SENATE—*Tuesday, July 14, 1970*

The Senate met at 11 a.m. and was called to order by Hon. CLAIBORNE PELL, a Senator from the State of Rhode Island.

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

O Lord, who has taught us that "the effectual fervent prayer of a righteous man availeth much," direct us in our praying as in our working. Work in and through us, consciously or unconsciously, hour by hour Thy divine intention for our Nation and the world.

Make us so aware of Thy presence that out of confusion may come simplicity of plan, out of fear may come confidence, out of division a spiritual union, and out of frustration perseverance until the fulfillment of a new and better world.

In Thy holy name we pray. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. RUSSELL).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 14, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. CLAIBORNE PELL, a Senator from the State of Rhode Island, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, July 13, 1970, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. KENNEDY. Mr. President, will the distinguished Senator from Arizona (Mr. GOLDWATER) yield, so that I may make a unanimous-consent request, with the understanding that he will not lose his right to the floor?

Mr. GOLDWATER. I am happy to yield to the Senator from Massachusetts.

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

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, if the distinguished Senator from Arizona (Mr. GOLDWATER) will yield for a few moments, I would like to call up a few bills.

Mr. GOLDWATER. I am happy to yield.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 1008, 1017, and 1018.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered; and the clerk will state the first measure.

EXPANDING, IMPROVING, AND BETTER COORDINATING THE FAMILY PLANNING SERVICES AND POPULATION RESEARCH ACTIVITIES OF THE FEDERAL GOVERNMENT

The Senate proceeded to consider the bill (S. 2108) to promote public health and welfare by expanding, improving, and better coordinating the family planning services and population research activities of the Federal Government, and for other purposes, which had been reported from the Committee on Labor and Public Welfare with amendments, on page 2, line 7, after the word "States", insert "and the areas specified in subparagraph (c) of section 6 of of this Act"; on page 3, after line 9, insert:

(e) to develop and make readily available information (including educational materials) on family planning and population growth to all persons desiring such information;

At the beginning of line 14, strike out "(e)" and insert "(f)"; at the beginning of line 17, strike out "(f)" and insert "(g)"; at the beginning of line 20, strike out "(g)" and insert "(h)"; in the same line after the word "establish", strike out "a National Center for Population and Family Planning" and insert "an Office of Population Affairs in the Department of Health, Education, and Welfare"; on page 4, after line 3, strike out:

ESTABLISHMENT OF NATIONAL CENTER FOR POPULATION AND FAMILY PLANNING

SEC. 2. (a) There is hereby established, within the Department of Health, Education, and Welfare, a National Center for Population and Family Planning (hereinafter in this Act referred to as the "Center"). The Center shall, for administrative purposes within such Department, be placed under the direct supervision of the Assistant Secretary for Health and Scientific Affairs.

(b) The Center shall have a Director and a Deputy Director and such regional population and family planning advisers of the Center as the Director, with the approval of the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary"), may determine.

(c) The Center shall establish identifiable units to carry out, at a minimum, the following functions: Public information, program planning and development, manpower development and training, supervision of field services, reproductive physiology research, contraceptive development, operational and evaluation research, behavioral research, and grants management (research and services).

And, in lieu thereof, insert:

OFFICE OF DEPUTY ASSISTANT SECRETARY FOR POPULATION AFFAIRS

SEC. 2. (a) There is hereby established within the Department of Health, Education, and Welfare and Office of Pouplation Affairs to be directed by a Deputy Assistant Secretary for Population Affairs under the direct supervision of the Assistant Secretary for Health and Scientific Affairs. The Deputy Assistant Secretary for Population Affairs shall be appointed by the Secretary.

On page 5, at the beginning of line 10, strike out "(d)" and insert "(b)"; in the same line, after the word "the", where it appears the second time, strike out "Center" and insert "Office of Population Affairs"; in line 13, after the word "for", strike out "the Center" and insert "it"; after line 14, strike out:

FUNCTIONS OF THE CENTER

SEC. 3. (a) The Secretary of Health, Education, and Welfare shall utilize the Center—

And, in lieu thereof, insert:

FUNCTIONS OF THE DEPUTY ASSISTANT SECRETARY FOR POPULATION AFFAIRS

SEC. 3. (a) The Secretary for Health, Education, and Welfare shall utilize the Deputy Assistant Secretary for Population Affairs—

On page 6, line 1, after the word "of", insert "formula or"; in line 10, after the word "planning", strike out "programs;" and insert "programs for use by all interested persons and public and private groups;"; in line 24, after the word "through", strike out "(f)" and insert "(h)"; on page 7, line 5, after the word "the", where it appears the second time, strike out "Center." and insert "Office of Population Affairs."; in line 8, after the word "after", strike out "the passage" and insert "enactment"; in line 9, after the word "this", strike out "bill" and insert "Act"; in line 13, after the word "programs," strike "and"; in the same line, after the word "necessary", strike out "manpower" and insert "manpower, and for carrying out the other purposes set forth in this Act."; in line 17, after the word "served," insert "the types of family planning and population growth information and educational materials to be developed and how they will be made available,"; on page 8, line 8, after the word "year", strike out "for provision of services"; in line 18, after the word "to", strike out "make, through the Center," and insert "make"; on page 10, line 18, after the word "Islands,", strike out "and"; in the same line, after the word "of", strike out "Columbia." and insert "Columbia, and the Trust Territory of the Pacific Islands."; on page 11, line 18, after the word "the", where it appears the second time, strike out the word "Center" and insert "Office of Population Affairs"; on page 16, line 4, after the word "the", strike out "Center." and insert "Office of Population Affairs."; and after line 5, insert a new section, as follows:

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

SPECIAL PROJECT GRANTS AND CONTRACTS FOR FAMILY PLANNING AND POPULATION GROWTH INFORMATION DISTRIBUTION AND EDUCATIONAL MATERIALS DEVELOPMENT

SEC. 10. (a) The Secretary is authorized to make project grants and enter into contracts with public agencies and nonprofit organizations and institutions to assist in developing and making available family planning and population growth information (including educational materials) to all persons desiring such information (or materials).

(b) For the purpose of making grants or entering into contracts under this section there are authorized to be appropriated $750,000 for the fiscal year ending June 30, 1971; $1,000,000 for the fiscal year ending June 30, 1972; $1,250,000 for the fiscal year ending June 30, 1973; $1,500,000 for the fiscal year ending June 30, 1974; and $1,750,000 for the fiscal year ending June 30, 1975.

(c) The acceptance of family planning and population growth information (including educational materials) provided shall be voluntary and shall not be a prerequisite or impediment to eligibility for or the receipt of other benefits or participation in any other programs of financial or medical assistance.

So as to make the bill read:

Be it enacted by the Senate and House of Represenatives of the United States of America in Congress assembled,

DECLARATION OF PURPOSE

SECTION 1. It is the purpose of this Act—

(a) to make comprehensive voluntary family planning services readily available to all persons in the United States and the areas specified in subparagraph (c) of section 6 of this Act desiring such services;

(b) to coordinate domestic population and family planning research with the present and future needs of population and family planning programs;

(c) to improve administrative and operational supervision of domestic family planning services and of population research programs related to such services;

(d) to enable public and voluntary agencies to plan and develop comprehensive programs of family planning services;

(e) to develop and make readily available information (including educational materials) on family planning and population growth to all persons desiring such information;

(f) to evaluate and improve the effectiveness of family planning service programs and of population research;

(g) to provide the trained manpower needed to effectively carry out programs of population research and family planning services; and

(h) to establish an Office of Population Affairs in the Department of Health, Education, and Welfare as a primary focus within the Federal Government on matters pertaining to population and family planning, through which the Secretary of Health, Education, and Welfare shall carry out the purposes of this Act.

OFFICE OF DEPUTY ASSISTANT SECRETARY FOR POPULATION AFFAIRS

SEC. 2. (a) There is hereby established within the Department of Health, Education, and Welfare an Office of Population Affairs to be directed by a Deputy Assistant Secretary for Population Affairs under the direct supervision of the Assistant Secretary for Health and Scientific Affairs. The Deputy Assistant Secretary for Population Affairs shall be appointed by the Secretary.

(b) The Secretary is authorized to provide the Office of Population Affairs with such full-time professional and clerical staff and with the services of such consultants as may be necessary for it to carry out its duties and functions.

FUNCTIONS OF THE DEPUTY ASSISTANT SECRETARY FOR POPULATION AFFAIRS

SEC. 3. (a) The Secretary of Health, Education, and Welfare shall utilize the Deputy Assistant Secretary for Population Affairs—

(1) to administer all Federal laws, over which the Secretary has administrative responsibility, which provide for or authorize the making of formula or special project grants related to population and family planning;

(2) to administer and be responsible for all population and family planning research carried on directly by the Department of Health, Education, and Welfare or supported through grants to or contracts with agencies, institutions, and individuals;

(3) to act as a clearinghouse for information pertaining to domestic and international population and family planning programs for use by all interested persons and public and private groups;

(4) to provide a liaison with the activities carried on by other agencies and instrumentalities of the Federal Government relating to population and family planning;

(5) to provide or support training for necessary manpower for domestic and foreign population and family planning programs of service and research;

(6) to coordinate and be responsible for the evaluation of the other Department of Health, Education, and Welfare programs related to family planning and population and to make periodic recommendations to the Secretary as set forth in section 4;

(7) to carry out the purposes set forth in subsections (a) through (h) of section 1 of this Act; and

(8) to carry out the programs established by the succeeding provisions of this Act.

(b) There are hereby authorized to be appropriated for each fiscal year such amounts as may be necessary to meet the administrative expenses of the Office of Population Affairs.

PLANS AND REPORTS

SEC. 4. (a) Not later than six months after enactment of this Act the Secretary shall make a report to the Congress setting forth a plan, to be carried out over a period of five years, for extension of family planning services to all persons desiring such services, for research programs, for training of necessary manpower, and for carrying out the other purposes set forth in this Act.

(b) Such a plan shall, at a minimum, indicate on a phased basis:

(1) the number of individuals to be served, the types of family planning and population growth information and educational materials to be developed and how they will be made available, the research goals to be reached, and the manpower to be trained;

(2) an estimate of the costs and personnel requirements needed to meet these objectives; and

(3) the steps to be taken to establish a systematic reporting system capable of yielding comprehensive data on which service figures and program evaluations for the Department of Health, Education, and Welfare shall be based.

(c) On January 1 following submission of the plan and on each January 1 thereafter for a period of five years, the Secretary shall submit to the Congress a report which shall;

(1) compare results achieved during the preceding fiscal year with the objectives established for such year under the plan;

(2) indicate steps being taken to achieve the objective during the remaining fiscal years of the plan and any revisions necessary to meet these objectives; and

(3) make recommendations with respect to any additional legislative or administrative action necessary or desirable in carrying out the plan.

SPECIAL PROJECT GRANTS FOR FAMILY PLANNING SERVICES

SEC. 5. (a) The Secretary is authorized to make grants to public agencies and nonprofit organizations and institutions to assist in the establishment and operation of voluntary family planning projects.

(b) Grants under this section shall be made according to regulations promulgated by the Secretary. Funds shall be allocated after taking into account the number of patients to be served, the extent to which family planning services are needed locally, the relative need of the applicant and its capacity to make rapid and effective use of such assistance.

(c) Any grant under this section shall be payable in such installments and subject to such conditions as the Secretary may determine to be appropriate to assure that such grant will be effectively utilized for the purpose for which it is made.

(d) For the purpose of making grants under this section, there is authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1971, $60,000,000 for the fiscal year ending June 30, 1972, $90,000,000 for the fiscal year ending June 30, 1973, $120,000,000 for the fiscal year ending June 30, 1974, and $150,000,000 for the fiscal year ending June 30, 1975.

(e) The acceptance of family planning services provided shall be voluntary and shall not be a prerequisite or impediment to eligibility for or the receipt of other benefits or participation in any other programs of financial or medical assistance.

FORMULA GRANTS FOR FAMILY PLANNING, PUBLIC HEALTH SERVICES

SEC. 6. (a) There are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971, $15,000,000 for the fiscal year ending June 30, 1972, $20,000,000 for the fiscal year ending June 30, 1973, $25,000,000 for the fiscal year ending June 30, 1974, and $30,000,000 for the fiscal year ending June 30, 1975, to enable the Secretary to make grants to State health agencies to assist the States in planning, establishing, maintaining, coordinating, and evaluating family planning services. The sum so appropriated shall be used for making payments to States which have submitted, and had approved by the Secretary, State plans for a coordinated and comprehensive program of family planning services.

(b) From the sums appropriated to carry out the provisions of this section, the several States shall be entitled for each year to allotments determined by the Secretary on the basis of the population and financial need of the respective States.

(c) For the purposes of this section the term "State" includes the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the District of Columbia, and the Trust Territory of the Pacific Islands.

