one of the originators of the special projects program. "They know that we want to learn with them and from them, and this program makes almost anything possible on a limited basis."

Reaction to the program has been enthusiastic. Of 22 special projects operating last year, 10 were originated by teachers, four by curriculum staff members, and eight by school administrators. By far the majority of all special projects funded have been started by persons who work directly with students.

Several projects initiated on an experimental basis have been so successful that they have been expanded to include additional students at various grade levels. Some that started out as pilot projects now have been established as a permanent part of the school system's curriculum. A family life education curriculum is a case in point.

With the ambitious aim of developing a kindergarten to grade 12 family life education program, the project was funded in 1966 with $3,500 of local money and some funds from the Elementary and Secondary Education Act for instructional materials. In the pilot project, 48 class groups were given family life education. Now, the materials are being taught to about 650 classes, K through 12, and have been integrated into the school system's entire curriculum.

As Bloomington's first attempt at interdisciplinary curriculum development for grades K–12, the family life education project involved science, social studies, and health education teachers. Several members of the community also helped plan the new curriculum. In fact, the idea for the program came from a physician and school board member, Harley Racer, who presented it to a board meeting in 1966.

As the family life education program took shape and demonstrated its value as part of the curriculum, the school system began looking for a means to guarantee that other innovative ideas could be put into practice. In 1967 the special projects office was established under Wallace Kennedy, and Bloomington became one of the first school systems in the Nation to run its own little title III program.

As coordinator of special projects, Kennedy is responsible for seeing that teachers have a channel for presenting their ideas. In addition he helps the teachers manage projects, once they are under way, and makes certain there are adequate provisions for evaluation. He encourages all staff members of the school system to submit proposals.

Of course, not all the proposals win board of education approval, and those that are approved don't always work out exactly as planned. "Nothing has been a total failure, though," says Kennedy. "Sometimes things don't turn out according to our expectations, but nevertheless, we still learn something from all the projects."

Enough special projects have succeeded to convince the school system of the value of the program. For example, an individualized math program, which started as an experiment in one school, is doing so well on the junior high level that its authors have been asked to write materials for grades four through 12.

The math program was the idea of Louis Cohen, mathematics coordinator, and Roger Nelson, teacher and mathematics department chairman at Portland Junior High School. They felt that even though the school was using curriculum materials and strategies based on the new math, a new teaching approach was needed. "We were teaching with the same approach that was used 30 years ago, and still didn't take into account that the student proceeds in understanding at his own pace, fast or slow, no matter what pace the teacher sets," Nelson explains.

Nelson, along with the whole math department at Portland, prepared individual institutional packets suitable for children at various levels of achievement. Each child starts at his own "packet level" as determined by pretests, and moves along at his own speed. The pretests also help teachers group together the children who have similar problems.

Students who finish the individualized instruction packets for their course in less than the allotted time are encouraged to try more advanced noncredit courses—slide rule techniques, vector problems, and exercises in the metric system. Next year the math program will include computer-assisted instruction.

The Portland teachers also converted a school hallway into a satellite educational resource-learning center just for math students.

The students can use the area for viewing film strips and other audiovisual math materials. The center is always staffed by someone who teaches on the grade level of those students using the center at a particular time.

Has the math project been a success?

"We *think so*," Nelson asserts. "We haven't had any superdramatic success stories—like

a kid who couldn't add suddenly solving trigonometry problems—but for the first time over half the ninth-grade students finished the whole algebra book."

The special projects may take a few weeks—or a few years—to complete. In one project, physical education specialist Jerry Molosky spent three years developing courses that would permit students with physical handicaps to participate in recreational activities.

Molosky adapted exercises so that children with asthma, cardiac conditions, or orthopedic handicaps can do them despite their physical problems. For example, a child who is crippled from the waist down learns to play table tennis or wheelchair basketball. Youngsters with less severe handicaps often join in the regular physical education classes. When the activities get too difficult for them, a teacher takes them aside for small group instruction in feats they can perform.

The physical education project cost $139,383 in Federal funds, making it one of the most expensive special projects undertaken at Bloomington. Much of the money went to pay for the specialized equipment the handicapped children must have for physical education.

But the projects don't have to cost a lot of money to be successful, as Wallace Kennedy quickly points out. "One of the most interesting and satisfying projects we ever funded had a total cost of about $100," he explains.

"A local composer was commissioned to write an original musical composition for the all-city elementary school orchestra. He wrote the piece, rehearsed it with the children, and gave them instruction in composition and musicology. At the concert he personally conducted the orchestra for the first public performance of his composition. The kids loved it."

Of the projects operating last year, six cost more than $5,000, 13 cost between $1,000 and $5,000, one cost between $500 and $1,000, and two required less than $500. Previously there had been two special projects that cost nothing at all: Teachers donated their time for the extra activities and used materials already available in the school system. Youngsters also undertook "goodwill" projects of their own: Teenagers used scraps from shop class recently to make wooden toys for handicapped children.

Two of the major expenses that the special projects incur are for materials and equipment. The rest of the money usually goes to pay teachers and other project staff who often spend their weekends, afterschool time, and summer vacations developing their pet ideas.

Funds for the projects come from a wide variety of sources. Last year 16 projects were paid for with local money, and two of these were partially assisted by the Minnesota State Arts Council. Most of the Federal share for Bloomington's special projects comes from title I of the Elementary and Secondary Education Act, although support has also come from title II ESEA, title III of the National Defense Education Act, the National Foundation for the Arts and the Humanities, the provisions for assistance to federally impacted areas, and the Upper Midwest Region Educational Laboratory, a USOE-supported organization.

Bloomington has also explored private sources of money with some success. One of its major special projects was begun recently with support from the C. F. Kettering Foundation, which was interested in financing a human relations program that would create a more "humane" school climate, thus cultivating a positive attitude toward school on the part of the students.

With assistance from the special projects office, the staff at Penn Junior High School planned and put into operation a program that attempted to create this more humane school climate by generating understanding and empathy among teachers, students, and even parents. In one part of the program, teachers and parents meet together for classes in adolescent behavior. Another feature has students getting a 15-minute break every day to gather in a courtyard, the lunchroom, or some other place and talk—with no adults looking over their shoulders.

In another project, the Bloomington schools, nearby Augsburg College, and the Minneapolis public schools are cooperating to prepare teachers who are qualified to cope with the problems of race and poverty. Currently, Bloomington is helping prepare six young black men for the teaching profession. The men are enrolled in classes at the college, but their course work in education consists of on-the-job experience in Bloomington classrooms.

The Bloomington special projects illustrate how local, Federal, and private funds can be used cooperatively to provide the best possible education for children. "The projects are a manifestation of involvement and cooperation—involvement of the local community, the school system, the Federal Government, and private organizations," says Gilbertson.

For teachers, the small experimental projects are open doors to individuality: They allow teachers to be initiators—not passive observers—of educational change. "Change will come whether or not we are prepared for it," says superintendent Atkinson. "If we want to influence the direction of change, we have to create the best possible climate for it."

CONSTRUCTION FUNDS FOR THE TENNESSEE-TOMBIGBEE WATERWAY

Mr. ALLEN. Mr. President, shortly before the adjournment of the Congress last month, I was privileged to attend and be a part of one of the most unusual meetings ever to take place at the Bureau of the Budget. In an unprecedented, open-to-the-press meeting, an array of Senators, Representatives, Governors, and other interested officials from the States of Alabama, Mississippi, Tennessee, Kentucky, and Florida met with Budget Director Robert Mayo in behalf of the inclusion of funds in the new budget to begin the construction of the long-awaited Tennessee-Tombigbee Waterway. The meeting was the subject of wide television, radio, and newspaper and editorial comment throughout the South. I ask unanimous consent that several articles and editorials representative of the news media interest in the meeting and the Tennessee-Tombigbee project be printed in the RECORD at the completion of my remarks.

Mr. President, of all the waterways and rivers that pulse the lifeblood of commerce through our Nation, few share the vibrant excitement and promise of the Tennessee-Tombigbee. This project has been the objective of farsighted men for more than a century. From a look at a map, one is impressed by the fact that from the point where the Tennessee River turns north, the Tennessee and Tombigbee Rivers together form an almost direct line between the Port of Mobile and Paducah, Ky., where the Tennessee joins the Ohio River. It is as if Providence had preordained a connecting link between the two rivers.

For decades, however, a manmade link, consisting of a canal and locks to enable boats and barges to pass over the strip of high ground which separates the Tennessee River from the headwaters of the Tombigbee River was considered by the Army Engineers as economically unsound. It was not until the Tennessee Valley Authority built the Pickwick Landing Dam, which raised the water level in the Tennessee River by 55 feet, that the Army Engineers determined that the benefits to shippers and receivers on the two river systems and the benefits to industry, business, and agriculture in the regions would exceed the cost of constructing a waterway link to connect the Tennessee and Tombigbee Rivers.

Having won a favorable report from the Army Engineers, Congress subsequently authorized the construction of the Tennessee-Tombigbee Waterway in the Rivers and Harbors Act of 1946. Through the years the project has been confronted with many obstacles and hostile opposition. It has been deferred for restudy and subjected to numerous economic restudies and reevaluations in the hope of its opponents that the waterway would be killed. Yet, to their chagrin, every survey has produced the same result; to wit, that the project is economically feasible and that its development will contribute mightily to the continued economic growth and progress of our Nation, both at home and in the world market. In recent testimony, officials of the Corps of Engineers estimated the latest ratio of benefits to cost for the project at 1.6 to 1.

Mr. President, Congress has long recognized the importance of our inland waterways to the internal and foreign commerce and economic well-being of the United States and to our national defense effort. The development of our great waterways has returned rich dividends to our people from water transportation, electric power production, flood control protection, water supplies for municipalities and industrial use, from fish and wildlife programs, and from recreation developments.

When the Tennessee-Tombigbee Waterway is completed, it is abundantly clear that the benefits to the people of the Nation will be incalculable. This waterway will tie together in one protected inland waterway system the Tennessee, the Cumberland, the Ohio, the Illinois, the Monongahela, the Allegheny, the upper Mississippi, the Missouri, the Tombigbee, the Warrior, the Alabama-Coosa, and the Chattahoochie-Apalachicola-Flint Rivers. All will be connected by the Intracoastal Canal with such great gulf ports as Mobile, New Orleans, Galveston, and other port cities along the gulf coast from Texas to Florida. All will be tied to the Great Lakes.

Barge trains descending south to such cities as Mobile and New Orleans, carrying the products of midwestern farms and such midwestern cities as Minneapolis, Chicago, Detroit, St. Louis, Cincinnati, and Kansas City, may take advantage of the swift current of the Mississippi River.

Such barge trains may, along with other ascending traffic, return with the products of southern farms, forests, mines, factories, and oil fields, via the slack water route of the Tennessee-Tombigbee Waterway.

The new route will shorten the dis-

tance between Mobile, Birmingham, and other points on the Warrior-Tombigbee system to the Tennessee River and the entire midwestern waterway empire by from 800 to 1,000 miles. Shorter hauls and the avoidance by ascending traffic of the swift current of the Mississippi River can cut the cost of transportation up to 75 percent. This means that producers, shippers, and consumers will enjoy millions of dollars a year in savings from lowered transportation costs.

Mr. President, I am sure that all will agree that America cannot afford the luxury of standing by and seeing her great resources and manpower used in a nonproductive fashion. Construction of the Tennessee-Tombigbee Waterway is a coefficient to the continued economic growth of our Nation. Areas now denied the benefits of low-cost water transportation will enter a new day of industrialization. New businesses and industries will be established and existing ones will be expanded. A more favorable balance between industry and agriculture will be achieved. Such a balance means new and better markets for the farmers' products, more and better jobs for our men and women, and a stronger, better, and more prosperous economic life for all our people.

Last year Congress appropriated $500,000 to complete the preconstruction design and engineering work on the Tennessee-Tombigbee project. The people of Alabama and Mississippi have already approved multi-million-dollar bond issues to meet and defray local cost contributions and obligations. They now expect, and rightfully so, Uncle Sam to fulfill his part of the covenant by making the first construction funds available this year. I feel that the Tennessee-Tombigbee dream is at last moving into focus, and I am delighted that the President has seen fit to include a request for construction funds for the project in the new budget.

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

[From the Foley (Ala.) Onlooker, Oct. 30, 1969]

TODAY COULD BE THE DAY

This day, Thursday, Oct. 30, could be one of the biggest days ever in the long struggle of the Tennessee-Tombigbee Waterway Development Authority to bring about that short water route from the Midwest to the Gulf. This group is scheduled to make a plea before the Bureau of the Budget in Washington.

The plea is for funds to be included in the upcoming budget for a construction start on the often studied, often approved and much delayed project that will link the Tennessee and Tombigbee Rivers with a 253-mile connection which is a missing link in the 20,000 mile inland waterway system. We trust that all Alabama lawmakers will be using all the influence they can muster to get construction started on this project which will probably mean more to the area than any appropriation ever made. Its value towards aiding in improving the economy of the South could be worth many poverty programs.

Tennessee-Tombigbee has been a dream so long that it does seem unreal that at last action is close on the project. We hope the Nixon Administration will grant us this missing link which will truly mean greater development in five states of this nation. We hope that all delays are over.

The first work on the project will be in an area long plagued by underdevelopment and underemployment caused by transition from a cotton economy. It will provide an immediate boom in the economy of extreme western Alabama from construction alone.

The benefits of Tennessee-Tombigbee are for all to see.

[From the Mobile Press-Register, Nov. 2, 1969]

TENN-TOM PROSPECTS BETTER THAN EVER

Supporters of the Tennessee-Tombigbee Waterway came away from a Washington conference with Budget Director Robert Mayo the past Thursday without a promise to include the first construction funds for the project in the federal budget for the fiscal year beginning next July 1.

The budget director listened to the impressive representations of a four-state delegation, but was non-committal.

His failure to make even a tentative or conditional commitment may be considered disappointing, but it should not and will not discourage the effort to obtain a modest appropriation from Congress next year to get actual construction started.

Tennessee-Tombigbee supporters are asking only a few million dollars for this purpose, a manifestly reasonable request for a project as meritorious as this proposed new navigation route between the Gulf Coast at Mobile and inland mid-America.

In spite of the Nixon administration's uncommitted position on a small-scale construction start, optimism over the project is seemingly stronger today than ever, giving reason to believe it is gaining ground in Washington in recognized need.

The appearance before the budget director the past week was simply the opening round in presenting the case for a construction allotment for the next fiscal year.

As the Tennessee-Tombigbee Waterway Development Authority points out in a project fact report, this poposed new navigation route is "one of the most fascinating projects ever considered by the Army Engineers for construction."

Its navigational, industrial and recreational benefits would be far-flung and enormous. For example, it would "link mid-America's 10,000-mile plus inland waterway system with the southeastern Gulf area and bring sea and foreign markets as much as 700 miles closer to much of the nation's heartland."

It has been correctly described as the "major missing link" in the inland waterways of the mid-continent, and its construction not only would "provide a shorter route" to the Gulf Coast but "open up a vast area to accelerated economic and industrial growth."

The case for the Tennessee-Tombigbee Waterway is so convincing and conclusive that the indicated growing appreciation of its merit should come as no surprise. Instead, it should strengthen the hope for a construction start which already has been delayed much too long.

[From the Tupelo (Miss.) Daily Journal, Oct. 29, 1969]

OFFICIALS TO SEEK FUNDS FOR TOMBIGBEE WATERWAY IN STRONGEST BID TO DATE

WASHINGTON.—Officials of the long-pending but much delayed Tennessee-Tombigbee Waterway Project plan to make their strongest bid ever for construction funds Thursday at a Bureau of Budget hearing.

Glover Wilkins, administrator of the Tennessee-Tombigbee Waterway Development Authority, said the group would urge that funds be included in the upcoming budget for a construction start "now" on the project which would link the Tennessee and Tombigbee rivers with a 252-mile connection "that is the missing link in the 20,000 mile inland waterway system."

"We are not going to ask for a specific amount," said Wilkins, "we are just going to ask for all we can get."

Representatives of the five-state compact—composed of Alabama, Mississippi, Tennessee, Kentucky and Florida—will appear at the hearing conducted by Budget Director Robert Mayo.

The group, headed by Kentucky Gov. Louis B. Nunn—chairman of the compact—will include Govs. Albert Brewer of Alabama and John Bell Williams of Mississippi and more than 20 congressmen and senators from compact states. Also in the contingent will be Alex Chamberlain, chairman of the Ohio Valley Improvement Association and E. Michael Cassady, executive vice president of the Mississippi Valley Association, both of which have backed the project.

Wilkins said the Corps of Engineers "have the green light" and are ready to move when "we can obtain construction funds." He discarded the theory that beginning construction of the $316 million waterway would be inflationary.

"The earliest actual construction could begin would be the spring of 1971 and all of our economists tell us that the inflationary cycle will be curbed by this time," he said.

Wilkins added "the first work will be in an area long plagued by underdevelopment and underemployment caused by the transition from a cotton economy."

He said all feasibility studies had been made. Wilkins said three years ago the mobile district received $500,000 to do engineering work on the first lock and dam at Gainesville, Ala., and that the Nashville district did some work at Yellow Creek where the Tenn-Tom would go into the Tennessee River.

He also said the project was in the budget for $500,000 last year but was cut to $485,000 and the House has already approved that for engineering work.

Wilkins said "if we could get construction money the corps could call for bids in a relatively short period of time because we've done enough engineering work and the corps is sitting on go—they have the green light."

The administrator admitted that construction on the first lock and dam at Gainesville could not begin overnight but said land acquisition could begin almost immediately.

Plans call for the Mobile district to build locks and dams in the southern area while the Nashville district would do the same in the northern district.

"Theoretically what we would like to see happen and what the corps would like to do is for the Mobile district to start building on the lower end toward Columbus, and the Nashville district begin at Yellow Creek and work southward," Wilkins said, "That would be the ideal situation."

[From the Jackson (Miss.) Clarion-Ledger, Oct. 31, 1969]

LEADERS URGE FUNDING OF TENN-TOM PROJECT

(By Mary Ann Pardue)

WASHINGTON.—Gov. John Bell Williams Thursday urged the Nixon Administration to provide funds to start construction of the Tennessee Tombigbee Waterway in its budget for fiscal year 1971 commencing next July 1.

Testifying at a hearing before Budget Director Robert Mayo, Williams emphasized that the proposed project has been thoroughly studied and planned, and "the cost-benefit ratio becomes more favorable with every study made."

He said the sooner construction gets under way the sooner those benefits can be realized.

Williams told of his consistent support for the waterway project throughout his long Congressional career. He said as the ranking majority member of the House Commerce Committee and chairman of the transportation subcommittee he * * *. He said this study convinced him "in the development of our water resources we get perhaps most value (for the money spent) than for anything else except education."

The Mississippi Governor said the Tennes-

see-Tombigbee Waterway will not only "serve the heartland of America," but "will contribute greatly to the economy of the entire country. It will return potential profits to the people of America far in exces of its cost. When you benefit one region, other sections are automatically benefitted."

Williams was one of the spokesmen for the five-state Tennessee-Tombigbee Waterway development Authority, which is seeking funds to begin construction of the proposed Gainesville Lock and Dam in Alabama, near the southern termination of a proposed canal extending through northeastern Mississippi to connect the Tennessee and Tombigbee River.

Rep. Thomas G. Abernethy of Okolona conceded that the waterway, estimated to cost $316 million, is a "big" project, but he said other waterways costing much more have had less potential benefits. As an example, he cited the Arkansas River Basin Project which he said cost $1.2 billion, and said the Tennessee-Tombigbee would cost "about a third as much and serve a much larger area."

"We just want to get our foot at the table, where we know it's got a right to be," Abernethy told Mayo.

Then, expressing appreciation to Mayo for according the Authority the hearing, Abernethy added: "This is the farthest we've gotten, and we're going to remember you. We hope you will act on our project in such a way that we'll never forget you."

Mayo joined in the hearty laughter provoked by this comment.

Rep. Jamie Whitten (D-Miss.) 3rd ranking Committee member, stressed that continued planning would be necessary throughout the eight of ten years required to complete construction, and said additional money for "preliminary planning and engineering" should also be included.

Mississippi was also represented at the hearing by Sen. John Stennis, Rep. G. V. (Sonny) Montgomery of Meridian, John O'Keefe of Jackson, Clif Gookir. of Tupelo, and State Rep. Jerry Wilburn, Mantachie.

[From the Commercial Appeal, Oct. 31, 1969]

OFFICIALS PRESS TOMBIGBEE CASE

(By Morris Cunningham)

WASHINGTON, October 30.—Budget Bureau director Robert Mayo was urged Thursday to include at least five million dollars in President Nixon's budget next January to begin construction on the 316-million-dollar Tennessee-Tombigbee Waterway.

An array of governors, senators, representatives and others from Kentucky, Mississippi, Alabama and Tennessee appeared before the budget director at an unprecedented public hearing in the executive office building.

A statement presented on behalf of Gov. Louie B. Nunn of Kentucky said the long-sought project will benefit 23 states and "is truly regional in scope."

Gov. John Bell Williams of Mississippi told Mayo "the time has come to stop studying this project and to start building it."

Gov. Albert Brewer of Alabama said the project "has tremendous significance" in respect to improving living standards in the depressed Alabama and Mississippi areas through which it will pass. He said it would dovetail perfectly with President Nixon's concept of "new federalism."

Hudley Crockett, executive assistant to Gov. Buford Ellington of Tennessee, stressed the project has bi-partisan backing and said Ellington would not support it if he felt it would fan the fires of inflation.

Representative Jamie L. Whitten (D-Miss.), a member of the House Appropriations Committee, pointed out that construction can be spread out over a period of 8 to 10 years or more, thus easing the inflationary impact. "The question," he said, "is when do we start?"

[From the Columbus (Miss.) Commercial Dispatch, Oct. 31, 1969]

SOUTHERN OFFICIALS SEEK TENN-TOM FUNDS

WASHINGTON.—Officials of five Southern states, two of them governors, today asked the Nixon administration's budget watchdog for $3 million to start digging the Tennessee-Tombigbee waterway.

Govs. Albert Brewer of Alabama and John Bell Williams of Mississippi led the money-seeking expedition to the office of Budget Director Robert Mayo who thus far has okayed only $500,000 for more studies.

Kentucky Gov. Louie B. Nunn, current chairman of the five-state Tennessee-Tombigbee Waterway Development Authority, sent word to Mayo that the project has already been "studied, examined, evaluated, reanalyzed and scrutinized long enough."

The authority was formed to promote the long-planned idea of digging a canal to connect the Tennessee River with a river system that flows into Alabama and the Gulf. The canal and locks would cost $316 million.

The authority represents Kentucky, Mississippi, Alabama, Tennessee and Florida. Canal boosters say it would help the economies of 23 states.

Billing the conference as "one of the strongest pleas ever made before the Bureau of the Budget for an Army Engineers project," authority members argued that the project would not collide with Nixon administration anti-inflation commitments.

Brewer said that even if the project were okayed today nothing could start before the spring of 1971. It would take that long for Congress to act.

Williams said the first work would start in some of the most impoverished areas of the nation. He said the project has the full endorsement of the Appalachian Regional Commission.

[From the Florida Department of Agriculture Field Report, Oct. 9, 1969]

THE FARM FRONT

Many Florida agricultural and agri-business leaders among others were invited to Tampa October 5 and 6 to learn about the benefits Florida will receive with the completion of the Tennessee-Tombigbee Waterway.

As a member of the five-state Waterway Authority, I am vitally interested in working toward the fulfillment of this project because it will serve as a boon to our agricultural economy.

Projected benefits for farmers and agribusiness in our state are but a few for Florida. Not only would it help in our industry, but the 253-mile canal and lock system would greatly increase the importance of our import-export programs at our ports in Jacksonville, Port Everglades, Miami, Tampa, Port Canaveral and Pensacola.

It would greatly assist new emerging ports, such as St. Marks; cut down traveling distance for Cape Kennedy space program rocket assemblies; promote greater pleasure craft use between the Atlantic Ocean and Gulf of Mexico tourist marinas, and give a big boost to our phosphate industry and our coal-using steam generating plants.

Governors Louis B. Nunn of Kentucky, authority chairman, John Bell Williams of Mississippi, Buford Ellington of Tennessee and Albert Brewer of Alabama, were guests of Gov. Claude R. Kirk Jr. at the Authority's quarterly meeting.

The governors from the four states brought about 75 other prominent citizens who also serve on the authority, to meet with 250 Floridians at a luncheon hosted by Governor Kirk.

Engineers have predicted Florida phosphate companies will be able to ship a half million tons more each year to mid-continent farmers at cheaper rates, providing reduced rates for fertilizers used in agriculture.

I am joined on the authority as Florida representatives by Gov. Kirk, Comptroller Fred O. Dickinson, Robert B. Fox of Port St. Joe, W. Guy McKenzie, of Tallahassee and C. A. Peacock Jr. of Miami.

We are being assisted by the Tampa Electric Co., Florida Phosphate Council, Florida Petroleum Council, Florida Citrus Mutual, Florida Citrus Commission, Tampa Port Authority and the Florida Department of Natural Resources in making our compact state members aware of our waterway, port and industrial interests so that we can mount a united campaign in bringing the Tenn-Tom project to reality.

[From the Birmingham Post-Herald, Oct. 31, 1969]

TENN-TOM WATERWAY PRAISED

(By Dale McFeatters)

WASHINGTON.—The Tennessee-Tombigbee Waterway is the greatest thing since sliced bread, a succession of witnesses told federal Budget Director Robert P. Mayo Thursday.

Governors, senators and congressmen said the 253-mile canal and lock system would be the key to massive development in poor areas of Alabama and Mississippi.

Mayo sat sphinx-like through the presentation. His job is preparing the federal budget, the equivalent of trying to divide a dollar so six people get a quarter each.

Only at the end, when Rep. Thomas G. Abernethy, D-Miss., cracked, "we hope you'll look upon this project in such a way that we'll never forget you," did the budget director laugh.

The delegation, which included representatives from Kentucky and Tennessee, wants the director to put $3.5 to $5 million in this year to begin construction on a lock and dam near Gainesville in Sumter County.

The waterway would eventually connect the Warrior and the Tennessee Rivers by a 10-lock waterway along the Tombigbee River.

The most discussed aspect of the project which is estimated will cost $356 million during the 10 years needed for completion, was the cost-benefit ratio.

Rep. Jack Edwards, Republican from Mobile, said, "this goes right through some of the poorest parts of our country; one area you (Mayo) and the people in Administration can't overlook.

Gov. Albert P. Brewer said the waterway would be "a true example of the new federalism the President has proclaimed to us."

Mississippi Governor John Bell Williams complained, "this project has been kicked around from time immemorial without getting anywhere."

Mayo, who must hear all demands on the government's money, responded enigmatically after the meeting.

"I could have stood up and said, forget it, but I didn't. But we're going to have this year—as we did last year—a very tight budget. There's a feeling in this country that we're taxing too heavily; we have to take that into consideration," he said.

The director will now take his impressions back to the Budget Bureau, combine them with staff recommendations and the President's spending guidelines, and decide whether to include the money in the budget to be submitted to the President.

The budget for fiscal year 1970–71 will be published at the end of January.

In addition to governors Brewer and Williams, senators Allen of Alabama and Stennis of Mississippi, all eight Alabama congressmen, and three of Mississippi's congressmen attended the meeting.

[From the Opelike Daily News, Oct. 31, 1969]

BREWER, CONGRESSMEN SEEK WATERWAY FUNDS—GREAT BENEFIT EXPECTED FOR STATE ECONOMY

WASHINGTON.—Gov. Albert Brewer and Alabama members of Congress have joined offi-

cials of four other states in petitioning the Budget Bureau to include $3 million in the 1971 federal budget for a start on construction of the Tennessee-Tombigbee waterway project.

The state officials met with Budget Director Robert P. Mayo for more than an hour Thursday in an effort to secure the funds. Mayo said afterwards, "This is a project we are looking at to see how it could fit into a tight budget." He gave no other encouragement.

Cost of the entire project is expected to run $325 million. It would link the north-flowing Tennessee River with the south-flowing Tombigbee River by means of canals and a system of locks and dams across northeastern Mississippi.

Brewer said the waterway would directly benefit 23 states and generally help the economy of the entire nation. He predicted that Mobile's present water freight tonnage of 23 million tons a year would be doubled by the waterway.

Sen. John Stennis, D.-Miss., and a score of House members from Tennessee, Mississippi, Kentucky and Florida, as well as Alabama, attended the hearing in a strong show of support for the project which is in this year's budget for $500,000 to complete planning.

Gov. John Bell Williams of Mississippi said the return profits to the people from the waterway would be far in excess of its cost.

Rep. Jack Edwards, R-Ala., coordinator for the Washington meeting, said a start on the project could be made for less than the sums the federal government now spends in a number of single localities in the area of temporary programs that have no long-range value.

Edwards said the project would be an opportunity to help an area, rather than to merely give money away.

Some observers said after the meeting they felt the Nixon administration will act favorably on the appeal since two of the states, Kentucky and Florida, have republican governors, and Alabama and Tennessee and Florida have GOP members in Congress.

[From the Florence Times]

TIME TO MAKE TENNESSEE-TOMBIGBEE DREAM COME TRUE

During the past week two stories came out of Washington, D.C., regarding canals.

One of them had to do with the plea for funds (before Congress by the Tennessee-Tombigbee Waterway Development Authority) with which to get the Tennessee-Tombigbee Canal construction started.

The other told of how both traffic and the new big vessels have outgrown the Panama Canal.

The United States would be a lot better off if we were investing our money in the Tennessee-Tombigbee Canal and a new canal to serve the ocean traffic instead of investing in foreign wars and foreign aid and a lot of other fol-de-rol on the home front that to a very large extent is a wastage of public funds.

In fact, we think it would be in order right now to predict that just as booming business and larger vessels are threatening to clog the Panama Canal that the Tennessee-Tombigbee Canal, serving half the Nation directly and indirectly and absolutely vital to the continued development of the Southeast, will attract a lot more traffic and provide a lot more benefits than even the most optimistic engineers now predict.

Although on a somewhat lesser scale, we believe that the Tennessee-Tombigbee Canal experience, once it is constructed and put into use, will parallel the Panama Canal experience where traffic through the 50-mile-long waterway has greatly increased through the last few years, straining present facilities, although it has been a tremendous national and international asset throughout its half-century of existence.

And what is the history and experience of the Panama Canal?

Nearly 1,000 ships afloat or under construction are already too wide for the canal's locks, while another 1,200 squeeze through partially loaded because they cannot navigate the present channel with a full cargo.

To meet future Panama Canal traffic demands, engineers are studying the feasibility of a new sea-level canal even while planning and designing the Tennessee-Tombigbee Canal, for which limited planning funds have been provided the past few years as a result of the years-long-effective work of the Tennessee-Tombigbee Waterway Development Authority, the Congressional delegations from Alabama, Mississippi, Tennessee, Kentucky, Florida, and others.

In fact, an oceanographic vessel only recently completed a seven-month research cruise off Panama and Colombia for the United States Atomic Energy Commission. The study was part of an overall survey to determine whether a new canal site should be excavated by nuclear explosion, conventional dredging and excavating, or a combination of both, similar studies and proposals having been made regarding Tennessee Tombigbee Canal in the past.

The Atlantic-Pacific Interoceanic Canal Study Commission in Washington, D.C., will submit final recommendations to President Richard M. Nixon by Dec. 1, 1970.

Though it may be supplemented in the not distant future, the Panama Canal still ranks as one of the world's great engineering feats, a classification into which Tennessee-Tombigbee Canal will also fall when completed.

It took a multinational work force of 40,000 to battle the mountains, mud, and mosquitoes for 10 years to make the Panama Canal a reality. Up to that time, nowhere had man poured so much concrete, built a bigger artificial lake, or raised a larger dam. In fact, one English observer compared the project to the building of the Great Pyramids.

As with all great achievements of mankind throughout history, and as no doubt will prove the case with Tennessee-Tombigbee Canal in due time, the Panama Canal was not built without heartbreaks and obstacles. Tons of rock, dirt, and clay frequently wiped out days of effort. One 1913 slide dumped 47 acres of earth on the "Big Ditch," a misfortune that caused hardened laborers to weep openly at the setback for these men believed in what they were doing just as we who have fought so long for Tennessee-Tombigbee Canal believe in the great national merits of our project.

It is recorded that in the building of the Panama Canal, however, that boredom and homesickness succeeded malaria and slides as occupational hazards. One magazine writer in an American magazine said this about the United States' workers:

"Nearly everyone of the young unmarried men the first time he came back from leave brought a wife if he could get one."

Jamaican and Spanish laborers, Chinese launderers, Greek and Italian restaurateurs, even Sikhs from India augmented the enormous work force, making for foreign customs that were often confusing. For example, Americans watched dumbfounded as three Martinique natives loaded a wheelbarrow, two of them lifted it onto the head of a third, and then they all purposefully strode away together.

But the vast project submerged minor foibles and when, on Aug. 15, 1914, the Panama Canal opened its locks to global shipping, the big ditch linking the Atlantic to the Pacific sliced 8,000 miles off the New York-San Francisco sea trip, for the waterway was built wisely and well, and although the canal is now reaching the limit of its capacity after a half-century of service to mankind, essentially the same locks, gates, and machinery are still in use.

Let us build as wisely and well upon our Tennessee-Tombigbee dream here in the greater Muscle Shoals District and the Southeast for it is still true that without vision the people perish!

[From the Huntsville (Ala.) Times, Oct. 31, 1969]

WATERWAY MEETING DRAWS NO PLEDGES

(By B. J. Richey)

WASHINGTON.—The proposed Tennessee—Tombigbee Waterway is closer today to being dug than it has ever been. But the biggest hurdle of all—getting construction money—still has to be cleared.

After an hour-long session Thursday with budget director Robert Mayo, southern politicians haven't the slightest notion whether President Nixon will ask Congress for $3 million in fiscal 1971 to start the 253-mile-long channel project.

Congressmen from four states, along with Govs. Albert P. Brewer, of Alabama, and John Bell Williams, of Mississippi, made on Thursday the biggest pitch yet for the canal. While Mayo's reception was sympathetic, he gave no sign funds for first-year construction would be in the budget.

Mayo, as is customary at a hearing of this type, made no statement following the mid-morning meeting.

Mixing politics and economics, the congressmen told Mayo connecting the Gulf of Mexico at Mobile with the Tennessee River in West Tennessee would be an economic boon to large portions of South Alabama, Mississippi and Tennessee.

In addition, it would save as much as $23.9 million in navigational costs alone to shippers from the mid-western industrial sectors to the Gulf Coast, eventually having an impact on 23 states.

Joseph R. Hartley, an Indiana university economist and consultant on the project, said the waterway is the single most important development today.

Hartley said over all economic benefits returned from the project once it's done are so high he hesitates to discuss them. One study he made showed an economic return of 38 to one on the investment.

The Tennessee-Tombigbee project has been studied and analyzed by the Army Corps of Engineers and pronounced a sound government investment. But in recent years Congress has made available only funds for further study and engineering planning.

Thursday's show of political strength behind the project is the strongest to date in the bid for funds to start work on the slack water canal.

Gov. Brewer told Mayo the project could be a "true example of the new federalism the President has told us about."

"This is an important project to our people," the Alabama governor said: "It offers the opportunity for economic development and holds hope for a new way of life."

Brewer said if the canal is built the 22 million tons of goods shipped through the port of Mobile annually would double.

Hartley supported this idea, saying New Orleans simply does not have the grain elevators, storage bins and other facilities to handle the shipping increase coming through Gulf Coast ports in the years ahead.

Almost the entire presentation to Mayo centered around favorable economics of the massive project.

"This project goes right through some of the poorest portions of our country," Rep. Jack Edwards (R-Mobile) said.

"This is an opportunity to bring legitimate federal help to take people off welfare, and your administration can't overlook the opportunity," Edwards said.

Hartley said just the nine-year task of building the canal, with its series of locks and dams, would be enough to give an economic face-lift to 38 of the 56 counties which would border directly on the channel.

"This area has suffered from chronic underemployment and unemployment for decades," he said.

One county in South Alabama, for in-

stance, spends more on welfare than on education. It's in this area—Sumpter County—that the first dirt on the project would be moved.

If construction money is included in the budget for fiscal 1971, the project could get underway in the spring of 1971. Total cost is estimated at $356 million.

[From the Chattanooga Post, Nov. 3, 1969]

WATERWAY FUNDS URGED BY JOHNSON

David F. S. Johnson, an officer on the Tennessee-Tombigbee Waterway Association advisory board for Chattanooga, will appear before the U.S. Bureau of the Budget in Washington Thursday with a group seeking funds to start construction of the much-delayed Tenn-Tom inland waterway linkage.

Director of the Budget Robert Mayo will preside at the hearings. The Tenn-Tom delegation will be led by Kentucky Gov. Louis B. Nunn, chairman of the five-state compact made up of Alabama, Mississippi, Tennessee, Kentucky and Florida.

Also attending will be Gov. Albert Brewer of Alabama, Gov. John Bell Williams of Mississippi, more than 20 congressmen and senators from the compact state.

Plans for the budget hearing were formulated earlier this month in Tampa, Fla., at which time Glover Wilkins, administrator of the authority, contended the $316 million project would not be inflationary.

"The earliest actual construction could begin would be spring of 1971, and all our economists tell us that the inflationary cycle will be curbed by this time," he said.

[From the Birmingham (Ala.) News, Oct. 30, 1969]

BREWER ASKS TENN-TOM FUNDS

MONTGOMERY.—Gov. Albert Brewer testified today in Washington before the Bureau of the Budget, seeking construction funds for the Tennessee-Tombigbee Waterway Project.

Brewer will be joined by either the governor, or representatives of the chief executives of Kentucky, Tennessee, Mississippi and Florida in today's presentation.

The governor said that the group hopes to get construction funds for the waterway project in the budget recommendations of President Richard Nixon beginning July, 1970.

The project would link the Tennessee and Tombigbee rivers by a canal through Northeast Mississippi and West Alabama, a length of more than 200 miles.

Brewer will return to Alabama tonight.

[From the Dothan (Ala.) Eagle, Nov. 2, 1969]

BREWER, OTHERS ASK FOR RIVER MONEY

WASHINGTON.—Gov. Albert Brewer and Alabama members of Congress have joined officials of four other states in petitioning the Budget Bureau to include $3 million in the 1971 federal budget for a start on construction of the Tennessee-Tombigbee waterway project.

The state officials met with Budget Director Robert P. Mayo for more than an hour Thursday in an effort to secure the funds. Mayo said afterwards, "This is a project we are looking at to see how it could fit into a tight budget." He gave no other encouragement.

TO RUN $325 MILLION

Cost of the entire project is expected to run $325 million. It would link the north-flowing Tennessee River with the south-flowing Tombigbee River by means of canals and a system of locks and dams across northeastern Mississippi.

Brewer said the waterway would directly benefit 23 states and generally help the economy of the entire nation. He predicted that Mobile's present water freight tonnage of 23 million tons a year would be doubled by the waterway.

SHOW OF SUPPORT

Sen. John Stennis, D-Miss., and a score of House members from Tennessee, Mississippi, Kentucky and Florida, as well as Alabama, attended the hearing in a strong show of support for the project which is in this year's budget for $500,000 to complete planning.

Gov. John Bell Williams of Mississippi said the return profits to the people from the waterway would be far in excess of its cost.

Rep. Jack Edwards, R-Ala., coordinator for the Washington meeting, said a start on the project could be made for less than the sums the federal government now spends in a number of single localities in the area of temporary programs that have no long-range value.

TO HELP AREA

Edwards said the project would be an opportunity to help an area, rather than to merely give money away.

Some observers said after the meeting they felt the Nixon administration will act favorably on the appeal since two of the states, Kentucky and Florida, have Republican governors, and Alabama and Tennessee and Florida have GOP members in Congress.

It was stressed, however, that the program has strong bi-partisan support. It was emphasized also, that the ratio of benefits to cost of the waterway has gone up substantially since the project was restudied and reapproved by Army engineers.

[From the Clarion-Ledger, Jackson (Miss.), Oct. 29, 1969]

STRONGEST PLEA TO GO TO BUDGET BUREAU

WASHINGTON, D.C.—One of the strongest pleas ever to be made before the Bureau of the Budget for an Army Engineer project will be made Thursday by the Tennessee-Tombigbee Water Development Authority in Washington. Director of the Budget Robert Mayo will be presiding at the hearings along with expected White House aides.

The Tennessee-Tombigbee group will urge that funds be included in the upcoming budget for a construction start now on the often studied, often approved, and much delayed project that will link the Tennessee and Tombigbee rivers with a 253 mile connection that is the "missing link" in the 20,000 mile inland waterway system.

Kentucky Governor Louie B. Nunn, chairman of the five-state compact composed of Alabama, Mississippi, Tennessee, Kentucky and Florida, will head the large delegation at the 11 a.m. meeting in the Executive Office Building.

Governors Albert Brewer of Alabama and John Bell Williams of Mississippi will also attend the meeting to urge construction funds be made available next year. Governor Nunn will be accompanied by more than 20 Congressmen and Senators from the Compact states along with Alex Chamberlain, Chairman of the Ohio Valley Improvement Association and E. Michael Cassady, Exec. Vice Pres. of the Mississippi Valley Association. Both organizations will voice their strong support for the proposed Waterway.

Tennessee Governor Buford Ellington, a long-time supporter of the project, will be unable to attend but will be represented by his Executive Assistant, Hudley Crockett, who will present the Governor's views on getting funds for an immediate construction start.

Dr. Joseph R. Hartley, Vice President of Indiana University and economist for the Tenn-Tom Authority, will show the unquestionable economic justification of the project. Representatives from all of the five states in the compact will attend the meeting as will David Johnson, Chattanooga business executive who is an officer of the Tennessee-Tombigbee Advisory Board in that City.

Plans for the Bureau of the Budget appearance were formulated at a Tampa, Fla. rally held earlier this month attended by 250 Floridians and Authority members. Governors Nunn of Kentucky, Ellington of Tennessee, and Kirk of Florida along with Congr. Jack Edwards (Ala.) and William Cramer (Fla.) spearheaded the decision to move now in efforts to obtain a construction start. Congr. Edwards of Mobile, Ala. has acted as the Washington coordinator for the meeting.

Glover Wilkins, Administrator of the Authority, pointed out that beginning construction of the 316 million dollar waterway will not be inflationary. Wilkins said "the earliest actual construction could begin would be the Spring of 1971 and all of our economists tell us that in the inflationary cycle will be curbed by this time." Also, Wilkins added, "the first work will be in an area long plagued by underdevelopment and underemployment caused by the transition from a cotton economy." Wilkins, just returning from the Ohio Valley meeting in Cincinnati, voiced optimism over the upcoming hearings. His beliefs are shared by the many supporters of the project from over the Nation.

[From the Sun-Democrat, Nov. 3, 1969]

PADUCAH-TO-TAMPA WATERWAY PROJECT

What Gov. Louie Nunn has nicknamed the "Paducah-to-Tampa" waterway project has come a long way in the past few years. The Kentucky chief executive thus referred to the proposed Tennessee-Tombigbee waterway in testimony he filed last week with the federal budget bureau, urging approval of initial construction funds for a physical start on the improvement.

Early French settlers first proposed that the upper Tombigbee River, which flows from northeastern Mississippi down to join the Warrior in central Alabama, be joined with the Tennessee near its big northward bend at Pickwick Landing. That was about the year 1800. It would tie together two major river systems in the eastern United States, permitting navigation from the Gulf Coast at Mobile into the Tennessee, Cumberland, Ohio and upper Mississippi rivers. Interest has grown slowly in the idea until comparatively recent years. Today a five-state compact, composed of Mississippi, Alabama, Tennessee, Kentucky and Florida, has advanced the project to the point where President Nixon may very well call for a start of its construction in his next budget.

Gov. Nunn is this year's chairman of the interstate compact. He and his fellow-Republican, Gov. Claude Kirk of Florida, are no radical advocates of federal spending, but they have seen clearly the widespread benefits possible by linking the Tennessee with the Tombigbee. It would make possible the cheap transportation of millions of tons of bulk commodities which simply do not move at all, at present. These would include vast amounts of West Kentucky coal to the power plants of booming northwest Florida and the middle Gulf Coast. They would include huge tonnages of Florida phosphates for use in the fertilizer-hungry Midwest, as well as low-cost bauxite ore from Venezuela for the great new aluminum plants along the Ohio.

Dr. Joseph Hartley, a vice president of Indiana University and one of the nation's outstanding young transportation economists, who testified in favor of an immediate start on the Paducah-to-Tampa waterway. The 253-mile waterway would use 168 miles of existing rivers, some of which would be widened. It would include five new locks-and-dams plus five additional locks, all of standard dimensions to assure a minimum nine-foot depth and accommodate standard river tows. The cost is now estimated at $356 million, but Dr. Hartley said this would return yearly benefits of $30.8 million, or about 10 per cent.

Few undeveloped water resource proposals in the nation can offer anything like as high a ratio of public benefits to cost, as does the Ten-Tom project Gov. Nunn thinks that despite the tight federal money situation,

now is the time to begin building it. We couldn't agree more.

[From the Nashville Tennessean, Nov. 2, 1969]

TIME FOR START ON TOMBIGBEE

Federal Budget Director Robert P. Mayo has promised that his department will try to find room in next year's budget for funds to begin construction of the Tennessee-Tombigbee waterway.

Officials from five states met with the budget director Thursday to urge some move on the long-awaited project. Rep. Joe Evins of Tennessee's Fourth District, a member of the House of Appropriations Committee, said the group would like to see $5 million in the budget for the beginning of construction.

Although there is no assurance that construction funds will be included in the new budget, Mr. Mayo's reaction is the most promising sign that has been seen in some time.

Even if the full $5 million figure mentioned by Mr. Evins is not realized, an amount of $2.5 to $3 million would be encouraging. The important thing is to make some beginning on construction. After this is done, it should be less difficult to accquire funds later for continuation of the construction.

The Tennessee-Tombigbee project—which would open up a direct water route from Middle Tennessee to the Gulf of Mexico—has been in the planning stage for many years. It is time that all the planning and hopes that have gone into this needed project are brought to fruition. It is hoped the budget director's try to include construction will be more than just another putoff.

[From the Jackson (Miss.) Clarion-Ledger, Oct. 31, 1969]

LEADERS URGE FUNDING OF TENN-TOM PROJECT

(By Mary Ann Pardue)

WASHINGTON. — Gov. John Bell Williams Thursday urged the Nixon Administration to provide funds to start construction of the Tennessee Tombigbee Waterway in its budget for fiscal year 1971 commencing next July 1.

Testifying at a hearing before Budget Director Robert Mayo, Williams emphasized that the proposed project has been thoroughly studied and planned, and "the cost-benefit ratio becomes more favorable with every study made."

He said the sooner construction gets under way the sooner those benefits can be realized.

Williams told of his consistent support for the waterway project throughout his long Congressional career. He said as the ranking majority member of the House Commerce Committee and chairman of the transportation subcommittee he * * * of the entire transportation system throughout the country. He said this study convinced him "in the development of our water resources we get perhaps most value (for the money spent) than for anything else execept education."

The Mississippi Governor said the Tennessee-Tombigbee Waterway will not only "serve the heartland of America," but "will contribute greatly to the economy of the entire country. It will return potential profits to the people of America far in excess of its cost. When you benefit one region, other sections are automatically benefitted."

Williams was one of the spokesmen for the five-state Tennessee-Tombigbee Waterway development Authority, which is seeking funds to begin construction of the proposed Gainesville Lock and Dam in Alabama, near the southern termination of a proposed canal extending through northeastern Mississippi to connect the Tennessee and Tombigbee Rivers.

Rep. Thomas G. Abernethy of Okolona conceded that the waterway, estimated to cost $316 million, is a "big" project, but he said other waterways costing much more have had less potential benefits. As an example, he cited the Arkansas River Basin Project which he said cost $1.2 billion, and said the Tennessee-Tombigbee would cost "about a third as much and serve a much larger area."

"We just want to get our foot at the table, where we know it's got a right to be," Abernethy told Mayo.

Then, expressing appreciation to Mayo for according the Authority the hearing, Abernethy added: "This is the farthest we've gotten, and we're going to remember you. We hope you will act on our project in such a way that we'll never forget you."

Mayo joined in the hearty laughter provoked by this comment.

Rep. Jamie Whitten (D-Miss.) 3rd ranking Committee member, stressed that continued planning would be necessary throughout the eight of ten years required to complete construction, and said additional money for "preliminary planning and engineering" should also be included.

Mississippi was also represented at the hearing by Sen. John Stennis, Rep. G. V. (Sonny) Montgomery of Meridian, John O'Keefe of Jackson, Clif Gookin of Tupelo, and State Rep. Jerry Wilburn, Mantachie.

[From the Mobile (Ala.) Register, Oct. 29, 1969]

TENN-TOM WATERWAY GROUP TO PLEAD CAUSE

A large delegation headed by governors and congressmen representing a five-state compact will appear before the Bureau of the Budget in Washington Thursday to urge inclusion of construction funds in next year's budget to start work on the proposed $316 million Tennessee-Tombigbee Waterway.

A spokesman for the Tennessee-Tombigbee Waterway Development Authority announced in Washington Tuesday Gov. Louie B. Nunn, of Kentucky, chairman of the five-state compact composed of Alabama, Mississippi, Florida, Tennessee, and Kentucky, will head the delegation.

Governor Albert Brewer of Alabama and Gov. John Bell Williams will be among delegation members scheduled to make a strong plea for construction funds for the project in next year's budget.

The often-approved and long delayed Tennessee-Tombigbee Waterway has been described as "the missing link" in a 20,000-mile inland waterway system that would connect with ocean-going vessels at the Port of Mobile.

The Tennessee-Tombigbee group will also have the support of Alex Chamberlain, chairman of the Ohio Valley Improvement Association, and E. Michael Cassady, executive vice president of the Mississippi Valley Association at Thursday's hearing. Both organizations have voiced strong support for the project.

Tennessee Gov. Buford Ellington, a longtime supporter for the Tennessee-Tombigbee Waterway, will not be able to attend, but will be represented by his executive assistant, Hudley Crockett.

Plans for the delegation to appear at Thursday's budget hearing were formulated earlier this month at a meeting at Tampa, Fla., attended by 250 Floridians, and authority members, including Governors Nunn, Ellington, and Claude Kirk of Florida.

Rep. Jack Edwards (R) of Mobile is in charge of coordinating the Washington meeting.

Dr. Joseph R. Hartley, vice president of Indiana University and economic adviser to the Tenn-Tom Authority, will offer data to show the economic justification for the project.

Glover Wilkins, administrator of the authority, pointed out that beginning construction of the $316 million waterway will not be inflationary. Wilkins said "the earliest actual construction could begin in the spring of 1971 and all of our economists tell us that the inflationary cycle will be curbed by this time." Also, Wilkins added, "the first work will be in an area long plagued by underdevelopment and underemployment caused by the transition from a cotton economy." Wilkins, just returning from the Ohio Valley meeting in Cincinnati, voiced optimism over the upcoming hearings. His beliefs are shared by the many supporters of the project from over the nation.

[From the Paducah (Ky.) Sun Democrat, Oct. 31, 1969]

TOMBIGBEE NOD SOUGHT BY GROUP

WASHINGTON.—A five-state delegation asked the Budget Bureau Thursday to approve a start on construction of the $325 million Tennessee-Tombigbee waterway project.

The group met for more than an hour with Budget Director Robert P. Mayo in an effort to have the administration budget for fiscal 1971 recommend at least $3 million in construction money for the proposed waterway.

Mayo told reporters later that "this is a project we are looking at to see how it could fit into a tight budget."

He said his bureau now is reviewing the entire fiscal program, the administration objectives, needs and allocation of national resources.

Governors John Bell Williams of Mississippi and Albert P. Brewer of Alabama both spoke glowingly of the project. It would link the north-flowing Tennessee River with the south-flowing Tombigbee River by means of canals and a system of locks and dams across northeastern Mississippi.

A score of House members from Alabama, Tennessee, Mississippi, Kentucky and Florida attended the hearing in a strong show of support for the project which is in this year's budget for $500,000 to complete planning.

Williams told Mayo the navigation project would serve 23 states and "will return profits to the people of the United States far in excess of its cost."

Brewer also noted that the project would offer an opportunity for economic development to a depressed area as well as contribute to the economic well being of the heartland of the country.

Inclusion of the project in the budget to be submitted to Congress by President Nixon in January would be a big boost to prospects of the project for receiving favorable action.

[From the Panama City News, Oct. 28, 1969]

SOUTH'S FUTURE ECONOMIC HOPES TIED TO PLAN—NIXON TO REVIVE MERCHANT FLEET

(By Ed Rogers)

WASHINGTON.—President Nixon can expect solid support of Southerners in Congress for the program he unveiled last week for reviving the U.S. merchant fleet with 10 years of shipbuilding.

The Nixon vision of restoring U.S. maritime life to the prospering position it held before its decline in the 1950s symbolizes the Roosevelt-era nationalism that the South still endorses.

Sen. Strom Thurmond, R-S.C. hailed the President's announcement in a Senate speech in which he said the nation's ultimate showdown with communism may well occur on the economic front.

Between 1950 and 1968 the U.S. merchant fleet declined from 1900 ships to 1,100 and now ranks sixth in world status while Russia's fleet increased to 1,400 and now carries half of U.S. foreign shipping.

The administration chose a merchant marine conference held the week before in Savannah, Ga., as a forum for giving the nation a preview of the Nixon plan for revitalizing U.S. shipping.

The President sent top governmental mar-

itime officials—Mrs. Helen Bentley, chairman of the Maritime Commission, and Maritime administrator, A. E. Gibson—to the conference.

The officials sought to establish a parallel between the 1969 Savannah conference and an earlier meeting which served as a preview of the Roosevelt maritime program of 1936.

A more crucial reason for prospective strong southern support is an emerging picture of the South's future economic hopes tied to water commerce.

While the ports at Norfolk, Savannah, Jacksonville, Mobile and New Orleans have been in lively competition for more than a decade there is increasing interest in interstate barge traffic.

Canal projects under way or on the drawing boards will affect every Southeastern state.

A delegation of city officials from Wilmington, N.C., told Sen. B. Everett Jordan, D-N.C., last week that they expect a big upsurge in barge traffic if they can deepen Cape Fear channels.

The reason they gave for this belief is that the cross-Florida barge canal, already under construction, will link Atlantic ports to a growing network of barge shipping in the Gulf of Mexico.

This shipping network in turn is reaching deep into Georgia, Alabama and Mississippi through systems of dams, locks and channels being built in those states.

The ultimate proposal is to provide these states with an overland connection with the Tennessee and Mississippi rivers, Alabama and Warrior-Tombigbee rivers in Alabama and Mississippi.

The Atlantic and Gulf coasts already have protected barge routes in the so-called intercoastal waterway except for a gap along the Florida coast on the gulf side.

The U.S. engineers are gradually closing this gap with projects that are now being financed. This waterway will be tied in with the canal now being built across the upper Florida peninsula.

The ultimate proposal is to prove this system with an overland link with the Tennessee and Mississippi rivers via the Alabama and Warrior-Tombigbee rivers in Alabama and Mississippi rivers via the Alabama and Warrior-Tombigbee rivers in Alabama and Mississippi.

Doing this will require an extensive system of canals and locks that have been planned and debated since the early 1800s. But it was not officially stamped as feasible until three years ago.

The economic impact is expected to reach into Tennessee and Kentucky as well as Alabama and Mississippi. Governors of all these states have joined in forming an authority to promote the project.

At the so-called Tennessee-Tombigbee Waterway Development Authority's quarterly meeting last month in Tampa, Fla., the governors decided it was time to ask President Nixon for some money.

Kentucky Gov. Louis B. Nunn, a Republican who currently is the authority chairman, said a meeting has been scheduled with the Budget Bureau Oct. 30 to seek $500,000 in planning funds.

This means running against the President's announced policy of fighting inflation by cutting down on government spending.

But President Nixon committed himself to a $300 million outlay per year for his $3 billion shipbuilding subsidy program on grounds that it would help the nation economically.

The Tennessee-Tombigbee boosters hit a strategy of trying the same argument in their planned trip to the White House, with welfare costs as their target.

The proposed canal would transverse poor areas where government is now pumping in huge sums for welfare. Nunn said he will picture outlays for canal building as meaning jobs instead of dole.

NELLIE DANIELS MAYNARD—A GREAT WOMAN

Mr. DODD. Mr. President, a great lady, Mrs. Nellie Daniels Maynard, of East Lyme, Conn., died last Sunday at her home, at the age of 83.

Nellie Maynard was a lifelong Democrat. She was a woman who devoted a great deal of her time and energy and talent to public affairs, because of her interest in good government.

Only 2 weeks ago, Nellie Maynard and I spoke at a wonderful Democratic Party dinner in East Lyme. She was warmly received on that occasion, as she has been for so many years, by her fellow Democrats and fellow citizens.

I knew Nellie Maynard for many years. She was my friend and I, together with a great many others, mourn her passing.

In these days of awards for outstanding women, I nominate Nellie Maynard as a truly outstanding woman—indeed, as a great woman. She was in a real sense a successful woman.

She was a good woman who not only maintained an interest in civic affairs, but also found time to participate in church affairs and, along the line of her rich life, she had four children; 27 grandchildren; 74 great grandchildren; and 21 great, great grandchildren.

Nellie Daniels Maynard left her mark on several generations, and her good influence in her community will long be remembered.

THE NEW CONSERVATION

Mr. NELSON. Mr. President, the 1960's as related to science and technology can be credited with many major accomplishments. During that decade the American public has become aware for the first time that scientific advance is not always synonymous with progress. We now are weighing more carefully pros and cons associated with "scientific advances." We know now that bigger is not necessarily better, slower can be faster, and less can be more.

This is a healthy trend that deserves the utmost encouragement. We must not embrace all so-called "advances" of some technology as wholeheartedly as in the past because the adverse side-effects are everywhere apparent. Our polluted environment and the deteriorating quality of human life have placed man near the brink of survival as a specie.

For this reason, last session, I introduced the Environmental Quality Education Act.

From preschool through to adult and community education I believe we must intensify our search for better means to relate man's unquestioned interdependence with nature. The process of education can produce an enlightened citizenry that will, through expressions of public opinion and sentiment, provide the mandate to use an ecologic filter when making important policy decisions.

In that connection, I was very pleased to learn of the publication of a new journal, Environment Education, edited by Prof. Clay Shoenfield of the University of Wisconsin. The aim of the journal published by a private corporation, Dembar Educational Research Services, is to produce: "a citizenry that is knowledgeable concerning our biophysical environment and its associated problems, aware of how to help solve these problems, and motivated to work toward their solution. How better to achieve this pervasive ecological conscience is the focus of this professional journal."

The introduction describing the purpose and contents of the journal offers a succinct definition of environmental education. It is: "a recognition by man of his interdependence with his environment, and his responsibility for developing a culture which maintains that relationship through policies and practices necessary to secure the future of an environment fit for life and fit for living."

The appearance of Environmental Education is another important indication of the emergence of environmental quality as a national issue on a par with inflation, Vietnam, and crime. The Federal Government now has a fragmented, minimal, and rather unimaginative effort underway in environmental and ecological education. A bold, innovative, and comprehensive program as called for by the Environmental Quality Education Act is a high-priority item on the environmental agenda for the 1970's.

Mr. President, I ask unanimous consent that the introduction to the journal Environmental Education be printed in the RECORD.

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

INTRODUCTION

WHAT THIS JOURNAL IS

Environmental Education is a new quarterly devoted to discovery and dissemination in the emerging field of multidisciplinary conservation communications. Through a recording of insight and information about pioneer research and interpretation projects and programs, this Journal will act as a catalyst in encouraging and exchanging effective studies and developments toward broad public ecological awareness, understanding, and action.

WHAT IT'S ABOUT

To describe recent efforts to inculcate a concern for the conservation, redevelopment, and maintenance of environmental quality, the term "environmental education" is increasingly entering the lexicon of the country. Some might say the term has sprung into being merely at the whim of phrase-makers to lend a charismatic quality to the matters with which it is associated. On the contrary, the term implies both a more precise and a more comprehensive way of engendering "a recognition by man of his interdependence with his environment, and his responsibility for developing a culture which maintains that relationship through policies and practices necessary to secure the future of an environment fit for life and fit for living" (1). The content of environment education is the total physical environment of man—its social, cultural, economic, and esthetic, as well as its biological, aspects. The goal of environmental education is "the rational use of the environment to promote the highest quality of living for mankind" (2). The methods of environmental education encompass all types and levels of communications. Research and development in such contents, goals, and methods is the subject matter of this Journal—all with the aim of helping develop "a national philosophy which feels an inhibition against damaging our physical

environment and a responsibility for leaving it better than when we arrived" (3).

WHOM IT'S FOR

This is a professional Journal for all those who are beginning systematically to study and practice the new interpretation of America's resources—their essential integrity, their inexorable relationships with modern man, their beauty, their bio-physics, their utility, their socioeconomics, their conservation: for researchers in education and communications, for conservation educators, for environmental designers, for interpretive naturalists, for regional planners, for resource investigators and managers, for practitioners of public relations in resource industries, for conservation information specialists, for outdoor writers, for lay leaders in land and water programs—for all those concerned with discovering and applying better ways of developing a viable "conservation conscience" (4) on the part of America's citizenry.

WHAT IT DOES

Environmental Education lends focus and thrust to the emerging American search for an environmental ethic—"a developing discipline concerned with elucidating all the relationships of humanity to the total environment" (5). Unquestionably a pervasive concern for environmental quality must be high on the American agenda. At the core of the problem of defining, restoring, and maintaining a sanative environment are public understandings, attitudes, and actions. There is, hence, a growing array of investigation, instruction, and consultation on the part of various individuals, groups, agencies, and institutions—all under the new rubric of "environmental education," for persons of all ages. To help professionalize this new field, this Journal will regularly publish reports about how better to communicate appropriate ecological and economic facts and esthetic dimensions that will "lay a basis for citizen action by clarifying public choices in land and water use, relating them to general values and social objectives, instilling a desire for constructive change, and suggesting practical guidelines based on integrated approaches" (6).

HOW

Environmental Education will offer a unique means of dissemination for such types of papers as these:

1. Original reports of experiments in educational content and methodology related to the incorporation of conservation concepts and materials in elementary, secondary, and adult curricula.

2. Original reports of studies in mass communications practice as related to the reporting of conservation news.

3. Original reports of research in public relations and public policy formation as related to resource management issues.

4. Case histories in the translation of ecological understanding into action programs on the land.

5. Essays defining the parameters and goals of ecological education and environmental communications.

6. Examples of multidisciplinary interpretive programs and materials.

7. Reports of current activities and future plans of organizations and groups engaged in environmental education.

8. Abstracts, bibliographies, and reviews of recent literature with implications for conservation communications.

9. Editorial comments suggesting fruitful avenues of investigation and action.

10. Profiles of past and present leaders in the public relations of environmental management.

WHY

The pervasive degradation of the American environment demands action. Building public interest, understanding, and support is at the heart of any quest for environmental quality. To preserve without penalizing, to develop without destroying, "to restore as well as to protect, to bring beauty to the cities as well as to keep it in the countryside, to handle the waste products of technology as well as the waste of natural resources, to husband those amenities which are linked not only to economic prosperity but to the inner prosperity of the human spirit" (7)—all this requires the emergence of a "man-land ethic" (8). Environmental educators in many forms are now at work—"encouraging people to appreciate their heritage, to become knowledgeable about problems that affect their environment, to understand how to be effective in helping solve these problems, and to work toward their solution" (9). To record compelling theories of content and methodology, to disseminate new concepts and materials, to help life conservation education out of any outmoded patterns, to bring to practitioners a sense of identity with the growing edge of research, to bring to researchers the needs of the field, to provide each with the stimulus that comes from knowing the experiences of others; in short, to pull together under one cover the chronicle of a new profession—this is the mission of *Environmental Education*.

REFERENCES

1. The Pinchot Institute for Conservation Studies.

2. Russell Train, Undersecretary of Interior.

3. Irving Fox, Associate Director, Water Resources Center, The University of Wisconsin—Madison.

4. Aldo Leopold.

5. Durward Allen, Professor of Wildlife Ecology, Purdue University.

6. Course Syllabus, Environmental Resource Management, The University of Wisconsin—Madison.

7. Lyndon B. Johnson.

8. Aldo Leopold.

9. William B. Stapp, Professor of Resource Planning and Conservation, The University of Michigan.

RACIAL CONFLICT IN INTEGRATED SCHOOLS

Mr. BYRD of West Virgina. Mr. President, in the Washington Post for January 21, columnist Joseph Alsop notes that forced school integration in the United States has resulted in "something perilously close to race war—in just about every integrated high school."

The columnist mentions the recent spot checks of our high schools made by officials at the U.S. Office of Education, and he notes that their findings were "hair raising." At every integrated high school they visited, these officials found "the poison of simmering racial conflict."

I ask unanimous consent that Mr. Alsop's column be printed in the RECORD.

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

INTERRACIAL VIOLENCE IN SCHOOLS REQUIRES A NATIONWIDE SURVEY

(By Joseph Alsop)

It is a hundred to one bet that President Nixon's report on the state of the nation will take no note of a key fact so dangerous that everyone in this nation ought to be thinking about it.

The fact is that something perilously close to race war has now begun in just about every integrated high school in the United States. This is not a Southern problem. It is a nationwide problem, with future political implications so grave that we dare not go on being ostriches about it.

First, however, let us examine the facts, which are not easy to ascertain with absolute precision. This reporter began the attempt about 10 days ago. The spur was a talk with young men in the Office of Education, whom Commissioner of Education James Allen had told to go out and find out, on the spot what was really happening to the U.S. school system.

Their story, as some may remember, as downright hair-raising. They estimated that one-half the center city high schools and about 30 per cent of the suburban high schools had serious hard-drug problems. They further told a melancholy tale of widespread interracial violence in the high schools.

This seemed serious enough to call for further inquiry, and inquiries were duly made. School officials were queried. So were leading figures in the academic-educational world, like Dr. John Naisbitt, of the Urban Research Corporation, which is linked to the University of Chicago, and Prof. Mark Chesler, of the Institute for Social Research at Wisconsin University.

Concerning the racial problem, the results of these inquiries were so disturbing that a more scientific, high-school-by-high-school nationwide census is clearly in order. God pray such a census, if taken, will show different results from the spot check thus far made.

One must make that prayer, because the spot checks failed to reveal *any* integrated high school, anywhere at all, that was free of the poison of simmering racial conflict. Mercifully, it is mostly just simmering—taking the form, that is, of minor aggressions between whites and blacks.

In too many places, moreover, the simmering conflict has already boiled up, or may soon boil over, into major violence between whites and blacks. And in New York, Chicago and elsewhere, there are actually high schools where the race war is so serious that large numbers of police have to be continuously stationed in the school buildings.

The trouble centers in the high schools for two obvious reasons. One is the fact that high school pupils have reached fighting-age. The other is the fact that pupils from different neighborhoods, often with little prior experience of integrated schooling, naturally tend to be mixed up together when they go on to high school.

With reason, Commissioner Allen is deeply concerned about this problem. Last Monday, he held a meeting with men from other potentially interested federal agencies, in the Justice Department and elsewhere. The topic was possible federal leadership in the search for a solution of the problem.

In a few high schools again, although the conflict is still there, something is at least being done about it. In Cleveland, for instance, Shaker Heights High School has inaugurated what are called "dialogue groups." And it offers human relations courses, and is experimenting with other ways to keep things cool.

Yet the widest inquiries have failed to locate any truly informed man of goodwill who is not deeply discouraged. If you consider the problem politically, moreover, this problem is not just a source of discouragement about the orneriness of human nature. It is a source of really frightening danger to the American political future.

Anyone ought to be able to figure out the automatic effect of racial attitudes of both parents and pupils of virtually omnipresent racial conflict in the integrated high schools. Even if there are no more than minor aggressions, requiring no outside intervention, causing no public clamor, the effect must still be the widespread promotion of prejudice and hatred.

The nauseous George C. Wallace has already spotted that. He is now out to solidify his Southern support by exploiting the special Southern school situation. But he will surely be heard from all over the country, unless the decent majority of both races goes into action pretty quick.

ORDER NO. 4 OF THE OFFICE OF FEDERAL CONTRACT COMPLIANCE OF THE DEPARTMENT OF LABOR

Mr. ERVIN. Mr. President, last Thursday I released for the Congress and the public the text of Order No. 4, an unpublished Department of Labor employment directive which would place a stricter version of the Philadelphia plan on virtually every Federal contractor in the Nation.

As you no doubt know, after the release of Order No. 4, the Office of Federal Contract Compliance and the Labor Department made several different explanations of its existence, finally concluding that the entire episode resulted from an administrative error.

Had that been the case, Order No. 4 would be easier to dismiss. But the issuance of that order by the OFCC, apparently without the knowledge or approval of the Secretary of Labor, involves more serious questions than the simple disregard of normal administrative channels.

In the eyes of the OFCC, its director, Mr. John Wilks, the Assistant Secretary of Labor Mr. Arthur Fletcher, Order No. 4 was an official directive from November 20, 1969, until shortly after 1 p.m. on Thursday. In the eyes of the OFCC, it had the force of law. It was not, as the Labor Department has asserted in the press, a draft sent out for criticism which was mistakenly marked as an order. Order No. 4 was a formal directive to the heads of all agencies, effective immediately. It superseded and invalidated an earlier order. It did not become a draft until Thursday afternoon.

I think there can be no serious question that Order No. 4 requires the acceptance of strict racial hiring quotas by Federal contractors. While it is correct, as the OFCC's senior compliance officer, Mr. Leonard Biermann, told the Washington Evening Star on Thursday morning, that the order does not itself set the precise numerical standards of the Philadelphia plan, it does require Federal contractors to set even more severe standards themselves. These standards are no less than flat quotas. Order No. 4 states that these quotas shall be mandatory, providing that "special corrective action must be taken" in the event of racial imbalance within work forces.

Order No. 4 makes no pretense of being satisfied with only "good faith efforts" by Federal contractors to reach flexible goals. This is despite the fact that the order's purported intent is to define what the OFCC considers acceptable "good faith efforts" and "affirmative action programs."

In Order No. 4, the "special corrective action" to be taken by Federal contractors is based upon racial population ratios. Phrases such as "should approximate or equal the ratio" are used in describing acceptable hiring efforts by employers. The OFCC's own examples of "acceptable goals" are themselves flat quotas. I quote two such examples which appeared in the press:

> Example: New York office plans to hire 20 sales representatives by March 1, 1970. Ten of the twenty will be minorities. Six of the ten will be Negro.
>
> Example: Fifteen percent of employees promoted into supervisory positions in 1970 will be minorities.

I ask you, Mr. President, if these are not quotas. They are, unless we believe the OFCC, which makes the artificial distinction that they are "goals" because the contractors "voluntarily" agree to them. I think we must examine not only the language of these OFCC examples, but also their effect upon Federal contractors. I think that effect is to imply to the contractors, quite distinctly, that unless they "voluntarily agree" to set quotas, they will be disqualified from contract awards. That is a peculiar sort of voluntary agreement.

I see no further need to argue with the OFCC about whether the Philadelphia plan and Order No. 4 require illegal racial hiring quotas. I argued that the plan did require them when the Subcommittee on Separation of Powers held hearings on it in late October. I cited the legislative history of title VII of the 1964 Civil Rights Act to butress my argument. But the legislative history was of no importance to the OFCC, which insisted that it was proceeding under an Executive Order.

I do not feel that I must argue again. I will simply quote one section of the Clark-Case memorandum on title VII, the section which appears in the CONGRESSIONAL RECORD, volume 110, part 6, page 7213, and ask you to compare its language with the requirements of Order No. 4:

> Any deliberate attempt to maintain a racial balance, whatever such balance may be, would involve a violation of title VII because maintaining such a balance would require an employer to hire or refuse to hire on the basis of race.

To me, that intent is clear. Any attempt to argue that Order No. 4 does not violate that intent is the legal equivalent to saying that the earth is flat.

Mr. President, the OFCC and other members of the Labor Department knew that Order No. 4 was in effect at the same time they assured the House and Senate that no quotas were required of Federal contractors under the Philadelphia plan. Perhaps in their own minds, Order No. 4 does not require quotas. Perhaps they sincerely believe that. I must assume so. But to me, Order No. 4 requires racial hiring quotas. It defines "good faith effort" in such a way as to evaporate any meaning which that term might have had.

I think that Congress was entitled to be told of the existence of Order No. 4 last December when it considered the rider amendment to the Supplemental Appropriations Act, particularly the Members of the House, where many supported the OFCC because they had been assured that it did not require racial hiring quotas. I say this without ascribing any lack of candor to the President or the Secretary of Labor, who apparently did not know that Order No. 4 had been issued. I am equally sure that the Philadelphia plan's congressional proponents did not know of the order. But the OFCC knew, and said nothing.

That is only the first item, in a bill of particulars against the OFCC's handling of Order No. 4. Second, we should ask why the OFCC did not make Order No. 4 public from the first, weeks before the rider amendment was debated.

It is true, as the Labor Department told the press, that Mr. Wilks mentioned Order No. 4 at a conference in Racine, Wis., on the day after the order was issued. It is not correct, however, for the OFCC to suggest that Mr. Wilks in any way publicly explained the provisions of Order No. 4. I have a copy of the transcript from that conference.

Surely, Mr. President, we cannot accept the OFCC's explanation that it would have been "redundant" to publicize the order. Order No. 4 extends to virtually every Federal contractor in the Nation. It requires of many contractors actions which they are not equipped to take. Yet the OFCC for 2 months kept the order from Congress and the press, sending it instead to the various Federal agencies and depending on them to parcel it out to individual contractors.

I think it is unacceptable conduct on the part of a Federal agency. The OFCC had an ethical responsibility to the Congress to place Order No. 4 in the Federal Register and to release it to the public, whether or not that publication was required by law. The OFCC is run by public funds. It should conduct its business in the open.

At the time of his death, our late beloved minority leader, Senator Dirksen, was deeply concerned about the future of this Office of Federal Contract Compliance. He was on the verge of seeking its abolition, and said as much in hearings before the Administrative Practices and Procedures Subcommittee.

Senator Dirksen was concerned because of exactly the kind of action which the OFCC took in issuing Order No. 4. He was concerned about respect for due process of law; Order No. 4 does not contribute to that bedrock principle. He was concerned about OFCC harassment of employers; one need only glance at the language of Order No. 4 to sense the harassment that it would produce. He was concerned that the OFCC did not transact its business openly. He was concerned that the OFCC's compliance officers haggled with employers, never told them precisely what was expected, and made them "agree" to quotas. Order No. 4 is a confirmation of Senator Dirksen's concerns.

Mr. President, we should ask why the OFCC apparently never held hearings or solicited outside views on the merits of the requirements in Order No. 4. Surely the OFCC's officials did not believe that they did not need any advice.

We should also ask whether the OFCC ever held hearings on the Philadelphia plan itself. I ask this not in argument, but for information. I do know that the OFCC held hearings in Philadelphia last August before Assistant Secretary Fletcher and Director Wilks. This hearing had the purpose of gathering information to fix the percentage "goals" of the Philadelphia plan. The Labor Department is presently reviewing the data gathered at this hearing to see if it is accurate.

But I do not know that a hearing was held on the Philadelphia plan itself: the June 27, 1969, version which is the basis for so much of this controversy. Perhaps the OFCC held hearings on the original

plan, which was scrapped after the Comptroller General ruled it disrupted competitive bidding. But I ask—for the sake of information—whether it held hearings before issuing the plan of June 27. If no hearings were held, I think we should know. If they were, I think we should know who was invited and what was said.

There is another point in this bill of particulars, which also concerns the administration of the OFCC. Last Thursday afternoon, Order No. 4 was relegated to the status of a draft. It had been an official order until that time. Mr. Wilks subsequently has said that he plans to reissue it within the next 2 weeks without substantial change.

I have been informed that as of 20 minutes ago, the OFCC still had not acted even to temporarily pull back Order No. 4. To do so, the OFCC must issue a separate order stating that Order No. 4 is rescinded. They have not done so, unless we believe that the OFCC can set legal restrictions on Federal contractors on the word of an unnamed spokesman to a newspaper.

I wonder whether the activities of the OFCC officials in the case of Order No. 4 are typical of that agency's operations. Let us look at the record. First, those officials issued a formal order without the approval of the Secretary of Labor. Then they kept the order quiet for 2 months while its premises were under debate in the Congress. When the order was finally publicized, their first reactions were to deny and then to defend it. Then, after meeting with Secretary Shultz, they claimed that it was a "draft," but issued the contradictory statement that Mr. Wilks had spoken on it in Wisconsin. At one point, an OFCC spokesman told the Columbus, Ohio, Dispatch that the order had been printed in an obscure publication known as "Legal Services"—a publication so obscure, the Dispatch reported, that even the Library of Congress had not heard of it. Later, the OFCC said it would rescind the order, but as of 25 minutes ago, it had taken no such action.

Throughout these maneuverings, the OFCC has stuck by its claim that Order No. 4 does not require quotas—a ridiculous assertion. And as yet there has been no hearing.

Mr. President, the conclusion is obvious. The OFCC tells the Congress and the public that it is taking one action while at the same time it is actually doing the opposite. I believe the phrase for that situation is a credibility gap.

I just want my colleagues here and in the House to know, Mr. President, what the OFCC has done. I want them to know that while the Labor Department was insisting to the Congress that the OFCC did not require quotas, the OFCC was busy implementing Order No. 4. I want them to know that the OFCC still has every intention of keeping Order No. 4 in effect.

In Order No. 4, the OFCC has expressed its intent in the administration of the Philadelphia plan and other Federal employment programs. It has shown what it will and will not accept from Federal contractors. We must remember that even if Order No. 4 never again emerges from the OFCC, its intent is still present. It was present when we voted on the rider amendment, although the Labor Department assured us that no quotas were required. The same intent—the intent to impose illegal racial hiring quotas—will underlie the Philadelphia plan should we have the occasion to vote on it again.

Mr. President, I ask unanimous consent that the full text of the OFCC Order No. 4 be printed at this point in the RECORD, together with four newspaper articles which depict the events at the Labor Department after Order No. 4 was made public.

There being no objection, the text of the order and the four newspaper articles were ordered to be printed in the RECORD, as follows:

ORDER NO. 4

1. PURPOSE

Title 41, Subpart C, Chapter 60–1.40, Affirmative Action Compliance Programs, requires that each prime contractor or subcontractor with 50 or more employees and a contract of $50,000 or more develop a written affirmative action compliance program for each of its establishments. This section details the content required of these programs, and requires their maintenance within 120 days from the commencement of a contract since the effective date of the Rules and Regulations, or July 1, 1968.

A review of agency compliance surveys indicates that many contractors do not have affirmative action programs on file at the time an establishment is visited by a compliance investigator.

2. ACTION

If a contractor has entered into a contract subject to the current OFCC regulations at any of their establishments, over 120 days prior to the date of an investigation, and has no affirmative action plan on file, that contractor is not in compliance with the Regulations issued under Executive Order 11246. Until such a plan is developed and found to be acceptable, the contractor must not be found in compliance, and must therefore not be regarded as a responsible bidder.

In addition, if, during the compliance review deficiencies are noted not adequately corrected by the affirmative action plan, or no plan is available regardless of the findings of the review, the compliance agency shall immediately issue a notice to the contractor giving him 30 days to show cause as to why additional enforcement proceedings, leading to cancellation, suspension or debarment, should not be instituted. If no adequate response is given within such thirty days, the compliance agency shall immediately issue a notice of proposed cancellation, suspension or debarment pursuant to Section 60–1.26(b), giving the respondent ten days to request a hearing. If a request for hearing has not been received within ten days from receipt of such notice, such contractor will be declared ineligible for further contract consideration and current contracts will be cancelled or terminated. Pursuant to Paragraph — of this Order, no new contracts shall be awarded during these proceedings without the specific written approval of the Director OFCC.

Affirmative Action plans must contain the following information:

(a) An analysis of all major job classifications at the facility, with explanations as to why minorities may currently be under-utilized in any one or more job classes. "Under-utilization" is defined as having fewer minorities in a particular job class than their availability in the community;

(b) Goals and targets and affirmative action commitments designed to relieve any deficiencies identified by the company. Such goals and targets should be in terms of specific numbers, by jobs or job classes having similar content, wage rates and opportunities, with specific timetables for achievement. In establishments with over 1,000 employees, goals and targets may be presented by department;

(c) Support data for above analysis and program. Such data should include progression line charts, seniority rosters, applicant flow data, and applicant rejection ratios, indicating minority status.

In addition, the kinds of affirmative action to be taken, or the level of effort expected of Government contractors, is as follows:

Affirmative action, as related to equal employment opportunity, must be defined as specific and individual result oriented programs designed to materially increase the utilization of minorities at all levels and in all segments of the work force.

Effective Affirmative Action Programs shall contain, but not necessarily be limited to, the following ingredients:

I. Development or Reaffirmation of Company Policy of Non-Discrimination in all Personnel Actions.

II. Formal Internal and External Dissemination of Company Policy.

III. Establishment of Clear-Cut Responsibilities-Line/Staff Relationship.

IV. Identification of Problem Areas by Division, Department Location, and Job Classification.

V. Establishment of Company Goals and Objectives by Division, Department, Location and Job Classification; Including Target Completion Dates.

VI. Development and Execution of Action Oriented Programs Designed to Eliminate Problems and Further Designed to Attain Established Goals and Objectives.

VII. Design and Implementation of Internal Audit and Reporting Systems to Measure Effectiveness of Total Program.

VIII. Active Support of Local and National Community Action Programs.

Suggestions for action covering the above items follow:

I. Development or reaffirmation of company policy of non-discrimination in all personnel actions.

The company policy statement shall indicate the chief executive officer's attitude on the subject matter, assign corporate responsibility and provide for a reporting or monitoring procedure. Specific items to be mentioned include, but are not limited to:

1. Recruit, hire and promote for all job classifications without regard to race, creed, color, national origins, sex or age; except where sex or age is a bona fide occupational qualification.

2. Base decisions on employment solely upon an individual's qualifications for the position being filled.

3. Make promotion decisions only on the individual's qualifications as related to the requirements of the position for which he is being considered.

4. Insure that all other personnel actions such as compensation, benefits, transfers, layoffs, return from layoff, company sponsored training, education, tuition assistance, social and recreation programs, will be administered without regard to race, creed, color, national origin, sex or age; except where sex or age is a bona fide occupational qualification.

In keeping with the above policy, the company will periodically conduct analyses of all personnel actions to insure equal opportunity.

II. Formal internal and external dissemination of company policy.

A. Internal Dissemination:

1. Include in company policy manual.

2. Publicize in company newspaper, magazine, annual report and other media.

3. Conduct special meetings with executive, management, and supervisory personnel to explain intent of policy and individual responsibility for effective implementation,

making clear the chief executive officer's attitude.

4. Schedule special meetings with all other employees to discuss policy and explain individual employee responsibilities.

5. Discuss policy thoroughly in both employee orientation and management training programs.

6. Meet with union officials to inform them of policy, and request their cooperation.

7. Include non-discrimination clause in all union agreements, and review all contractual provisions to ensure they are non-discriminatory.

8. Publish articles covering EEO programs, progress reports, promotions of minority employees, etc., in company publications.

9. Post policy on company bulletin boards.

10. When employees are featured in product or consumer advertising, both minority and non-minority employees should be pictured.

B. External Dissemination:

1. Inform all recruiting sources verbally and in writing of company policy, stipulating that these sources actively recruit and refer minorities for all positions listed.

2. Send written notification of company policy to all subcontractors, vendors and suppliers requesting appropriate action on their part.

3. Incorporate Equal Opportunity clause in all purchase orders, leases, contracts, etc.

4. Notify minority organizations, community agencies, community leaders, secondary schools and colleges, of company policy, preferably in writing.

5. When employees are pictured in consumer or help wanted advertising, both minorities and non-minorities should be shown.

III. Establishment of clear-cut responsibilities-line/staff relationships.

A. A corporate executive shall be appointed as Director or Manager of company Equal Opportunity Programs. Depending upon the size and geographical alignment of the company, this may be his sole responsibility. In addition, he shall be given the necessary top management support and adequate staff to execute his assignment. His responsibilities will include, but not necessarily be limited to:

1. Developing policy statement, affirmative action programs, internal and external communication techniques.

2. Assisting in the identification of problem areas.

3. Assisting line management in arriving at solutions to problems.

4. Designing and implementing audit and reporting systems that will:

a. Measure effectiveness of company programs.

b. Indicate need for remedial action.

c. Determine the degree to which company goals and objectives have been attained.

5. Serving as liaison between company and enforcement agencies, minority organizations, and community action groups.

6. Keeping management informed of latest developments in the entire equal opportunity area.

B. Line responsibilities should include, but not be limited to, the following:

1. Assisting in the identification of problem areas and establishment of local and unit goals and objectives.

2. Active involvement with local minority organizations and community action groups.

3. Periodic audit of hiring and promotion patterns to insure goals and objectives are met.

4. Regular discussions with local managers, supervisors and employees to be certain company policies are being followed.

5. Review of the qualifications of all employees to insure minorities are given full opportunities for transfers and promotions.

6. Career counseling for all employees.

7. Periodic audit to insure each location is in compliance in areas such as:

a. Posters are properly displayed.

b. All facilities, including company housing, are in fact, desegregated, both in policy and in use.

c. Minority employees are participating in all company sponsored educational, training, recreational and social activities.

8. Supervision must understand that their work performance is being evaluated on the basis of their EEO results, as well as other criteria.

IV. Identification of Problem Areas by Division, Department, Location and Job Classification.

A. Make an in-depth analysis of the following, paying particular attention to Apprentice, Craftsmen, and all White Collar categories:

1. Racial mix of work force.

2. Racial mix of applicant flow. (It is recognized that those states having Fair Employment Practices legislation expressly forbid the racial identification of individual applicants. However, during compliance reviews, companies are often required to furnish information as to the number of applicants, by position applied for, by race.)

3. Total selection process:
Position description;
Man specification;
Application forms;
Interview procedure;
Test administration;
Test validation;
Referral procedure; and
Final selection process.

4. Transfer and promotion practices.

5. Facilities, company sponsored recreation and social events, and special programs such as educational assistance.

6. Seniority practices and seniority provisions of union contracts.

7. Apprenticeship programs.

8. All company training programs, formal and informal.

9. Attitude of work force.

10. Technical phases of compliance such as poster and notification to labor unions, retention of applications, notification to subcontractors, etc.

B. If any of the following items are found in the analysis, special corrective action must be taken.

1. No minorities in specific work classifications.

2. Minorities in work classification but ratio of minority applicants below ratio of minority applicant community.

3. Lateral and/or vertical movement of minority employees occurring at a lesser rate (compared to work force mix) than that of non-minority employees.

4. The selection process eleminates a higher percentage of minorities than non-minorities.

5. Applicants and related pre-employment forms not in compliance with local, state or federal legislation.

6. Position descriptions inaccurate in relation to actual functions and duties.

7. Man specifications not validated in relation to position requirements and job performance.

8. Test norms not validated by location, work performance and inclusion of minorities in sample.

9. Referral ratio of minorities to the hiring supervisor or manager indicates an abnormal percentage are being rejected as compared to non-minority applicants.

10. Minorities are excluded from or are not participating in company sponsored activities or programs.

11. De facto segregation still exists at some facilities.

12. Seniority provisions contribute to overt or inadvertent discrimination, i.e., a racial disparity exists between length of service and types of jobs held.

13. Non-support of company policy by managers, supervisors or employees.

14. Minorities not included in apprenticeship programs, or are only participating on a "token" basis.

15. No formal techniques established for evaluating effectiveness of EEO programs.

16. Lack of access to suitable housing inhibits employment of qualified minorities for professional and management positions.

17. Labor unions and subcontractors not notified of their responsibilities.

18. Purchase orders do not contain EEO clause.

19. Posters not on display.

V. Establishment of company goals and objectives by division, department, location, and job classification; including target completion date.

A. Establish goals and objectives covering problem areas identified in preceding section.

B. Involve personnel relations staff, department and division heads, and local and unit managers in the goal setting process.

C. Goals should be significant, measurable and attainable.

D. Goals should be specific both for planned results and timetable (examples).

Completely desegregate facilities by January 1, 1970.

Increase flow of minority applicants for sales positions by at least 35 percent by March 1, 1970.

New York office plans to hire 20 sales representatives by March 1, 1970. Ten of the twenty will be minorities. Six of the ten will be Negro.

Fifteen percent of employees promoted into supervisory positions in 1970 will be minorities.

Total company white collar employment will increase by 40 percent by June 1, 1970.

VI. Development and execution of action oriented programs designed to eliminate problems and further designed to attain established goals and objectives.

A. Conduct detailed analysis of position descriptions to insure they accurately reflect position functions, and are consistent for the same position from one location to another.

B. Validate man specifications by division, department, location and job classification using job performance criteria. Special attention should be given to academic, experience and skill requirements to insure that the requirements in themselves do not constitute inadvertent discrimination. Specifications must be consistent for the same job classification in all locations and must be free from bias as regards to race, sex, or age except where sex or age can be proven to be a bona fide occupational qualification. Where requirements screen out a disproportionate number of minorities, such requirements should be professionally validated to job performance.

C. Approved position descriptions and man specifications shall be made available to all members of management involved in the recruiting, screening, selection and promotion process. Copies should also be distributed to all recruiting sources.

D. Evaluate total selection process to insure freedom from bias and attainment of goals and objectives.

1. All personnel involved in the recruiting, screening, selection, promotion, disciplinary and related processes should be carefully selected and trained to insure elimination of bias in all personnel actions.

2. Validate all selection criteria (Note Department of Labor Order of September 9, 1968 covering the Validation of Employment Tests and Other Selection Techniques by Contractors and Subcontractors Subject to the Provisions of Executive Order 11246). Key points in this order are:

Each contractor regularly using test to select among candidates for hire, transfer or promotion to jobs must have available for inspection, within a reasonable time, evidence that tests are valid for their intended purpose. Such evidence shall be examined during compliance reviews for indi-

cations of possible discrimination, such as instances of higher rejection rates for minority candidates than non-minority candidates.

Evidence of a test's validity shall consist of empirical data demonstrating that the test is predictive of or significantly correlated with important elements of work behavior relevant to the job(s) for which candidates are being evaluated.

Empirical evidence in support of a test's validity must be based on studies employing generally accepted procedures for determining criterion-related validity, such as those described in the American Psychological Association's Standards for Education and Psychological Tests and Manuals.

When a concurrent validity study is conducted, the sample should be, so far as technically feasible, representative of the minority groups currently included in the candidate population.

Tests must be administered and scored under controlled and standardized conditions, with proper safeguards employed to protect the security of test scores and insure that scores do not enter into any judgments of individual adequacy that are to be used as criterion measures.

The work behavior or other criteria of employee adequacy must be fully described. Whatever criteria are used should represent major or critical work behaviors as revealed by careful job analyses.

Presentations of the results of a validation study must include graphical and statistical representations of the relationships between the test(s) and the criteria, permitting judgments of the test(s) utility in making predictions of future work behavior.

Data must be generated and results reported separately for minority and non-minority groups wherever technically feasible.

3. Selection techniques other than tests may also be improperly used so as to have the effect of discriminating against minority groups. Such techniques include but are not restricted to, unscored interviews, unscored application forms, arrest records, and credit checks. Where there are data suggesting that such unfair discrimination exist (e.g., differential rates of rejecting applicants from different ethnic groups or disproportionate representation of some ethnic groups in employment in certain classes of jobs), then the contractor may be called upon to present evidence of the validity of any of his unscored procedures.

E. The rate of minority applicants recruited should approximate or equal the ratio of minorities to the applicant population in each location. Suggested techniques to increase the flow of minority applicants follows:

1. Certain organizations such as the Urban League, Job Corps, Equal Opportunity Programs, Inc., Concentrated Employment Programs, Neighborhood Youth Corps, Secondary Schools, Colleges, and "City" Colleges with high minority enrollment, the State Employment Service, specialized employment agencies, Aspira, LULAC, SER, the G.I. Forum, and the Commonwealth of Puerto Rico are normally prepared to refer qualified minority applicants. In addition, community leaders as individuals shall be added to recruiting sources.

2. Formal briefing sessions shall be held, preferably on company premises, with representatives from these recruiting sources. Plant tours, presentations by minority employees, clear and concise explanations of current and future job openings, position descriptions, man specifications, explanations of the company's selection process, and recruiting literature should be an integral part of the briefings. Formal arrangements should be made for referral of applicants, follow-up with sources, and feedback on disposition of applicants.

3. Minority employees, using procedures similar to 2. above, shall be actively encouraged to refer applicants.

4. A special effort shall be made to include minorities on the Personnel Relation Staff.

5. Minority employees shall be made available for participation in Career Days, Youth Motivation Programs, and related activities in their communities.

6. Active participation in "Job Fairs" is desirable. Company representatives so participating shall be given authority to make on-the-spot hiring commitments.

7. Active recruiting programs shall be carried out at secondary schools, junior colleges, and colleges with minority enrollments.

8. Special employment programs shall be undertaken whenever possible. Some possible programs are:

a. Technical and non-technical co-op programs with the predominantly Negro colleges

b. "After school" and/or work-study jobs for minority youths.

c. Summer jobs for underprivileged youth.

d. Summer work-study programs for faculty members of the predominantly minority schools and colleges.

e. Motivation, training and employment programs for the hard-core unemployed.

9. When recruiting brochures pictorially present work situations, the minority members of the work force should be included.

10. Help wanted advertising should be expanded to include the minority news media on a regular basis.

F. Assure that minority employees are given equal opportunity for promotion. This can be achieved by:

1. An inventory of current minority employees to determine academic skill and experience level of individual employees.

2. Initiating necessary remedial, job training and work-study programs.

3. Developing and implementing formal employee evaluation programs.

4. Being certain "man specifications" have been validated on job performance related criteria. (Minorities shall not be required to possess higher qualifications than those of the lowest qualified incumbent if they were initially placed in a discriminatory manner.)

5. When apparently qualified minorities are passed over for upgrading, require supervisory personnel to submit written justification.

6. Establishing formal career counseling program to include attitude development, educational aid, job rotation, buddy system, etc.

7. Reviewing seniority practices and seniority clauses in union contracts to insure such practices or clauses are non-discriminatory and do not have a discriminatory effect.

G. Make certain facilities and company-sponsored social and recreation activities are desegregated. Actively encourage minority employees to participate.

VII. Design and implement internal audit and reporting systems to measure effectiveness of total program.

A. Monitor records of referrals, placements, transfers, promotions, and terminations at all levels to insure non-discriminatory policy is carried out.

B. Require formal reports from unit managers on a schedule basis as to degree to which corporate or unit goals are attained and time tables met.

C. Review report results with all levels of management.

D. Advise top management of program effectiveness and submit recommendations to improve unsatisfactory performance.

VIII. Actively support local and national community action programs.

A. Appoint key members of management to serve on Merit Employment Councils, Community Relations Boards and similar organizations.

B. Encourage minority employees to actively participate on the Plans for Progress Youth Motivation Task Force.

C. Support Vocational Guidance Institutes, Vestibule Training Programs and similar activities.

D. Assist secondary schools and colleges with significant minority enrollment in programs designed to enable graduates of these institutions to compete in the open employment market on a more equitable basis.

E. Publicize achievements of minority employees in local and minority news media.

F. Support programs developed by Plans for Progress, the National Alliance of Businessmen, the Urban Coalition and similar organizations.

3. SUPERSEDURE

Memorandum from this Office entitled "Affirmative Action Plans" dated September 15, 1969, is hereby superseded and rescinded.

4. AUTHORITY

This action is taken pursuant to Executive Order 11246 Sections 201, 205, 211; 41 CFR Sections 60–1.6, 60–1.28, 60–1.29, 60–1.40.

5. EFFECTIVE DATE

This Order is effective immediately.

[From the Washington Evening Star, Jan. 15, 1970]

UNITED STATES TIGHTENS HIRING GUIDES FOR CONTRACTS

(By Dana Bullen)

Tough new guidelines for minority hiring by all federal contractors have been established quietly by the Labor Department—guidelines that a critic claims make the controversial Philadelphia Plan "look like small potatoes."

Sen. Sam J. Ervin Jr., D-N.C., today released a copy of the guidelines—set up Nov. 20—and accused the Labor Department of "dirty pool" in not announcing the action sooner.

A department spokesman acknowledged there had been no public announcement and, so far, no publication of the guidelines in the official Federal Register. But he denied there was any effort to keep them quiet.

NOT A SECRET ORDER

"This is not a secret order, as some people have been saying," asserted Leonard Biermann, senior compliance officer with the Labor Department's Office of Federal Contract Compliance.

Asked about the order after Ervin disclosed it, Biermann agreed that its provisions are "tough," but he called them "different" rather than "tougher" than the Philadelphia Plan.

The Philadelphia Plan, which generated a bitter fight as Congress pressed to adjourn before Christmas, suggests specific percentages for minority hiring that critics contend are illegal racial quotas.

Administration spokesmen contend the Philadelphia Plan—which the Senate, but not the House, voted to block—merely requires "good faith" efforts to promote minority hiring. So far, the plan covers only six construction unions in the Philadelphia area.

NO PERCENTAGES

The new guidelines contain no required racial percentages, although several examples of the level of Negro hiring that would meet the standards do set numerical figures.

Biermann said the guidelines require a firm doing business with the government to set specific goals and targets for minority hiring but that these could be "reasonable" rather than a set percentage.

The guidelines, which Ervin said the government "quietly circulated" during the past two months while the Philadelphia Plan fight grew on Capitol Hill, go beyond that plan in a number of ways.

They apply to all federal contractors rather than just construction projects. They are nationwide, and a considerably wider range of firms is covered.

Under the Philadelphia Plan, a firm doing $500,000 worth of work for the government must promote minority hiring. The new

guidelines reach firms that handle as little as $50,000 worth of federal work.

Biermann said the guidelines supplement a general requirement for steps to promote minority hiring announced last Sept. 15. A press release notified the public of that, he said.

He said it was thought it would have been "a bit redundant" to issue a subsequent press release on Nov. 20 when the specific guidelines implementing the earlier memorandum were ordered.

Administrative difficulties held up publication of the guidelines in the Federal Register, Biermann said. They will be placed in the Register shortly, he added.

As long ago as July 1968, Labor Department rules required government contracts to contain "an affirmative action plan" for minority hiring. Later surveys showed proper plans were not being filed, Biermann said, so the new rules were set up to strengthen the program.

The guidelines, carrying forward an earlier sanction, provide that a contractor who is not in compliance may be denied further federal business until he takes steps to meet the standards.

"It's very tough, there's no question about it," said Biermann. "It says if you don't have a plan, you don't get a contract. We're just not as specific (on what is required) as we were in the Philadelphia Plan."

Ervin said the new guidelines make minority hiring on federal jobs "flatly mandatory"—citing a section stating "special corrective action must be taken" if certain conditions are found to exist.

Among these, he said, are a lower percentage of minority workers in a work classification than in the "minority applicant community," lesser rate of minority promotions or "inadvertent discrimination."

Examples in the guidelines of suggested minority hiring practices include the following:

"New York sales office plans to hire 20 sales representatives by March 1, 1970. Ten of the 20 will be minorities. Six of the 10 will be Negro."

LACK OF PUBLICITY HIT

Another example states: "Fifteen percent of employes promoted into supervisory positions will be minorities."

In criticizing the guidelines, Ervin said he was concerned about the lack of publicity given them during congressional consideration of the Philadelphia Plan.

"My point is that the Department of Labor had already implemented (the new guidelines) at the time the administration was righteously accusing the Senate of playing 'dirty pool' in adopting" the rider to block the Philadelphia Plan, Ervin said, accusing the department, instead, of "dirty pool."

[From the Washington Post, Jan. 16, 1970]

UNITED STATES ISSUES, RECALLS NEW RACIAL JOB CODE

Tough new rules for minority hiring on all government contracts were abruptly pulled back yesterday after the Labor Department discovered its own solicitor had not passed on their legality or suitability.

The 28-page "Order No. 4" of the Office of Federal Contract Compliance was revealed by Sen. Sam J. Ervin Jr. (D-N.C.), who said it makes the controversial Philadelphia Plan for minority hiring on construction projects "look like small potatoes."

He accused the Labor Department of "dirty pool" for quietly circulating the order for nearly two months among its compliance personnel without any public announcement. At the same time, he said, the Department was fighting an unsuccessful Senate attempt to ban the Philadelphia Plan. The Department, denying the plan sets racial quotas, said then that all the plan requires is "good faith efforts."

"Unlike the Philadelphia Plan, Order 4 makes no pretense of requiring good faith efforts to raise the percentage of minority group employees in federal contract work," Ervin said. "The order makes such hiring flatly mandatory."

The senator cited the order's requirement that "special corrective action must be taken" when:

The "ratio of minority applicants (is) below the ratio of minority applicant community."

"Lateral and/or vertical movement of minority employees occurrs at a lesser rate (compared to work force mix) than that of non-minority employees."

"The selection process eliminates a higher percentage of minorities than non-minorities."

"Seniority provisions contribute to overt or inadvertent discrimination, i.e., a racial disparity exists between length of service and types of jobs held."

Shortly after Ervin's protest, Leonard Biermann, senior compliance officer of the OFCC, conceded issuance of the order but said no effect had been made to keep it secret. He said the new rules were set up to strengthen the progam because it was found that potential government contractors were not filing adequate "affirmative action programs" for minority hiring under the old guidelines.

Later in the day the Labor Department issued this statement:

"Through an administrative error, a draft was circulated prematurely, not secretly as an order. The circulated draft is not final."

Administration sources subsequently reported that the Labor Department's chief legal officer, Solicitor Laurence Silberman, had not even seen the order and that Secretary George P. Shultz, while aware of the draft, did not know that it had been disseminated without clearance.

The Philadelphia Plan had been attacked as unconstitutional for setting hiring "quotas" for minority employees in contravention of the 1964 Civil Rights Act. The plan itself makes no mention of quotas but sets "goals" requiring average minority employment of 20 per cent after five years among six higher-paid crafts on Philadelphia-area federal construction jobs of more than $500,000.

Order No. 4 is much broader in scope, applying to all federal contracts of more than $50,000.

Although Ervin contended that the order's corrective action really means "the imposition of racial hiring quotas," the order sets no "goals" of its own.

But it would require companies to set their own "goals and objectives by division, department, location and job classification, including target completion dates."

As examples of affirmative action goals that would be acceptable, Irvin quoted the following from the order:

"New York office plans to hire 20 sales representatives by March 1, 1970. Ten of the 20 will be minorities. Six of the 10 will be Negroes."

"Fifteen per cent of employees promoted into supervisory positions in 1970 will be minorities."

The order also proposes that affirmative action programs expand help-wanted advertising "to include the minority news media on a regular basis," publicize achievements of minority employees in local and minority news media, require written justification when "apparently qualified" minority workers are passed over for upgrading, and require management's active support of local and national community action programs.

The guidelines propose that "all personnel involved in the recruiting, screening, selection, promotion, disciplinary and related processes should be carefully selected and trained to insure elimination of bias in all personnel actions."

[From the New York Times, Jan. 16, 1970]

ERVIN CRITICIZES ORDERS ON HIRING—CALLS CONGRESS DECEIVED BY NEW RACIAL QUOTAS

WASHINGTON, January 15.—Senator Sam J. Ervin Jr. of North Carolina accused the Administration today of deceiving Congress with new orders setting racial quotas for Federal contractors.

The Labor Department denied that any such orders had been issued. After officials in the department issued conflicting statements as to whether the order had been made, the department concluded that "a draft was circulated prematurely."

In response to a question yesterday, Arthur A. Fletcher, assistant Secretary of Labor, denied that any "blanket" order had been issued requiring Federal contractors to meet certain racial hiring quotas.

Today, Senator Ervin made public the text of a Labor Department order. It outlined minority group hiring practices that contractors must follow in getting Federal contracts.

Confronted with the Ervin disclosure, John L. Wilkes, director of the department's Office of Federal Contract Compliance, confirmed that he signed the order Nov. 20 and that it had been circulated to all Federal contracting agencies.

But later today, the Labor Department issued a statement saying that "through an Administrative error, a draft was circulated prematurely, not secretly, as an order. The circulated draft is not final."

Senator Ervin, a Democrat, had charged that the order was secretly issued at the same time the Administration was telling Congress its Philadelphia Plan for minority hiring would require only "good faith" efforts by contractors and would not set quotas.

Senator Ervin's complaint was that the Administration's argument prompted Congress not to pass legislation giving the Comptroller General the right to forbid payment of such quota contracts.

Mr. Wilks, in his explanation of the confusion, said that he did not know of any companies that had been penalized for noncompliance with the order.

JOHNSON ORDER CITED

He said the order was based on an executive order issued in 1965 by President Johnson forbidding discrimination by Federal contractors.

Mr. Wilks said that the order did not "impose a goal or range" of minority hiring. However, the order as released by Senator Ervin said: "The rate of minority applicants recruited should approximate or equal the ratio of minorities to the applicant population in each location.

Senator Ervin noted that the order was issued before the Congressional debate. But he said that there had been no public notice of it, that Congress had been unaware of it, and that it had not been published in the Federal Register.

"Unlike the Philadelphia Plan," Senator Ervin said, "the order makes no pretense of requiring good faith efforts to raise the percentage of minority group employes in federal contract work. The order makes such hiring flatly mandatory."

Senator Ervin said he was not because they might result in more jobs for Negroes, "but because they are illegal."

[From the Columbus (Ohio) Dispatch, Jan. 16, 1970]

SENATOR SHAKES UP LABOR DEPARTMENT

(By Roulhac Hamilton)

WASHINGTON.—Stung by a senator's charges that the Labor Department had kept secret a sweeping equal-employment opportunities order to deceive Congress, jittery department officials first insisted the order had been published—then insisted no such order exists.

The charges were leveled by Sen. Sam J. Ervin Jr., D-N.C., who said the order—first disclosed in a copyrighted Dispatch Washington Bureau article Wednesday—illegally imposed "flat quotas" for minority employment by federal contractors nationwide.

Ervin said the order, "unrevealed to Congress or to the public until now," was an "integral part of the Philadelphia Plan" and charged that the Nixon administration knew of the order's existence when it was assuring Congress last year that the Philadelphia Plan required no quotas but only "good faith efforts to employ minorities."

Questioned about the Ervin charges, Joseph A. Loftus, special assistant for communications to labor secretary George Schultz, said he had seen "the order" and that the department took "particular exception" to Ervin's charges that it had never been published.

It was, Loftus said, published in "a technical journal, 'Legal Services.'" The publication is so obscure that the Library of Congress said later it had never heard of it.

Loftus then told a newsman that "give me an hour and I can have a more complete story for you about the order."

Three hours later, the newsman was called by a departmental news branch aide "with the department's comment on Sen. Ervin's statement."

"Through administrative error, a draft, not a secret order, was circulated. This is not final," the aide said.

Asked if anyone was available who could explain why the 18-page "draft" was headed "order No. 4" and ended with the statement, "this order is effective immediately," the news branch aide replied, "not at this time."

Going against the department's abrupt shift from "order" to "draft" was the fact that on Wednesday afternoon, John E. Wilks, director of the Office of Federal Contract Compliance, had told an Ervin aide "the order is in effect and will be published in the federal register in a couple of days."

Also going against the department's newest position was the fact that a compliance officer had shown a copy of "the order" to a Pittsburgh steel manufacturing official and had told him, "This is what you are going to have to do. This is it."

There also was a reliable report the OFCC itself had held a meeting of its compliance officers at a conference center called "wingspread" late last year to explain the terms of "the order."

Ervin said in his statement that the order disclosed that "the true definition of 'good faith' and 'affirmative action' under the Philadelphia Plan (is) the imposition of racial hiring quotas."

He said he was concerned that OFCC had written "these flat quotas into order No. 4 not because they might result in more jobs for minorities, but because they are illegal."

But he said his major concern about the order was that "the Congress was misinformed by the Department of Labor" when, during consideration of an appropriations bill in December, it "assured the Congress that the Philadelphia Plan did not require the imposition of quotas."

At that time, Ervin asserted, the new order had been in effect for a full month and, in its scope, "makes the announced Philadelphia Plan look like peanuts."

The administration, the Senator said, "knew of order No. 4 when it assured the Senate and the House that no quotas were required under the Philadelphia Plan . . . the Department of Labor . . . played dirty pool."

BUSINESS AND THE URBAN CHALLENGE—ADDRESS BY JOHN W. KRESS

Mr. CASE. Mr. President, the selection of my longtime friend John W. Kress, president of the Howard Savings Institution of Newark, N.J., to receive the Americanism Award of the New Jersey Region of the Anti-Defamation League, gave me great pleasure.

In his remarks on this occasion, Mr. Kress emphasized the special responsibility which business has in helping to solve some of our urban problems, particularly in the areas of employment, education, and minority entrepreneurship.

I ask unanimous consent that the address by Mr. Kress, "Business and the Urban Challenge," be printed in the RECORD.

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

BUSINESS AND THE URBAN CHALLENGE

I am deeply honored that the New Jersey Advisory Board of the Anti-Defamation League of B'nai B'rith has seen fit to present this award to me.

To you, Mr. Sorkow,* and to the other active participants in the programs of your distinguished organization, I should like to say that I have had the opportunity, during the past several weeks, to learn more of the history and purposes of the Anti-Defamation League, and I have been sincerely impressed by what I have found.

A good part of your work has been in exposing instances of discrimination and defamation, and educating against prejudice. You have brought the infamy of defamation into the open so that it can be recognized for what it is. You have thus been pioneers in making us look at ourselves and our institutions. In doing this you have used reason and persuasion, and when necessary you have taken legal recourse. Through all of your struggles, it is obvious that you have cherished the democratic ideals of the American Society.

You have accomplished a great deal, and performed a very useful service. Your efforts represent determination, conviction, and not a little pride. While you undertook your work in the interests of your own people, you broadened your scope, many years ago, to include others who need your help. This is a great tribute to you, and an indication of the sincerity of your commitment.

I do not have to stand before this group to sing the praises of the Anti-Defamation League. I cite these few impressions for another reason. I believe the League can and should be an example to all of us in confronting the massive problems we face today.

URBAN DIFFICULTIES

Most of us are associated with a large city such as Newark, or a smaller community in the immediate proximity of a large city. We are part of a vast urban complex with all that that implies. We are a heterogeneous group of people—ranging over the entire socio-economic spectrum—with myriad backgrounds, customs and beliefs. We are part of an economic system which makes us very much dependent on the specialized abilities, skills, products and services of one another. Despite frequent claims to the contrary, we are very much tied to our cities, which provide the heart and life of our urban centers.

Yet when we think of our cities today, we think, with few exceptions, of decay. We think of crumbling bricks and broken sidewalks . . . smokestacks and pollution . . . unemployment and welfare . . . crime and violence.

Our cities are beset with difficulties, but I believe that at the heart of these difficulties there is one basic problem. This is the problems of an alienated people—a sometimes frustrated, sometimes despairing, sometimes angry people—people who are outside the mainstream of American life. It is on finding solutions to this human problem, above all others, that we are often dismayed. Yet I believe that a solution to this problem is the key we must find if we are to prevent urban blight from spreading and the bitter reactions of still another group of Americans from escalating.

It is to this issue that I should like to address my brief remarks this evening, since I believe this to be closely related to "Americanism" and to the goals of the Anti-Defamation League.

As a businessman and a banker, I believe that the solution to the complex problems of the cities—and ultimately of our country—lies within our grasp only if business and industry, and organized labor as well, are willing to make a full commitment to finding these solutions.

It goes without saying, of course, that whether we are supermarkets, banks or automobile dealers, we must give equal treatment to all of our clients, regardless of the neighborhood or section of the city from which they come.

We must go beyond this. Our basic *social* and urban problems can no longer be considered outside the scope of American business, for business and industry lie at the very heart of the American system. If the alienated, the frustrated, and the deprived are to gain access to all of the fruits of our American way of life, they must gain access through our doors and with our help.

In saying this I do not pretend to be a pioneer or a prophet. There is considerable evidence that segments of the private sector have already been successful in dealing with problems of education, training, employment, and housing. There is enough evidence, in fact, that programs and policies sponsored by industry, either independently or in cooperation with local or Federal Government agencies, ought to be commonplace instead of exceptional.

Let me point out the most important areas in which I believe business has a responsibility and an opportunity.

EMPLOYMENT

The first of these is in employment opportunities. We have come to understand—largely through the efforts of organizations like the Anti-Defamation League—that discrimination against any man, or group of men, because of race . . . or color . . . or religion . . . is contrary to the very principles on which our country was founded. Whether it is subtle or blatant, whether it is economic or social, discrimination is patently un-American.

Business has made great strides in this regard. I believe that cases of discrimination in employment because of color or religion must be unusual today, and I do not believe that this is so because discrimination is illegal. It is unusual because experience has taught us that color and religion have nothing to do with a person's ability as a worker.

To make jobs available to qualified people is not, however, a real social contribution. Our role, now and through the 70's, must take us farther. The large numbers of the disaffected and alienated are where they are precisely because they are not or do not seem to be qualified—either psychologically or in terms of skills—to perform the jobs which we have available. It has become obvious that we can no longer confine our interest only to those who initially meet our employment criteria. Rather, we must undertake to upgrade the basic skills and educational level of those who do not now qualify.

EDUCATION

The second important function we can perform, then, is an educational one. This is by far the most difficult, because if it is to be successful it will have to be a departure from our traditional approach to train-

*Donald Sorkow, Chairman, New Jersey Regional Advisory Board of the Anti-Defamation League of B'nai B'rith.

ing. It will involve training in job skills and routines, of course, and in many cases it will have to include accelerated courses to upgrade basic reading, writing and mathematics levels.

Above all it will involve for us—for management, for those doing the training, and for the new employees' supervisors—an understanding of the disadvantaged people who will come to these programs. It will require a sensitivity to their backgrounds—to their suspicions . . . to their motivation or lack of motivation. It will require an understanding of alien attitudes and values which have been nurtured on experiences different from those with which we have been familiar.

In many cases we will be attempting, through our training programs, to absorb products of a life style which, although invisible to us for a long time, is nevertheless quite real and quite different from our own. We will be dealing with people who face day-to-day difficulties and obstacles which are foreign to our own experiences. Unless we can be flexible enough to understand and cope with these situations during what may be a difficult period of transition, we cannot hope to bridge the gap that now separates us. In this sense, the education which we need is as much for ourselves as for those whom we seek to help.

I shall not specifically refer to companies and industries which are experiencing success along these lines, although I have no doubt that many are represented here this evening. What I have in mind are programs similar to the Skill Escalation and Employment Development program, better known as SEED, sponsored by the Business and Industrial Coordinating Council. I mention SEED because I am most familiar with it, but there are many others like it operating in the greater Newark area, and countless such programs operating in other cities, all meeting with varying degrees of success. I think it important to note that according to some of those familiar with successful programs, the formula for success seems always to include one apparently indispensable factor. That factor is a commitment—a sense of commitment among those in charge of these efforts, or course; but just as importantly, a sense of commitment at the top management level.

What I am suggesting is that we, as businessmen, cannot meet our responsibilities merely by insisting that we will hire anyone who is qualified to hold a job. Nor can we settle, for the time being, for the traditional kind of training which assumes psychological and intellectual readiness for regular patterns of employment. Rather, we must stretch our resources and manpower so that our contribution lies not only in providing additional manpower for ourselves, but in assisting to qualify people to play a productive role in our economic life.

ENTREPRENEURSHIP

There is another area to which we must look in solving our urban problems. Just as the cities have long been the proving grounds for those in America—whether natives or immigrants—who are seeking a better life, so have they been the centers of commerce. It is here that our free enterprise system has flourished, and countless "new Americans" have made their way. Our great urban centers are testimony to the successes our cities have nurtured. They are the results of small investments, individual efforts, strong determination and considerable risk.

Times have changed, though. The will to succeed, with little or no business knowledge and very limited capital, is no longer the key to success it once was. Competition is high, business methods are sophisticated, and technological change is rapid. We are in the age of mass production, conglomerates, chain stores and discount houses.

New business ventures of any size are difficult under these conditions, and the difficulties are compounded for members of minority groups. Yet a reasonable degree of entrepreneurship among any group seems necessary if its people are to gain a sense of economic self-determination, dignity and respect in their community. The fact is that the percentage of minority group participation, even in the commerce of our inner cities, is extremely low. The increased business and technical sophistication provided by the employment and training processes which I have already mentioned will eventually ease this situation, but more direct action is needed now. President Nixon recently directed the Commerce Department to establish an office of minority business enterprise. Apparently such an office will coordinate Government efforts at encouraging minority group entrepreneurship. Business and industry will have to cooperate with such efforts if they are to succeed, but the task will not be easy.

Encouragement of minority group business ownership requires all the sensitivity which training does, as well as considerable professional knowhow. It will involve activities such as are now performed by the Small Business Administration, but what is also needed, once again, is a stronger commitment from the established business community. This commitment will involve our placing some of our resources and manpower at the disposal of those who need our help. It may mean technical or financial guidance. It may mean marketing, legal or managerial assistance. It certainly means a modified, innovative approach to initial credit and capitalization procedures.

HOUSING

One final point. I believe that no sincere approach to our urban problems can ignore the question of housing. A life of dignity requires more than a job opportunity and a regular paycheck. It requires adequate living space and decent neighborhoods. It requires freedom from living conditions pervaded by the odor of failure and decay.

This is a problem to which we in the financial industry have been turning our attention, and we have been making progress. Some major organizations have committed billions of dollars to inner city projects on a nationwide basis, and local institutions are coming more and more to recognize the role they can play in the rehabilitation and development of urban housing. I cannot emphasize too strongly that without Federal support, local leaders cannot possibly generate the funds necessary to effectively deal with the housing situation. Our efforts must be joint efforts if they are to be successful, and cutbacks in Federal aid to housing programs can have serious implications for our cities. Although the very nature of the undertaking requires strong Federal support at any time, the need is even more pronounced during tight money periods such as we are now experiencing.

In summary, I am suggesting that the urban crisis in America is too great to be dealt with by any one organization, whether it be as large as the Federal Government or as comparatively small as the Anti-Defamation League. It can be dealt with successfully only by a concerted effort, which must include the resources and stamina peculiar to established American business and industry. Some of these efforts will be independent, others will be on a local basis, and still others will involve some form of cooperative arrangement with agencies of the Federal Government.

I mentioned before that our efforts will require the commitment of labor organizations as well; I have dealt here with the role of business because it is business with which I am most familiar.

Our search for solutions will take us through many unexplored waters, and many of the hazards will not be conventional. Yet our American heritage from the very beginning tells us that it is in unexplored waters that the greatest discoveries are made, and it is through these discoveries that the brightest future lies.

GERMANY GUARANTEES U.S. TROOP WITHDRAWALS FROM EUROPE

Mr. PERCY. Mr. President, the actions of the German Government this week have insured passage of a Senate resolution for substantial U.S. troop withdrawals from Europe.

Germany has cashed in $500 million of U.S. Treasury bills this week that it had previously purchased to offset the balance-of-payments costs of American troops in Germany. Not only does this action throw the continuing U.S. commitment in NATO into serious doubt, but it also makes it absolutely clear that the German Government thinks the American taxpayer will continue to pay and pay for the privilege of having American troops in Europe.

Germany has now cashed in all loans negotiated in fiscal 1967 and fiscal 1968, 3 years ahead of time, and has indicated that it wants to cash in the remaining similar notes that it holds. With the U.S. balance of payments already deeply in deficit, this is a further blow to attempt to improve the U.S. balance of payments.

In 1969 the United States lost $1.5 billion on the balance of payments for its commitment to NATO, almost $1 billion in Germany alone. Germany has been covering part of that balance-of-payments loss through loans to the U.S. Treasury which would have to be repaid in 4½ years. Now Germany is even unwilling to loan money to help the U.S. balance of payments.

Unless the United States can have full balance-of-payments coverage for its NATO commitment, I see no alternative to substantial U.S. troop withdrawals from Germany and NATO.

ENVIRONMENT AND THE PUBLIC HEALTH: ONE AND THE SAME

Mr. BYRD of West Virginia. Mr. President, it is my pleasure at this time to take note of a well-deserved honor that has come to one of my State's outstanding citizens, Dr. Daniel Hale, of Princeton, W. Va.

Dr. Hale has been named by the Charleston, W. Va., Sunday Gazette-Mail as West Virginian of the Year for 1969. I heartily concur in the paper's choice.

In selecting Dr. Hale for this honor, the Gazette-Mail has done two things: It has given credit where credit is due; and it has thrown the spotlight strongly upon the challenge to all Americans for widespread improvement of the environment in which we live.

Dr. Hale is a practicing physician in West Virginia's Mercer County who sometimes deprecatingly refers to himself as a "country doctor." He is infinitely more than that.

Realizing long ago that the delicate balance which exists between the continued welfare of humanity and the preservation of the natural elements upon which man must depend for his life may be destroyed, he undertook specific and concrete action in his own area to improve environmental conditions.

Mercer County, as a result, has become

a model for other areas of our country to emulate in such things as water and land conservation, pollution abatement, and the upgrading of public health.

An editorial entitled "Follow Dr. Hale's Lead," published in the Sunday Gazette-Mail of January 18, commenting on the doctor's achievements, said he had recognized "that environment and public health are one and the same in many ways."

That is a fact which I believe shall find increasingly true, Mr. President, as we seek to improve environment nationwide.

What Dr. Hale and his coworkers have done in West Virginia, then, becomes of more than State or regional interest alone. The fact that the Brush Creek Watershed program—which Dr. Hale pushed to success—was judged the winner of America's Watershed-of-the-Year Award for 1969 indicates the national significance of what has been accomplished.

The editorial to which I have referred points out and commends other facets of the efforts in which Dr. Hale and his associates have been engaged.

It points to the obvious fact that others may do what has been done in Dr. Hale's area of West Virginia.

I salute this fine physician and citizen for his selfless and tireless work. He has not done it for public applause, I know, but for the good of the area in which he lives. If we are to win the battle to save our environment, we will need many, many more Dr. Hales.

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:

FOLLOW DR. HALE'S LEAD

Two weeks ago, this newspaper named Dr. Daniel Hale of Princeton as West Virginian of the Year for 1969. It proved to be one of the most popular choices yet made in the practice of some 20 years in singling out a West Virginian for special recognition.

Dr. Hale was selected because of his vision in creating a cleaner, safer and healthier environment, because of his total dedication, courage and skill in making his dream a reality, and because of his wisdom and sacrifice in restoring the quality of our environment for future generations.

Equally important was his foresight in recognizing that environment and public health are one and the same in many ways. So it was that he and other community leaders in a nine-county area of southern West Virginia have brought about a massive, comprehensive health care program into a region where dying the slowest kind of death has been a way of life in hundreds of sad coal towns and hollows.

We bring the matter up at this time because we feel there is a critical need for other people in other counties and regions in the state to recognize the example set by Dr. Hale and his coworkers, and to make a firm resolve to do likewise.

Dr. Hale's crowning achievement is the Brush Creek watershed, which embraces the city of Princeton and outlying areas and which won "America's Watershed-of-the-Year" award for 1969.

This took 13 years of hard work to build—but now Brush Creek, long cursed as "Princeton's sorrow" for its perennial rampages across a 1,150-acre flood plain, serves as the county's biggest water resource and generates an annual payroll of $6.7 million. Princeton, which was plagued by periodic droughts as well as floods when Brush Creek was a polluted cesspool of stench and filth, now sells water to the water company for distribution to city residents.

Side advantages included the opening of the area for industrial development, attracting industries that provide more than 1,000 jobs, including North American Rockwell, a space-age company that employs 450 high-wage workers with an annual payroll of about $3 million. Also located in the area are Princeton Memorial Hospital, Mercer County Vocational School and sites for the proposed regional mental health center and Princeton High School.

Dr. Hale sets a course for all areas and regions of the state to follow, and nothing points this up more dramatically than something that happened in Kanawha County at the start of 1970. Kanawha County hasn't been blessed with a Dr. Hale, and therefore is far behind Mercer County in watershed control. There has been a start on the Blakes Creek-Armour Creek watershed project with a partially built dam scheduled for completion by next May. But when heavy rains followed heavy snows at the start of the year, and serious floods threatened many sections of the state, this was sufficient to save many homes from flooding in Nitro.

West Virginia has many problems, but none more important than restoration of the environment and its protection for future generations. These and other problems can be solved by West Virginians if they just show enough dedication, selflessness and determination. Dr. Daniel Hale has pointed the way; can West Virginians in Kanawha County and elsewhere afford not to follow?

THE EFFECTIVENESS OF STATE AND LOCAL REGULATION OF HANDGUNS

Mr. KENNEDY. Mr. President, in the continuing debate over gun control legislation, one of the main issues has been the effectiveness of regulation. It has been argued that gun control would merely impose hardships on hunters and gun collectors, but would not reduce the number of firearm tragedies in this country.

I think it is important at this time to consider the experiences of communities who have enacted handgun regulations. The Duke Law Journal recently published an article by Martin S. Geisel, Richard Roll, and R. Stanton Wettick, Jr., on the effectiveness of State and local handgun regulation. This article presents a statistical analysis which demonstrates that there has been a decrease in deaths due to homicide, suicide, and accidents in cities and States with regulations. It seems clear to me, therefore, that the implementation of a national program could decrease the number of deaths still further.

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

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

THE EFFECTIVENESS OF STATE AND LOCAL REGULATION OF HANDGUNS: A STATISTICAL ANALYSIS

(By Martin S. Geisel,* Richard Roll,** and R. Stanton Wettick, Jr.***)

(NOTE.—*One aspect of the continuing debate over weapons control, apart from Constitutional issues, is whether legislation is inherently capable of reducing crime and deaths by shooting. The opponents of increased control, tacitly admitting that empirical evidence is one means for measuring the effect of weapons regulation, have contended that "[e]xpert opinion and compelling evidence seem to indicate that the amount or kind of crime in a community is not substantially affected by the relative ease with which a person can obtain a firearm."* NATIONAL RIFLE ASSOCIATION OF AMERICA, THE GUN LAW PROBLEM 10. *In the following study the authors employ data analysis techniques to examine the efficacy of state and municipal controls on handguns. They conclude that many lives would be saved if all states increased their level of control to that of New Jersey, the state having the most stringent gun control laws.*)

The current controversy over gun control centers on the effectiveness of stringent gun control legislation.[1] Proponents of increased statutory control contend that rigorous laws will reduce death and crime rates by curtailing firearm possession by minors and such irresponsible adults as felons, mental incompetents, addicts and alcoholics. They argue that this justifies minor inconveniences imposed on responsible citizens who use firearms for hunting, target-shooting and protection.

Opponents of increased control, however, argue that gun control legislation is not of sufficient value in the prevention of crime to justify the restrictions it places on the responsible citizen.[2] They contend that death and crime rates are not perceptibly reduced through gun control because such legislation does not prevent the professional criminal—the alleged "root" of the problem—from obtaining firearms. Furthermore, even if these laws did reduce the number of firearms possessed by professional criminals, other equally lethal weapons are readily available as adequate substitutes.[3]

One possible reason for this polarity of opinion is the lack of reliable empirical information describing the relationship between gun control legislation and death and crime rates. This article will attempt to alleviate this deficiency by presenting an empirical study which correlates gun control with various death and crime rates for states and cities, while simultaneously accounting for the influence of other factors such as per capita income, education and population density.

DESCRIPTION OF THE STUDY

The study measures the effectiveness of gun control legislation by the extent to which differences in death and crime rates among the states and cities can be explained by the differences in gun control legislation while accounting for the effects of several other factors that may influence death and crime rates. Differences in death and crime rates among the states and cities were obtained by collecting data on the rates of homicide by firearm, total homicide, suicide by firearm, total suicide, aggravated assault by firearm, total aggravated assault, accidental death by firearm and robbery (hereinafter referred to as "death and crime rates") for the fifty states, the District of Columbia and the 129 United States cities whose population exceeded 100,000 in 1960. Differences in the other factors which may account for variations in the death and crime rates were obtained by collecting data relating to income, education, sex, police, race, population density, licensed hunters, age and temperature for the states and cities.

For the gun control legislation of the states and cities it was necessary to devise a method to measure the differences in state and city firearm legislation. Since there is a wide range of differences in weapons regulation among the states and cities, it was impossible to characterize adequately these differences by means of a dichotomous variable such as "weak gun control states" and "strong gun control states." It was possible, however, to classify the various gun control regulations into eight major categories. This permitted quantification of the gun control provisions of state statutes and city ordinances by assigning numerical weights to each of the eight categories in a manner to

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Footnotes at end of article.

be explained below. Once gun control legislation was so quantified, a well-known data analysis technique [4] was employed to obtain probabilistic estimates of the extent to which differences in the death and crime rates are related to the differences in gun control, while simultaneously accounting for other factors.

Data

The state death and crime data used in this study are 1960 and 1965 rates of homicide by firearm, total homicide, suicide by firearm, total suicide and accidental death by firearm and total aggravated assault; for cities, only 1960 rates for total homicide and total suicide were available.[5] In all instances the data are in rates per million population per year.

For states, the following *explanatory* variables were used: 1960 and 1965 income (thousands of dollars per capita); education (median school years completed by persons older than 24); sex (males per 100 females); police employees (employees per 10,000 population); race (non-white percentage of total population—1960, and black males per 50 population—1965); population density (thousands of persons per square mile); age (median age in years) and licensed hunters (number per capita—1965 only).

For cities, the variables were: 1960 income (thousands of dollars per capita); education (median school years completed by persons older than 24); race (non-white percentage of population); population density (thousands of persons per square mile); age (median age in years); temperature (minus thousands of mean annual degree days—65° base); [6] manufacturing employees (persons per 1000 population employed in manufacturing durable gods); and police expenditures (dollars per capita).[7]

Gun control legislation

Federal legislation. Since we are concerned with variations in firearm legislation among states and cities, federal legislation is relevant only to the extent that it sets minimum standards which exist throughout the United States. Prior to 1968, federal control over firearms was minimal: there were two federal statutes regulating the sale of firearms, both primarily aimed at the criminal purchaser. The National Firearms Act,[8] enacted in 1934, restricted trade in machine guns and short-barreled shotguns and rifles by imposing a prohibitive tax on their manufacture and transfer, and by requiring manufacturers, importers, dealers and transferees of such weapons to register. The Federal Firearms Act of 1938 [9] extended federal control by requiring all firearm manufacturers, importers and dealers engaging in interstate commerce to obtain a federal license and to maintain permanent records of importation, shipment and other disposal of firearms; prohibited dealers and manufacturers from knowingly selling and delivering firearms to felons or to persons without a license to purchase where one was required by state or local law; and prohibited felons from receiving firearms and ammunition which had moved in interstate commerce. In addition, postal regulations prohibited shipments of hand guns through the mails, except between manufacturers and dealers and to certain public officers.[10]

In 1968, stronger federal gun control legislation was enacted.[11] Aimed at reinforcing state and local gun control regulations by barring interstate firearm transactions, the basic provisions of this Act include prohibitions against shipments of firearms in interstate commerce *except* between licensed dealers,[12] prohibitions against persons, except licensed dealers, transporting into or receiving in the state of their residence any firearms obtained outside the state,[13] prohibitions against sales to non-residents with certain exceptions for sales of rifles and shotguns to residents of a contiguous state [14] prohibitions against sales to or receipt by persons less than twenty-one years of age (eighteen years of age for rifles and shotguns), convicted criminals, drug users and persons adjudicated as mentally defective,[15] the imposition of licensing and record-keeping requirements on manufacturers, importers and dealers,[16] the imposition of controls over the manufacture, importation and sale of highly destructive weapons such as bazookas, mortars, grenades and bombs,[17] and the imposition of additional controls over weapons covered by the National Firearms Act.[18]

State and local legislation. There are substantial variations in state and local regulations over the sale, possession and use of firearms. States such as Ohio,[19] Minnesota [20] and Kentucky [21] impose almost no controls; while New Jersey,[22] Hawaii[23] and Michigan [24] strictly regulate such activities.

The present study was limited to state and local laws regulating *handguns,* which are usually defined as firearms of less than three pounds and less than 12 to 20 inches. In addition, laws which regulate the use of firearms at *particular* times or places, laws which regulate the *discharge* of firearms, and laws which make the *use* of firearms *in connection with other illegal conduct* unlawful, were not considered.[25] Table 1 lists the eight categories of gun control legislation used in the study and the states [26] and cities [27] which have regulations in these categories. A city is shown within a category only if the state has no substantial equivalent regulation.

TABLE 1.—STATE AND CITY GUN CONTROL LAWS

State or city	1		2		3		4					5	6		7		8	Total index value
	a	d	a	b	a	d	a	b	c	d	e		a	b	a	b		
Alabama	X				X		X	X	X	X		X	X	X	X	X		31
Alaska		X						X	X	X								5
Arizona		X					X	X										4
Arkansas				X														4
California	X						X	X	X			X	X	X	0	X		28
Colorado	X												X					10
Connecticut			X				X	0				X	X	X	X	0		29
Delaware	X								X		X	X						20
Florida			X				X	X										6
Georgia		X	X				X					X						15
Hawaii			X				X	X	X			X	X	X			X	35
Idaho	X						X											3
Illinois		X					X	X	X				X					13
Indiana			X				X	X	X	X	X	X	X	X	X	X		32
Iowa	X				X		X					X		X				17
Kansas		X					X	X	X	X								7
Kentucky		X					X											3
Louisiana		X					X											3
Maine	X						X	X					X					12
Maryland		X					X	X	X	X	X	X	X	X	X	X		30
Massachusetts			X				X	X	X	X	X	X	X	X			X	37
Michigan	X				X		X	X		X	X	X	X	X			X	35
Minnesota							X											1
Mississippi		X							X	X			X					12
Missouri		X					X	X	X	X			X	X			X	26
Montana		X					X											3
Nebraska		X					X	X										4
Nevada	X						X	X										4
New Hampshire	X				X		X					X	X	X				26
New Jersey	X				X		X	X	X		X	X	X	X	X	X	X	39
New Mexico		X																2
New York			X				X	X	X	X	X	X	X	X			X	36
North Carolina		X					X	X	X	X		X	X	X			X	27
North Dakota			X				X	X	X		X	X	X	X				28
Ohio		X					X											3
Oklahoma				X			X	X										6
Oregon	X				X		X	X				X	X	X	X			27
Pennsylvania		X				X	X	X	X	X		X	X	X	X	X		32
Rhode Island			X				X	X	X	X		X	X		X	X		28
South Carolina				X			X	0	0	0	0	0	0					25
South Dakota		X				X	X	X	X	X		X	X	X	X	X		32
Tennessee			X				X	X	X	X		X		X	X	X		24
Texas			X				X	X										6
Utah		X			X		X											5
Virginia		X					X											3
Washington		X				X	X	X	X	X		X	X	X				29
Vermont							X						X					9
West Virginia				X														4
Wisconsin	X						X											3
Wyoming		X					X						X					11
District of Columbia			X				X	X	X			X	X	X	X	X		30
Duluth		X										X	X					18
Jacksonville													X	X				12
Kansas City (Mo.)				X														4

TABLE 1.—STATE AND CITY GUN CONTROL LAWS—Continued

State or city	1		2		3		4					5	6		7		8	Total index value
	a	b	a	b	a	b	a	b	c	d	e		a	b	a	b		
Louisville								×				×		×				13
Miami									×	×								2
Minneapolis								×	×	×				×				7
Nashville													×					8
New Orleans									×					×				5
Oklahoma City										×		×		×				13
Omaha												×	×	×				20
Richmond												×	×	×				20
Tulsa													×	×				12
Wichita	×																	2

× All. O 1965 only.

Note: 1. Concealed a. license b. prohibition. 2. Carrying a. license b. prohibition. 3. Carrying in auto a. license b. prohibition. 4. Special prohibitions on possession a. minor b. felons c. addicts d. alcoholics e. mentally ill. 5. Dealer licensing. 6. Recordkeeping a. by dealers b. by governmental agencies. 7. Waiting period a. fixed time between purchase and delivery b. notification of authorities. 8. License to purchase.

The first three categories of Table 1 reflect state and city laws regulating the carrying of handguns. The first category covers laws restricting the carrying of concealed handguns; the second covers law restricting all carrying of handguns; and the third covers laws restricting the carrying of handguns in motor vehicles.[28] Each of the categories is divided into two sub-categories—one listing states and cities which permit such activities by licensed parties and the other listing states and cities which totally prohibit such activities.[29] In some states within the first subcategory, licenses to carry handguns are issued to all persons with the exception of felons, addicts, and minors.[30] Other states have requirements that the applicant be of "good moral character"; [31] or that he show a need to carry the weapon.[32] The issuing authority is usually a law-enforcement official, such as the chief of police.[33]

Category 4, special prohibitions, lists five types of persons against whom additional restrictions are frequently imposed: felons, addicts, alcoholics, the mentally ill and minors.[34] These restrictions usually prohibit transfers of handguns to, and ownership or possession by such persons.[35]

Dealer licensing, the fifth category, refers to the requirement that firearms dealers be licensed.[36] Most of the statutes falling within this category impose licensing qualifications based on good character, age and a permanent business location,[37] and thus contain more restrictions than were imposed under the Federal Firearms Act.[38] Under this Act dealer licenses were granted to anyone submitting a one dollar fee with an application stating that he was not a felon.[39]

Under category 6, record keeping, are listed the states requiring the maintenance of records of handgun sales. Sub-category (a) lists those states which require the dealer to keep such records; [40] and subcategory (b) lists those states which require the dealer to file information concerning his handgun sales with governmental officials—usually a local law enforcement agency.[41] The required records usually include the name and address of the purchaser, the date of the purchase and the description of the handgun, including its serial number.

Category 7, waiting period, refers to a prohibition against the delivery of handguns for a specified time period after an application for purchase has been filed with a dealer. Listed in sub-category (a) are those states which impose any waiting period, the duration of which usually varies between one and fifteen days.[42] Listed in sub-category (b) are those states having waiting periods which require the dealer to notify a law enforcement official of the application for purchase prior to delivery of the handgun.[43]

The final category lists a requirement that the purchaser of a handgun obtain a license.[44] Such licenses are usually issued by local law enforcement officers [45] and persons are excluded from obtaining licenses for a wide variety of reasons.[46] In several jurisdictions,[47] law enforcement officials have only a limited time to investigate the applicants.

Having categorized the gun control regulations, the next step was to quantify gun control legislation by assigning weights to each of the eight categories and summing the weights applicable to each state or city. Such a weighting procedure was necessary to permit the application of the multiple linear regression data-analysis technique [48]—the method used to analyze the differences in death and crime rates among the states and cities. Since some knowledge of multiple linear regression is essential to an understanding of the method of assigning numerical weights to the eight categories as well as to an interpretation of results, a brief description of the technique is presented at this time.

Description of Data Analysis Technique

Statistical methodology. The basic hypothesis of this study is that the variable of interest (*e.g.*, the homicide rate) is a linear function of the selected independent variables (*e.g.*, gun control index, income, population density) and a random error term.

That is,

$$Y_i = B_o + B_1 X_{1i} + B_2 X_{2i} + \ldots + B_k X_{ki} + U_i \qquad i = 1,2, \ldots, n$$

where

Y_i = value of the dependent variable (e.g., homicide rate) for the ith city or state;

$[X_{1i}, X_{2i}, \ldots, X_{ki}]$ = set of values of the k independent variables (gun control index, etc.) for the ith city or state;

$[B_o, B_1, \ldots, B_k]$ = set of unknown coefficients which we wish to estimate;

U_i = random error term for the ith city or state. This includes both truly random (not related to the independent variables) variation and the effect of any omitted variables; and

n = sample size (the number of states or cities in the sample).

The unknown coefficients, $[B_o, B_1, \ldots, B_k]$, are estimated by the method of least squares. That is, that set of estimates is chosen, $[\hat{B}_o, \hat{B}_1, \ldots, \hat{B}_k]$, which makes the sum of squared errors,

$$\sum_{i=1}^{n} \hat{U}_i^2 = \sum_{i=1}^{n} (Y_i - \hat{Y}_i)^2 = \sum_{i=1}^{n} (Y_i - \hat{B}_o - \hat{B}_1 X_{1i} - \hat{B}_2 X_{2i} - \ldots - \hat{B}_k X_{ki})^2,$$

as small as possible.[49]

The estimated total variance of Y is defined as

$$S_y^2 = \sum_{i=1}^{n} (Y_i - \overline{Y})^2/(n-1)$$

where

$$\overline{Y} = \sum_{i=1}^{n} Y_i/n.$$

The estimated unexplained variance is

$$S_u^2 = \sum_{i=1}^{n} \hat{U}_i^2/(n-k-1).$$

Therefore, S_u^2/S_y^2 is the fraction of the total variance of Y not explained by the regression.

An estimate of the uncertainty associated with a particular estimated coefficient may be obtained by computing the ratio of the estimated coefficient to the square root of its estimated variance. From this ratio the probability of sign error (assuming the errors are normally and independently distributed), which is the probability that the true coefficient is negative (positive) if the estimated coefficient is positive (negative), is computed.[50] A related measure, the 95% confidence interval, is also reported. In nonstatistical terms, there is a 95% probability that the true coefficient falls within this interval.

In addition to information about the individual coefficients, a measure of the overall adequacy of the assumed relationship is desirable. This is provided by:

$$\overline{R}^2 = 1 - S_u^2/S_y^2,$$

which measures the fraction of the variance of Y "explained" by the regression.[51]

Quantifying gun control legislation. One may have some intuitive feelings about the relative effectiveness of the various categories of gun control regulations listed in Table 1. Since opinions of this subject may vary substantially, however, numerical weights should be assigned to these categories on some basis more reliable than intuition. In the present study approximately thirty sets of weights were selected which displayed great variation in the relative importance of the eight different categories. For each death and crime rate thirty regressions were then computed. Since other explanatory variables were held constant for all thirty regressions, the only difference among the regressions was that each had a different index for gun control as an explanatory variable.

For a given death or crime rate the best index would be that which yielded the maximum value of R^2, or, equivalently, the smallest probability of sign error in the estimated gun control coefficient. This index explains the greatest amount of variation in the death or crime rate, having accounted for other explanatory variables.

Footnotes at end of article.

Selection of the set of weights in this manner does not bias the results either in favor or against gun control. It simply chooses those weights which have the highest probability of measuring the true relative effects of various gun control laws, whether those true effects be positive, negative or null. For example, suppose that license to purchase legislation were twice as effective in reducing homicides as concealed weapons legislation. This would mean that part of the variation in homicide rates among the states is due to some states having none, some one, and some both of these laws. Our objective is to account for the homicide variation among the states and cities and, of course, the highest percentage of the variation will be explained by the set of weights that exactly matches the true cause of the variation. Reasoning backwards, this means that the index with the highest R^2 is most likely to be composed of the set of weights that most closely matches the true relative effect.

None of the thirty indices selected consistently produced the highest R^2 for the various regressions. Different indices performed better for different deaths and crimes. This is shown in Table A–2 of the Appendix which reports the estimated gun control coefficient and its probability of sign error for ten different indices which were selected to show substantial but systematic variation. However, while the magnitude of the effect of gun control legislation varied with the index chosen, the direction of the effect was (except for aggravated assaults by firearm and robbery) independent of the index chosen,[52] and thus inferences as to the effectiveness of gun control legislation may be made with confidence.

Results from the use of index 4 of Table A–2, the index which yielded the highest R^2 in the greatest number of death categories considered (five out of twelve), are reported in the text. This index is listed in Table 2. In terms of estimating the number of lives saved by gun control legislation, however, this index ranked seventh out of the ten reported in the Appendix. Another index, number 3, yielded the highest R^2 for four death categories and gave the highest estimate of the number of lives saved by gun control.[53]

Table 2.—WEIGHTS OF GUN CONTROL LEGISLATION CATEGORIES
[Index 4]

Legislative category	Numerical weight
1. Concealed:	
License	2
Prohibition	2
2. Carrying:	
License	4
Prohibition	4
3. Carrying in auto:	
License	2
Prohibition	2
4 Special prohibitions:	
Minors	1
Felons	1
Addicts	1
Alcoholics	1
Mentally ill	1
5. Dealer licensing	8
6. Record keeping:	
By dealers	8
By Government agency	4
7. Waiting period:	
Time	1
Notice	2
8. License to purchase	8

The text also reports the effects of other explanatory variables on death and crime rates. These coefficients do not vary substantially with different gun control indices.

RESULTS OF THE STUDY [54]

Results of the study are stated in terms of estimated coefficients which set forth the relationship between the various independent variables and the death and crime rates. Each coefficient indicates the estimated extent to which a one unit increment in an independent variable (e.g., gun control) will affect the dependent variable (a death or crime rate).