(d) The acceptance of family planning services provided shall be voluntary and shall not be a prerequisite or impediment to eligibility for or the receipt of other benefits or participation in any other programs of financial or medical assistance.

TRAINING GRANTS

SEC. 7. For the purpose of training the necessary manpower required to fulfill the purposes of sections 4 and 5, the following sums shall be authorized and appropriated: $2,000,000 for the fiscal year ending June 30, 1971; $3,000,000 for the fiscal year ending June 30, 1972; $4,000,000 for the fiscal year ending June 30, 1973; $5,000,000 for the fiscal year ending June 30, 1974; and $6,000,000 for the fiscal year ending June 30, 1975.

RESEARCH GRANTS

SEC. 8. (a) In order to promote research in the biomedical, contraceptive develop-

ment, behavioral and program implementation fields related to population and family planning, the Secretary is authorized to make grants to public agencies and nonprofit organizations and institutions, and to enter into contracts with groups, associations, institutions, individuals, or corporations for the conduct of such research.

The Secretary shall utilitze the Office of Population Affairs in administering the provisions of this section.

(b) For the purpose of making grants and entering into contracts under this section, there is hereby authorized to be appropriated $35,000,000 for the fiscal year ending June 30, 1971, $50,000,000 for the fiscal year ending June 30, 1972, $65,000,000 for the fiscal year ending June 30, 1973, $85,000,000 for the fiscal year ending June 30, 1974, and $100,000,000 for the fiscal year ending June 30, 1975.

GRANTS FOR CONSTRUCTION OF POPULATION RESEARCH CENTERS

SEC. 9. (a) There is authorized to be appropriated $12,000,000 for the fiscal year ending June 30, 1971, $14,000,000 for the fiscal year ending June 30, 1972, $16,000,000 for the fiscal year ending June 30, 1973, $18,000,000 for the fiscal year ending June 30, 1974, and $20,000,000 for the fiscal year ending June 30, 1975, for project grants to assist in meeting the cost of construction and operation of centers for research (or research and related activities) relating to human reproduction, sterility, contraception, effectiveness of service delivery, population trends, and other aspects of, or factors which affect population dynamics. Sums so appropriated shall be available until expended for payments with respect to projects for which applications have been filed under this part before July 1, 1976, and approved by the Secretary before July 1, 1977.

(b) Applications for grants under this section with respect to any center may be approved by the Secretary only if—

(1) the applicant is an institution of higher education or other public or private nonprofit institution which the Secretary determines is competent to engage in the type of research (or research and related activities) for which the center is to be constructed; and

(2) the application contains or is supported by reasonable assurances that (A) for not less than twenty years after completion of construction, the facility will be used for the purposes for which it was constructed; (B) sufficient funds will be available for meeting the non-Federal share of the cost of constructing the facility; (C) sufficient funds will be available, when the construction is completed, for effective use of the facility for the purposes for which it was constructed; and (D) all laborers and mechanics employed by contractors or subcontractors in the performance of construction of the Center will be paid wages at rates not less than those prevailing for similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5); and the Secretary of Labor shall have, with respect to the labor standards specified in this clause, the authority and function set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(c) In acting on applications for grants, the Secretary shall take into consideration the relative effectiveness of the proposed facilities in expanding the Nation's capacity for research (or research and related activities) in the field of population dynamics and such other factors as he may prescribe by regulations in order to assure that the facilities constructed with such grants, severally and together, will best serve the purpose of advancing scientific knowledge related to population dynamics.

(d) (1) The total of the grants with respect to any project under this section may not exceed 75 per centum of the necessary cost of the project as determined by the Secretary.

(2) Payment of grants under this section shall be made in advance or by way of reimbursement, and in such installments (consistent with construction progress) and on such conditions, as the Secretary may determine.

(e) If, within twenty years after completion of any construction for which funds have been paid under this section—

(1) the applicant or other owner of the facility shall cease to be a public or private nonprofit institution, or

(2) the facility shall cease to be used for the purposes for which it was constructed, unless the Secretary determines, in accordance with the regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so,

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the then value (as determined by agreements of the parties or by action brought in the United States district court for the district in which such facility is situated) of the facility, as the amount of the Federal participation bore to the cost of the construction of the facility.

(f) Except as otherwise specifically provided in this section, nothing contained in this section shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to, the research or related activities conducted by, or the personnel or administration of, any institution.

(g) Within six months after the enactment of this section, the Secretary, after consultation with the appropriate advisory council or councils, shall prescribe general regulations covering the eligibility of institutions, and the terms and conditions for approving applications.

(h) As used in this section the term "construction" and "cost of construction" include (A) the construction of new buildings and the expansion, remodeling, and alteration of existing buildings, including architects' fees and the cost of acquisition of land, but not including the cost of offsite improvements, and (B) equipping new buildings and existing buildings, whether or not expanded, remodeled or altered.

(i) The Secretary shall administer the provisions of this section by and through the Office of Population Affairs.

SPECIAL PROJECT GRANTS AND CONTRACTS FOR FAMILY PLANNING AND POPULATION GROWTH INFORMATION DISTRIBUTION AND EDUCATIONAL MATERIALS DEVELOPMENT

SEC. 10. (a) The Secretary is authorized to make project grants and enter into contracts with public agencies and nonprofit organizations and institutions to assist in developing and making available family planning and population growth information (including educational materials) to all persons desiring such information (or materials).

(b) For the purpose of making grants or entering into contracts under this section there are authorized to be appropriated $750,000 for the fiscal year ending June 30, 1971; $1,000,000 for the fiscal year ending June 30, 1972; $1,250,000 for the fiscal year ending June 30, 1973; $1,500,000 for the fiscal year ending June 30, 1974; and $1,750,000 for the fiscal year ending June 30, 1975.

(c) The acceptance of family planning and population growth information (including educational materials) provided shall be voluntary and shall not be a prerequisite or impediment to eligibility for or the receipt of other benefits or participation in any other programs of financial or medical assistance.

Mr. CRANSTON. Mr. President, I rise to express my strong support of S. 2108, a bill to make long overdue improvements in the domestic family planning services and population research activities of the Federal Government. As a cosponsor of this legislation, I have been deeply involved in deliberations on it in the Health Subcommittee and the full Labor and Public Welfare Committee and have cooperated closely with the distinguished Senator from Maryland (Mr. TYDINGS) in developing my own amendments to the bill.

On December 9, 1969, I testified before the Health Subcommittee on the important contributions this bill would make to meeting the needs we face as a nation in the area of population and family planning. I am delighted that the bill as reported from the Labor and Public Welfare Committee addresses itself so well to the needs I outlined in my testimony, particularly to the critical needs for improved availability of family planning services and for a program of population information and education.

S. 2108 would provide the resources for an expanded effort to make voluntary family planning services available to all Americans, especially to those now denied access to effective, safe family planning services because of financial need. Our present delivery system has failed to provide family planning services to at least 5 million medically indigent women.

S. 2108 would meet this need by authorizing increased appropriations for family planning services, as well as by better coordinating all Federal family planning and population activities to improve the efficiency of our delivery system. The bill also provides important authority for an expansion of research in reproduction, development of new safe, and more effective contraceptive methods, grants for the training of manpower to conduct family planning programs, and grants for population research and for construction of population research centers. All these provisions are absolutely necessary to a concerted attack on the inadequacies of present family planning programs and activities.

Finally, incorporated into the bill are seven amendments I introduced in committee which I believe are very significant. My amendments were designed to insure that population growth information, including educational materials, are developed and made available to the American people.

Many in the United States, including some of the most eminent population and environmental experts, believe we have now reached, or will soon reach, our optimum population size and that further unrestrained population growth poses a serious threat to our physical and social environments. Even at our present low rate of growth, the population of the United States will increase by almost one-third to 300 million in the next 30 years. And, as pointed out in the committee report on S. 2108, "the poor contribute only a small proportion of this overall increase, with most growth resulting from

the fertility of middle-class families." I believe it is vital, therefore, that the results of present and future research into the nature and components of population growth be widely available in order that all Americans may become aware of and informed about the effects of population growth on our physical and social environments.

We must have a broad and informed national dialog before we will be able to define and choose among long-range policy alternatives by which we as a nation can attain realistic population goals.

The bill, therefore, includes, as section 10, an amendment I proposed in committee authorizing special project grants and contracts to assist in developing and making available family planning and population growth information, including educational materials.

Also contained in the bill are a number of amendments I proposed, the purposes of which are to reflect the population information function in sections 1, 3, and 4 of the bill and to add a brief phrase to the "Whereas" clauses at the beginning of the bill recognizing the important interrelationship between population and environment.

I believe the issue of population growth and the need for more adequate and widely available information on population growth are of the most central concern for all of us today. As we learn more about the determinants and consequences of sharing our world, our air and all our environmental resources with more and more people, we may or may not find that we agree with those who predict serious and even dire consequences from continued population increases. We will almost certainly find that we will have to modify some of our personal and social habits and attitudes with regard to family size, population distribution and other factors relating to population growth if we are to maximize the quality of life for our children and grandchildren.

But whatever conclusions we finally reach, we can encourage the necessary dialog through the information and education programs authorized in the pending legislation.

Voluntary family planning services represent one of the best methods of achieving changes in population growth. Increased knowledge and awareness by all citizens of population growth issues will further encourage participation in these important family planning programs.

At this time there are two bills—S. 3687 and S. 3151—pending in Labor and Public Welfare Committee which contain provisions which would complement and strengthen certain programs authorized in S. 2108.

I have introduced an amendment to S. 3867, the proposed "Employment and Training Opportunities Act of 1970," a bill which I cosponsored, to provide for the training of much-needed paraprofessional family planning manpower. My amendment would further provide that voluntary family planning services would be among the supportive services offered to participants in public service employment and general manpower programs. This provision is especially important since unplanned pregnancy ranks high as a factor preventing manpower program participants from completing training or attaining jobs.

In addition, I have introduced an amendment to S. 3151, a bill I cosponsored entitled the "Environmental Quality Education Act," to insure that in carrying out the purposes of the act to enhance environmental quality and maintain ecological balance, full consideration shall be afforded to the relationship of population to environmental deterioration and ecological imbalance.

Mr. President, I believe we can begin to make significant progress toward what I believe are our two most important objectives in this area—improved access to family planning services and greater public awareness of the problems associated with unrestrained population growth—through the programs authorized under the pending legislation. And I urge all my colleagues to support this urgently needed bill.

Finally, I wish to congratulate the chairman of the Labor and Public Welfare Committee and of the Health Subcommittee as well (Mr. YARBOROUGH) and the ranking minority member of the subcommittee (Mr. JAVITS) and their excellent staffs for the bipartisan cooperation and leadership on this bill. Special tribute is also owed to my fellow freshman Senator, the Senator from Missouri (Mr. EAGLETON), and his subcommittee counsel for their outstanding work in organizing and chairing the hearings on this bill and managing it through the committee.

Mr. EAGLETON. Mr. President, it is gratifying to be able to cast a very positive vote for S. 2108 which encompasses a most positive legislative program. Universal availability of family planning services is a necessity if all individuals are to have the opportunity, within the dictates of their conscience, to exert control over their own life destinies and enhance that of their children. In a time of great controversy over important social and political issues, unanimity has been reached in recognition of the desirability and need for noncoercive family planning services. President Johnson expressed the Nation's concern with fostering "the integrity of the family, and the opportunity for each child." President Nixon in an unprecedented message established as a national goal that all individuals in need of and desiring family planning services have access to them within the next 5 years.

It is important that the Congress honor that goal and see to it that it is achieved. The present level of activity and funding in service programs, reproductive and social research, manpower training, and education is totally inadequate; it would be even if the President's goal of 5 years were 25 years. In chairing the hearings on S. 2108 in the first and second sessions of this Congress it was made evident to me by many of the witnesses that there presently exists little coordination or integration of family planning and population research programs in HEW. Although in October, Secretary Finch announced creation of the National Center for Family Planning Services to administer family planning project grants, this Center has no authority to coordinate or evaluate the title IV family planning services, the purchase of family planning services under medicaid or the provision of these services through other specialized programs. The Center has no connection with population research activities carried out by the Center for Population Research in NIH, nor does it have any authority to act as liaison with other governmental agencies involved in activities relating to population and family planning.

S. 2108 addresses itself to the inadequacies of the present, and will, upon passage, initiate a cohesive and sensible approach to getting the job done in the future. The establishment by S. 2108 of an Office of Population Affairs, headed by a Deputy Assistant Secretary for Population Affairs, within HEW, which will carry primary responsibility for the administration of HEW service and research programs, and with the additional mandate to coordinate, review, and evaluate all HEW family planning related programs and act as liaison with other Federal agencies, will instill a focus and accountability for the program that has been seriously lacking in HEW's administration of these programs.

S. 2108 authorizes new project and formula grants in addition to those authorized under title V of the Social Security Act at levels of funding which are realistically designed to reach now established goals. There were witnesses at the hearings on this bill who were of the opinion that larger amounts of funds than those proposed would be necessary to reach the national goal. Our committee was hopeful, however, that the complementary efforts of OEO and increased priorities for family planning services in general health programs will supplement these new HEW funds as well as those currently committed and raise the total amount available to an adequate level.

S. 2108 will permit for the first time sufficient funds to begin a meaningful program of basic research in all areas of reproductive biology and also behavioral studies in a significant way. Despite the awareness within the government of the need for improved contraceptive techniques—which has been immeasurably heightened by conflicting testimony in regard to oral contraceptives—research funds have been pitifully small, and very little of that has gone to building—as Dr. Andre E. Hellegers has said—the basic scientific knowledge which is necessary before we can start making the applied solution. By greatly expanding research support as authorized by S. 2108, efforts to devise new methods of fertility control will be greatly accelerated and, by achieving a greater knowledge of the fundamental processes of fertility and reproduction, assistance will be available for those whose problem is infertility, and for those individuals who desire to control their fertility by means of the rhythm method.

I want to emphasize at this point that in S. 2108, as in all other Federal legislation relating to fertility control, there are explicit safeguards to insure that an individual's acceptance of family planning services and information is on a purely voluntary basis, and that accept-

ance of such services is not under any circumstances a prerequisite to eligibility for the receipt of other benefits or participation in any other assistance programs.

There are many complex and profound problems that face this country, and particularly its poor and needy. S. 2108 is not intended to solve all those problems. However, as Martin Luther King once observed the availability of voluntary family planning services can facilitate the poor and needy person, "or at least not be an obstacle to the solution of the many profound problems that plague him."

Let us then begin.

Mr. YARBOROUGH. Mr. President, the Subcommittee on Health of the Labor and Public Welfare Committee held hearings on S. 2108 in December of last year and again in February of this year. The bill, which I cosponsored along with 29 other Senators, was introduced by the Senator from Maryland, Mr. TYDINGS. It provides much needed Federal support for family planning research and additional funds above those presently available in HEW and OEO family planning service programs. In addition, it provides for the reorganization of HEW's family planning and population research structure.

Under the extremely able chairmanship of the very distinguished junior Senator from Missouri, the committee heard expert and professional testimony from 21 separate witnesses and received statements from 41 interested organizations and individuals. These witnesses, from both the private and governmental sectors, were an impressive national representation of the very best minds and experience in all facets of medical and social concerns. They forcefully demonstrated the crying need for expanded contraceptive research, improved and enlarged medical family planning services for the poor and a better organization of the Federal Government's overall family planning administrative structure. Although there was nearly unanimous support for the objectives of S. 2108, many witnesses clearly indicated that the dollar amounts for research and service programs were insufficient to meet the Nation's long neglected family planning needs.

The bill, which the Labor and Public Welfare Committee reported in May, is in my opinion a landmark in this Nation's health and welfare history. It is the embodiment of an idea whose time has come and I am frankly most pleased to have had a part in its legislative history. The committee is justifiably proud of this legislation. As is obvious from the list of cosponsors, this bill has broad support and is a real example of bipartisan legislation. This bill, I might say, is bipartisan in still another sense, for it will give substance to President Nixon's words of last July when he stated that—

> No American women should be denied access to family planning assistance because of her economic condition.

When it is realized that less than 800,000 of the 5.4 million low-income women which the President described in his message are now receiving family planning services from all known private and public service sources, there can be no argument that the Nation's poor urgently need the voluntary family planning assistance that is contained in this bill. I know that my State, which has been striving to meet the demand for voluntary family planning services among the poor, has not found the existing HEW and OEO service programs adequate to the tremendous and growing need. The States and the poor of this country need this legislation and while it probably is not sufficient to meet all of the Nation's low-income family planning needs, it will be a large and very important step in that direction.

The provision for expanded Federal support of population research has significance for every American family regardless of economic condition. As Senator NELSON'S hearings of last winter so vividly demonstrated, the Nation and, indeed, the world must have safer, cheaper, and more effective means of family planning. Our hearings on S. 2108 made it very clear that the necessary advancement in family planning methods are not going to be achieved without a meaningful and substantial Federal research commitment. Reproductive biology and population research are complex, expensive and long-range efforts that have had very low priority in our total national medical research program. With the assistance provided in this bill we can begin the correct this deficiency in our research efforts and with some real hope look to the day when a perfect means of voluntary individual control will be available to all.

Mr. HART. Mr. President, I am gratified to give my support to the first major effort that our Government will give to the crucial area of family planning and population research. S. 2108 is the kind of legislation that this body can be proud to support. It is a measure that moves toward providing much needed medical family planning services to millions of women who cannot afford them, and it provides for the research that will help us better to understand the phenomena of population growth and enable all couples to regulate fertility according to their individual consciences.

This legislation has been a long time in coming. In 1965, I had the opportunity to cosponsor S. 1676, which was introduced by the distinguished former Senator from Alaska, Mr. Gruening. That bill was not acted upon, nor were any of the others that I have supported in the population field. Our consideration of this comprehensive bill which provides the basis for immediate action and study in this field is a landmark event.

S. 2108 proposes to make comprehensive voluntary family planning services readily available to all persons in the United States who desire them; increase population and family planning research; improve the administration and operation of domestic family planning services; and establish an Office of Population Affairs in the Department of Health, Education, and Welfare. The Office will be headed by a Deputy Assistant Secretary for Population Affairs who will coordinate all HEW efforts in this field. Moreover, the Deputy Assistant Secretary's Office will serve as a clearinghouse for information and will serve as liaison with other Federal programs related to family planning and population.

It is estimated that 4.5 million medically indigent women in the United States are still without family planning services due primarily to their poor economic status. The funds authorized for family planning services in S. 2108 will be made available through special project grants and formula grants whereby both private and public organizations can be stimulated to provide new and expanded service throughout the country.

I am especially pleased with sections 7 and 8 of the legislation which deal with funds to train personnel to enter the field of family planning service delivery programs. The emphasis in the training programs will be put on the preparation of the neighborhood resident to serve in a paramedical capacity and to have the opportunity for upward job mobility. This emphasis will attempt to guarantee the program's relevance to the people it expects to serve.

Section 8 establishes a program of grants to promote research in biomedical contraceptive development, behavioral and program implementation fields related to population and family planning. This section is undoubtedly one of the most important in the bill since, despite the advances made in family planning, methods, today there is still no foolproof method and failure rates of the commonly used methods run extremely high. Research into biomedical contraceptive development has received very little attention and funds compared to other fields of medical research and yet there are few areas of medical research that are more relevant.

Mr. President, I urge that this body pass the S. 2108 that will allow us to make headway in providing voluntary family planning services and in-depth studies into the field.

The amendments were agreed to.

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

The preamble, as amended, was agreed to as follows:

> Whereas unwanted births impair the stability and well-being of the individual family and severely limit the opportunity for each child within the family;
>
> Whereas over five million American women are denied access to modern, effective, medically safe family planning services due to financial need;
>
> Whereas significant benefits for the family and the community may be derived from family planning including the alleviation of poverty, the reduction of maternal and infant mortality rates, the reduction of the number of premature births and of crippling and mental diseases in infants, and the easing of the pressure of population growth on the environment;
>
> Whereas research efforts to develop more effective, medically safe methods of family planning are inadequate to meet the need and urgency of the problem;
>
> Whereas family planning has been recognized nationally and internationally as a universal human right;
>
> Whereas it is the policy of Congress to foster the integrity of the family and the opportunity for each child; to guarantee the right

of the family to freely determine the number and spacing of its children with the dictates of its individual conscience; to extend family planning services, on a voluntary basis, to all who desire such services: Now, therefore,

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1004), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

This legislation is designed to make comprehensive, voluntary family planning services, and information relating thereto, readily available to all persons in the United States desiring such services; to provide greatly increased support for biomedical, behavioral, and operational research relevant to family planning and population; to develop and disseminate information on population growth; and to coordinate and centralize the administration of family planning and population research programs conducted by the Department of Health, Education, and Welfare.

The bill authorizes a new 5-year program of grants and contracts administered by HEW in the following areas:

Project grants to public agencies and nonprofit organizations to assist in establishing and conducting family planning projects. Funding is for $30 million in fiscal year 1971, rising in increments of $30 million to $150 million in 1975.

Formula grants to State health agencies for planning, establishing, and conducting family planning services programs. Funding is for $10 million in fiscal year 1971, rising in increments of $5 million per year, to $30 million in fiscal year 1975.

Training grants for the manpower needed to conduct family planning programs. Funding is for $2 million in fiscal year 1971 rising in increments of $1 million per year, to $6 million in fiscal year 1975.

Population research grants to public agencies and nonprofit organizations and for research contracts with groups, associations, institutions, individuals, or corporations. Funding is for $35 million in fiscal year 1971 rising, in increments of $15 million per year, to $100 million in fiscal year 1975.

Construction grants to universities or other public or private nonprofit institutions for the construction of population research centers. Funding for $12 million in fiscal year 1971 rising, in increments of $2 million per year, to $20 million in fiscal year 1975.

Grants to, and contracts with, public agencies and private, nonprofit organizations and institutions for the purpose of developing and making available family planning and population growth information. Funding is for $750,000 in fiscal year 1971 rising, in increments of $250,000 per year, to $1.75 million in fiscal year 1975.

An Office of Population Affairs in the Department of Health, Education, and Welfare, headed by Deputy Assistant Secretary for Population Affairs, is established to exercise direct authority and control over family planning grant and population research programs operated by HEW, to coordinate and evaluate other HEW family planning and population-related programs, and to provide the liaison with other Federal agencies carrying out programs in this field. HEW is required to submit to Congress a 5-year plan for extension of services to all persons having need of them, for research programs, and for training programs. Annual reports to Congress on progress under the plan are also required.

BACKGROUND

Basis of Federal interest

The interests of the Federal Government in family planning and population research arise from several sources. From the standpoint of public health, the benefits of family planning appear to have been firmly established by the evidence. Studies show significant decreases in the incidence of mental retardation, in infant mortality and morbidity, and in maternal mortality and morbidity as a result of child spacing. For instance, one study shows that for every 500,000 women with three or more children who might receive family planning services, 2,173 infant deaths could be prevented. There is a demonstrable relationship between infant mortality in the first month of life and the interval between births—the shorter the interval, the higher the mortality rate. The health hazards of childbirth are aggravated with poverty. A recent study in the city of New Orleans found that although only 26 percent of the female population of reproductive age is poor, this group accounted for 72 percent of stillbirths, 80 percent of maternal deaths and 68 percent of infant deaths.

The economic and social aspects are significant as well. There is a definite relationship between poverty and family size. Twenty percent of America's children live in families whose income places them below the poverty level, but a disproportionate number of them—49 percent—come from families of five or more children. One-third of all families with five or more children live in poverty.

The Social Security Administration's determination of poverty status is based, in part, upon the amount of money a family has to spend for food per person per day. Unless a family's income increases as the family grows, successive, often unwanted births must necessarily drive the poor further into poverty and will push low-income families into poverty.

Demographic projections show that, at the present rate of growth, the population of the United States will increase by about one-third, to 300 million, in the next 30 years. It is expected that the greater part of this growth will be concentrated in urban areas, with a predicted urban population of 200 million by the year 2000. The poor contribute only a small proportion of this overall increase, with most growth resulting from the fertility of middle-class families. Such growth will have a profound impact on the needs for public services of all kinds, on the demand for natural resources, and on environmental quality—all proper subjects for governmental action.

The interest and concern of the Federal Government in problems relating to population have been expressed by our last four Presidents.

President Kennedy was the first Chief Executive to go on record in behalf of Government activity in this field. He stated in 1963 that research on human reproduction is:

"Very useful and should be continued * * * If your question is, 'Can we do more, about the whole reproduction cycle and should this information be made more available to the world so that everyone can make their own judgment?' I would think it would be a matter which we could certainly support."

Former President Eisenhower, in 1965, reversed his former stand on the proper role of the Federal Government in the area of family planning and said:

"If we now ignore the plight of those unborn generations which, because of our unreadiness to take corrective action in controlling population growth, will be denied any expectation beyond abject poverty and suffering, then history will rightly condemn us.

"I devoutly hope that necessary measures will be enacted into law to authorize the Federal Government, as well as appropriate private and semipublic organizations, so to cooperate among themselves that the necessary human and material resources can be promptly mobilized and employed to cope effectively with the great need of slowing down and finally stabilizing the growth in the world's population."

In his inaugural address President Lyndon B. Johnson stated:

I will seek new ways to use our knowledge to help deal with the explosion in world population and the growing scarcity in world resources.