There is some uncertainty associated with the value of the estimated coefficient. As previously indicated, two measures were utilized to determine the degree of uncertainty; the 95% confidence interval and the probability of sign error.[55]

Homicide

The relationship between gun control and homicide by firearm and total homicide rates in the states and cities for 1960 and 1965 is given in Table 3.[56] The data in Table 3, presented in terms of the effect which a one unit increment in gun control will have on homicide rates, indicate that gun control probably has a negative effect on homicide by firearm and total homicide rates. In all five sets of equations the estimated gun control coefficient is negative and in only one case is there more than a fifteen percent chance that the coefficient's sign is positive (see total homicide rate for "States-1965"—Probability of Sign Error).

TABLE 3.—EFFECT OF GUN CONTROL ON HOMICIDE

Homicide rate (deaths/million/year)	Coefficient	95 percent confidence interval	Probability of sign error
By firearm:			
States:			
1960	−0.176	−0.464 to 0.113	0.113
1965	−.228	−.518 to .0623	.0602
Total:			
States:			
1960	−.228	−.647 to .191	.140
1965	−.0951	−.479 to .289	.310
Cities, 1960	−.261	−.758 to .237	.151

Table 4 presents the relationship of each of the independent variables to the death and crime rates. The results in Table 4 show that median income and population density are negatively related to homicides by firearm and total homicides; that the percentage of males, the number of police employees and the percentage of nonwhites have strong positive relationships with homicide rates; and that the correlation between education and homicide was negative in 1960 and positive in 1965.

TABLE 4.—RELATION BETWEEN INDEPENDENT VARIABLES AND DEATH AND CRIME RATES

	Constant	Gun control	Income	Education	Sex	Race	Police	Population density	Age	Hunters	Mfg.	Temp.	$\bar{R}^2$
HF-60-S	−127.0	−.176	−5.66	−2.73	1.81	1.30	.356	−9.87	.0965				.7382
		.113	.224	.109	.0407	.0253	.270	.198	.458				
HF-65-S	−111.0	−.228	−17.8	.195	1.33	1.96	1.73	−24.1	.819	−23.0			.7967
		.0602	.0175	.471	.0772	.0447	.0377	.0268	.211	.0816			
HT-60-S	−122.0	−.228	−1.65	−4.00	1.89	2.04	1.83	−31.9	−.371				.7358
		.140	.440	.107	.0157	.0894	.0171	.0316	.389				
HT-65-S	−179.0	−.0951	−20.7	.906	1.93	2.87	2.87	−37.0	1.03	−41.3			.8110
		.310	.0310	.400	.0300	.0447	.0532	.0131	.223	.0310			
HT-60-C	149.0	−.261	−9.14	−.499		2.36	−.0301	−.994	−.908		.0627	5.29	.6234
		.151	.0660	.454		.0894	.459	.126	.141		.256	.0110	
SF-60-S	−86.8	−.488	−12.8	3.39	.961	.164	1.08	−64.5	1.41				.4402
		.0221	.150	.175	.0832	.322	.130	.0731	.173				
SF-65-S	−232.0	−.472	−17.3	5.41	2.05	.855	.680	−41.3	2.34	36.6			.6037
		.0183	.0860	.0957	.0664	.0197	.235	.0154	.0671	.0731			
ST-60-S	−249.0	−.389	4.70	5.25	1.67	−.0401	2.13	−98.2	4.05				.5667
		.0814	.371	.108	.0210	.461	.0303	.0307	.0117				
ST-65-S	−308.0	−.286	−3.48	13.1	1.48	.700	1.64	−77.6	4.45	23.9			.5503
		.163	.416	.0941	.0327	.0955	.0943	.0134	.0167	.233			
ST-60-C	−134.0	−.559	4.89	10.7		−.135	−.231	.466	4.64		.0915	6.22	.1735
		.0557	.280	.0366		.366	.284	.350	.0586		.245	.0451	
ACCI-60-S	−109.0	−.196	−16.1	2.29	1.42	.279	.722	−9.99	−.393				.6161
		.0478	.0510	.0997	.0612	.0557	.0636	.144	.295				
ACCI-65-S	−36.8	−.167	−9.19	−.219	.753	.384	.533	−.241	−.319	.310			.7760
		.0726	.0883	.429	.0468	.0135	.0321	.483	.246	.0756			
AGASF-65-S	−481.0	−.423	−68.0	19.2	4.12	12.1	15.2	−223	−1.33	−239			.7538
		.327	.104	.139	.0569	.0447	.0255	.0375	.420	.0146			
AGAST-65-S	246.0	3.00	−282	53.1	2.27	33.2	75.6	−857	−23.0	−1919			.6048
		.248	.131	.259	.425	.0829	.0115	.0126	.229	.0227			
ROB-65-S	846.0	−.418	549	−96.7	−13.3	6.16	62.2	−1286	−8.42	−405			.6594
		.444	.0109	.0430	.0529	.131	.0751	.0359	.344	.116			

Legend: H, homicide; S, suicide; ACCI, accidental death by firearm; AGAS, aggravated assault; ROB, robbery; F, by firearm; T, total; C, cities; S, States.

Note: The upper number of each pair is the estimated coefficient. The lower number is the probability of sign error.

Suicide

Table 5 reports the relationship between gun control and suicide by firearm and total suicide rates. For all five equations the sign of the estimated gun control coefficient is negative, significant and sizeable. For four of the five equations there is a less than ten percent probability that the sign is incorrect. In comparison with the results for total homicide, there is a much greater probability that the gun control coefficient of total suicide is negative and of a greater magnitude—the estimated gun control coefficients of total suicide are approximately twice as large.

Footnotes at end of article.

TABLE 5.—EFFECT OF GUN CONTROL ON SUICIDE

Suicide rate (Deaths/million/year)	Coefficient	95 percent confidence interval	Probability of sign error
By firearm:			
States:			
1960	−0.488	−0.962 to −0.0132	0.0221
1965	−.472	−.913 to −.0309	.0183
Total:			
States:			
1960	−.389	−.940 to .163	.0814
1965	−.286	−.866 to .295	.163
Cities—1960	−.559	−1.25 to .131	.0557

Under the heading Suicide-by-Firearm (SF) in Table 4, it can be seen that the number of years of school completed, median age, the number of licensed hunters, average temperature and the percentage of males have strong positive relations with suicides by firearm while population density has a strong negative relation. There is also an indication that median income is negatively related to suicides *by firearm* but not to *total* suicides.

Accidental deaths by firearm

Table 6, which shows the relationship between accidental deaths by firearm and gun control, indicates that the estimated gun control coefficients of accidental death by firearm are as significant (in terms of confidence interval and probability of sign error) as the suicide coefficients but only about the size of the homicide coefficients.

TABLE 6.—EFFECT OF GUN CONTROL ON ACCIDENTAL DEATH BY FIREARM

Accidental death rate (Deaths/million/year)	Coefficient	95 percent confidence interval	Probability of sign error
States:			
1960	−0.196	−0.429 to 0.0361	0.0478
1965	−.167	−.299 to −.0349	.0072

The relationship between accidental deaths by firearm and other variables as shown in Table 4 indicates that the only significant negative factor is income. Significant positive factors include the percentage of males, the percentage of non-whites, the number of police employees and the number of licensed hunters.

Aggravated Assaults

In Table 7 the relationship between gun control and aggravated assault is presented. There is a 67% probability that gun control is associated with a lower number of aggravated assaults by firearm (since the probability of sign error is .327), and about a 75% probability that gun control is related to a *higher* total of aggravated assaults (probability of sign error is less than .25).

Table 4 indicates that low income, a high percentage of nonwhites, a high number of police employees, lower population density and fewer licensed hunters are associated with a higher number of aggravated assaults.

TABLE 7.—EFFECT OF GUN CONTROL ON AGGRAVATED ASSAULT

Aggravated assault rate (Assaults/million/year)	Coefficient	95 percent confidence interval	Probability of sign error
States—1965			
By Firearm	−0.423	−2.32 to 1.47	0.327
Total	3.00	−5.82 to 11.8	.248

Robbery

The relation between robbery and gun control is set out in Table 8. The estimated gun control coefficient indicates that one unit of gun control will reduce the total number of robberies by less than one half robbery per million population per year (or about 100 fewer robberies per year in the U.S.) and that there is only a 56% chance that the coefficient's sign is correct.

TABLE 8.—EFFECT OF GUN CONTROL ON ROBBERY

Robbery rate (Robberies/million/year)	Coefficient	95 percent confidence interval	Probability of sign error
States—1965	−0.418	−6.38 to 5.55	0.444

Returning to Table 4, robbery is shown to be negatively related to education, population density, licensed hunters and the percentage of males; and positively related to income, the number of police employees and the percentage of non-whites.

Observations

The following observations may be drawn from the data presented in the previous section.

One: The data indicate that gun control legislation is related to fewer total deaths by homicide, suicide and accident by firearm. The estimated gun control coefficient is negative in the five homicide equations, the five suicide equations and both accidental death by firearm equations. Moreover, in seven of these twelve equations the probability of error is less than ten percent and in only one of the equations does it exceed seventeen percent (total homicides—States —1965—31.0%).

The estimated gun control coefficients of total homicide, total suicide and accidental death by firearm for the state in 1960 were −.228, −.389 and −.196, respectively; and for the states in 1965 were −.095, −.286 and −.167, respectively. On the basis of these results it is estimated that one unit of gun control saves between .548 and .813 lives per million population per year. Thus it can be estimated that the gun control legislation of New Jersey (39 units) saves between 21 and 32 lives per million population per year. On a nationwide basis such legislation would save between 4200 and 6400 lives per year.[57]

The average index value (simple arithmetic mean) of gun control for the states in 1965, using the weights contained in Table 2, was 17.5. If all 28 states whose indices were below 17.5 were brought up to that number, an estimate based on the results of this study would indicate that about 505 fewer lives per year would be lost due to homicide, suicide and accidental death by firearm in those states. Furthermore, if all states were *raised* to the 39-units level of New Jersey, about 1950 lives would be saved.

Two: A comparison of the results of the homicide and suicide *by firearm* rates with the *total* homicide and suicide rates provides an indication of the extent to which gun control legislation leads to the successful substitution of other weapons.[58] The similarity of the estimated gun control coefficients of homicide by firearm and total homicide for 1960 (−.176 and −.228) and of suicide by firearm and total suicide for 1960 (−.488 and −.389) would support a conclusion that other weapons are not successful substitutes for firearms. However, the differences between the estimated gun control coefficients of homicide by firearm and total homicide for 1965 (−.228 and −.0951) and of suicide by firearm and total suicide for 1965 (−.472 and −.286), would lead one to believe that other weapons are frequently *and* successfully substituted for firearms.

The results showing a 75% probability that the gun control coefficient of total aggravated assaults is positive give some indication that more stringent gun control laws tend to cause the use of less effective weapons rather than to discourage homicide attempts. One explanation for the positive relation is that the additional aggravated assaults which occur in stringent gun control states are homicide attempts which are unsuccessful as a result of the use of less lethal substitutes. This explanation, however, can only account for part of the large (3.00) gun control coefficient for total aggravated assaults.

Another explanation for the positive relation is that the felon armed with a gun, assuming that he is responsible for a significant portion of the aggravated assaults, has less need to use force to obtain the victim's cooperation and to effect his get-away and that in stringent gun control states the hardened criminal is less likely to be armed with a gun and hence more likely to use force.[59]

Three: The evidence indicates that gun control has little effect on "ordinary" crime. As mentioned previously, there is a positive estimated relation between total aggravated assaults and gun control; and while for robbery the estimated gun control coefficient is negative (−.418), there is a forty-four percent chance that the coefficient's sign is incorrect. Moreover, even if the estimated coefficient is correct, the enactment of strict gun control legislation will not substantially reduce the robbery rate which exceeded six hundred robberies per million population for the nation in 1965.

Four: Results for other variables show that with the exception of robbery and total suicide, there is a negative correlation between income and the death and crime rates considered by this study; that education as measured by median school years completed is an important factor only for suicides (positive correlation) and robbery (negative correlation); that with the exception of robbery the relation between the percentage of males and the death and crime rates is strongly positive; that with the exception of suicide—1960, there is a strong positive relation between the percent of non-whites and the death and crime rates; that the relation between population density and the death and crime rates is strongly negative; and that the relation between the number of police personnel per capita and the death and crime rates is generally positive.[60]

LIMITATIONS

One: As previously indicated, certain types of state and local gun control legislation were not considered; the comparison between the states did not take into account the additional gun regulations of local governments within the state; and the gun control categories of Table I contain within the same category laws which differ to some extent. Since the evidence derived from this study indicates that additional gun control reduces the number of deaths, this has probably caused the effects of gun control legislation to be understated.

Two: The data used by this study do not account for differences in the enforcement policies of the different states and cities and for inaccurate reporting of deaths and crimes.

Three: The coefficients of certain demographic variables may not indicate a *causal* relation. The ecology of crime is more complex than this study's simple equations portray. The relation between the number of police personnel per capita and the death and crime rates illustrates this point.

Also, it is possible that important explanatory variables have been omitted. Two that are frequently mentioned in FBI reports are the number of transient residents and the penalty ordinarily imposed for the crime committed. Others that may be important include regional differences in attitudes towards firearms, regional religious differences, differences in levels of frustration and differences in racial attitudes.[61]

Four: Since as of 1965 no state or city had totally prohibited the sale and possession of hand guns or imposed strict regula-

Footnotes at end of article.

tions on the sale and possession of rifles, the study tells little about the effectiveness of such types of gun control regulation. On the basis of this study's findings that additional controls, meaning increased units of gun control, reduce the homicide, suicide and accidental death by firearms rates, it would be expected that more stringent gun control, such as the regulation of rifles and the total prohibition of sale and possession of hand guns, would lower these death rates—but to what extent it cannot be said.

Also, this study does not indicate whether more stringent types of gun control would reduce "ordinary" crime. Perhaps measures such as prohibitions against the manufacture, sale and possession of all or certain types of firearms would disarm the professional criminal, and perhaps the disarmed professional criminal would be more hesitant to engage in criminal activity.

Five: While this study concludes that increases in the units of gun control decrease rates of homicide, suicide and accidental death by firearm, it does not show whether all unit increases in the amount of gun control are equally effective. It may be that the extent of the effectiveness of an increased unit of gun control is related to the amount of gun control which already exists within the state or city, or that certain types of gun control are effective only if other types of gun control are also enacted.

Six: The percentage of explained variation (R^2) in the death and crime rates was very similar for index weights that differed considerably from the weights listed in Table 2. Thus uncertainty remains as to the relative importance of the different types of laws.

CONCLUSION

The finding of the present study that gun control legislation reduces the number of deaths by homicide, suicide and accidents by firearm is inconsistent with three related research papers by Alan S. Krug which have received important circulation. Each of Krug's papers has been introduced into the Congressional Record, and the papers are presently being circulated in pamphlet form by the National Shooting Sports Foundation under the billing of "the first comprehensive study on a national basis ever made on the relationship of firearms to crime in the United States." [62]

Each of Krug's papers claims to discredit the position that gun control legislation reduces crime. In his first paper, Krug reports that the homicide by firearm rate has shown a decided downward trend from 1910 to 1967 while gun ownership has steadily risen.[63] In a second paper a simple comparison is developed which shows no significant differences between the crime rates of states with and states without firearm licensing laws.[64] The third paper reports a negative correlation between firearm ownership, as measured by the number of hunting licenses, and various crime rates for the fifty states.[65]

Krug's second study is of primary interest here since it, like the present study, compares differences in crime rates among states with differences in gun control legislation. In this paper, Krug first places the states into two groups: licensing and non-licensing states. Next, using 1965 data, Krug calculates average (arithmetic mean) homicide, robbery, aggravated assault and serious crime rates for licensing and non-licensing states and finds that the average homicide, aggravated assault and serious crime rates for licensing states exceeded the non-licensing states' average.

As a vehicle for discrediting gun control legislation, this study by Krug has several major deficiencies. First, the only death rate it considered was the homicide rate by firearm, and, as Krug admits in another section of the same study, this accounts for less than one-third of the nation's deaths by firearm.[66] Thus the conclusion that licensing has no effect on the homicide rates does not discredit a position that licensing reduces death by firearm.

Second, by using only two groupings for the fifty states and by examining only licensing requirements, the *True Facts* study failed to account for differences in state licensing requirements or other statutory controls over firearms. Moreover, by including within the licensing group any state which prohibits carrying firearms without a license, the licensing category included many states with weak gun control legislation. The legislation of six of the thirty-six states Krug included as licensing states had an index value of seven or less on the basis of the criteria used in the present study, while four of the fourteen states included as non-licensing states had an index value of seven or more.

Finally, although Krug recognized that factors such as population density, geography, per capita income and education appear to be significantly related to crime rates, these factors were completely neglected in his "statistical study." Thus, for these reasons it is submitted that the evidence presented in this study invalidates conclusions concerning death rates presented in these earlier papers.

Krug's other studies conclude that there is no relationship between the number of firearms and crime rates. These conclusions are of dubious merit for the reasons stated in an in-depth analysis of the Krug studies by Franklin E. Zimring.[67] Professor Zimring criticizes the first study, which examines the homicide by firearm and gun ownership trends, because (a) Krug's assertion that the homicide by firearm rate has shown a decided downward trend is questionable; (b) Krug failed to establish that *per capita* gun ownership is rising—he asserted only that the *number* of guns owned is rising; and (c) Krug's findings, even if accurate, do not preclude the possibility that stringent gun control legislation would have further reduced the homicide by firearm rate. Krug's third study, which finds a negative correlation between gun ownership and various crime rates for the fifty states, is criticized by Zimring for the use of hunting licenses as a measure of firearm ownership. Zimring asserts that hunting is not the major use of firearms in many areas of the nation or the major use of handguns, the weapons most frequently used in crime.

Nevertheless, even if Krug's conclusion that there is no relationship between the number of guns and crime rates should be correct, this in itself does not establish that gun control laws are ineffective. Most firearm legislation, according to its proponents, is not aimed at and does not prevent the law-abiding citizen from acquiring firearms. Rather, the legislation's purpose and effect is to keep guns out of the hands of minors and irresponsible adults.

This article has made no attempt to explain why gun control legislation reduces the number of deaths by firearm. To the authors' knowledge there is no reliable data on gun ownership, and hence it is not possible to argree with or dispute the thesis that there is no relationship between the number of guns and the death and crime rates. The findings here do indicate, however, that gun control legislation is most effective in reducing the number of suicides and accidents by firearm, less effective in reducing the number of homicides and generally ineffective in reducing the number of other crimes—all of which suggests that stringent gun control legislation reduces the number of persons possessing firearms. It seems likely that a high percentage of suicides, accidents by firearms and homicides are committed by adults who have never been convicted of a crime adjudged mentally incompetent, or designated an addict or alcoholic.[68] Thus the most plausible explanation for the effectiveness of gun control in reducing these death rates is that the percentage of adults who could lawfully obtain firearms is reduced by stringent gun control legislation.

The concern of this study is with the effectiveness of gun control legislation. On this point evidence is presented that stringent gun control legislation reduces death by homicide, suicide and accidents by firearm. For each of ten varying sets of weights reported in the Appendix, the gun control coefficients of homicide, suicide and accidental deaths by firearm are negative. Thus the conclusions do not depend upon our choice of weights. The choice of weights does, however, make a difference as to the *size* of the gun control coefficients. Results based on the ten sets of weights reported in the Appendix ranged from 1520 to 3340 additional lives saved if all states were raised to the level of New Jersey.[69] Consequently, there is no doubt that gun control legislation saves lives but there is a question of *how many* lives it saves.

APPENDIX

Further results

As mentioned in the text, we tried ten different sets of weights, each set yielding a different gun control index. These weights are given in Table A–1. Table A–2 lists for each index the gun control coefficient and the probability of its sign error for each crime or death rate.

TABLE A–1.—WEIGHTS FOR THE TEN GUN CONTROL INDICES

Legislative category	1	2	3	[1]4	5	6	7	8	9	10
1. Concealed:										
a. License	2	2	2	2	2	5	2	5	5	2
b. Prohibition	2	2	2	2	2	5	2	5	5	2
2. Carrying:										
a. License	4	4	4	4	4	10	4	10	10	4
b. Prohibition	4	4	4	4	4	10	4	10	10	4
3. Carrying in auto:										
a. License	2	2	2	2	2	5	2	5	5	2
b. Prohibition	2	2	2	2	2	5	2	5	5	2
4. Special prohibitions:										
a. Minors	1	1	1	1	1	1	8	1	8	8
b. Felons	1	1	1	1	1	1	8	1	8	8
c. Addicts	1	1	1	1	1	1	6	1	6	6
d. Alcoholics	1	1	1	1	1	1	6	1	6	6
e. Mentally ill	1	1	1	1	1	1	6	1	6	6
5. Dealer licensing	2	2	2	8	8	2	2	8	2	8
6. Recordkeeping:										
a. By dealer	2	2	2	8	8	2	2	8	2	8
b. By Government agency	2	2	2	4	4	2	2	4	2	4
7. Waiting period:										
a. Time	1	1	1	1	1	1	1	1	1	1
b. Notice	2	2	2	2	2	2	2	2	2	2
8. License to purchase	8	4	12	8	4	8	8	8	8	8

[1] This index was reported in the text.

Footnotes at end of article.

TABLE A-2.—ESTIMATED GUN CONTROL COEFFICIENTS AND PROBABILITIES OF SIGN ERROR FOR ALL INDICES[1]

	Index									
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Crime or death:										
Homicide by firearm:										
States	−0.176	−0.188	−0.156	[2]−0.176	−0.185	−0.0514	−0.0537	−0.124	−0.0337	−0.0741
1960	.253	.266	.249	.113	.114	.392	.318	.176	.377	.195
States	−.333	−.365	−.287	[2]−.288	−.237	−.249	−.127	−.195	−.117	−.119
1965	.110	.115	.113	.0602	.0619	.138	.137	.0733	.143	.0876
Total homicide:										
States	−.220	−.220	−.204	[2]−.228	−.236	−.0684	−.0597	−.159	−.0335	−.0912
1960	.283	.307	.270	.140	.144	.417	.357	.205	.415	.233
States	−.787	−.0278	−.103	[2]−.0951	−.0866	−.0640	−.0210	−.0620	−.0753	−.0375
1965	.412	.471	.369	.310	.334	.491	.444	.361	.479	.371
Cities	−.418	−.436	−.374	−.261	−.260	−.370	−.0424	[2]−.245	−.0548	−.0749
1960	.176	.204	.164	.151	.167	.169	.419	.146	3.91	.318
Suicide by firearm:										
States	−.920	−.995	[2]−.808	−.488	−.491	−.770	−.368	−.448	−.359	−.288
1960	.0177	.0231	.0167	.0221	.0277	.0189	.0251	.0217	.0222	.0225
States	−.866	−.894	[2]−.785	−.472	−.470	−.689	−.322	−.420	−.307	−.261
1965	.0185	.0290	.0149	.0183	.2047	.0244	.0353	.0208	.0343	.0261
Total suicide:										
States	−.868	−.868	[2]−.803	−.389	−.365	−.742	−.369	−.368	−.362	−.259
1960	.0414	.0644	.0320	.0814	.107	.0400	.0424	.0741	.0377	.0573
States	−.783	−.744	−.747	−.286	−.251	−.693	−.351	−.287	[2]−.347	−.221
1965	.0702	.108	.0529	.163	.207	.0595	.0601	.139	.0518	.0995
Cities	−1.45	−1.34	−1.38	−.559	−.467	[2]−1.44	−.387	−.616	−.449	−.264
1960	.0100	.0334	.0044	.0557	.106	.0032	.0905	.0283	.0505	.115
Accidental death by firearm:										
States	−.429	−.436	−.391	−.196	−.187	−.323	−.192	−.170	−.178	−.135
1960	.0125	.0355	.0164	.0478	.0661	.0363	.0166	.0574	.0193	.0253
States	−.302	−.332	−.261	[2]−.167	−.171	−.239	−.124	−.148	−.117	−.0988
1965	.0084	.0099	.0089	.0073	.0087	.0122	.0107	.0088	.0107	.0075
Aggravated assault by firearm:										
States	.0732	−.0852	.162	−.423	[2]−.513	−.167	.253	−.428	.176	−.0116
1965	.483	.483	.457	.327	.302	.454	.366	.309	.401	.492
Total aggravated assault, robbery:										
States	10.3	10.5	9.38	3.00	2.65	7.09	[2]4.85	2.44	4.31	2.77
1965	.100	.123	.0903	.248	.284	.147	.0780	.272	.0917	.144
States	1.17	.168	[2]1.68	−.418	−.802	.483	.462	−.467	.336	−.0038
1965	.415	.489	.362	.444	.399	.458	.421	.432	.440	.499
Mean index:										
States	10.9	10.1	11.3	17.5	16.5	14.4	25.3	21.1	30.1	32.2
1965										
Estimated lives saved per year [3]	2,830	2,040	3,340	1,950	1,520	2,670	2,070	1,900	2,390	1,890

[1] The upper number of each pair is the estimated coefficient; the lower number is the probability of sign error.
[2] Highest R^2 of all indices.
[3] This number estimates the additional lives that would have been saved if the gun control laws of New Jersey had been applied nationwide in 1965.

The next to last line of Table A–2 gives the mean value of the index for states in 1965. Some variation among estimated coefficients is due to changes in this average value.

The probabilities of sign error indicate that some of our conclusions, viz., gun control cuts down suicide and accidental death by firearm rates and has little influence on robbery and aggravated assault by firearm, would have been reached regardless of the index chosen. Homicides and total aggravated assaults are a different matter. For these crimes, the choice of index can make a considerable difference in the estimated effect of gun control. In total homicides—states—1960, for example, all the estimated coefficients are negative but the probability that the true coefficient is negative ranges from .14 (index 4) to .42 (index 6).

We attempted to use variations among indices to make inferences about the relative effectiveness of different types of laws. Indexes 4 and 5, for example, which weight dealer licensing and record keeping relatively heavily, generally perform well for homicide. On the other hand, index 3, which weights license to purchase very heavily, seems to do well with respect to suicides.

Unfortunately, when we employed more refined techniques in an attempt to isolate the effect of each type of law, we could obtain no significant or even meaningful results.[19] This failure may have been due to multicollinearity among individual law categories (a statistical difficulty) or to some circumstance such as interactions of laws which make combinations more effective than the sum of effects of individual laws.

Finally, we should mention that standard tests of the regression model were made. We checked the assumption of normal disturbance terms with chi-square tests and normal probability plots of the residuals. Linearity assumptions were checked with residual plots. The regression assumptions were well approximated in all cases.

FOOTNOTES

*Research Associate of Economics, Carnegie-Mellon University, B.S. 1963, Case Institute of Technology; M.B.A. 1965, University of Chicago.

**Assistant Professor of Economics, Carnegie-Mellon University. B.A.E. 1961, Auburn University; M.B.A. 1963, University of Washington; Ph.D. 1968, University of Chicago.

***Assistant Professor of Law, University of Pittsburgh Law School. B.A. 1960, Amherst College; L.L.B. 1963, Yale Law School.

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[1] For a general background to the gun control controversy see *Congress and "Gun Control" Proposals*, 45 CONG. DIG. 289 (1966); *Congress and the National Crime Problem*, 46 CONG. DIG. 193 (1967); Harris, *Annals of Legislation—If You Lose Your Guns*, THE NEW YORKER, Apr. 20, 1968, at 56.

[2] *See* "The True Facts on Firearm Legislation—Three Statistical Studies" (National Shooting Sports Foundation, Inc., 1968).

[3] Mr. Wolfgang, "Patterns in Criminal Homicide" (1958). "[F]ew homicides due to shootings could be avoided merely if a firearm were not immediately present . . . the offender would select some other weapon to achieve the same destructive goal. Probably only in those cases where a felon kills a police officer, or vice versa, would homicide be avoided in the absence of a firearm." *Id.* at 83.

[4] The basic statistical technique used in this study was multiple linear regression. See notes 48–51 *infra* and accompanying text. *See generally* A. Goldberger. "Econometric Theory" 1964).

[5] Sources of all data are available from the authors on request.

[6] Mean annual degree days are calculated as follows: If the temperature is below 65° F., subtract the temperature from 65. If the temperature is above 65°, a value of zero is assigned. These daily averages are then added to determine the total number of degree days for the year. Thus, the colder the climate the greater is the number of mean annual degree days.

[7] For "States 1965", only 1960 age, education, race and police data were available. Data for all other explanatory variables were for the same year as the death and crime data.

[8] Ch. 757, 48 Stat. 1236 (1934). *Presently codified as* Pub. L. No. 90–618, § 201 (1968 U.S. Code Cong. & Ad. News 1413–24), *amending* 26 U.S.C. §§ 5801–5862.

[9] Ch. 850, 52 Stat. 850 (repealed in 1968). The basic provisions of the Act are now contained in the Gun Control Act of 1968, Pub. L. No. 90–618, §§ 101–302 (1968 U.S. Code Con. & Ad. News 1397–1424). This Act amended Title IV of the Omnibus Crime Control & Safe Streets Act of 1968, Pub. L. No. 90–351, 18 U.S.C.A. §§ 921–28 (Supp. 1968), which had repealed the Federal Firearms Act of 1938.

[10] 39 C.F.R. 125.5 (1968). Prior to 1968 no restrictions were placed on interstate firearm shipments by common carrier. The chief effect of the postal regulations was to send the purchasers of handguns by mail to the Railway Express Agency rather than the post office.

[11] Gun Control Act of 1968, Pub. L. No. 90–618 §§ 101–302 (1968 U.S. Code Cong. & Ad. News 1397–1424), *amending* 18 U.S.C.A. §§ 901–28 (Supp. 1968).

[12] *Id.* (1968 U.S. Code Cong. & Ad. News at 1404–05) (18 U.S.C.A. §§ 922(d), (f) & (h)).

[13] *Id.* (1968 U.S. Code Cong. & Ad. News at 1401) (18 U.S.C.A. § 922(a)(3)).

[14] *Id.* (1968 U.S. Code Cong. & Ad. News at 1401–02) (18 U.S.C.A. § 922(a)(5)).

[15] *Id.* (1968 U.S. Code Cong. & Ad. News at 1404) (18 U.S.C.A. § 922(d)).

[16] *Id.* (1968 U.S. Code Cong. & Ad. News at 1406–09) (18 U.S.C.A. § 923).

[17] *Id.* (1968 U.S. Code Cong. & Ad. News at 1402, 1406–07) (18 U.S.C.A. §§ 922(b)(4), 923(a)).

[18] See note 8 *supra* and accompanying text.

[19] Ohio Rev. Code Ann. §§ 2923.01–.06 (Page 1954 & Supp. 1968).

[20] Minn. Stat. Ann. § § 609.66–.67 (1964).

[21] Ky. Rev. Stat. Ann. § 435.230 (1963).

[22] N.J. Stat. Ann. §§ 2A:151–1 to 151–56 (1953 & Supp. 1968).

[23] Hawaii Rev. Laws §§ 157–1 to –33 (1955).

[24] Mich. Comp. Laws §§ 28.421–.434, 750.222–.239 (1967 & Supp. 1968).

[25] *See, e.g.,* Conn. Gen. Stat. Ann. §§ 53–203, 53–204, 53–207 (1960); Iowa Code Ann. § 110.23 (1949); N.Y. Penal Law § 265.35 (McKinney 1967).

[26] State data was obtained from Rosentrater, Sayles & Conner, "State Firearms Control—A Compilation of Digests of State Laws" (Library of Cong. Legis. Reference Service, 1968). *See also* Note, *Firearms: Problems of Control,* 80 Harv. L. Rev. 1328, 1336–42 (1967); Note, *Firearms Legislation,* 18 Vand. L. Rev. 1362, 1366–69 (1965).

[27] City data was obtained through correspondence with city solicitors. Replies were received from 94 cities. Of the 94 replies, 58 stated that there were no local firearms regulations. The other 36 replies either summarized or enclosed copies of local firearms regulations. Only 14 of the cities with regulations fitting within the categories of Table 1 were located in states which did not have similar regulations.

[28] Category 3 (carrying—motor vehicle) includes only states and cities within category 1 (concealed) with laws which expressly restrict the carrying of firearms in motor vehicles. Category 3 does not include laws which generally prohibit the carrying of concealed weapons even though such laws may be construed to prohibit carrying concealed weapons in a motor vehicle, particularly if the weapon is within reach of occupants of the car. States within category 2 (carrying) usually prohibit the carrying of handguns on the person and in a motor vehicle.

[29] Generally, state and city laws within the first three categories of Table 1 exempt law-enforcement officers, military personnel, private guards and persons carrying firearms at their home or place of business. *See e.g.,* "Cal. Penal Code" §§ 12026–27 (West 1956); New York is the only state which requires a license to possess a handgun in the home or place of business. "N.Y. Penal Law" §§ 265.05(3), 400.00(2) (McKinney 1967).

[30] *See e.g.* Cal Penal Code §§ 12021, 12050, and 12072 (West 1956) (license to carry may be issued to person of good moral character, but restrictions as to minors, addicts and felons): Conn. Gen. Stat. Ann. § 29–29 (1960) (no permit shall be issued if the applicant has ever been convicted of a felony); "Iowa Code Ann," § 2695.26 (Supp. 1968) (sale to minors forbidden).

[31] *See e.g.,* Cal. Penal Code § 12050 (West 1956); "Me. Rev. Stat. Ann." tit. 25, § 2031 (Supp. 1967); N.Y. Penal Law § 400.00 (McKinney 1967).

[32] *See e.g.,* Wash. Rev. Code Ann. § 9.41.070 (1961) (for purposes of protection or while engaged in business, sport or while traveling).

[33] *See e.g.,* Iowa Code Ann. § 695.20 (1950); Wash. Rev. Code Ann. § 9.41.070 (1961).

[34] Minors, as defined by the various states, range from persons under fourteen to persons under twenty-one. Also, some states exclude from the law's prohibitions minors with parental consent to purchase and possess firearms. Certain states limit restrictions against felons to persons who were convicted of crimes of violence within a specified time; restrictions against addicts to persons convicted under narcotics laws, restrictions against alcoholics to persons under the influence of alcohol; and restrictions against the mentally ill to persons committed for mental disorder. Other states either do not define these terms or use broader definitions. *See generally* Note, *Firearms: Problems of Control,* 80 Harv. L. Rev. 1328 (1967).

A state is within a sub-category of category 4 (Table 1) if it requires a license to purchase handguns and prohibits the issuance of such a license to persons covered by the sub-category. A state is not included within a sub-category of category 4, however, if it only prohibits persons within the sub-category from receiving a license to carry handguns.

[35] *See* Cal. Penal Code §§ 12021, 12072 (West 1956).

[36] *See e.g.,* N.Y. Penal Law § 400.00(1) & (2) (McKinney 1967). A South Carolina law repealed in 1965 prohibited the sale but not the possession of handguns within the state. Since South Carolina was the only state to prohibit sales, Table 1 does not have a separate category to cover this type of restriction. Since category 5 appeared to be the most appropriate category, South Carolina was included therein.

[37] *See* N.Y. Penal Law § 400.00(1) (McKinney 1967).

[38] See note 9 *supra* and accompanying text.

[39] Hearings Before the Subcomm. to Investigate Juvenile Delinquency of the Senate Comm. on the Judiciary, 88th Cong., 1st Sess., pt. 14, 3209–10, 3426 (1963).

[40] *See, e.g.,* "Ill. Ann. Stat." ch. 38, § 24–4 (Smith-Hurd 1964); "Gen. Stat." § 14–406 (1953).

[41] *See, e.g.,* "Iowa Code Ann." § 695.21 (1950).

[42] *See, e.g.,* "Conn. Gen. Stat. Ann." § 29–33 (Supp. 1969) (one week waiting period following mailing of application for purchase); Ore. Rev. Stat. § 166.470 (1965) (fiream shall not be delivered to purchaser on the day of the application for its purchase).

[43] *See, e.g.,* "Wash. Rev. Code Ann." § 9.41.070 (1961).

[44] *See, eg.,* "N.Y. Penal Law." § 400.00 (McKinney 1967); N.C. Gen. Stat. § 14–402 (Supp. 1967).

[45] *See, e.g.,* "N.C. Gen. Stat." § 14–403 (Supp. 1967).

[46] For an example of a statute which is very specific as to who may obtain a license to purchase, see "NJ. Stat. Ann." §§ 2A:151–33 to 2A:151–39 (Supp. 1968). For a more "general" statute, see "N.C. Gen. Stat." §§ 14–402, 14–404 (Supp. 1967).

[47] *See, e.g.,* "N.J. Stat. Ann." § 2A:151–36 (Supp. 1968).

[48] For a description of multiple linear regression, see J. Johnston. "Econometric Methods" 106–42 (1960).

[49] *Id.* at 108–09.

[50] "Probability of sign error" is not the conventional interpretation of the members given here. They are usually termed "levels of significance," and the interpretation of them is somewhat different. The terminology used herein results from a Bayesian approach to the regression problem in which the parameters are considered random variables. The prior distributions which the authors have implicitly used here are locally uniform probability measures.

[51] The number is R^2 adjusted for degrees of freedom. *See* A. Goldberger, "Econometric Theory" 217 (1964).

[52] See Appendix, Table A–2.

[53] Set 4 best explained homicide by firearm (i.e., had the highest R^2), and total homicide for the states (1960 and 1965), and accidental death by firearm (1965). Set 3 best explained suicide by firearm for the states (1960 and 1965), total suicide (1960), and accidental death by firearm (1960).

[54] The material appearing in the Results section are based upon the use of the set of weights for the various categories of gun control legislation listed in Table 2 (Index 4).

[55] The 95% confidence interval is the range within which there is a .95 probability that the true coefficient will lie. The probability of sign error, as previously indicated, reflects the chance that the sign of the estimated coefficient is incorrect.

[56] All relationships reported in this study are conditional because the effects of other demographic variables are taken into account.

[57] The estimates on lives saved include lives *already* saved by existing gun control legislation. In 1965 in the United States there were approximately, per 100,000 population, 3.05 homicides by firearm, 5.5 total homicides, 5.02 suicides by firearm, 11.1 total suicides, and 1.2 accidental deaths by firearm. *See* 1967 "Statistical Abstract of the United States" 59, 168 (U.S. Dep't of Commerce).

[58] In Zimring, *Is Gun Control Likely to Reduce Violent Killings?* 35 U. Chi. L. Rev. 721 (1968), the author describes a study measuring the effectiveness of substituted weapons based on data from reported homicides and serious assaults.

[59] A third explanation for the direct relationship between gun control and aggravated assaults is that stringent regulation of weapons increases crime by reducing the number of persons possessing firearms for protection. However, the findings on robbery (see Table 8 and the textual discussion appurtenant thereto) are not consistent with such an explanation.

[60] Significant positive coefficients for the number of police personnel is not necessarily indicative of a causal relationship. Another explanation is that states and cities with high death and crime rates employ more police personnel in an attempt to reduce these rates, but that such additions to police forces are not significantly effective.

[61] In a separate tabulation, a dummy variable for the eleven states which formed the Confederacy was included. Results obtained indicated that homicides and aggravated assault rates are positively related to these eleven states; that accidental death by firearm is negatively related to these states; and that robbery and suicide are unrelated to these states.

These results do not weaken the conclusions of this paper concerning the effectiveness of gun control because the stringency of gun control legislation in the eleven Confederate states and in the remaining states is not dissimilar. The mean index value of gun control legislation for the fifty states based upon the set of weights reported in the text was 17.5. In comparison, for the eleven Confederate states the mean index value was 14.2, and for the seven Confederate states with the highest homicide rate the mean index value was 16.6.

[62] "The True Facts on Firearm Legislation—Three Statistical Studies" (National Shooting Sports Foundation, Inc., 1968), Congressional Record, vol. 114, pt. 2, p. 1495) [hereinafter cited as True Facts]. *See* Zimring, *Games with Guns and Statistics,* 1968 Wis. L. Rev. 1113.

[63] Krug, "The Misuse of Firearms in Crime," in True Facts.

[64] Krug, "The Relationship Between Firearms Licensing Laws and Crime Rates," in True Facts.

[65] Krug, "The Relationship Between Firearms Ownership and Crime Rates: A Statistical Analysis," in True Facts.

[66] See note 57 *supra.*

[67] Zimring, "Games with Guns and Statistics," 1968 Wis. L. Rev. 1113.

[68] During 1965, 79% of all murder victims were acquainted with the offender. Killings resulting from robberies, sex motives, gangland slayings, and other felonious activities accounted for only 16% of the total of reported homicides. *See* Report by the President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society 39 (1967).

[69] The index reported in the text, number 4, ranked seventh out of ten in terms of estimated total lives saved.

[70] We tried entering each legislative category as a "dummy variable" and we also split

the categories into blocks and attempted to measure the effect of each block independently.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask that the morning business be closed and that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. Without objection it is so ordered.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATIONS, 1970—CONFERENCE REPORT

The Senate resumed the consideration of the amendment of the Senator from Wisconsin (Mr. NELSON) to the second part of the House amendment to the Senate amendment in disagreement numbered 83.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin (Mr. NELSON) to the second part of the House amendment to the Senate amendment in disagreement numbered 83.

Pursuant to the unanimous-consent agreement, there is a time limitation of 1½ hours, to be equally divided and controlled by the Senator from Wisconsin and the Senator from Pennsylvania, or their designees.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that there be a brief quorum call, the time to be charged equally against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COTTON. Mr. President, I ask unanimous consent that further proceedings under this quorum call be dispensed with, because it is eating up our allocated time.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. NELSON. Mr. President, I yield myself 3 minutes. As was stated yesterday, the amendment submitted by Representative MICHEL in the Appropriations Conference Committee was voted on by the House first and then sent to this body as a House amendment. That amendment would, I think, by all interpretations, result at a minimum in removing the mandatory reservations of funds for the drug abuse program authored by the Senator from Colorado (Mr. DOMINICK) and the alcoholism program authored by the Senator from Iowa (Mr. HUGHES).

These two programs were discussed at great length in the Poverty Subcommittee and approved there, discussed in the full Labor and Public Welfare Committee and approved there, and debated on the floor of the Senate and approved; and after lengthy discussions in the conference, the Senate and the House accepted and approved them. I think it would be a tragedy if these two programs were eliminated by accepting the House amendment that removes the requirement that the money be spent out of the fiscal 1970 appropriations.

What more that amendment might do is subject to debate and dispute. Certainly some people would interpret the amendment as eliminating all earmarking in the authorization act, and I think that is one of the risks we take. I now yield 10 minutes to the distinguished Senator from Iowa.

Mr. HUGHES. Mr. President, in order to again more clearly identify the problem, I ask the distinguished Senator from Wisconsin (Mr. NELSON) to participate in a clarifying discussion.

It is a fact, I believe, that in this earmarking we have not asked for 1 additional dollar over the administration request. Is that correct?

Mr. NELSON. That is correct. As a matter of fact, the total appropriation is $100 million below the request made by the administration. The authorization act's earmarking provisions apply to the actual appropriations and determine the basic allocations. In fact, we did not add any money for the alcoholism and drug abuse programs; we took it from within what was budgeted and earmarked for community action programs in general.

Mr. COTTON. Mr. President, will the Senator yield so that I may request the yeas and nays?

Mr. HUGHES. I am happy to yield for that purpose.

Mr. COTTON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HUGHES. I ask the distinguished chairman of the subcommittee if, in addition to clearly understanding that this is not a request for 1 additional dollar or for more funds than requested by the administration, Senators clearly understand that we are trying to assure that this money is appropriated for and used to meet what has been clearly identified by numerous subcommittees of this body, and by the administration itself as very critical problems; that this was a bipartisan effort; that the narcotic addiction and drug abuse section was introduced in the subcommittee by the distinguished Senator from Colorado (Mr. DOMINICK), and that the alcoholism recovery amendment was introduced by myself in subcommittee. Is that not true?

Mr. NELSON. Yes.

Mr. HUGHES. And is it not true that we had unanimous consent, in the subcommittee and in the whole Committee on Labor and Public Welfare, to these provisions?

Mr. NELSON. My recollection is that those two provisions for alcoholism and drug abuse programs were approved unanimously by the Republican and the Democratic members of the Poverty Subcommittee and then by the full Labor and Public Welfare Committee, when the full committee considered the amendment.

Mr. HUGHES. Is it not also true that the chairman of the Appropriations Subcommittee which reported the bill to the Senate floor supported the Senator's proposal and my proposal in a rollcall vote on the floor?

Mr. NELSON. Yes. The chairman of the Appropriations Subcommittee (Mr. MAGNUSON) voted for earmarking of the funds in a rollcall vote in the Senate on the authorization bill. Yesterday he stated that he had expected, when this amendment in controversy was brought up in the Appropriations Conference Committee, that they would expend all the money just exactly in the fashion that we earmarked it in the Authorization Act.

The problem is, I think, that the House amendment on this appropriations bill attempts to eliminate the authorizing legislation's earmarking, which we voted for in rollcall votes here in the Senate. Whether the House proviso applies only to the alcoholism program or the drug abuse program, so as to eliminate the mandatory funding for them, or removes all earmarking, there is some dispute. It certainly removes the mandatory funding requirement for the alcoholic counseling and drug abuse programs. On that I think everyone agrees. It may not apply to all the rest. If it does, we have wiped out 9 months of hearings, and so far as I am concerned, we need not bother about hearing testimony or justifying these various programs, because I do not intend to have subcommittee members engaged in hearing witnesses from all over this country seeking justification for specific programs, then have funds earmarked by Senate and House action, only to have them wiped out by a little amendment in the appropriations bill which says they do not have to spend it in accordance with the earmarking in the authorizing legislation. We might just as well give them $2 million in a bushel basket and say, "Spend it as you please."

Mr. HUGHES. Mr. President, I thank the Senator from Wisconsin for his efforts in these various directions. Yesterday we put in the RECORD the statistical evidence of what is happening in this country. In addition, all of us know in our own hearts that one of the deepest concerns of every family that has teenage children or children going to college—or even children going downtown in any major city of this country—is the abuse of drugs, narcotics addiction, as well as alcoholism.

We know the statistical facts of what has happened. Twenty-five percent of the patients in mental health hospitals in my State are alcoholics. It was testified before my subcommittee that up to 40 percent of the patients in the mental health hospitals in America are patients because of alcoholism. One of every six beds in our veterans hospitals, it has been testified, is occupied by an alcoholic patient.

I believe that up to 40 percent of the people in the prisons of this country, Federal and State, as well as the major city jails, are filled with persons who were incarcerated for a crime they committed while under the influence of alcohol. Over 25,000 people a year are dying on our highways in alcohol-related accidents.

Alcoholism has been called the No. 1 health problem in this country by Dr. Roger Egeberg, the Assistant Secretary of Health, Education, and Welfare. Yet, we are arguing about trying to assure that a few million dollars will be ear-

marked to be spent in these fields by the Office of Economic Opportunity.

To indicate why I am concerned with earmarking these funds, I am going to put into the RECORD certain information obtained from the Office of Economic Opportunity overnight. As nearly as we have been able to determine, these are the programs that have been instituted by OEO over the course of the last 4 years to deal with narcotics.

I have before me a schedule of figures which I will attempt to interpret. During fiscal year 1967, nine programs dealing with narcotics were initiated by the Office of Economic Opportunity. The total expenditure for those programs was $9,377,828.

At the end of fiscal 1969, there were seven programs, a reduction of two, and funding obligations of $2,355,504, a $7 million reduction during a time that the Nation was rapidly recognizing the most explosive drug and narcotics problem in the country.

Rather than intensifying their concern and doing something more about it, they have, in recent months, been reducing their concern and doing less about it. At the same time, the National Institute of Mental Health is trying to institute new programs, trying to get local people all over the Nation concerned enough to act. Apparently, the right hand does not know what the left hand is doing.

This is not entirely the responsibility of this administration. I will not say that. This began to occur under the last administration.

I could detail where those programs are and what they are, but I will not place that in the RECORD. It is public information, and it is available.

I want to speak for a moment on the alcoholism programs. OEO estimates that there are 11 identifiable OEO alcoholism programs involving an expenditure of $670,000. I believe that there are enough requests available to the department that they can easily expend the total earmarked request that we are discussing today, even with the time limitation of 4 or 5 months on the initial earmarking of $10 million in the field of alcoholism and $5 million in the field of narcotics and drug abuse, or a total of $15 million for fiscal year 1970.

Mr. GRIFFIN. Mr. President, will the Senator yield for a point of clarification?

Mr. HUGHES. I yield.

Mr. GRIFFIN. The distinguished Senator from Iowa has been providing very effective leadership and has indicated deep concern, as have many other Members of this body, about the problems of drug abuse and alcoholism.

The PRESIDING OFFICER (Mr. BYRD of Virginia in the chair). The time of the Senator has expired. Who yields time?

Mr. GRIFFIN. I yield 2 minutes from this side.

I want to make it clear, however, that while his discussion has been focused on this particular concern, the amendment of the distinguished Senator from Wisconsin (Mr. NELSON) is not limited to earmarking for alcoholic counseling and recovery and drug rehabilitation. Those programs, as I read his amendment, are mentioned; but his amendment reimposes all of the mandatory requirements as to all the programs in OEO—or, at least, including many others.

The implication might be taken here by many who have listened to the distinguished Senator from Iowa, because of his broad concern, that anyone who voted against the amendment of the Senator from Wisconsin somehow was not concerned or did not believe in the Federal Government doing anything in the field of alcoholic counseling or drug rehabilitation.

It should be made clear that this is only a part of what is involved in this very sweeping and broad amendment, and that it would be altogether possible that the Director of OEO, if he were given the flexibility which he would have under the conference report, might well allocate more funds for the particular concerns to which the Senator from Iowa has directed his remarks than would be the case if the earmarking were imposed.

I only state that for the RECORD so that those who follow the debate would see the dimensions of it and realize that it is not confined or limited to the particular points about which the Senator from Iowa is talking.

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

Mr. GRIFFIN. I yield.

Mr. HUGHES. I should like to ask a question of the distinguished Senator from Michigan.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. Mr. President, I wish to state for the RECORD that the time allocated to this side is under the control of the distinguished Senator from New Hampshire.

Mr. NELSON. I yield the Senator time.

Mr. HUGHES. I am glad for the clarification by the distinguished Senator from Michigan. I am sure that the distinguished chairman of the subcommittee will reply further to that, so I do not intend to reply to it. I am speaking to two particular concerns affected by the amendment.

I say to the distinguished Senator from Michigan that if he will get the director of the department to state publicly that he will try to allocate funds in reasonable amounts, at least for these programs, I will be glad to cease my debate on this issue now.

Mr. COTTON. If the Senator will yield, in approximately 5 minutes I am going to make a statement on behalf of the director, and he has authorized me to make that statement.

Mr. HUGHES. I will be very interested in listening to it.

Mr. COTTON. I did not mean to cut the Senator off.

Mr. HUGHES. I should like to conclude, if the distinguished Senator from Wisconsin will yield me 3 additional minutes.

Mr. NELSON. I yield 3 additional minutes to the Senator from Iowa.

Mr. HUGHES. I simply want to say that if these earmarking provisions are approved, the Department does, in my opinion, have the capability and the experience in these areas to begin to tool up for these programs. Our records indicate that less than $1 million is being expended this year in alcoholism recovery programs. This is an insignificant amount by comparison with the problems I described on the floor of the Senate yesterday afternoon. Alcoholism is one of the greatest contributors to poverty in this country, particularly among certain ethnic groups, such as the American Indians, for whom a few major projects are being undertaken by the Department—and I compliment them for it. I think the need for the expenditure for additional funds is imperative, and I am certain the Department would share that concern.

When it comes to the narcotics addiction and drug abuse programs, I am totally convinced, with the information we have been able to get from the Department, that they have the capability of tooling up or beginning the necessary programs of getting capable men and women involved so that we can get massive programs underway in the future.

But while I believe they have the capability, I contend that the earmarking is imperative, because the record of the Department does not indicate it has any intention of either improving, stepping up, or expanding programs in either of these critical areas.

Mr. NELSON. Is the Senator not aware, on that exact point, in the last revised budget for the proposed spending of the money, either in November or early December, that the last word of the Office of Economic Opportunity was that it would spend zero on alcoholism, and that it proposed to spend $1 million on drug rehabilitation? This was the position of OEO when we received the last, revised, proposed budget requests in November or early December.

Mr. HUGHES. I did not recall that. Perhaps the distinguished Senator from New Hampshire (Mr. COTTON) will clarify that further with additional information this morning.

Now, Mr. President, I should like to yield back the remainder of my time to the distinguished chairman.

Mr. NELSON. I yield myself 1 minute to make a comment in response to the distinguished Senator from Michigan, that there is no dispute, I do not think, among those who looked at the amendment we are discussing, but that it would knock out the alcoholism and the drug abuse programs. The OEO position is that it would knock out all of the earmarked amounts. At least, that is what their representatives are saying.

In my judgment, that would be a disastrous result.

The distinguished Senator will recall that the Senate voted down, by a rollcall vote of 50 to 36, an amendment to eliminate earmarking of funds for Headstart, and all these other antipoverty programs. We had a rollcall vote when an attempt was made on October 14, by an amendment of the distinguished Senator from New York (Mr. JAVITS) to knock out the earmarking. It loss by 50 to 36. All I am saying is that the will of the Senate should be followed and that if the House amendment stands, we would be elimi-

nating our 9 months of effort on the subcommittee, authorizing legislation in the committee, on the floor of the Senate, in the House of Representatives, and in the conference committee. All that work on the authorizing legislation would be wiped out by the House appropriations amendment which very clearly would have been subject to a point of order as legislation in an appropriations bill if it had been submitted to this body in the first instance.

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

Mr. NELSON. I yield.

Mr. FULBRIGHT. I want to support the Senator, especially on the matter of procedure, which he is discussing. Unless we can follow the procedure that the Senator is suggesting, then it strikes me that the legislative committees are of no consequence whatever. They are simply a waste of time. It would be simply a waste of time to hold hearings, and so forth, if all the recommendations which get finally to the Senate can be wiped out in this fashion.

This is similar to the problems that arose with the foreign aid bill—a little in reverse, perhaps—but in that case, the committee, from long practice, and in agreement with the former and present administrations, did not wish to earmark for specific foreign countries. That is the reason for that. We do not, normally, do that, unless forced to.

In their case, the Appropriations Committee undertook to earmark; in other words, to wipe out the well considered and long established custom of not earmarking for a foreign country. That is quite a different substantive case, but the main principle is still the same. Legislative committees should have some influence upon the course of legislation. Therefore, I think that the Senator should be supported.

Mr. NELSON. I thank the Senator. Of course, if I thought that an amendment would be finally enacted wiping out the earmarking, I would not have conducted hearings for 9 months and gone to all the extra work entailed.

Mr. FULBRIGHT. We might as well go further and let the Appropriations Committee do it from the beginning and we will have to go ahead and do something else.

Mr. COTTON. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 10 minutes.

Mr. COTTON. Mr. President, yesterday afternoon and this morning, we have listened to the arguments for the amendment of the distinguished Senator from Wisconsin. I have been much impressed, as I am sure the Senate has, with the emphasis placed on the program of alcoholism and narcotics.

I do not believe that anyone in the Senate desires to do anything to curtail the efforts of the Federal Government in this field.

There are, however, some basic facts which should be shown in the RECORD.

The first is that the striking out of the earmarking was not done at the request of the OEO or of the administration. It was done by the representatives of the Appropriations Committees of the Senate and the House in conference, in connection with another action. It was the desire of the conferees, as the conference came to a close, to see to it that the HEW bill did not exceed the President's budget. Thus, it was finally determined by the conferees to recommend cutting the OEO appropriation by an even $100 million which brought the total sum under the President's budget by a razor-thin margin of $86 million, and this has been referred to again and again during the debate on the bill.

Having arbitrarily cut $100 million from the OEO appropriation, it was suggested that something be done to compensate that, to assist the OEO to stretch the remainder over their field of activities, therefore, as a compensating factor, seek to cut the $100 million. The conference committee recommended the abolition of the fixed minimums. Let me emphasize the fact that as a rule, legislative committees fix maximums, but they leave the minimums to the Appropriations Committee—they cut the fixed minimums.

Thus, to free the OEO Director and administration to use the remainder of the money, less the $100 million, we cut off the program to make it as effective as possible.

That is the history.

Now, Mr. President, I discussed this thoroughly with Director Rumsfeld this morning. I am perfectly aware of the fact that the President's budget did slight the alcoholism crusade.

I do not approve of that, and I doubt that anyone on either side of the aisle does. There is no one I know of here who does not regret it. It was not, however, the recommendation of Director Rumsfeld or the OEO organization. They were conforming, as they should conform, to the President's budget.

But this morning, Director Rumsfeld—and it was not in response to any urging or solicitation on my part—said to me, "I want it distinctly understood, and you are authorized to state on the floor of the Senate, that I and my associates in this program are enthusiastic about it, and are against curtailing programs on alcoholism and drug addiction, and it is our intention to spend every cent that is available that can be spent wisely and effectively in the 5 months remaining in the fiscal year, every cent that is available on these two programs, and still do justice to our other efforts."

As a matter of fact, sincere as are the motives of my friend, the Senator from Wisconsin, I think his amendment in some respects is self-defeating.

Let me cite one example. The follow-through program is presently scheduled to be funded during fiscal year 1970 in the sum of $56 million. If this amendment is agreed to and the earmarking is restored to the bill, there must be separated and held for the followthrough program not less than $70 million or more than $105 million. In other words, instead of $56 million, there must be money withheld up to the sum of $70 million.

If that happens, the difference between $56 million and $70 million is not available to be used in dealing with alcoholism or with dropouts.

That is only one example of what will happen. I do not mean that the attempts and efforts of my friends in support of this amendment are not sincere. They have been working for a long time and we respect them for it.

When we inject this after the conference report, we reject these categories, and these categories are based on the President's January budget, not on the revised budget. Under the bill, the OEO has been working thus far in the year and has been using those funds.

In the second place, the record should show and it should be emphasized that if the amendment is agreed to it is almost inevitable that certain other programs such as family planning, day care, and the aged are likely to suffer because it fixes these unchanged barriers and separates and places in compartments all the money available for OEO during the remainder of this year.

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

Mr. COTTON. Mr. President, I yield myself an additional 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 additional minutes.

Mr. COTTON. I am sure that the distinguished author of the amendment, the Senator from Wisconsin, has no desire whatever to take any steps that would damage or cripple the efforts in any such programs as family planning, day care, the aged, and other vital projects of OEO.

Mr. FULBRIGHT. Mr. President, will the Senator explain why that would necessarily happen under the family planning?

Mr. COTTON. Family planning spending this year has been on the basis of the President's budget.

In the remaining 5 months, there would be an effort to set aside and fix an amount not only for alcoholism and narcotics, but also for various other projects, where money must be spent or at least reserved. That would almost inevitably interfere with family planning efforts, day care, and other projects.

It is inevitable. If the amendment is agreed to, that money would not be made available for some of these projects so dear to the hearts of the Senator from Wisconsin and the Senator from Iowa.

Mr. GRIFFIN. Mr. President, will the Senator yield for a brief observation?

Mr. COTTON. I yield.

Mr. GRIFFIN. The information has come to my attention that the OEO office reports that its family planning program was to have been increased to $22 million this year, but that it will have to be cut back by $4.4 million if it is required to stay within the earmarks which would be established by the amendment of the Senator from Wisconsin.

Mr. COTTON. I have the same information here.

Mr. NELSON. Mr. President, will the Senator yield so that I might make an observation on my time?

Mr. COTTON. I yield to the Senator from Wisconsin on his own time.

Mr. NELSON. Mr. President, I yield myself 30 seconds.

Under title II funds not earmarked there is $75 million. They can take $4 million, $5 million, $6 million of the unearmarked funds and apply it to another program as a research and demonstration program for family planning. That is where they are proposing to find the funds for model day-care projects.

That is why we did that. We did it so that they would have flexibility. They have the vast flexibility that we have put in the bill. In addition, they can take 10 percent from any program and add it to any other program.

It is flexibility that we never gave to any previous administration in any previous authorization bill. There is no detriment to family planning, because they have $75 million in unearmarked funds they can top for that purpose.

Mr. COTTON. Mr. President, in reply to that, let me observe that right or wrong it is the purpose and policy of this administration to make the OEO organization into an experimental, research and development agency for the purpose of testing the practicality and the effectiveness of new and existing programs and to try to weed out and be enabled in the future to use such funds as are available more effectively. If by those arbitrary classifications and these arbitrary limits, money is taken that has been allocated to such going programs as day care and family planning, they would have to dig into whatever amount is available and curtail those activities.

Furthermore, this money that is made available, as I understand it—and the Senator will correct me if I am wrong—this $75 million was based on the full appropriation that passed the Senate, not on the appropriation after the conference committee cut it by $100 million which reduced the funds available to be allocated at will.

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

Mr. COTTON. I yield.

Mr. FULBRIGHT. Is the Senator saying that the $75 million has been wiped out by that altogether?

Mr. COTTON. I am not saying it would be wiped out. I am saying, with respect to this $100 million, that the reason the conferees reported the bill in the form in which it was reported—and my chairman will correct me if I am wrong—was because they had reduced the total appropriation by $100 million. They did not want at the last minute to try to reallocate fun ls between programs. They desired some flexibility so that OEO could absorb that decrease across the board without injury to its various other programs.

I am not saying that it cut out the $75 million. But I am saying that it will be cut out somewhere, and it has to be cut out somewhere and thus reduce the funds that are available for the various programs.

Mr. GRIFFIN. Mr. President, will the Senator yield to me briefly?

Mr. COTTON. Mr. President, I ask unanimous consent that I may proceed for 2 additional minutes.

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

Mr. COTTON. I yield to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, I know that the Senator from New Hampshire, of course, would undoubtedly defend the Committee on Appropriations on which he serves with great distinction. We heard a great deal about Congress setting priorities and making hard decisions. If I follow the statement of the Senator from New Hampshire, it sounds as though in the conference report $100 million was cut out, that the hard decisions were not made, and that the Director of OEO is left with the question of what he was going to do to absorb these cuts, that he would have to use $75 million to make up for cuts, and every dollar of it would be subtracted or deducted from the funds that were supposed to be made available to redirect this agency into lines of research in an experimental and developmental agency of the Government.

In other words, while the people and Congress have been critical of the OEO in the past and are expecting something new and different, we are, in effect, tying the hands of the Director of OEO and making it almost impossible for him to develop anything new within this agency, as I interpret the situation.

Mr. COTTON. That has been very well stated by the distinguished Senator from Michigan. It means these available funds, that were purposely planned to be flexible and used where needed, must suffer with that reduction along with other fixed funds.

In defense of the Committee on Appropriations I wish to say this.

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

Mr. COTTON. Mr. President, I yield myself 3 additional minutes.

It has been true that through the years, if my memory serves me correctly, it has been the function of the legislative committee to fix the maximum. Only in rare instances has the legislative committee attempted to fix the minimum. That has been traditionally at the discretion of the Committee on Appropriations, which has to make appropriations and stretch the funds and make the money go around. This is nothing new because three times—this was so in 1967 and in 1968—these allocations, such as are presented this morning on the OEO fund, were not in the authorization bill but when they got to the Appropriations Committees and to conference, OEO was relieved of these arbitrary categories. It was done in the past. This is simply an attempt to restore something that has already been overridden in 2 previous years.

The point is this, Mr. President. Let it be crystal clear that combating alcoholism and drug addiction is essential, and no other program, in my opinion, is more important than these two programs. But let us be fair. I freely admit they were neglected in the President's revised budget. However the fact remains, that we are assured they will not be neglected by OEO if they have control of their own money; and, second, to come back and proceed to restore these fixed minimums that would compel the OEO to reserve money that is not spent—such as in the followthrough program, where it would be a difference between $56 million and $70 million that could not be used for any other purpose—by the adoption at this late date of this kind of restriction would be likely to serve to militate against these two programs rather than for them.

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

Mr. COTTON. I yield myself 1 additional minute.

Mr. President, we have not gone over the entire list because this would arbitrarily restore a fixed allocation all along the line. We have only mentioned a few. When that is done it would make it more difficult for the agency to use funds available. Lastly, remember again that in this fiscal year only 5 months are remaining. As a matter of fact, I am informed by Mr. Rumsfeld that they are busily trying to staff their organization in the area of alcoholism and that they will continue to do so if they are so permitted. How much money can be effectively used in setting up this project that has been neglected and has to start almost from scratch in the 5 months remaining, whether $15 million can be effectively used or $20 million can be effectively used, are questions that we on the floor of the Senate this morning are utterly unable to determine.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. NELSON. Mr. President, first, I would like to take up the question of family planning to set the record straight. The administration came in with its bill. They came to my subcommittee and they did not ask for $22 million in family planning which they are now asking for. They asked for $15 million. The budget request for $15 million is on page 75 of the congressional presentation of the Economic Opportunity program submitted in May 1969. So, trying to accommodate the administration, we gave them exactly what they asked for. We came to the floor of the Senate and passed the $15 million they asked for. Then, in November after the bill had passed the Senate and then went to the House of Representatives, they said, "We have changed our minds. We want $22 million." The spokesmen for the administration return now and they criticize us for having accepted their word in the first place. What kind of nonsense is that? Certainly, they are entitled to change their minds but not to criticize what we put in for family planning when we put in what they asked for.

I stood on the floor of the Senate and fought for an appropriation equal to the President's budget request for a full year, and we passed it in the Senate on December 16. The appropriations conference committee, in its wisdom, cut out

$100 million. We did a good job in getting as much as was appropriated for the Economic Opportunity program last year.

Under the earmarking we put in here, they could give $18 million, which is $4 million less than they asked for after the bill had passed the Senate. But this is no problem. They could go to the funds in title II not earmarked and take the $4 million out of there and then they would be at the $22 million they asked for. So the argument on family planning is not valid.

Let us look at the question of earmarking. The Senator said they had cut out $100 million. I wish to say to the Senator from Washington and the Senator from New Hampshire that I thought the Committee on Appropriations did a superb job in getting a reduction of only $100 million. I commend them for it. But the problem raised by cutting $100 million, suggested by the Senator from New Hampshire, I would respectfully suggest, does not exist. One hundred million dollars is cut from the $2.48 billion authorization and $1.948 billion is appropriated. All that has to be done is to prorate it, and the decisions that were made in acting on the authorization legislation on the floor of the Senate are thereby protected, as well as the decisions made on the floor of the House, in the committees, and in the conference committee. Just prorate the allocations to take care of the $100 million cut.

That does not tie the hands of the OEO program, because we did something for this administration that we refused to do in the authorization legislation for the previous administration. The previous administration had this flexibility: They could take 10 percent from any earmarked program and add a maximum of 10 percent to any other earmarked program. So if there were a $10 million program, they could take 10 percent and add $1 million. That was the limitation. We gave this administration more flexibility, because the administration thought they should have it. We supported it and the committee did. We said, "Instead of tying your hands and saying you can take only 10 percent from any single program and add only a maximum of 10 percent to another, you can take 10 percent from any program and add a maximum of 35 percent to any other program. The second year you can take 15 percent from any program and add 35 percent to any other program."

Based on the $1.6 billion which is proratable, the first year they could use for this purpose $160 million, which they could transfer around within this budget. In the second year it is almost one-quarter of a billion dollars—$240 million—that they can use by taking 15 percent from any one program and shifting it around, adding up to a maximum of 35 percent to another program.

What does that mean? It means that in the work training programs, they can take away from $770 million, which is the earmarked allocation, up to 10 percent; that is, down to $693 million. On the other hand, if they really liked that program and wanted to accumulate 35 percent additional, they could move from the earmarked allocation, $770 million, up to $853 million. So they can go from $770 million to $853 million in that program.

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

Mr. NELSON. I yield myself another 3 minutes.

I think that is equitable flexibility. It still gives the Congress the right to say that we want to spend some money on this and some money on that, we want to do something for migrants and rural loans, for alcoholism and drug rehabilitation, for senior opportunities. We would like to have our judgment carried out. It has been accepted after debate on the Senate floor on the authorizing act.

Then we say to them, "If you think that is a little too much, take 10 percent away. If you think it is too little and want to add 35 percent, take 10 percent from some programs and add 35 percent to other programs."

I think that is a fine program. I think any person making a rational analysis of it would agree that this is a genuinely fruitful and cooperative effort between the Congress of the United States and the executive branch. We say we want some programs carried out. We conduct hearings for 9 months. We hear witnesses from all over the United States on these questions, hearing from mayors and people who administer the programs about the effectiveness of them, and then decide how the funds should be allocated, after we debate it.

A motion was made to knock out earmarking when the Senate acted on the authorization bill. That effort was defeated on the floor of the Senate and an effort to remove earmarking was defeated in the House of Representatives when they acted on the OEO authorization bill, and so earmarking was agreed to in conference.

I think this is the kind of cooperative effort we ought to have. But if the theory is that Congress should not and is not qualified, after holding hearings, to make a judgment on these matters, and decide that we want some programs in Mainstream and Headstart, if the theory is that Congress is not competent to make the judgment and the executive branch is more competent, fine. They are good people. Maybe they will do a better job. But let us stand up publicly and say that we think their judgment on all matters relating to poverty programs is better than ours, let us dispense with hearings, and give them $2 billion. Perhaps it will work better.

I have a high regard for Secretary Shultz and Mr. Rumsfeld. I have a high regard for all those people. I do not think they will do better than the Congress. But if that is what the Congress thinks, then give them all the money. But they will not do anything about alcoholism unless they are going to do it now, under pressure, because we are told now on the floor of the Senate that they like this alcoholism program.

On December 17, when we were sitting in conference with the House, they presented us their proposed budget. What did they think of it and how enthusiastic were they on December 17?

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

Mr. NELSON. I yield myself 1 minute. I will show the Senate how enthusiastic they were. They were so enthusiastic on December 17—30 days ago—that they had zero in their budget for alcoholism. Zero.

Now, when they are worried about the question before us now and the spot they are in for saying they did not want to do anything about alcoholism, and are worried about the marvelous points made by the Senator from Iowa, they say, "We want to show you we want to do something about alcoholism. We can add to these programs now." Nonsense.

Mr. COTTON. Mr. President, I yield myself 3 minutes.

In the first place, I do not think anyone is entitled to have his cake and eat it, too. As one member of the committee, I have emphasized exactly the opposite from what my friend from Wisconsin has just said. I have freely stated that alcoholism as a program was neglected, but not by OEO. The Senator knows, if he does not already know—and he would know if he served on the Appropriations Committee—that these departments and agencies do not make up the budget. In fact they are not allowed to ask for more than the President's Bureau of the Budget permits them to ask. The authority that squeezed out alcoholism was not OEO. It certainly was not the Director. It was the Bureau of the Budget, for which the President was responsible; and I have stated that.

Obviously, the distinguished Senator from Iowa said he would like to have some information in a proclamation about what OEO would do in regard to alcoholism, and I have given that to him, right from the Director. Admittedly, the administration did not treat it liberally in the revised budget or the January budget, but to belabor this point after that has been freely admitted, is simply beating a dead horse.

Right or wrong—and I think it is right, and I do not apologize for defending him on the Senate floor—the President of the United States has repeatedly stated that he wants to continue OEO, but he wants to test and know what programs have had effective results for the investment and what programs have not.

In my part of the country, some of the programs of OEO have not been good investments. I will not say they did not do some good, but they have not been adequate and good investments.

Neither the Senator from Wisconsin nor any other Senator here is in a position, other than hastily by some subcommittee having hearings, to go into the field and test these programs.

If anyone wants to freeze the agency to follow the same course and follow the same programs and put the emphasis in the same place, just go ahead and tie it up; but that is not an effective thing to do. The officials have to have some latitude, and more latitude, than has so generously been given them by the proponents of this amendment in order to make sure that justice is done by existing programs, but we should test and find out what programs should be emphasized and continued.

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

Mr. COTTON. I yield myself 3 minutes.

That is the basic policy of the administration. It is the basic policy of the Director.

Alcoholism is a new program. The Director says he is confident it is a good one, and he wants to do all he can to promote it. He did not make that statement under the whip. He did not come to that conclusion this morning. He had not even read the RECORD this morning; he asked me what had been said on the floor. So he was not terrified by the thundering of the Senator from Wisconsin and the Senator from Iowa, or anyone else. And I take his word for it, because I knew him as a reputable Member of the House of Representatives; I know him as one who appeared before the House committee and made a splendid presentation about the purposes and the plans of OEO, and I take his word that he does this in sincerity, and I for one resent that implication.