His concern with this problem continued to grow throughout his administration. In his Message on Domestic Health and Education in 1966, he stated:

We have a growing concern to foster the integrity of the family, and the opportunity for each child. It is essential that all families have access to information and services that will allow freedom to choose the number and spacing of their children within the dictates of individual conscience.

This concern culminated in the appointment in 1968 of a President's Committee on Population and Family Planning.

President Nixon has emphasized the importance of population problems. Last July he sent a message to Congress on population and American future stating:

It is my view that no American should be denied access to family planning assistance because of her economic condition. I believe, therefore, that we should establish as a national goal the provision of adequate family planning services within the next 5 years to all those who want them but cannot afford them. This we have the capacity to do.

* * * * *

In order to achieve this national goal, we will have to increase the amount we are spending on population and family planning. But success in this endeavor will not result from higher expenditures alone. Because the life circumstances and family planning wishes of those who receive services vary considerably, an effective program must be more flexible in its design than are many present efforts. In addition, programs should be better coordinated and more effectively administered. Under current legislation, a comprehensive State or local project must assemble a patchwork of funds from many different sources—a time-consuming and confusing process. Moreover, under existing legislation, requests for funds for family planning services must often compete with requests for other deserving health endeavors.

But these problems can be overcome. The Secretary of Health, Education, and Welfare—whose Department is responsible for the largest part of our domestic family planning services—has developing plans to reorganize the major family planning service activities of this agency. A separate unit for these services will be established within the Health Services and Mental Health Administration. The Secretary will send to Congress in the near future legislation which will help the Department implement this important program by providing broader and more precise legislative authority and a clearer source of financial support.

* * * * *

I today propose the creation by Congress of a Commission on Population Growth and the American Future.

Congress responded to the President's proposal by enacting legislation authorizing the creation of a Commission on Population Growth and the American Future. On March 16, the President appointed Mr. John D. Rockefeller III as Chairman of the 24-member Commission.

The first and largest program of Federal assistance for family planning services is authorized under title V of the Social Security Act which provides for formula grants to the States for maternal and child health care and which, since 1963, has also included a program of project grants for maternity and infant care in low-income areas with a high incidence of maternal and infant mortality, birth defects, premature births, and mental retardation. Prior to 1967, the provision of

family planning services as a part of the health programs funded under title V was purely permissive, although HEW had come to regard family planning as an essential ingredient of comprehensive maternal and infant health care.

The Social Security Amendments of 1967 required that State plans for title V formula grants develop demonstration projects with special attention to providing family planning services. Not less than 6 percent of all funds appropriated for all maternal and child health programs under title V must be reserved for family planning services.

This legislation also amended title IV of the Social Security Act to mandate that family planning services be offered and provided to all appropriate public assistance recipients.

Under title XIX of the Social Security Act (medicaid), the Secretary of Health, Education, and Welfare has specified family planning services as approved medical services for eligible recipients.

Family planning programs had been funded under title II of the Economic Opportunity Act of 1964 since the inception of the poverty program. In 1967, Congress amended the act to make family planning a special emphasis program, giving it increased priority and earmarked funding.

There are other general-purpose health programs such as those directed to migrants, Indians, and Federal beneficiaries, which can contribute to the provision of family planning services to these special groups. Other programs, such as the partnership for health (comprehensive health planning), could also include these services but, in fact, have generally failed to do so. Limited funds and competition among well-established programs have made it difficult to develop new services through these channels. Despite a seeming proliferation of programs, only the title V and OEO project grants have provided significant funds and served a substantial number of women.

Research

The principal source of support for research and research training relevant to population problems has been the National Institute of Child Health and Human Development (NICHD), one of the newer Institutes of the National Institutes of Health. NICHD has awarded grants and contracts to support research in three principal areas:

(1) Reproductive biology—fundamental studies of human and animal reproduction relevant to fertility control;

(2) Development and evaluation of new contraceptives and studies of the medical effects of existing methods of fertility control; and

(3) Social and behavioral aspects of population problems.

There is at the present time no specific legislative authorization for population research. Work in this field is limited to a small portion of funds allocated within the relatively small budget of NICHD. Although population research funds have increased substantially in the past few years, the Government entered this field late and with a very small commitment. This major area of need still receives only insignificant Federal support. It was budgeted at only $16.5 million in fiscal year 1970.

Some limited activities are conducted in this area by other Federal agencies. The Food and Drug Administration is conducting preliminary studies leading to the approval of new contraceptives. The National Center for Health Statistics is assigned the responsibility for collecting data regarding family planning services and conducts studies of population growth and composition in connection with HEW family planning programs. The Census Bureau also provides demographic information.

Administrative Organization

There is no coordination or integration of family planning and population research programs in HEW. From inception of the title V program until October 1969 family planning project grants were administered by the Children's Bureau of the Social and Rehabilitation Service. No full-time personnel were assigned to work on these grants, either in Washington or the regional offices. In September 1969, the Children's Bureau medical functions, including family planning, were moved to the Health Services and Mental Health Administration (HSMHA). In October, the Secretary announced creation of a National Center for Family Planning Services in the HSMHA to administer family planning project grants.

This Center has no authority to coordinate or evaluate the title IV family planning services, the purchase of family planning services under medicaid, or the provision of these services through other specialized programs. It has no connection with population research activities carried out by the Center for Population Research in NIH. It has no authority to act as liaison with other Federal agencies such as the Census Bureau, Department of Defense, or Department of the Interior.

In 1968, the Center for Population Research was established within the National Institute for Child Health and Human Development to provide a central focus for support of research in population problems. However, NICDD is primarily concerned with mental retardation, cognitive development, and problems of the aging. Population problems have not occupied a priority status in the past within the Institute. Further, it is basically unequipped to pursue research in the behavioral sciences, an essential area of population-related research.

In 1967, an Office of Population and Family Planning, headed by a Deputy Assistant Secretary, was established to advise on matters in this field and to coordinate HEW programs in population and family planning. This Office, however, has had no line authority over any program within the Department. It has had only a small staff, a minimal budget, and, before the appointment of Dr. Louis Hellman in December 1969, had been without a head for almost 1 year.

A consultants' report commissioned by HEW and prepared by three eminent authorities on family planning made a thorough study of activities in the population and family planning field.[1] The report (commonly referred to as the Harkavy report) found that HEW had failed to exercise leadership in this area, that the Department's programs were fragmented and diffused, and that the level of Federal activities with respect to provision of family planning services and support for population research fell far short of meeting the Nation's needs. The Harkavy report aptly summarized the condition of family planning and population programs by stating that "What is everybody's business is nobody's business." In testimony before the committee, Dr. Harkavy asserted that a detailed review of his recommendations would show that few of them had been adopted by the Department, HEW claims to the contrary notwithstanding. He strongly recommended the formation of a single focus for research and services.

NEED FOR EXPANDED FAMILY PLANNING SERVICES AND POPULATION RESEARCH

Problems of unwanted children do not occur only in low income and less educated families in this country, but the consequences are greater in this group because of the accumulation of difficulties this condition imposes upon the poor. The available evidence indicates that most couples in the United States want about three children, regardless of the family's income level. Thus the desires of the family with less than $3,000 in annual income in terms of the preferred number of children vary little from the desires of the family with an income greater than $10,000 annually.

The degree to which these desires are realized vary widely. Medically indigent families (defined according to poverty levels established by the Social Security Administration) have an average annual fertility rate 55 percent higher than the nonpoor. The couple with funds to purchase health care has relatively easy access to family planning services. The medically indigent couple—usually dependent on public and voluntary agencies for health care—is forced to do without, or to rely heavily on the least effective nonmedical techniques for fertility control unless they happen to reside in an area where family planning services are made readily available by public health services or voluntary agencies.

A number of studies have established the existence of a group totaling about 5 million medically indigent women in the United States of childbearing age having a need for subsidized family planning services. The extreme shortage of such services for these women was documented in a county-by-county study conducted in 1968 for the Office of Economic Opportunity and published by OEO.[2]

The OEO study determined that some family planning services provided either by hospitals, public health departments, or voluntary agencies can be found in 1,200 of the Nation's 3,072 counties. In over 80 percent of these counties, the number of patients served is minimal. Just 130 counties—4 percent of all U.S. counties—accounted for 80 percent of all patients served. In the remaining 1,872 counties—more than 60 percent of all U.S. counties—there were no identifiable family planning programs of any kind.

Estimates of the number of patients served vary considerably according to the source.

The OEO report found that 773,000 women were reported as patients in fiscal 1968 in all nonpublic and private-sector health agencies which offered family planning. A report also prepared in 1968 by HEW consultants (the Harkavy report) found that 700,000 needy women were receiving family planning assistance. The Bureau of the Budget, however, estimated that 1 million women were receiving services in fiscal 1968, the same figure arrived at by President Johnson's Committee on Population and Family Planning.

The availability of services has probably increased since 1968, but evidence of the amount of increase is difficult to obtain. Both the record of hearings held on this legislation and the record of the extensive hearings held by a Government Operations Subcommittee chaired by Senator Ernest Gruening during the period 1965–68 are replete with optimistic assessments of the effectiveness of existing family planning programs and rosy forecasts of greatly expanded activities by the Department of Health, Education, and Welfare in the future. Invariably, subsequent data has shown departmental estimates of the number of persons served by these programs to be substantially overstated, and the promises for the future too often went unfulfilled.

Nor does data on the number of persons receiving family planning services accurately reflect the *quality* of these services. The committee does not view family planning as merely a euphemism for birth control. It is properly a part of comprehensive health care

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[1] Implementing DHEW Policy on Family Planning and Population, a consultants' report by Oscar Harkavy, Ph. D., program officer in charge, population office, etc.

[2] "Need for Subsidized Family Planning Services: United States, Each State and County, 1968." Produced by the Center for Family Planning Program Development, for the Family Planning Program Office of Health Affairs, Office of Economic Opportunity.

and should consist of much more than the dispensation of contraceptive devices. In the view of Dr. Joseph Beasley, director of a statewide family planning service in Louisiana that is considered one of the best such programs in the Nation, a successful family planning program must contain the following components:

(1) Medical services, including consultation, examination, prescription, and continuing supervision, supplies, instruction, and referral to other medical services as needed.

(2) Outreach/followup system, including patient identification, contact, recruitment, appointment support, followup, and continuing education.

(3) Planning, evaluation, development, and coordination, including application of modern management technology to a goal-oriented program.

(4) Financial management to assure a cost effective, efficiently run program.

(5) Research, both of an operational and a clinical nature, to be built into the medical and evaluation systems.

(6) Social and ancillary services, including such necessary supportive services as gonorrhea screening and social as well as medical services for teenagers.

(7) Community education, to bring to the various parts of the community an understanding of the goals and importance of the program.

Dr. Beasley testified that funding levels proposed in S. 2108 would be a great improvement over what is available under present law. He was critical of required matching contributions under present law. "I am certain," he said, "that the unavailability of local funds of the level needed for a mass program will be a major obstacle in all States."

Adequate funds to serve the women in need cannot be provided under existing legislation. The proposed project grant budget for fiscal year 1971 is $29.5 million. It is unrealistic to expect much larger sums to become available under existing authorizations. S. 2108 would provide a new source of project and formula grant funds. These new authorizations, when added to funds currently committed under title V, would make it possible to reach President Nixon's goal of serving all 5.4 million women in need within the next 5 years. To insure the development of services in both rural and urban areas, committee witnesses emphasized the need for both project and formula grants. This dual approach was best advanced by Hon. Willie Brown, a member of the California State Assembly, who said:

In order to extend family planning services to all parts of my State, the Federal family planning project grant program must receive adequate funds to enable it to respond to community initiative. In these less urbanized and rural areas, State and county agencies can and must play a significant role in the development of family planning services.

The general health formula grants—maternal and child health and comprehensive health—available to State health agencies are entirely inadequate to support State health department activity in family planning at the present time. The $3.5 million estimated MCH expenditure for family planning in fiscal 1970, when distributed across the Nation, could hardly support a concerted effort in any single State health agency.

S. 2108's authorization of $10 million for formula grants in fiscal year 1971 is mandatory if State health agencies are to begin to plan a significant role in providing family planning services.

Although other witnesses expressed the opinion that larger amounts than those proposed would be necessary to reach the national goal, the committee is hopeful that the complementary efforts of OEO and increased priorities for family planning services in general health programs will supplement these new and current committed HEW funds and raise the total amount available to an adequate level.

The record of Federal neglect in this area is as evident in population research as in providing family planning services. John Rock, M.D., clinical professor emeritus at the Harvard Medical School, and one of the most distinguished research scientists in the field, testified that the two major innovations in contraceptive methods of the last decade—the oral contraceptive and the intrauterine device—were both developed completely through private funds without the aid of any Federal funds.