Mr. President, the fact remains that if, on the floor of either House of Congress, we try to pinpoint all these programs, as the Senator from Arkansas has so well stated in regard to foreign aid, if we try to tie them up, if we try to direct them, if we try to tell them in advance what to do, we simply destroy all the experimentation, all the research and development, and all the opportunities to improve.

OEO is of fairly recent vintage. It has only been in effect roughly, I think, 3 fiscal years, and it is its purpose to try to test these programs. The two programs advocated and emphasized here are not the only ones; and if you tie up all the rest, you of necessity limit what can be done for these two programs.

It is an absolute fact that there must be latitude. It is an absolute fact that some of the other programs have been tested and proven. Headstart, Upward Bound, and Follow Through are being pursued.

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

Mr. COTTON. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 11 minutes remaining.

Mr. COTTON. I yield myself 1 additional minute.

Those programs are being supported, and the money turned over to follow them through. The rest of the programs are being tested. We have the assurance that the alcoholism program and the narcotics program will be given preferred attention.

I again say that this amendment endangers the forward movement and the promotion of efficiency, and the testing and experimentation, to make OEO come into its full fruition as a useful and effective agency.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Wisconsin has 11 minutes remaining.

Mr. COTTON. Let us see if we can get unanimous consent to have a quorum call, not out of our time.

Mr. NELSON. Mr. President, I take note of the absence of a quorum, and I ask unanimous consent that the time used for the quorum call not be taken from either side.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD of West Virginia. Mr. President, reserving the right to object, it was stated yesterday by the Senator from West Virginia that there would be a vote at 1 o'clock. We did that to put Senators on notice that there would be a vote at 1 o'clock. If there is a quorum call not to be charged to either side, that quorum call could run for several minutes. It could go on for half an hour or even longer, if anyone objected to its being called off. I hope the Senator from Wisconsin will permit the time to be equally charged against both sides.

Mr. COTTON. Well, let us withdraw the request, and we will go to the vote with most of the Senators not having heard the debate.

The PRESIDING OFFICER. Does the Senator from Wisconsin withdraw his request?

Mr. NELSON. I withdraw my request.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON. I yield myself 3 minutes.

First, I should like to say to the Senator from New Hampshire that I did not in any way suggest that the whip had been put to my highly regarded and respected friend, Mr. Rumsfeld. I simply said they came in here on December 17, 30 days ago, with zero for alcoholism; and for some reasons they are now expressing enthusiasm they did not have then.

It may well be that he has been enthusiastic all along, and the Bureau of the Budget was not, or someone else. I cannot account for that. I know the Senator from New Hampshire himself is sincerely dedicated to helping resolve this problem.

But there is more to it than that. It is not just the alcoholism and drug abuse programs. For example, we put $770 million in the bill for work and training. If it is not earmarked, they can take the whole $770 million and abolish work and training, if they want to. They can reach down here and take funds from Mainstream and New Careers. I happen to have been the author of the Mainstream amendment—one of the finest working aspects of the whole program, where everyone in the country, whether liberal or conservative, supports the amendment at the local level. Green Thumb operates under it—a highly successful, widely endorsed program. They can knock out that whole program, and there are those who oppose it. There are those who do not want to take advantage of a program such as Green Thumb, enabling older citizens to earn $1,500 working in city parks, village parks, or on highway beautification, so that they can make enough money so they do not have to go on relief. This program was opposed in the Labor Department by the past administration; I had to fight my way to get it.

They can knock out Mainstream; they can knock out New Careers. They do not have to spend a penny on them. They could knock out Headstart, or, if they did not dare do that, they could cut it in half. They could cut the Follow Through program, $78 million. Or Legal Services; there are a lot of people unhappy about that; they could knock out $50 million there. Health services, Senior Opportunities—all these things we have debated and conducted extensive hearings on.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. NELSON. I yield myself 2 more minutes.

They can be wiped out or substantially modified, in any fashion they desire.

It seems to me, when we gave them sufficient flexibility, that we have not tied their hands. We gave them more, as I say, than we gave the last administration. They can add as much as $120 million or $130 million to some of these programs, by adding up to 35 percent to a program and taking a maximum of 10 percent from other programs. Nobody's hands are tied. They have the opportunity to develop new programs, and take $75 million, as I said previously, of unearmarked money. As to this argument about family planning, I would be happy to support——

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

Mr. NELSON. I yield.

Mr. COTTON. Will the Senator tell us which programs he advocates taking money away from?

Mr. NELSON. I do not advocate taking money away from anybody. We decided we did not want too much earmarking, and that we would say to Mr. Rumsfeld, "You can take 10 percent from any program you want to. You can accumulate as much as 35 percent of the total in any program. So if you have a $100 million program, and you would like it to go to $135 million without coming back to Congress, you take some money from places where you think it should not be spent, or too much is being spent, you add $35 million to the $100 million program, and you have got your $135 million."

We did that to give the administrator of the program flexibility that we had declined in the past to the previous administration.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield me 2 minutes?

Mr. NELSON. I yield 2 minutes to the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, I understood the able Senator from New Hampshire to say earlier that if the earmarking of funds for programs for alcoholic counseling and recovery and for drug rehabilitation as proposed by the Senator from Wisconsin prevailed, the allocation of moneys for family planning might suffer.

Mr. President, I think that one of the matters of utmost concern, or that should be of utmost concern to Members of the Senate and the House of Representatives and the people of the country, is the subject of family planning. I hope to offer an amendment to the amend-

ment offered by the able Senator from Wisconsin, which would earmark family planning funds also.

I very strongly endorse and support the position of the Senator from Wisconsin. At the same time, I would not want to see family planning funds made to suffer. So I intend to offer an amendment which would earmark funds also for family planning. Of course, when the time is up, there will be no time to debate my amendment to his amendment; but I wish to put the Senator on notice that it is my intention to offer such an amendment.

In the District of Columbia, if I recall correctly the figures as I last read them when I was chairman of the Appropriations Subcommittee on the District of Columbia, six mothers on the ADC welfare caseload had 61 illegitimate children on welfare. That is 10 apiece and one thrown in for good measure. There was another group of 10 mothers with 90 illegitimate children, nine each, all on welfare. Another group of 21 mothers had 168 illegitimate children on welfare. This would be eight for each mother.

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

Mr. BYRD of West Virginia. Will the Senator yield me 1 additional minute?

Mr. NELSON. Yes.

Mr. BYRD of West Virginia. Forty-two percent of the ADC caseload in the District of Columbia was illegitimate. This statement is not made with criticism directed to the illegitimate child. The child cannot help its status.

But we have to do something in this country to confront this problem. We cannot stand idly by and just sweep it under the rug. It seems to me that if we can appropriate more money for family planning, which can be wisely spent, we will be doing something constructively about this problem, which is becoming more and more serious in this country.

So it will be my plan to offer an amendment to earmark family planning moneys also, along with the moneys that will be earmarked by the Senator's amendment.

Mr. BAKER. Mr. President, I would like to speak very briefly in support of part II of the House amendment to Senate amendment 83 and in opposition to the amendment offered by the distinguished Senator from Wisconsin.

As is occasionally the practice in this body, I think we have successfully obscured the issue at question with a lot of conversation about intrigue in the conference committee. If, as the Senator from Wisconsin said yesterday, the conference was unaware of the substance of Congressman MICHEL'S amendment, we should not be looking at this bill but at the conference system itself.

The truth is that the committee on conference knew exactly what it was doing. And Congress has waived OEO earmarking provisions in the last 2 fiscal years through exactly the same mechanism: an appropriation bill.

The issue is very simply whether the President and the Director of the Office of Economic Opportunity will be allowed sufficient flexibility to operate the agency in an imaginative way. The amendment of the Senator from Wisconsin would lock the agency in to programs that have been largely discredited. The House amendment to the Senate amendment would permit the development of new and hopefully effective programs.

Any effort to depict a vote for the House amendment as a vote against poor Americans, a vote against compassion, a vote against reordering priorities, a vote against the future of our country is simply not the situation as this Member of this body sees it.

The money appropriated will be spent, and it will be spent on programs to alleviate the problems of low-income human beings. What is really at issue is the age-old question of whether social progress is measured by the quantity of tax revenue poured into a problem area or whether progress is measured by forward movement from one position to another in a direction useful to those receiving assistance.

I hope that Mr. Rumsfeld and his excellent organization will be given an economic opportunity to develop that kind of effective programs that have generally eluded the poverty programs in the past.

Mr. DOLE. Mr. President, I apologize for having been unable to be on the floor yesterday at the time the distinguished Senator from Wisconsin discussed his proposed amendment to restore earmarking to the OEO appropriations. However, I did read the Senator's remarks in the RECORD—and those of some of my other colleagues—and was somewhat surprised that the Senator feels that OEO or persons representing that agency are responsible for what the Appropriations Conference did on earmarking.

It does little good to fix responsibility on OEO. Whatever the conference did—good, bad or indifferent—was done by our colleagues who represented us on the conference. Whatever was accomplished, was accomplished with the consent of our colleagues. OEO does not have a vote in either House. OEO is not enabled to sit in on a conference. In essence, our conferees could have rejected the move to delete the earmarking; they did not.

So it does little good for any Member of this body, no matter how upset over a legislative happening, to point the finger of blame at a person, or persons unknown, in a Federal agency. We are responsible for our own actions and, hopefully, our actions will always be responsible.

The PRESIDING OFFICER. Who yields time?

Mr. COTTON. Does the Senator wish to yield back the remainder of his time?

Mr. NELSON. Do I have 2 minutes remaining?

The PRESIDING OFFICER. The Senator from Wisconsin has 2 minutes remaining.

Mr. COTTON. How much time do I have?

The PRESIDING OFFICER. The Senator from New Hampshire has 8 minutes remaining.

Mr. COTTON. I yield myself 2 minutes.

I commend the distinguished Senator from Tennessee for his statement. He is perfectly correct in saying that the members of the conference committee—of the Appropriations Committees of the House and Senate—did know what they were doing. They were doing the same thing that was done in fiscal 1968 and fiscal 1969. They were taking action—because a cut of $100 million was being placed on this agency—to enable the agency to spread the remainder of the money over the programs where they were most needed and not freeze them into existing programs.

I wish to reiterate that, without his intent to do so, in my humble opinion, the amendment offered by the distinguished Senator from Wisconsin will work against adequate financing for a program on alcoholism and narcotics because they are new programs and because money will be frozen to a great extent into existing programs.

I wish to reiterate that the adoption of this amendment would destroy the very highly justifiable and commendable project of the administration in seeking at the battle front, out in the States and in the cities, to test the programs and to shed those that are not good investments and to promote those that are.

I wish to emphasize particularly that maximum limits are always the function of legislative committees but minimum limits are a part of the function of the Appropriations Committee. We studied this matter. The Senator from Washington and the Senator from New Hampshire sat day after day listening to the evidence on this bill, and I am confident that what we are doing is for the best interests and the effectiveness of this agency.

Finally, I want to remind the Senate that this morning I stated on the floor of the Senate, with the authority of Mr. Rumsfeld, the Director of OEO, that he is and has been keenly aware of this matter, and it is his intention to devote all the money that can be effectively devoted and is available to the program against alcoholism and the program against drug addiction. We may depend upon that as his policy.

I yield to the Senator from Illinois.

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

Mr. COTTON. All my time?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. COTTON. I yield 2 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I am very pleased to hear the summary comments by the distinguished Senator from New Hampshire, and I wish to associate myself with his position on this matter. I will support the administration.

I know from firsthand conversations with the Director of OEO his dedication to the programs of alcoholism and drug abuse. There is no question that he feels these are good programs and is going to support them fully. There is no shrinking from this whatsoever. He does feel—and I feel very strongly, indeed—that once the executive branch hands have changed and the mandate of the people has been such that we have a new

executive branch, that the new administration should not be held to rigid lines of the past administration. The new administration should be enabled to carry forward and be held responsible for their own programs with new guidelines. This is what the administration and Don Rumsfeld want to do with OEO. They want it to become an innovative and creative department. They want to test new programs and transfer proven programs to existing agencies that can carry on and administer these programs.

For this reason, I feel they should have the maximum flexibility in the administration of OEO.

I should also like to have printed in the RECORD a reply to my good friend from Wisconsin (Mr. NELSON) on the comments he and others made about the Director of OEO yesterday on the floor of the Senate. I just heard about those comments. I am sorry I was not present in the Chamber when they were made. But, I have such a personal and long-time association with Director Don Rumsfeld, and know intimately his thinking on the things he has been doing during this past year, that I should like at this point to make such a reply.

Mr. President, I was pleased to note the comments of the distinguished Senator from Wisconsin (Mr. NELSON) yesterday in which he said that he was "an admirer of Mr. Rumsfeld, Director of OEO. I think he is a fine public servant and an able fellow." I was distressed therefore when at the same time certain allegations have been made that OEO has engaged in "a rather sneaky procedure" on this appropriations bill before us. It is stated that an amendment was surreptitiously added to the conference report to eliminate the earmarking of poverty funds.

All of us here know the Director of OEO. We know he is an honorable man who would not tolerate the type of activities that have been charged against his agency. I do not know all the facts surrounding enactment of the House amendment but I have faith that what was done was done with the best interest of the poverty program and the poor in mind.

The poor need all the friends they can get. We who favor OEO, its principal programs and the work it is doing can ill afford to weaken our own ranks. At this point I would like to make some comments about the amendment now being considered, only 4 months remain in this fiscal year. If funds were to be earmarked for OEO, our efforts to help the poor could in my judgment be further harmed. If we were to enact an earmarking provision we could be in danger of forcing OEO to misallocate funds, forcing them to spend funds on lower priority areas. Therefore, I oppose the Nelson amendment.

Let me make it clear, I do not intend my vote to be interpreted as indicating that I favor granting blank checks to any department or agency in the expenditure of funds. We in the Senate have competency to determine how money should be spent and I commend the Labor and Public Welfare and Appropriations Committees for the excellence of their work. My vote here against the Nelson amendment shall in no way control how in this area I will vote on earmarking in the future. But, in order to avoid the misuse of funds, I believe that with only 4 months remaining OEO is in the best position to spend funds most effectively.

I would hope, however, the OEO will commit as much money as can feasibly and responsibly be spent on the development of an alcoholism and drug program as proposed by Senators HUGHES and DOMINICK. I would also hope that the agency would continue its work on the rural poverty program suggested by Senator PROUTY.

Mr. NELSON. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER (Mr. ALLEN in the chair). The Senator from Wisconsin is recognized for 2 minutes.

Mr. NELSON. I would be very happy to discuss this matter with the distinguished Senator from Illinois.

Mr. PERCY. Let me say to the Senator from Wisconsin that I will be very happy to discuss this with him.

Mr. NELSON. I hope that the Senator will read the RECORD before he puts his reply in. I never said that the Director of the OEO sneaked in any amendment any place, any time, so that I would hope the Senator would read the RECORD and then if he has any comments to make, then, fine.

Mr. President, let me say to the Senator from Illinois, he says we have a new administration and that we should not be tied by the rigidities of the past administration.

I should like to call attention to the fact that we took every single program offered and requested by the new administration and earmarked it in the budget—every one of them. We added two, drugs and alcoholism. That is all. So when the Senator from Illinois says that we are being tied by the rigidities of the past administration, I emphasize that we took everything the administration asked for and then, in order to give flexibility, gave them the flexibility that Congress refused to give in the previous administration. We gave them $160 million of free flexibility so that they could transfer it overall, either for old or new programs, add to, or subtract. We gave them the $25 million unearmarked effective the first of the year. We gave them almost a quarter of a billion dollars—$240 million for the second year. There is more flexibility in this bill by far than the Democrats in Congress ever gave in the last administration.

I favored it. I supported it. We agreed upon it. So, just for the record, we gave the administration every category it asked for. We gave them considerable flexibility.

For instance, as to the family planning program, I will point out that they can get the $18 million in this budget earmarked, which is $3 million more than they came to my committee and asked for. They asked for $15 million. They can get $18 million. If they want to go to $22 million—but they changed their requirements when they got to the House. We gave them $15 million free money and they can take 4 and go to 22 or if they want to, they can go to 30. We have $75 million unearmarked. They can take it. So, that argument has no validity whatsoever.

The PRESIDING OFFICER. All time of the Senator from Wisconsin has now expired.

Mr. BYRD of West Virginia. Mr. President——

Mr. COTTON. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from New Hampshire has 2 minutes remaining.

Mr. COTTON. Mr. President, I simply want to emphasize, for the benefit of those Senators who have just come into the Chamber, that it was not done at the request of the administration or at the request of the OEO. This action was taken by the conferees. It was taken because the conferees were cutting $100 million from the appropriation in order to enable the agency to stretch the remainder where it was most needed. It was adopted as a compensating factor for the reduction.

That is the whole story in a nutshell.

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

Mr. BYRD of West Virginia. Mr. President, I call up an amendment at the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Provided further, That of the sums appropriated, not less than $22 million shall be used for the family planning program.

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time has now expired on the amendment.

The question is on agreeing to the amendment of the Senator from West Virginia (Mr. BYRD) to the amendment of the Senator from Wisconsin (Mr. NELSON) to the second part of the House amendment to the Senate amendment in disagreement numbered 83.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Tenneesee (Mr. GORE), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. MCCARTHY), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I further announce that the Senator from Maryland (Mr. TYDINGS) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Kansas (Mr. PEARSON) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator

from Hawaii (Mr. FONG), the Senator from Kansas (Mr. PEARSON), and the Senator from South Dakota (Mr. MUNDT) would each vote "nay."

The result was announced—yeas 49, nays 38, as follows:

[No. 3 Leg.]

YEAS—49

Allen	Hartke	Muskie
Anderson	Hatfield	Nelson
Bible	Holland	Packwood
Burdick	Hughes	Pastore
Byrd, Va.	Inouye	Pell
Byrd, W. Va.	Jackson	Proxmire
Cannon	Jordan, N.C.	Randolph
Cranston	Kennedy	Ribicoff
Dodd	Long	Sparkman
Eagleton	Magnuson	Spong
Eastland	Mansfield	Symington
Ellender	McClellan	Talmadge
Ervin	McGee	Williams, N.J.
Fulbright	McIntyre	Yarborough
Goodell	Mondale	Young, Ohio
Harris	Montoya	
Hart	Moss	

NAYS—38

Aiken	Dominick	Russell
Allott	Fannin	Saxbe
Baker	Goldwater	Schweiker
Bellmon	Griffin	Scott
Bennett	Gurney	Smith, Maine
Boggs	Hansen	Smith, Ill.
Brooke	Hruska	Stennis
Case	Jordan, Idaho	Stevens
Cook	Metcalf	Thurmond
Cooper	Miller	Tower
Cotton	Murphy	Williams, Del.
Curtis	Percy	Young, N. Dak.
Dole	Prouty	

NOT VOTING—13

Bayh	Hollings	Mundt
Church	Javits	Pearson
Fong	Mathias	Tydings
Gore	McCarthy	
Gravel	McGovern	

So the amendment of Mr. BYRD of West Virginia to Mr. NELSON's amendment was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Wisconsin (Mr. NELSON), as amended, to the second part of the House amendment to the Senate amendment in disagreement numbered 83. On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Tennessee (Mr. GORE), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS) the Senator from Minnesota (Mr. MCCARTHY), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

I further announce that the Senator from Maryland (Mr. TYDINGS) is absent on official business.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), and the Senator from Maryland (Mr. TYDINGS) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Kansas (Mr. PEARSON) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Hawaii (Mr. FONG), the Senator from Kansas (Mr. PEARSON), and the Senator from South Dakota (Mr. MUNDT) would each vote "nay."

The result was announced—yeas 47, nays 40, as follows:

[No. 4 Leg.]

YEAS—47

Allen	Hartke	Muskie
Anderson	Hatfield	Nelson
Bible	Hughes	Pastore
Burdick	Inouye	Pell
Byrd, Va.	Jackson	Proxmire
Byrd, W. Va.	Jordan, N.C.	Randolph
Cannon	Kennedy	Ribicoff
Cranston	Long	Sparkman
Dodd	Magnuson	Spong
Eagleton	Mansfield	Stevens
Ellender	McClellan	Symington
Ervin	McGee	Talmadge
Fulbright	McIntyre	Williams, N.J.
Goodell	Mondale	Yarborough
Harris	Montoya	Young, Ohio
Hart	Moss	

NAYS—40

Aiken	Eastland	Prouty
Allott	Fannin	Russell
Baker	Goldwater	Saxbe
Bellmon	Griffin	Schweiker
Bennett	Gurney	Scott
Boggs	Hansen	Smith, Maine
Brooke	Holland	Smith, Ill.
Case	Hruska	Stennis
Cook	Jordan, Idaho	Thurmond
Cooper	Metcalf	Tower
Cotton	Miller	Williams, Del.
Curtis	Murphy	Young, N. Dak.
Dole	Packwood	
Dominick	Percy	

NOT VOTING—13

Bayh	Hollings	Mundt
Church	Javits	Pearson
Fong	Mathias	Tydings
Gore	McCarthy	
Gravel	McGovern	

So Mr. NELSON's amendment was agreed to.

Mr. NELSON. Mr. President, I move to reconsider the vote by which amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, House amendment to Senate amendment numbered 83 as amended is concurred in.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 476) for the relief of Mrs. Marjorie Zuck.

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

H.R. 1697. An act for the relief of Jack Brown;

H.R. 7161. An act for the relief of Leonard N. Rogers, John P. Corcoran, Mrs. Charles W. (Ethel J.) Pensinger, Marion M. Lee, and Arthur N. Lee; and

H.R. 9488. An act for the relief of Mrs. Ruth Brunner.

HOUSE BILLS REFERRED

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

H.R. 1697. An act for the relief of Jack Brown; and

H.R. 9488. An act for the relief of Mrs. Ruth Brunner; to the Committee on the Judiciary.

H.R. 7161. An act for the relief of Leonard N. Rogers, John P. Corcoran, Mrs. Charles W. (Ethel J.) Pensinger, Marion M. Lee, and Arthur N. Lee; to the Committee on Agriculture and Forestry.

DAVID O. McKAY

Mr. BENNETT. Mr. President, I send a resolution to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be read.

The assistant legislative clerk read the resolution (S. Res. 314) offered by Mr. BENNETT (for himself, Mr. Moss, and Mr. MANSFIELD), as follows:

S. RES. 314

Resolved, That the Senate has learned with great sorrow and regret of the death of David O. McKay, late president of the Church of Jesus Christ of Latter-day Saints.

Resolved, That as a token of its respect and admiration for his long and dedicated service as humanitarian, missionary, church leader and president of the church, the Senate hereby expresses its sincere sympathy and sorrow at his passing to his beloved wife and family and to those people around the world for whom he was a great spiritual leader.

Resolved, That as a further mark of respect to the memory of President McKay, the Secretary of the Senate is directed to transmit a copy of this resolution to the family and to church headquarters in Salt Lake City.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the resolution.

The Chair recognizes the Senator from Utah.

Mr. BENNETT. Mr. President, I wish to inform the Senate that this resolution has been cleared with the leadership on both sides, and I am sure there will be no objection to it.

Mr. McKay was one of the great religious leaders of our time. He was a part of the governing body of the Latter-day Saints Church since 1936, representing nearly two-thirds of a century of service.

I consider myself very fortunate because he was one of the close personal friends of my father and was, therefore, in and out of my home as long as I can remember. He came to the presidency of the church just a few weeks less than 20 years ago.

He was a teacher before he entered that service, and the president of a junior college, and was one of the greatest and most inspirational speakers we have ever had in Utah.

Under his direction, during these past 20 years, the church he headed has more than doubled in size. In fact, it can be said that more than half of the members of the church have never known any other head except David O. McKay.

That he lived to be 96 is in itself remarkable; and I can say from personal experience that until very recently he had the mental and spiritual vigor to carry the responsibilities of his great office in spite of his age.

His passing leaves a real void in the lives and hearts of the members of the

church he headed, two-thirds of whom, probably, live in the United States. The church membership is now nearing 3 million, and I think it is fitting that the Senate should express this respect for him. Three Members of this body, my colleague (Mr. Moss), the Senator from Nevada (Mr. CANNON), and I, are members of the church. Two members of the President's Cabinet have the same privilege.

Mr. President, I am sure the Senate will approve the resolution.

Mr. MOSS. Mr. President, I am happy to join my colleague in sponsoring the resolution now before the Senate, and I certainly hope that it will be adopted promptly.

I echo what Senator BENNETT has said concerning the life of President David O. McKay. He was not only revered by all of the members of the LDS Church, but I think widely throughout the State of Utah and all the Western States of the United States, where he was best known, he was held in the highest respect in regard by all people, regardless of religious affiliation.

He enjoyed, during his lifetime, the acquaintance, the confidence, and indeed the friendship of high officials of the U.S. Government, including the current President of the United States, President Johnson before him, President Kennedy before him, and on back during the tenure that President McKay held as president of the LDS Church. He was invited to come to the White House and spend a full day and an evening with President Johnson shortly after he was inaugurated. I had occasion to be present there during a part of that visit, and I can say that there was the greatest of confidence, rapport, and response between those great men during that time, and I am sure during all of the time that President McKay held his position, when he was in constant touch with the President of the United States.

So I think it is fitting indeed that this body take note of his passing at a very venerable age, and express our sorrow at his passing, but our great admiration and affection for this leader in modern times of a caliber that is unequaled and unsurpassed in our time.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was unanimously agreed to.

THE DEMOCRATIC RECORD

Mr. SCOTT. Mr. President, I noted with interest the remarks of the majority leader to the Democratic Conference, inserted in the RECORD yesterday—with interest and a little sadness.

Interest, because he indeed touches on some things that affect all of us. Sadness, because a curtain of good resolutions conceals all that has not been done by the majority in Congress during their sway over the decade of the spendthrift sixties.

Mr. President, the majority leader touched on many things he tells us the Democrats in the Senate must insist upon.

I agree with him.

I think the Democratic majority in the Senate should have been insisting on these things for the last decade—before they got out of hand in 1966, 1967, and 1968.

I would like to ask: Where was the Democratic majority from the beginning of 1961 to the end of 1968 when they had control of the White House and both Houses of Congress?

Where were they when the national priority was to expand the war in Vietnam?

Where were they when their concept of priority was to devise and push through a whole series of poorly planned, poorly executed, but lavishly financed trickle-down welfare programs known euphemistically as the war on poverty?

Again, I ask, where were the Members of the majority party when their leaders were sowing the seeds of inflation on the grounds that "a little inflation is a good thing"?

The old, the sick, the disabled, and the returning veterans need an answer to that question.

Mr. President, I eagerly welcome the change in the attitude of the Democratic Party.

I welcome them to the battle for peace—a battle which a Republican President is waging and winning.

I wish to remind them that today the young men sent abroad under a Democratic President are being brought home by a Republican President.

I welcome them, too, to the war on crime, a crime war which was almost lost during the 1960's. I remind them that a Republican Attorney General is cracking down on organized crime and remind them also that a Republican President has sent a dozen crime bills to the Congress—and the Democratic majority of this Congress has not yet helped us enact a single one of them into law.

I welcome them, also, to the effort to reform welfare. For a generation, we have had more and more of the same old unsuccessful welfare that discouraged work, divided families and brought about the concept by some that welfare is a right and that work is for suckers.

I am just a little confused, however, about one thing—the majority leader's reference to foreign policy spending. Surely he does not imply that in our diplomatic dealings with the nations of the world, $398 million—the size of the State Department budget—is an exorbitant figure.

Mr. President, it is true that this administration has not yet halted inflation, although the Executive end of the Government is assuming its part of the responsibility. The inflationary actions of 8 years cannot be halted overnight without drastic effects on our economy.

And, in fact, they cannot be halted at all if this Democratic-controlled Congress does not give some thought to fiscal responsibility, if it does not recognize that appropriations increased to keep up with inflation only fuel that inflation; that it does no good to increase funds for health professions—which this administration has done—if inflation eats up the increase; that it does no good for the President to sign a social security increase if inflation nullified that increase; that it does no good to spend more and more if the spending only results in less and less for a person's money.

The President knows this.

I am sure that every Member of this body knows it.

If, in truth, we do, it is time now to reorder our priorities, to quit putting politics first and put the welfare of the entire Nation first, to recognize that today the No. 1 priority is control of inflation.

If we can control inflation, then we can get on in a meaningful fashion with the great job of improving the quality of life for all Americans.

If the majority insists on spending more of the public moneys than the Government has, the people will pay more and more to buy less and less with the money the Government leaves in their hands.

If we do not control the inflation's thieving from the private purse, the quality of American life can only deteriorate—and all the rhetoric of the majority party will not change that fact.

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

Mr. SCOTT. I am happy to yield.

Mr. KENNEDY. Since I happen to have been present on the floor at this time, when the distinguished minority leader chose to respond to the majority leader, I feel that some reply is in order.

I am aware, as is every Member of this body, that the majority leader is always prepared to speak for himself, and I would certainly not presume at this time to enter any plea in his behalf. But I am, as a fellow Member, somewhat distressed that these remarks of the distinguished minority leader would take place at a time when the majority leader is not present. As I think all of us are aware, the majority leader spends a great deal of time on the floor of the Senate, perhaps more than any other Senator, but was called into a conference with the House majority leader, where he is at the present time.

So I must say that I am somewhat distressed, particularly since I found the tone of the leader's remarks which were inserted in the RECORD yesterday, were made in the most positive and constructive way and were virtually free from any partisanship. As a member of the leadership, I find myself in agreement, and I believe every other Member on this side of the aisle does who listened to the remarks when the matter was open for discussion yesterday. His sentiments certainly expressed the will of the Democratic caucus.

So I say to my distinguished friend, the minority leader, that we are prepared on this side of the aisle—I am sure the majority leader is—to debate or discuss these matters at any time and to any extent that the minority leader desires.

Some of these matters have been brought up, and talked about, and debated at some length during the past 2 days—including the whole question of the causes of inflation. The administration and its Capitol Hill spokesmen, have attempted to label this Congress as reckless spenders who add to the fires of inflation, when the fact is that we actually

appropriated less than was requested by the administration, $5½ billion less.

I note the distinguished Senator from Arkansas has entered the Chamber, which reminds me of one of the matters which is of the greatest importance, and which the administration has been committed to, is the whole question of organized crime.

The distinguished majority leader will respond if he feels it is necessary. I feel that his statement speaks for itself. I do not know whether he would want to respond to the Senator from Pennsylvania. But I am sure that if he does desire to do so, we will take the opportunity to give sufficient notice to the distinguished minority leader, so that the minority leader could at least be present and respond in any way he felt was necessary. This would be the smallest of courtesies which might be expected.

Mr. SCOTT. Mr. President, when the distinguished majority leader advised me of his report to the conference yesterday, he handed me the report just before he made it, so that I had no opportunity at that time to prepare some comments; and they naturally do take some time. I did submit it to a representative of the distinguished majority leader, in advance—very briefly in advance, but in advance.

The distinguished assistant majority leader is aware that we only make our speeches when we can get recognized. I have been waiting around a good part of the morning during the debates. Perhaps he has missed the temper of what I said. I was congratulating the distinguished majority leader upon a resolution expressed to the conference that certain very good things be done—that we get on with the business, that we bring up the bills, that we act on the bills. I said—which I believe is fair comment—that much of this might have been done during the decade of what I had called the spendthrift sixties.

I think it is entirely fair comment, when a party is in control of a legislature, that that party's actions or failure to act be submitted to public view in fair and full disclosure at any time. The tone of what I say is not malicious or bitter or unfairly critical. It is simply an attempt not to let go unnoticed or uncommented upon a statement of yesterday which does seem to imply that perhaps the executive department should have been sending up these bills earlier than they did.

I am glad that we are about to consider the organized crime bill. The message of the President on that matter came up last May. There is no criticism of our committee in that regard. The hearings have been held. A great deal of diligent work has been done. The report and the bill are the outgrowth of a bipartisan attempt to meet one of the most dangerous situations confronting the Nation.

I simply suggest that it is not enough to say piously that we cut this or we cut that, when every American who has to meet a grocery bill is fully aware that Congress has been controlled by the Democratic Party for a decade, that during that decade inflation has run rampant, that during that decade the cost of living has gone up, that during that decade the housewife has paid more at the supermarket regularly for something; and I was suggesting that the "something" consists in very large part of the heavy Government expenditures, and I do not think that either political party ought to be allowed to have it both ways.

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

Mr. SCOTT. I should like to finish my thought.

If a political party—in this instance, one of our two great parties, the Democratic Party—has asserted over the decade that they have done magnificent things for the American people—they have appropriated this, they have appropriated that, they have spent money for everybody conceivable in America and every group and every organization and every possible fragment of the electorate—that is all right; that is part of the business of government. But they cannot turn around and say, "We spent more than any other party could spend," and then say, "We refuse to take responsibility for the consequences of overspending." The consequences are inflation, and inflation is the thief of every person's pocketbook.

I yield.

Mr. KENNEDY. The distinguished minority leader pointed out the price index increase. Looking at the period of the last decade, it is interesting that the price index increased during the last year, since the minority party here assumed the responsible position of Chief Executive, more than during any other similar period of time.

The majority leader's remarks did not allege that this was the greatest Congress in history, although I personally feel that the legislative achievements during the sixties, from any fair historical basis, will stand up with any other period of time.

The fact remains—and then I will conclude my comment—that the time comes when the party which in seeking the responsible positions of leadership talked about and promised new and different concepts and leadership ability, has to begin to bear the responsibilities for the failures of their own leadership, they cannot always be looking back and finding new stalking horses on which to place the blame for their failures. As the Senator is fully aware, the American people, in the course of the fall elections, will have the opportunity to speak on whether that delegation of executive leadership was wise.

The period of the early 1960's, in terms of inflation, was one of the most stable periods in the history of this country. We had a greater period of economic growth and prosperity and less inflation than perhaps any other similar period in the history of our country, and that statement remains unchallenged. Now we are going through an extraordinary inflationary spiral, and I think we are all distressed by it.

Mr. SCOTT. Mr. President, may I perhaps, hopefully, conclude this particular dialog by referring to the word "momentum." I do not want to let the challenge go unchallenged. I do challenge the statement that in the last decade there was not in fact a great inflation, because the figures bear out that there was. At some point it was slower than others, but we have had for 10 years a great inflation period. This administration caught this inflation on a downhill slide. It entered the inflation at a time when the momentum was terrific. It has vigorously been seeking to apply the brakes, as the entire Nation is indeed well aware. As the President's attitude on the HEW-Labor bill indicates, he intends to try to continue the brake on inflation.

Surely we cannot turn around and set aside, within 1 year, the damage which has been done to the economy during the past 10 years.

That is the only point I am trying to make.

These are all very fair and just arguments. I assume that they will continue from time to time.

I do say that we intend to hold the feet of the majority to the fire on this question.

Can we have it both ways? Can we say we did so many great things for the American people, all of which costs money, and then deny that in the course of doing so, they have loosed the fearful forces of inflation upon the country, which we are now trying to stop?

Mr. KENNEDY. The facts belie the statement of my good friend, the distinguished minority leader.

As has been brought out by the distinguished Senator from Washington (Mr. MAGNUSON) and by others, the moneys actually appropriated this last year were less by some $5.6 billion than those which were actually requested by the administration. Those facts remain uncontested. They exist in all the records books and journals. They are facts put forward to this body by the appropriating committee.

I understand how the administration is having difficulty now in controlling the fires of inflation. There have been those who felt that the administration should have taken stronger action earlier to meet the problem. There are also those who reminded us that in the early 1960's we had a President who brought together the steel companies and the labor unions and halted an increase in steel prices.

Now we have a greater increase in the price of steel this past year than during the whole period of the 1960's and we find no Executive action taken.

We see a Democratic President in the middle 1960's bringing together the automobile companies and bringing about a turnaround to a reduction in an anticipated increase in the price of automobiles, one of the key economic indicators.

I am sure that the housewives of this country are beginning to wonder when they will have a President who will bring the great power, influence, and prestige of the most important office in this land to bear upon the problem of inflation.

The distinguished minority leader talks about housewives. I believe that they are best able to judge when prices have been most dramatically affected. Thus, I am not prepared to allow my good friend

and colleague from Pennsylvania to go unchallenged when he says that this is a matter which is now the responsibility of the Democratic Party. As he has stated it, the minority party will "put the feet of the Democrats to the fire." I think the majority leader's statement, on yesterday, clearly indicated that the Democratic Party will respond in kind, most especially on the subject of inflation. We think we know the score on that issue.

Mr. SCOTT. May I conclude by saying that the financing of the past year has been financing as a result of a Democratic Congress and not a Republican President, under a continuing resolution rather than under the action of the appropriative process.

If the Democratic Party had cooperated more strongly with the Republican President during this past year, the fires of inflation could have been banked. But as the distinguished Senator himself knows, because he just cast his vote on this particular bill, there is over $1 billion in that bill which the President says is inflationary. So I think that those who voted for the amendment, which is alleged to be inflationary, will have to assume the risk which the President has raised.

Mr. MANSFIELD. Mr. President, I shall not take up very much time of the Senate, but I have just seen the statement made by the distinguished minority leader and I must say that I find it most interesting.

He says he was touched with a little sadness about my remarks on yesterday, and so too am I touched with a little sadness about his statement today.

As I read his statement, I note that he thinks—so he says—the Democratic majority in the Senate should have been insisting on these things for the last decade—before they got out of hand in 1966, 1967, and 1968.

"I would like to ask"—he says—"Where was the Democratic majority from the beginning of 1961 to the end of 1968 when they had control of the White House and both Houses of Congress?"

In return, let me say to the distinguished minority leader that we were here in this body, passing good legislation—perhaps too much of it on occassion, but good legislation, nonetheless; legislation, I might add, designed for the benefit of the people of this country.

To be more specific, we were here looking after the health of the people, looking after the education of the people, trying to face up to the many injustices in our society, and to the many problems of the ghettos, trying to do something about the low-income groups and even trying to do something about air and water pollution. To that endeavor, I should say, we are not Johnny-come-latelies. So I reiterate, during that period we were right here devoting our efforts and our labor to the improvement of the quality of life for all Americans.

Next, the question is asked, "Where were they"—the Democrats—"when the national priority was to expand the war in Vietnam?"

Well, I cannot speak for every Member of this body, but I know where the Senator from Montana was. He was out in front on this question in opposition to the war. He thought it was a mistake in the first place and continues to look upon it as a national tragedy. My basic views have not changed one whit in that respect.

Then the question is asked, "Where were the Members of the majority party when their leaders were sowing the seeds of inflation on the grounds that 'a little inflation is a good thing?' "

I do not know to whom that quote can be specifically attributed. Certainly not to the leader of the Democrats in this body. Not to the Democratic Members of the Senate. None of us has ever felt that a little inflation was a good thing, any more than some people have felt that a little unemployment might be a good thing for the economy and for the avoidance of a recession.

This statement says that "The old, the sick, the disabled, and the returning veterans need an answer to that question."

May I say that they got their answer. They got it during the time the Democrats were in control of the White House and both Houses of Congress. In fact they got their answer yesterday when the Senate voted 74 to 17 to expand the programs and measures so vital to their welfare. I would hope the administration would find it possible to demonstrate this same concern for the old, the sick, the disadvantaged, the poor, and the disabled.

This statement then says: "I welcome them to the battle for peace—a battle which a Republican President is waging and winning."

To that I say Amen. I have commended President Nixon time and again for at least shifting the direction of our policy in Vietnam; of changing it to one of getting out from one of keeping us there. I have commended him further for the promulgation of the Nixon Doctrine announced at Guam which, I think, is a step in the right direction with respect not only to its application to the Pacific, but to the Western World and, in time, to Europe where we have 600,000 troops and their dependents as well ensconced at the present time, a quarter of a century after the war has ended.

I make no bones about my pleasure in seeing young men who were sent abroad under a Democratic President being brought home by a Republican. That is not a partisan observation. It is simply a statement of how I feel.

I would hope that efforts to end the killing not be reduced. I would hope that a reduction in forces in Europe would likewise get under way as rapidly as possible.

Then, I note the statement says, "I welcome them, too, to the war on crime, a crime war which was almost lost during the sixties."

I am not too sure that the crime war is won even today. In 1969, crime almost doubled in many areas. Here in Washington a year ago it was said that this was going to be a model city in which crime was to be faced up to and conquered.

If memory serves me correctly, the Senate District Committee has reported out every crime measure asked for by the President of the United States and the Senate has passed those proposals. In other words we have faced up to our responsibility. Today we are considering the organized crime control bill which I am proud to say has been handled to date magnificently by the senior Senator from Arkansas (Mr. MCCLELLAN). I hope this measure takes in aspects of unorganized crime as well. In any case, I am delighted that this well-thought-out bill is about to be discussed. I hope that we will act on it speedily and effectively. And as far as Democrats are concerned, we are prepared to give the President of the United States the weapons which he and his Attorney General say they need to win the fight against crime. We hope in turn that the administration will provide in timely fashion the specific proposals they seek and the necessary testimony and studies that are so vital to crime fighting legislation.

The statement goes on to say: "I welcome them, also, to the effort to reform welfare."

I am delighted that the welcome mat is out in this respect. But it seems to me that we as Democrats have already gone through the door on this issue; as I recall every effort in our history to improve welfare programs. I know of no legislation which has been led by Democrats. I doubt that they will take a back seat on any future issues. In that respect, I know of no legislation which has yet been brought to the floor of the Senate this year which would tend to enforce this particular allegation. This matter I am confident will receive the most careful study by the committee.

As for what has been brought to the floor in this area I do recall that we raised social security benefits by 15 percent rather than the 10 percent that had been previously recommended. I was glad to go on record in favor of that proposal as, I am sure, was the distinguished minority leader.

In all, I do think we have done a good deal to help the people of this country, but not enough. I would fault us, perhaps, for being at times too eager and too overanxious. Never, could I say, have we been unwilling.

Then the statement says: "I am just a little confused, however, about one thing—the majority leader's reference to foreign policy spending. Surely he does not imply that in our diplomatic dealings with the nations of the world, $398 million—the size of the State Department budget—is an exorbitant figure."

My friend, the Senator from Pennsylvania, knows better than to raise that kind of a strawman. Frankly I have never thought the State Department has received enough in the way of appropriations, nor do I think they receive enough now. But I do think that $130 billion spending on foreign aid in all parts of the world is rather exorbitant. That is what I meant. And I shall keep saying it until something is done.

I am glad to note that at least the Senate and Congress in general have acknowledged the fact and accordingly trimmed down and reduced these expenditures.

In that connection, I am advised that the Congress this year has reduced the foreign aid bill, which is still in Congress,

by $1.1 billion, almost the exact amount which the Senate (in looking after the interests of the people at home) added to the Labor-HEW bill, which passed this body this afternoon.

I am glad that the distinguished minority leader points out that it is true that this administration has not yet halted inflation, although the Executive end of the Government is assuming its part of the responsibility.

Surely, as a Member of this body he ought to know that we have been facing up to our responsibility and that we have been responsible for a reduction in expenditures of well over $5.6 billion. The minority leader himself was a part of the cooperative effort that brought about the reduction in expenditures. I want to give him and my Republican colleagues full credit for facing up to their senatorial responsibility in trying to stem the fight against inflation. Cooperatively, we shall continue in this endeavor.

I would say that in 1968, the last year of a Democratic administration, the rate of inflation was 4 percent a year. In 1969, the first year of the present administration, the rate of inflation was 6.1 percent a year. And there seems to be no diminution in sight at the present time.

But I assure my distinguished colleague, the minority leader, that the Democrats will be in there pitching all the time, trying to help our colleagues and the administration to reduce expenditures and cut out the fat wherever possible, but never forgetting the needs of our people at home.

There are some other statements made here. The minority leader does not seem to be enamored of the social security increase, although I am quite sure he was one of those who voted for the 5 percent more than originally recommended. In my judgment, it was long overdue.

All in all, it is probably a good thing that the minority leader has brought these matters to the fore. It is a good thing that politics is not involved in his summary.

It is a good thing that the prime issues are laid out, issues such as inflation, the cost of living, pollution control. There are no matters more important.

I want to assure the distinguished minority leader that I really have not had a chance to look over his speech, except in a sparse manner. I certainly will study it to see that we give every consideration to his suggestions.

If we have been at fault, we will try to overcome our disabilities. We will do our best to try and make the President a good President by acting responsibly here. And we would anticipate that the kind of cooperation, coordination, and accommodation which existed between the Senators on both sides of the aisle last year, and between the Senate and the administration, would be continued this year. As I said yesterday, I believe the welfare of the country must always come first, the responsibility of the Senate second. And as far as the respective parties are concerned, they must come last.

Mr. GRIFFIN. Mr. President, will the distinguished majority leader yield very briefly?

Mr. MANSFIELD. I yield.

Mr. GRIFFIN. Mr. President, I want to assure the distinguished majority leader that although some of his remarks, I think, invite a response, perhaps this is not the time to go on and on with this kind of a debate, as interesting and as spirited as it has been. No doubt there will be an appropriate rejoinder at the appropriate time.

Mr. MANSFIELD. Mr. President, may I say that the year is young and, as a Member of this body, I do not intend to ever be accused of eating our young, and that applies equally to Democrats and Republicans.

THE WATER SUPPLY AT THE EVERGLADES NATIONAL PARK

Mr. HOLLAND. Mr. President, a great deal has been said regarding the water supply at the Everglades National Park and recently efforts were made on the floor of the Senate to delete funds to continue construction of the Central and Southern Florida Flood Control District until such time as the Departments of the Interior and of the Army reach an agreement to provide a guaranteed amount of water to the park.

I believe every possible effort is being made to provide sufficient water to maintain the ecology of the park. To substantiate my belief, I ask unanimous consent to have printed in the RECORD two articles appearing in the December–January 1970 issue of the Water Management Bulletin put out by the Central and Southern Florida Flood Control District. The first article is entitled "570 Billion Gallons Water Discharged to Everglades," and the second article is entitled "Senate Defeats Move To Curtail FCD Funds."

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

[From the Water Management Bulletin, December–January 1970]

570 BILLION GALLONS WATER DISCHARGED TO EVERGLADES

The Everglades National Park underwent a very wet year during 1969 when 1,762,200 acre feet of fresh water was discharged into it by the Central and Southern Florida Flood Control District from the Florida Everglades Wilderness Areas to the north of the park.

Fresh water continuously poured into the park throughout the year, as during the previous year, as a result of abundant rainfall over southern Florida, the only source of water in this region.

The water poured into the area amounted to more than 574,477,200 billion gallons. This is the greatest flow into the park ever recorded. It was made possible because of the levees and canals constructed by the FCD to channel all flood waters away from the populous east coast and divert it to the national park.

As much of the water as possible is conserved by the FCD in its Everglades Wilderness areas and Lake Okeechobee for use during dry periods. The amount supplied to the park during the year would have supplied the City of West Palm Beach for approximately 90 years.

This is the third year, out of the past four, that the FCD has given Everglades National Park more than a million acre feet of water, four times the annual total requested by the Park as a minimum.

In 1966, and again in 1968, the park received over 1,000,000 acre feet of water—discharged through a series of large spillways in the Tamiami Trail (U.S. Highway 41) west of Miami.

Flow of water southward in the Everglades has been more than doubled in recent years as a result of levees which divert flood waters away from Miami and Fort Lauderdale, and spillways which discharge excess amounts by gravity from one conservation area to another, and then into the park.

Almost 50 percent of the original Everglades teeming with alligators, fish, birds, and a diversity of other wildlife—are being preserved by the FCD in a pristine state north of the National Park.

A series of conveyance channels, costing more than $3 million, has also been constructed for the FCD to move water in dry seasons from Lake Okeechobee to the park, across the flat interior of Florida's Everglades.

[From the Water Management Bulletin, December–January 1970]

SENATE DEFEATS MOVE TO CURTAIL FCD FUNDS

Retiring U.S. Sen. Spessard Holland and Sen. Edward Gurney were successful in defeating an amendment to delete $10 million for continued construction of the Central and Southern Florida Flood Control District's project works by Wis. Sen. Gaylord Nelson during November.

The vote on the amendment was 33–55.

Nelson had made the amendment to compel the U.S. Army Corps of Engineers and the Department of the Interior to reach an agreement to provide a guaranteed amount of water to Everglades National Park regardless of the shortage of supply and the needs of man.

Nelson's amendment would provide funds for continued construction of a network of canals to control waterflow from Lake Okeechobee to the park.

Robert P. Blakeley, FCD chairman, accused Nelson of not trying to get both sides of the issue. He said Nelson has never once attempted to contact the FCD to hear its side of the story, and that contrary to Nelson's belief, the canal system delivers water to the park rather than diverting water from it.

Blakeley explained the canal system will deliver more than 1.5 million acre feet of water to the park this year, five times more than the minimum of 315,000 acre feet of water park personnel said is needed.

A report by the U.S. Geological Survey, which made surveys over 12 year periods with identical rainfall, the Everglades National Park has received more water since the creation of the FCD than it received under natural conditions. One survey covered a 12-year period before the creation of the FCD and the other was over a similar period of time following the creation of the project.

The $76 million water resources plan which calls for raising the levees around Lake Okeechobee and back-pumping canals into it will provide additional water during drought years for all users.

Mr. HOLLAND. Mr. President, in an effort to augment the water supply to the Everglades, Miami weather scientists are making final plans for a massive cloud-seeding test of south Florida. I ask unanimous consent to have an article by Richard Pothier appearing in the Miami Herald under date of January 15, 1970, entitled, "New Rainmaking Test Planned for Glades" printed in the RECORD at this point.

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

NEW RAINMAKING TESTS PLANNED FOR GLADES

(By Richard Pothier)

Miami weather scientists are making final plans for a massive cloud-seeding test over South Florida this spring, perhaps the last huddle before scientific "rainmaking" becomes a routine drought-fighting measure in Florida.

The seeding experiments, to be held from April 15 through May 31, will cover a 3,000-square-mile area of unpopulated interior land. Scientists are sure they'll be able to coax enough extra rain out of the clouds to put a big dent in any future droughts.

A similar, smaller-scale operation in May 1968 produced one of the year's scientific surprises when the test turned into the most successful rainmaking operation in history.

The operations this spring are designed to add more evidence to the 1968 results and to find out just how much rain scientists can wring from those puffy cumulus clouds so common in South Florida.

The 1968 tests, which involved intense silver-iodide seeding of 14 clouds over the Everglades, doubled or tripled the rainfall that the clouds, if they'd been left alone, would have produced.

In fact, the 14 seeded clouds produced a mass of extra rain equal to a depth of 30 feet of water over a square mile.

William Woodley, a research meteorologist at the Environmental Science Services Administration's Miami-based Experimental Meteorology Laboratory, said the 1970 tests will include seeding more clouds to give the 1968 results greater "statistical significance."

Technically, it means a reduction of the chance that all the extra rain could have been merely a coincidence. But he said the 1968 results seem so conclusive that it's almost certain man now knows how to seed clouds to produce huge quantities of rain.

"The 1968 experiment, however, involved a small cloud sample, only 14, because of the short testing period and uncooperative weather. The results, while highly promising and conclusive to many, did not have high statistical significance," Woodley said.

The 1970 tests should produce even more rain, he said, because instead of seeding just one or two selected clouds per day, the airborne scientists will seed all suitable clouds they can find in the test area.

The seeding itself is done by silver-iodide flares. The addition of uncounted trillions of silver iodide crystals to a cloud, under the right conditions, can cause raindrops to form around the nuclei and fall as precipitation that wouldn't have fallen under normal circumstances.

The 1968 tests also produced "explosive" growth of test clouds, Woodley said. The tests turned small, stable cumulus clouds into torrent-producing thunderclouds in a matter of minutes.

Because the 1968 test period was exceptionally rainy over much of South Florida, the ESSA meteorologists sponsored a University of Miami weather study of the entire weather pattern that month.

The UM study found that May 1968 was naturally one of the rainiest months in recent years and that the seeding tests had little or nothing to do with the heavy rainfall outside the Everglades. The month's rainfall was far above average as far away as Cuba and the Bahamas, both before and after ESSA's seeding tests, meteorologists said.

Woodley said a total of five planes from ESSA, the Air Force and the Navy will support this year's seeding operations.

And he said the results, if they confirm the 1968 test results, could have a role in the "eventual mitigation of severe storms in South Florida" since cumulus clouds also provide much of the "horsepower" for tornados, thunderstorms and even some hurricanes.

"We're also trying to find out whether what we can do to rainfall over Florida can be applied to other, drier regions of the world. We know this is successful in Florida, but can it be applied to other regions that need water even more critically than Florida?"

Rainfall rates are measured by a sensitive radar unit at the University of Miami's main campus. Because falling raindrops reflect radar beams back toward the radar unit, it's possible to tell from a sensitive radar instrument just how much rain is falling from a cloud.

Mr. HOLLAND. Mr. President, as I previously discussed on the floor of the Senate during the debate on the Public Works appropriation bill for fiscal year 1970, all efforts were being made to provide an adequate water supply to the Everglades National Park pending completion of the project modification which will provide the water requirements for the park as approved by the Department of the Interior and which is contained in the authorizing document for the project modification as passed by the Congress.

To further show the efforts being made to insure that the State of Florida is acting in good faith in this matter, I ask that there be inserted in the RECORD a copy of a telegram received today from the Honorable Randolph Hodges, executive director of the department of natural resources, stating that the Governor and cabinet have authorized the department of natural resources to negotiate an agreement with the Secretaries of the Army and Interior for delivery of water to the Everglades National Park as requested in the Senate Committee Report 91–528. It indicates that a revised interim water delivery schedule has been developed and asks that a conference be arranged with appropriate agencies concerned to negotiate and establish a memorandum of agreement.

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

TALLAHASSEE, FLA.,
January 20, 1970.

HON. SPESSARD L. HOLLAND,
Senate Office Building,
Washington, D.C.

The Governor and Cabinet acting as the Department of Natural Resources have authorized this office to negotiate an agreement with the Secretaries of the Army and Interior for delivery of water to Everglades National Park as requested in Senate Appropriations Committee Report 91–528, November 10, 1969. A revised water delivery scheduled for ENP jointly developed by this office, the Central and Southern Florida Flood Control District, and the Jacksonville District Engineer of the U.S. Army Corps of Engineers is authorized for interim use pending completion of additional facilities for the project. Letter and water release schedule follows, requesting that you arrange a conference with appropriate agencies concerned to negotiate and establish a memorandum of agreement on the revised water delivery schedule for the park as requested in your committee report.

RANDOLPH HODGES,
Executive Director, Department of Natural Resources.

Mr. HOLLAND. I would also like to state, Mr. President, that the State of Florida has been making every effort to meet with officials of the Department of the Interior and the Department of the Army in order to arrive at a mutual interim agreement as to the water supply for the Everglades National Park. To this end, the Department of Natural Resources, State of Florida, sent letters under date of December 11, 1969, to the two Departments and interested committees of the Congress proposing such a meeting. Unfortunately, to date, no reply to the communications has been received although I have been unofficially advised that the Office of the Chief of Engineers has been endeavoring to reach an agreement with the Department of the Interior on such a meeting in order that a reply could be made. Unfortunately, the Department of the Interior is dragging its feet and apparently is not the least bit interested in cooperating, and unless some action is taken to move the officials of the Department of the Interior off dead center, there can be little accomplished. I am hopeful that they will cooperate in this matter, but if not, perhaps the Members of the Senate and the appropriate committees of the Senate will move to call a meeting to determine the basis for any further action.

Mr. President, for the benefit of the Senate, I ask unanimous consent that a copy of the letter to the Departments of Army and Interior I previously referred to be printed in the RECORD at this point.

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

STATE OF FLORIDA,
DEPARTMENT OF NATURAL RESOURCES,
Tallahassee, Fla., December 11, 1969.

SECRETARY OF THE DEPARTMENT OF THE INTERIOR,
Interior Building,
Washington, D.C.

DEAR MR. SECRETARY: The desires of Congress concerning delivery of water to the Everglades National Park have been noted by the Governor and Cabinet, as head of the Department of Natural Resources of Florida. Under authority of Chapter 69–106, Section 25, Laws of Florida, this office accepts for the state of Florida the mission as enunciated on pages 24 and 25 of the Senate Report No. 91–528, to accompany H.R. 14159, the Appropriations Bill for Public Works for F.Y. 1970.

The concern of Congress in this matter of water requirements for the Everglades National Park is equally shared by the Florida Department of Natural Resources and has been the concern of the state government and the people of Florida for many years. We are prepared to extend our knowledge and abilities in an effort to reach an agreement on meeting the water needs of the Everglades National Park and the desires of Congress as expressed in the committee report referred to above.

We suggest a meeting after the first of the year with representatives of the agencies concerned, namely the Department of the Army, the Department of the Interior, and this office, in an effort to develop the desired operating agreements. C&SF District representation will be included with the state group. We also suggest for your preliminary consideration that the subject be studied on the basis of a revised interim schedule for the current status of project works, and procedures for further agreement to reflect operating regulations that may be implemented as the project works authorized by Congress are progressively completed. Preferably, the initial meeting should be held in Florida, either in Tallahassee or Jacksonville.

We await your response to this suggestion,

with a proposed date and location for the meeting and designation of your representative who will attend.

Sincerely yours,

RANDOLPH HODGES,
Executive Director.

CONSTITUTIONAL RIGHTS SUBCOMMITTEE HEARING PROGRAM FOR FEBRUARY AND MARCH

Mr. ERVIN. Mr. President, the Constitutional Rights Subcommittee of the Senate Judiciary Committee has several important matters on its agenda for the early weeks of this second session of the 91st Congress. Each raises significant constitutional issues which demand careful consideration. Because of the great interest in these matters, I should like to announce the subcommittee's program for the immediate future.

Initially, the subcommittee will resume hearings on amendments to the Voting Rights Act of 1965. As announced last month, hearings are presently scheduled for January 27, 28, 29, and February 3, 4, and 5 in room 2228, New Senate Office Building. These dates are, however, subject to the hearing schedule of the full committee on the nomination of Judge Carswell. The Voting Rights Act of 1965, along with the administration's proposed amendments (S. 2507) which passed the House on December 11, 1969, and the proposed simple extension of 5 years (S. 818), were reprinted in the CONGRESSIONAL RECORD of December 19, 1969.

Therefore the subcommittee will resume hearings on the difficult subject of preventive detention of criminal suspects charged with Federal offenses. For 7 days in January and February of 1969 the subcommittee held initial hearings on that matter and heard testimony from a distinguished group of witnesses, including Members of Congress, judges, law enforcement officials, law professors and other interested and informed persons. Those hearings were the first step in a comprehensive study of the Bail Reform Act of 1966. The published record of those hearings is an invaluable aid for those who would understand the purpose and goals of the act, its provisions, its administration over the last 3 years, and the criticisms, both valid and invalid, that have been made of it.

In the course of the hearings, the subcommittee also considered very controversial proposals which would authorize preventive detention of criminal suspects believed to pose a danger to the community if released. Several bills embodying this approach have been introduced in the Senate during the 91st Congress, and a number of these proposals were examined in last year's hearings. Each of them represents a substantial departure from the theory underlying enactment of the Bail Reform Act of 1966, and from the principles that have governed the law of bail since before the Constitution was written. Each raises serious constitutional and policy questions.

The Constitutional Rights Subcommittee has continued its work on bail and preventive detention in the course of the past year. It has solicited the views of constitutional law experts and bar associations across the country. In addition, there have been a number of new developments over the past 12 months.

Six months after the subcommittee held its hearings, the Department of Justice introduced its own preventive detention bill, S. 2600. In addition, several useful independent studies have been undertaken on bail and related issues and a number of reports have also been published. At least one major national conference on preventive detention has been held, and a published report of that proceeding shoud be available soon. An effort commissioned by the Department of Justice and sponsored by the National Bureau of Standards and the Law Enforcement Assistance Administration to secure, for the first time, reliable statistics on bail recidivism in the District of Columbia is currently underway. Subcommittee No. 4 of the House Judiciary Committee has initiated and is continuing its hearings on bail reform legislation. Finally, a series of experimental procedural reforms have been taken in the District of Columbia Courts to speed up the trial of defendants, and thereby make a reality of the constitutional right to a speedy trial.

The extremely controversial and, to me, very dubious proposal to authorize preventive detention obviously must be studied carefully and, as much as is possible with a subject having such an emotional appeal, in an atmosphere of facts and not fear. In the relatively short period since the administration proposed its own preventive detention plan in midsummer, there has been a tremendous increase in public awareness and appreciation of the fundamental issues involved. This period has also been put to good use by the Department of Justice. They have recently prepared and submitted to the subcommittee a brief on the constitutional issues raised by their bill. Following the introduction of their proposal, they also sponsored the detailed and scientific study of the bail problem I mentioned. This should be completed in the next month or so and will, I hope, shed light on a subject which thus far has been largely confused by rhetoric about crime on bail. The study should provide for the first time the facts about the real need for preventive detention, if any, and hopefully will pinpoint the actual deficiencies and inadequacies which are present in the administration of criminal law. I strongly believe that these thus far unpublicized defects are the true reasons for the problems which have been improperly blamed on the Bail Reform Act.

It is my intention to call further hearings on proposed amendments to the Bail Reform Act of 1966 as soon as practicable after the amendments to the Voting Rights Act have been dealt with, assuming that the Department of Justice has by that time completed its study and is prepared to present its material at the hearings. Those persons desiring further information on the hearings should contact the subcommittee office.

A second important matter which the subcommittee will consider as soon as possible after disposition of the Voting Rights Act issue is pornography.

Two bills on this subject, S. 1705 and S. 1706, have been referred to the Constitutional Rights Subcommittee and five, S. 2073, S. 2074, S. 2676, S. 2929, and S. 2930, have been referred to the Subcommittee To Investigate Juvenile Delinquency, chaired by the Senator from Connecticut (Mr. DODD). He and I have discussed the perplexing pornography problem and share a deep concern over the flood of salacious material currently being distributed across the country. We are also concerned that the legislative solution to the problem be consonant with the constitutional guarantees of freedom of expression. Therefore, we have agreed that the Subcommittee To Investigate Juvenile Delinquency and the Constitutional Rights Subcommittee will hold joint hearings on the legal aspects of this matter.

Pursuant to Public Law 90–100, approved October 3, 1967, a Presidential Commission on Obscenity and Pornography was established. That Commission, headed by Dean William Lockhart of the University of Minnesota Law School, has been charged by Congress with the task of analyzing existing antiobscenity laws, exploring the nature and volume of traffic in pornographic materials, studying the effects of obscenity and pornography, and recommending appropriate legislative and administrative action. An interim report has already been released and a final report is now scheduled for early this summer. In addition Subcommittee No. 3 of the House Judiciary Committee has been holding comprehensive hearings on the pornography problem.

In light of these far-reaching general studies of the issues, the Senator from Connecticut (Mr. DODD) and I envisage these hearings to be limited to specific legal and practical issues raised by proposed legislation. We shall seek witnesses who can enlighten us on the existing state of the law, and on the constitutional, legal, and practical difficulties of the proposed obscenity control bills. These hearings will, therefore, be quite technical in nature, since their purpose is not to duplicate the inquiry being undertaken by the Commission and the House committee.

In order that the Members of the Senate may understand the seven bills pending before the Subcommittee To Investigate Juvenile Delinquency and the Constitutional Rights Subcommittee, I ask unanimous consent that they be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. ERVIN. Mr. President, in addition, I request unanimous consent that S. 1077, S. 2057, S. 2381, and S. 3220 be reprinted so that the Members may have before them the full panoply of antiobscenity bills introduced in the Senate.

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

(See exhibit 2.)

Mr. ERVIN. Mr. President, while these latter bills have not been referred to either of our subcommittees, they are

necessarily related to our inquiry and constitute essential resource material as we enter this difficult field. Further information about the pornography hearings can be secured from the Subcommittee To Investigate Juvenile Delinquency or the Constitutional Rights Subcommittee.

The third matter the subcommittee will consider in the next few weeks is completion of the hearings on the rights of the mentally ill. These hearings commenced late last year, but because the executive departments concerned wished more time to coordinate their position, the testimony from the Department of Justice and the Department of Health, Education, and Welfare was postponed. The subcommittee hopes to conclude its hearings on this topic as soon as possible.

Specific dates for the hearings on these three subjects will be announced as soon as possible.

EXHIBIT 1

S. 1705

A bill to prohibit the dissemination through interstate commerce or the mails of materials harmful to persons under the age of eighteen years, and to restrict the exhibition of movies or other presentations harmful to such persons

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 71 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1466. Exposing minors to harmful materials

"(a) It shall be unlawful for any person knowingly—

"(1) to sell, offer for sale, loan, or deliver in interstate commerce or through the mails to any minor—

"(A) any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct, or sado-masochistic abuse and which is harmful to minors; or

"(B) any book, pamphlet, magazine, printed matter, however reproduced, or sound recording which contains explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct, or sado-masochistic abuse and which, taken as a whole, is harmful to minors, or

"(2) to exhibit to a minor a motion picture, show, or other presentation which—

"(A) has moved in interstate commerce or through the mails,

"(B) depicts nudity, sexual conduct, or sado-masochistic abuse, and

"(C) is harmful to minors.

"(b) Whoever violates this section shall be fined not more than $5,000 or imprisoned for not more than five years, or both, for the first offense, and shall be fined not more than $10,000 or imprisoned for not more than ten years, or both, for any second or subsequent offense.

"(c) As used in this section—

"(1) The term 'minor' means any person under the age of eighteen years.

"(2) The term 'nudity' means the showing of the human male or female genitals, pubic area, or buttocks with less than a full opaque covering, the female breast with less than a full opaque covering of any portion below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

"(3) The term 'sexual conduct' means acts of masturbation, homosexuality, sexual intercourse, physical contact with a person's clothed or unclothed genitals, pubic area, or buttocks, or, in the case of a female, physical contact with her breast.

"(4) The term 'sexual excitement' means the condition of human male or female genitals in a state of sexual stimulation or arousal.

"(5) The term 'sado-masochistic abuse' means flagellation or torture by or upon a person clad in undergarments, a mask, or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.

"(6) The term 'harmful to minors' means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sado-masochistic abuse, which—

"(A) predominantly appeals to the prurient, shameful, or morbid interest of minors;

"(B) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

"(C) is utterly without redeeming social importance for minors.

"(7) The term 'knowingly' means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of—

"(A) the character and content of any material described in subsection (a) which is reasonably susceptible of examination by the defendant, and

"(B) the age of the minor."

(b) The table of sections for chapter 71 of title 18, United States Code, is amended by adding at the end the following new item:

"1466. Exposing minors to harmful materials."

SEC. 2. (a) The Supreme Court shall not have jurisdiction under section 1252 or 1253 of title 28, United States Code, to review any determination made under section 1466 of title 18, United States Code, that any material described in subsection (a) of that section is harmful to minors.

(b) The courts of appeals shall not have jurisdiction under section 1291 or 1292 of title 28, United States Code, to review any determination made under section 1466 of title 18, United States Code, that any material described in subsection (a) of that section is harmful to minors.

SEC. 3. This Act and the amendments made by this Act shall take effect on the sixtieth day after the date of the enactment of this Act.

S. 1706

A bill to strengthen the antiobscenity laws in order to protect minors against the distribution or sale of obscene materials through the mails or interstate commerce, to establish the Division of Obscenity Control in the Department of Justice, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 71 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1466. Exposing minors to obscene materials

"(a) It shall be unlawful for any person knowingly—

"(1) to sell, rent, lease, loan, or deliver for compensation, or advertise or offer to sell, rent, lease, loan, or deliver for compensation, through the mails or through any other facility or instrumentality of interstate commerce to any minor—

"(A) any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct, or sado-masochistic abuse and which, taken as a whole, is harmful to minors; or

"(B) any book, pamphlet, magazine, printed matter, however reproduced, or sound recording which contains explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct, or sado-masochistic abuse and which, taken as a whole, is harmful to minors; or

"(2) to exhibit to a minor a motion picture, show, or other presentation which—

"(A) has moved in interstate commerce or through the mails,

"(B) depicts nudity, sexual conduct, or sado-masochistic abuse, and

"(C) is harmful to minors; or

"(3) to print, publish, create, manufacture, or reproduce any material described in clause (A) or (B) of paragraph (1) intending or knowing that such material will be disseminated or used in violation of this section; or

"(4) to deposit or cause to be deposited for mailing or delivery by mail any material described in clause (A) or (B) of paragraph (1) which is not labeled as such material on the envelope or outside cover or wrapper in accordance with regulations prescribed by the Postmaster General under section 4061 of title 39.

"(b) Whoever violates this section shall be fined not more than $5,000 or imprisoned for not more than five years, or both, for the first offense, and shall be fined not more than $10,000 or imprisoned for not more than ten years, or both, for any second or subsequent offense.

"(c) As used in this section—

"(1) The term 'minor' means any person under the age of seventeen years.

"(2) The term 'nudity' means the showing of the human male or female genitals, pubic area, or buttocks with less than a full opaque covering, the female breast with less than a fully opaque covering of any portion below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

"(3) The term 'sexual conduct' means acts of masturbation, homosexuality, sexual intercourse, physical contact with a person's clothed or unclothed genitals, pubic area, or buttocks, or, in the case of a female, physical contact with her breast.

"(4) The term 'sexual excitement' means the condition of human male or female genitals in a state of sexual stimulation or arousal.

"(5) The term 'sado-masochistic abuse' means flagellation or torture by or upon a person clad in undergarments, a mask, or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.

"(6) The term 'harmful to minors' means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sado-masochistic abuse, which—

"(A) predominantly appeals to the prurient, shameful, or morbid interest of minors;

"(B) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and

"(C) is utterly without redeeming social importance for minors.

"(7) The term 'knowingly' means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of—

"(A) the character and content of any material described in subsection (a) which is reasonably susceptible of examination by the defendant, and

"(B) except for purposes of paragraph (4) of subsection (a), the age of the minor.

"(8) The term 'interstate commerce' means commerce (A) between any State or the District of Columbia and any place outside thereof; or (B) between points within any

State or the District of Columbia, but through any place outside thereof.

"(d) It shall be an affirmative defense to a charge of violating subsection (a) of this section that the dissemination was to institutions or individuals having scientific, educational, or other special justification for possession of such material.

"(e) Nothing contained in this section shall be construed to (1) indicate an intent on the part of Congress to occupy the field in which any provision of this section operates to the exclusion of any State or local law on the same subject matter; nor shall any provision of this section be construed to invalidate any provision of State or local law unless such provision is inconsistent with any of the purposes of this section or any provision thereof, or (2) make lawful any act which is unlawful under any other statute of the United States or of any State."

(b) The analysis at the beginning of chapter 71 of title 18, United States Code, is amended by adding the following new item:

"1466. Exposing minors to obscene materials."

(c) This section and the amendments made by this section shall take effect on the sixtieth day after the date of enactment of this Act.

SEC. 2. (a) Title 28 of the United States Code is amended by adding immediately after chapter 37 the following new chapter:

"Chapter 38.—DIVISION OF OBSCENITY CONTROL

"Sec.
"581. Creation; Director.
"582. Functions.
"583. Assistance to the States.

"§ 581. Creation; Director.

"There is established in the Department of Justice a division which shall be known as the Division of Obscenity Control (referred to in this chapter as the 'Division'). The Division shall be headed by a Director who shall be appointed by the Attorney General. The Director shall receive compensation at the rate prescribed for level V of the Executive Schedule by section 5316 of title 5, United States Code.

"§ 582. Functions

"It shall be the function of the Division to administer the laws of the District of Columbia relating to obscenity (section 872 of the Act of March 3, 1901, 31 Stat. 1332; D.C. Code, sec. 22–2001), and the laws of the United States relating to the mailing of obscene or crime-inciting matter (18 U.S.C. 1461); the importation or transportation of obscene matter (18 U.S.C. 1462); the mailing of indecent matter on wrappers on envelopes (18 U.S.C. 1463); the broadcasting of obscene language (18 U.S.C. 1465); the exposure to minors of obscene materials (18 U.S.C. 1466); officers, agents, or employees of the United States aiding in the importation of obscene or treasonous books and articles (18 U.S.C. 552); obscene or harassing telephone calls in the District of Columbia or in interstate or foreign communications (section 223 of title II of the Communications Act of 1934); and such other related functions as the Attorney General shall prescribe.

"§ 583. Assistance to the States

"The Director of the Division is hereby authorized and directed—

"(1) to advise and make technical assistance available to the several States and local governments in the administration of their laws relating to the illegal trade in obscene matter; and

"(2) to conduct nationwide education and information programs on obscenity and its serious consequences."

(b) The table of contents to part II of title 28 of the United States Code is amended by adding after:

"37. United States marshals..... 561"

the following new item:

"38. Division of Obscenity Control.... 581".