Dr. Rock was a member of a group of NIH consultants that conducted a survey in 1961 of the research work being carried on in this country to meet the worldwide need for more information to deal with population problems. This group reported an appalling shortage of scientific talent working in the population field and made a series of recommendations involving greatly increased Federal financial support for population research. They recommended more funding for basic studies in physiology, biochemistry, and pharmacology of conception, including a major effort to improve the rhythm method of fertility control, and more studies in screening and synthesis of new antifertility compounds. They also recommended funds for field and clinical trials of fertility control measures, funds for social research into acceptance and motivation in terms of use of family planning services, and funds for operating support for eight new research centers.

The thrust of these recommendations has been endorsed in ensuing years by the National Academy of Sciences, by the Advisory Council of the National Institute of Child Health and Human Development, by the Harkavy report, and by President Johnson's Committee on Population and Family Planning. The last four Presidents have urged far greater efforts in this field. Thus there has been no lack of political or professional support for the expansion of population research, yet, in the words of Dr. Rock, "* * * there does not yet exist any program in the Federal Government commensurate with the urgency of the population problem."

S. 2108 would provide the great infusion of funds necessary to begin a meaningful research program. To the $28.4 million budgeted for the Center for Population Research by NICHD, it would add an additional authorization of $35 million in fiscal year 1971. New authorizations would rise to $100 million in fiscal year 1975. The committee believes this amount to be a conservative one in view of the recommendations of several witnesses that higher sums would be desirable. However, the figures recommended by the committee for population research, as well as the sums authorized by other sections of the bill, conform very closely to recommendations made to the Assistant Secretary of HEW for Health and Scientific Affairs by HEW program officials directly concerned with the operation of family planning and population programs.

Mr. TYDINGS. Mr. President, the Senate of the United States today has taken a historic step toward making possible an effective national program to cope with the problems of unrestrained population growth and to assist our own families, as well as families throughout the world, to prevent unwanted pregnancies. The unanimous adoption of S. 2108 is very heartening to those of us who have worked for more than 5 years to provide the mandate and the resources for a truly comprehensive national effort toward solving one of the most critical problems facing mankind. On behalf of my 29 colleagues who joined with me in sponsoring this legislation, I want to express our gratitude at the action of the full Senate in endorsing the prints of our work.

The bill we have adopted represents a distillation of various views put forward by the administration, my colleagues, the Senate, and others. It will centralize line authority over HEW's service and research programs in family planning and population in the Office of Population Affairs, headed by Deputy Assistant Secretary Louis Hellman. It will provide 5-year authorizations for massively expanded programs to deliver modern family planning services to those Americans who need and want them, and to harness the genius of America's scientific community behind research for improved contraceptive methods and better understanding of population problems.

S. 2108, in its original form, proposed the establishment of a Population and Family Planning Agency within HEW to encompass its current service and research programs, at much expanded levels. I and others were, and are, convinced that, to grapple with a problem as urgent as the population crisis, a single agency must be created which is made responsible for all Federal activities in this area. The administration objected to this feature of the bill, not on the principled grounds of opposition to a single population agency, but because they felt that creation of a new agency would delay expansion of the program for more than 18 months.

We had many misgivings about their alternative approach but the Subcommittee decided to accept it in order to move the program ahead this year. It insisted, however, that the Office of Population Affairs be given the maximum legislative mandate to exercise full line authority over the service and research programs. It also insisted—and the administration agreed—that the subcommittee keep a close watch on the way the program is developed. If the administrative arrangements prove inadequate, the Department has assured the subcommittee that the Deputy, the Assistant Secretary for Population Affairs, and the Assistant Secretary for Health and Scientific Affairs will work closely with the committee to develop a more effective administrative setup.

Under these assurances, the subcommittee accepted the administration's proposed revisions and the administration has agreed to support the revised bill.

Mr. President, I believe we have made a great contribution today toward solution of one of the world's most urgent problems. I hope we will all join in urging speedy action on the part of our colleagues in the House to move this vital and long overdue program forward.

Mr. PACKWOOD subsequently said: Mr. President, the family planning bill that we passed earlier today is a good bill. It is not adequate, but it is a good bill. It does provide for some research, some extension of health care and planning services, and makes reasonable advances in the field of contraceptive information and distribution.

There are, however, two things lacking in the bill, which I hope the Senate

will be willing to face up to in the not-too-distant future. One involves the subject of legalized abortion, and the other involves limiting tax deductions for children to two.

Over the past 2 or 3 years, a number of organizations, well respected in this country, have passed resolutions endorsing legalized abortion, in essence saying that if a woman wants an abortion, she may have one as a matter of right.

Those organizations include the Medical Committee for Human Rights, the American Civil Liberties Union, the Citizens' Advisory Council on the Status of Women, the Unitarian Universalist Association, the American Baptist Convention, the Planned Parenthood Association, the American Public Health Association, the American Ethical Union, the American Psychological Association, the Board of Christian Social Concerns of United Methodist Church, the National Council of Women of the United States, the American Medical Women's Association, the American Psychiatric Association, the New York Academy of Medicine, the Chicago Child Care Society, and the American Protestant Hospital Association.

I ask unanimous consent, Mr. President, that the resolutions of the organizations I have just listed be printed in the RECORD at this point.

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

AMERICAN PUBLIC HEALTH ASSOCIATION, RESOLUTION ON ABORTION

It is generally accepted that individual women and couples should have the means to decide, without compulsion, the number and spacing of their children. This personal right has been supported and enhanced through governmental action at all levels. The APHA and many other groups have joined with public agencies to secure this right, and to make widely available those services that will provide a range of choice of contraceptive methods consistent with personal beliefs and desires. However, contraceptive methods among users vary in effectiveness and suitability. Pregnancies sometimes occur due to rape, incest, and difficulties in obtaining contraceptives or because of contraceptive failures.

In order to assure the accepted right to determine freely the number and spacing of their children, safe legal abortion should be available to all women. Further, the provision of abortion within the usual channels of medical care will reduce the well-known adverse health effects of illegal abortion.

The American Public Health Association urges that access to abortion be accepted as an important means of securing the right to space and choose the number of wanted children. To this end, restrictive laws should be repealed, so that pregnant women may have abortions performed by qualified practitioners of medicine and osteopathy.

RESOLUTIONS ADOPTED BY THE AMERICAN BAPTIST CONVENTION

ABORTION

Because Christ calls us to affirm the freedom of persons and the sanctity of life, we recognize that abortion should be a matter of responsible personal decision. To this end we as American Baptists urge that legislation be enacted to provide:

1. That the termination of a pregnancy prior to the end of the 12th week (first trimester) be at the request of the individual(s) concerned and be regarded as an elective medical procedure governed by the laws regulating medical practice and licensure.

2. After that period the termination of a pregnancy shall be performed only by a duly licensed physician at the request of the individual(s) concerned, in a regularly licensed hospital, for one of the following reasons as suggested by the Model Penal Code of the American Law Institute:

(a) When documented evidence exists that this is a danger to the physical or mental health of the woman;

(b) When there is documented evidence that the conceptus has a physical or mental defect;

(c) When there is documented evidence that the pregnancy was the result of rape, incest or other felonious acts.

Further we encourage our churches to provide sympathetic and realistic counseling on family planning and abortion.

We commend study, research and development of understanding on the part of the populace led by the people of our churches toward an enlightened view of this provocative problem.

PLANNED PARENTHOOD—WORLD POPULATION

STATEMENT OF POLICY ON ABORTION

Planned Parenthood-World Population reaffirms its position that the optimum method of conception control is the consistent employment of effective contraception but it realizes that in practice this goal is frequently not achieved. It, therefore, recognizes that safe, legal abortion must be available in some situations as a back-up medical technique to omitted or failed contraception. In light of this, Planned Parenthood-World Population confirms the policy statement on abortion of its National Medical Advisory Committee, to wit:

(1) The National Medical Advisory Committee of Planned Parenthood-World Population believes that it is the right and responsibility of every woman to decide whether and when to have a child.

(2) The Committee re-affirms that abortion is a medical procedure, the decision for which must rest with the woman and her physician.

(3) This decision should be made with full knowledge of the woman's personal situation, with consideration of her social, economic, and cultural environment, and with reasonable medical safeguards.

(4) The Committee therefore recommends the abolition of existing statutes and criminal laws regarding abortion, and the recognition that advice, counseling, and referral with regard to abortion is an integral part of medical care.

RESOLUTION ON ABORTION ADOPTED BY PLANNED PARENTHOOD-WORLD POPULATION AT ITS ANNUAL MEETING 1969

Planned Parenthood believes that no one should be forced to use contraception or undergo abortion and that we must be especially vigilant to preserve freedom of choice about family size for those who are dependent on public or voluntary agencies. The optimum method of birth control is the consistent employment of effective contraception but in practice this goal is sometimes not achieved. Planned Parenthood believes that since abortion is a medical procedure, it should be governed by the same rules as apply to other medical procedures in general when performed by properly qualified physicians with reasonable medical safeguards.

Recognizing that advice, counseling and referral with regard to abortion are integral parts of medical care, Planned Parenthood recommends that women inquiring at Planned Parenthood centers about abortion be referred to a center physician for counseling. In appropriate cases, Planned Parenthood recommends that referral be made to a medical facility where the patient may request such service. In the event such service is found not to be legally obtainable from such a facility, it should be the intent of Planned Parenthood involvement to protect the woman's health by providing counseling and referral services.

AMERICAN PSYCHOLOGICAL ASSOCIATION—RESOLUTION

Whereas, in many state legislatures, bills have recently been introduced for the purpose of repealing or drastically modifying the existing criminal codes with respect to the termination of unwanted pregnancies; and whereas, termination of unwanted pregnancies is clearly a mental health and child welfare issue, and a legitimate concern of APA; be it resolved, that termination of pregnancy be considered a civil right of the pregnant woman, to be handled as other medical and surgical procedures in consultation with her physician, and to be considered legal if performed by a licensed physician in a licensed medical facility.

AMERICAN MEDICAL WOMEN'S ASSOCIATION, INC.—RESOLUTION

Whereas, repressive laws encourage criminal abortions, and these in turn continue to be one of the important causes of maternal morbidity and mortality;

Whereas, there has been an increasing demand for abortion and voluntary sterilization; be it

Resolved, that the AMWA approve removing restrictions on abortion and voluntary sterilization for those who, for family planning or health reasons, wish it, and that this be done with the approval of their physicians.

Resolved, that the AMWA encourage counseling with regards to abortion both in group and individual medical practice.

AMERICAN PSYCHIATRIC ASSOCIATION

A decision to perform an abortion should be regarded as strictly a medical decision and a medical responsibility. It should be removed entirely from the jurisdiction of criminal law. Criminal penalties should be reserved for persons who perform abortions without medical license or qualification to do so. A medical decision to perform an abortion is based on the careful and informed judgments of the physician and the patient. Among other factors to be considered in arriving at a decision is the motivation of the patient. Often psychiatric consultation can help clarify motivational problems and thereby contribute to the patient's welfare.

NATIONAL COUNCIL OF WOMEN OF THE UNITED STATES

RESOLUTION ON ABORTION

Whereas we believe it is every woman's right to control her own body and determine her own reproductive life;

And whereas we believe it is the right of a child to be wanted;

Whereas the present restrictive laws lead to needless death and suffering as a result of illegal abortions;

And whereas liberalization of existing laws have failed to reach those women most in need of medical services;

Therefore, be it resolved that the only remedy for this discriminatory legislation is outright repeal of laws restricting abortion, and that the decision regarding abortion should be a private matter between the patient and her physician, governed only by the laws of ethical medical practice.

MEDICAL COMMITTEE FOR HUMAN RIGHTS

"The Medical Committee for Human Rights strongly urges the immediate reform of archaic laws concerning induced abortion and further, that these reforms must be based upon consideration of health in the broadest definition, rather than upon political or religious factors."

UNITARIAN UNIVERSALIST ASSOCIATION

Be It Resolved: That the 1968 General Assembly of the Unitarian Universalist Association urges that efforts be made to abolish existing abortion laws except to prohibit performance of an abortion by a person who is not a duly licensed physician, leaving the decision as to an abortion to the doctor and his patient.

Reasons: Prolonged and needless suffering, even death, has resulted from prohibitions placed by the laws of many states on the performance of abortions by qualified physicians.

It is estimated that at least 650,000 illegal abortions are performed in the United States each year.

Physicians who perform illegal abortion in the best interest of their patients must live in fear of punishment by criminal law.

Existing abortion laws discriminate particularly against the poor.

The right of a woman to decide whether she will bear a child is one with which the laws of government should not interfere. A child has a right to a mother who cherishes him—an unwanted child may suffer grave psychological, mental, and even physical handicaps.