SEC. 3. (a) Chapter 53 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 4061. Material harmful to minors

"(a) Material labeled in accordance with section 1466(a)(4) of title 18 shall not be delivered from any post office or by any letter carrier except (1) to an addressee who is age seventeen or over, or (2) to a person age seventeen or over accepting delivery on behalf of an addressee age seventeen or over, and except upon the signing by such addressee or person of a receipt for such material which states that the person whose signature appears thereon is age seventeen or over.

"(b) The Postmaster shall prescribe regulations for the labeling and handling of material to which this section applies. Such regulations may require the payment by the sender of special fees to cover the additional costs of such handling."

(b) The analysis at the beginning of chapter 53 of title 39, United States Code, is amended by adding the following new item:

"4061. Material harmful to minors."

(c) The amendments made by this section shall take effect on the sixtieth day after the date of enactment of this Act.

S. 2073

A bill to prohibit the use of interstate facilities, including the mails, for the transportation of certain materials to minors

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 71 of title 18 of the United States Code is amended:

(1) By adding a new section 1466 as follows:

"§ 1466. Transportation or mailing of matter harmful to minors

"(a) As used in this section—

"(i) 'minor' means a person who has not attained the age of eighteen years;

"(ii) 'adult' means a person who is not a minor; and

"(iii) 'matter that is harmful to minors' means a book, magazine, pamphlet, sheet, card, photograph, drawing, film, slide, recording, or other thing constituting or containing visual, verbal, or auditory material that depicts, describes, or represents, in actual or simulated form, nudity, sexual conduct, or sadomasochistic behavior and which is—

"(A) offensive to prevailing standards in the adult community concerning what is suitable material for minors; and

"(B) substantially without redeeming social value for minors.

"(b) No person shall knowingly deposit in the mail, or transport in interstate or foreign commerce, for delivery to a minor, matter which is harmful to minors, or matter constituting or containing an advertisement therefor or information as to where or how such matter may be obtained.

"(c) If deposited in the mail or transported in interstate or foreign commerce for delivery to a residence in which a minor permanently resides, matter which is harmful to minors, or which constitutes or contains an advertisement therefor or information as to where or how such matter may be obtained, shall be deemed to have been deposited in the mail or transported in interstate or foreign commerce for delivery to such minor unless contained in a sealed envelope or sealed wrapper that completely conceals the contents and clearly, specifically and personally addressed to an adult who resides at such residence.

"(d) It shall be an affirmative defense to a charge of violating this section that the defendant reasonably believed that the addressee of the matter in question was an adult residing at the address shown on the sealed envelope or sealed wrapper. Such reasonable belief may be based upon receipt by the person so charged of a purchase order or other declaration which such person reasonably and in good faith believed to have been executed by the addressee, representing such addressee to be an adult, or on other evidence.

"(e) Whoever violates this section shall be fined not more than $50,000, or imprisoned for not more than five years, or both, for the first offense, and shall be fined not more than $100,000, or imprisoned for not more than ten years, or both, for a subsequent offense."

(2) By adding to the table of contents thereof the following:

"1466. Transportation or mailing of matter harmful to minors."

SEC. 2. The provisions of this Act shall become effective on the first day of the sixth month which begins after the date of enactment.

S. 2074

A bill to prohibit the use of interstate facilities including the mails for the transportation of salacious advertising

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 71 of title 18 of the United States Code is amended by adding a new section 1467 as follows:

"§ 1467. Transportation of salacious advertising

"No person shall knowingly deposit in the mail, or transport in interstate or foreign commerce, an advertisement or solicitation designed or intended to appeal to a prurient interest in sex.

"Whoever violates this section shall be fined not more than $50,000, or imprisoned not more than five years, or both, for the first offense, and shall be fined not more than 100,000, or imprisoned not more than ten years, or both, for a subsequent offense."

SEC. 2. The table of contents preceding chapter 71 of title 18 of the United States Code is amended by adding at the end thereof the following:

"1467. Transportation of salacious advertising."

S. 2676

A bill to prohibit the sale to minors of certain obscene materials transported in interstate commerce or by the United States mails, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 71 of title 18 of the United States Code is amended:

(1) by adding a new section 1466 as follows:

"§ 1466. Sale of matter harmful to minors

"(a) DEFINITIONS.—As used in this section—

"(i) 'Minor' means any person less than sixteen years old.

"(ii) 'Adult' means any person sixteen years old or older.

"(iii) 'Sexual conduct' means human masturbation, sexual intercourse, or any touching of the genitals, pubic areas, or buttocks of the human male or female, or the breast of the female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

"(iv) 'Sexual excitement' means the condition of human male or female genitals when in a state of sexual stimulation, or the sensual experiences of humans engaging in or witnessing sexual conduct.

"(v) 'Sado-masochistic abuse' means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered,

bound or otherwise physically restrained on the part of one so clothed.

"(vi) 'Harmful to minors' means that quality of any description or representation, in whatever form, of sexual conduct, sexual excitement, or sado-masochistic abuse, when it—

"(A) predominately appeals to the prurient interest of minors; and

"(B) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors, and

"(C) is utterly without redeeming social importance for minors.

"(vii) 'Knowing' means having general knowledge of or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both of the following:

"(A) the general nature and content of any material described herein which is reasonably susceptible to examination by the defendant, hereafter referred to as the 'content' of the materials, and

"(B) the fact that the materials have been or will be shipped in interstate commerce or by the United States mails, hereafter referred to as the 'character' of the materials.

"(b) SELLING OBSCENE MATERIAL TO MINORS.—

"(i) A person is guilty of selling obscene material to minors when knowing its character and content, he sells or loans to a minor for monetary consideration:

"(A) any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body that depicts sexual conduct, sexual excitement, or sado-masochistic abuse, that is harmful to minors, and that has been or will be shipped in interstate commerce or by the United States mails; or

"(B) any book, paperback, pamphlet, magazine, or other written or printed matter however reproduced, or sound recording which contains any matter enumerated in paragraph (A) hereof, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sado-masochistic abuse, that, taken as a whole, is harmful to minors and that has been or will be shipped in interstate commerce by the United States mails;

"(ii) A person is guilty of selling obscene materials to minors when knowing the character and content of a motion picture, show or other presentation that, in whole or in part, depicts sexual conduct, sexual excitement, or sado-masochistic abuse, that is harmful to minors, and that has been or will be shipped in interstate commerce or by the United States mails, he:

"(A) exhibits such motion picture, show, or other presentation to a minor for a monetary consideration; or

"(B) sells to a minor an admission ticket or pass to premises whereon there is exhibited or to be exhibited such motion picture, show, or presentation; or

"(C) admits a minor for monetary consideration to premises whereon there is exhibited or to be exhibited such motion picture, show, or other presentation.

"(ii) An employer actively participating in the operation of a business may be held criminally responsible for the acts of those employees in such business that are in violation of this section when those acts are performed within the scope of the employee's employment.

"(iv) A person found guilty of selling obscene material to minors shall be punished by a fine of not more than $5,000 and/or imprisonment for not more than five years for the first offense and a fine of not more than $10,000 and/or imprisonment for not more than ten years for each additional offense.

"(v) Selling obscene materials to minors shall not be a violation of this section when—

"(A) the minor is accompanied by his parent or legal guardian, or when the minor is accompanie by an adult, and the defendant has no reason to suspect that the adult accompanying the minor is not the minor's parent or guardian; or

"(B) the defendant is charged with the sale of materials the obscene portions of which form merely a minor and incidental part of an otherwise nonoffending whole and which serve some purpose therein other than titillation.

"(vi) Nothing in this section shall be construed to render illegal the selling, lending, giving, or exhibiting to minors of the materials prescribed herein when—

"(A) the defendant is in a parental or guardianship relationship with the minor;

"(B) the defendant is a bona fide school, museum, or public library, or is acting in the capacity of an employee of such organization or of a retail outlet affiliated with and serving the educational purposes of such organization; or

"(C) the defendant is distributing, selling, or otherwise commercially marketing or renting a book, magazine, pamphlet, paperback, or other written or printed matter that is a serious and bona fide treatise or handbook on sexual functioning, guidance, hygiene, or problems, and is advertised and marketed as such; or is officially involved with legitimate research in these areas.

"(c) PRESUMPTIONS.—The following rebuttable presumptions are applicable to this section:

"(i) Any person owning, operating, or employed in the business of selling, offering for sale, renting, or exhibiting any of the materials proscribed for minors by this subsection shall be presumed to have knowledge of which materials in the establishment have been transported by interstate commerce or by the United States mails.

"(ii) An employee who sells obscene materials to minors in or about his place of employment is presumed to have acted within the scope of his employment.

"(d) DEFENSES.—

"(i) In any prosecution for selling obscene material to minors, it is an affirmative defense that—

"(A) the defendant or his employee had reasonable cause to believe and did honestly believe that the minor involved was sixteen years old or older; and

"(B) such minor exhibited to the defendant a draft card, drivers license, birth certificate, or other official or apparently official document purporting to establish that such minor was sixteen years old or older.

"(ii) It shall be an affirmative defense to a charge of violating this section by filling a minor's mail order request for obscene material that the defendant made reasonable efforts to determine that the purchaser of the material was sixteen years old or older: *Provided,* That reasonable efforts shall not solely consist of the asking the minor to state he is sixteen years old or older."

(2) by adding to the analysis of chapter 71 of title 18, United States Code, the following new item:

"1466. Sale of matter harmful to minors."

S. 2929

A bill to prohibit the use of interstate facilities, including the mails, for the transportation of certain materials to minors

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 71 of title 18 of the United States Code is amended:

(1) By adding a new section 1466 as follows:

"§ 1466. Transportation or mailing of matter harmful to minors

"(a) As used in this section—

"(i) 'minor' means a person who has not attained the age of eighteen years;

"(ii) 'adult' means a person who is not a minor; and

"(iii) 'matter that is harmful to minors' means a book, magazine, pamphlet, sheet, card, photograph, drawing, film, slide, recording, or other thing constituting or containing visual, verbal, or auditory material that depicts, describes, or represents, in actual or simulated form, nudity, sexual conduct, or sadomasochistic behavior and which is—

"(A) offensive to prevailing standards in the adult community concerning what is suitable material for minors; and

"(B) substantially without redeeming social value for minors.

"(b) No person shall knowingly deposit in the mail, or transport in interstate of foreign commerce, for delivery to a minor, matter which is harmful to minors, or matter constituting or containing an advertisement therefor or information as to where or how such matter may be obtained.

"(c) If deposited in the mail or transported in interstate or foreign commerce for delivery to a resident in which a minor permanently resides, matter which is harmful to minors, or which constitutes or contains an advertisement therefor or information as to where or how such matter may be obtained, shall be deemed to have been deposited in the mail or transported in interstate or foreign commerce for delivery to such minor unless contained in a sealed envelope or sealed wrapper that completely conceals the contents and clearly, specifically and personally addressed to an adult who resides at such residence.

"(d) It shall be an affirmative defense to a charge of violating this section that the defendant reasonably believed that the addressee of the matter in question was an adult residing at the address shown on the sealed envelope or sealed wrapper. Such reasonable belief may be based upon receipt by the person so charged of a purchase order or other declaration which such person reasonably and in good faith believed to have been executed by the addressee, representing such addressee to be an adult, or on other evidence.

"(e) Whoever violates this section shall be fined not more than $50,000, or imprisoned for not more than five years, or both, for the first offense, and shall be fined not more than $100,000, or imprisoned for not more than ten years, or both, for a subsequent offense."

(2) By adding to the table of contents thereof the following:

"1466. Transportation or mailing of matter harmful to minors.".

SEC. 2. The provisions of this Act shall become effective on the first day of the sixth month which begins after the date of enactment.

S. 2930

A bill to prohibit the use of interstate facilities including the mails for the transportation of salacious advertising

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That chapter 71 of title 18 of the United States Code is amended by adding a new section 1467 as follows:

"§ 1467. Transportation of salacious advertising

"No person shall knowingly deposit in the mail, or transport in interstate or foreign commerce, an advertisement or solicitation designed or intended to appeal to a prurient interest in sex.

"Whoever violates this section shall be fined not more than $50,000, or imprisoned not more than five years, or both, for the first offense, and shall be fined not more than $100,000, or imprisoned not more than ten years, or both, for a subsequent offense."

SEC. 2. The table of contents preceding

chapter 71 of title 18 of the United States Code is amended by adding at the end thereof the following:

"1467. Transportation of salacious advertising."

EXHIBIT 2

S. 1077

A bill to amend title 18 and title 28 of the United States Code with respect to the trial and review of criminal actions involving obscenity, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 71, title 18, United States Code, is amended by adding at the end thereof the following new section:

§ 1466. Determinations of fact

"In every criminal action arising under this chapter or under any other statute of the United States determination of the question whether any article, matter, thing, device, or substance is in fact obscene, lewd, lascivious, indecent, vile, or filthy shall be made by the jury, without comment by the court upon the weight of the evidence relevant to that question, unless the defendant has waived trial by jury."

(b) The section analysis of that chapter is amended by inserting at the end thereof the following new item:

"1466. Determinations of fact."

SEC. 2. (a) Title 28, United States Code, is amended by adding at the end thereof the following new chapter:

"Chapter 176.—ACTIONS INVOLVING OBSCENITY

"Sec.
"3001. Judicial review.

"§ 3001. Judicial review

"(a) In any criminal action arising under any statute of the United States for the prosecution of any person for the possession sale, dissemination, or use of any obscene, lewd, lascivious, indecent, vile, or filthy article, matter, thing, device, or substance, no court of the United States or of the District of Columbia shall have jurisdiction to review, reverse, or set aside a determination made by a jury on the question whether such article, matter, thing, device, or substance is in fact obscene, lewd, lascivious, indecent, vile, or filthy.

"(b) In any criminal action arising under any statute of any State or under any law of any political subdivision of any State for the prosecution of any person for the possession, sale, dissemination, or use of any obscene, lewd, lascivious, indecent, vile, or filthy, article, matter, thing, device, or substance, no court of the United States shall have jurisdiction to review reverse, or set aside a determination made by a court of such State on the question whether such article, matter, thing, device, or substance is in fact obscene, lewd, lascivious, indecent, vile, or filthy."

(b) The analysis of title 28, United States Code, preceding part I thereof is amended by adding at the end thereof the following new item:

"176. Actions involving obscenity-----3001".

(c) The chapter analysis of part VI, title 28, United States Code, is amended by adding at the end thereof the following new item:

"176. Actions involving obscenity-----3001".

S. 2057

A bill to prohibit the use of the mails to send material harmful to minors and to regulate the use of the mails to send material which is sexually provocative

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 51 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 4011. Mailing sexually provocative material

"(a) A sender shall not deposit in the mails, or have deposited in the mails, any sexually provocative material—

"(1) if such material is addressed to a minor in a State which has a law prohibiting the dissemination of such material to minors; or

"(2) unless such material is addressed to a person to whom a letter, notice, or card has been sent in accordance with subsection (b) of this section, and who has requested such material and has furnished the information specified by such subsection; or

"(3) if information or notice of the type referred to in subsection (c) of this section has been received.

"(b)(1) Prior to sending any sexually provocative material to an addressee, a sender shall send or have sent to such addressee a letter, notice, or card containing the following:

"'1. State whether you desire to receive advertisements, material, or devices pertaining to nudity, sexual conduct, sexual excitement, or sadomasochistic abuse.

"'2. Give your name and address, and the month, day, and year in which you were born. (If you are acting as an officer, agent, or employee of a corporation, company, partnership, firm, joint venture, society, association, or other organization, give your own name and address and the name and address of your organization and the month, day, and year of your birth.)

"'3. Sign your name.'

"(2) A letter, notice, or card mailed by a sender shall be sent to an addressee only in the name of an individual or in the name of an organization. Such letter, notice, or card shall contain no other language, literature, graphic illustration, or device, except as the Postmaster General may otherwise deem necessary.

"(3) For the purposes of subsection (a) (1) of this section, the sender is entitled to rely upon information furnished by the addressee concerning the age of the addressee unless the sender has in his possession information which conflicts with the information furnished by the addressee.

"(c) If a sender of sexually provocative material—

"(1) receives information that an addressee is a minor and ineligible to receive such material because the State in which he lives has a law prohibiting dissemination of such material to minors; or

"(2) receives notice from an addressee that he no longer desires any such material;

such sender shall immediately remove the name of any such addressee from his mailing list, and cease distribution of such material to the addressee.

"(d) The Postmaster General shall have authority to promulgate rules and regulations to carry out the provisions of this section.

"(e) As used in this section—

"(1) 'nudity' means the showing of the human male or female genitals, pubic area, or buttocks with less than a full opaque covering, the female breast with less than a fully opaque covering of any portion below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state;

"(2) 'sexual conduct' means act of masturbation, homosexuality, sexual intercourse, physical contact with a person's clothed or unclothed genitals, pubic area, or buttocks, or, in the case of a female, physical contact with her breast;

"(3) 'sexual excitement' means the condition of human male or female genitals in a state of sexual stimulation or arousal;

"(4) 'sadomasochistic abuse' means flagellation or torture by or upon a person clad in undergarments, a mask, or bizarre costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed; and

"(5) 'sender' means a person who mails for himself, or on whose behalf there is a mailing; and

"(6) 'sexually provacative material' means any material which—

"(A) is tangible, including any device, and used or adapted, or capable of being used or adapted, to depict or arouse (through readings, sound, touch, or observation) interest in nudity, sexual conduct, sexual excitement, or sadomasochistic abuse; or

"(B) solicits or offers to send matter of the type described in subparagraph (A) of this paragraph."

(b) The analysis of chapter 5 of title 39, United States Code, immediately preceding section 4001, is amended by adding at the end thereof the following new item:

"4011. Mailing sexually provocative material.".

SEC. 2. (a) Chapter 71 of title 18, United States Code is amended by adding at the end thereof the following new section:

"§ 1466. Mailing sexually provocative material

"(a) A sender who deposits in, or causes to be deposited in, the mails any sexually provocative material in violation of section 4011 of title 39, or knowingly takes the same from the mails for the purpose of circulating or disposing of or aiding in the circulation or disposition of the same, shall be fined not more than $50,000 or imprisoned not more than five years, or both.

"(b) The terms 'sender' and 'sexually provocative material' shall have the same meaning given them in section 4011 of title 39.

(b) The analysis of chapter 71 of title 18, United States Code, immediately preceding section 1461, is amended by adding at the end thereof the following new item:

"1466. Mailing sexually provocative material.".

S. 2381

A bill to prohibit the mailing of pandering advertisements to deceased persons

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b) of section 4009 of title 39, United States Code, is amended to read as follows:

"(b) Upon receipt of notice from an addressee or from a survivor of a deceased addressee, that mail matter, determined by such addressee or survivor in his sole discretion to be of the character described in subsection (a) of this section, has been delivered to the address of the addressee, the Postmaster General shall issue an order, if requested by the addressee or survivor, to the sender of the mail matter directing the sender and his agents or assigns to refrain from further mailings to the named addresses."

(b) Subsection (i) of such section is amended—

(1) by striking out the word "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) the term 'survivor' means a person who is the son or daughter, nineteen years of age or over, of a deceased person or who is the surviving spouse of a deceased person."

S. 3220

A bill to protect a person's right of privacy by providing for the designation of obscene or offensive mail matter by the sender and for the return of such matter at the expense of the sender

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 53 of title 39, United States Code, is

amended by adding at the end thereof the following new section:

"§ 4061. Designation and return of obscene or offensive mail matter

"(a) (1) In order to protect a person's right of privacy, the envelope or cover of any mail matter that includes any obscene mail matter or any mail that may be obscene or offensive shall be marked by the sender with the words 'The Enclosed Material May Be Obscene or Offensive to the Addressee'.

"(2) For purposes of this subsection—

"(A) 'obscene mail matter' or 'mail matter that may be obscene or offensive' means any matter which—

"(i) is tangible, including any device, and used or adapted, or capable of being used or adapted, to depict or arouse (through readings, sound, touch, or observation) nudity, interest in nudity, sexual conduct, sexual excitement, or sadomasochistic abuse; or

"(ii) solicits or offers to send matter of the type described in clause (i) of this subparagraph.

"(B) 'nudity' means the showing of the human male or female genitals, pubic area, or buttocks with less than a full opaque covering, the female breast with less than a fully opaque covering of any portion below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state;

"(C) 'sexual conduct' means acts of masturbation, homosexuality, sexual intercourse, physical contact with a person's clothed or unclothed genitals, pubic area, or buttocks, or, in the case of a female, physical contact with her breast;

"(D) 'sexual excitement' means the condition of human male or female genitals in a state of sexual stimulation or arousal; and

"(E) 'sadomasochistic abuse' means flagellation or torture by or upon a person clad in undergarments, a mask, or bizzare costume, or the condition of being fettered, bound, or otherwise physically restrained on the part of one so clothed.

"(b) (1) In order further to protect a person's right of privacy, any mail matter received by an addressee, and determined by him in his sole discretion to be obscene, may be returned to the sender through the mails, without prepayment of postage by the addressee, by placing the words 'Obscene Mail Matter' in the upper right hand corner of the address area of the envelope or other cover used to return such matter.

"(2) The sender shall pay, for each piece of mail matter returned under this subsection as being obscene, postage at the rates of first-class mail plus an additional service charge.

"(3) The service charge, which shall not be less than 50 cents for each piece, shall be determined and adjusted at least once each year by the Postmaster General and shall approximate the cost incurred by the Department with respect to the delivery of such matter and the collection of postage and other expenses incurred. The service charge shall be in lieu of any other charges assessed under this title for unpaid or part paid mail.

"(c) A sender who fails to mark the envelope or other cover of mail matter as required by subsection (a) of this section, or who refuses to pay the postage or the service charge for any piece of mail matter, returned under subsection (b) of this section as obscene or offensive, shall be subject to a civil penalty of $5,000 for each piece of such matter which is not marked or refused. A civil action to collect any such civil penalty may be brought by the United States in the district court of the United States for any judicial district in which the sender resides, has his principal place of business, or is found, or in the district court for the judicial district to which mail matter, subsequently resulting in the civil action to collect the civil penalty, was sent. Process of any such court for any such district issued in any such action may be served in any other judicial district.

"(d) The Postmaster General may prescribe such rules and regulations as may be necessary to carry out the provisions of this section."

(b) The analysis of such chapter, immediately preceding section 4051, is amended by adding at the end thereof the following new item:

"4061. Designation and return of obscene or offensive mail matter."

Mr. MANSFIELD. Mr. President, I am encouraged by the remarks of the distinguished Senator from North Carolina. I hope it will not take to long before these pornography bills are considered. I think the literature coming through the mail now is getting worse and worse. It is creating a problem, not only among senior members of families, the parents, but also among children who open the mail. I think it is disgraceful.

I must say, in all candor, that I have not yet given up the idea of introducing my bill on pornography as an amendment to the pending measure. I think I should state that to the distinguished Senator from North Carolina because I think it has taken too long a time to face up to the situation. It is about time we put into effect some kind of law which would protect the innocent and unwilling recipients of this type of literature and impose appropriate punishment on those responsible for sending it out. I think it is about time to do what we can—as we have done in the case of cigarettes—with respect to putting a label and warnings on this literature so that the recipients can be informed ahead of time and the literature can be returned at the sender's expense. In that way, perhaps, we can mitigate a situation which is becoming dangerous to the morale and the morals of this Nation.

Mr. President, I suggest the absence of a quorum, and it may be a live quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

S. 3113—DISCHARGE OF COMMITTEE ON RULES AND ADMINISTRATION FROM FURTHER CONSIDERATION

Mr. JORDAN of North Carolina. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be discharged from further consideration of Senate bill 3113, which was referred to it on November 4, 1969, and that the measure be re-referred to the Committee on Government Operations.

The bill would provide for a separate session of Congress each year for the consideration of appropriation bills, would establish the calendar year as the fiscal year of the Government, and would make certain amendments to the Budget and Accounting Act of 1921. The subjects encompassed by the proposal are mainly within the jurisdiction of the Committee on Government Operations. I have discussed the pending request with the chairman of that committee, Senator McCLELLAN, and he has no objection thereto.

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

TRANSCRIPT OF THE CLOSED SESSION

Mr. ELLENDER. Mr. President, on December 15, 1969, during the consideration of the Department of Defense Appropriation Act for fiscal year 1970, the Senate had a closed session at which time there was a lengthy discussion of our activities in Laos.

Pursuant to a unanimous-consent request of the distinguished majority leader (Mr. MANSFIELD), I was given the responsibility of reviewing the transcript of the proceedings during the closed session and deleting any classified material.

Mr. President, I have completed this task and I am today returning the transcript to the chief reporter of the Senate in order that the declassified transcript may be printed in the permanent CONGRESSIONAL RECORD in accordance with the unanimous-consent agreement.

In determining what material should be deleted, I have followed the usual procedures with respect to classified material, and the practices of this body with respect thereto. I have also had prepared a copy of the transcript with security deletions indicated, which will be returned to the Secretary of the Senate for the use of any Member who desires to refer to this transcript in the future.

ORGANIZED CRIME CONTROL ACT OF 1969

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 30.

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

The ASSISTANT LEGISLATIVE CLERK. Calendar No. 612, S. 30, a bill relating to the control of organized crime in the United States.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Organized Crime Control Act of 1969."

STATEMENT OF FINDINGS AND PURPOSE

The Congress finds that (1) organized crime in the United States is a highly sophisticated, diversified, and widespread activity that annually drains billions of dollars from America's economy by unlawful conduct and the illegal use of force, fraud, and corruption; (2) organized crime derives a major portion of its power through money obtained from such illegal endeavors as syndicated gambling, loan sharking, the theft and fencing of property, the importation and distribution of narcotics and other dangerous drugs, and other forms of social exploitation; (3) this money and power are increasingly used to infiltrate and corrupt legitimate business and labor unions and to subvert and

corrupt our democratic processes; (4) organized crime activities in the United States weaken the stability of the Nation's economic system, harm innocent investors and competing organizations, interfere with free competition, seriously burden interstate and foreign commerce, threaten the domestic security, and undermine the general welfare of the Nation and its citizens; and (5) organized crime continues to grow because of defects in the evidence-gathering process of the law inhibiting the development of the legally admissible evidence necessary to bring criminal and other sanctions or remedies to bear on the unlawful activities of those engaged in organized crime and because the sanctions and remedies available to the Government are unnecessarily limited in scope and impact.

It is the purpose of this Act to seek the eradication of organized crime in the United States by strengthening the legal tools in the evidence-gathering process, by establishing new penal prohibitions, and by providing enhanced sanctions and new remedies to deal with the unlawful activities of those engaged in organized crime.

TITLE I—SPECIAL GRAND JURY

SEC. 101. (a) Title 18, United States Code, is amended by adding immediately after chapter 215 the following new chapter:

"Chapter 216.—SPECIAL GRAND JURY

"Sec.
"3331. Summoning and term.
"3332. Powers and duties.
"3333. Reports.
"3334. General provisions.

"§ 3331. Summoning and term

"(a) In addition to such other grand juries as shall be called from time to time, each district court which is located in a judicial district containing more than four million inhabitants or in which the Attorney General, the Deputy Attorney General or any designated Assistant Attorney General, certifies in writing to the chief judge of the district that in his judgment a special grand jury is necessary because of criminal activity in the district shall order a special grand jury to be summoned at least once in each period of eighteen months unless another special grand jury is then serving. The grand jury shall serve for a term of eighteen months unless an order for its discharge is entered earlier by the court upon a determination of the grand jury by majority vote that its business has been completed. If, at the end of such term or any extension thereof, a grand jury determines by majority vote that its business has not been completed, the court shall enter an order extending such term for an additional period of six months. No special grand jury term so extended shall exceed thirty-six months, except as provided in subsection (e) of section 3333 of this chapter.

"(b) If a district court within any judicial circuit fails to extend the term of a special grand jury upon application made by the grand jury pursuant to subsection (a) of this section, or enters an order for the discharge of such grand jury before it determines that it has completed its business, the grand jury, upon the affirmative vote of a majority of its members, may apply to the chief judge of the circuit for an order for the continuance of the term of the grand jury. Upon the making of such an application by the grand jury, the term thereof shall continue until the entry upon such application by the chief judge of the circuit of an appropriate order in conformity with the provisions of subsection (a) of this section. No special grand jury term so extended shall exceed thirty-six months, except as provided in subsection (e) of section 3333 of this chapter.

"§ 3332. Powers and duties

"(a) Each special grand jury when impaneled shall elect by majority vote a foreman and a deputy foreman from among its members.

"(b) It shall be the duty of each such grand jury impaneled within any judicial district to inquire into offenses against the criminal laws of the United States alleged to have been committed within that district which are brought to the attention of the grand jury by the court or by any person.

"(c) Whenever the special grand jury impaneled within any judicial district determines by majority vote that the volume of business of the grand jury exceeds the capacity of the grand jury to discharge its obligations, the grand jury may apply to the district court to impanel an additional special grand jury for that district. Upon any such application and a showing of need, such court shall order an additional grand jury to be impaneled. If the district court declines to hear such an application, or to grant such application after hearing, the grand jury may apply to the chief judge of the circuit for an order impaneling an additional special grand jury for that district. Such chief judge shall hear and determine such application at the earliest practicable time, and shall have jurisdiction to enter thereon such orders as may be required to provide for the impaneling of an additional grand jury within the judicial district for which such application was made.

"(d) Whenever the special grand jury determines by majority vote that any attorney or investigative officer or agent appearing on behalf of the United States before the grand jury for the presentation of evidence with respect to any matter has not performed or is not performing his duties diligently or effectively, the grand jury may transmit to the Attorney General in writing a statement of the reasons for such determination, together with a request for the designation by the Attorney General of another attorney or investigative officer or agent to appear before the grand jury for that purpose. Upon receipt of any such request, the Attorney General shall promptly cause inquiry to be made as to the merits of the allegations made by the grand jury and shall take whatever action he finds appropriate to provide for the United States' prompt and effective representation before such grand jury.

"§ 3333. Reports

"(a) A special grand jury impaneled by any district court, with the concurrence of a majority of its members, may, upon completion of its original term, or each extension thereof, submit to the court a report—

"(1) concerning noncriminal misconduct, malfeasance or misfeasance in office by a public officer or employee as the basis for a recommendation of removal or disciplinary action; or

"(2) stating that after investigation of a public officer or employee it finds no misconduct, malfeasance or misfeasance, or neglect in office by him, provided that such public officer or employee has requested the submission of such report; or

"(3) proposing recommendations for legislative, executive, or administrative action in the public interest based upon stated findings; or

"(4) regarding organized crime conditions in the district.

"(b) The court to which such report is submitted shall examine it and the minutes of the special grand jury and, except as otherwise provided in subsections (c) and (d) of this section, shall make an order accepting and filing such report as a public record only if the court is satisfied that it complies with the provisions of subsection (a) of this section and that—

"(1) the report is based upon facts revealed in the course of an investigation authorized by subsection (b) of section 3332 and is supported by the preponderance of the evidence; and

"(2) when the report is submitted pursuant to paragraph (1) of subsection (a) of this section, each person named therein was afforded an opportunity to testify before the grand jury prior to the filing of such report, and when the report is submitted pursuant to paragraphs (3) and (4) of subsection (a) of this section, it is not critical of an identified person.

"(c) (1) An order accepting a report pursuant to paragraph (1) of subsection (a) of this section and the report shall be sealed by the court and shall not be filed as a public record, subject to subpena or otherwise made public (i) until at least thirty-one days after a copy of the order and report are served upon each public officer or employee named therein and an answer has been filed or the time for filing an answer has expired, or (ii) if an appeal is taken, until all rights of review of the public officer or employee named therein have expired or terminated in an order accepting the report. No order accepting a report pursuant to paragraph (1) of subsection (a) of this section shall be entered until thirty days after the delivery of such report to the public officer or body pursuant to paragraph (3) of subsection (c) of this section. The court may issue such orders as it shall deem appropriate to prevent unauthorized publication of a report. Unauthorized publication may be punished as contempt of the court.

"(2) Such public officer or employee may file with the clerk a verified answer to such a report not later than twenty days after service of the order and report upon him. Upon a showing of good cause, the court may grant such public officer or employee an extension of time within which to file such answer and may authorize such limited publication of the report as may be necessary to prepare such answer. Such an answer shall plainly and concisely state the facts and law constituting the defense of the public officer or employee to the charges in said report, and, except for those parts thereof which the court determines to have been inserted scandalously, prejudiciously, or unnecessarily, such answer shall become an appendix to the report.

"(3) Upon the expiration of the time set forth in paragraph (1) of subsection (c) of this section, the United States attorney shall deliver a true copy of such report, and the appendix, if any, for appropriate action to each public officer or body having jurisdiction, responsibility or authority over each public officer or employee named in the report.

"(d) Upon the submission of a report pursuant to subsection (a) of this section, if the court finds that the filing of such report as a public record may prejudice fair consideration of a pending criminal matter, it shall order such report sealed and such report shall not be subject to subpena or public inspection during the pendency of such criminal matter, except upon order of the court.

"(e) Whenever the court to which a report is submitted pursuant to paragraph (1) of subsection (a) of this section is not satisfied that the report complies with the provisions of subsection (b) of this section, it may direct that additional testimony be taken before the same grand jury, or it shall make an order sealing such report, and it shall not be filed as a public record, subject to subpena or otherwise made public until the provisions of subsection (b) of this section are met. A special grand jury term may extend beyond thirty-six months in order that such additional testimony may be taken or the provisions of subsection (b) of this section may be met.

"(f) As used in this section, 'public officer or employee' means any officer or employee of the United States, any State, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any political subdivision, or any department, agency, or instrumentality thereof.

"§ 3334. General provisions

"The provisions of chapter 215, title 18, United States Code, and the Federal Rules of Criminal procedure applicable to regular grand juries shall apply to special grand juries to the extent not inconsistent with sections 3331, 3332, or 3333 of this chapter.

(b) The table of contents of part II, title 18, United States Code, is amended by adding immediately after

"215. Grand Jury---------- 3321"

the following new item:

"215. Special Grand Jury---------- 3331."

SEC. 102. (a) Subsection (a), section 3500, chapter 223, title 18, United States Code, is amended by striking "to an agent of the Government" following "the defendant".

(b) Subsection (d), section 3500, chapter 223, title 18, United States Code, is amended by striking "paragraph" following "the court under" and inserting in lieu thereof "subsection".

(c) Paragraph (1), subsection (e), section 3500, chapter 223, title 18, United States Code, is amended by striking the "or" following the semicolon.

(d) Paragraph (2), subsection (e), section 3500, chapter 223, title 18, United States Code, is amended by striking "to an agent of the Government" after "said witness" and by striking the period at the end thereof and inserting in lieu thereof: "; or (3) a statement, however taken or recorded, or a transcription thereof, if any, made by said witness to a grand jury.".

TITLE II—GENERAL IMMUNITY

SEC. 201. (a) Title 18, United States Code, is amended by adding immediately after part IV the following new part:

"PART V.—IMMUNITY OF WITNESSES

"Sec.
"6001. Definitions.
"6002. Immunity generally.
"6003. Court and grand jury proceedings.
"6004. Certain administrative proceedings.
"6005. Congressional proceedings.

"§ 6001. Definitions

"As used in this part—

"(1) 'agency of the United States' means any executive department (as defined in 80 Stat. 948; 80 Stat. 378 (5 U.S.C. sec. 101)), a military department (as defined in 80 Stat. 378 (5 U.S.C. sec. 102)), the Atomic Energy Commission, the China Trade Act registrar appointed under 53 Stat. 1432 (15 U.S.C. sec. 143), the Civil Aeronautics Board, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Maritime Commission, the Federal Power Commission, the Federal Trade Commission, the Interstate Commerce Commission, the National Labor Relations Board, the National Transportation Safety Board, the Railroad Retirement Board, an arbitration board established under 48 Stat. 1193 (45 U.S.C. sec. 157), the Securities and Exchange Commission, the Subversive Activities Control Board, or a board established under 49 Stat. 31 (15 U.S.C. sec. 715d);

"(2) 'other information' includes any book, paper, document, record, recording, or other material;

"(3) 'proceeding before an agency of the United States' means any proceeding before such an agency with respect to which it is authorized to issue subpenas and to take testimony or receive other information from witnesses under oath; and

"(4) 'court of the United States' means any of the following courts: the Supreme Court of the United States, a United States court of appeals, a United States district court established under chapter 5, title 28, United States Code, the District Court of Guam, the District Court of the Virgin Islands, the United States Court of Claims, the United States Court of Customs and Patent Appeals, the Tax Court of the United States, the Customs Court, and the Court of Military Appeals.

"§ 6002. Immunity generally

"Whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding before or ancillary to—

"(1) a court or grand jury of the United States,

"(2) an agency of the United States, or

"(3) either House of Congress, a joint committee of the two Houses, or a committee or a subcommittee of either House,

and the person presiding over the proceeding communicates to the witness an order issued under this part, the witness may not refuse to comply with the order on the basis of his privilege against self-incrimination. No such testimony or other information so compelled under the order or evidence or other information which is obtained by the exploitation of such testimony may be used against the witness in any criminal case, except a prosecution for perjury, giving a false statement, or otherwise failing to comply with the order.

"§ 6003. Court and grand jury proceedings

"(a) In the case of any individual who has been or may be called to testify or provide other information at any proceeding before or ancillary to a court of the United States, a grand jury of the United States or the Department of Justice, the United States district court for the judicial district in which the proceeding is or may be held shall issue, in accordance with subsection (b) of this section, upon the request of the United States attorney for such district, an order requiring such individual to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, such order to become effective as provided in section 6002 of this chapter.

"(b) A United States attorney may, with the approval of the Attorney General, the Deputy Attorney General, or any designated Assistant Attorney General, request an order under subsection (a) of this section when in his judgment—

"(1) the testimony or other information from such individual may be necessary to the public interest; and

"(2) such individual has refused or is likely to refuse to testify or provide other information on the basis of his privilege against self-incrimination.

"§ 6004. Certain administrative proceedings

"(a) In the case of any individual who has been or who may be called to testify or provide other information at any proceeding before an agency of the United States other than the Department of Justice, the agency may issue, in accordance with subsection (b) of this section, an order requiring the individual to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, such order to become effective as provided in section 6002 of this chapter.

"(b) An agency of the United States may issue an order under subsection (a) of this section only if in its judgment—

"(1) the testimony or other information from such individual may be necessary to the public interest; and

"(2) such individual has refused or is likely to refuse to testify or provide other information on the basis of his privilege against self-incrimination.

The agency may issue such an order ten days after the day on which it served the Attorney General with notice of its intention to issue the order or upon approval of the Attorney General.

"§ 6005. Congressional proceedings

"(a) In the case of any individual who has been or may be called to testify or provide other information at any proceeding before either House of Congress, or any committee, or any subcommittee of either House, or any joint committee of the two Houses, a United States district court shall issue, in accordance with subsection (b) of this section, upon the request of a duly authorized representative of the House of Congress or the committee concerned, an order requiring such individual to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, such order to become effective as provided in section 6002 of this chapter.

"(b) Before issuing an order under subsection (a) of this section, a United States district court shall find that—

"(1) in the case of a proceeding before either House of Congress, the request for such an order has been approved by an affirmative vote of a majority of the Members present of that House;

"(2) in the case of a proceeding before a committee or a subcommittee of either House of Congress or a joint committee of both Houses, the request for such an order has been approved by an affirmative vote of two-thirds of the members of the full committee; and

"(3) ten days or more prior to the day on which the request for such an order was made, the Attorney General was served with notice of an intention to request the order.

"(c) Upon application of the Attorney General, the United States district court shall defer the issuance of any order under subsection (a) of this section for such period, not longer than twenty days from the date of the request for such order, as the Attorney General may specify."

(b) The table of parts for title 18, United States Code, is amended by adding at the end thereof the following new item:

"V. Immunity of Witness---------- 6001."

SEC. 202. The third sentence of paragraph (b) of section 6 of the Commodity Exchange Act (69 Stat. 160; 7 U.S.C. 15) is amended by striking "49 U.S.C. 12, 46, 47, 48, relating to the attendance and testimony of witnesses, the production of documentary evidence, and the immunity of witnesses" and by inserting in lieu thereof the following: "(49 U.S.C. § 12), relating to the attendance and testimony of witnesses and the production of documentary evidence,".

SEC. 203. Subsection (f) of section 17 of the United States Grain Standards Act (82 Stat. 768; 7 U.S.C. § 87f(f)), is repealed.

SEC. 204. The second sentence of section 5 of the Act entitled "An Act to regulate the marketing of economic poisons and devices, and for other purposes", approved June 25, 1947 (61 Stat. 168; 7 U.S.C. § 135c), is amended by inserting after "section", the following language: ", or any evidence which is obtained by the exploitation of information,".

SEC. 205. Subsection (f) of section 13 of the Perishable Agricultural Commodities Act, 1930 (46 Stat. 536; 7 U.S.C. § 499m(f)), is repealed.

SEC. 206. (a) Section 16 of the Cotton Research and Promotion Act (80 Stat. 285; 7 U.S.C. § 2115), is amended by striking "(a)" and by striking subsection (b).

(b) The section heading for such section 16 is amended by striking ": Self-Incrimination".

SEC. 207. Clause (10) of subsection (a) of section 7 of the Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States", approved July 1, 1898 (52 Stat. 847; 11 U.S.C. § 25(a)(10)), is amended by inserting after the first use of the term "testimony" the following language: ", or any evidence which is obtained by the exploitation of such testimony,".

SEC. 208. The fourth sentence of subsection (d) of section 10 of the Federal Deposit In-

surance Act (64 Stat. 882; 12 U.S.C. § 1820 (d)), is repealed.

SEC. 209. The seventh paragraph under the center heading "DEPARTMENT OF JUSTICE" in the first section of the Act of February 25, 1903 (32 Stat. 904; 15 U.S.C. § 32), is amended by striking ": Provided, That" and all that follows in that paragraph and inserting in lieu thereof a period.

SEC. 210. The Act of June 30, 1906 (34 Stat. 798; 15 U.S.C. § 33), is repealed.

SEC. 211. The seventh paragraph of section 9 of the Federal Trade Commission Act (38 Stat. 722; 15 U.S.C. § 49), is repealed.

SEC. 212. Subsection (d) of section 21 of the Securities Exchange Act of 1934 (48 Stat. 899; 15 U.S.C. § 78u(d)), is repealed.

SEC. 213. Subsection (c) of section 22 of the Securities Act of 1933 (48 Stat. 86; 15 U.S.C. § 77v(c)), is repealed.

SEC. 214. Subsection (e) of section 18 of the Public Utility Holding Company Act of 1935 (49 Stat. 831; 15 U.S.C. § 79r(e)), is repealed.

SEC. 215. Subsection (d) of section 42 of the Investment Company Act of 1940 (54 Stat. 842; 15 U.S.C. § 80a-41(d)), is repealed.

SEC. 216. Subsection (d) of section 209 of the Investment Advisers Act of 1940 (54 Stat. 853; 15 U.S.C. § 80b-9(d)), is repealed.

SEC. 217. Subsection (c) of section 15 of the China Trade Act, 1922 (42 Stat. 953; 15 U.S.C. § 155(c)), is repealed.

SEC. 218. Subsection (h) of section 14 of the Natural Gas Act (52 Stat. 828; 15 U.S.C. § 717m(h)), is repealed.

SEC. 219. The first proviso of section 12 of the Act entitled "An Act to regulate the interstate distribution and sale of packages of hazardous substances intended or suitable for household use," approved July 12, 1960 (74 Stat. 379; 15 U.S.C. § 1271), is amended by inserting after "section" the following language: ", or any evidence which is obtained by the exploitation of such information,".

SEC. 220. Subsection (e) of section 1415 of the Interstate Land Sales Full Disclosure Act (82 Stat. 596; 15 U.S.C. § 1714(e)), is repealed.

SEC. 21. Subsection (g) of section 307 of the Federal Power Act (49 Stat. 856; 16 U.S.C. § 825f(g)), is repealed.

SEC. 222. Subsection (b) of section 835 of title 18, United States Code, is amended by striking the third sentence thereof.

SEC. 223. (a) Section 895 of title 18 United States Code, is repealed.

(b) The table of sections of chapter 42 of such title is amended by striking the item relating to section 895.

SEC. 224. (a) Section 1406 of title 18, United States Code, is repealed.

(b) The table of sections of chapter 68 of such title is amended by striking the item relating to section 1406.

SEC. 225. Section 1954 of title 18, United States Code, is amended by striking "(a) Whoever" and inserting in lieu thereof "Whoever" and by striking subsection (b) thereof.

SEC. 226. The second sentence of subsection (b), section 2424, title 18, United States Code is amended by striking "but no person" and all that follows in that subsection and inserting in lieu thereof: "but no information contained in the statement or any evidence which is obtained by the exploitation of such information may be used against any person making such statement in any criminal case, except a prosecution for perjury, giving a false statement or otherwise failing to comply with this section."

SEC. 227. (a) Section 2514 of title 18, United States Code, is repealed effective four years after the effective date of this Act.

(b) The table of sections of chapter 119 of such title is amended by striking the item relating to section 2514.

SEC. 228. (a) Section 3486 of title 18, United States Code is repealed.

(b) The table of sections of chapter 223 of such title is amended by striking the item relating to section 3486.

SEC. 229. Subsection (e) of section 333 of the Tariff Act of 1930 (46 Stat. 699; 19 U.S.C. § 1333(e)), is amended by striking ": Provided, That" and all that follows in that subsection and inserting in lieu thereof a period.

SEC. 230. The first proviso of section 703 of the Federal Food, Drug and Cosmetic Act, approved June 25, 1938 (52 Stat. 1057; 21 U.S.C. § 373), is amended by inserting after "section" the following language: ", or any evidence which is obtained by the exploitation of such evidence,".

SEC. 231. (a) Section 4874 of the Internal Revenue Code of 1954 is repealed.

(b) The table of sections of part III of subchapter (D) of chapter 39 of such Code is amended by striking the item relating to section 4874.

SEC. 232. (a) Section 7493 of the Internal Revenue Code of 1954 is repealed.

(b) The table of sections of part III of subchapter (E) of chapter 76 of such Code is amended by striking the item relating to section 7493.

SEC. 233. (a) Subchapter (E) of chapter 75 of the Internal Revenue Code of 1954 is repealed.

(b) The table of subchapters for chapter 75 of the Internal Revenue Code of 1954 is amended by striking the item

"Subchapter E. . . . Immunity.'

SEC. 234. Paragraph (3) of section 11 of the Labor Management Relations Act, 1947 (49 Stat. 455; 29 U.S.C. § 161(3)), is repealed.

SEC. 235. The third sentence of section 4 of the Act entitled "An Act to provide that tolls on certain bridges over navigable waters of the United States shall be just and reasonable and for other purposes", approved August 21, 1935 (49 Stat. 671; 33 U.S.C. § 506), is repealed.

SEC. 236. Subsection (f) of section 205 of the Social Security Act (42 U.S.C. § 405(f)) is repealed.

SEC. 237. Paragraph (c) of section 161 of the Atomic Energy Act of 1954 (68 Stat. 948; 42 U.S.C. § 2201(c)), is amended by striking the third sentence thereof.

SEC. 238. The last sentence of the first paragraph of subparagraph (h) of the paragraph designated "Third" of section 7 of the Railway Labor Act (44 Stat. 582; 45 U.S.C. § 157), is repealed.

SEC. 239. Subsection (c) of section 12 of the Railroad Unemployment Insurance Act (52 Stat. 1107; 45 U.S.C. § 362(c), is repealed.

SEC. 240. Section 28 of the Shipping Act of 1916 (39 Stat. 737; 46 U.S.C. § 827), is repealed.

SEC. 241. Subsection (c) of section 214 of the Merchant Marine Act, 1936 (49 Stat. 1991; 46 U.S.C. § 1124(c)), is repealed.

SEC. 242. Subsection (i) of section 409 of the Communications Act of 1934 (48 Stat. 1096; 47 U.S.C. § 409(l)), is repealed.

SEC. 243. (a) The second sentence of section 9 of the Interstate Commerce Act (24 Stat. 382; 49 U.S.C. § 9), is amended by striking "; the claim" and all that follows in that sentence and inserting in lieu thereof a period.

(b) Subsection (a) of section 316 of the Interstate Commerce Act (54 Stat. 946; 49 U.S.C. § 916(a)) is amended by striking the comma following "part I" and by striking ", and the Immunity of Witnesses Act (34 Stat. 798; 32 Stat. 904, ch. 755, sec. 1),".

(c) Subsection (a) of section 417 of the Interstate Commerce Act (49 U.S.C. § 1017 (a)), is amended by striking the comma after "such provisions" and by striking ", and of the Immunity of Witnesses Act (34 Stat. 798; 32 Stat. 904, ch. 755, sec. 1),".

SEC. 244. The third sentence of section 3 of the Act entitled "An Act to further regulate Commerce with foreign nations and among the States", approved February 19, 1903 (32 Stat. 848; 49 U.S.C. § 43), is amended by striking "; the claim" and all that follows in that sentence down through and including "*Provided*, That the provisions" and inserting in lieu thereof ". The provisions".

SEC. 245. The first paragraph of the Act of February 11, 1893 (27 Stat. 443; 49 U.S.C. § 46), is repealed.

SEC. 246. Subsection (i) of section 1004 of the Federal Aviation Act of 1958 (72 Stat. 792; 49 U.S.C. § 1484(i)), is repealed.

SEC. 247. The ninth sentence of subsection (c) of section 13 of the Internal Security Act of 1950 (81 Stat. 798; 50 U.S.C. § 792(c)), is repealed.

SEC. 248. Section 1302 of the Second War Powers Act of 1942 (56 Stat. 185; 50 U.S.C. App. § 643a), is amended by striking the fourth sentence thereof.

SEC. 249. Paragraph (4) of subsection (a) of section 2 of the Act entitled "An Act to expedite national defense, and for other purposes", approved June 28, 1940 (54 Stat. 676; 50 U.S.C. App. § 1152(a)(4)), is amended by striking the fourth sentence thereof.

SEC. 250. Subsection (d) of section 6 of the Export Control Act of 1949 (63 Stat. 8; 50 U.S.C. App. § 2026 (b)) is repealed.

SEC. 251. Subsection (b) of section 705 of the Act of September 8, 1950, to amend the Tariff Act of 1930 (64 Stat. 816; 50 U.S.C. § 2155(b)), is repealed.

SEC. 252. In addition to the provisions of law specifically amended or specifically repealed by this title, any other provision of law inconsistent with the provisions of part V of title 18, United States Code (added by title II of this Act), is to that extent amended or repealed.

TITLE III—RECALCITRANT WITNESSES

SEC. 301. (a) Chapter 119, title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1826. Recalcitrant witnesses

"(a) Whenever a witness in any proceeding before or ancillary to any court or grand jury of the United States refuses without just cause shown to comply with an order of the court to testify or provide other information, including any book, paper, document, record, recording or other material, the court, upon such refusal, or when such refusal is duly brought to its attention, may summarily order his confinement at a suitable place until such time as the witness is willing to give such testimony or provide such information. No period of such confinement shall exceed the life of the court proceeding or of the term, including extensions, of the grand jury before which such refusal to comply with the court order occurred.

"(b) No person confined pursuant to subsection (a) of this section shall be admitted to bail pending the determination of an appeal taken by him from the order for his confinement, unless there is substantial possibility of reversal. Any appeal from an order of confinement under this section shall be disposed of as soon as practicable, but not later than 30 days from the filing of such appeal."

(b) The analysis of chapter 119, title 28, United States Code, is amended by adding at the end thereof the following new item:

"1826. Recalcitrant witnesses.".

SEC. 302. (a) The first paragraph of section 1073, chapter 49, title 18, United States Code, is amended by inserting "or (3) to avoid contempt proceedings for alleged disobedience of any lawful process requiring attendance and the giving of testimony or the production of documentary evidence before an agency of a State empowered by the law of such State to conduct investigations of alleged criminal activities," immediately after "is charged,".

(b) The second paragraph of section **1073,**

chapter 49, title 18, United States Code, is amended by inserting immediately after "held in custody or confinement" a comma and adding "or in which a contempt referred to in clause (3) of the first paragraph of this section is alleged to have been committed,".

TITLE IV—FALSE DECLARATIONS

SEC. 401. (a) Chapter 79, title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1623. False declarations before grand jury or court

"(a) Whoever under oath in any proceeding before or ancillary to any court or grand jury of the United States knowingly makes any materially false declaration or makes or uses any other information, including any book, paper, document, record, recording or other material, knowing the same to contain any materially false declaration, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

"(b) This section is applicable whether the conduct occurred within or without the United States.

"(c) An indictment or information for violation of this section alleging that the defendant under oath has made contradictory declarations material to the point in question in any proceeding before or ancillary to any court or grand jury of the United States, need not specify which declaration is false. In any prosecution under this section, the falsity of a declaration set forth in the indictment or information shall be established sufficient for conviction by proof that the defendant while under oath made manifestly contradictory declarations material to the point in question in any proceeding before or ancillary to any court or grand jury. Where the contradictory declarations are made in the same continuous court or grand jury proceeding, an admission by a person in that same continuous court or grand jury proceeding of the falsity of his contradictory declaration shall bar prosecution under this section if, at the time the admission is made, the false declaration has not substantially affected the proceeding, or it has not become manifest that such falsity has been or will be exposed.

"(d) Proof beyond a reasonable doubt under this section is sufficient for conviction. It shall not be necessary that such proof be made by any particular number of witnesses or by documentary or other type of evidence."

(b) The analysis of chapter 79, title 18, United States Code, is amended by adding at the end thereof the following new item:

"1623. False declarations before grand jury or court."

TITLE V—PROTECTED FACILITIES FOR HOUSING GOVERNMENT WITNESSES

SEC. 501. The Attorney General of the United States is authorized to provide for the security of Government witnesses, potential Government witnesses, and the families of Government witnesses and potential witnesses in legal proceedings against any person alleged to have participated in an organized criminal activity.

SEC. 502. The Attorney General of the United States is authorized to rent, purchase, or construct protected housing facilities and to otherwise offer to provide for the health, safety, and welfare of witnesses and persons intended to be called as Government witnesses, and the families of witnesses and persons intended to be called as Government witnesses in legal proceedings instituted against any person alleged to have participated in an organized criminal activity whenever, in his judgment, testimony from, or a willingness to testify by, such a witness would place his life or person, or the life or person of a member of his family or household, in jeopardy. Any person availing himself of an offer by the Attorney General to use such facilities may continue to use such facilities for as long as the Attorney General determines the jeopardy to his life or person continues.

SEC. 503. As used in this title, "Government" means the United States, any State, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof. The offer of facilities to witnesses may be conditioned by the Attorney General upon reimbursement in whole or in part to the United States by any State or any political subdivision, or any department, agency, or instrumentality thereof of the cost of maintaining and protecting such witnesses.

SEC. 504. There is hereby authorized to be appropriated from time to time such funds as are necessary to carry out the provisions of this title.

TITLE VI—DEPOSITIONS

SEC. 601. (a) Chapter 223, title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3503. Depositions to preserve testimony

"(a) Whenever due to exceptional circumstances it is in the interest of justice that the testimony of a prospective witness of a party be taken and preserved, the court at any time after the filing of an indictment or information may upon motion of such party and notice to the parties order that the testimony of such witness be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place. If a witness is committed for failure to give bail to appear to testify at a trial or hearing, the court on written motion of the witness and upon notice to the parties may direct that his deposition be taken. After the deposition has been subscribed the court may discharge the witness.

"(b) The party at whose instance a deposition is to be taken shall give to every party reasonable written notice of the time and place for taking the deposition. The notice shall state the name and address of each person to be examined. On motion of a party upon whom the notice is served, the court for cause shown may extend or shorten the time or change the place for taking the deposition. The officer having custody of a defendant shall be notified of the time and place set for the examination, and shall produce him at the examination and keep him in the presence of the witness during the examination. A defendant not in custody shall have the right to be present at the examination, but his failure, absent good cause shown, to appear after notice and tender of expenses shall constitute a waiver of that right and of any objection to the taking and use of the deposition based upon that right.

"(c) If a defendant is without counsel, the court shall advise him of his rights and assign counsel to represent him unless the defendant elects to proceed without counsel or is able to obtain counsel of his own choice. If it appears that a defendant cannot bear the expense of the taking of the deposition, the court may direct that the expenses of travel and subsistence of the defendant and his attorney for attendance at the examination shall be paid by the Government. In such event the marshal shall make payment accordingly.

"(d) A deposition shall be taken and filed in the manner provided in civil actions. On request or waiver by the defendant the court may direct that a deposition be taken on written interrogatories in the manner provided in civil actions. Such request shall constitute a waiver of any objection to the taking and use of the deposition based upon its being so taken.

"(e) The Government shall make available to the defendant for his examination and use at the taking of the deposition any statement of the witness being deposed which is in the possession of the Government and which the Government would be required to make available to the defendant if the witness were testifying at the trial.

"(f) Objections to receiving in evidence a deposition or part thereof may be made as provided in civil actions."

(b) The analysis of chapter 223, title 18, United States Code, is amended by adding at the end thereof the following new item:

"3503. Depositions to preserve testimony."

TITLE VII—LITIGATION CONCERNING SOURCES OF EVIDENCE

PART A—SPECIAL FINDINGS

SEC. 701. The Congress finds that (1) hearing and reviewing claims that evidence offered in proceedings was obtained by the exploitation of allegedly unlawful acts and is therefore inadmissible in evidence are major causes of undue expense and delay in the administration of justice and distract effort, time, and emphasis of Government officials and the public from fundamental issues; (2) present rules and practices of disclosure incident to hearing and reviewing such claims can and will unduly permit parties to obtain much information unrelated to such claims and otherwise privileged, inhibit communication by Government informants, endanger the lives and safety of such informants, Government agents and others, cause unjustified harm to reputations of third persons, compromise national security and other criminal and civil investigations, interfere with prosecutions and civil actions, impair Federal-State cooperation in law enforcement and endanger the security of the United States; (3) when such claims concern evidence of events occurring years after the allegedly unlawful acts, those consequences of litigation and disclosure are aggravated and the claims often cannot reliably be determined; and (4) when the allegedly unlawful act has occurred more than five years prior to the event in question, there is virtually no likelihood that the evidence offered to prove the event has been obtained by the exploitation of that allegedly unlawful act.

PART B—LITIGATION CONCERNING SOURCES OF EVIDENCE

SEC. 702. (a) Chapter 223, title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3504. Litigation concerning sources of evidence

"(a) In any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, or other authority of the United States, a State or a political subdivision thereof—

"(1) upon a claim, by a party aggrieved, that evidence is inadmissible because it is the primary product of an unlawful act or of lawful compulsion and grant of immunity, or because it was obtained by the exploitation of an unlawful act or of evidence given under lawful compulsion and grant of immunity, the opponent of the claim shall affirm or deny the occurrence of the alleged unlawful act or compulsion;

"(2) disclosure of information for a determination if evidence is inadmissible because it is the primary product of an unlawful act or of lawful compulsion and grant of immunity, or because it was obtained by the exploitation of an unlawful act or of evidence given under lawful compulsion and grant of immunity, shall not be required unless such information may be relevant to a pending claim of such inadmissibility and such disclosure is in the interest of justice; and

"(3) no claim shall be considered that evidence of an event is inadmissible on the ground that such evidence was obtained by the exploitation of an unlawful act or of evidence given under lawful compulsion and grant of immunity, if such event occurred more than five years after such allegedly unlawful act or compulsion.

"(b) As used in this section—

"(1) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States; and

"(2) 'unlawful act' means any act in violation of the Constitution or laws of the United States or any regulation or standard promulgated pursuant thereto."

(b) The analysis of chapter 223, title 18, United States Code, is amended by adding at the end thereof the following new item:

"3504. Litigation concerning sources of evidence."

SEC. 703. This title shall apply to all proceedings, regardless of when commenced, occurring after the date of its enactment. Paragraph (3) of subsection (a) of section 3504, chapter 223, title 18, United States Code, shall not apply to any proceeding in which all information to be relied upon to establish inadmissibility was possessed by the party making such claim and adduced in such proceeding prior to such enactment.

TITLE VIII—SYNDICATED GAMBLING

PART A—SPECIAL FINDINGS

SEC. 801. The Congress finds that (1) illegal gambling involves widespread use of, and has an effect upon, interstate commerce and the facilities thereof; (2) illegal gambling is dependent upon facilities of interstate commerce for such purposes as obtaining odds, making and accepting bets, and laying off bets; (3) money derived from or used in illegal gambling moves in interstate commerce or is handled through the facilities thereof; (4) paraphernalia for use in illegal gambling moves in interstate commerce; and (5) illegal gambling enterprises are facilitated by the corruption and bribery of State and local officials or employees responsible for the execution or enforcement of criminal laws.

PART B—OBSTRUCTION OF STATE OR LOCAL LAW ENFORCEMENT

SEC. 802. (a) Chapter 73, title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1511. Obstruction of State or local law enforcement

"(a) It shall be unlawful for two or more persons to participate in a scheme to obstruct the enforcement of the criminal laws of a State or political subdivision thereof, with the intent to facilitate an illegal gambling business, if—

"(1) one or more of such persons does any act to effect the object of such a scheme;

"(2) one or more of such persons is an official or employee, elected, appointed, or otherwise, who is responsible for the enforcement of criminal laws of such State or political subdivision; and

"(3) one or more of such persons participates in an illegal gambling business.

"(b) As used in this section—

"(1) 'illegal gambling business' means a gambling business which—

"(i) is a violation of the law of a State or political subdivision thereof;

"(ii) involves five or more persons who participate in the gambling activity; and

"(iii) has been or remains in operation for a period in excess of thirty days or has a gross revenue of $2,000 in any single day.

"(2) 'gambling' includes pool-selling, bookmaking, maintaining slot machines, roulette wheels, or dice tables, and conducting lotteries, policy, bolita or numbers games, or selling chances therein.

"(3) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(c) This section shall not apply to any bingo game, lottery, or similar game of chance conducted by an organization exempt from tax under paragraph (3) of subsection (c) of section 501 of the Internal Revenue Code of 1954, as amended, if no part of the gross receipts derived from such activity inures to the benefit of any private shareholder, member, or employee of such organization, except as compensation for actual expenses incurred by him in the conduct of such activity.

"(d) Whoever violates this section shall be punished by a fine of not more than $20,000 or imprisonment for not more than five years, or both."

(b) The analysis of chapter 73, title 18, United States Code, is amended by adding at the end thereof the following new item:

"1511. Obstruction of State or local law enforcement."

PART C—ILLEGAL GAMBLING BUSINESS

SEC. 803. (a) Chapter 95, title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1955. Prohibition of illegal gambling businesses

"(a) Whoever participates in an illegal gambling business shall be fined not more than $20,000 or imprisoned not more than five years, or both.

"(b) As used in this section—

"(1) 'illegal gambling business' means a gambling business which—

"(i) is a violation of the law of a State or political subdivision thereof;

"(ii) involves five or more persons who participate in the gambling activity; and

"(iii) has been or remains in operation for a period in excess of thirty days or has a gross revenue of $2,000 in any single day.

"(2) 'gambling' includes pool-selling, bookmaking, maintaining slot machines, roulette wheels or dice tables, and conducting lotteries, policy, bolita or numbers games, or selling chances therein.

"(3) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(c) For the purposes of this section, if it is found that a gambling business has five or more persons who participate in such business and such business operates for two or more successive days, the probability shall have been established that such business receives gross revenue in excess of $2,000 in any single day.

"(d) Any property, including money, used in violation of the provisions of this section may be seized and forfeited to the United States. All provisions of law relating to the seizure, summary and judicial forfeiture procedures, and condemnation of vessels, vehicles, merchandise, and baggage for violation of the customs laws; the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from such sale; the remission or mitigation of such forfeitures; and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to seizures and forfeitures incurred or alleged to have been incurred under the provisions of this section, insofar as applicable and not inconsistent with such provisions. Such duties as are imposed upon the collector of customs or any other person in respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the customs laws shall be performed with respect to seizures and forfeitures of property used or intended for use in violation of this section by such officers, agents, or other persons as may be designated for that purpose by the Attorney General.

"(e) This section shall not apply to any bingo game, lottery, or similar game of chance conducted by an organization exempt from tax under paragraph (3) of subsection (c) of section 501 of the Internal Revenue Code of 1954, as amended, if no part of the gross receipts derived from such activity inures to the benefit of any private shareholder, member, or employee of such organization except as compensation for actual expenses incurred by him in the conduct of such activity."

(b) The analysis of chapter 95, title 18, United States Code, is amended by adding at the end thereof the following new item:

"1955. Prohibition of illegal gambling businesses."

PART D—COMMISSION TO REVIEW NATIONAL POLICY TOWARD GAMBLING

ESTABLISHMENT

SEC. 804. (a) There is hereby established two years after the effective date of this Act a Commission on the Review of the National Policy Toward Gambling.

(b) The Commission shall be composed of fifteen members appointed as follows:

(1) four appointed by the President of the Senate from Members of the Senate, of whom two shall be members of the majority party, and two shall be members of the minority party;

(2) four appointed by the Speaker of the House of Representatives from Members of the House of Representatives, of whom two shall be members of the majority party, and two shall be members of the minority party; and

(3) seven appointed by the President of the United States from persons specially qualified by training and experience to perform the duties of the Commission, none of whom shall be officers of the executive branch of the Government.

(c) The President of the United States shall designate a Chairman from among the members of the Commission. Any vacancy in the Commission shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

(d) Eight members of the Commission shall constitute a quorum.

DUTIES

SEC. 805. (a) It shall be the duty of the Commission to conduct a comprehensive legal and factual study of gambling in the United States and existing Federal, State, and local policy and practices with respect to legal prohibition and taxation of gambling activities and to formulate and propose such changes in those policies and practices as the Commission may deem appropriate. In such study and review the Commission shall—

(1) review the effectiveness of existing practices in law enforcement, judicial administration, and corrections in the United States and in foreign legal jurisdictions for the enforcement of the prohibition and taxation of gambling activities and consider possible alternatives to such practices; and

(2) prepare a study of existing statutes of the United States that prohibit and tax gambling activities, and such a codification, revision or repeal thereof as the Commission shall determine to be required to carry into effect such policy and practice changes as it may deem to be necessary or desirable.

(b) The Commission shall make such interim reports as it deems advisable. It shall make a final report of its findings and recommendations to the President of the United States and to the Congress within the four-year period following the establishment of the Commission.

(c) Sixty days after the submission of its final report, the Commission shall cease to exist.

POWERS

SEC. 806. (a) The Commission or any duly authorized subcommittee or member thereof may, for the purpose of carrying out the provisions of this title, hold such hearings, sit and act at such times and places, administer

such oaths, and require by subpena or otherwise the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers and documents as the Commission or such subcommittee or member may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before such subcommittee or member. Subpenas may be issued under the signature of the Chairman or any duly designated member of the Commission, and may be served by any person designated by the Chairman or such member.

(b) In the case of contumacy or refusal to obey a subpena issued under subsection (a) by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, the district court, at the request of the Chairman of the Commission, shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a subcommittee or member thereof, there to produce evidence if so ordered, or there to give testimony touching the matter under inquiry. Any failure of any such person to obey any such order of the court may be punished by the court as a contempt thereof.

(c) The Commission shall be "an agency of the United States" under subsection (1), section 6001, title 18, United States Code for the purpose of granting immunity to witnesses.

(d) Each department, agency, and instrumentality of the executive branch of the Government including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman, on a reimbursable basis or otherwise, such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this title. The Chairman is further authorized to call upon the departments, agencies, and other offices of the several States to furnish, on a reimbursable basis or otherwise, such statistical data, reports, and other information as the Commission deems necessary to carry out its functions under this title.

COMPENSATION AND EXEMPTION OF MEMBERS

SEC. 807. (a) A member of the Commission who is a Member of Congress or a member of the Federal judiciary shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Commission.

(b) A member of the Commission who is not a Member of Congress or a member of the Federal Judiciary shall receive $100 per diem when engaged in the actual performance of duties vested in the Commission plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

STAFF

SEC. 808. (a) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an Executive Director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $100 a day for individuals.

(b) In making appointments pursuant to this subsection, the Chairman shall include among his appointments individuals determined by the Chairman to be competent social scientists, lawyers, and law enforcement officers.

EXPENSES

SEC. 809. There are hereby authorized to be appropriated to the Commission such sums as may be necessary to carry this title into effect.

PART E—GENERAL PROVISIONS

SEC. 810. Paragraph (c), subsection (1), section 2516, title 18, United States Code, is amended by adding "section 1511 (obstruction of State or local law enforcement)" after "section 1510 (obstruction of criminal investigations)," and by adding "section 1955 (prohibition of business enterprises of gambling)," after "section 1954 (offer, acceptance, or solicitation to influence operations of employee benefit plans),".

SEC. 811. No provision of this title indicates an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of a State or possession, or a political subdivision of a State or possession, on the same subject matter, or to relieve any person of any obligation imposed by any law of any State or possession, or a political subdivision of a State or possession.

TITLE IX—RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

SEC. 901. (a) Title 18, United States Code, is amended by adding immediately after chapter 95 thereof the following new chapter:

"Chapter 96.—RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

"Sec.
"1961. Definitions.
"1962. Prohibited racketeering activities.
"1963. Criminal penalties.
"1964. Civil remedies.
"1965. Venue and process.
"1966. Expedition of actions.
"1967. Evidence.
"1968. Civil investigative demand.

"§ 1961. Definitions

"As used in this chapter—

"(1) 'racketeering activity' means (A) any act or threat involving murder, kidnaping, gambling, arson, robbery, bribery, extortion, or dealing in narcotic or other dangerous drugs, which is chargeable under State law and punishable by imprisonment for more than one year; (b) any act which is indictable under any of the following provisions of title 18, United States Code: Section 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 472, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment), section 664 (relating to embezzlement from pension and welfare funds), sections 891–894 (relating to extortionate credit transactions), section 1084 (relating to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering paraphernalia), section 1954 (relating to unlawful welfare fund payments), section 1955 (relating to the prohibition of illegal gambling businesses), sections 2314 and 2315 (relating to interstate transportation of stolen property), sections 2421–24 (relating to white slave traffic), (C) any act which is indictable under title 29, United States Code, section 186 (dealing with restrictions on payments and loans to labor organizations) or section 501 (c) (relating to embezzlement from union funds), or (D) any offense involving bankruptcy fraud, fraud in the sale of securities, or the manufacture, importation, receiving, concealment, buying, selling or otherwise dealing in narcotic or other dangerous drugs, punishable under any law of the United States.

"(2) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any political subdivision, or any department, agency or instrumentality thereof;

"(3) 'person' includes any individual or entity capable of holding a legal or beneficial interest in property;

"(4) 'enterprise' includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity;

"(5) 'pattern of racketeering activity' requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter;

"(6) 'unlawful debt' means a debt (A) which is unenforceable under State or Federal law in whole or in part as to principal or interest because of the laws relating to gambling or usury, and (B) which was incurred in connection with the business of gambling or the business of lending money or a thing of value at a usurious rate, where the usurious rate is at least twice the permitted rate;

"(7) 'racketeering investigator' means any attorney or investigator so designated by the Attorney General and charged with the duty of enforcing or carrying into effect this chapter;

"(8) 'racketeering investigation' means any inquiry conducted by any racketeering investigator for the purpose of ascertaining whether any person has been involved in any violation of this chapter or of any final order, judgment, or decree of any court of the United States, duly entered in any case or proceeding arising under this chapter;

"(9) 'documentary material' includes any book, paper, document, record, recording, or other material; and

"(10) 'Attorney General' includes the Attorney General of the United States, the Deputy Attorney General of the United States, any Assistant Attorney General of the United States, or any employee of the Department of Justice or any employee of any department or agency of the United States so designated by the Attorney General to carry out the powers conferred on the Attorney General by this chapter. Any department or agency so designated may use in investigations authorized by this chapter either the investigative provisions of this chapter or the investigative power of such department or agency otherwise conferred by law.

"§ 1962. Prohibited activities

"(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this subsection if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any pattern or racketeering activity or the collection of an unlawful debt after such purchase do not amount in the aggregate to one percent of

the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

"(b) It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.

"(c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

"(d) It shall be unlawful for any person to conspire to violate any of the provisions of subsections (a), (b), or (c) of this section.

"(e) A violation of this section shall be deemed to continue so long as the person who committed the violation continues to receive any benefit from the violation.

"§ 1963. Criminal penalties

"(a) Whoever violates any provision of section 1962 of this chapter shall be fined not more than $25,000 or imprisoned not more than twenty years, or both, and shall forfeit to the United States (1) any interest he has acquired or maintained in violation of section 1962, and (2) any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over, any enterprise which he has established, operated, controlled, conducted, or participated in the conduct of, in violation of section 1962.

"(b) In any action brought by the United States under this section, the district courts of the United States shall have jurisdiction to enter such restraining orders or prohibitions, or to take such other actions, including, but not limited to, the acceptance of satisfactory performance bonds, in connection with any property or other interest subject to forfeiture under this section, as it shall deem proper.

"(c) Upon conviction of a person under this section, the court shall authorize the Attorney General to seize all property or other interest declared forfeited under this section upon such terms and conditions as the court shall deem proper. If a property right or other interest is not exercisable or transferable for value by the United States, it shall expire, and shall not revert to the convicted person. All provisions of law relating to the disposition of property, or the proceeds from the sale thereof, or the remission or mitigation of forfeitures for violation of the customs laws, and the compromise of claims and the award of compensation to informers in respect of such forfeitures shall apply to forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions hereof. Such duties as are imposed upon the collector of customs or any other person with respect to the disposition of property under the customs laws shall be performed under this chapter by the Attorney General. The United States shall dispose of all such property as soon as commercially feasible, making due provision for the rights of innocent persons.

"§ 1964. Civil remedies

"(a) The district courts of the United States shall have jurisdicton to prevent and restrain violations of section 1962 of this chapter by issuing appropriate orders, including, but not limited to: ordering any person to divest himself of any interest, direct or indirect, in any enterprise; imposing reasonable restrictions on the future activities or investments of any person, including, but not limited to, prohibiting any person from engaging in the same type of endeavor as the enterprise engaged in, the activities of which affect interstate or foreign commerce; or ordering dissolution or reorganization of any enterprise, making due provision for the rights of innocent persons.

"(b) The Attorney General may institute proceedings under this section. In any action brought by the United States under this section, the court shall proceed as soon as practicable to the hearing and determination thereof. Pending final determination thereof, the court may at any time enter such restraining orders or prohibitions, or take such other actions, including the acceptance of satisfactory performance bonds, as it shall deem proper.

"(c) A final judgment or decree rendered in favor of the United States in any criminal proceeding brought by the United States under this chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought by the United States.

"§ 1965. Venue and process

"(a) Any civil action or proceeding under this chapter against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs.

"(b) In any action under section 1964 of this chapter in any district court of the United States in which it is shown that the ends of justice require that other parties residing in any other district be brought before the court, the court may cause such parties to be summoned, and process for that purpose may be served in any judicial district of the United States by the marshal thereof.

"(c) In any civil or criminal action or proproceeding instituted by the United States under this chapter in the district court of the United States for any judicial district, subpenas issued by such court to compel the attendance of witnesses may be served in any other judicial district, except that in any civil action or proceeding no such subpena shall be issued for service upon any individual who resides in another district at a place more than one hundred miles from the place at which such court is held without approval given by a judge of such court upon a showing of good cause.

"(d) All other process in any action or proceeding under this chapter may be served on any person in any judicial district in which such person resides, is found, has an agent, or transacts his affairs.

§ 1966. Expedition of actions

"In any civil action instituted under this chapter by the United States in any district court of the United States, the Attorney General may file with the clerk of such court a certificate stating that in his opinion the case is of general public importance. A copy of that certificate shall be furnished immediately by such clerk to the chief judge or in his absence to the presiding district judge of the district in which such action is pending. Upon receipt of such copy, such judge shall designate immediately a judge of that district to hear and determine such action. The judge so designated shall assign such action for hearing as soon as practicable, participate in the hearings and determination thereof, and cause such action to be expedited in every way.

"§ 1967. Evidence

"In any proceeding ancillary to or in any civil action instituted by the United States under this chapter the proceedings shall be open to the public, and no order closing any such proceeding shall be made or enforced.

"§ 1968. Civil investigative demand

"(a) Whenever the Attorney General has reason to believe that any person or enterprise may be in possession, custody, or control of any documentary material relevant to a racketeering investigation, he may, prior to the institution of a civil or criminal proceeding thereon, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such, person to produce such material for examination.

"(b) Each such demand shall—

"(1) state the nature of the conduct constituting the alleged racketeering violation which is under investigation and the provision of law applicable thereto;

"(2) describe the class or classes of documentary material produced thereunder with such definiteness and certainty as to permit such material to be fairly identified;

"(3) state that the demand is returnable forthwith or prescribe a return date which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

"(4) identify the custodian to whom such material shall be made available.

"(c) No such demand shall—

"(1) contain any requirement which would be held to be unreasonable if contained in a subpena duces tecum issued by a court of the United States in aid of a grand jury investigation of such alleged racketeering violation; or

"(2) require the production of any documentary evidence which would be privileged from disclosure if demanded by a subpena duces tecum issued by a court of the United States in aid of a grand jury investigation of such alleged racketeering violation.

"(d) Service of any such demand or any petition filed under this section may be made upon a person by—

"(1) delivering a duly executed copy thereof any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such person, or upon any individual person;

"(2) delivering a duly executed copy thereof to the principal office or place of business of the person to be served; or

"(3) depositing such copy in the United States mail, by registered or certified mail duly addressed to such person at its principal office or place of business.

"(e) A verified return by the individual serving any such demand or petition setting forth the manner of such service shall be prima facie proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand.

"(f) (1) The Attorney General shall designate a racketeering investigator to serve as racketeer document custodian, and such additional racketeering investigators as he shall determine from time to time to be necessary to serve as deputies to such officer.

"(2) Any person upon whom any demand issued under this section has been duly served shall make such material available for inspection and copying or reproduction to the custodian designated therein at the principal place of business of such person, or at such other place as such custodian and such person thereafter may agree and prescribe in writing or as the court may direct, pursuant to this section on the return date specified in such demand, or on such later date as such custodian may prescribe in writing. Such person may upon written agreement between such person and the custodian substitute for copies of all or any part of such material originals thereof.

"(3) The custodian to whom any documentary material is so delivered shall take physical possession thereof, and shall be responsible for the use made thereof and for the return thereof pursuant to this chapter. The custodian may cause the preparation of such copies of such documentary material as may be required for official use

under regulations which shall be promulgated by the Attorney General. While in the possession of the custodian, no material so produced shall be available for examination, without the consent of the person who produced such material, by any individual other than the Attorney General. Under such reasonable terms and conditions as the Attorney General shall prescribe, documentary material while in the possession of the custodian shall be available for examination by the person who produced such material or any duly authorized representatives of such person.

"(4) Whenever any attorney has been designated to appear on behalf of the United States before any court or grand jury in any case or proceeding involving any alleged violation of this chapter, the custodian may deliver to such attorney such documentary material in the possession of the custodian as such attorney determines to be required for use in the presentation of such case or proceeding on behalf of the United States. Upon the conclusion of any such case or proceeding, such attorney shall return to the custodian any documentary material so withdrawn which has not passed into the control of such court or grand jury through the introduction thereof into the record of such case or proceeding.

"(5) Upon the completion of—

"(i) the racketeering investigation for which any documentary material was produced under this chapter, and

"(ii) any case or proceeding arising from such investigation,

the custodian shall return to the person who produced such material all such material other than copies thereof made by the Attorney General pursuant to this subsection which has not passed into the control of any court or grand jury through the introduction thereof into the record of such case or proceeding.

"(6) When any documentary material has been produced by any person under this section for use in any racketeering investigation, and no such case or proceeding arising therefrom has been instituted within a reasonable time after completion of the examination and analysis of all evidence assembled in the course of such investigation, such person shall be entitled, upon written demand made upon the Attorney General, to the return of all documentary material other than copies thereof made pursuant to this subsection so produced by such person.

"(7) In the event of the death, disability, or separation from service of the custodian of any documentary material produced under any demand issued under this section or the official relief of such custodian from responsibility for the custody and control of such material, the Attorney General shall promptly—

"(i) designate another racketeering investigator to serve as custodian thereof, and

"(ii) transmit notice in writing to the person who produced such material as to the identity and address of the successor so designated.

Any successor so designated shall have with regard to such materials all duties and responsibilities imposed by this section upon his predecessor in office with regard thereto, except that he shall not be held responsible for any default or dereliction which occurred before his designation as custodian.

"(g) Whenever any person fails to comply with any civil investigative demand duly served upon him under this section or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the Attorney General may file in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section, except that if such person transacts business in more than one such district such petition shall be filed in the district in which such person maintains his principal place of business, or in such other district in which such person transacts business as may be agreed upon by the parties to such petition.

"(h) Within twenty days after the service of any such demand upon any person, or at any time before the return date specified in the demand, whichever period is shorter, such person may file, in the district court of the United States for the judicial district within which such person resides, is found, or transacts business, and serve upon such custodian a petition for an order of such court modifying or setting aside such demand. The time allowed for compliance with the demand in whole or in part as deemed proper and ordered by the court shall not run during the pendency of such petition in the court. Such petition specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of such demand to comply with the provisions of this section or upon any constitutional or other legal right or privilege of such person.

"(i) At any time during which any custodian is in custody or control of any documentary material delivered by any person in compliance with any such demand, such person may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian a petition for an order of such court requiring the performance by such custodian of any duty imposed upon him by this section.

"(j) Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section."

(b) The table of contents of part I, title 18, United States Code, is amended by adding immediately after

"95. Racketeering----------1951"

the following new item:

"96. Racketeer Influenced and Corrupt Organizations ----------1961"

SEC. 902. (a) Paragraph (c), subsection (1), section 2516, title 18, United States Code, is amended by inserting at the end thereof between the parenthesis and the semicolon ", section 1963 (violations with respect to racketeer influenced and corrupt organizations)".

(b) Subsection (3), section 2517, title 18, United States Code, is amended by striking "criminal proceedings in any court of the United States or of any State or in any Federal or State grand jury proceeding" and inserting in lieu thereof "proceeding held under the authority of the United States or of any State or political subdivision thereof".

SEC. 903. The third paragraph, section 1505, title 18, United States Code, is amended by inserting "or section 1968 of this title" after "Act" and before "willfully".

SEC. 904 (a) The provisions of this title shall be liberally construed to effectuate its remedial purposes.

(b) Nothing in this title shall supersede any provision of Federal, State, or other law imposing criminal penalties or affording civil remedies in addition to those provided for in this title.

(c) Nothing contained in this title shall impair the authority of any attorney representing the United States to—

(1) lay before any grand jury impaneled by any district court of the United States any evidence concerning any alleged racketeering violation of law;

(2) invoke the power of any such court to compel the production of any evidence before any such grand jury; or

(3) institute any proceeding to enforce any order or process issued in execution of such power or to punish disobedience of any such order or process by any person.

TITLE X—DANGEROUS SPECIAL OFFENDER SENTENCING

SEC. 1001. (a) Chapter 227, title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 3575. Increased sentence for dangerous special offenders

"(a) Whenever an attorney charged with the prosecution of a defendant in a court of the United States for an alleged felony committed when the defendant was over the age of twenty-one years has reason to believe that the defendant is a dangerous special offender such attorney, a reasonable time before trial or acceptance by the court of a plea of guilty or nolo contendere, may sign and file with the court, and may amend, a notice (1) specifying that the defendant is a dangerous special offender who upon conviction for such felony is subject to the imposition of a sentence under subsection (b) of this section, and (2) setting out with particularity the reasons why such attorney believes the defendant to be a dangerous special offender. In no case shall the fact that the defendant is alleged to be a dangerous special offender be an issue upon the trial of such felony or in any manner be disclosed to the jury.

"(b) Upon any plea of guilty or nolo contendere or verdict or finding of guilty of the defendant of such felony, the court shall, before sentence is imposed, hold a hearing before the court alone. The court shall fix a time for the hearing, and notice thereof shall be given to the defendant and the United States at least ten days prior thereto. In connection with the hearing, the defendant and the United States shall be informed of the substance of such parts of the presentence report as the court intends to rely upon, except where there are placed in the record compelling reasons for withholding particular information, and shall be entitled to assistance of counsel, compulsory process, and cross-examination of such witnesses as appear at the hearing. A duly authenticated copy of a former judgment or commitment shall be prima facie evidence of such former judgment or commitment. If it appears by a preponderance of the information, including information submitted during the trial of such felony and the sentencing hearing and so much of the presentence report as the court relies upon, that the defendant is a dangerous special offender, the court shall sentence the defendant to imprisonment for a term not to exceed thirty years. Otherwise it shall sentence the defendant in accordance with the law prescribing penalties for such felony. The court shall place in the record its findings, including an identification of the information relied upon in making such findings, and its reasons for the sentence imposed.

"(c) This section shall not prevent the imposition and execution of a sentence of death or of imprisonment for life or for a term exceeding thirty years upon any person convicted of an offense so punishable.

"(d) Notwithstanding any other provision of this section, the court shall not sentence a dangerous special offender to less than any mandatory minimum penalty prescribed by law for such felony.

"(e) A defendant is a special offender for purposes of this section if—

"(1) on two or more previous occasions the defendant has been convicted in a court of the United States, a State, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, any political subdivision, or any department, agency or instrumentality thereof for an offense punishable in such court by death or imprisonment in excess of one year, and for one or more of such convictions the

defendant has been imprisoned prior to the commission of such felony; or

"(2) the defendant committed such felony as part of a pattern of conduct which was criminal under applicable laws of any jurisdiction, which constituted a substantial source of his income, and in which he manifested special skill or expertise; or

"(3) such felony was, or the defendant committed such felony in furtherance of, a conspiracy with three or more other persons to engage in a pattern of conduct criminal under applicable laws of any jurisdiction, and the defendant did, or agreed that he would, initiate, organize, plan, finance, direct, manage, or supervise all or part of such conspiracy or conduct, or give or receive a bribe or use force as all or part of such conduct.

A conviction shown to be invalid or for which the defendant has been pardoned on the ground of innocence shall be disregarded for purposes of paragraph (1) of this subsection. In determining under paragraph (1) of this subsection whether the defendant has been convicted on two more previous occasions, conviction for offenses charged in separate counts of a single charge or pleading, or in separate charges or pleadings tried in a single trial, shall be deemed to be conviction on a single occasion. In support of findings under paragraph (2) of this subsection, it may be shown that the defendant has had in his own name or under his control income or property not explained as derived from a source other than such conduct.

"(f) A defendant is dangerous for purposes of this section if a period of confinement longer than that provided for such felony is required for the protection of the public from further criminal conduct by the defendant.

"(g) The time for taking an appeal from a conviction for which sentence is imposed after proceedings under this section shall be measured from imposition of the original sentence.

"§ 3576. Review of sentence

"With respect to any sentence imposed on the defendant after proceedings under section 3575, a review may be taken by the defendant or the United States or both to a court of appeals. Any review by the United States shall be taken at least five days before expiration of the time for taking a review or appeal by the defendant and shall be diligently prosecuted. The sentencing court may, with or without motion and notice, extend the time for taking a review for a period not to exceed thirty days from the expiration of the time otherwise prescribed by law. The court shall not extend the time for taking a review by the United States after the time has expired. A court extending the time for taking a review by the United States shall extend the time for taking a review or appeal by the defendant for the same period. The court of appeals may, after considering the record, including the presentence report, information submitted during the trial of such felony and the sentencing hearing, and the findings and reasons of the sentencing court, affirm the sentence, impose or direct the imposition of any sentence which the sentencing court could originally have imposed, or remand for further sentencing proceedings and imposition of sentence, except that a sentence may be increased or otherwise changed to the disadvantage of the defendant only on review taken by the United States and after hearing. Any withdrawal of review taken by the United States shall foreclose change to the disadvantage but not change to the advantage of the defendant. Any review taken by the United States may be dismissed on a showing of abuse of the right of the United States to take such review.

"§ 3577. Use of information for sentencing

"No limitation shall be placed on the information concerning the background, character and conduct of a person convicted of an offense which a court of the United States may receive and consider for the purpose of imposing an appropriate sentence.

"§ 3578. Conviction records

"(a) There is established within the Federal Bureau of Investigation of the Department of Justice a central repository for written judgments of conviction.

"(b) Upon the conviction of a defendant in a court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, any political subdivision, or any department, agency or instrumentality thereof for an offense punishable in such court by death or imprisonment in excess of one year, the court shall cause to be affixed to a copy of the written judgment of conviction the fingerprints of the defendant together with certification by the court that the copy is a true copy of the written judgment of conviction and that the fingerprints are those of the defendant, and shall cause the copy to be forwarded to the central repository.

"(c) Copies maintained in the central repository shall not be public records. Attested copies thereof—

"(1) may be furnished for law enforcement purposes on request of a court or law enforcement or corrections officer of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, any political subdivision, or any department, agency or instrumentality thereof;

"(2) may be furnished for law enforcement purposes on request of a court or law enforcement or corrections officer of a State, any political subdivision, or any department, agency or instrumentality thereof, if a statute of such State requires that, upon the conviction of a defendant in a court of the State or any political subdivision thereof for an offense punishable in such court by death or imprisonment in excess of one year, the court cause to be affixed to a copy of the written judgment of conviction the fingerprints of the defendant together with certification by the court that the copy is a true copy of the written judgment of conviction and that the fingerprints are those of the defendant, and cause the copy to be forwarded to the central repository; and

"(3) shall be admissible in any court of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, any political subdivision, or any department, agency, or instrumentality thereof."

(b) The analysis of chapter 227, title 18, United States Code, is amended by adding at the end thereof the following new items:

"3575. Increased sentence for dangerous special offenders.
"3576. Review of sentence.
"3577. Use of information for sentencing.
"3578. Conviction records."

SEC. 1002. Section 3148 chapter 207, title 18, United States Code, is amended by adding "or sentence review under section 3576 of this title" immediately after "sentence".

TITLE XI—GENERAL PROVISIONS

SEC. 1101. If the provisions of any part of this Act or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

PRIVILEGE OF THE FLOOR

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the following members of the staff of the Subcommittee on Criminal Laws and Procedures be allowed on the floor of the Senate for the duration of the consideration of S. 30: G. Robert Blakey, Emon A. Mahoney, and Russell M. Coombs.

Mr. HRUSKA. Mr. President, may we add the names of Wallace Johnson and Dan Wherry on behalf of the minority members of the Senate?

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

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the committee amendment to S. 30 in the nature of a substitute be agreed to, and that the bill as thus amended be considered as original text for the purpose of amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McCLELLAN. Mr. President, this is an important measure. It is quite lengthy. It has 11 separate titles, 10 of which are substantive. The measure deals with several vital aspects of our law enforcement machinery, and it is designed to strengthen and improve the evidence-gathering process in the field of organized crime and racketeering.

In view of what I conceive to be the importance of this measure, I shall discuss these various titles somewhat comprehensively in my remarks this afternoon. I do so because it is my hope—and I trust this is not a vain hope—that this measure will, on final passage, be unanimously approved by the Senate. I say this because this bill has been processed with most meticulous care, with consultations with most competent sources. I think I know the Members of this body—and, I believe, every Member of the Senate—want to enact whatever legislation is necessary to strengthen the arm of the law and law enforcement in this country, so that society may be protected, the impositions of organized criminals will not be placed on our people, and the streets of our communities may at least be made comparatively safe again someday.

At the outset, I ask unanimous consent that I may have printed in the RECORD at this point a brief synopsis of the bill.

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

SYNOPSIS OF S. 30

TITLE I—GRAND JURY

Sets up a special grand jury to sit for extended terms, insulated from improper judicial influence and authorized, subject to careful safeguards, to issue grand jury reports.

TITLE II—IMMUNITY

Authorizes the grant of legislative, administrative and judicial immunity to obtain testimony over objections of self-incrimination.

TITLE III—RECALCITRANT WITNESSES

Provides for civil contempt proceedings to deal with recalcitrant witnesses.

TITLE IV—FALSE DECLARATIONS

Eliminates outmoded evidentiary and pleading restrictions (two-witness, direct evidence and contradictory statements rules) in prosecutions of those who give false testimony in grand jury or court proceedings.

TITLE V—WITNESS FACILITIES

Extends to organized crime witnesses and families physical facilities in which they may be protected.

TITLE VI—DEPOSITIONS

Makes possible, subject to constitutional protections, depositions from witnesses in danger of reprisal by organized crime.

TITLE VII—REGULATION OF LITIGATION CONCERNING SOURCES OF EVIDENCE

Sets aside Supreme Court's decision in *Alderman* v. *United States*, giving criminal defendants direct access to government files and establishes instead a court review procedure. Provides also for "statute of limitations" on suits alleging unlawful governmental conduct.

TITLE VIII—SYNDICATED GAMBLING

Makes bribery in connection with illegal gambling business affecting interstate commerce unlawful. In addition, prohibits the illegal gambling business affecting interstate commerce itself.

TITLE IX—CORRUPT ORGANIZATIONS

Prohibits infiltration of legitimate organizations by racketeers or proceeds of racketeering activities where interstate commerce is affected. Authorizes civil remedies comparable to anti-trust to prevent violation of law by divestiture dissolution or reorganization.

TITLE X—SPECIAL OFFENDER SENTENCING

Provides for imposition of increased punishment (up to 30 years) for convicted "habitual" criminals, "professional" criminals and "organized crime" leaders.

Mr. McCLELLAN. Mr. President, more than 3,000 years ago, an Egyptian king caused to be made a survey of the resources of his kingdom, in which he recorded with pride his achievements. One passage in the survey discloses to us his ideas of the fundamentals by which the soundness of a system of criminal justice might be tested:

I made the land safe so that even a lone woman could go on her way freely and none would molest her.

I rescued the humble from their oppressors.

I made every man safe in his home.

I preserved the lives of those who sought my court of justice.

The people were well content under my rule. (Quoted in *The Illinois Crime Survey* at 5 (1929).)

Just 8 months ago, the President of this great Nation forwarded to the Congress his "Message on Organized Crime," in which he tragically observed:

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 fradulent 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. (Doc. No. 91–105, House of Representatives 91st Con., 1st Sess. at 1–2 (1969).)

Mr. President, it is with these sobering contrasts in mind that we should begin debate today on S. 30, the Organized Crime Control Act of 1969, a debate which is the culmination of a year of detailed study, hearings, and consultations, and a result of one of the most thoroughly gratifying bipartisan efforts in which I have participated since coming to the Senate.

The process had its start on January 15, 1969, when, along with my distinguished colleagues, the Senators from Nebraska (Mr. HRUSKA), North Carolina (Mr. ERVIN), and Alabama (Mr. ALLEN), I introduced S. 30, the "Organized Crime Control Act." It continued though the introduction of seven other bills designed to deal with organized crime, which now appear with revisions in the 10 substantive titles of S. 30. Senators EASTLAND (S. 2022), MUNDT (S. 2022), ERVIN (S. 30 and S. 2122), HRUSKA (S. 30, S. 1623, S. 1861, S. 2022, S. 2122 and S. 2292) and TYDINGS (S. 975 and 976) and the late Senator Dirksen (S. 2022) joined me in introducing some of these measures or introduced other bills that are now reflected in S. 30.

President Nixon, of course, added strength to our efforts to develop this legislation with his "Message on Organized Crime," of April 23, last year, in which he observed:

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 have 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 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 the State and local governments. (Doc. No. 91–105, House of Representatives, 91st Cong., 1st Sess., at 2 (1969).)

Extensive hearings were begun in March and continued in June, and gradually the various bills were worked into S. 30 to form an integrated, comprehensive organized crime control measure. The subcommittee solicited the views of experts and interested organizations and worked closely with the Department of Justice. Indeed, the Department was most helpful and made a number of valuable suggestions that have now been incorporated in the bill.

Mr. President, the product of this process is a bill which has been carefully drafted to cure a number of debilitating defects in the evidence-gathering process in organized crime investigations, to circumscribe defense abuse of pretrial proceedings, to broaden Federal jurisdiction over syndicated gambling and its corruption where interstate commerce is affected, to attack and to mitigate the effects of racketeer infiltration of legitimate organizations affecting interstate commerce, and to make possible extended terms of incarceration for the dangerous offenders who prey on our society. In addition, the bill incorporates the best of the recommendations of the President's Crime Commission, the National Commission on Reform of Federal Criminal Laws, the American Bar Association Project on Minimum Standards of Criminal Justice, the Model Penal Code, the Model Sentencing Act, and witnesses who represented the National Council on Crime and Delinquency, the Association of Federal Investigators, the New York County Lawyers Association, the American Civil Liberties Union, the New York State Commission of Investigations, the National Association of Counties and the New York State Bar Association. The bill has been endorsed in principle by such diverse groups as the National Chamber of Commerce and the International Association of Chiefs of Police. I am pleased to say, too, that the Department of Justice now supports each and every title of S. 30 as reworked and amended in the subcommittee and the full committee. This bill embodies, in short, what the committee believes is the most appropriate response that this Congress can make to the special challenge that organized crime poses to the well-being of our Nation.

Mr. President, the Attorney General, in his testimony before the subcommittee, aptly observed:

Too few Americans appreciate the dimensions of the problem of organized crime; its impact on all America, and what must be done to reduce—and ultimately eradicate—its sinister and erosive effects. (Hearings at 107–08.)

Mr. President, America has had to contend with some form of organized crime since the founding of our Republic. Nevertheless, it has only been in this last half century that these criminal groupings have begun seriously to threaten the very integrity of our Nation and the well-being of such large segments of our people.

"Organized crime groups," the President's Crime Commission observed in 1967, "are known to operate in all sections of the Nation." (The Challenge of Crime in a Free Society, Report on the President's Commission on Law Enforcement and Administration of Justice at 171 (1967).) The most influential of these groups, the 26 families of La Cosa Nostra, estimated to have a total membership of some 3,000 to 5,000, operate, however, primarily in New York, New Jersey, Illinois, Florida, Louisiana, Michigan, Pennsylvania, and Rhode Is-

land. The internal organization of these families is patterned after the ancient Mafia groups of Sicily. They are, however, more than mere criminal cartels. The final report of the Permanent Subcommittee on Investigation's examination into the internal structure of organized crime put it this way:

> There exists in the United States today a criminal organization that is directly descended from and is patterned upon the centuries-old Sicilian terrorist society, the Mafia. This organization, also known as Cosa Nostra, operates vast illegal enterprises that produce an annual income of many billions of dollars. This combine has so much power and influence that it may be described as a private government of organized crime. (S. Rept. No. 72, *Organized Crime and Illicit Traffic in Narcotics*, 85th Cong., 1st Sess., at 117 (1965).)

These groups are chiefly active in syndicated gambling, the importation, and distribution of narcotics, and loan sharking, each an offense which is parasitic, corrupting, and predatory in character. Economically, the price tag of organized crime may be conservatively put at twice that of all other crime combined.

Organized crime groups, moreover, have not confined their villainy to traditional criminal endeavors, but have increasingly undertaken to subvert legitimate businesses and unions. For example, a leading young union leader—and founder of the new Independent Party in New York City—was identified in the subcommittee hearings by the Department of Justice as a captain in the Gambino "family."—Hearings at 127. More important, these criminals have, in some localities, established corrupt alliances within the processes of our democratic society: with the police, prosecutors, courts, and legislatures.

All of this is, of course, disturbing. But the most serious aspect of the challenge that organized crime poses to our society is the degree to which its members have succeeded in placing themselves above the law. Since 1960, the date meaningful statistics began to be collected, the combined efforts of the various Federal investigative agencies have resulted in only 235 indictments involving 328 defendants identified as members of La Cosa Nostra. These leaders, moreover, have been notoriously successful in "getting off" even in those relatively few cases in which the evidence has warranted the prosecution. Our studies indicate that members of La Cosa Nostra have obtained dismissal or acquittal on the charges leveled against them more than twice as often, for their numbers, as ordinary offenders: 69.7 percent as against 34.8 percent—See CONGRESSIONAL RECORD, page 34389, November 17, 1969. Indeed 17.6 percent of the group of La Cosa Nostra defendants we studied—representing the leadership structure of key families—were able to obtain acquittals or dismissals of cases against them five or more times each. The final report in 1965 of the Permanent Subcommittee on Investigations' examinations into organized crime and narcotics summed it up this way:

> The crime leaders are experienced, resourceful, and shrewd in evading and dissipating the effects of established procedures in law enforcement. Their operating methods, carefully and cleverly evolved during several decades of this century, generally are highly effective foils against diligent police efforts to obtain firm evidence that would lead to prosecution and conviction.
>
> The crime chieftains, for example, have developed the process of "insulation" to a remarkable degree. The efficient police forces in a particular area may well be aware that a crime leader has ordered a murder, or is an important trafficker in narcotics, or controls an illegal gambling network, or extorts usurious gains from "shylocking" ventures. Convicting him of his crimes, however, is usually extremely difficult and sometimes is impossible, simply because the top-ranking criminal has taken the utmost care to insulate himself from any apparent physical connection with the crime or with his hireling who commits it. (Report at 2.)

Mr. President, this intolerable degree of immunity from legal accountability must be put to an end. No civilized society can long permit the operation within it of an underworld organization as powerful and as immune from social accountability as La Cosa Nostra. The success story of this group is symbolic of the breakdown of law and order increasingly characteristic of our society. To hold the allegiance of the now law-abiding, society must show each man that no man is above the law. The loopholes through which the leaders of organized crime now escape the processes of our law must be closed. Justice and public safety demand no less, and it is to this end that S. 30 has been carefully drafted.

Mr. President, I have referred to the fact that this bill has 11 titles, and I shall now proceed briefly to discuss the separate titles of the bill.

TITLE I—SPECIAL GRAND JURY

Mr. President, title I of S. 30 establishes special grand juries in the major metropolitan areas of our Nation lying in judicial districts having in excess of 4 million in population. This would include these districts: Massachusetts, eastern and southern district of New York, New Jersey, eastern and western district of Pennsylvania, southern district of Florida, eastern district of Michigan, northern and southern district of Ohio, northern district of Illinois, and the northern and southern districts of California. Where the Attorney General determines a need in other locations, special grand juries may also be convened on a case-by-case basis. These grand juries are required to meet at least once each 18-month period. All grand juries are broad based in composition under present law; special grand juries will also elect their foreman and deputy foreman, as is currently the petit jury practice. To insure that there is no arbitrary hampering of grand jury efforts, the jury is given the right to seek review of any dispute between the jury and the judge or the prosecutor.

Mr. President, I believe that the history of our Nation, and of other nations, reveals that a government which is deprived of the support of its citizens cannot effectively combat activity which is deemed criminal. These grand juries, selected at random from the community, and free of external or internal pressures, will be properly regarded as objective citizenry in their evaluation of criminal activities in their community. They, of course, will be guided by the prosecutor in their investigations, and their findings will be subject to review by the judge, but the grand jury will not be controlled. They are empowered to report their findings on the standing of their community with respect to organized crime and official corruption and misbehavior. They will be empowered to make suggestions for legislative and executive measures which will alleviate these community problems, thus passing on the benefit of their investigations.

Mr. President, who can be more qualified to evaluate the problems of drug traffic in the ghettos than the citizen who is exposed to this depravity on a daily basis? I do not believe that we can stop the drug traffic or solve any other problem associated with organized crime without the cooperation and participation of those who are the victims of the criminal activity.

The reporting functions of the grand jury in title I are a revival of the grand jury reporting powers which were a reason for the creation of the grand jury in England. Originally, the grand jury was an administrative device to keep the King in touch with the state of affairs in each community, and to insure that his officials performed their functions correctly, as well as a means of accusing those who violated the King's peace. This was and is citizen participation in government at its most basic level. As we are all aware, the difficulty of a central government in evaluating the needs and problems of local communities are as great today as they have ever been.

Grand jury report powers, although a revival in our present Federal system, have been retained from common law or statutorily enacted in several of our States. Their effectiveness as an instrument of reform was affirmed at our hearings by Frank S. Hogan, District Attorney of New York County. Mr. Hogan set out several examples of grand jury reports, and evaluated these reports as follows:

> Since 1947, some 20 reports have been submitted by various grand juries of New York County disclosing either the noncriminal misconduct of public officers or the existence of conditions in public agencies or areas of public interest which required corrective legislative or administrative action. I cite a few instances of the exercise of this grand jury power which, I believe, demonstrate its effectiveness. (Hearings at 353–54.)

I have obtained copies of reports from New Jersey and elsewhere. On December 5, 1969, for example, I placed a copy of a New Jersey report in the RECORD—page 37195—so that each Member of this body could observe the work product of such a grand jury. At that time, I pointed out that the reports authorized by title I would be subject to even greater restrictions than those now obtaining in New Jersey. I believe, in short, that in title I we have fairly balanced the public need for disclosure with the individual's need for anonymity.

Mr. President, objections were voiced in our hearings and have been voiced on this floor to restoring to Federal Grand Juries these needed powers. These objections are not new. Indeed, they have been cogently analyzed and refuted before, particularly in the context of the enactment of the New York grand jury statute, on which title I is based. On December 18, 1969, I inserted in the RECORD—page 39908—a most scholarly article from the Columbia Law Review which effectively takes up and answers each of these objections. I commend this article to this body once again. Here, however, I think it necessary to do no more than quote the position of the Department of Justice on title I:

The principal objections to the use of grand jury reports seem to be that they violate the traditional secrecy of grand jury proceedings, they expose grand jurors to libel actions, they violate the principle of separation of powers, and, perhaps most importantly, they charge wrongdoing while effectively denying the use of a judicial forum in which to reply. Upon close examination, the first three of these reasons do not appear to have much merit. The problem of secrecy under Rule 6(e) of the Federal Rules of Criminal Procedure may, of course, be solved by statutory amendment. There is in fact already ample precedent under Rule 6(e) for violation of grand jury secrecy when the general welfare requires it. See, for example, *In Re Petition for Disclosure of Evidence Before October 1959 Grand Jury*, 184 F. Supp. 38 (E.D. Va. 1960), where Federal grand jury minutes were made available to a Commonwealth attorney for use in State grand jury proceedings.

The libel objection can perhaps be discounted as the least troublesome since, in light of recent Supreme Court decisions on this subject, grand jurors actions in this regard are undoubtedly privileged.

The argument that the grand jury reports contravene the principle of separation of powers proceeds on the theory that the grand jury, being an appendage of the court, should not invade the province of the legislative or executive branches and charge them with misconduct or inefficiency. This argument loses much of its force, however, when it is considered that historically the grand jury has for centuries exercised both the reporting and indicting functions, and the exercise of its reporting function is logically no more violative of the separation of powers principle than is the indictment of a governmental official for criminal conduct in the performance of his duties. In criticizing public officers and calling for improvements in the legislative and executive branches, moreover, the grand jury performs a function analogous to the courts function when it notes statutory defects and suggests that the legislature consider amendment. As New Jersey's late Chief Justice Arthur T. Vanderbilt observed, success of the separation of powers doctrine depends to some extent on the interaction and cooperation of the arms of Government, not on their total isolation from each other. See Vanderbilt, *The Doctrine of the Separation of Powers and Its Present Day Significance*, 43–45 (1953).

Finally, on this point, it may be observed that since so much of Title I changes the basic character of the grand jury that in effect it is no longer merely an arm of the court, but a more independent body, the separation of powers argument is no longer a valid objection.

Perhaps the most serious objection to grand jury reports is the charge that they are essentially lacking in fairness since they make a charge of wrongdoing but deny the "accused" a judicial forum in which to reply. In an attempt to meet this criticism, the New York legislature enacted a statute, New York Code of Criminal Procedure, section 253-a, effective July 1, 1964, which contains elaborate safeguards such as allowing a named individual an opportunity to testify before the grand jury and file an answer prior to the filing of a report, as well as allowing an appeal to a higher court before filing. The constitutionality of this New York statute was upheld in *In Re Grand Jury, January 1967*, 277 N.Y.S. 2d 105 (1967).

Since the present proposal is almost word for word identical in its substantive provisions with the New York statute, we feel that it meets the necessary test of fairness against the charge that it makes an accusation without providing an adequate judicial forum for a denial.

In sum then, we believe this revival of the grand jury's historical report making power, as narrowly circumscribed in this proposal, is constitutionally sound and we support it as being in the interest of good and effective government. (Hearings at 368–69.)

Mr. President, the public is becoming increasingly aware of the problem posed by organized crime in our Nation. The President's Crime Commission noted in early 1967 that:

All available data indicate that organized crime flourishes only where it has corrupted local officials. (Report at 191.)

Numerous public and private organizations have since expressed agreement with this statement, including the Attorney General as recently as December 10, 1969, in commenting to the press on the recent shocking events in the State of New Jersey. We all know of our own knowledge that any criminal situation in this country can only exist where either the community supports its existence or the community lacks effective weapons to combat its existence.

The President's Crime Commission went on to recommend the establishment of investigative grand juries to combat organized crime. A means of preventing official interference with the juries and a grant of the report power were also recommended. We have taken these broad recommendations and refined them to produce the present title I.

Title I would also bring within the protection of 18 U.S.C. § 3500, grand jury minutes. Presently, uniform statutory rules govern the pretrial discovery of witness' statements in criminal cases. Grand jury statements, however, are not included within these rules, and diverse practices have developed. Title I would bring the practices into line with the now time-tested procedures of section 3500.

Mr. President, the time has come to implement these recommendations. We must add to the weapons available against organized crime, and we must enlist the citizenry in the fight in an effective manner.

TITLE II—GENERAL IMMUNITY

Mr. President, title II of S. 30 is a comprehensive immunity provision designed to replace more than 50 immunity statutes now in operation. When S. 30 was originally introduced its scope was limited to grand jury and court proceedings. It was designed to implement the recommendation of the President's Crime Commission that such a provision not only was necessary in the general administration of justice, but also was essential in the fight against organized crime. During the course of the hearings, however, the National Commission on the Reform of Federal Criminal Laws issued a report recommending that comprehensive reform and codification action be undertaken in this field. Accordingly, title II was reexamined in this context, and the decision was reached to go forward and properly to treat the overall problem in the administration of justice. Title II now provides for judicial, administrative, and congressional immunity grants, subject to carefully framed safeguards for individual liberties, where information which may be necessary for the public interest is likely to be refused to be provided on the basis of the privilege against self-incrimination.

Mr. President, the relation between the privilege against self-incrimination and immunity grants has been examined by our courts over a considerable period of time. In *Counselman* v. *Hitchcock*, 142 U.S. 547 (1892), the Supreme Court invalidated an immunity statute which only prevented evidence from being used in subsequent court proceedings, where the evidence had been compelled under an immunity grant. The court stated:

It could not, and would not prevent the use of his testimony to search out other testimony to be used in evidence against him or his property, in a criminal proceeding in such court. (142 U.S. at 564.)

In response Congress passed a "transaction immunity" statute, which provided that the person compelled to testify could not be prosecuted, under any circumstances, for the criminal activities concerning which he had testified. In *Brown* v. *Walker*, 161 U.S. 591 (1896), this statute was upheld, despite the argument that was made that the principle of *Counselman* should be extended to prevent self-degradation as well as self-incrimination. The court answered this contention:

The authorities are numerous and very nearly uniform to the effect that, if the proposed testimony is material to the issue on trial, the fact that the testimony may tend to degrade the witness in public estimation does not exempt him from the duty of disclosure. A person who commits a criminal act is bound to contemplate the consequences of exposure to his good name and reputation and ought not to call upon the courts to protect that which he has himself esteemed to be of such little value. (161 U.S. at 605.)

The court also stated:

Every good citizen is bound to aid in the enforcement of the law, and has no right to permit himself, under the pretext of shielding his own good name to be made the tool of others who are desirous of seeking shelter behind his privilege. (161 U.S. at 600.)

Immunity legislation remained at this point until 1964. In that year, the Supreme Court handed down *Malloy* v. *Hogan*, 378 U.S. 1 (1964), and *Murphy* v. *Waterfront Commission*, 378 U.S. 52 (1964). In order to make State immunity statutes valid, the court held that they must also protect against Federal prosecution. Drawing upon recently developed criminal procedure rulings on the derivative suppression of evidence, the court stated:

We hold the constitutional rule to be that a state witness may not be compelled to give testimony which may be incriminating under federal law unless the compelled testimony and its fruits cannot be used in any manner by federal officials in connection with a criminal prosecution against him. (378 U.S. at 79.)

In a footnote, Mr. Justice Goldberg went on to state:

The federal authorities have the burden of showing that their evidence is not tainted by establishing an independent, legitimate source for the disputed evidence. (*Id* at n. 18.)

This is the use-restriction immunity that is embodied in title II. Under it, once a witness has testified, he can only be prosecuted for the acts concerning which he has been immunized if the prosecution can "establish an independent, legitimate source for the disputed evidence."

The President of the United States on April 23, 1969, in his Message on Organized Crime, commended the basic concept of title II to the Congress, stating:

I commend to the Congress for its consideration . . . [the proposal under which] . . . 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. (Doc. No. 91–105, House of Representatives, 91st Cong., 1st Sess. at 5 (1969).)

Mr. President, in a concurring opinion in Murphy, Mr. Justice White stated:

Immunity must be as broad as, but not harmfully and wastefully broader than, the privilege against self-incrimination. (378 U.S. at 107.)

This was but another way of saying that we ought not tolerate anything which gives, in the words of Mr. Justice Holmes in *Heike* v. *United States*, 227 U.S. 131, 144 (1913), a "gratuity to crime."

Mr. President, since Murphy, the trend in the laws of the States appears to be moving in escalating speed in the direction of "use-restriction" immunity. New York and California embraced use-restriction immunity in 1969. Today's New York Times contains a report of a unanimous decision of the New Jersey Supreme Court, which holds that the fifth amendment only requires protection from prosecution with regard to statements made under immunity and from "fruits" of compelled testimony. This is the theory embraced in title II of S. 30.

Mr. President, I ask unanimous consent that the text of The New York Times article appear at this point in my remarks.

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

[From the New York Times, Jan. 21, 1970]

JERSEY'S CRIME UNIT IS UPHELD ON RIGHT TO FORCE WITNESSES TO TESTIFY

TRENTON, January 20.—The power of the State Commission of Investigation to seek the indefinite imprisonment of witnesses who refuse to testify after being granted immunity from prosecution was unanimously upheld today by the New Jersey Supreme Court.

The decision by the state's highest court clears the way for an all-out investigation of organized crime and corruption and it places three reputed Mafia figures closer to prison terms on civil contempt charges sought by the state last summer.

The commission had been forced to hold off several new inquiries and the original one it undertook last year into charges of mob infiltration and political corruption in the Monmouth County shore community of Long Branch pending the outcome of its legal challenges to its most important power—its right to jail witnesses who refuse to talk after being assured that they would not be prosecuted for any disclosures they made.

The three reputed Mafia witnesses are Joseph (Joe Bayonne) Zicarelli, believed to be rackets boss in Hudson County; Anthony (Little Pussy) Russo, allegedly Mafia leader in Monmouth and Robert (Bobby Basile) Occhipinti, said to be a lieutenant in the Mafia family headed by Simone Rizzo (Sam the Plumber) DeCavalcante.

TROUBLE IS COMPOUNDED

The court decision only compounds Zicarelli's problems with the law since he was indicted by the statewide grand jury for conspiracy to murder late last year. As for Russo, he is free on bail pending an appeal of a six-year prison sentence on a perjury conviction for lying to a Monmouth County grand jury.

William F. Hyland, the investigation commission chairman, announced later that the full four-man commission would convene here tomorrow. Other sources reported that the commission would then ask Superior Court Judge Frank J. Kingfield to enforce the contempt citation ordered last summer and jail the three witnesses.

Although the lawyers for the three men could not be reached for comment tonight, commission sources said they expected the three men to appeal the Supreme Court decision in the Federal courts now that they had exhausted every legal remedy in the state.

The court's decision, which was delivered by Chief Justice Joseph Weintraub, rejected every argument made in behalf of the three men, including one in which their lawyers contended that the commission presented their clients with an impossible dilemma.

If their clients talked, the lawyers argued, they faced certain execution at the hands of the mob. If they did not talk, they faced prison terms that could conceivably run for the rest of their lives. The lawyers contended that such a choice deprived their clients of due process safeguards embodied in the Fourth Amendment to the Constitution.

At a hearing last December, the courts rejected this argument as "fantastic beyond belief," an affront to the court.

ARGUMENT IS REJECTED

As for the legal argument that witness immunity violated Fifth Amendment protection against self-incrimination, the court declared that it did not and cited other similar rulings.

"We are satisfied," the court said, "that the Fifth Amendment does not require immunity from prosecution. An immunity of that breadth exceeds the protections of Fifth Amendment accords. More importantly, to find that demand in the Fifth Amendment would in practical terms deny state government access to facts it must have to meet its duty to secure the well-being of all citizens. We heretofore deemed the Constitution to require immunity against use of testimony rather than immunity from prosecution."

In essence, the court said the Fifth Amendment protected the three witnesses from prosecution resulting from anything they might say, and not from prosecution entirely. The court also repeated the Federal Court rule that states that the "fruits" of any "compelled testimony" may not be used in connection with any Federal prosecution.

Moreover the court said, "The role of the S.C.I. is not accusatory and the rights accorded to the individuals concerned are appropriate and adequate in light of the agency's mission and powers."

Unlike grand juries that seek indictments and prosecutors who seek convictions, the Investigation Commission seeks to publicize crime and corruption and report its findings to the public, the Governor and the Legislature.

Mr. McCLELLAN. Mr. President, in light of present derivative-suppression techniques, and Supreme Court decisions, to refuse to enact use-immunity legislation is to give a "gratuity to crime." In a society which is beseiged by organized crime, the U.S. Senate is in no position to hand out such gratuities. Title II would revoke the gratuity that the member of organized crime and others now enjoy under present immunity legislation and substitute for it carefully drafted legislation that both reforms and codifies the law in this field.

TITLE III—RECALCITRANT WITNESSES

Mr. President, neither the compulsory process of the grand jury nor a grant of immunity assures that the testimony of the witness will be obtained. When a witness is not in a position to invoke the privilege against self-incrimination, this does not mean that he will give his full cooperation during the investigation. At this point, however, the investigation may be continued through use of the contempt power.

The contempt power has roots that run deep in Anglo-American legal history, and under modern law there is no question that courts have the power to enforce compliance with their lawful orders. Current Federal laws expressly confirm this ancient power. When subpenaed before a grand jury, the witness must attend. The grand jury, however, has no power as such to hold a witness in contempt if he refuses to testify without just cause. To constitute contempt the refusal must come after the court has ordered the witness to answer specific questions. Two courses are open when a witness then refuses to testify after a proper court order: civil or criminal contempt.

Under civil contempt, the refusal is brought to the attention of the court, and the witness may be confined until he testifies; he is said to carry, as the Court noted in *In Re Nevitt*, 117 Fed. 449, 461 (8th Cir. 1902), "the keys of the prison in his own pocket." Usually, where contempt is clear, no bail is allowed when an appeal is taken. The confinement cannot extend beyond the life of the grand jury, although the sentence can be continued or reimposed if the witness adheres to his refusal to testify before a successor grand jury.

Under criminal contempt, after a hearing, the witness may be imprisoned, not to compel compliance with, but to vindicate the court's order. Federal law requires a jury trial if the sentence to be imposed will exceed 6 months. No other limit is set.

Title III of S. 30 seeks to codify the civil contempt aspect of present law as it applies to grand jury and court proceedings in the area of the refusal to give required evidence. Upon such a refusal, the court is explicitly authorized to order

the summary confinement of the witness, and it is provided that no bail shall be given to the witness pending the appeal, since this would undermine the coercive effect of the court's order and result in undue delay.

Mr. President, this is a vital investigative tool for the forces of law enforcement. The testimony of Mr. Paul Curran, chairman of the New York State Commission of Investigations, during subcommittee hearings on this title, underlines the necessity for such a provision:

With this grant of immunity must be coupled the right of compulsory process to produce the witness, and also the right most importantly, to take meaningful action against recalcitrant witnesses. They must know that if after receiving immunity, they do not testify, they will go to jail until such time as they are prepared to testify. This provision of S. 30 for . . . [a] jail term will make it clear that the Government really means business. (Hearings at 178.)

Mr. President, title III also amends title 18, chapter 49, United States Code, section 1073, entitled "Flight to avoid prosecution or giving testimony" to include flight to avoid contempt proceedings. The pertinent changes in section 1073 read as follows:

Whoever moves or travels in interstate or foreign commerce with intent either . . . (3) to avoid contempt proceedings for alleged disobedience of any lawful process requiring attendance and the giving of testimony or the production of documentary evidence before an agency of a State empowered by the law of such state to conduct investigations of alleged criminal activities, shall be fined not more than $5,000 or imprisoned not more than five years or both.

Mr. President, the need to make this change in the Federal Fugitive Felony Act was recently brought to light in organized crime investigations in New Jersey. Concerned over a growing awareness of the sinister influence of organized crime in the State, the New Jersey Legislature in 1968 created a State commission of investigation, which was modeled on New York's successful commission. In a hearing held in July of 1969, two mob figures, Robert "Bobby Basile" Ochipinti and Frank Cocchiaro, both lieutenants of Cosa Nostra boss Simone Rizzo "Sam the Plumber" De Cavalcante of New Jersey, after being subpenaed by the commission, walked out of the State House in Trenton during a break in the hearing and fled the State to avoid contempt charges for refusing to answer questions. Unlike a witness who flees to avoid grand jury or court testimony, these two mobsters could not be picked up by the FBI for unlawful flight. Instead, the time-consuming process of State extradition had to be undertaken.

Mr. President, this defect in the law may be easily remedied. With the addition of but a few words to the statute, it will be possible to use the FBI to help States such as New Jersey, now seeking to clean its own house, to help themselves.

TITLE IV—FALSE DECLARATIONS

Mr. President, title IV of S. 30 represents the best efforts of the committee to insure that truthful testimony will be given in our grand juries and courts.

Organized crime's defeat of investigations and prosecutions through the fabricated story has occasioned our reexamination of the law in this area. However, the reforms implemented by these rules of pleading and evidence ought not be artificially limited to organized crime cases. At present, Federal law interposes several impediments to securing truthful testimony. As we all are aware, the usual standard of proof in a criminal prosecution is proof beyond a reasonable doubt. Meeting that standard, however, is not sufficient to secure a conviction for perjury. If the proof is circumstantial and not direct, no conviction may be obtained. For reasons rooted in medieval law—possessing no contemporary relevance—the testimony of one witness, no matter how trustworthy, reliable or sufficient—standing alone—is not legally adequate for a perjury conviction.

To remedy this situation we have approved title IV, which implements the the President's Crime Commission recommendation:

Congress and the States should abolish the rigid two-witness and direct-evidence rules in perjury prosecutions, but retain the requirement of proving an intentional false statement. (Report at 201.)

The Crime Commission reported that the incidence of perjury is higher in organized crime cases than in routine criminal matters. We all know that perjury prosecutions are rarely successful. The effect of this lack of success upon the initiation of prosecutions is obvious. Again, we can easily infer the likelihood of perjury in instances of organized crime prosecutions, due to well-established witness-intimidation efforts of the underworld. The Department of Justice endorsed this provision, stating:

We . . . agree with the recommendation of the President's Commission that abolition of these rules is desirable. (Hearings at 371.)

There are at least two other barriers to obtaining truthful testimony. Under present law, even if a witness makes two statements which are so patently contradictory that one or the other must be false, the prosecution must nevertheless prove which of the statements is false and then prove an intentional falsehood. In accord with the commission recommendation, the committee rightfully retained the requirement that an intent to falsify be shown. However, if one of two statements logically must be false, then title IV recognizes that fact.

The last impediment to the telling of truth is that under present Federal law one is not allowed to recant, correct untruthful statements, and escape prosecution. Therefore, at present a witness is discouraged from correcting untruthful testimony. Title IV would allow one to avoid criminal liability by correcting his testimony, so long as it is not already apparent by other testimony that he is lying, or so long as he has not substantially misled the proceeding by his original untruthful testimony.

Mr. President, title IV encourages truth by facilitating the prosecution of those who have lied and by encouraging the correction of testimony without fear of prosecution. I am firm in my belief that this body should do everything in its power to make certain that there are no impediments to truthful testimony in the administration of justice in the Federal courts—in all cases as well as the more serious organized crime cases.

TITLE V—WITNESS PROTECTION FACILITIES

Mr. President, title V, providing witness facilities, was drafted in response to the overwhelming difficulty of insuring that witnesses in organized crime cases are produced alive and unintimidated at trial. If witnesses have a duty to give to society the benefit of their testimony, then surely society owes to them every protection it can offer. Title V affords broad power to the Attorney General to care for witnesses and their families as long as there is jeopardy to the life or person of a witness or a member of his family. The Attorney General may offer these facilities to witnesses, but of course cannot require them to accept his offer.

This title is also in response to a recommendation of the President's Crime Commission. It has the full support of the Department of Justice. It is not necessary for me to recount horror stories showing the extent of torture and terrorism practiced by organized crime in its efforts to prevent unfavorable testimony. Suffice it for present purposes to note the testimony of the Attorney General that between 1961 and 1965, the organized crime program, despite attempts to offer protection, lost 25 informants. Hearings before the Subcommittee on Administrative Practice and Procedure of the Senate Committee on the Judiciary, 89th Congress, first session, part 3, at 1158—1965. More need not be added. All Members of this body are aware of the need to protect Government witnesses against retribution by mob enforcers.

TITLE VI—DEPOSITIONS

Mr. President, title VI deals with the taking of depositions to preserve evidence in Federal criminal cases. Such a measure was included in S. 30 when it was introduced, and its provisions were revised and improved considerably while the bill was in committee.

The proposed section would expand the present right of a defendant under rule 15 of the Federal Rules of Criminal Procedure to seek court permission to take the deposition of his own witnesses, and would extend the same right to the Government. Like rule 15, the section would permit such depositions only for the purpose of preserving a party's own evidence, not for the purpose of discovering the opponent's evidence. At the same time, the proposed section contains full guarantees of the defendant's rights to counsel and to cross-examination of the deponent. Title VI is designed to fill a gap in our criminal procedure that sometimes is important in other than syndicate cases, but most frequently is a frustrating problem in organized crime prosecutions.

The leaders of organized crime daily conduct their criminal activities and shady businesses by intimidating citizens and bribing officials. In the rare case in which the Government can overcome the difficulties in gathering evidence and can obtain an indictment, it is an all too common step for the Mafia boss to resort to the same techniques, intimidation and bribery of witnesses, in order to obtain

a dismissal of the charge or a not guilty verdict. Should witnesses prove stubborn and honest, some organized crime figures have shown little hesitation to murder witnesses. The distinguished senior Senator from Maryland (Mr. TYDINGS), in giving the subcommittee testimony based in part on his own experience as U.S. Attorney for Maryland, aptly stated:

> Unimplicated witnesses have been, and are now, regularly bribed, threatened, or murdered. Scores of cases have been lost because key witnesses turned up in rivers in concrete boots. Victims have been crushed—James Bond like—along with their automobiles by hydraulic machines in syndicate-owned junkyards. (Hearings at 161.)

Title VI is designed to protect that evidence, and evidence in other cases in danger of destruction or loss, in two ways.

By authorizing the taking and recording of evidence under full guarantees of counsel and cross-examination, title VI would preserve the evidence which a witness had to offer in a form which could be used at trial if and only if the evidence became otherwise unavailable. In addition, by preserving the evidence which an individual could give, title VI would largely eliminate any incentive of a defendant or his organized crime associates to threaten, injure, or kill the witness. Indeed, depositions may be more effective than stone walls and guards in protecting the lives of informants and other citizens with information concerning organized crime.

TITLE VII—LITIGATION CONCERNING SOURCES OF EVIDENCE

Mr. President, title VII is designed to regulate motions to suppress evidence.

Title VII recognizes that suppression of evidence litigation is a major cause of undue expense, delay and distraction of emphasis in criminal cases; that present rules for disclosure of information in connection with suppression claims result in the revelation of information which is irrelevant to the claims and seriously harms specified public interests; and that when the suppression motions concern evidence of events occurring years after the acts which are the bases of the motions, the adverse results are aggravated, the motions cannot reliably be resolved, and it is virtually certain that the evidence is not suppressible.

To remedy this disturbing situation, title VII requires the opponent of a suppression motion to admit or deny the occurrence of the unlawful act which the moving party claims renders the challenged evidence inadmissible. It also provides that disclosure of information in connection with a suppression motion may not be required unless the information may be relevant and disclosure is in the interest of justice and forbids consideration of a claim that evidence of an event is inadmissible because indirectly derived from an unlawful act occurring more than 5 years earlier. The combined effect of these provisions should be to mitigate many of the objectionable aspects of suppression litigation.

The most common situation which would be covered by title VII is a criminal trial in which a defendant who at some time, perhaps in the distant past, was the victim of illegal but unrelated police conduct seeks to delay and confuse the trial of whether he is innocent or guilty by filing, extensively litigating, and, if necessary, appealing a claim that the evidence to be used against him by the Government was in some way derived from the police violation.

Under present law, the defendant can pursue such a diversionary tactic with great success, since the Supreme Court this year established a broad and absolute rule for such cases in *Alderman* v. *United States*, 394 U.S. 165 (1969). In the Alderman case, the Court held that, once a defendant claiming evidence against him is the indirect fruit of electronic surveillance has established that his own interests were unconstitutionally invaded, he must be given confidential materials in the Government's files to aid him in establishing that evidence against him was derived from the surveillance. The Court declined to place any limitation upon the rule or to permit a trial court to screen the Government's confidential files for possible relevance, even in cases where the surveillance bears no possible relationship to the defendant's crime.

Because the Alderman decision is unqualified, it encourages defendants who at any time have been unlawfully surveyed to file motions to suppress the evidence in every case against them, however unrelated to the surveillance, knowing that the motion is certain to bring them either disclosure of confidential files or, if disclosure would be too harmful to the Government, dismissal of the charges against them. Thus, the Alderman case has begun to make a significant contribution to delay of criminal cases, which already had begun to reach crisis proportions. The President's Commission on Crime in the District of Columbia, for example, found that great increases in pretrial motions were a major cause of a doubling from 1960 to 1965 of the time required to prosecute a District felony case, and suggested that in view of "excessive" delays in criminal cases—greater priority should attach to efforts aimed at accommodating—judicial and legislative requirements, regulating the conduct of trials and securing the rights of defendants, with the goal of expeditious handling of criminal cases." Report at 256, 266–68—1966. Title VII is just an effort. Unlike the Alderman decision itself, title VII accommodates the interests of a defendant with those of society, and promises justice to both parties to a criminal case.

The urgency for the enactment of title VII has been stressed by the Department of Justice. The Department supports the measure and has informed the subcommittee that the sort of disclosure required by the Alderman decision often leads unnecessarily to flight by suspects who are under investigation, destruction of evidence, harm to the reputations of innocent third parties, danger to undercover agents and citizens informants, and deterrence of witnesses from coming forward with evidence. The Department also revealed that, in their experience, protective court orders to limit disclosure to defendants and their counsel have not been effective.

The existing law is an exercise in futility. It has been applied for example, in *Aiuppa* v. *United States*, 394 U.S. 310 (1969), to require disclosure to an organized crime figure who, after being overheard during an organized crime surveillance, was picked up by a forest ranger for violating migratory bird laws. The notorious cases of Alderman himself, Cassius Clay, and James Hoffa were all remanded to the district courts for hearings under Alderman. After ordering and supervising full disclosure and then sitting through full hearings in which the defendants tried to establish links between their electronic surveillance and the evidence in their cases, each of the three courts concluded that there was absolutely no relationship. Indeed, the judge in the Clay case, after evaluating what the disclosure and hearing had contributed to his consideration of the motion to suppress, concluded that he could reliably have made his ruling on the motion after a simple in camera inspection.

There is no constitutional obstacle to enactment of title VII, since the Alderman decision was an exercise of the Supreme Court's supervisory jurisdiction over the lower Federal courts and not a constitutional interpretation. Title VII fully protects the right of a defendant to challenge inadmissible evidence and grants to the Government only the two minimal safeguards necessary to prevent abuse of motions to suppress evidence. There is no reason to permit defendants to engage in such dilatory proceedings in extreme cases title VII will deal only with such marginal cases and will advance the public interests by protecting them from organized crime and by promoting efficient functioning of our courts.

TITLE VIII—SYNDICATED GAMBLING

Mr. President, the general consensus of opinion among law enforcement officials is that gambling is the greatest source of revenue for organized crime. The Permanent Subcommittee on Investigations' examination of gambling and organized crime, in the hearings of which I was privileged to be chairman, concluded:

> Although estimates of the revenue obtained through illegal gambling vary—it was generally agreed—that the flow of money to bookmakers taking bets on horse races and sporting events totals billions of dollars annually. Report at 2.

Organized crime, of course, does not limit its illegal gambling operations to horse racing and sporting events. It also includes gambling in the form of lotteries, dice games, and illegal casinos. More recently, the President's Crime Commission estimated the annual gross revenue to organized crime from gambling in the United States at from $7 to $50 billion. Report at 189. The Commission indicated that an analysis of organized crime betting operations showed the profit to be as high as one-third of gross revenue and concluded that while it was difficult to judge the accuracy of these figures, even the most conservative

estimates put a substantial amount of capital in the hands of organized crime leaders.

Mr. President, it is from these huge gambling profits that organized crime is able to finance other illicit operations such as narcotics, loan sharking, prostitution, and bootlegging. This large source of illegally gained revenue also makes it possible for organized crime to infiltrate and pollute legitimate business.

The President in his message on organized crime in April of last year, characterized gambling income as the "lifeline of organized crime," and suggested that if we can cut or constrict it we will be striking close to its heart. Document No. 91–105, House of Representatives, 91st Congress, first session, at 6—1969. I need not emphasize too highly that it is in the field of gambling that the mob leader is most vulnerable to honest law enforcement. If we can remove the syndicate gambler from circulation, we will have at the same time largely eliminated the extortioner, the corrupter, the robber, and the murderer—the gangster himself.

One of the inevitable byproducts of illicit gambling, moreover, is corruption—of the police, the prosecutor, the courts—indeed, the whole system of criminal justice. Gamblers and bookmakers, in order to be free to operate, must pay off someone. The President in his message on organized crime put it this way:

> 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 . . . and to pay for the large stables of lawyers and accountants and assorted professional men who are in the hire of organized crime. (*Ibid.*)

The report of the Permanent Subcommittee on Investigations on Gambling and Organized Crime described the problem as follows:

> It must be conceded that for various reasons, mostly justifiable and understandable, local law enforcement agencies cannot adequately cope with the grave internal threat posed by organized crime. Jurisdictional limitations and lack of sufficient funds to provide adequate manpower or modern equipment are among the most frequently cited obstacles to the attainment of this objective. While most local law enforcement officials and prosecutors are honest and dedicated in their efforts to stamp out organized crime, too often local criminal statutes are not vigorously enforced or prosecuted because a dishonest policeman or prosecutor is motivated solely by financial or political gain. (Report at 1.)

The junior Senator from Washington (Mr. JACKSON), in the course of those hearings, during an exchange with Jacob Grumet, a member of the Commission of Investigation of the State of New York, aptly expressed it this way:

> You and I know what the problem is. They buy off the judge, they buy off the prosecutor, they buy off the sheriff, and they buy off the law enforcement officers locally, directly or indirectly. (Hearings, Part 1, at 31.)

Today's corruption is less visible, more subtle and therefore more difficult to detect and assess than the corruption of the prohibition era. But organized crime flourishes only where it has corrupted local officials. And as the scope and variety of organized crime's activities have expanded, its need to involve public officials at every level of local Government has grown.

Mr. President, something must be done to stop this flow of money to organized crime from gambling enterprises, and we must stop the corruption of local officials and law-enforcement officers by organized crime. To do this we need new weapons. Title VIII would give the Federal Government two new means to aid the States in combatting large-scale gambling. Part A contains special findings on the character of syndicated gambling. Part B of title VIII would make it a felony for large-scale gamblers and law-enforcement officers or public officials to conspire to obstruct enforcement of State and local laws against gambling through bribery of governmental officials. Part C of this title would make it a Federal offense to engage in a large-scale business enterprise of gambling.

At this point, Mr. President, I want to make one thing very clear. No part of this title will, or is intended to, preempt local efforts in this area, but it will add to such local efforts the expertise, the manpower and the full resources of the Federal Bureau of Investigation, and other appropriate agencies of the Federal Government.

There is one other important point that I have not touched upon, and it is a point on which the Congress cannot legislate. I refer to public apathy about gambling—indeed, about organized crime in general. The public must be informed of the dangers of organized crime and must be made cognizant of the fact that each bet with the local bookie, no matter how small, is not a harmless diversion but is a part of a large-scale process leading to the eventual decay of his community, for the effects of apathy poison our whole well-being. The late Robert F. Kennedy, commenting on the relation between organized crime and street crime, put it well:

> Crime in the streets is directly related . . . to public apathy about organized crime. The young man in the ghetto who decides to steal rather than make that extra effort to find work is unquestionably influenced by the success which the numbers runner down the block has had. The bookmaker or the narcotics pusher is all too often the only conspicuous figure of success in the ghetto, the one who has demonstrated how to beat the system and gain wealth and prominence. Similarly, the worker who belongs to a corrupt union, or the businessman who must pay protection to keep his business or his life, are taught every day—as are their children—that our legal system has nothing to offer them. As long as the public cares too little about the racketeers who control the gambling and the narcotics and the prostitution that feed upon the poor and the weak, there will be youngsters who see the gangster's way as the model, the path to follow. (Address before the Columbia Law School Forum, Jan. 19, 1967, reprinted in 113 Cong. Rec. 1243 (Jan. 23, 1967).)

It is in this context, particularly, that the Senate must assess part D, which would set up, 2 years after the enactment of the bill, a Commission To Review National Policy Toward Gambling. Federal concern over gambling has a long history. Nevertheless, it is time to take stock of where our Nation is and what direction it should take in the future. We know too little about the full scope of the impact of syndicated gambling and attendant police corruption on our society, or about the most realistic way to respond to them. There is a need here for careful study and public enlightenment after the formulation of prudent action plans.

TITLE IX—RACKETEER-INFLUENCED AND CORRUPT ORGANIZATIONS

Mr. President, title IX of S. 30, originally introduced as S. 1861, was supported by the Department of Justice in these terms:

> The Department favors the objectives of S. 1861 and believes that with some possible revisions its combination of criminal penalties and civil remedies, which has been highly effective in removing and preventing harmful behavior in the field of trade and commerce, may be effectively utilized to remove the influence of organized crime from legitimate business. (Hearings at 404, 405.)

The subcommittee and the full committee have now agreed with the Department on their suggested revisions and, along with other improving amendments, have approved title IX.

The infiltration of legitimate business by organized crime has been increasingly documented in the past year. Once it invades a legitimate field of endeavor, the mob quickly brings with it a full range of corrupt practices. It sometimes uses terror tactics to obtain a larger share of the market. Labor unions are infiltrated, and then labor peace is sold to businesses. This does not inure to the benefit of the workingman. To the contrary, for example, as documented in the grand jury report I noted earlier and inserted in the RECORD on December 5, 1969, in New Jersey members of the mob recently required payments from a contractor so that nonunion men could work at lower wages on a project. In business, the mob bleeds a firm of assets, then takes bankruptcy. It steals securities and then uses the stolen securities to fraudulently obtain funds from lending institutions. It evades taxes and thereby gains an unfair advantage. It monopolizes goods and services and thereby raises prices. Through the violence used in its operations and its rigidly enforced code of silence, as well as exploitation of nonmembers in its schemes, the mob seeks to gain immunity from the rules of our society governing business and labor practices. We cannot afford to allow it to succeed in this endeavor.

Mr. President, title IX is aimed at removing organized crime from our legitimate organizations. Experience has shown that it is insufficient to merely remove and imprison individual mob members. Title IX attacks the problem by providing a means of wholesale removal of organized crime from our organizations, prevention of their return and, where possible, forfeiture of their ill-gotten gains.

Title IX uses three primary devices to achieve these ends—criminal forfeiture, civil remedies which have proven successful in the antitrust area, and a number of civil investigative procedures.

The concept of criminal forfeiture is an old one in our common law. It was

extensively used in England and had some limited use in the Colonies. Title IX, drawing on this early history, would forfeit the ill-gotten gains of criminals where they enter or operate an organization through a pattern of racketeering activity. To bring this special criminal remedy into play, the offender must be chargeable in the commission of at least two racketeering acts, each of which is a crime apart from title IX.

Since enactment of the Sherman Antitrust Act in 1890, the courts have used several equitable remedies, and developed new ones to implement the language of 15 U.S.C. sections 1 and 2. I believe, and numerous others have expressed a similar belief, that these equitable devices can prove effective in cleaning up organizations corrupted by the forces of organized crime. The first step in cleaning up an organization will be to require the mob to divest itself of its holdings in legitimate endeavors, where its members have abused that right by the condemned practices. In some cases, the organization will no doubt be so corrupt that it will have to be dissolved. Once the mob is removed, an injunction against its members ever again entering that particular type of organization should prove effective to prevent its return to corrupt anew.

As the criminal process has a grand jury for investigations, the civil process will need an investigative arm to determine whether there have been violations. To accomplish this end, the Attorney General is authorized to use either a civil investigative demand or investigative powers now existing in other agencies.

Mr. President, I am sure that there are some who are not aware of the extent of infiltration of our legitimate organizations by the mob. The facts, however, are truly disturbing.

According to Internal Revenue sources, of this country's 113 major organized crime figures, 98 are involved in 159 businesses. In like manner, the President's Crime Commission in 1967 reported that racketeers control nationwide manufacturing and service industries with known and respected brand names. It has also been reported that the mob controls one of the largest hotel chains in the country, dominates a bank with assets of from $70 to $90 million, operates a $20 million yearly gross laundry, and so on. In an eastern State the mob burned several stores and killed employees of a large grocery chain—the venerable A. & P. Nevertheless, violence is not the mob's only technique. Approximately 200 syndicate-inspired bankruptcy schemes are perpetuated annually, each involving upward of $200,000 in merchandise or material. Organized criminals, too, have flooded the market with cheap reproductions of hit records and affixed counterfeit popular labels. They are heavily engaged in the illicit prescription drug industry.

This is just a sampling. I could go on at length in this fashion, but I think the necessary point has been made.

Mr. President, I ask unanimous consent that a partial list of businesses and industries in which organized crime has been active be printed at this point in the RECORD.

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

PARTIAL LIST OF BUSINESS AND INDUSTRIES IN WHICH ORGANIZED CRIME HAS BEEN ACTIVE

Accounting, Advertising, Air freight, *Automobile agencies, Awnings, *Bakeries, Banking, Barber shops, Beauty shops, Bonding, Bowling alleys, Breweries, Catering, Charities, and Chemicals.

Cigarettes, *Coal, *Construction, Consulting, Copper, Country clubs, Credit cards, Dairy products, Demolition, Drugs, Electrotyping, Excavation, Factoring, and Flowers.

Foundations, *Funeral homes, Furs, Garages, Garbage removal, *Garments, *Grocery stores, Hardware, Hi-fi components, Hotels and motels, Ice cream, *Importing or exporting, Insurance, Jewelry, and Junk.

Laundries & dry-clean, *Linen, Liquor, Lithography, Lumber, *Manufacturing, Metal plating, Newspaper distribution, Night clubs, Oil and gas leases, Oil prospecting, Paper, Paving, and Picnic groves.

Pipelines, Produce and meat, Public Relations, *Race tracks, Radio, Railway express, Ranching, Real estate, Recording, Resorts *Restaurants and bars, Roofing material, Savings & Loan assoc., Shopping centers, and *Show business.

Soft drinks, Sports generally, Steel, Stocks and bonds, Surplus property, Tailoring, Taxicabs, Television, *Trucking Vehicle leasing, *Vending machines, Waterfront services, Window washing, and Wire service.

(S. Rep. No. 307, 82d Cong., 1 Sess. at 170–81 (1951).)

TITLE X—DANGEROUS SPECIAL OFFENDER SENTENCING

Mr. McCLELLAN. Mr. President, title X would authorize extended prison sentences for carefully defined categories of particularly dangerous special offenders.

Title X authorizes a Federal prosecuting attorney to notify an adult felony defendant and the court before hearing any grounds for finding the defendant to be a dangerous special offender. The concept of dangerousness is defined, as are the types of special offender; recidivist, professional offender, and organized crime offender. The court determines the accuracy of the allegations upon a full hearing with substantial presentence report disclosure and rights to notice, counsel, compulsory process, and cross-examination, imposes sentence up to a special maximum of 30 years, and records its findings and reasons for the sentence. The title authorizes appellate review of the sentence at the instance of the defendant or the Government, preserves the right of a Federal court to consider the fullest information possible in determining an appropriate sentence, and establishes within the FBI a central repository for admissible copies of conviction records.