STATEMENT ON RESPONSIBLE PARENTHOOD ADOPTED, OCTOBER 8, 1969 BY THE BOARD OF CHRISTIAN SOCIAL CONCERNS OF THE UNITED METHODIST CHURCH

We as United Methodists affirm the sacredness of persons. Personhood develops as one is loved, responds to love, and in that relationship comes to fullness as a child of God. The family, constituting the primary vehicle of love, acceptance, and nurture, brings fulfillment to parents and child. Sexual relations between the married partners serve as one expression of love and oneness, a source of joy and strength.

Because life is distorted without the qualities of being wanted and loved, parents seriously violate their responsibility when they bring into the world children for whom they cannot provide love. Since personhood is more than physical being, we affirm that the fetus is not a person, but rather tissue with the potentiality, in most cases, for becoming a person, also recognizing that personhood is not possible without physical form. To support the sacred dimensions of personhood, all possible efforts should be made to insure that the infant enters the world with a healthy body and is born into an environment conducive to realization of his full potential. However, this affirmed dignity of persons, as well as their existence, is threatened in today's world by over-population which manifests itself in the crises of insufficient food, diminishing space, and pollution of the environment.

In this framework, The United Methodist Church calls its members, and challenges society to responsible parenthood. This responsibility necessitates the constructive use of sexuality, creativity, and the technologies which make possible the achievement of conception control and regulation of population levels. Acquisition of new knowledge and skills in these areas moves conception and reproduction out of the category of a chance happening into the realm of responsible choice. As the decision is made to give birth to children, the responsibility for their nurture and growth is also assumed.

We call upon The United Methodist Church, its Boards and Agencies, and our common society to assist the States in removing the regulation of abortion from the criminal code, thereby placing it under regulations relating to other procedures of standard medical practice. The decision, then, would be solely in the hands of the patient and her licensed doctor. Control of abortions by non-licensed physicians would be dealt with in the framework of the law—"practicing medicine without a license."

CITIZENS' ADVISORY COUNCIL ON THE STATUS OF WOMEN, TASK FORCE REPORT ON FAMILY LAW

PERSONAL RIGHTS RELATING TO PREGNANCY

A. Laws penalizing abortion

1. Problem definition and context.

The world's population explosion is one of mankind's most crucial problems.

It took from the beginning of man to 1830 to produce the first billion people on earth. It took only 100 years (1830–1930) to produce the second billion; the third billion took only 30 years, from 1930 to 1960; and it is now estimated by demographers that it will take only 15 years, from 1960 to 1975, to reach a world population of 4 billion. Some demographers estimate that even if all people had only the number of children they wanted, the population growth rate would be in excess of the needs or the capability of economic resources to sustain life in an increasingly industrialized world urban world. From this perspective, long range population policy becomes a critical need in all countries in the world, yet few have done anything toward developing such a national population policy.

We must face the problem of how to stabilize the world population growth rate. This necessarily involves the question of what women do with their lives. Motherhood should not be the exclusive goal of women, for this encourages the view that the more children, the better the mother, as well as the view that no marriage is complete without a child. Praise and social approval for women with large numbers of children are no longer functionally appropriate to an urban crowded society. This applies to economically well-to-do women as well as to poor women, to women in the United States as well as to Latin American and Asian women, to white women as well as to black women.

Abortion as an alternative to other contraceptive methods is now primarily the pattern in Catholic countries in which chemical and mechanical contraceptive devices have not been available, and in underdeveloped countries which have not yet had widespread exposure to the ideas of birth control. In France, the annual number of abortions equals the number of live births. In Latin American countries, there is an average of one abortion for every two live births. In some countries, like Uruguay, the ratio is as high as three abortions for every live birth. Recent support for family planning has only begun to affect this high rate of abortion, and for many years to come, will serve only a minimal role in stemming the fantastic population growth of the South American continent.

The majority of the women who have been helped with contraceptive advice and devices in Asian countries are women who have already borne five or more children, and hence already have contributed dangerously to the growth rate of their countries.

While it is extremely difficult to assess the incidence of illegal abortions in the United States, estimates range from 250,000 to over a million annually. The vast majority of these cases are married women who have attained the number of children they wish or can afford to care for.

The development of more efficient contraceptives may gradually reduce the incidence of unwanted pregnancies, but we are a long way from this situation, for several reasons.

1. Not all women can use chemical or mechanical contraceptives for a variety of physical and medical reasons.

2. Not all women have access to contraceptive information and devices.

3. Even the pill, the most efficient contraceptive known to date, has a one percent failure rate. There are 25 million women in the United States between the ages of 15 and 44; only about 3 million of these women want to conceive in any given year, leaving 22 million women exposed to the risk of an unwanted pregancy. Even if all these women could use the pill the failure rate of one percent could still yield as many as 220,000 pregnancies that were not wanted by the women. Research underway now toward the development of "morning after" pills is still a long way from realization.

The central ideology of the family planning movement over the past half-century has been the human right of a woman to determine the number of children she will have. This is also an important foundation for the ability of women to plan their lives to include active and meaningful participation in the world outside the family. In the United States, the family planning ideology has gained widespread acceptance, and most people would state as a corollary of this principle of human rights that every child should be born into a loving environment, a wanted child eagerly awaited by its parents. This is the most fundamental, best "head-start" a child can have, which no ameliorative head-start program, no adoption system for unwed mothers, no community mental health center, can begin to match. We must take the next step to the realization that no woman should be forced to be the unwilling parent of an unwanted child. The task force believes that it is from this perspective that any recommendation for abortion law reform should be viewed.

2. State law reform

Forty-two States prohibit the performance of an abortion unless it is necessary to save the life of the pregnant woman (or, in the case of Connecticut, the life of the woman or the unborn child). In the remaining eight States (Alabama, California, Colorado, Maryland, Mississippi, New Mexico, North Carolina and Oregon) and the District of Columbia, abortions are permitted in certain other circumstances in addition to cases where abortion is necessary to save the woman's life. For example, Mississippi permits abortions where the pregnancy is the result of rape; California permits abortions where the physical or mental health of the woman is endangered, or in cases of statutory rape of a girl under 15 or where pregnancy is the result of forcible rape or incest. Colorado and North Carolina have recently enacted laws patterned after the American Law Institute's Model Penal Code, which would permit abortions in the following circumstances: continuance of the pregnancy would gravely impair the physical or mental health of the woman; the child would be born with grave physical or mental defect; the pregnancy resulted from rape, incest or other felonious intercourse, including illicit intercourse with a girl below the age of 16.

Bills to make abortion laws less restrictive were introduced in 30 States and were enacted in three (Calif., Colo., N.C.) in 1967. Mississippi amended its law in 1966. In 1968, Maryland amended its law to permit termination of pregnancies by licensed physicians in accredited hospitals, upon written authorization of a hospital abortion review authority, in situations where (1) continuation of the pregnancy is likely to result in the death of the mother, (2) continuation of the pregnancy would gravely impair the physical or mental health of the mother, (3) there is a substantial risk of birth of a child with grave and permanent physical deformity or mental retardation, and (4) the pregnancy resulted from rape. Under the new Maryland law, a licensed physician who performs an abortion in an accredited hospital is not subject to criminal penalty, but if he performs an abortion in violation of the new law, his license may be revoked or suspended under the same procedures for revocation or suspension or licenses provided for unprofessional or dishonorable conduct. (H.B. 88, approved May 7, 1968).

Even if all States enacted the provisions of

the Model Penal Code, it is estimated that only about 15% of the illegal abortions would fall within the permitted classes of abortions and the remaining 85% of abortions (170,000 to 850,000 per year) would continue to be subject to criminal sanctions under State abortion laws.

The Task Force on Administration of Justice of the President's Commission on Law Enforcement and Administration of Justice stated in its report (*The Courts*, page 105):

"Abortion laws are another instance in which the criminal law, by its failure to define prohibited conduct carefully, has created high costs for society and has placed obstacles in the path of effective enforcement. The demand for abortions, both by married and unmarried women, is widespread. It is often produced by motives and inclinations that manifest no serious dangerousness or deviation from the normal on the part of the people who seek it. These factors produce the spectacle of pervasive violations but few prosecutions."

That task force concluded that "the time is overdue for realistic reexamination of the abortion laws."

From the experience of other countries it seems clear that what the law permits or does not permit in this area has little effect upon the incidence of abortion. When most abortions are illegal, women either resort to devious, exaggerated claims to obtain a legal abortion or seek illegal abortions in secret and, for poor women especially, in medically unsafe conditions, or worst of all try to induce the abortion themselves. When abortions are legal, the incidence is about the same, the only difference being the greater health precautions followed in a hospital setting. Criminal abortion laws are generally not enforced and are indeed unenforceable, and when this is the case, it is wise "for the law to withdraw rather than have the majesty of the law brought into disrespect by open disobedience and unpunished defiance." (Robert Drinan, Dean of Boston College Law School, Washington Conference on Abortion, 1967).

Revision of State laws along the lines of the American Law Institute proposal would continue criminal penalties for some abortions while sanctioning others. The repeal of laws penalizing abortion may be more acceptable than the A.L.I. proposal to those who believe that all abortions are doctrinally immoral. As Dean Drinan stated:

"A system of permitting abortion on request has the undeniable virtue of neutralizing the law, so that, while the law does not forbid abortion, it does not on the other hand sanction it, even on a presumably restricted basis."

It may be noted that there is very little difference between Catholics and Protestants on attitudes toward abortion law reform and there is increasing support for liberalizing abortion laws.[1]

Proposals which permit abortions under certain circumstances while penalizing all others deny the right of a woman to control her own reproductive life in light of her own circumstances, intelligence, and conscience. Although governmental agencies and the medical profession may offer service and counsel, they should not exercise the power of decision over the woman's personal right to limit the number of children she will have, and her right to decide whether to terminate a particular pregnancy she does not wish to carry to term.

Convinced that the right of a woman to determine her own reproductive life is a basic human right, the task force recommends that laws penalizing abortion be repealed and urges the Council to encourage the State Commissions on the Status of Women to assume responsibility for educating the public on this issue and in getting State legislatures to repeal criminal abortion laws.[2]

The repeal of criminal abortion laws would mean that abortion would be treated in the same way as other medical procedures. It would mean that abortions could be performed by physicians without penalty and it would virtually eliminate abortions by unauthorized practitioners.

[1] Alice S. Rossi, "Abortion Laws and Their Victims," *Trans-action*, Sept.-Oct., 1966; Association for the Study of Abortion, 1967 survey in New York State.

[2] The Citizens' Advisory Council on the Status of Women adopted this recommendation in the following form:

The Council recommends that laws making abortion a criminal offense be repealed and urges State commissions on the status of women to assume responsibility for educating the public on this issue.

American Protestant Hospital Association

Policy statement on pregnancy interruption

The following shall be the policy position of the American Protestant Hospital Association:

Believing that the integrity of the family unit and the institution of marriage is jeopardized, if not destroyed, by unwanted children, and believing that the condition of pregnancy and the bearing of children may cause physical suffering and mental anguish, and believing that social maladjustment may be related to or result from unwanted children, and those conceived out of wedlock and until such time as totally effective and acceptable contraceptive material and techniques have been developed, pregnancy may be interrupted at the request of and with the informed consent of a woman, her legal guardian or nearest relative if she is under the age of consent. No woman should be compelled to undergo, or a physician to perform a procedure that would interrupt pregnancy if either has ethical, religious, or any other objection to such a procedure. All reasonable efforts should be made to remove economical barriers that would prohibit the exercise of the option provided by this statement.

It is also the position of this Association that all procedures performed in conformity with this policy should be by licensed practitioners of medicine and in a facility which in all respects conforms to the then current acceptable standards of organized medicine and hospitals.

Approved by the Council on Governmental Relations 1–1970.

Approved by the Board of Trustees 1–27–70.

Approved by the House of Delegates 3–2–70.

Chicago Child Care Society

Statement on abortion—1970

It is estimated that well over one million abortions are performed in the United States each year! Abortion laws are obviously forcing women to secure termination of pregnancy outside of the law, irrespective of the dangers that may be involved for them.

Abortion laws have been based upon the premise that the fetus is fully human and that to perform an abortion is to terminate a human life. Such a view is presently challenged by medical, legal and religious opinion that holds that the fetus is a potential life and that it is not viable until it is sufficiently developed to live should it be born. Society should recognize differing views and no longer try to inflict one view on all its members. Abortion should move into the sphere of private decision-making and be treated as a medical decision to be made by a woman in consultation with a physician.

As a child welfare agency interested in the welfare of children and their families, we believe that all children have the right to be wanted. Children may very well have to suffer, not alone from being unwanted by their own mothers, but also in the case of unmarried mothers being rejected by the society that forced their mothers to bear them.

Legal abortions in this country are performed on economically privileged patients. The same group has access to legal abortions in other countries. The poor, on the other hand, turn to any abortionist they can find or resort to self-imposed methods known to be harmful.

According to a recently published item, gambling, narcotics and abortions are the three most profitable criminal enterprises in this country. Abortion laws are unenforceable and highly discriminatory.