Title X would be a dramatic improvement of our law in the one area, sentencing, which is most important to the great majority of defendants and yet has received the least legal development by the Congress and the courts. The basic difficulties in our sentencing law have been that, for a given crime, every offender has been exposed to the single maximum authorized punishment set by the Congress, and that a trial court's selection of a particular penalty at or under that maximum has not been subject to appellate review. Those two factors have led the Congress, as it has fixed maximum sentences for individual offenses over the years, to set the maximums at compromise levels which curb somewhat the danger of excessive sentences for ordinary offenders, but are of insufficient length to protect society by incapacitating recidivists, professionals, and Mafia members or others engaged in organized crime.

The inadequacy of sentences imposed upon organized crime leaders has been well known to racket prosecutors for years. Our people, too, are aware of the facts. A Gallup poll early last year found that 75 percent of those interviewed thought that our courts did not deal harshly enough with criminals. New York Times, February 16, 1969, page 47, column 1. A recent staff study by the Criminal Laws Subcommittee based on FBI sentencing data, moreover, confirms that experience and the judgment of our people. That study appears in the CONGRESSIONAL RECORD, volume 115, part 25, page 34389, so it is necessary now to point out only that two-thirds of La Cosa Nostra members included in the study and indicted by the Federal Government since 1960 have faced maximum jail terms of only 5 years or less, and that nevertheless fewer than one-fourth have received the maximum sentences, 12 percent have received no jail terms, and the sentences of the remainder have averaged only 40 to 50 percent of the maximums.

Statistics, however, outline only bare bones. Several examples will flesh out this deplorable situation. One of the worst gangsters uncovered in the labor racketeering investigation of the Select Committee was Anthony "Tony Ducks" Corallo, then a captain in the Lucchese family of La Cosa Nostra. It was Corallo who helped James Hoffa gain control of New York City's 140,000 teamsters. Our hearing record showed how this thug brought in 40 hoodlums with records of 178 arrests and 77 convictions for crimes ranging from theft, robbery, burglary, and stinkbombing to extortion and murder. One New York employer told how he hired Corallo simply to walk into his plant and "glance at the employees to keep them in line." The late Robert F. Kennedy, our committee counsel, commented, "This seemed rather funny at the time. But when Tony Ducks appeared on the witness stand and turned his glare on us, I changed my mind." Kennedy, "The Enemy Within," at 81—1960.

It was just such experiences as this that led Kennedy, when he became Attorney General, to mount the first truly effective concentrated Federal attack in our Nation's history on organized crime, and by 1962 Corallo had been convicted under 18 U.S.C. § 1952, the Federal Anti-Racketeering Act, for conspiracy to pay a $35,000 bribe to a New York

*Business connected with participants in the infamous 1957 Appalachin meeting (S. Rep. No. 1139, 86th Cong., 2d Sess, pt 3 at 487–88 (1960).)

judge and an assistant U.S. attorney to fix a cohort's sentence in a $100,000 bankruptcy fraud case. Despite Corallo's shocking public record as a vicious racketeer, he was sentenced to but 2 years out of a possible 5. He was actually released to the street within 18 months, and there is every indication that he and his associates control at least seven of the 56 Teamster locals in the New York area, piratically forcing millions of consumers to pay hidden tribute.

Nevertheless, this is only half of the deplorable story. In June of 1968, Corallo once again stood before the same judge, incredibly once again convicted under the same Federal statute. This time, by loan sharking a financially pressed city water commissioner, he had been able to arrange and share a $40,000 kickback on a city contract. In sentencing Corallo, the same judge who sentenced him a few years before observed:

> What the court noted then about him still remains true. His entire life reflects a pattern of anti-social conduct from early youth. It is doubtful that his money over any substantial period of his adult life came from honest toil. It is fairly clear that his means derived from illict activities—bookmaking, gambling, shylocking and questionable union activities.

Nonetheless, the court this time—incomprehensibly—gave Corallo only 3 years out of a possible 5.

Mr. President, if we do not give gangsters such as Corallo the maximum, for whom then will we reserve it?

Tragically, the Corallo sentence is far from an isolated case. In 1966, Louis Taglianetti, a "soldier" in the Patriarca family which dominates New England, was convicted of income tax evasion, for which he could have received 5 years. Since Taglianetti's Mafia record was exposed in the organized crime hearings held by the Permanent Subcommittee on Investigations in 1963, the judge could not possibly have been unaware that he was dealing with an organized crime figure. Nevertheless, Taglianetti received only a 7-month sentence. Ironically, I add that the average sentence for the ordinary citizen sentenced that same year for tax evasion was 10 months in jail—almost half again as much as this hardened Mafioso.

The sentencing story of Arthur Tortorello fits into the same pattern. His criminal record, which now covers 4½ pages, began in 1929—four decades ago. A member of the Gambino family of New York City, he has collected arrests ranging from burglary, assault and battery, and forgery to a 1-year sentence for kidnapping. More recently, his forte has been the infiltration of legitimate business to commit the so-called "white collar" offenses, knowing perhaps that there he could lighten his sentencing liability. Our judges have fulfilled what must have been his fondest hopes. In a $750,000 stock swindle in 1960, he received 90 days out of a possible 5 years. In 1964, out of a possible 5 years for mail fraud, he received 1 year, and in 1967, for plotting an illegal sale of oil stock, instead of 5 years, he received 30 days in jail. Now, in July of 1969, Tortorello was picked up for conspiracy to transport more than $1 million in stolen securities in interstate commerce. The maximum is 10 years, but I ask, if the past is truly prolog, can we expect, can society expect, to receive the sort of protection it deserves from this kind of persisent, professional, organized crime offender?

Mr. President, I shall recount now only one more illustration of the inadequacies of present organized crime sentences. In the same vein with Corallo, the labor racketeering investigations of the Senate Select Committee on Improper Activities in the Labor or Management Field established that Joey Glimco, a top Chicago henchman of teamster boss James Hoffa and ruler of Chicago Teamster Local 777, embracing 5,000 taxi drivers and miscellaneous maintenance workmen, was a mobster who could match criminal careers with the worst: his record includes 36 arrests from robbery to murder. The committee's final report required 56 pages to detail his marauding, and concluded:

> Glimco was shown to be a common thug and criminal who gained control of this union by violence and by those strong-arm methods which are a stock-in-trade of the Chicago racketeer. Under Glimco, local 777 became a captive union. He ruthlessly stifled any opposition by the membership, while he ransacked the union treasury. (Report, pt. 3, at 564.)

In February of 1959, Glimco was allowed to plead guilty to having taken gifts—ranging from turkeys to a large sprinkler system, to his new $5,000 Jaguar—as payoffs for a bogus contract that protected a businessman from the organized efforts of legitimate unions. The investigation and prosecution cost the Government well over $200,000, and it resulted in a four-count indictment, which could have resulted in a 4-year prison term for Glimco. Nevertheless, he received only a $40,000 fine—no jail term whatsoever.

Mr. President, as these convicted organized crime offenders walked out free to resume their criminal careers, they were scoffing examples that for big-time mobsters, crime in America too often does pay—and richly.

Title X will begin to correct that situation by implementing the principle, approved by the Department of Justice, the American Bar Association, the National Council on Crime and Delinquency, the American Law Institute, and the President's Crime Commission, that the Congress should authorize one maximum sentence for ordinary offenders and a greater maximum for more dangerous offenders.

All three of title X's definitions of special offenders will apply in some cases to hard-core members of large criminal syndicates. For example, the staff sentencing study referred to previously indicated that almost 60 percent of La Cosa Nostra members included in the study would, upon conviction of another Federal felony, qualify under title X as recidivists. More importantly, the three definitions have been so drawn as to accurately define the three types of offenders who should be singled out for special sentencing treatment, regardless of their relationship to La Cosa Nostra. Again, recidivists are an obvious example. The National Commission on the Causes and Prevention of Violence recently reported that "by far the greatest proportion of all serious violence is committed by repeaters. While the number of hard-core repeaters is small compared to the number of one-time offenders, the former group has a much higher rate of violence and inflicts considerably more serious injury." (CONGRESSIONAL RECORD, volume 115, part 26, page 35546.) The staff sentencing study revealed that 68 percent of all persons arrested on Federal charges during the period of the study who would have qualified as recidivists under title X accumulated an average of 4.3 charges per offender following those Federal arrests. In view of modern knowledge of the role recidivism plays in our exploding crime problem, we have gone too long without a Federal general recidivist statute, and it would be intolerable if now we should reject this opportunity to enact a law making the distinction between aggravated offenders and ordinary ones for the vital purpose of sentencing.

The provision of appellate review of sentences is of great importance for offenders who are shown under title X to be unusually dangerous to society and are exposed to unusually long sentences. It will implement a recommendation of the President's Crime Commission that:

> There must be some kind of supervision over those trial judges who, because of corruption, political considerations, or lack of knowledge, tend to mete out light sentences in cases involving organized crime management personnel. Consideration should therefore be given to allowing the prosecution the right of appeal regarding sentences of persons in management positions in organized crime activity or groups. Constitutional requirements for such an appellate procedure must first be carefully explored. (Report at 203.)

The appellate review provisions of title X have been drawn with great care so as to avoid infringing individual rights under the due process and double jeopardy clauses. Supreme Court decisions rendered last term, and lengthy and detailed hearings into the legal and constitutional aspects of appellate review of sentences, have indicated that the concept can be implemented as title X does within constitutional bounds. Appellate review under title X will not only permit correction of unjust sentences in particular cases, it will also promote the evolution of sentencing principles and enhance respect for our system of justice. It promises a major improvement in the administration of criminal justice at a stage where that improvement long has been needed.

Mr. President, the President's Crime Commission in 1967 aptly summed up the history of law enforcement's overall efforts to deal with organized crime in these words:

> Investigation and prosecution of organized criminal groups in the 20th century has seldom proceeded on a continuous, institutionalized basis. Public interest and demands for action have reached high levels sporadically; but, until recently, spurts of concentrated law enforcement activity have been followed by decreasing interest and application or resources. (Report at 196.)

It then observed:

Law enforcement's way of fighting organized crime has been primitive compared to organized crime's way of operating. Law enforcement must use methods at least as efficient as organized crime's. The public and law enforcement must make a full-scale commitment to destroy the power of organized crime groups. (Report at 200.)

Finally, it concluded:

In many ways organized crime is the most sinister kind of crime in America. The men who control it have become rich and powerful by encouraging the needy to gamble, by luring the troubled to destroy themselves with drugs, by extorting the profits of honest and hardworking businessmen, by collecting usury from those in financial plight, by maiming or murdering those who oppose them, by bribing those who are sworn to destroy them. Organized crime is not merely a few preying upon a few. In a very real sense it is dedicated to subverting not only American institutions, but the very decency and integrity that are the most cherished attributes of a free society. As the leaders of Cosa Nostra and their racketeering allies pursue their conspiracy unmolested, in open and continuous defiance of the law, they preach a sermon that all too many Americans heed: The government is for sale; lawlessness is the road to wealth; honesty is a pitfall and morality a trap for suckers.

The extraordinary thing about organized crime is that America has tolerated it for so long. (Report at 209.)

Mr. President, Americans everywhere have decided to put an end to that toleration. To achieve this goal, we need a new determination, more human resources, and finely honed legal tools.

As black as it all might appear, the picture is brighter today than it was only a year ago. The executive branch has found a new will to attack organized crime, particularly to use the tool that the Congress provided last Congress in the Omnibus Crime Control Act of 1968: court ordered electronic surveillance. Already, a major narcotic ring, involving two members of La Cosa Nostra and a Negro wholesaler, has been broken up here in the District of Columbia, while a nationwide gambling ring, headed by one of the bosses of the 26 Cosa Nostra families, has been broken up in New Jersey, while new indictments and trials are expected. The administration has asked for and received nearly double last year's appropriations in this field, and the personnel in the Department of Justice devoted to this effort has more than doubled.

The Congress should now provide the additional legal tools necessary to get the job done.

Mr. President, the Organized Crime Control Act of 1969 provides many of these additional tools. I most respectfully urge the Senate to pass this bill.

Mr. President, I should like now to insert several items in the RECORD at this point following my remarks:

On January 4, 1970, the New York Times printed a year-end review by Mr. Fred Graham of the activity of the Department of Justice in the crime area. Part of that review dealt with the Department's new initiatives in the organized crime field.

I ask unanimous consent that the text of that article appear in the RECORD at this point.

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

[From the New York Times, Jan. 4, 1970]

BOTH PARTIES PRESS CRIME AS 1970 CAMPAIGN ISSUE

(By Fred P. Graham)

WASHINGTON, January 3.—The new year is bringing an old problem—crime—to the forefront as a major issue of the 1970 Congressional campaign. But this year there seems to be a reverse twist. The Republican "ins," in contrast to the normal situation, appear most likely to benefit from the continuing crime controversy, and the Democratic "outs" are scrambling to build an anticrime image.

Today, Senator Fred R. Harris of Oklahoma, the Democratic national chairman, called a Democratic Action Conference on Crime, to be held in Washington under his party's sponsorship early this year.

In a statement, Mr. Harris sounded his party's theme for this year by accusing the Nixon Administration of playing on the public's fear of crime but failing to "come up with a comprehensive national effort against crime" while crime statistics continue to rise.

His party's primary antagonist, Attorney General John N. Mitchell, had thrown down the gauntlet last month by accusing the Democratic-controlled Congress of dragging its feet on President Nixon's crime proposals. Not one of the score of anticrime bills introduced or supported by Mr. Nixon was enacted, and Mr. Mitchell served notice that the Republicans would try to pin a "do-nothing" label on the Democratic Congress and blame it for failing to move against crime.

Some Justice Department officials say privately that the Nixon Administration "is not legislation happy" and did not bank heavily anyway on new anticrime laws. Of the 20 bills backed by the Administration, only about half were actually proposed by Mr. Nixon, and these are concentrated in the areas of gambling, obscenity and criminal justice in the District of Columbia.

Senator John L. McClellan, Democrat of Arkansas, has been a leading figure this year in drafting anticrime legislation, and much of the legislation backed by Mr. Nixon was proposed by him. Mr. McClellan has entered documents in The Congressional Record to show that the Justice Department itself often delayed weeks and months in commenting on the measures that Mr. Mitchell now says have been held up.

Privately, some crime experts within the Government concede that such complex legislation should not be rushed through in less than a year. Much of it is expected to be passed before the November elections, which could take the edge off the Republicans' allegation of delay by Democrats.

But Mr. Harris's complaint that reported crime "has gone up 11 per cent during the first year of President Nixon's term in office" is equally vulnerable. Crime statistics rose by 19 per cent during the comparable period of the prior Democratic administration.

REPUBLICANS CURB TEMPTATION

Sources within the Administration report that the Republicans have been tempted to exploit this slacking off of the rise in the Federal Bureau of Investigation's crime index since Mr. Nixon took office. But their experts have warned the White House that this phenomenon might be the result of extraordinary crime increases in 1967 and 1968, when there were widespread urban riots, and that the unpredictable crime index might spurt upward again despite their best efforts.

What this admits, in effect, is that despite the rhetoric from both sides, the crime problem is such a fundamental product of local conditions that a national administration can do little to affect it, especially in one year.

If the two parties do fail to score with their charges against each other, there is a likelihood that the Republicans will profit most from the general concern about crime. For they have taken pains to maintain a strong anticrime image, and Mr. Mitchell has put together a crime program that has impressed even some of its former critics and is likely to look better as time passes.

Mr. Nixon was elected partly on an anticrime platform that is almost unrecognizable when compared with the present Nixon program.

He promised "immediate" Executive action to establish a Cabinet-level national law enforcement council, to set up a national academy of law enforcement, to promote a series of "Town Hall" conferences on crime prevention and to set up a center to coordinate anticrime efforts by private groups.

The Justice Department now concedes that the plans for the council and the crime conferences have been discarded. Its spokesmen say that someone in the White House has been designated to act as the coordinating center but they do not know who. All academy of law enforcement will eventually be established, they say.

MITCHELL AND BURGER

Mr. Nixon has done considerably better on two other commitments that bore directly on crime. He did not appoint an Attorney General who had previous law enforcement experience, as he once said he would, but no one has criticized Mr. Mitchell for not being sufficiently hard-boiled about crime.

Mr. Nixon's pledge to appoint law-and-order advocates to the Federal bench has been most notably reflected in the selection of Warren E. Burger as Chief Justice. Also, officials in the Justice Department say that the men appointed to the Court of Appeals have been a distinctly conservative lot, and they predict that over the years this will have an immense impact on the administration of justice.

Within the Justice Department, Mr. Mitchell has undertaken an anticrime program that has three major elements, as follows:

1. A beefed-up organized crime effort aimed primarily at the crime syndicate's lucrative but vulnerable gambling operations.

2. Massive financial aid to the state and local police.

3. The use of the District of Columbia as a model to prove that urban crime can be brought within reasonable bounds.

Money and manpower seem to play a far larger role in Mr. Mitchell's plans than new ideas or legislative innovations, and his ability to win Budget Bureau approval of his requests is already producing results in the organized crime area.

The number of F.B.I. agents working on organized crime has been doubled from 400 to 800 agents. The authorized size of the organized crime section of the Criminal Division has risen from 70 to 89 lawyers and is scheduled to go up to 112 next year.

More investigations are also being added by the Customs Bureau, the Narcotics Bureau and the Labor Department to fight organized crime.

URBAN STRIKE FORCES

Mr. Mitchell adopted the Johnson Administration's idea of placing anti-Mafia strike forces in target cities. He has increased the number from seven to 11, and says he will have them operating in 20 cities next year.

The result has been to bring the organized crime section's activities before grand juries and in courts up to the approximate level that it reached in 1963 when Robert F. Kennedy was Attorney General. Mr. Kennedy's lawyers (there were then only 60) spent 1,552 days before grand juries and 1,490 in court compared with 769 days before grand juries and 1,550 in court last year.

The activity under Mr. Kennedy produced

many indictments and convictions in succeeding years.

Republican officials say that indictments and convictions are down slightly now because of a lack of Democratic initiative in prior years and because Supreme Court decisions knocked out a number of gambling and narcotics cases.

Will R. Wilson, the present chief of the Criminal Division, is now saying publicly that a spate of indictments will come in the next few months.

Mr. Wilson, a former Attorney General of Texas, conceived the strategy of concentrating on the crime syndicate's gambling operations in an effort to dry up its income. This has been questioned by some police officials, who believe that Mr. Wilson failed to appreciate the complexities of the urban crime syndicate.

However, the indictments in Newark, N.J., last month of 11 reputed Cosa Nostra members, including the head of one of the nation's 26 Mafia "families," have converted some former skeptics. They concede that if the Government can jail high-level racketeers for gambling, that is as good as any other conviction.

Mr. Mitchell has made much of the importance to the anti-Mafia drive of his decision to use court-approved wiretapping and electronic surveillance, which was approved by Congress in 1968 but eschewed by the Johnson Administration as destructive of the public's feeling of privacy.

The Justice Department disclosed yesterday that 21 court-authorized interceptions were conducted last year in organized crime investigations. This is surprisingly low, but Mr. Mitchell indicated in a recent interview that the use of listening devices had risen lately.

His emphasis on money to fight crime has been most pronounced in the program to aid the states. After the Democrats spent $63-million to get the program under way in 1968, Mr. Mitchell obtained an appropriation of $268-million for the current fiscal year, to be funneled to the states and local communities through the Law Enforcement Assistance Administration in the Justice Department.

Mr. Mitchell has talked about doubling the request for the law enforcement unit next year, and he has mentioned the figure of $1-billion for the program in the near future.

PROGRAM IN CAPITAL

One of Mr. Nixon's first acts as President was to issue a message on Jan. 31, 1969, describing a broad program to deal with the "raw, vicious violence" of crime in the District of Columbia.

The situation in the capital has been his most frustrating crime problem and has produced one of the odd incidents of his Administration.

On the day after Mr. Nixon lashed out at the city's lawlessness, which produced 102 bank robberies in the previous year and 19 in January alone, the bank robberies virtually stopped.

In February, two banks were robbed; in March, one; in April, two; and in May, none.

Puzzled officials noted that judges had taken Mr. Nixon's message to heart by keeping a number of accused stickup men in jail on high bail and by issuing stiffer sentences—including a few life terms—to convicted armed robbers. Special police surveillance of vulnerable banks also helped.

But Mr. Mitchell also began to associate this improvement with a psychological phenomenon that Nixon men still stress in discussing the Republican Administration's impact upon crime. The Government became "prosecution-minded," Mr. Mitchell explained, and the criminal element became less bold about violating the law.

It was several months later before statistics brought another facet of the crime picture to light. While bank stickups were declining, armed robberies of shops, liquor stores, service stations and individuals skyrocketed to a level 64 per cent above the previous year's level—suggesting that some of those who had been robbing banks had just moved on to less dangerous pastures.

DOUBLE FRUSTRATION

By the end of the year it was clear to all that aside from bank robberies, crime in the capital was still in a steep climb. This has been doubly frustrating to the Administration because its capital crime proposal contains much of its inventive ideas on crime, and Congress has failed to act on it.

The heart of this is the preventive detention proposal, which would permit the imprisonment of "hard-core" criminals without bail pending trial. It would also attempt to break the case logjam by adding judges, prosecutors and a public defender office. There would also be an increase in the police force and a crackdown on narcotics offenders.

The House and Senate committees for the District of Columbia moved sluggishly with the proposal, but Mr. Nixon has been assured that it will be forthcoming early in the next session of Congress.

With Congressional discussion at least on the heart of Mr. Nixon's crime proposals, the political dialogue can be expected to shift to a point that the Democrats have only hinted at so far, but that may be the core of the issue.

That is whether Mr. Nixon's proposal for preventive detention and his general enforcement approach is the best way to combat crime; or if it smacks of repression in a way that could be counterproductive, or at least ineffective, if not unconstitutional.

Mr. McCLELLAN. Mr. President, the August 22, 1969, issue of Time magazine contained a cover story on organized crime and its impact on our Nation.

I ask unanimous consent that the text of that story appear in the RECORD at this point.

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

THE CONGLOMERATE OF CRIME

(Nobody will listen. Nobody will believe. You know what I mean? This Cosa Nostra, it's like a second government. It's too big. —JOE VALACHI.)

At the beginning of the decade, even J. Edgar Hoover denied its existence. Its structure was a mystery, and if it had a name, no one on the outside was sure of what it was. Yet, almost unnoticed, it exerted a profound impact on American life. It still does. Small wonder that Valachi, the thug-turned-informer, doubted that anybody would believe or care when he talked about an organization called La Cosa Nostra.

Today people do care. Organized crime is suddenly a high-priority item in Congress. The Nixon Administration and several key states are striving to improve law-enforcement efforts. The Justice Department is sending special anti-Mob "strike forces" into major cities, more money is being spent by police forces, and more men are being thrown into the battle. Hollywood makes movies about it (*The Brotherhood*), and readers have put it on the top of the bestseller list (Mario Puzo's novel *The Godfather* and Peter Maas's *The Valachi Papers*). Organized crime is no longer quite the mystery that it was. It is a vast, sprawling underground domain impossible to trace fully; but there is no longer any doubt that its most important part, its very nucleus, is La Cosa Nostra (LCN), otherwise known as the Mafia.*

Its reality borders on fantasy. Many Americans still find it difficult to fully believe that their nation harbors an evil entity capable of stealing billions while destroying the honor of public officials, the honesty of businessmen and sometimes the lives of ordinary citizens. The evidence that it does these things and more has become all to credible. The image persists of the colorful gambler who speaks quaint Runyonesque, or the romantic loner—Jay Gatsby, say—who has his own somehow justifiable morality, or of the paternalistic despot who challenges society by his own peculiar code.

THE MULTIPLIER EFFECT

There are bits of truth in all the impressions, but all fall short. The biggest and most important truth is that La Cosa Nostra and the many satellite elements that constitute organized crime are big and powerful enough to affect the quality of American life. LCN generates corruption on a frightening scale. It touches small firms as well as large, reaches into city halls and statehouses, taints facets of show business and labor relations, and periodically sheds blood. It has a multiplier effect on crime; narcotics, a mob monopoly, drives the addicted to burglaries and other felonies to finance the habit. Cosa Nosta's ability to flout the law makes preachment of law and order a joke to those who see organized crime in action most often: the urban poor and the black. Says Milton Rector, director of the National Council on Crime and Delinquency: "Almost every bit of crime we study has some link to organized crime."

Yet La Cosa Nostra itself, the Italian core of organized crime, consists of only 3,000 to 5,000 individuals scattered around the nation in 24 "families," or regional gangs, each headed by a boss and organized loosely along military lines. There is no national dictator or omnipotent unit giving precise direction on all operations. Rather, the families constitute a relatively loose confederation under a board of directors called the Commission. From this soft center the mob's web spreads to many thousands of allies and vassals representing most ethnic groups. "We got Jews, we got Polacks, we got Greeks, we got all kinds," Jackie Cerone, a member of the Chicago gang, once observed with both accuracy and pride.

In many respects, says Ralph Salerno, who was the New York City police department's chief Mafia expert until his retirement in 1967, the leadership has always been a "happy marriage of Italians and Jews." Salerno adds: "It's the three M's—moxie, muscle and money. The Jews provide the moxie, the Italians provide the muscle, and they both provide the money." In the public mind, however, Cosa Nostra is identified with the Italians, and about 22 million Italian-Americans are being hurt in reputation by the depredations of a very few.

In money terms, the organization is the world's largest business. The best estimate of its revenue, a rough projection based on admittedly inexact information of federal agencies, is well over $30 billion a year. Even using a conservative figure, its annual profits are at least in the $7 billion-to-$10 billion range. Though he meant it as a boast, Meyer Lansky, the gang's leading financial wizard, was actually being overly modest when he chortled in 1966: "We're bigger than U.S. Steel." Measured in terms of profits, Cosa Nostra and affiliates are as big as U.S. Steel, the American Telephone and Telegraph Co., General Motors, Standard Oil of New Jersey, General Electric, Ford Motor Co., IBM, Chrysler and RCA put together.

HOW IT WORKS

Two years ago, the President's Commission on Law Enforcement and Administra-

*"Mafia," literally, means swank, or dolled up, but it probably derives from a Sicilian term meaning beauty or pride. In the context of crime, Mafia applies to the older, strictly Sicilian element of the Mob. "La Cosa Nostra," or Our Thing, is a broader term that means the modern American-born organization.

tion of Justice simply threw up its hands at the prospect of estimating the crime conglomerate's full penetration. "The cumulative effect of the infiltration of legitimate business in America cannot be measured," it said. Robert Kennedy, who began the first big push against the Mafia when he became Attorney General, warned that "if we do not on a national-scale attack organized criminals with weapons and techniques as effective as their own, they will destroy us." No one now disputes its potential for destruction.

Despite its continuing evolution, organized crime follows certain basic patterns that vary little. It must buy or force freedom from the law and from accepted rules of commerce. It must milk gambling, the narcotics trade, industrial relations and usury. It must find outlets for its accumulated profits. These are its main forms of activity:

The political fix takes many forms, but the most important, from LCN's view, is obtaining the cooperation of the policeman and the politicians. East of the Mississippi, particularly, it is the rare big-city government that is completely free of the fix. In Newark, corruption is rampant. One gangster recently confided to another that $12,000 a month flows to police superiors for protection—which sometimes goes beyond a shield for illicit activities. When he vacationed on the West Coast last spring, for example, Thomas Pecora, a boss of Teamsters Local 97 as well as a Mafia man, took along a Newark city detective as a bodyguard.

Newark Police Director Dominick Spina was recently indicted for failing to enforce gambling laws. He was acquitted. Mayor Hugh Addonizzio has refused to give his personal financial records to a grand jury that asked for them. So pervasive is the aura of corruption, a governors committee reported, that it contributed heavily to the Newark riot of 1967, in which black resentment of police was a major factor.

In Illinois, La Cosa Nostra exerts major influence in a dozen Chicago wards and dictates the votes of as many as 15 state legislators. Known as the West Side Bloc, a newspaper euphemism to avoid libel suits, the Mob opposes anticrime bills in the state legislature, forces gangsters onto the payroll of Mayor Richard Daley's Chicago machine, and corrupts the city police department. Salvatore ("Momo") Giancana may be hiding in Mexico, but his stand-ins, Tony ("Big Tuna") Accardo and Paul ("The Waiter") DeLucia still pack influence. Example: When a Justice Department report charged 29 Chicago policemen with being grafters, Daley pooh-poohed the allegations, took no action. Some of the 29 were subsequently promoted.

Protection can also mean death for informers. Richard Cain, once chief investigator for the Cook County, Ill., sheriff's office, gave lie-detector tests to a quintet of bank robbery suspects. Cain, now in prison, was not after the guilty man but in search of the FBI informant among the five. The tipster, Guy Mendolia, Jr., was subsequently murdered.

Three federal men arrived in Columbus last year to investigate gambling. They were soon arrested by local police, accused of being drunk in public. The G-men were acquitted and eight Columbus cops were indicted for taking $8,000 a month in bribes.

Ralph Salerno, co-author of an upcoming book on the Mob, *The Crime Confederation*, estimates that the votes of about 25 members of Congress can be delivered by mob pressure. New Jersey Congressman Cornelius Gallagher was an associate of Joe Zicarelli, a Cosa Nostra power in New Jersey. Zicarelli's command over Gallagher was strong enough, in fact, to bring Gallagher, whom Zicarelli calls "my friend the Congressman," off the floor of the House of Representatives to accept Zicarelli's telephone calls. Although Gallagher has denied the allegation with varying degrees of indignation, he has never bothered to sue Life for its disclosures about him. He has since been reelected, and remains a member of the House Government Operations Committee, which watches the federal agencies that watch the Mob.

Even the judiciary is not beyond reach, and the Mob has a special set of instructions for judges on the payroll. An FBI "bug" placed in the First Ward Democratic organization on La Salle Street, a favorite gathering place for Chicago gangsters, overheard the following conversation between Illinois Circuit Court Judge Pasqual Sorrentino and Pat Marcy, a friend of the Chicago LCN family. What should he do, Sorrentino asked, if federal agents questioned him about his associations with gangsters? Marcy's answer: "Stand on your dignity. Don't answer those questions. Tell them they're trying to embarrass you. Stay on the offensive. Remember, you're a judge." The trouble is, of course, that Sorrentino and some of his colleagues, on federal as well as state benches, have forgotten just that fact.

Nowhere has organized crime subverted more than a tiny minority of public officials. But a minority can be enough both to undermine law enforcement and to bend regulations, purchasing procedures and legislation to a shape pleasing to the mob.

Gambling is far and away the Mob's biggest illicit income producer, more than taking the place that bootleg liquor held during Prohibition. No one can more than guess how much money is bet illegally in the U.S. each year, but a conservative estimate is that about $20 billion is put down on horse racing, lotteries and sports events. Perhaps a third is pure profit for LCN and its affiliates.

In the slums, the bets are usually on "the numbers." The gambler picks the number that he thinks will come up in some agreed-upon tabulation—the total dollars bet at a race track, for example—and puts down as little as 25¢ or as much as $1. In some places $10 bets are allowed. The bet taker himself, called the policy writer, is too small—and too vulnerable—to be a formal member of La Cosa Nostra. He works instead under contract as a "sharecropper."

Bookmaking is next up the ladder from the numbers, and the bookmaker, who usually employs several solicitors, is a man of substance. When FBI agents seized Gil Beckley, the king of layoff men (a banker to smaller bookies), in Miami in January 1966, his records showed that on that day alone he had handled $250,000 in bets, for a profit, by his own reckoning, of $129,000. He is now appealing a ten-year prison sentence in the case.

An operator like Beckley is not necessarily a full member of LCN. Beckley has a kind of associate status, in which favors and profits flow back and forth. As in certain other areas, LCN is content to get a cut while leaving active management to a relative outsider. Another big layoff man, Sam DiPiazzo, once told of an attempt by Giancana's Chicago family to extort 50% of his six-figure take. As DiPiazzo related the story, he was forced to go before a committee in Chicago, where he haggled the bite down to a mere $35 a day. His big bargaining point was that he cooperated with "the Little Man," Louisiana Family Boss Carlos Marcello.

General affluence and increasing public interest in sports such as football and basketball hike the stakes and make the potential for corrupting athletes great. Even if he does not succeed in fixing a game, the Cosa Nostra agent finds information about a team's morale or physical condition priceless in helping him to set odds. On just such an information hunt, a scout for Chicago Handicapper Burton Wolcoff wangled his way into the clubhouse of the Los Angeles Dodgers a few years back. Learning that Sandy Koufax, who was scheduled to pitch that day, was having even more arm trouble than usual, the agent flashed the news to Wolcoff, who put down $30,000 against the Dodgers. Koufax gave up five runs in early innings and the Dodgers lost.

The National Football League has gone to considerable lengths to detect the fix, relying, ironically, on Gil Beckley. Apparently the league operated on the theory that it takes one to know one. "I want the games square," Beckley told league officials when he announced his proposition. "If I know that something's wrong, I'll give you the name of the club. But I won't give you names of the players." Tips from Beckley have touched off a number of secret investigations by the league.

Until the mid-60s, one of Costra Nostra's most profitable gambling operations was at one of the few places in the U.S. where most kinds of gambling are legal: Las Vegas. The Mob's technique there, known as "skimming," was as simple as larceny and as easy as shaking the money tree: a part of the cash profits from six LCN-controlled casinos was simply diverted before the figures were placed in the ledger books. How much cash was spirited away in this manner, eluding both state and federal taxes, no one can say precisely. After the Government became aware of mob influence and forced the gangsters out of most of the casinos in 1966 and 1967—LCN still has interests in two big casinos—revenue reported for tax purposes jumped by more than $50 million a year.

Loan-sharking or usury nets several billions—it is impossible to say how many—in revenue for the Mob. Dollar for dollar, usury is LCN's best investment; though the gross is lower than it is in gambling, profits is higher. Interest rates commonly run at 20% per week, or, in the Mob's words, "six for five"—borrow $5 on Monday and pay back $6 by Saturday noon, the normal deadline. Borrowers are frequently gamblers who have lost heavily or hope to make a big strike, but they also include factory workers, businessmen on the verge of bankruptcy, or anyone else who needs cash but cannot meet a bank's credit check.

Many of the Cosa Nostra's legitimate business fronts were acquired when the owner could not pay his debt. Some public officials were acquired in the same manner. Over his head in various business deals, James Marcus, the former Water Commissioner of New York City, took a loan at 104% annual interest. When he was unable to pay, the gangsters found him a willing victim for other schemes, including graft on city projects. In the case of Marcus, as with many other public officials, the loan was almost certainly a come-on for what the Mob really wanted: a good friend in a high place. Marcus, Mobster Anthony ("Tony Ducks") Corallo, and Contractor Henry Fried were convicted in the kickback scheme.

Narcotics traffic, chiefly in heroin, is less lucrative than gambling, but still profitable enough, bringing in more than $350 million in revenue and $25 million in profits. Because of the risks involved in peddling drugs directly, Cosa Nostra once again contracts the retail trade to its sharecroppers, saving for itself the less dangerous and infinitely more profitable role of importer and wholesaler. The sums involved are substantial. By the time opium from Turkey, the chief supplier for the U.S., is processed into heroin and shipped to New York, it is worth about $225,000 per kilogram. The price to society is beyond measure.

So far, there is no evidence that the Mafia has tried to penetrate the marijuana market. The source of supply in Mexico is too close, and the competition from travelers passing over the border too intense. One unforeseen byproduct of the Federal Government's crackdown on the marijuana trade, however, may be to create an LCN monopoly. If the "independents" are driven out, the mobsters

might find pot as profitable as heroin. Just that happened in bookmaking, when police put many free-lance operators out of business.

Labor racketeering has no price tag, but obviously nets the Mob many millions. It takes several forms. One of the simplest is extortion. The gangsters might thus inform a small businessman, who has perhaps only a dozen employees, that from that minute on his enterprise is unionized. Though the employees may never know that they belong to a "union"—and never receive any of the benefits of being in a union—the employer nevertheless pays the "union organizers" the workers' initiation fees and monthly dues. In another variation, the bogus union settles for "sweetheart" contracts that are grossly unfair to the workers it is supposed to represent. The difference between what a legitimate union might win for the workers and what the Mob union actually obtains is split between the mobsters and the company owners. In one such contract, writes Donald Cressey in his definitive work, *Theft of the Nation*, the president of a paper local won his union only one paid holiday a year: Passover. His membership was exclusively Puerto Rican.

In other ways as well, union racketeering can be as profitable to a company as it is to the Mob. Once the gangsters have taken over a union—they find their easiest prey in unskilled and semi-skilled occupations—they can guarantee both labor peace and a competitive edge over other companies in wages and benefits. There is, of course, a fee, but that is often lower for the businessman than the real costs of strikes or higher wages.

Business infiltration is the organization's fastest-growing source of revenue. Its interests extend to an estimated 5,000 business concerns. Indeed, Cosa Nostra's penetration of the above-ground world of finance and commerce is probably the greatest threat that it poses to the nation today. A business can be acquired in any number of ways, from foreclosure on a usurious loan to outright purchase. LCN, after all, has more venture capital than any other nongovernmental organization in the world. New York's Carlo Gambino and his adopted family own large chunks of real estate in the New York area valued at $300 million. Until recently, they also ran a labor consulting service. Marcello of New Orleans, another real estate millionaire, has been buying up land in the path of the Dixie Freeway and hopes to make a bundle in federal highway funds.

Once brought under the Mob's umbrella, a business almost always ceases to operate legitimately. If it is a restaurant—favorite targets—or a nightclub, it buys coal or oil from one LCN affiliate, rents linen from another, ships garbage out through still another. Its entertainers, parking lot attendants and even its hat check girls must always be approved by the Mob—and sometimes they must kick back part of what they take in. When the gangsters were big in Las Vegas, they sometimes used skimmed cash to supplement the fees paid to featured performers. The under-the-table funds went untaxed and left the complaint performer with an obligation. This was repayed by appearances elsewhere at the Mob's request.

Unfortunately, the gang's business methods do not stop with such relatively innocuous, if illegal, tactics. The giant Atlantic & Pacific grocery can testify to that. Taking control of a company that manufactured detergent, the powerful New York-New Jersey gangster brothers, Gerardo and the late Gene Catena, tried to put the product on A. & P. shelves. When the A. & P. officials rejected the inferior Brand X, marketed by the Catenas' Best Sales Company, the brothers tried traditional means of persuasion. Four A. & P. employees died violently. Six stores were fire-bombed. Finally, two union locals threatened to strike, rejecting out of hand a contract that seemed more than generous.

Dumfounded by tactics not taught at the Harvard Business School, A. & P. officials seemingly never connected Catena detergent with strikes and terror. The government did, however, and impaneled a grand jury to investigate the Catena brothers' marketing procedures. Brand X was apparently not worth the bother of federal heat. The Catenas got out of detergents, the unions signed their contracts, and the A. & P. was left at peace.

Generally, the Mob favors businesses in the service and retail fields, particularly things like coin-operated machines, liquor stores and laundries. These offer, among other advantages, cash turnovers susceptible to skimming. With these companies the mobsters can rake off funds without anyone, particularly anyone in the Internal Revenue Service, being the wiser. When FBI agents searched the house belonging to the son of Buffalo Boss Stefano Magaddino last December, they found in a suitcase $521,020 in skimmed cash, most of it from Magaddino's 15 companies in the Buffalo area. It may not have been worth all of Magaddino's trouble. Not only has the Government confiscated his money, but the other mobsters are infuriated because Magaddino had told them that he had no funds to help them meet common expenses. This month, in fact, LCN's top hierarchy took the highly unusual step of sending a team to investigate Magaddino's finances. Mrs. Magaddino, who had never looked into the suitcase, was also upset. "Son of a bitch!" she muttered when the FBI carted the money away. "He said we have no money for Florida this year. $500,000!"

Jukeboxes, funeral parlors, small garment firms and other marginal enterprises that have long attracted gangsters have little effect on the general economy. Big-time construction is another matter, and by playing both the union and management side, LCN begins to exercise major impact. The Crime and Delinquency Council's Milton Rector says air-freight trucking operations have been so deeply penetrated that gangsters could bring New York's Kennedy Airport "to its knees at any time."

As the boodle piles up, repositories bigger than Magaddino's suitcase must be found. Many millions go to foreign banks. Switzerland, with its numbered bank accounts, is the favorite. Funds from these reservoirs often come back in the form of "loans" for investment purposes. Asked to produce collateral for a jukebox import deal, Philadelphia Boss Angelo ("Mr. A.") Bruno quickly came up with a certified check backed by a Swiss account. The amount: $50 million.

WHAT KIND OF MAN?

Cosa Nostra's business sophistication should not be surprising, since some of the bright young men in the Mob are as astute and innovative as their peers in any other field. What kind of man joins La Cosa Nostra today? To be in the organization itself—as distinct from its many affiliates—he must, first of all, be Italian or of Italian descent. Unitl 1952, he had to be a certified killer as well. That requirement has been dropped, and the recruiters look for a young man who has, besides the necessary venality, some protective coloring. The older men are not always happy about the change. "They shouldn't let nobody in this unless he's croaked a couple of people," New Jersey's Angelo ("Gyp") DeCarlo was once heard to mutter. "Today you got a thousand guys in here that never broke an egg."

There have been other, though less important changes induced by both shifting life styles and the desire to escape notice. Years ago, anyone could tell a mobster by his loud dress and, most particularly, his large, wide-brimmed, white hat. Now, the tendency is to dress like a businessman, in conservative Brooks Brothers gray.

One custom that had to be dropped was the kiss of greeting between members. "Charlie Lucky [also known as Salvatore Luciano or Lucky Luciano] put a stop to this and changed it to a handshake," Joe Valachi told Author Peter Maas. " 'After all,' Charlie said, 'we would stick out kissing each other in restaurants and places like that.' "

Ostentatious living has gone out as well, despite the fact that even the lowliest members are often millionaires. The Government provides one good reason. If a man spends much more than he shows on his income tax return, the IRS can nail him for tax fraud. Few of the bosses thus claim or openly spend much more than would a moderately successful businessman. The ancient, somewhat puritanical code of the Mafia, which dislikes display, provides another reason for simple style. The late New York boss Vito Genovese, for example, used to drive a two-year-old Ford, spent little more than $100 for his suits, and lived in a modest house in Atlantic Highlands, N.J. When his children and grandchildren visited him, Genovese, very much the kindly paterfamilias, would cook them up a huge pot of spaghetti.

Another legacy from the Sicilian Mafia is Cosa Nostra's almost mystical concept of respect. Something like the Oriental notion of "face," respect means more to a Cosa Nostra mobster than money. If he does not have the regard of his fellow members, he is nothing, even in his own eyes. An equally high value is placed on loyalty. It is not always honored, to be sure, but it nevertheless remains a powerful binding force within the organization. Indeed, the very human characteristics of respect and loyalty, together with the organization's dynastic structure, offer some clues to its remarkable durability. Son follows father, underboss follows boss, and the line continues over the decades.

Another element seems to be a sense of unity against a world viewed as hostile. The chaotic history of Sicily remains an unconscious memory. There, amid poverty and foreign intrusion, survival and prosperity depended on one's own immediate group and one's own rules. Does the younger generation have any qualms about what it is doing? It would seem not. In *The Godfather*, the Dartmouth-educated son of a New York boss gives his bride what is probably the typical rationale. Members of Cosa Nostra, he reasons, are no worse than any other Americans. "In my history course at Dartmouth, we did some background on all the Presidents, and they had fathers and grandfathers who were lucky they didn't get hanged."

Perhaps. They were not, however, likely to employ the sadistic methods that Cosa Nostra still finds useful. Despite the more businesslike image of the younger gang leaders, many mobsters are still animals in fedoras. If Sam Giancana moves, as he has, with Frank Sinatra on one level, his henchmen move on another. One of the most chilling conversations that the FBI has overheard involved two of Giancana's hoods telling a third, "Jackie," about the murder of one of their colleagues, a 350-pounder by the name of William Jackson.

James Torello: Jackson was hung up on that meat hook. He was so heavy he bent it. He was on that thing three days before he croaked.

Fiore Buccieri (giggling): Jackie, you shoulda seen the guy. Like an elephant, he was, and when Jimmy hit him with that electric prod . . .

Torello (excitedly): He was floppin' around on that hook, Jackie. We tossed water on him to give the prod a better charge, and he's screamin' . . .

Despite Cosa Nostra's obvious frightening strengths, new problems and challenges are coming at it from several sides. In the slums, for instance, its control of gambling and vice is being contested, sometimes success-

fully, by the blacks, Puerto Ricans and Mexican-Americans who want a share of the action. In Buffalo, the blacks at first worked a bargain with Magaddino by which they would control the numbers racket, giving him only a 10% tribute. Later, when he ran into trouble with the authorities, they stopped the 10% entirely. That was nothing compared to the trouble that Ruggiero Boiardo had in Newark. There Negroes not only took over the lottery but also shook down Boiardo's numbers men and occasionally took shots at them.

There are, in addition, internal disputes, like the messy slaying of New York Boss Albert Anastasia in 1957. Even though he has never been east of Flatbush, a Cosa Nostra man still looks upon himself as a Sicilian or a Neapolitan, distrusting the other. Nor is the Commission itself what it once was. Two places, vacated by death, have not been filled. Two of the commissioners, Philadelphia's Angelo Bruno and New York's Joe Colombo, command little respect; Detroit's Joe Zerilli rarely attends meetings. A former commissioner, New York's Joe Bonanno, was kicked out in 1964 and his family reassigned when he attempted to kill off some of the other bosses.

THE LAW'S DELAY

Where is the law? Why, despite some troubles, does Cosa Nostra survive and thrive? Beyond its own inherent strength and tradition is its ability to corrupt civil officials. Probably no other group in history has made such a fine art of corruption. Without the fix, Cosa Nostra would not last out the year. Nor are local cops the only ones who yield to temptation. Three days after a report on skimming in Las Vegas was sent to the U.S. Attorney General's office in 1963, a complete copy was in the hands of the criminals cited in the report. The conduit for that leak has never been found.

Even in the absence of official dishonesty, law enforcement has often proved inept. Most city and state police agencies are still not equipped to deal effectively with clever, well-financed conspiracies that extend across city and state lines. The FBI is better trained, of course, but its special agents hardly constitute a national police force, and were never intended to do so. Until the beginning of the decade, federal authorities merely nodded while the mobsters nibbled away at the country. Besides, coordination among law-enforcement agencies at all levels is frequently weak or totally absent. Even when pressure is applied vigorously, resulting in arrests and convictions, LCN can quickly fill personnel gaps.

Not that prosecution is easy under the best of circumstances. The gangsters' well-paid legal corps takes full advantage of the Bill of Rights. The Mob's muscle often takes care of potential witnesses. It takes a brave citizen to call the police. Also, most of the evidence gathered by the FBI, until recently, was not admissible in court.

Much is changing. Though more vigilant observation might have detected it long before, a major revelation occurred in 1957, when New York state police happened upon a meeting of the Commission and its lieutenants at the estate of Joseph Barbara in upstate Apalachin. The authorities were able to find out who the mobsters were and, more important, that they were together. In 1962, Joe Valachi, the Cosa Nostra soldier-turned-informer, confirmed and explained what the FBI had been hearing from its bugs for months. Though he looked at the Mob from the bottom up, Valachi's remarkable memory nonetheless provided invaluable insights into its organization. From January 1961 to December 1968, the Government indicted 290 members of Cosa Nostra and obtained 147 convictions, with many cases still pending. Some of the bosses themselves have been jailed, while many have found their activities severely curtailed because of continuous scrutiny.

STRENGTHENING HAND

Most of the surveillance has come from electronic bugs and telephone taps, which have supplied something like 80% of the information the Government has on the Mob. While bugging is still the subject of considerable controversy—and can be a serious danger to civil liberties if misused—a law passed by Congress last year at least clarifies the Government's powers and gives the Justice Department broader jurisdiction. For the time being, electronic snooping seems to be a necessary, if risky weapon.

Federal funds are now available in increasing amounts to help city and state agencies prepare for the challenge. Two major bills now pending in Congress could have significant results. One would strengthen the hand of prosecutors and grand juries in mounting investigations and make involvement in organized crime generally—regardless of the specific violation—a federal offense. The second measure would invoke civil procedures, such as antitrust action, to attack organized crime behind its screen of bogus legitimacy.

Beyond new statutes and energetic reinforcement, the nation needs another, stronger weapon: public indignation. There is not nearly enough of that in the U.S. No other Western, industrial country in modern times has suffered criminal abuses on such a scale. America's porous, pluralistic and permissive society offers extraordinary opportunities, chances to hide and to advance, for the enterprising and imaginative criminal. But, most fundamentally, U.S. society helps the criminal by toleration (occasionally even admiration) and by providing a ready market for his services. Illicit gambling thrives because of the popular demand for it. Politicians of questionable integrity remain in office because the electorate allows it. Entrepreneurs who half-knowingly accept dirty money with the rationale that business is business are as corrupt as grafting politicians.

TOLERATING THE MOB

In large measure, the modern Mob lacks the traditional justification for crime—the bitter spur of poverty. It also lacks the occasional, near-heroic dimension of defying law and the established order for the sake of rebellion. It is by and large a middle-class sort of Mob, more or less tolerated by the affluent. Among the public there is often a certain psychological hypocrisy. Rage is great over conspicuous criminal acts, but there is less anger over the far more harmful depredations that are the specialty of organized crime. Until there is a popular revolt, La Cosa Nostra will probably endure.

UNITED BY OATH AND BLOOD

Centuries before La Cosa Nostra was heard of in the U.S., the Mafia operated—even as it does today—as a brigand government in much of Sicily. Though many Italian immigrants had come to the U.S. to avoid just such oppression as the Mafia offers, a few among them formed a new Mafia in the new country. In the crowded "Little Italys" of the late 19th and early 20th centuries, the thugs found easy prey among people who had been taught to dread the terrorists' Black Hand.

Prohibition offered the transplanted *Mafiosi* the chance they could not have made for themselves. Only they had the organization that could capitalize on the potential of bootlegging. Only they lived among people who already operated home stills that could quickly be converted into commercial distilleries. With fantastic profits, little crooks became big crooks, and the peculiar society of petty outlaws became the all-powerful Cosa Nostra.

There was enough intraorganizational feuding to fill a graveyard. Often the battle lines were drawn between Sicilians and Neapolitans—a distinction that causes ill feeling even today. But Sicilians from one area also fought Sicilians from another area, going so far as to take Neapolitans as allies. A particularly bloody period in 1930–31 called the Castellammarese War (the town of Castellammare del Golfo was home to one of the factions) killed about 60 gangsters. Thus the factions agreed to unite behind the Mob's modern founding father, Salvatore Maranzano.

A Castellammarese who borrowed his ideas from Julius Caesar's military command, Maranzano laid down the patterns that still, with minor modifications, hold today. To stop the killing, said Maranzano, the gangs that then existed would henceforth be recognized as families, each with its own territorial limits. Heading each family would be a boss, or *Capo*. Under him would be an underboss, or *Sottocapo*, and beneath the underboss would be any number of lieutenants, or *Caporegimes*, leading squads of soldiers, or "button men." One advantage of the scheme was the insulation it provided the men at the top. In the ordinary course of events, they would never put themselves within easy reach of the law.

The organization's code of conduct was partly Maranzano and partly Mafia *omertà*, a combination of such qualities as manliness, honor and willingness to keep secrets. Its requirements have never changed. The penalty for breaching the code: death. Except for the Chicago branch, which has always disdained the ornate, members are bound by an elaborate ceremony of medieval hocus-pocus. Flanked by the boss and his lieutenants, the initiate and his sponsor may stand in front of a table on which are placed a gun and, on occasion, a knife. The boss picks up the gun and intones in the Sicilian dialect: *"Niatri representam La Cosa Nostra. Sta famigghia è La Costa Nostra* [We represent La Cosa Nostra. This family is Our Thing]." The sponsor then pricks his trigger finger and the trigger finger of the new member, holding both together to symbolize the mixing of blood. After swearing to hold the family above his religion, his country, and his wife and children, the inductee finishes the ritual. A picture of a saint or a religious card is placed in his cupped hands and ignited. As the paper burns, the inductee, together with his sponsor, proclaims: "If I ever violate this oath, may I burn as this paper."

Brilliant as Maranzano's plan was, it had one major flaw: Maranzano himself. Like his hero Caesar, Maranzano suffered from overweening ambition. Above the family bosses, there was, under his scheme, to be a Boss of All Bosses, a *Capo di Tutti Capi*, by the name of Salvatore Maranzano. When several of the family bosses found out that he was plotting to kill them, they worked up an assassination scheme. Five months after he took power, *Il Capo di Tutti Capi* was murdered. The same day, Sept. 10, 1931, 40 leaders allied with him were slain across the country.

With Maranzano's death, a kind of peace did settle over Cosa Nostra. There have been skirmishes and murders aplenty since then, but never anything like the Castellammarese War. In place of the *Capo di Tutti Capi*, the mobsters formed a Commission made up of nine to twelve family bosses to guide the organization and settle disputes. While its powers have never been precisely spelled out, the Commission seems to be roughly analogous to the governing body of a loose confederation. It must approve each family's choice of boss, and it can, if it wants to, remove a boss—usually by assassination.

Often, the Commission's chief function seems to be preservation of the balance of power, making sure that no one boss gains too much power. In Cosa Nostra's terms, as in nations', that is guns. Theoretically, at least,

the 24 families have not been allowed to increase their numbers since the '30s. They vary greatly in size now, as they did then, from Carlo Gambino's army of 1,000 in New York to James Lanza's tiny, ineffectual squad of twelve in San Francisco. Currently, several families are open to recruits, offering new opportunities for growth and power. United by oath and blood, Maranzano's organization may have as long a life as Caesar's.

PORTRAIT OF AN OBSOLETE MOBSTER

Evicted from the Mob's top hierarchy in 1964, Joe Bonanno of New York—one of the bloodiest killers in Cosa Nostra's history—eventually retired to Tucson, Ariz., where, amid his fig and orange trees, he now lives modestly, reflecting on his days of power and plotting his comeback. His life is not entirely normal, however. The FBI tried, unsuccessfully, to recruit his confidant and all-round handyman, David Hill, 21, as an informer. Once a bomb landed in Bonanno's backyard. He thinks that an FBI agent may have prompted two young thugs to throw the bomb and start a fight between Bonanno and another mobster—a sequel to the "Banana War" that followed his downfall.

Bonanno may get support for his bizarre notion. Tucson authorities are preparing to try two men for attempting to dynamite Bonanno's house. A prosecution witness claims that an FBI man put them up to it. Thinking that Bonanno has been badly treated, young Hill last week volunteered to talk about his boss to Time Reporter James Willwerth. The following is Hill's portrait of an obsolete mobster:

Like many other retired executives, Bonanno finds the routine irksome. Most mornings Hill drives him into town, where Bonanno attends to errands until about noon. Returning home—a rather small, three-bedroom house at 1847 East Elm Street—he usually lunches on an Italian sausage sandwich, then puts on a "ghastly-looking" pair of Bermudas for a couple of hours of sun and reading in the yard.

Shortly before dinner, Bonanno changes into slacks and as a never-changing rule, sits down with a snifter of brandy and provolone. After dinner, preferably goat meat or *scampi* and Pouilly-Fuissé (1959 or 1961), he has a cigar, reads the newspapers and watches television newscasts, ending up with a late movie. His favorite stars are Alice Faye and—of course—George Raft.

Except for Hill, whose blond good looks, shaggy hair and modish clothes could easily mark him as a jet-setter, there is almost no one else around. It is a sad contrast to his high-rolling days, when prominent clergymen, judges and politicians felt it an honor to be entertained at the home of the mobster known as Joe Bananas. When the Government tried to deport Bonanno in 1954, for instance, among those who testified as character witnesses were the Most Rev. Francis Green, former Congressman Harold Patten and former Arizona Supreme Court Justice Evo DeConcini (the Most Rev. Francis Green is now the Roman Catholic bishop of Tucson).

Now Bonanno's heart condition keeps him close to Tucson—the fact that a grand jury in New York wants him for questioning may also be persuasive—but he is not really at home. Newspapers ride him. Substantial gifts to the Roman Catholic Church and philanthropies have somehow failed to make people forget about his background.

Bonanno often walks back and forth for hours, deep in thought. Hill says that he has seen him touch the tips of his fingers together, point them at the sky and moan: "I am in the world for 64 years, and only in the last five years have these things happened to me!" Other times he will be more philosophical: "I know it's my fault. It was impossible for me to foresee these things." He has only three ambitions now. One is to move closer to his children in Palo Alto, Calif. The second is to visit once more his birthplace and the graves of his parents in Castellammare del Golfo, Sicily, home of so many American Mafiosi. The third, which he apparently does not tell young Hill about, is to return to power, and, like Napoleon at Elba, he still dreams of the day when he can march home and reclaim his Costa Nostra family.

Mr. McCLELLAN. Mr. President, just yesterday, the Daily News carried a front page editorial calling for action to implement President Nixon's war on crime here in the District of Columbia. I recognize, of course, that the central thrust of S. 30 is directed against organized crime, but no careful student of organized crime can help but see a close relationship between it and street crime. It is, after all, as the recent narcotic bust here in the District showed, the New York Mafia leader who imports and distributes to the ghetto residents here in the District the narcotics that enslave them and lead them to mug and rob and yoke on our streets.

I ask unanimous consent that the text of that editorial appear in the RECORD at this point.

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

[From the Daily News, Jan. 20, 1970]

THE WAR ON CRIME: ONE YEAR LATER—IT IS TIME FOR ACTION

President Nixon was inaugurated one year ago today. He had been elected two months earlier on a platform which featured his declaration of a War on Crime. In a front page editorial we welcomed the new President's return to the city he knew so well, and his selection of it as a principal battlefield in the War on Crime he had led us to expect.

It is time now, one year later, to take an accounting.

It is time for the rhetoric to end.

It is time for partisan fingerpointing to end.

It is time for some action.

During this interval, crime rates in the nation and in the Federal City have soared to unprecedented heights. In 1969, in Washington, one murder was committed every 30 hours, an armed robbery took place 20 times a day, a woman was raped each day.

In 1969, the Nixon Administration submitted to Congress, after some six months' preparation, an inventory of legislative weapons it said it needed to prosecute the War on Crime.

On Oct. 9, in response to mounting public outrage and to his own often-repeated concerns, Mr. Nixon summoned the leaders of Congress and officials of Washington to a White House strategy session. Its purpose was to get bipartisan momentum rolling for the stalled anti-crime bills.

Police Chief Jerry V. Wilson, as we noted daily on Page One in our ensuing "Crime Crisis Countdown," told this prestigious gathering: "The total system of justice must be treated . . . My greatest fear is that Congress may go home without this being done."

His fear was realized on Christmas Eve, 76 days after that emergency meeting. The Senate had acted. But the House of Representatives had not.

The second session of the 91st Congress opened yesterday. There has been speculation (based on the solemn promises of leaders on both sides of the aisle, that Congress will complete action on the War on Crime legislation this year.) Our hope that this will come to pass is mixed with skepticism because the same promises, made one year ago today, did not come to pass.

The victimized public can be reassured only by action.

We recognize that parts of the anti-crime package have raised some constitutional doubts . . . the provisions for greater license for wire-tapping and for pre-trial detention, for example. But much of the package is not controversial, or should not be . . . more police, more courts, a variety of attacks against syndicate crime, easing the lot of prosecutors, tougher penalties for the habitual criminal and for crimes of violence (particularly when guns are involved), and tougher measures against hard dope traffic.

There is no reason—no acceptable excuse—why the non-controversial bills should not be passed within the opening days of this session. In the past 365 days, ample attention has been paid to the problems of drafting this legislation by the Republican-controlled Department of Justice, and to its examination by the Democratic-controlled Congress. We'll buy the need to delay for those reasons—up to this point. But we will not buy any further delay. Congressmen reading the polls and weighing the outcome of recent off-year elections must realize that they may engage in further partisan bickering and legislative delay at their peril in the November general elections.

If further study is needed for those few controversial aspects of the proposed legislation . . . well, all right . . . but let's get on with committee study as the first order of business, and clear the way for prompt action on the floor.

It is time, too, to go beyond the cops-and-courts aspects of the War on Crime. We insist, as we did in that Open Letter to Mr. Nixon one year ago today, that the criminal be caught and prosecuted. We also want him, whenever possible, to be rehabilitated so that he will not return to the streets a more embittered and expert criminal.

In the heat of partisanship, the cause of law and order has suffered. Motives of both the "hardliners" and the "do-gooders" have been challenged. Justice, we repeat ourselves, means two things: it means that the innocent shall go free and that the guilty shall pay the price of their guilt.

No issue on the Hill has higher priority. No positive response will gain greater favor with the public.

To get very, very elementary, the physical well-being, the lives, even, of many Americans are at stake. So, of course, is the vitality of Our Town of Washington, and every other core of the great metropolitan areas of our nation. So, too, is the future of our democratic society.

Mr. McCLELLAN. Mr. President, I should like to bring to the attention of the Senate a touching letter that I just received from Mrs. Arthur J. McShane, who lives at 117 3d Street NE., here on Capitol Hill. Crime statistics are too often lifeless. We need to hear and read the personal testimony of how those who live daily in the fear of crime feel. If this bill and the other measures that Congress is now considering can in any way offer some measure of relief to our citizens who, like Mrs. McShane, live in daily fear of crime, we will have in some measure fulfilled our obligation as representatives of the people.

Mr. President, the letter is dated January 19, and is addressed to me:

DEAR SENATOR MCCLELLAN: May we please enlist your assistance in obtaining an effective crime prevention program in the neighborhood of Third Street, Northeast, be-

tween East Capitol and Massachusetts Avenue?

On Friday, January 16th, about 11:00 P.M., our good friends and neighbors were robbed at gun point in the 100 block of Third Street, Northeast, then forced to drive their abductor cross town. Last evening shortly after 8:00 P.M. a woman was attacked in front of our house.

These are just two of the recent crimes in our neighborhood. Our corner grocer at Third and Maryland closed because of many holdups, and the cleaners at Third and C is forced to keep their door locked. I would like to do an article entitled "Two Blocks From the Capitol" which would far surpass the title "Ten Blocks From the White House."

In my opinion the former precinct plan was much more effective than the present Districts. Our first need is beat men and officers from the Canine Corps. Scout cars are not the answer. I'm annoyed at being a prisoner in our home, and shall certainly appreciate any measures you can take so that we may all once more live with some feeling of security.

Sincerely yours,

Mrs. ARTHUR J. McSHANE.

Mr. President, I do not know this lady and did not know of her plight until today. I did know of another similar story. One of my employees, a committee employee, was robbed within less than a block of the door where he enters the Senate Office Building in which he works, just before Christmas. It is all over town, and many such crimes are not reported.

Of course, this bill, as I say, is not directed primarily to the District of Columbia. But many of these robberies, many of these muggings, many of these crimes of violence that are taking place in the District of Columbia, Mr. President, are motivated primarily to get money to satisfy the appetite of the drug addict; and it is the Mafia, it is organized crime, that is supplying that poison to them. This bill can have a significant effect in reducing street crime in the District and across the Nation.

Mr. President, I wish to insert in the RECORD one other letter. I think all Senators received this letter, which is dated January 19, 1970, from Hon. Hilton Davis, general manager for legislative action, Chamber of Commerce of the United States. The chamber strongly supports this bill.

I ask unanimous consent to have printed in the RECORD the letter to which I have referred, together with an enclosure.

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

CHAMBER OF COMMERCE
OF THE UNITED STATES,
Washington, D.C., January 19, 1970.

Hon. JOHN L. McCLELLAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR McCLELLAN: In the next few days, I understand the Senate will consider S. 30, the Omnibus Organized Crime bill reported by the Judiciary Committee in December.

The Board of Directors of the Chamber of Commerce of the United States has approved support of many of the principal provisions of S. 30 as vitally needed legislation to help federal officers combat organized crime. A copy of this statement of approval is enclosed.

Every facet of our society is adversely affected by the extensive moral corruption resulting from the operations of organized crime. Particularly the youth of our Nation are being victimized by the illicit sale of narcotics and by gambling operations, both closely linked to organized crime.

This legislation is also needed to strengthen the legal tools for halting the infiltration of organized crime into legitimate businesses in our Nation. Many of its activities are now permeating legitimate businesses on an alarming scale.

The impact of organized crime on the national economy has reached phenomenal proportions. Latest estimates are that organized crime in America takes in more than $30 billion, and possibly as much as $60 billion annually, from its operations.

We urge you to give S. 30 favorable consideration when it reaches the Senate floor.

Cordially,

HILTON DAVIS,
General Manager, Legislative Action.

RECOMMENDATIONS ON ORGANIZED CRIME LEGISLATION AS APPROVED BY THE BOARD OF DIRECTORS OF THE CHAMBER OF COMMERCE OF THE UNITED STATES, NOVEMBER 13, 1969

COMBATING ORGANIZED CRIME

To strengthen Federal efforts to combat organized crime, the National Chamber supports legislation providing for:

1. Extension of the grand jury system allowing the issuance of a presentment or report on misfeasance, non-feasance or corruption of public officials or their institutions.

2. Increasing investigatory and prosecutorial tools by implementing a Federal immunity provision, allowing the taking of depositions of witnesses, permitting introduction into evidence of declarations of coconspirators, and codifying existing civil contempt proceedings.

3. Improving the system for protecting witnesses through Federal financial and other assistance.

4. Strengthening the Federal Government's authority to eliminate organized crime's economic power base by combating interstate gambling operations and the infiltration of legitimate business; and by creating a Federal study commission to examine the extent and effects of gambling upon society and the economy.

Support of the foregoing principles is with the understanding that such legislation will provide appropriate protection to the rights of the individual under the Constitution, and that specific provisions of any bill that deals with the Internal Revenue Code will be referred to appropriate Chamber committees.

Mr. McCLELLAN. In conclusion, I say that this measure is open to amendment. Maybe some amendments can be adopted that will strengthen and improve it. But I do not think there is anything in the bill that should be taken out. Perhaps my colleagues will disagree with me.

However, when we finish with this bill, and come to a final vote, I want every Member of the Senate to stand up and vote "yea," to let the world know—to give some comfort to the victims of organized crime in this country, and the potential victims—and that is every one of us—wherever they are—to give some comfort and reassurance to the people that Congress is alert, that the Senate of the United States is becoming aggressive in this field, and that it is resolved and determined to enact any law within the framework of the Constitution that will strengthen law enforcement in this country, and deal with this criminal element effectively, to the end that it may be eradicated from our society.

I yield to the distinguished Senator from North Carolina.

Mr. ERVIN. Mr. President, I compliment the distinguished Senator from Arkansas and his principal cosponsor of this measure, the distinguished Senator from Nebraska (Mr. HRUSKA), and the members of the staff of the Subcommittee on Criminal Laws and Procedures, on the fine work which has brought this bill thus far along the legislative road.

I should like to make this observation: Last May, I became personally acquainted wth crime in the District of Columbia. There was a North Carolina boy, from Mecklenburg County, N.C., whom I had given a position in the Senate Post Office, in the Senate Office Building. He was stabbed, robbed, and killed on the streets of the District last May.

His roommate said he did not have more than $10 or $12 on his person at that time. In other words, here were people who were willing to take the life of a fellow human being, who was giving them no trouble and who was traveling peacefully along the streets of the District of Columbia, in order to get a few paltry dollars.

I reiterate that I think the distinguished Senator from Arkansas and the distinguished Senator from Nebraska, and the counsel of the subcommittee, deserve the thanks of the American people for bringing this bill thus far along the legislative road.

Mr. McCLELLAN. I thank the distinguished Senator. I want to express my appreciation to him as a member of the subcommittee which processed this bill for the valuable assistance he gave us, his wise counsel, and his enthusiastic support of these provisions of the bill, the titles that are now before us; and I certainly join with him in complimenting the staff, which I shall do more elaborately at the conclusion of the handling of this bill. We have been most fortunate in having a highly competent staff, and, with respect to the staff on both sides of the aisle and the Members on both sides of the aisle, as I said at the beginning, this has been a labor in which there has been less politics, I think, for a bill of this magnitude, than any I have participated in since I have been in the Senate.

There has been a concerted, united, dedicated effort on the part of all members of the committee to try to bring out a bill in this area of criminal justice that will be effective and productive in dealing with organized crime.

Mr. President, I yield the floor.

Mr. HRUSKA. Mr. President, those of us who are interested in the discussion and the passage of the pending bill appear in the Chamber today with a deep sense of assurance in the quality of the work product of the Committee on the Judiciary as seen in this bill, S. 30.

I am able to say this for a number of reasons. Perhaps the chief and most meaningful of those reasons is the diligence, the dedication, the persistence, the talent, and the genius of the chairman of the Subcommittee on Criminal Laws

and Procedures, the Senator from Arkansas (Mr. McCLELLAN). His attributes as a legislator are well known to all of us. We have learned to admire him and to rely upon his judgment and upon his vast experience in the fields to which he devotes his efforts. In his functioning, he is always of an open mind. He is always constructive. He is always fair to all who come up with new ideas that they wish considered during the study of any measure.

A proof of his great effectiveness, I think, was illustrated this afternoon when Senator McCLELLAN proceeded with and concluded his explanation of this bill. It was an impressive and very fine presentation of a vital and highly necessary piece of legislation. As I sat here listening to his exposition, and later to his plea for early and effective action on this crucial legislation, I could not help but wish that all of the Members of this body as well as the Members of the House of Representatives had had a chance to listen to the eloquence and persuasiveness which he commands. I wish all Members of the Congress could capture the sense of urgency which he was able to impart for the consideration and early approval into law of the measure we are now considering.

Our feeling of assurance in presenting S. 30, however, is also based upon varied sources of its substantive and component parts and the careful processing accorded them before the bill was assembled into its final form. A number of other bills independently introduced in this body were resorted to for material that found its way into S. 30. In some instances they were incorporated into the bill as separate titles, and there are 10 titles in all in this measure. The result is a well-balanced and well-rounded approach to the problem at hand, a problem that finds its basis in a very grave and serious situation which confronts the Nation.

Mr. President, the Nation's crime problem has never been more acute than it is today. Crime of all kinds is on the increase. Crime and the very fear of crime are daily eroding the basic quality of life of millions of Americans. Nowhere is this erosion more critical than in the field of organized crime which, despite earnest efforts to control it, continues to grow at an alarming pace.

Mr. President, the measure before the Senate today is the result of many long hours and weeks of thoughtful analysis and toil. It is designed to correct a very serious malady. The organized crime problem has been of grave concern to me for many years, and all of us have been very distressed over the inability of the Government to make any significant gains in eradicating it. There are several reasons for this failure. The organized crime bill is an attempt to remedy these failures and to better equip the law enforcement community in dealing with the problem.

It has been my privilege to introduce some of the measures which now form separate titles of S. 30 and of cosponsoring the rest with the Senator from Arkansas (Mr. McCLELLAN). The bill was closely scrutinized in the Criminal Laws and Procedures Subcommittee and I am satisfied as to its practicality and constitutionality. I support the entire bill—subject, of course, to the caveat very properly suggested by the Senator from Arkansas, that, as we proceed in the consideration of this bill, together with any amendments that will be proposed, we certainly will hold an open mind and not consider that S. 30 in its introduced form, as now pending, is necessarily a perfect or even a final version.

Investigations conducted by Congress and the law enforcement agencies during the past two decades, and most recently by the President's Commission on Law Enforcement and Administration of Justice, have established beyond any doubt that organized crime is a reality which exists in our midst and pervades every section of the Nation. According to the National Crime Commission, while the core of the organized crime effort in the United States consists of 24 major groups operating as criminal cartels in large cities across the Nation, these groups are allied with other racket enterprises to form a loose confederation operating in both large and small cities. It involves thousands of criminals, and its actions are the result of intricate conspiracies carried on over many years. Its aim is the amassing of huge profits derived from control of such illegal activities as gambling, narcotics, and loansharking. It is also deeply involved in other activities such as robbery, larceny, and arson.

In recent years, organized crime has become increasingly diversified and has become entrenched in legitimate businesses and in labor unions where it employs terrorism, extortion, tax evasion, bankruptcy fraud and manipulation, and other measures to drive out lawful owners and officials. Also, wherever organized crime exists, it corrupts public officials and wields extensive political influence which insulate its activities from governmental interferences.

Corrupt officials and bribed law enforcement officers operate as "a silent conspiracy" in support of organized crime. The syndicate could not continue to operate without corrupt judges and prosecutors, or without the assistance of a handful of bribed police.

Testimony before the subcommittee during our hearings on this bill not only disclosed how prevalent corruption of local police is, but it furnished a striking illustration of the fact that it is not at all limited to the so-called crime centers of New York, Miami, Chicago, and Las Vegas.