Chicago Child Care Society, therefore, takes the position that:

"The termination of a pregnancy is a medical procedure to be decided upon by a woman and her physician and, therefore, provisions of law making such termination a crime should be amended so as to make them inapplicable in the case where the termination is effected by a licensed physician as a medical procedure."

American Ethical Union

Resolution on abortion

Whereas: we believe it is every woman's right to control her own body and determine her own reproductive life;

And whereas: we believe it is the right of a child to be wanted;

Whereas: the present restrictive laws lead to needless death and suffering as a result of illegal abortions;

And whereas: liberalization of existing laws have failed to reach those women most in need of medical services;

Therefore be it resolved: that the only remedy for this discriminatory legislation is outright repeal of laws restricting abortion, and that the decision regarding abortion should be a private matter between the patient and her physician, governed only by the laws of general medical practice.

American Civil Liberties Union

In the last few years legislatures all over the country have taken note of one of the most persistent but emotionally charged issues of our time, that of the reform of laws forbidding abortion. Lawmakers have gradually become aware of the tremendous social and medical problems and of the gross violations of individual rights perpetuated by the present abortion laws. A rapidly growing public sentiment is demanding that something be done to bring the old laws into line with the sweeping legal, medical, moral and social changes of the last half century, and in many states the first steps toward this end have already been taken.

The American Civil Liberties Union has watched these developments with keen interest. We have studied and debated the issue intensively for more than a year. Our discussion has touched on all aspects of the subject, including the various social, medical, moral and theological approaches, but our final conclusions rest solely on our desire to protect and advance civil liberties—in particular, the rights of privacy and equality and the freedom of each individual to decide for what purposes her body should be used.

The Union appreciates the depth of the emotions generated by the prospect that prohibitions on abortion will be removed. Many people believe profoundly that to destroy a fetus at any stage of its development is no less than outright murder. Others fear that when abortion is freely available youthful promiscuity will be encouraged and the moral fabric of society will be seriously

weakened. We believe, however, that the civil liberties concerns that arise from the abortion question can be satisfied by means other than the grossly repressive legal prohibitions against abortion which prevail today. Our study has led us to the conviction that there is an answer consistent both with the demands of the spirit and principle of civil liberties and with the need for an amelioration of the social and medical problems created by today's laws.

The American Civil Liberties Union asserts that a woman has a right to have an abortion—that is, a termination of pregnancy prior to the viability of the fetus—and that a licensed physician has a right to perform an abortion, without the threat of criminal sanctions. In pursuit of this right the Union asks that state legislatures abolish all laws imposing criminal penalties for abortions performed, for whatever reason, by a licensed physician. The effect of this step would be that any woman could ask a doctor to terminate a pregnancy up to the time that the fetus becomes viable. (The exact moment at which this happens is not known, but the medical profession does agree that a fetus could not possibly live apart from the mother until sometime after the twentieth week, and as a practical matter, even with the best medical care now available, not until several weeks later.) In his turn, a doctor could accede to the woman's request in accordance with his professional judgment without fear of criminal prosecution. Thus, the decision whether or not to continue a pregnancy would become one of the woman's personal discretion and the doctor's medical opinion. Both would be free to follow their private consciences in determining whether their religious or moral standards were being violated. No fear of criminal punishment would enter into the decision.

The ACLU holds that every woman, as a matter of her right to the enjoyment of life, liberty and privacy, should be free to determine whether and when to bear children. It is not a matter for the state to control. As long as criminal sanctions are attached to the performance of abortions, however, this freedom will not be realized. Even the recognition of special "hardship cases"—danger to the life and mental or physical health of the mother, probable fetal deformity, pregnancy resulting from rape or incest—falls short of satisfying the rights of life, liberty and privacy. Although it is true that a number of well-established religious and moral doctrines forbid abortion, we do not believe that the state has the power to force these particular religious and moral standards upon the entire community. The Union itself offers no comment on the wisdom or the moral implications of abortion, believing that such judgments belong solely in the province of individual conscience and religion. We maintain that the penal sanctions of the state have no proper application to such matters.

The discriminatory effect of this prohibition of abortion involves another area of civil liberties interest, that of equality. At a time when our nation is ever more deeply intent upon narrowing the gap between the rich and poor and removing the obstacles which prevent the poor from exercising their fundamental rights as citizens, we should not perpetuate the kind of inequality that the abortion laws have produced. The rich can violate the law with impunity, but the poor are at the law's mercy. Any sanction which operates in this manner is not acceptable under civil liberties standards of equal protection of the laws. Moreover, the very fact that a law is so arbitrarily applied and enforced and so universally ignored itself weakens the principle of the rule of law which is the backbone of civil liberties.

The violation of civil liberties inherent in the present abortion laws are sharply accentuated by the immense medical and social problems to which these laws have given rise. It is no secret that innumerable women secure abortions every year despite the prohibitions of the law. These women must either find doctors who are willing to stretch the technicalities of the law, or resort to frankly criminal abortions, most often at the hands of untrained incompetents. The physical, psychological and social costs of backstreet abortions are too well known to require enumeration. No less tragic are the consequences to the woman who does not have the price of a quasi-legal or illegal abortion, to the unwanted child she later brings into the world, and to the rest of her family.

The current debate over abortion law reform has revived the oft-heard contention that removal of criminal sanctions on abortion will undermine the morality of our youth and open the door to promiscuity. This is an understandable concern, but the experience of several European countries which have freely available or easily available abortion has not borne out this fear. Moreover, the statistics of abortions now performed show that the great majority of both legal and illegal abortions in this country are now sought by and performed upon married women who already have several children and who are pregnant by their own husbands. The primary impact of the laws would seem to fall not on the unmarried and potentially promiscuous teenager but on the married woman with an established family.

Although the social and medical problems created by prohibition of abortion are without doubt extremely serious, in pressing for legislative abolition of the abortion laws the Union bases its arguments solely on its desire to protect and promote the civil liberties of all citizens. We believe that the abortion laws violate civil liberties in the following specific ways:

(1) They deprive women of the liberty to decide whether and when their bodies are to be used for procreation, without due process of law.

(2) They are unconstitutionally vague.

(3) They deny to women in the lower economic groups the equal protection of the laws guaranteed by the Fourteenth Amendment, since abortions are now freely available to the rich but unobtainable by the poor.

(4) They infringe upon the right to decide whether and when to have a child, as well as the marital right of privacy.

(5) They impair the right of physicians to practice in accordance with their professional obligations in that they require doctors not to perform a necessary medical procedure. In many cases their failure to perform this medical procedure because of the statutory prohibitions on abortion, would amount to malpractice.

THE PRESENT STATUS OF ABORTION LAWS

A STATEMENT BY THE NEW YORK ACADEMY OF MEDICINE PREPARED BY THE COMMITTEE ON PUBLIC HEALTH

"A small and temporary improvement may really be the worst enemy of great and permanent improvement, unless the first is made on the lines and in the direction of the second."—Morley, J. *On Compromise*, vol. 3., p. 129. London, MacMillan, 1921.

The New York Academy of Medicine has issued three opinions on therapeutic abortion since 1943. In that year, after a grand jury investigation of so-called "abortion specialists," the Committee on Public Health of the Academy recommended that the state penal law should be amended to legalize therapeutic abortions in order to preserve the health of a pregnant woman. By way of implementing its recommendation, the Committee drafted the proposed amendment in appropriate phraseology:

Definition of abortion and therapeutic abortion and punishment of one who performs a non-therapeutic abortion.

(1) an abortion is an interruption of an intrauterine pregnancy before the period of viability (up to 28 weeks gestation) is reached.

(2) a therapeutic abortion is the artificial interruption of an intrauterine pregnancy before the period of viability (up to 28 weeks of gestation) is reached where the continuance of such pregnancy would jeopardize the life of the woman or so aggravate the physical or mental disease from which she suffers as seriously to impair her health or threaten her life.

(3) may be performed only by a physician duly licensed in the State of New York, and only in a hospital recognized by the Department of Social Welfare of New York State, or the Department of Health of New York State, or approved by the American College of Surgeons and/or the American Medical Association. After written opinions of its necessity have been obtained from competent qualified and recognized consultants in the respective specialties involved, which said written opinions shall be incorporated in the records of the hospital.

In 1953 the Committee on Public Health recommended that its previously proposed amendment be broadened to include the likelihood of impaired health or disability of a child as an indication for therapeutic abortion.

In 1959 the American Law Institute suggested a Model Penal Code governing abortion. This code would authorize therapeutic abortion when a licensed physician believes there is substantial risk that continuance of the pregnancy would gravely impair the physical or mental health of the mother, or that the child would be born with grave physical or mental defects, or that the pregnancy resulted from rape by force or incest. The physicians must certify in writing their belief in the justifying circumstance.

INDICATIONS FOR THERAPEUTIC ABORTION—STATUTES ENACTED 1967-69

	Life	Health	Mental health	Fetal defects	Rape	Incest	Limit (weeks)
Arkansas	X	X		X	X	X	12
California		X	X		X	X	20
Colorado	X	X	X	X	X	X	[1] 16
Delaware	X	X	X	X	X	X	[2] 20
Georgia	X	X		X	X		
Kansas	X	X	X	X	X	X	
Maryland	X	X	X	X	X		[2] 26
Mississippi	X				X		
New Mexico	X	X	X	X	X	X	
North Carolina	X	X		X	X	X	
Oregon	X	X	X	X	X	X	[3] 21

[1] Applies only to cases of rape or incest.
[2] Exceptions in the case of serious threat to the mother's life or in cases of fetal death.
[3] Time limit does not apply in cases of danger to life.

In a statement issued in 1965 the New York Academy of Medicine reaffirmed its previously expressed opinions that changes in the abortion law were necessary. This statement contained the following recommendation:

The New York Academy of Medicine therefore strongly recommends that the Penal Law of the State of New York be amended to legalize therapeutic abortion where there is substantial risk that the continuance of pregnancy would gravely impair the physical or mental health of the mother, or that the child would be born with grave physical or mental defects. Safeguards should also be included in the legalization of the procedure on these grounds: therapeutic abortion should be permitted only in officially recognized or accredited hospitals after review and approval in each instance by a competent committee established by the hospital; and the operation should be performed only by a physician licensed in the State of New York.

In the intervening years many resolutions from diverse authoritative bodies and changes of statutes here and abroad have called attention to the appalling inadequacy of the New York law.

In 1967 the House of Delegates of the American Medical Association went on record as supporting reform of the abortion laws to conform with the general guidelines set forth in the Model Penal Code. The American College of Obstetricians and Gynecologists recommended, in addition to the provisions of the Model Penal Code, that social and total economic environment—actual or reasonably foreseeable—be considered as having a bearing on the health of the mother.

For more than two years the Medical Society of the State of New York has formally approved reform of the present "inadequate" abortion law.

The American Public Health Association at its 1968 annual meeting took the final step; it formally advocated repeal of the existing statutes regulating therapeutic abortion.

Between 1967 and 1969 eleven states have amended their abortion laws by extending the indications for therapeutic termination of pregnancy as indicated in the accompanying table.

The new abortion act in Great Britain (1967) is potentially the most permissive of all recently enacted statutes. It contains two significant clauses in respect to the ascertainment of health of the mother.

(a) Account be taken of the pregnant woman's actual or reasonably foreseeable environment.

(b) Account be taken not only of the effect of pregnancy on the mother but on any existing children of her family.

If liberally construed, the current British abortion law could amount to virtual unrestricted abortion.

The report of Governor Nelson A. Rockefeller's special commission to review the New York State abortion law was published in March 1968. The recommendations follow the Model Penal Code, but add two additional indications for abortion as follows:

(a) The pregnancy commenced while the female was unmarried and under 16 years of age, and is still unmarried.

(b) When the female already has four living children.

The principal arguments in favor of a more permissive abortion statute have been summarized by the governor's special commission as follows:

(1) The deaths, sterility and harmed physical and mental health, resulting from the large number of illegal abortions each year, could largely be prevented if such abortions were performed by competent physicians in proper hospital surroundings, within the framework of reasonable legislation.

(2) The wide disparity between the statutory law and actual practice encourages disrespect for the law and places upon the conscientious physician an intolerable conflict between his medical duty to his patients and his duty as a citizen to uphold the law.

(3) The present law places an unfair discrimination on the poor. Persons with money may obtain safe abortions either by travelling to other jurisdictions, by going to high-priced, competent though illegal abortionists, or by obtaining legal abortions here based on "sophisticated" psychiatric indications.

The divergence between the literal interpretation of the law and current medical practice has led today's physician into an area of grave legal risk. There are indications that the courts may take action when reputable medical practice in accredited hospitals does not conform to strict interpretation of rigid abortion laws.