The National Crime Commission, after analyzing the difficulties experienced by law enforcement agencies in bringing successful prosecutions against members of organized crime, concluded:

> From a legal standpoint, organized crime continues to grow because of defects in the evidence gathering process. Under present procedures, too few witnesses have been produced to prove the link between criminal group members and the illicit activities that they sponsor.

The Organized Crime Control Act of 1969, adopting as it does the best features of the recommendations of the National Crime Commission, seeks to remedy these defects by revising and strengthening the procedural aspects of the evidence gathering process.

Title I, for example, recognizes that the grand jury is without peer as an instrument of discovery against organized crime, and provides for the impaneling of special grand juries, in addition to regular grand juries, in districts containing more than 4 million inhabitants or where the Attorney General certifies that one is necessary because of criminal activity in the district. Such special grand juries would be empowered to select their own foreman, to extend their term up to 36 months, to request, in case of need, that an additional grand jury be empowered, and, most significantly, to have restored their ancient power to issue public reports regarding organized crime conditions in the district. These reforms would make this venerable institution less an arm of the court and more of an independent body with an unfettered duty to seek out and destroy organized crime.

The other procedural reforms contained in titles II through VII, dealing, respectively, with general immunity, recalcitrant witnesses, false declarations, protected housing facilities for housing Government witnesses, depositions, litigations, and title X, dealing with dangerous special offender sentencing, are all necessary complements of the reinforced grand jury powers. These provisions will insure the necessary quantity and quality of evidence sufficient for valid indictments and convictions of organized crime figures. They provide the imposition of appropriate sentences for such convicted professional or organized crime offenders. These long overdue remedies are indispensable legal tools for providing our law enforcement officials with the evidence necessary to bring consistently effective criminal sanctions to bear on the leaders and participants of organized crime.

In addition to these procedural reforms, this act contains two substantive provisions of major significance in the struggle against this fearsome national enemy. Title VIII recognizes that large-scale illegal gambling operations provide the chief source of revenue for organized crime and are dependent upon the facilities of interstate commerce. Therefore this bill strikes out at such activities by making it unlawful to engage in a scheme to obstruct the enforcement of State law to facilitate an "illegal gambling business." An "illegal gambling business" is defined as, first, violating State law, second, involving five or more persons, and third, operating in excess of 30 days or having a gross revenue of $2,000 in any single day. It also makes it unlawful to engage in the operation of such an "illegal gambling business" itself.

As President Nixon stated in his April 23, 1969, message on organized crime:

> The purpose of this legislation is to bring under Federal jurisdiction all large-scale illegal gambling operations which involve or affect interstate 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 reservoir.

(At this point Mr. GOLDWATER took the chair as Presiding Officer.)

Mr. HRUSKA. Mr. President, the second substantive provision of this act is contained in title IX, Racketeer Influenced and Corrupt Organizations. This title contains a rather novel, and in my opinion, a most promising and ingenious proposal for crippling organized crime's relatively recent, but spectacularly successful, emergence into the field of legitimate business and unions.

Some measure of the actual and potential impact of this facet of organized crime's activities on our economic system may be gaged from the report of the National Crime Commission which found that it has to an alarming degree acquired both open and concealed ownership in a broad variety of legitimate enterprises, including production and service industries where it has established strong footholds.

The New York Times in its edition of October 14, 1969, reported that a recent survey of the business interests of 113 of the major underworld figures in the Nation disclosed that 98 of them were found to be engaged in legitimate businesses, including extensive holdings in casinos and nightclubs, land investment and real estate, hotels and motels, vending machine companies, restaurants, trucking concerns, wholesale food distributorships, sports and entertainment, and financial institutions. The Wall Street Journal on January 12, 1970, reported the overwhelming penetration and control of legitimate business in the New Orleans area by organized crime figures.

When organized crime infiltrates a legitimate business, its whole method of operation counters our theories of free competition and acts as an illegal restraint of trade. Whether a business is purchased from funds derived from its many unlawful activities, or whether it is acquired by extortion and violence, its aim is monopoly. It employs physical brutality, fear and corruption to intimidate competitors and customers to achieve increased sales and profits. The vast economic power concentrated in this giant criminal conglomerate constitutes a dire threat to the proper functioning of our economic system.

Title IX of this act is designed to remove the influence of organized crime from legitimate business by attacking its property interests and by removing its members from control of legitimate businesses which have been acquired or operated by unlawful racketeering methods. Stated simply, this legislation makes it unlawful for any person to acquire an interest in or establish an enterprise engaged in interstate commerce by the use of income derived from "a pattern of racketeering activity" which is defined in terms of a number of existing criminal offenses characteristic of organized crime activity. It would also prohibit any person from acquiring or maintaining any interest or control of any such enterprise by a pattern of racketeering activity, and likewise prohibit any person employed by or associated with such an enterprise from conducting the enterprise's affairs by a pattern of racketeering activity.

These unlawful acts which I have just described would subject violators to strict criminal penalties of fines of up to $25,000 and prison terms of up to 20 years. But the principal value of this legislation may well be found to exist in its civil provisions which employ the time-tested antitrust remedies of injunction, divestiture, dissolution, and reorganization which have been highly effective in removing and preventing harmful behavior in the field of trade and commerce. There is abundant precedent for applications of these civil remedies to the conduct sought to be prohibited by this legislation in decisions of the Supreme Court upholding similar civil remedies in antitrust cases.

I believe that the combination of criminal and civil penalties in this title offers an extraordinary potential for striking a mortal blow against the property interests of organized crime. In his April 23, 1969, message on organized crime, President Nixon stated:

> 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 attack 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.

These are new and innovative techniques. They have not been tried before against the racketeers. But this is just what is needed if any significant gains are to be made.

We must give no mercy to the soldiers of organized crime. If it takes an antitrust provision, or a concentrated effort to strangle the narcotics traffic, or a raid on the cartels of gambling, all of us, and citizens everywhere must be prepared to go forward with the programs which will make organized crime unprofitable, unacceptable, unattractive, and vulnerable to criminal prosecution on a wider scale.

The tone and the effectiveness of any government is set at the top. Though our Government must depend on the resources of its citizens, the example and the efficiency at the top level of Government can pattern the degree and the morale of our individual commitments to society's goals. I think we have a Chief Executive and an Attorney General who are thoughtful advocates of a persistent effort in the fight against crime. They have demonstrated that they are willing to use, and they have used, some of the tools recently conferred upon law enforcement officials by the Congress in the battle against organized crime. The most notable illustration in that regard is the use of electronic surveillance which was enacted as a part of the Omnibus Crime Control and Safe Streets Act of 1968, but which tool was not used until within the past 12 months.

But Mr. President, even those at the top cannot do the job alone. We here in Congress must do our part. We must equip the administration with the tools it needs. With favorable consideration of S. 30 we all will have taken a significant step in the proper direction.

It is my earnest hope that it will be promptly considered and that it will promptly ripen into a full-fledged and effective statute.

Mr. YARBOROUGH. Mr. President, the bill before us today, S. 30, the Organized Crime Control Act is designed to fulfill the first requisite of organized society: to protect its members from injury, crimes, and violence. The Subcommittee on Criminal Law and Procedure, chaired by the distinguished Senator from Arkansas (Mr. MCCLELLAN), has held extensive hearings on this bill and the committee has prepared an excellent weapon for the fight against organized crime in our Nation. The bill, as amended and reported by the Committee on the Judiciary, evidences great diligence and care in its preparation for the war we must wage against this cancerous threat to our society. I would like to commend the distinguished Senator from Mississippi (Mr. EASTLAND) and the Committee on the Judiciary for the thoughtfully considered amended bill, which synthesizes a number of separate bills, all directed toward an attack against organized crime.

Organized crime threatens the very foundations of our society. Its victims are legion, but it preys primarily on the poor and the uneducated and adds further oppression to the social and economic disadvantages already borne by these people.

Organized crime threatens the security of the Nation by terrorizing, through physical and economic threats, the innocent businessman and the individual citizen. One of the most pernicious threats posed by organized crime is to our youth, by making a business out of corrupting the hope of our Nation with deadly narcotics and dangerous drugs. It is time for us to muster our forces and fight to save our society, through a full-scale attack on organized crime. This bill, S. 30, provides modern armament for this struggle.

The bill provides the law enforcement authorities essential tools to prepare their cases against organized criminals by making it possible to obtain witnesses, protect those witnesses, and to compel those witnesses to testify.

This bill realistically strikes at the economic roots of organized crime, and in title VII creates new substantive crimes defining and punishing the promotion of, and participation in an "illegal gambling business."

The approach of the bill is to define an "illegal gambling business" in terms of the number of people involved and in terms of gross receipts and length of operation. The gambling activity must be conducted by five or more people, either operating for 30 days or more or having

a gross revenue of $2,000 a day. This is a sound and necessary approach. The bill recognizes that we only diffuse our law enforcement resources if we spread the net too broadly, and it focuses the attack on the large-scale gambling enterprises which are the bread and butter of organized crime.

Another commendable portion of the bill is designed to root out the influence of organized crime in legitimate business, into which billions of dollars of illegally obtained money is channeled and which is often used, along with violence, to drive out legitimate competitors. Title IX of S. 30 establishes new substantive crimes to prohibit racketeer influence and corruption of organizations and enterprises. Along with severe penalties, a unique criminal forfeiture provision will make it possible to divest the racketeer of any interest he may have obtained in the organization or business.

In closing, I would also like to commend that portion of the bill which defines the "dangerous special offender" and provides for increased sentences for those persons who are determined by the court to fall within the categories set out in title X. These categories include the three-time felony offender, the professional criminal who derives a substantial portion of his income from his life of crime, and the organized crime leaders, their "enforcers" and their "corruptors."

With this "dangerous special offender" provision, we will have a better chance to deal a mortal blow to organized crime by being able to incarcerate these people for more extended terms and effectively remove them from their permanent occupation of preying on innocent people.

This bill, S. 30, focuses the attack on organized crime and provides the necessary legal armament for the law enforcement authorities to pursue the enemy.

This is a commendable piece of legislation and I urge my fellow Senators to join me in its support.

ORDER FOR ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock meridian tomorrow.

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

ORDER FOR ROUTINE MORNING BUSINESS, UNFINISHED BUSINESS, AND RECESS ON TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon the completion of the prayer and the disposition of the Journal on tomorrow, there be a brief period for the transaction of routine morning business, not to exceed 15 minutes, that at the conclusion of the morning business the unfinished business be laid before the Senate, and that the Senate then stand in recess subject to the call of the Chair.

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

ORGANIZED CRIME CONTROL ACT OF 1969

The Senate resumed the consideration of the bill (S. 30) relating to the control of organized crime in the United States.

Mr. ALLOTT. Mr. President, first of all I congratulate the distinguished Senator from Nebraska (Mr. HRUSKA) for the work he has done over the years in helping to effect new controls and new laws in the areas which are involved in S. 30 and which are involved here, as well as to pay my compliments also to the distinguished Senator from Arkansas (Mr. MCCLELLAN) the chairman of the committee.

Mr. President, one of the most pervasive problems facing our Nation today is the deep penetration into all phases of American life by organized crime. Financed primarily by illegal gambling, organized crime reaches out to embrace such varied activities as sale of narcotics, fraudulent bankruptcies, infiltration and corruption of labor unions, and loan sharking. It has recently begun to engage in legitimate business operations to which it brings its primitive code of terror and theft. Organized crime affects the average citizen not only by siphoning hard-earned money from the poor through its illegal gambling operations, but also by encouraging the addict to rob and mug to pay for his drugs, and the burglar to steal by providing an outlet for his stolen goods.

Organized crime has been the subject of much investigation and thought in recent years by those charged with combating crime. Much effort has gone into determining who the members of this organization are, what activities they engage in, the state of existing legislation and how it has been found wanting and, lastly, in devising new weapons to impede the spread of organized criminal activity and to put its members behind bars.

A culmination of this effort is the proposed Organized Crime Control Act of 1969. Encompassing some 10 substantive titles, it seeks to eradicate organized crime in this country both by strengthening the legal tools available in the evidence gathering process and by creating new criminal sanctions and penalties to deal with the widespread illegal activities of the present-day organized mobster.

This legislation is truly a nonpartisan product. Input has come from Members of both sides of the aisle. This is proper, because crime victimizes all members of the community.

As the President stated last spring:

> 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.

S. 30 is the result of a concerted effort to stop the spread of organized crime. Each of its titles plays a role in reaching that goal. However, one title stands out because its proper enforcement could strike a crippling blow to its major source of revenue—illegal gambling.

I would like to devote the rest of my remarks then to title VIII—syndicated gambling.

Gambling may seem to most Americans to be the least reprehensible activity of organized crime, but in reality it is gambling that provides most of the funds that yearly pour into bribery of local officials, wholesale narcotics, usurious loans and the infiltration of labor unions and legitimate businesses.

Gambling, itself, is largely the creature of organized crime and is its principal source of revenue. It has been estimated that illegal wagering on horseraces, lotteries, and sporting events totals at least $20 billion each year and may reach as high as $50 billion. The scope of this source of revenue can be seen from the fact that the total amount of money bet legally in the United States at racetracks is but $5 billion. Analysis of organized criminal betting operations indicates that the profits on $20 billion worth of illegal gambling total some $6 or $7 billion annually. Almost 20 years ago the Kefauver committee pointed out:

> These profits provide the financial resources whereby ordinary criminals are converted into big-time racketeers, political bosses, pseudo businessmen, and alleged philanthropists.

If this source of revenue can be diminished substantially, organized crime will clearly suffer.

To help dry up this source of huge criminal revenues, title VIII will make it a Federal offense to engage in any large-scale business enterprise of illegal gambling. It does not purport to bring all illegal gambling activity within the control of the Federal Government. It deals only with those who are engaged in an illicit gambling business of major proportions, as distinguished from those whose operations are relatively small.

The statute defines an "illegal gambling business" as one including such forms of betting as bookmaking or numbers and which first, is a violation of State law; second, involves five or more persons who participate in the gambling activity; and third, which has been or remains in operation for a period in excess of 30 days or which has a gross revenue of $2,000 in any single day. As a practical matter cases in which this standard is met will ordinarily involve gambling operations of considerably greater magnitude, because it is usually possible to prove only a relatively small proportion of the total operations of a gambling enterprise. Thus, the proposal does not apply to gambling that is sporadic or of insignificant monetary proportions. It seeks to reach only those who prey systematically upon our citizens and whose operations are so continuous and so substantial as to be a matter of national concern. Even as to those, the Federal Government's enforcement effort will necessarily have to be centered on selected targets of special significance because of manpower limitations.

The size of the gambling enterprises prevalent in this Nation in recent years,

and thus the scope of the problem title VIII seeks to cope with, can be seen from the following list made available by the Department of Justice:

In Cleveland and Detroit coordinated sweeps by FBI agents resulted in the arrest of four men allegedly running one of the largest bookmaking operations in the Midwest. The ring was handling approximately $100,000 a week;

In the San Diego area, Internal Revenue Service agents arrested three bookmakers handling an estimated $400,000 per month in bets;

In the Philadelphia area, police conducted five raids and arrested 30 persons in connection with gambling operations handling over $460,000 a month;

Of the FBI's 1966 gambling arrests, 72 occurred in the Chicago area, involving operations with a monthly gross of approximately $550,000;

Twelve in the Los Angeles area, including at least one operation handling an estimated $100,000 a month;

In the Louisville area 22 handling an estimated $56,000 a month;

On July 9, 1963, four men were convicted in the northern district of Indiana in connection with a bookmaking operation which reportedly grossed $750,000 a year;

Raids by various Federal, State, and local law enforcement agencies in late 1967 led to the breaking up of casino, lottery, and bookmaking operations, the largest being in the Buffalo and Chicago areas, handling an estimated $3,750,000 a month at the time;

Evidence seized during raids in the Philadelphia area indicated that the wagering operation there was grossing about $15,000,000 per year;

One individual's records reflected annual wagering receipts of over $1,600,000 with a net profit between $3,000 and $5,000 per week.

Mr. President, these sums are shockingly large. But they are cold and lifeless until we see how they can be brought to bear on individuals.

The examples I have just cited are only examples. They are the tip of the iceberg. Even so, the money involved in these examples amounts to yearly earnings of over $85 million.

Consider the men behind this money. Obviously they live their lives in contempt for the law. Obviously they have a unique concept of normal business operating expenses. Obviously the Internal Revenue Service does not figure importantly in their expenses. What, then, are their expenses?

One operating expense is graft. Corrupting public officials takes money.

America's crime empire is rich in slang as well as in money. One underworld slang word is "ice." This "ice" is bribe money paid to public officials to purchase protection for illegal activities. The word "ice" is very descriptive. Such "ice money" takes the heat off criminal operations and allows them to slide smoothly by any legal barriers.

Just consider the "ice" money available to the men involved in the examples just cited. These men—a small slice of the gambling racket—can spread a lot of "ice" with untaxed annual earnings of $85 million. If they devote only 1 month's earnings to bribery and corruption, this means that just these few members of the gambling empire can spread $7 million among strategic public officials. Seven million dollars can be broken down into 140 bribes of $50,000. But bribes of that size are rarely necessary. What keeps gambling going is often protection at the lowest level. Gambling exists when the local patrolman turns a blind eye to the corner bookie. Or when a city's prosecution staff mysteriously finds it "inexpedient" to follow through on cases. Seven million dollars prudently invested in bribes can work wonders in such matters. Seven million dollars can produce 7,000 bribes of $10,000 each.

Imagine what terrible temptation there can be for a young patrolman struggling to make ends meet on a salary which does not properly compensate him for the dangerous service he renders the community. Mr. President, nothing can make the acceptance of a bribe excusable. But corruption, and its attendant law enforcement problems, become understandable when we see how the underworld's money operates in real life; and it becomes understandable when we understand the vast amounts available to organized syndicates that exercise their ruthless power.

Mr. President, there is no doubt that the vast majority of American law enforcement officials, from the local patrolmen on up, are dedicated and incorruptible. But there can be no escaping the fact that organized crime and public corruption are inseparable.

Large-scale gambling operations, such as the ones involved in the examples just cited, will ordinarily violate State laws, will involve five or more operators, will operate over an extended period of time, and will handle at least $2,000 daily. This is the sort of gambling that title VIII of S. 30 will combat.

The Federal Government will not preempt the field of gambling regulation under this legislation. Federal authorities will continue in their traditional role of cooperating with local law enforcement officials who will continue to bear the primary responsibility in this area. The purpose of the statute is simply to make the Federal Government a more effective member of the established State-Federal law enforcement partnership which has long been waging a common war on organized crime and illegal gambling. It will, however, be possible for the Federal Government to intervene where local and State governments have been rendered powerless because of the corruption of the responsible officials, such as has recently been revealed in New Jersey.

In addition to being largely the creature of organized crime and its principal source of revenue, illegal gambling both involves and affects interstate commerce. People, information, funds and paraphernalia, without which gambling enterprises could not be conducted, move regularly across State lines. Moreover, by diverting expenditures from ordinary lines of commerce into its own coffer, gambling distorts the production of goods for commerce and the flow of goods in interstate commerce. These interstate aspects of gambling make it an appropriate subject of concern to the Federal Government.

There are numerous cases in the Federal courts that demonstrate the dependency of substantial gambling enterprises on the facilities of interstate commerce.

In one case (*United States* v. *Hawthorne,* 350 F. 2d 740 [Fourth Cir., 1966]), evidence has shown that the facilities of Western Union were used to transfer the proceeds from slot machines, owned by a defendant and operated by his partner in Indiana, from that State to a defendant in West Virginia.

In another case (*United States* v. *Barrow,* 363 F. 2d 64 [Third Cir., 1966]), the evidence indicated that gambling casino employees traveled to a Pennsylvania casino from their New Jersey homes.

In a third case (*United States* v. *Miller,* 379 F. 2d 483 [Seventh Cir., 1968]), the defendants operated wagering pools on the basis of information received through the Western Union sports ticker.

In a fourth case (*United States* v. *Spino,* 345 F. 2d 327 [Seventh Cir., 1965]), the testimony established that the defendant, in charge of certain gambling operations in East Chicago, Ind., was financed by sources in Chicago, Ill.

On November 14, 1957, suspected racketeers from California, Ohio, Texas and many other locations in the United States and even Cuba gathered at Joseph Barbara's home located in Apalachin, N.Y., for the now famous gangland meeting. (See *United States* v. *Bonnano,* 180 F. Supp. 71, 74 [S.D.N.Y. 1960]).

In October 1965, in Palm Springs, gamblers and underworld figures held what is referred to as the "Little Apalachin" meeting. In attendance were Ruby Lazarus, a Miami Beach and New York City bookmaker, Vincent Alo, Anthony Salerno, New York members of the Cosa Nostra "family" then headed by Vito Genovese, as well as Jerome Zarowitz, credit manager of a Las Vegas casino, Caesar's Palace. (See *In re Ruby Lazarus,* 276 F. Supp. (D.C. Calif. 1967)).

In another case (*United States* v. *Zambito,* 315 F. 2d 266 (Fourth Cir., 1963)), the defendant was convicted of causing others to travel and to carry in interstate commerce gambling paraphernalia to be used in, and with intent to promote, an illegal numbers operation.

Moreover, information available to the Government has disclosed that a system of couriers has been used to deliver funds which have been "skimmed" from Las Vegas casinos to points throughout the country. Profits from gambling are not only transported in interstate commerce but are also being funneled out of the country as well. Government agents are attempting to breach the wall of silence thrown up by foreign bankers to cover the millions of dollars of untaxed underworld money which is allegedly flowing to numbered accounts in banks in Switzerland.

Existing Federal statutes dealing with the interstate aspects of gambling—sections 1084, 1952, and 1953 of title 18 of the United States Code—are not broad enough to reach all harmful gambling activity which is milking the sustenance away from hundreds of thousands, and diverting huge sums away from productive use in the economy.

Despite existing statutes and despite the efforts of Federal and State governments, illegal gambling continues to exist on a large scale. A more effective effort

is clearly required to eliminate illegal gambling. In that effort the Federal Government must be able not only to deny the use and facilities of interstate commerce to the day-to-day operations of illegal gamblers—as it can do under existing statutes—but also to directly prohibit substantial business enterprises financed by gambling, and the attendant corruption of local law enforcement officials.

Organized crime is intimately involved in substantial gambling enterprises which, of necessity, involve or affect interstate commerce. Thus, it is well within the power of the Congress to legislate simply and directly against such illegal activity, without requiring proof of interstate commerce as an element of the crime. This direct approach is a key feature of title VIII.

By supplementing existing Federal legislation in this manner and eliminating the requirement that an interstate element be proved in each case, investigative manpower requirements will be lessened. More important, investigations that were thwarted and cases that could not be prosecuted in Federal courts because of lack of proof of a specific interstate element will be placed within the Federal jurisdiction.

Under existing legislation, many Federal investigations of gambling operations end with no indictments because of the lack of evidence of an interstate element. For example, officials of the Department of Justice testified that in Brooklyn, N.Y., an extensive investigation ended in the indictment of only three out of 20 suspects because of the absence of evidence of an interstate activity by the other 17. The three who were indicted for violations of 18 U.S.C. section 1952, were involved with 17 others in running a multimillion-dollar gambling operation in Queens, Long Island, and Brooklyn, N.Y. The only interstate travel that could be proved was the travel of the three who were indicted from their homes in New Jersey to work in New York. The gambling operation itself involved no interstate travel and the other 17, who all lived in New York, could not, therefore, be prosecuted federally despite their known participation in this huge gambling operation. Clearly, such a large-scale gambling operation affects interstate commerce. Title VIII will provide a much needed weapon to prosecute organized gamblers speedily, effectively, and directly.

Another facet of the existing statutory attack on illegal gambling is the operation of the wagering tax and registration sections of the Internal Revenue Code of 1954 (26 U.S.C. 4401–23). In the enforcement of these Federal laws the Federal Bureau of Investigation, the Internal Revenue Service, the U.S. attorneys, and the Criminal Division of the Department of Justice for years worked in partnership with State and local law enforcement agencies throughout the country to coordinate the war on illegal gambling and organized crime.

In large measure the effectiveness of this partnership was dependent on the work of the Internal Revenue Service in implementing the wagering tax provisions. Much of this effectiveness was destroyed by the Supreme Court's decisions in *Marchetti* v. *United States* (390 U.S. 39 [1968]), and *United States* v. *Grosso* (390 U.S. 62 [1968]), as a result of which certain aspects of the Federal wagering tax and registration requirements were held unconstitutional as applied to the defendants. While pending legislation may make it possible to restore some of the effectiveness of this partnership between Federal agencies, particularly through the work of the Internal Revenue Service, the benefits flowing from this partnership will not be as effective as in the past. This is because it will be necessary to restrict the use of much of the information that the IRS obtains respecting illegal gambling to the enforcement of the tax laws alone. It may no longer be possible for IRS to turn over to the FBI or State or local law enforcement agencies information voluntarily disclosed by gamblers. It thus becomes even more urgent to permit a direct attack on illegal gambling by declaring the gambling business itself to be illegal under Federal law.

Other benefits flow from a direct approach, whereby specific proof of interstate commerce is not required in every case. For instance, a very effective law enforcement weapon against gambling activities is the police raid on a gambling establishment and the resultant seizing of evidence. In order to make such a raid, it is necessary to obtain a search warrant based on probable cause to believe that there is a violation of Federal law. Showing that gambling exists at a particular location can be done fairly easily through the testimony of agents who have closely watched the location and observed the kind of traffic in and out of it which is characteristic of a gambling operation. On the other hand, to show at this investigatory stage of the proceeding that the gambling activity in question involves the use of interstate commerce or its facilities is often far more difficult. Yet, under the existing statutes demonstration of this connection between the gambling activity and the use of interstate facilities is necessary at the very outset of Federal action before a warrant can issue.

On the other hand, if a Federal warrant can be obtained and a raid conducted, the Federal agents making the raid are entitled to confiscate and use as evidence documents or other things which they find on the premises. Moreover, the information thus obtained will often show a sufficient relationship of the gambling enterprise to interstate commerce to bring indictments under sections 1084, 1952, or 1953 of title 18 of the United States Code.

Because of the clear effect that large-scale gambling operations have on interstate commerce, the use of the gambling raid pursuant to a warrant for violation of title VIII will greatly enhance this law enforcement weapon. Its use in a locality where local officials are corrupted and controlled by the gamblers will make successful prosecutions possible where there may be no other practical means.

A second major feature of the syndicated gambling title of S. 30 will make it illegal for two or more persons to participate in a scheme to obstruct local law enforcement in order to facilitate an illegal gambling operation. This part of title VIII is aimed at corruption of local law enforcement officials by organized gamblers. As the President pointed out in his message on organized crime—

> 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.

Bribery and corruption destroy local law enforcement as an effective weapon against organized crime. The criminal activity that flourishes under such conditions affects not only the local community in which it occurs but also other parts of the country, thus becoming a matter of Federal concern. A grand jury investigation conducted by Justice Department attorneys uncovered evidence that local numbers operators had almost every member of the vice squad of a major midwestern city on their payroll. Shortly after this testimony, a Federal grand jury indicted eight Columbus, Ohio, policemen and one of the men alleged to have made monthly payoffs to them for protection of a numbers operation. Among those indicted were the chief of the intelligence squad of the Columbus police and the chief of the Columbus vice squad. These indictments charged a conspiracy to prevent the United States from lawfully collecting wagering taxes. Title VIII would permit a more direct attack on the basic corruption itself.

Additional grand jury testimony concerned another major city where extensive police corruption reportedly existed. Shortly after passage of the wagering tax laws in 1951, efforts were made by agents of the Internal Revenue Service to coordinate their activities with the city's vice squad, but after a large percentage of the joint raids were unsuccessful, investigation disclosed that the vice squad members, almost to a man, were being paid off by lottery operators and bookmakers. Federal authorities were unable to develop viable tax evasion cases, and, in the local trials of the police officers involved, many members of the local police force testified that they would not believe either the Federal or State officers who testified for the prosecution. None of the local policemen were convicted.

The effect of such police corruption has a stultifying effect on Federal-State cooperation in the campaign against organized gambling. This inability of Federal agencies to enforce the statutes within their jurisdiction is an important basis for the Congress to take action in this area. Bribery of State and local law enforcement officials is a necessary element to the success of a gambling business. It can even be said that it is an ordinary business expense of gambling. Clearly, no large-scale gambler can operate without the knowledge and consent of some local officials. The fact that gambling flourishes in this type of atmosphere and that large-scale gambling has a clear effect on interstate commerce requires that Congress make it a Federal crime to engage in such corruption and bribery.

Title VIII will strike at such corruption by making it a felony for two or more persons to participate in a scheme to obstruct enforcement of any State or local criminal law with the intent to

facilitate an illegal gambling business. For the act to be invoked, it will be necessary, first, for one of the persons to do any act to effect the object of the scheme; second, for one of the persons to be an official responsible for execution or enforcement of criminal laws; and, third, for one of the persons to participate in an illegal gambling business.

Title VIII covers any person who is an official or employee, elected, appointed, or otherwise, who is responsible for the enforcement of criminal laws. It is intended to cover any and all State and local police, law enforcement and prosecution personnel from the police officer on the beat and the assistant district attorney to the highest State officials responsible for law enforcement. Thus bribing a local police officer to prevent enforcement of a State or local law against gambling will violate this statute.

For all these considerations—the vast size of the illegal gambling business in the United States and its unquestioned effect upon interstate commerce, the bribery and corruption of some local law enforcement officials, and the inadequacy of existing laws—it is essential to arm the Federal Government with the added weapons provided by title VIII.

While I have stressed the syndicated gambling title, it should be emphasized that this is but one of the 10 substantive titles of this bill. The entire bill represents a much needed and concerted attack on organized crime. I support S. 30 and call for its speedy enactment into law.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a letter addressed to me by the U.S. Chamber of Commerce, and the recommendations made by a resolution of that organization with respect to organized crime.

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

U.S. CHAMBER OF COMMERCE,
Washington, D.C., January 19, 1970.

Hon. GORDON ALLOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLOTT: In the next few days, I understand the Senate will consider S. 30, the Omnibus Organized Crime bill reported by the Judiciary Committee in December.

The Board of Directors of the Chamber of Commerce of the United States has approved support of many of the principal provisions of S. 30 as vitally needed legislation to help federal officers combat organized crime. A copy of this statement of approval is enclosed.

Every facet of our society is adversely affected by the extensive moral corruption resulting from the operations of organized crime. Particularly the youth of our Nation are being victimized by the illicit sale of narcotics and by gambling operations, both closely linked to organized crime.

This legislation is also needed to strengthen the legal tools for halting the infiltration of organized crime into legitimate businesses in our Nation. Many of its activities are now permeating legitimate businesses on an alarming scale.

The impact of organized crime on the national economy has reached phenomenal proportions. Latest estimates are that organized crime in America takes in more than $30 billion, and possibly as much as $60 billion annually, from its operations.

We urge you to give S. 30 favorable consideration when it reaches the Senate floor.

Cordially,

HILTON DAVIS,
General Manager, Legislative Action.

RECOMMENDATIONS ON ORGANIZED CRIME LEGISLATION AS APPROVED BY THE BOARD OF DIRECTORS OF THE U.S. CHAMBER OF COMMERCE, NOVEMBER 13, 1969

COMBATING ORGANIZED CRIME

To strengthen Federal efforts to combat organized crime, the National Chamber supports legislation providing for:

1. Extension of the grand jury system allowing the issuance of a presentment or report on misfeasance, non-feasance or corruption of public officials or their institutions.

2. Increasing investigatory and prosecutorial tools by implementing a Federal immunity provision, allowing the taking of depositions of witnesses, permitting introduction into evidence of declarations of co-conspirators, and codifying existing civil contempt proceedings.

3. Improving the system for protecting witnesses through Federal financial and other assistance.

4. Strengthening the Federal Government's authority to eliminate organized crime's economic power base by combating interstate gambling operations and the infiltration of legitimate business; and by creating a Federal study commission to examine the extent and effects of gambling upon society and the economy.

Support of the foregoing principles is with the understanding that such legislation will provide appropriate protection to the rights of the individual under the Constitution, and that specific provisions of any bill that deals with the Internal Revenue code will be referred to appropriate Chamber committees.

Mr. ALLOTT. Mr. President, I yield the floor.

Mr. SPONG. Mr. President, it was my privilege to be in the Chamber when the distinguished Senator from Arkansas (Mr. MCCLELLAN) presented S. 30.

I want to commend him for his speech and also to recognize that he, more than any other Member of this body, has been most diligent in his recognition of the problem of organized crime and his efforts to combat it through effective legislation.

THE MENACE OF ORGANIZED CRIME

Mr. BYRD of West Virginia. Mr. President, if there is an American alive today who does not fear the consequences of organized crime in our society, then either he must be uninformed about the menace or he must be a part of it.

Organized crime is just as great a threat to the well-being of our Nation as are the continued upsurge of street violence and the work of militants who seek to burn down our cities or destroy our educational institutions.

Recent revelations from Government files suggest that a large northeastern city and perhaps a large part of the State in which that city is located have become a privileged sanctuary for crime and corruption of the most alarming sort.

A national magazine has alleged that the mayor of one of our Pacific coast cities has had intimate ties with the leaders of organized crime.

A study for the President's Crime Commission, still secret, reportedly details the infiltration of organized crime into local, State, and Federal Government, including, it is said, the control of several Federal district judges.

These recent revelations are simply a further indication that we are suffering from a bad case of moral rot and that we are allowing our cherished democratic institutions to crumble before our eyes. I hope the revelations will serve to shock some of our more complacent citizens into an awareness of the magnitude of the problem.

Syndicated gambling, loan sharking, prostitution, narcotics trafficking, and similar illicit enterprises each year sap billions of dollars from our economy. It appears that no segment of our society is safe and immune from the tentacles of such a crime octopus.

While precise figures are elusive, it has been estimated that illegal gambling operations gross anywhere from $20 to $50 billion annually. The net proceeds of such enterprises are said to be about $6 or $7 billion a year.

The gambling of which I speak undermines the economic strength of many thousands of low-income Americans who can ill afford the loss of even the pennies they wager in the vain hope that a lucky bet will land them on easy street.

The traffic in narcotics breeds related crimes of stealth and violence while degrading and destroying not only those at the bottom of our social structure but also the youth of all classes and economic backgrounds.

Prostitution feeds our continuing moral decline, and loan sharking paves the way for organized criminals to gain access to and eventually take over the control of thousands of legitimate businesses.

Americans have good cause for concern. They see the leaders of organized crime entertained by so-called "better" people, catered to by celebrities and public officials, and protected by legal technicalities.

Upon opening their newspapers, citizens learn that the Government possesses wiretap and other electronic surveillance information that reveals the most sordid details of murder and corruption involving figures in organized crime. Yet, while an occasional underling "takes the rap" and goes to prison, the leaders of organized crime, by and large, go free.

Part of the problem, of course, is that the Federal Government is powerless to use much of the information which it has. It is clearly the task of Congress, therefore, to close such legal loopholes as prevent an effective battle against organized crime and to provide our Federal investigative agencies and our citizens with the new weapons they need. I believe that the bill before us will go a long way in both directions.

I am especially optimistic about title I of S. 30—the special grand jury provisions. Time and time again in our history, aroused citizens have demonstrated their devotion to law and order in the face of official timidity and inaction. Prosecutors and judges may be scared or bought off, but citizens, properly empowered, can step in and do the job which their officials fail to do. I believe that title I represents the best opportunity for the average citizen to play a

significant role in the war against organized crime.

It is encouraging that title I absolutely requires the convening of special grand juries in our major metropolitan areas at least once every 18 months and assures them sufficient longevity to probe deeply into organized crime. Perhaps this provision can overcome some of the official dilly-dallying which, I believe, is partly responsible for some of the public apathy which we have witnessed toward this problem.

These special grand juries would have the power to inquire into the violation of Federal laws and dig deeply into the activities and operations of organized crime, including whether appropriate law enforcement officials have been properly carrying out their jobs.

Significantly, these grand juries would be empowered to issue special reports concerning noncriminal misconduct, malfeasance, or misfeasance, by a public officer or employee as a basis for a recommendation of removal or disciplinary action.

The effect of this, I gather, would be to apply some much-needed heat in the right places and to jolt indolent prosecutors and overly sympathetic judges into action.

Title VIII of the bill calls for a coordinated national attack on organized gambling and, significantly, empowers the Federal Government to break up large-scale, *local* gambling operations without having to show an interstate connection.

Most people, I am sure, do not realize that their small wagers on the horses, the petty numbers bet, or the punchboard chance, are part of the billions of dollars a year that swell the coffers of organized crime. They do not realize that their dollars are used to corrupt Government at all levels, to move mobsters into legitimate businesses and organizations, and to finance a wide variety of nefarious operations, including loan sharking and narcotics trafficking.

Too often, local officials either ignore the problem or, where they are properly diligent, end up getting only the small fry: the "runners," the corner bookie, the bottom echelon. Syndicated gambling stretches across the Nation and fragmented local authority needs to be supplemented by Federal action in order to combat it. I believe that title VIII can help to break the back of such gambling operations.

Another section of the bill which merits special attention, Mr. President, is title IX.

Recent studies of the phenomenon of organized crime, including that of the National Crime Commission, have identified its alarming expansion into the field of legitimate business as a major threat to our institutions. This penetration of legitimate business by organized crime poses two distinct but related dangers:

First, the economic strength of the underlying illegal operations of organized crime is perpetuated and made more profitable if tainted proceeds can be safely invested in legitimate enterprises, even if those enterprises are operated in a lawful manner.

Second, the free channels of trade are threatened by organized crime's propensity to obtain for itself monopoly control of its areas by whatever means are available, including brutal and strong-arm tactics.

The techniques and methods used in such infiltration of legitimate business enterprises are many and varied. A few case histories will demonstrate how easily a business can fall captive to its awesome power.

The New York Times edition of June 29, 1969, reported how New Jersey La Cosa Nostra leader Gene Catena gained a foothold in a detergent manufacturer's business, North America Chemical Corp. of Paterson, N.J., by serving as a "sales consultant." According to testimony released by the New York Harbor and Waterfront Commission, the owner of the detergent manufacturing company hired Catena's sales agency called Best Sales in 1964 under a 10-year contract which was not subject to cancellation. Catena and Best Sales through the medium of arson and murder attempted to force the A. & P. Tea Co. to buy a detergent that A. & P. tested and rejected.

Another method of acquiring such control is by cornering a market on essential goods or services and then withholding them from the legitimate businessman, until he surrenders an interest in his business or a related economic concession. This method is illustrated by recent testimony released by the New York State Investigation Commission. In this case an official of a major New York meat concern was compelled to use a Cosa Nostra controlled knife grinder service or face the loss of his pork supply which was controlled by Cosa Nostra leader Paul Gambino. The testimony also described how 2,000 customers of the New York Grinders Association, whose members rent knives to meat dealers, left the Grinders Association in 1959 for a new company whose principals included Paul Gambino, and how 100 of the grinding companies later had to pay $175,000 for the return of their own customers.

While prosecutions and convictions of leaders of organized crime and their confederates are increasing each year as the Federal Government's organized crime program gains momentum, it is becoming increasingly apparent that such convictions alone, which simply remove the leaders from control of syndicate-owned enterprises but do not attack the vested property interests whose control passes on to other Cosa Nostra leaders, are not adequate to demolish the structure of the surviving organizations which they run.

The legislative proposals contained in title IX of this act, entitled "Racketeer influenced and corrupt organizations," constitute a carefully structured program which can drastically curtail—and eventually eradicate—the vast expansion of organized crime's economic power which operates outside the rules of fair competition of the American marketplace. Broadly speaking, this title would create strict criminal penalties for using the proceeds of racketeering activity characteristic of organized crime to acquire an interest in businesses engaged in interstate commerce, or to acquire or operate such businesses by racketeering methods.

In addition, this title, by utilizing remedies heretofore applicable in the antitrust field—the remedies of injunction, dissolution, divestiture, and reorganization—would forge a powerful new weapon for putting the syndicate out of business. By removing its leaders from positions of ownership, by preventing them and their associates from regaining control, and by visiting heavy economic sanctions on their predatory business practices this legislation should prove to be a mighty deterrent to any further expansion of organized crime's economic power.

The civil remedies of this legislation patterned after the time-tested antitrust remedies, coupled with its heavy criminal penalties, should enable the Government to take effective action to eliminate the serious threat posed to the safety and well-being of our democratic institutions by the totalitarian dictators of organized crime's closed society.

Two other sections of the bill also particularly commend themselves to me. Last year in the unfortunate Alderman decision the Supreme Court again demonstrated its lack of concern for effective law enforcement and resolved to let defendants roam at will into the investigative records of law enforcement officials insofar as electronic surveillance is concerned. Despite the Government's absolute good faith in revealing examples of illegal surveillance and its 100 percent record in accurately determining when such surveillance was relevant to the indictment at hand, the Court ordered transcripts revealed which will endanger Government informers, embarrass or libel innocent third parties and hopelessly prolong criminal trials. Title VII will take care of that decision without in any way endangering the vital rights of defendants.

And title X will permit the Government to put away the worst organized crime offenders in the way they should be put away. It permits extended sentences upon adequate showings once a defendant has been convicted. It permits the Government to appeal inadequate sentences and undercuts those Federal judges unsympathetic to the Government's crime fighting activities.

Mr. President, we have it in our power today to begin to eradicate the menace of organized crime in America. A long, difficult fight is ahead. But I am frank to say that I do not believe the fight can be won unless we here today begin by furnishing the tools that our Government and our citizens need.

BIAFRA

Mr. THURMOND. Mr. President, Friday's edition of the State, the morning newspaper of Columbia, S.C., carried a fine editorial assessing the hypocrisy of the Western nations in dealing with the question of Biafra. The State asks:

To what degree did Western hypocrisy contribute to the starvation of an estimated

This is indeed a serious question. It is clear that human lives have been sacrificed to abstract notions of political democracy. It is surely an extreme form of ideology when theory is allowed to overshadow reality. As the State commented:

Western-style democracy, self-determination, minimum standards of ethical behavior, humanitarian considerations—all these things went by the board in the interest of maintaining a political mockery in Lagos.

Unfortunately, that hypocrisy has not ended. I have received word from several reliable sources that the present situation in the former Biafran territories is far more serious than the story presented in the press or in the statements of our own State Department. It is difficult to believe that the present Nigerian Government is capable of feeding the refugees on the scale necessary, or even that U.S. assistance is getting to the people that need it most.

One needs only to look at the geography of the situation. The Nigerian strategy was to drive the Biafrans into the center of a circle, with the Uli airstrip as the centerpoint. There are now 4 to 5 million persons in an area approximately 60 miles across, who have not had food for 10 days or more. At the advanced stage of starvation reported by medical observers, attrition can be figured at 10,000 per day at the present time.

Those who left during the collapse of Biafra have reported that Nigeria could not possibly be prepared to feed their former enemies. Yesterday, newspaper reporters were allowed to go into the territory where the refugees are gathered. The first story appears in today's Evening Star, and confirms what the missionaries have predicted.

The truck convoys planned by the Nigerian Government are inadequate to meet the need. They show that the Nigerian Government is somewhat responsive to the situation, but more is needed. The only feasible method is to reopen Uli airstrip, and begin a round-the-clock airlift. The facilities gathered by the Joint Church Aid relief agency are still in existence. There are 3,000 feeding stations in the area which could be operated. The planes are ready. The pilots are ready. The food is stockpiled on the island of Sao Torme and at Libreville.

The difficulty is that Nigeria views the Joint Church Aid group as a group that aided the enemy, and Uli airstrip as a symbol of rebellion.

The United States should make it clear that political symbolism cannot be allowed to cause the deaths of 5 million people. It appears that the U.S. State Department views the Nigerian policy as satisfactory. Spokesmen for the Department reiterate the view that Nigeria is doing all that it can. Only last week, U.S. Secretary of State Rogers termed our attitude toward the conflict as "very successful."

Such self-serving statements will not win the attention of the Nigerian military government. They can only help to prolong the period before something positive is done, and in effect, makes us accomplices in the deaths of millions more. If we are not able to help the people facing starvation, then we should say so plainly, but we should help to draw the world's attention to the problem. However, I think we could help the situation, if we would work to convince Nigeria that the facilities for feeding these people are ready to go into action, if only political symbolism can be set aside. But Nigeria will never be convinced she must do so, as long as she receives public praise from the United States.

Mr. President, I ask unanimous consent that the editorial entitled "Africa's Double Standard," published in the State of January 16, 1970, be printed in the RECORD at the conclusion of my remarks. I also ask unanimous consent that the article "Death, Not Food, Awaits Biafran Refugees," published in the Evening Star of January 21, be printed in the RECORD at the conclusion of my remarks.

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

[From the Columbia (S.C.) State, Jan. 16, 1970]

AFRICA'S DOUBLE STANDARD

In the general rejoicing over the end of the civil war in Nigeria, the world will not stop to ask itself the question that cries out for attention: to what degree did Western hypocrisy contribute to the starvation of an estimated two million innocents?

One does not question the double standard. African nations, granted independence on the mistaken assumption that self-government is possible everywhere, are presumed to enjoy equality in all respects but one. They are not to be held to the same standards of behavior that apply, in theory at least, over most of the world.

In part, the Biafran tradegy can be traced to the original error. Except for British and Soviet military assistance, the Nigerian government might have come to terms with Biafra long ago, at who knows what saving in human lives? But Soviet motives are mischievous, and Great Britain could not fail to sustain its former colony in her time of trouble without conceding the central fallacy of the African independence movement.

The presumed legitimacy of the government in Lagos, in British eyes, had to be defended. In turn, the Ibos' fears of liquidation by that tyrannical military regime and the resulting Biafran rebellion had to be repudiated. Western-style democracy, self determination, minimum standards of ethical behavior, humanitarian considerations—all these things went by the board in the interest of maintaining a political mockery in Lagos.

Equality? It is a fiction, accepted at no small cost in human misery. The "emerging" nations of Africa are not accepted as equals, and euphemisms do not hide the deceit. Can anyone conceive, by way of illustration, that the deliberate starvation of two million European children would have caused no more stir worldwide than the Biafran slaughter? Could Britain's Labor government have survived an arms shipment to those responsible for starvation on such a scale? Not for a moment. But Nigeria is in Africa, and Africa is different, i.e., not equal.

Colonialism is dead—Western colonialism, at least—and no one would revive it if he could. There is no turning back. What needs to be questioned, however, is the egalitarian pretense responsible for supplying modern arms to governments whose moral restraints have been carried over, unchanged, from the Stone Age.

[From the Washington (D.C.) Evening Star, Jan. 21, 1970]

DEATH, NOT FOOD, AWAITS MANY BIAFRAN REFUGEES

(By Andrew Borowiec)

OWERRI.—The remnants of the Ibo tribe are dying a slow death in their devastated homeland they used to call Biafra.

No relief planes are landing at any of the airstrips in or around the former Biafran bastion which collapsed last week.

Despite a barrage of assurances in Lagos, there seems to be no coherent federal plan to feed the half-starved and dying population.

The relief agencies that used to operate in the secessionist area have been banned. Others are coping with an insurmountable problem of bringing scarce supplies by land through roadblocks of victory-groggy federal troops that often requisition Red Cross vehicles to carry loot.

Owerri, the last capital of Biafra, is a collection of gutted and dilapidated shacks with bullet-punctured billboards that used to advertise soft drinks and anti-malaria products.

Swarms of skeletal humanity mill along the main road, Douglas Street, hopelessly staring at foreign visitors and at piles of canned goods exhibited by enterprising trades. The prices are in Nigerian pounds, which no one has in Biafra where the secessionist money lost value overnight, leaving the entire population bankrupt.

Outside Owerri, vultures circle low over the macadam highway and the bodies there. No one has any thought of burying the dead.

The Red Cross representative in Owerri province has enough rations to feed 200,000 people for two days. There are an estimated 1 million starving people in the area. The food is being delivered by one truck and even this ramshackle vehicle is often commandeered by the army.

An extensive tour of the Biafran heartland showed no signs of massive federal atrocities, no genocide of the defiant Ibo tribe that wanted to be an independent African nation. Yet considering the conditions of the relief operation, the result may very well be the same.

Skeletal men and women, children with swollen bellies and malnutrition scabs, pathetic wrecks of humanity, are still waiting for a miracle which does not seem to come.

When a rare food supply does arrive, only the strongest reach it, fighting off the others.

Along the roads of former Biafra, now part of "one Nigeria," endless lines of refugees are stumbling along, carrying their meager belongings on their heads.

Federal officers waving golf clubs used as swagger sticks speed through the crowds in their limousines, hardly bothering to look.

There is no open hostility of the victors toward the vanquished. There is simply indifference. As far as the federal army is concerned the war has been won.

There was no plan for the present contingency, and the pathetic mass of humanity only brings despair to the hearts of rare white men still in the area.

"We are hungry master," cry Ibo children beseiging white visitors. It does not occur to them to appeal to federal soldiers who remain oblivious to the spectacle.

Here, in the heart of this tortured land, Africa's tragedy, gruesome contradictions and hopelessness are visible in their stark reality.

The Uli airstrip, a perfect concrete runway that handled Biafran food and arms shipments, is deserted. The federal government has made no move to send relief planes to Uli or Port Harcourt of Biafra's fringes.

The day the first Western reporters toured the occupied zone, the preoccupation of the authorities in Port Harcourt centered on a

major event—marriage of Rivers Province Governor Commander A. P. Diete-Spiff to Miss Ethel Johnson.

One by one planes landed at Port Harcourt airstrip, bringing wedding guests and their ladies—men in impeccably pressed suits, women with elaborate hairdos, officers with sabres and golden epaulettes.

Sixty miles from the dying Ibo area, champagne corks popped, goats were turned on spits and suckling pigs were roasted. Waiters brought from Lagos swiftly moved among an estimated 500 wedding guests.

A day before the wedding, some of the visitors were given the tour of what used to be Biafra.

They sped in a limousine escorted by Landrovers carrying elite troops in camouflage uniforms.

At a bridge between Owerri and Aba, visiting Lagos Gov. Mobolaji Johnson stopped his Mercedes to repair a minor defect.

Waving his London-imported shooting stick, impeccably dressed in starched uniform, he pointed to the gutted shacks and the miserable stream of refugees and said: "In three months there will be no sign of war here. If you think this is bad, what about what the Americans are doing in Vietnam?"

Then he drove off, the siren of his car screaming, scattering crowds of refugees.

(Several foreign television cameramen threw Nigerian money in the air so the hungry masses would fight for it and they could film the scene, Associated Press writer Hugh Mulligan reported.)

The stories told by the Ibos seldom vary: When the frontline troops came, they distributed food and cigarettes and told the people not to fear. Then the war was over and the estimated 5 million Ibos were forgotten.

The phenomenon is not new or unusual in Africa. In every crisis, in every famine, there are invariably doctors and missionaries who come to help.

The Biafran war proved this again. As far as the federal troops are concerned, the problem is finished. Let somebody else take care of the rest.

NO AID FLIGHTS COME

But the federal government has banned all "unauthorized flights" from the stricken zone. Since no authorized flights are coming, this appears to mean that the area has been condemned to starvation.

Along the road outside Uli, men with limbs like match sticks carry stretchers in the hot, tropical sun. Occasionally they stop, putting down their wounded and sick who no longer cry. They are heading for a hospital hoping that a white doctor is still there, hoping that somebody would help.

In the villages around Orlu, Owerri and Uli, mainly old people and children have remained. Most young girls have fled to the bush fearing rape.

But there is little apparent friction between the occupiers and the occupied. The concept of Biafra is finished. It is now a question of surviving, of making the most of things.

There is no bitterness—just pathetic faces and weak voices pleading for some mercy and some food.

ILLEGAL DRUG USE

Mr. SPONG. Mr. President, a recent survey by the Young Lawyers Section of the Virginia State Bar Association underscores the alarming spread of illegal drug use.

According to this study, drug prosecutions in Virginia during the first 5 months of 1969 almost equaled the number for the entire preceding year.

For the State as a whole, the monthly increase was 134 percent, but for many cities and suburban counties it ranged as high as 300 and 400 percent.

Even some rural counties, which had not before experienced much of a problem, reported a significant number of prosecutions this year.

This report makes clear the pressing need for tightening our present drug laws and improving our research, treatment, and educational programs.

In this connection, I want to bring attention to a pamphlet entitled "What You Should Know About Drugs and Narcotics" which was prepared by the Virginia Beach City Public Schools to alert parents to the kinds of drugs in use today and to educate them on the symptoms of drug use and the steps to take in dealing with it.

It is a concise, factual treatment of the subject which merits wide distribution.

I ask unanimous consent to have printed in the RECORD a copy of the Young Lawyers drug abuse survey and a copy of the Virginia Beach pamphlet on drugs and narcotics.

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

DRUG-ABUSE PROSECUTIONS, YOUNG LAWYERS SECTION, VIRGINIA STATE BAR ASSOCIATION DRUG-ABUSE SURVEY

City or county	1968	Through May 1969
Accomack	0	1
Albemarle	0	0
Alexandria	32	16
Alleghany	0	0
Amelia	0	0
Amherst	0	0
Appomattox		
Arlington		
Augusta	0	0
Bath		
Bedford	0	0
Bland	0	0
Botetourt	0	0
Bristol	0	0
Brunswick	0	0
Buchanan		
Buckingham	0	0
Buena Vista		
Campbell	4	0
Caroline	0	0
Carroll		
Charles City	0	1
Charlotte	0	0
Charlottesville		
Chesapeake	0	0
Chesterfield	12	6
Clarke	0	0
Clifton Forge		
Colonial Heights	1	0
Craig		
Culpeper	0	0
Cumberland	0	0
Danville		
Dickenson	1	1
Dinwiddie	2	0
Essex	0	0
Fairfax	66	70
Fauquier	2	0
Floyd	0	1
Fluvanna	0	0
Franklin	0	3
Frederick	0	0
Fredericksburg	1	0
Giles	1	0
Gloucester	0	0
Goochland	0	0
Grayson	0	0
Greene	0	0
Greensville	0	1
Halifax	1	0
Hampton	2	6
Hanover	0	0
Henrico		
Henry	0	1
Highland	0	0
Hopewell	1	5
Isle of Wight	0	0
James City	0	0
King George	0	0
King and Queen	1	0
King William	0	0
Lancaster	0	0
Lee	0	0
Loudoun	3	2
Louisa	0	0
Luenburg		
Lynchburg	0	2
Madison	0	0
Martinsville	0	0
Mathews	0	0
Macklenburg		
Middlesex		
Montgomery	5	0
Nansemond	0	0
Nelson	0	0
New Kent	0	0
Northampton	0	0
Newport News	16	5
Norfolk	62	111
Northumberland	0	0
Nottoway	0	0
Orange	0	0
Page	0	0
Patrick		
Pittsylvania	8	2
Petersburg	2	4
Portsmouth	26	13
Powhatan	0	0
Prince Edward	0	0
Prince George		
Prince William	29	3
Pulaski	0	0
Rappahannock		
Radford	0	0
Richmond	0	0
Richmond City	107	88
Roanoke	5	0
Roanoke City [1]		
Rockbridge	0	2
Rockingham	0	1
Russell	0	0
Scott	0	2
Shenandoah	0	0
Smyth	0	0
Southampton	0	2
Spotsylvania	1	0
Stafford	0	0
Staunton	0	0
Suffolk	0	2
Surry		
Sussex	0	0
Tazewell		
Virginia Beach [2]		
Warren	0	0
Washington		
Waynesboro	0	1
Westmoreland	0	0
Winchester	1	0
Wise	0	0
Wythe	0	0
York	0	1

[1] Total of 40 prosecutions during survey period—no allocation between 1968–69.

[2] Total of 61 prosecutions during survey period—no allocation between 1968–69.

Note—Full year 1968 = 392 = 32.6 per month; monthly increase; 5 months 1969 = 75.4 per month or 134 percent.

WHAT YOU SHOULD KNOW ABOUT DRUGS AND NARCOTICS

(Prepared by Virginia Beach City Public Schools, Virginia Beach, Va.)

SEVEN SYMPTOMS OF ALL DRUG AND NARCOTIC USE

1. Rapid disappearance of clothing and personal belongings from home.

2. Signs of unusual activity around hangouts and other buildings.

3. Loitering in hallways or in areas frequented by addicts.

4. Spending unusual amounts of time in locked bathroom.

5. Inability to hold job or stay in school.

6. Rejection of old friends; taking up with strange companions.

7. Using jargon of addicts.

PARENTS

Recognize symptoms that point to probable drug use—

Deviations in established behavior patterns;

Deterioration in personal appearance, hygiene habits, or physical health;

Loss of interest in the classroom and school activities;

Lowering of academic grades;

Sudden secrecy about destinations;

Keeping odd hours;
Unexplained telephone calls;
Acquisition of new, questionable acquaintances;
Disappearance of personal and household items;
Noticeable breakdown in family communication;
Wearing of long sleeved garments and sunglasses at inappropriate times and places;
Cigarette paper and/or fragments of marijuana leaves or seeds in clothing pockets;
Unexplained hypodermic equipment;
Loose pills hidden in closets, clothing, or dresser drawers.

Recognize reasons for probable drug use—
Experimentation stemming from youthful curiosity;
Experimentation stemming from peer pressure;
Experimentation stemming from a need to fill an emotional gap.

Recognize your obligations in providing the guidance, security, love and companionship needed. Law enforcement may cut off the supply of drugs, but it is the parents who can best cut off the need for them.

Teach the dangers of drug use; the consequences that can follow experimentation; establish a set of rules and enforce them; make known your feelings about drug use and experimentation; show interest in your child's interests; listen to their problems; help find answers to their problems; find time to spend with your children; care.

Recognize the need for professional help to—
Provide information concerning drugs and narcotics;
Provide information to recognize potential and actual drug abuse;
Guide, advise, and counsel you and your child.

Recognize those who can help you: family doctor, spiritual adviser, local educators, youth counselors, law enforcement personnel.

GLUE

The voluntary inhalation of fumes from model airplane glue as well as from gasoline, lighter fluid, and paint thinner is known as "glue-sniffing." Model airplane glue and other compounds contain solvents such as toluene, chloroform, and alcohol which, through their powers of evaporation, are easily inhaled.

Normally, the glue is squeezed into a piece of cloth or into a bag from which the fumes are inhaled, although gasoline and paint thinner are often inhaled directly from containers. Regardless of the compound inhalation is continued until the desired effects, ranging from mild intoxication to more acute drunkeness, are achieved.

The immediate symptoms of glue-sniffing are like those of intoxication including: loss of coordination, poor speech, double vision, mild hallucinatin, and nausea. These effects occur for about 30 to 60 minutes, depending upon the amount inhaled. A second period, lasting more than an hour, usually follows. It is marked by drowsiness, sleep, or in some cases, unconsciousness. At the end of this second stage, usually the person will not be able to remember what occurred during this period of time.

MARIJUANA

A marijuana plant, cannabis satiua, is dried into small pieces. This product is then rolled into a cigarette, stuffed into the nostril, or taken in food. Call "it" weed, grass, pot, reefer, joint, stick, hay, tea; the effects are the same—unpredictable. The drug reacts quickly on the brain and nervous system as a stimulant, depressant or an hallucinatory agent. The taker may appear intoxicated or stable. The taker may get talkative, loud, unsteady, or drowsy. The taker may find it hard to coordinate the movements. Sights, sounds, time, space may become magnified and distorted. The power of concentration and depth perception is disorganized.

The sweetish odor of burnt rope or dried grass identifies marijuana smoke. Incense may be used to hide the odor.

Changes in attitude such as secrecy, disciplinary problems, school problems, lack of concern about appearance and personal hygiene are symptoms of the use of marijuana.

LSD

LSD, an ordorless, colorless, tasteless drug, is the most potent member of a group which includes dimethyl tryhamine, mescaline, and psiloaylion. The chemical, lysergic acid diethylamid, is found in ergot, a fungus which grows on grain, namely wheat and rye.

The drug is generally used in the liquid state and is taken after having been poured over a sugar cube or in a cookie. There have been cases, when individuals hoping to obtain a stronger and more immediate effect, have injected the drug directly into their veins.

The user may experience anxiety, depression, confusion, and hallucinations. Such sereve reactions like panic, suicidal attempts, uncontrolled agressive tendencies, and acute psychoses often result from the use of this drug. The effects may reoccur over a long period of time.

Although LSD doesn't appear to cause physical dependence, psychological dependence may result from its continued use.

AMPHETAMINES

Amphetamines are used to stimulate the nervous system, to curb the appetite, and to stay awake for long periods of time. The use of amphetamines "pep pills" results in excitability, unclean and rapid speech, restlessness, enlarged pupils of the eyes, sleeplessness, and profuse perspiration. There seems to be no power of addiction in the use of amphetamines but a user will generally continue on, or move on to a stronger drug. The user will not be able to recognize fatigue and therefore the user may push himself into a condition which remains undetected until it is too late, resulting in fatal accidents.

BARBITURATES

This drug is used as a depressant, generally in the form of sleeping pills and is referred to as "goof balls." The effect is to slow down the actions of the central nervous system and to produce a sense of security. Symptoms generally occur in the form of drowsiness, lack of muscular coordination, poor judgment, and a tremor of hands, lips, and tongue. The use of this drug is said to produce more suicides, intentional, and unintentional, than the use of any other substance.

THE FIGHT AGAINST INFLATION

Mr. GRIFFIN. Mr. President, earlier today, on the Senate floor, there was a rather spirited and partisan debate about inflation and who is to blame for it.

A carefully researched memorandum, prepared recently by the staff of the Senate Republican policy committee, contains facts and information which should be part of the dialog on this subject which is likely to be important in this election year.

I ask unanimous consent that a copy of the memorandum on this subject be printed in the RECORD.

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

THE FIGHT AGAINST INFLATION

(NOTE.—The study that follows was prepared by the staff of the Senate Republican Policy Committee and is not designed as a Republican Policy Statement, but for the presentation of facts and views relevant to this subject.)

INTRODUCTION

We are in an election year, a crucial election for the Nation. At stake, as always, is control of the Congress; but more important is the *direction* which our society will take, perhaps for the next generation.

The issue is summed up in one word:

INFLATION

Finger-pointing has begun, and the problem for Republicans is not so much rebuttal (the Democrats' monumental $25 billion deficit for 1968 speaks eloquently) as it is precision.

Republicans could simply quote Dr. Arthur Okum, Chairman of President Lyndon Johnson's Council of Economic Advisers, who in his new book, "The Political Economy of Prosperity," blames Mr. Johnson and the Democratic Congress for the inflation of today.

Mr. Johnson did not heed the unanimous recommendation of the Council in December 1965, to stem the obvious inflationary spiral by seeking a tax increase, Dr. Okun says, and the Democratic Congress failed to act in 1967 when Mr. Johnson did finally ask for a tax boost. (New York Times, January 9, 1970.)

An open and shut case.

It is more difficult, on the other hand, to pull together the tangled strands and hidden threads of Democratic spending and borrowing, yet the effort is worthwhile. For it reveals the determination with which Democrats continue today to over-fund old Great Society programs, to preserve the existing status-chaos, and to deny the Nixon Administration the necessary fiscal elbowroom to move forward with welfare reform, with revenue sharing, with the necessary revitalizing of anti-pollution programs, or with re-energizing State and local goals.

Today's fight against inflation is twofold:

First, a *monetary* attack—conducted by the independent Federal Reserve Board—which constricts the money supply, and hopefully acts to discourage inflationary new plant and equipment expenditures, new capital construction.

Second, a *fiscal* attack which seeks to limit Federal Government expenditure.

Monetary restraints have been applied, but the President's attempt to utilize fiscal tools to halt inflation is meeting resistance among Democrats who still run things in Congress.

THE DEMOCRATIC RECORD

Perhaps it is a matter of tradition within the Democratic Party. Certainly their record over seven of the past eight years does give evidence of, at the very least, a continuous tendency to overspend. But the eighth year was a fiscal disaster, the consequences of which are still incalculable.

[*Government surplus* (+) *or deficit* (−)]

Fiscal year:	
1960 (Eisenhower's last full year)	+$240,000,000
1961	−3,424,000,000
1962	−7,174,000,000
1963	−4,742,000,000
1964	−5,916,000,000
1965	−1,618,000,000
1966	−3,790,000,000
1967	−8,790,000,000
1968	−25,187,000,000

Nor would this propensity appear to have changed remarkably during the 91st Congress, 1st Session—at a time when President Nixon was attempting with every means at his command to overcome the cumulative effects of eight years of calculated inflationary policies.

How did inflation begin? These facts emerge from the economic wool-spinning of the Democratic-dominated Sixties:

Beginning in the summer of 1961, policies were followed that produced inflationary

rates of growth in U.S. money supply. These were coupled with the stimulus of major tax reductions in the face of predicted deficits in the annual budget.

In 1965 huge hidden expenditures began to be incurred for the Vietnam war. In an effort to keep these extraordinary costs from the public, they were excluded from the regular appropriation and authorization bills; it was not until 1967 that the Republican Members of Congress, notably Representative Melvin Laird, forced full disclosure.

In 1967–1968, monetary policy was further eased with the promise of "light at the end of the tunnel" at the very time that military spending, and other Federal spending as well, were both still rising rapidly.

The resulting extraordinary $25 billion Federal deficit for FY 1968 was financed, in large part, through the commercial banking system, virtually as if the government had simply begun to print money. This use of the banking system provided a facade which hid the fact we were, in the 60's doing what France was doing in the 30's and which, as William L. Shirer points out in his "Collapse of the Third Republic," paved the way to disaster.

Given the urgency of military orders, corporations also resorted to the long- and short-term credit markets to replenish cash. They thus added private credit demand to government demand for money to finance budget deficits.

So the $25 billion budget deficit for 1968 alone locked in an immense inflationary pressure for the years immediately ahead.

To his credit, President Nixon has applied the brakes. Inflationary pressures are easing without the sudden shock of recession. Employment remains high, and there is none of the turbulence that accompanies hamhanded attacks on the economy.

THE JOHNSON BUDGET

In his Budget Message of January 15, 1969, former President Johnson stated that he had developed a budget which would yield a surplus of $3.414 billion in Fiscal 1970. This was based on anticipated revenues of $198.7 billion and anticipated expenditures of $195.3 billion.

President Nixon inherited that budget when he took office, studied it for approximately two months, and came up with a revised budget which was announced on April 15, 1969. In essence, his budget cut aggregate expenditures to $192.9 billion with the same figure for aggregate revenues, $198.7 billion. Initially, therefore, the Nixon Budget yielded an anticipated surplus of revenues over expenditures of $5.8 billion.

A good deal of discussion has already taken place with regard to the way in which the 1st Session of the 91st Congress addressed itself to discharging its appropriation responsibility in light of the revised Nixon Budget.

BUDGET "CUTS" OF THE DEMOCRATIC CONGRESS

Taking the narrow issue of appropriations alone, it has been argued that the Congress itself cut the Nixon budget by $7.6 billion in certain areas of governmental appropriations, added roughly $2 billion to other areas of appropriation, for a total aggregated reduction of $5.6 billion.

Not so, says Representative George H. Mahon's (D., Texas) Joint Committee on Reduction of Federal Expenditures, in its report on the impact of Congressional actions and inactions of the 1970 fiscal year Federal budget. *As shown in the following chart, this Congress cut a $5.9 billion surplus by $46 million.*

Specifically, Congress acted to reduce budget authority by $837 million, reduce budget outlays by $1.569 billion, and reduce budget receipts by $118 million, thus apparently producing a budget surplus of $1.451 billion.

But through Congressional *inaction* on other budget estimates, as the Committee pointed out, Congress at the same time added $1.313 billion to authority, $1.232 billion to outlays, and reduced receipts by $265 million, therefore:

The total net effect of Congressional action and inaction of the 1st Session of the 91st Congress, according to Chairman Mahon's Committee, was to reduce a $5.9 billion surplus by $46 million.

[In millions of dollars]

Summary totals	Budget authority (obligational and lending authority) (1)	Budget outlays (expenditures and net lending) (2)	Budget receipts (3)	Budget surplus or deficit (4)
Fiscal year 1970:				
Net total budget estimates as submitted Jan. 15, 1969	210,116	195,272	198,686	+3,414
Net total budget estimates as corrected by the new administration	211,412	196,921	198,686	+1,765
Net total budget estimates as corrected and revised to Apr. 15, 1969	205,901	192,899	198,686	+5,787
Net total budget estimates as revised and amended to date	[1] 204,201	[2] 192,885	[2] 198,800	+5,915
Adjustments for interfund and intragovernmental transactions and applicable receipts	+13,714	+13,714	+13,714	
Total gross budget estimates	217,915	206,599	212,514	+5,915
Budget estimates not requiring further action by Congress (previously enacted or permanent)	80,712	114,896	202,712	
Prior year's budget authority		(85,165)		
Current (1970) budget authority	(80,712)	(29,731)		
Budget estimates requiring action by Congress	137,203	91,703	9,802	
Effect of congressional action on budget estimates (net changes) to Dec. 23, 1969:				
House	−3,687	+362	+158	−204
Senate	+2,512	+767	−2,173	−2,940
Enacted	[3] −837	[3] −1,569	−118	+1,451
Effect of congressional inaction on budget estimates	+1,313	+1,232	−265	−1,497
Total net effect of congressional action and inaction, 1st session, 91st Congress	+476	−337	−383	−46

[1] Budget authority estimates have not been revised since the May 30 withdrawal of $1.7 billion for the previously proposed social security program.

[2] The summer review of the 1970 budget reflected revised budget outlay estimates at $192,860 million and revised budget receipt estimates at $198,800 million. The revised outlay estimates reflect many increases and many offsetting decreases on which full details are not available. Since revised detailed estimates were not transmitted to the Congress, it must be assumed for scorekeeping purposes that the Congress was working with the April 15 budget appropriation and outlay estimates.

[3] Includes the effect of the Labor and Health, Education, and Welfare, and the Foreign Assistance Appropriation bills, on which Congress has not taken final action, in the amounts approved by the Committee of Conference.

CONGRESSIONAL INACTION

It may be history that the first session of this Congress set new records on the lateness of making appropriations—a history that may find its way into the trivia of the Guinness Book of World Records—but the fact of the matter is that retardation of appropriations has caused budgetary experts to estimate a loss of almost $3 billion. The cause was inefficient governmental expenditures because *none* of the 15 appropriation bills had yet been enacted when the fiscal year began.

Perhaps a comparison with the pace of appropriations bills during the first year of President Eisenhower's first term is in order. It should be recalled there was a slim Republican majority in both House and Senate in that year, 1953, and Congress adjourned August 4, having passed *all* appropriations bills.

This year, 1969, after the first six months, the Democratic-controlled Congress had failed to enact any of the FY 1970 appropriations bills; by September 30, Congress had enacted one bill; by October 31, the total was two; by November 30, it had risen to four. By adjournment time, December 22, 1969, most of the bills had been rushed through by a weary Congress—half a year late!

Hearings were still being held down to the last few days of the session on major appropriations bills.

THE INFLATIONARY EFFECT OF TAX "REFORM"

Compounding the difficulties facing President Nixon as a result of the appropriations slow-down, was the passage of an inflationary tax package.

Labeled a "reform" measure, the tax bill contained more rate changes than substantive reforms, and soon led critics to charge the bill was little more than a "Lawyers and Accountants Full Employment Act."

On April 21, 1969, President Nixon had sent his tax message to Congress.

Proposals with the biggest impact on revenue were:

(1) outright repeal of the 7 percent investment tax credit, and

(2) reduction of the 10 percent surcharge to 5 percent January 1, 1970, and elimination of the surcharge on June 30, 1970.

Comprehensive reform was to follow in 1970.

Instead, the House of Representatives August 8 passed a tax bill which would raise revenues by $6.9 billion by closing loopholes, but would grant tax relief in the amount of $9.3 billion. Result? A $2.4 billion deficit.

The Senate, on December 11, disregarding a threatened Presidential veto, passed the Tax Reform Act of 1969—in final form containing deficits of $2.7 billion for 1970, $11.2 billion in 1971, and $12.7 billion in 1972.

Both Houses of Congress are controlled by the Democratic Party, which was responsible for a total deficit of more than 60 billions of dollars during the previous eight consecutive years! Germany's deficit of 1923, when a common postage stamp cost billions of marks, was less.

ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock meridian tomorrow.

The motion was agreed to; and (at 5 o'clock and 8 minutes p.m.) the Senate adjourned until tomorrow, Thursday, January 22, 1970, at 12 o'clock meridian.