In 1969 there were two court decisions of major importance in this field. On September 5 the California Supreme Court in the case of People v. Belous declared the pre-1967 California abortion law unconstitutional on the following grounds:

(1) The phrase "necessary to preserve life" is vague;

(2) "The fundamental right of the woman to choose whether to bear children" is a right of privacy which the statute abridges;

(3) The statute violates the Fourteenth Amendment because of the "delegation of decision making power to a directly involved individual," (i.e., the doctor might be penalized for approving a request for abortion but not for denying a request).

In November a decision in the United States District Court for the District of Columbia declared unconstitutional that part of the statute that outlawed abortions other than those done "for the preservation of the mother's life or health." The reasoning was similar to and in part relied upon that in the Belous decision.

At present the New York law is being challenged in the Federal Court for the Southern District of New York. The complaint in the case alleges that the abortion law is unconstitutional on ground approximately similar to those cited in the California case.

In view of these circumstances, the New York Academy of Medicine recommends repeal of those sections of the criminal code referable to the performance of abortion by qualified physicians and further supports the legal changes that would place abortion under the general provisions of the medical-practices act of the various states.

Mr. PACKWOOD. Then, Mr. President, I might very briefly comment about limiting child deductions to two. I have such a bill, which would not permit more than two child deductions after 1973, except for children already in being or adopted children, or in the event of a multiple birth, if a woman did not have two children at the time of the multiple birth.

There is an organization called Zero Population Growth, whose basic postulate is to attempt to limit the population of this country to its present size, and they encourage people not to have more than two children.

In April of this year, six of the eight members of the Eugene, Ore., city council—Eugene is our second largest city, and was the winner of the Look magazine All American award recently—and the mayor have signed a personal pledge that none of them would have more than two natural children, or, if they already exceeded two natural children, they would have no more.

I ask unanimous consent to have printed in the RECORD a copy of their resolution, with the names of the mayor and the six councilmen who signed it.

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

As a further commitment to our resolved support of Earth Day, we, of the City Council of Eugene, proud to be among the first in our city to do so, pledge that we will produce, as biological parents, no more than two children, or that if we now exceed this limit to have no more at all. We urge our children not to exceed this limit, but that they look to the needs of a humanity already living among us, and as an alternative for larger families adopt as many children as they can support.

We sign our names to this Two Pledge, sponsored by the Zero Population Growth Chapter of Lane County, in order that the qualities that made Eugene an All-American City will neither disappear nor diminish, due to a continuation of our already exceptionally high population growth rate.

Lester E. Anderson, Mayor, Fred J. Mohr, Wickes Beal, Ivan J. Gribskov, Tom Williams, Nancy Hayward, Glen Purdy.

VOLUNTEERS IN THE PARK PROGRAM

The bill (H.R. 12758) to authorize the Secretary of the Interior to establish a volunteers in the park program, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD, an excerpt from the report (No. 91–1013), explaining the purposes of the measure.

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

PURPOSE

The purpose of H.R. 12758 is to authorize the Secretary of the Interior to enlist the services of volunteers in programs directly related to the public service mission of the National Park Service.

NEED

At the present time there are more than 275 units in the national park system. These areas are found in every region of the country and they represent some of the Nation's popular natural, historic, and recreation resources. All of these areas are administered by the National Park Service in a manner to conserve their outdoor values for the enjoyment of all Americans for all time.

The task of optimizing the public benefit from these outstanding natural, historic, scientific, and recreational areas is enormous. It is a tribute to the dedicated employees of the National Park Service that millions of Americans seek out these areas to enrich their lives and highlight their vacations and holidays. Undoubtedly, these men and women will continue to carry out their responsibilities as effectively and efficiently as possible. H.R. 12758 is not intended to detract from the contributions which they have made in the past nor which they are expected to make in the future. H.R. 12758 seeks to add a new dimension to the park experience for both the volunteer and the visitor. It seeks to enlarge and supplement the opportunities to make our national park areas useful, interesting, enjoyable, and educational. Through the authority it provides, it is hoped that all participants will find their national park visit a more meaningful and memorable experience.

Presently, the National Park Service uti-

lizes the voluntary services of interested persons only under severely restricted circumstances. At relatively few locations, where certain organizations have a keen interest in the unit, cooperative arrangements permit public-spirited citizens to serve on a nonappointed basis. To do so, however, they are required to agree, in writing, that they are not employees of the United States and that the United States is not liable for any injuries which they might sustain as a consequence of their voluntary activities. In addition, to the extent required, any expense connected with their service (e.g., uniforms, period costumes, transportation, etc.) is their own or must be paid for from donated funds. Taken together, these restrictions limit the voluntary participation of many people who have the time and the desire to help.

H.R. 12758 removes the inhibitions which naturally arise when a volunteer is required to waive his rights to compensation for accidental injuries sustained while providing these services. While the legislation neither authorizes nor contemplates any compensation for the services rendered in the form of wages or salaries, it does enable the National Park Service to assure the volunteers that they may be afforded the remedies available to Federal employees under the Tort Claims Act and statutes relating to job-connected injuries in the event some misfortune occurs in connection with their services. While these remedies are to be available, it should be clearly understood that no volunteers are to serve in any hazardous or dangerous occupation where the risks of injury are foreseeable. This legislation is not intended to provide any authority to utilize volunteers to operate potentially dangerous machinery nor should it be interpreted as authority to utilize volunteers to do the jobs normally assigned to regular career employees.

The volunteer which this legislation comprehends is a private citizen who accepts an appointment, subject to prescribed requirements, to perform a specific function for a limited period of time without compensation. Under the terms of the program planned, each volunteer will be recruited on an individual basis and will be assigned to functions which complement and supplement the work of regular and seasonal park personnel. While they are not to be substituted for maintenance labor or other regular or seasonal personnel, they may, among other things, help to provide special information, services to visitors, assist in archeological digs, conduct special research, or help in the interpretation of historical events.

Undoubtedly, this program could prove to be a valuable contribution to the park program. Not only will it provide stimulating opportunities for young people, but it will open new opportunities for interested retired people. For the young, it will teach an appreciation for the effort which made the national park system what it is and it may provide them with guidance and experience which will help them in choosing their career goals. In short, as a recent article in "The Government Standard," a publication of the American Federation of Government Employees indicated: "[The program] sounds like a golden opportunity, if Congress approves, for those who enjoy the outdoors to get their fresh air, while donating their most valuable asset, their time, to our Nation's fine parks."

COMMITTEE OVERSIGHT

The Committee on Interior and Insular Affairs intends to maintain vigilant oversight over this program as it develops. It recognizes the valuable contributions which it can make to the overall park program, but it is also aware of the delicate balance which must be maintained between the career personnel and the volunteers. The committee expects the National Park Service to make the volunteers fully aware of the responsibilities which they are assuming and to give them adequate guidance and supervision. The Director of the National Park Service has assured the committee that he recognizes the interest of the Congress in this program and that he will keep it fully informed at periodic intervals.

Under the bill, appropriations for this program will be limited to $100,000 annually. At the outset, appropriations for this purpose are not expected to reach that level. In the years ahead, however, upon reviewing our experience with the program, it may be that a larger authorization would be appropriate. At that time, the Congress can assess the need and determine the amount of funds it might effectively employ.

To facilitate the review of this program, it should be, as it was in the 1971 budget, a separate line item in the general management and protection appropriation request. Records should be available showing the number of volunteers, their average length of service (in terms of numbers of working days), and the average expenses incurred in training, uniforms and costumes, transportation, etc.

While normally the general operating funds of an agency are not subject to authorization ceilings because they are carefully scrutinized by the Appropriations Committees, in this instance the committee considers this program to be experimental. If it is as successful as predicted, it may be that the Congress will want to raise the ceiling or remove it, but until it is a proven program the limitation imposed is reasonable and adequate to meet the needs in the foreseeable future.

THE NATIONAL PARK SYSTEM

The Senate proceeded to consider the bill (S. 2985) to improve the administration of the national park system by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes, which had been reported from the Committee on Interior and Insular Affairs with amendments, on page 2, line 11, after the word "words", insert "'and miscellaneous areas administered in connection therewith' and"; and on page 3, line 7, after the word "money," strike out "sections 1 and 4–6", insert "sections 1, 4, 5, and 6"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress declares that the national park system, which began with establishment of Yellowstone National Park in 1872, has since grown to include superlative natural, historic, and recreation areas in every major region of the United States, its territories and island possessions; that these areas, though distinct in character, are united through their interrelated purposes and resources into one national park system as cumulative expressions of a single national heritage; that, individually and collectively, these areas derive increased national dignity and recognition of their superb environmental quality through their inclusion jointly with each other in one national park system preserved and managed for the benefit and inspiration of all the people of the United States; and that it is the purpose of this Act to include all such areas in the system and to clarify the authorities applicable to the system.

SEC. 2. (a) Section 1 of the Act of August 8, 1953 (67 Stat. 496; 16 U.S.C. 1b), is amended by deleting the words *"and miscellaneous areas administered in connection therewith" and* "and miscellaneous areas" wherever they appear.

(b) Section 2 of the Act of August 8, 1953 (67 Stat. 496; 16 U.S.C. 1c), is amended to read as follows:

"SEC. 2. (a) The national park system shall include any area of land and water now or hereafter administered by the Secretary of the Interior through the National Park Service for park, monuments, historic, parkway, recreational, or other purposes.

"(b) Each area within the national park system shall be administered in accordance with the provisions of any statute made specifically applicable to that area. In addition, the provisions of this Act, and the various authorities relating to the administration and protection of areas under the administration of the Secretary of the Interior through the National Park Service including but not limited to the Act of August 25, 1916 (39 Stat. 535), as amended (16 U.S.C. 1, 2–4), the Act of March 4, 1911 (36 Stat. 1253), as amended (16 U.S.C. 5) relating to rights-of-way, the Act of June 5, 1920 (41 Stat. 917), as amended (16 U.S.C. 6), relating to donation of land and money, sections 1, 4, 5 and 6 of the Act of April 9, 1924 (43 Stat. 90), as amended (16 U.S.C. 8 and 8a–8c), relating to roads and trails, the Act of March 4, 1931 (46 Stat. 1570; 16 U.S.C. 8d) relating to approach roads to national monuments, the Act of June 3, 1948 (62 Stat. 334), as amended (16 U.S.C. 8e–8f), relating to conveyance of roads to States, the Act of August 31, 1954 (68 Stat. 1037), as amended (16 U.S.C. 452a), relating to acquisitions of inholdings, section 1 of the Act of July 3, 1926 (44 Stat. 900), as amended (16 U.S.C. 12), relating to aid to visitors in emergencies, the Act of March 3, 1905 (33 Stat. 873; 16 U.S.C. 10), relating to arrests, sections 3, 4, 5, and 6 of the Act of May 26, 1930 (46 Stat. 381), as amended (16 U.S.C. 17b, 17c, 17d, and 17e), relating to services or other accommodations for the public, emergency supplies and services to concessioners, acceptability of travelers checks, care and removal of indigents, the Act of October 9, 1965 (79 Stat. 696; 16 U.S.C. 20–20g), relating to concessions, the Land and Water Conservation Fund Act of 1965, as amended, and the Act of July 15, 1968 (82 Stat. 355), shall, to the extent such provisions are not in conflict with any such specific provision, be applicable to all areas within the national park system and any reference in such Acts to national parks, monuments, recreation areas, historic monuments, or parkways shall hereinafter not be construed as limiting such Acts to those areas."

SEC. 3. In order to facilitate the administration of the national park system, the Secretary of the Interior is authorized, under such terms and conditions as he may deem advisable, to carry out the following activities:

(a) provide transportation of employees located at isolated areas of the national park system and to members of their families, where (1) such areas are not adequately served by commercial transportation, and (2) such transportation is incidental to official transportation services;

(b) provide recreation facilities, equipment, and services for use by employees and their families located at isolated areas of the national park system;

(c) appoint and establish such advisory committees in regard to the functions of the National Park Service as he may deem advisable, members of which shall receive no compensation for their services as such but who shall be allowed necessary travel expenses as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 5703);

(d) purchase field and special purpose equipment required by employees for the performance of assigned functions which shall be regarded and listed as park equipment;

(e) enter into contracts which provide for the sale or lease to persons, States, or their

political subdivisions, of services, resources, or water available within an area of the national park system, if such person, State, or its political subdivision—

(1) provides accommodations or services within the immediate vicinity of an area of the national park system to persons visiting the area; and

(2) has demonstrated to the Secretary that there are no reasonable alternatives by which to acquire or perform the necessary services, resources, or water;

(f) acquire, and have installed, air-conditioning units for any Government-owned passenger motor vehicle used by the National Park Service;

(g) sell at fair market value without regard to the requirements of the Federal Property and Administrative Services Act of 1949, as amended, products and services produced in the conduct of living exhibits and interpretive demonstrations in areas of the national park system, and to credit the proceeds therefrom to the appropriation bearing the cost of such exhibits and demonstrations; and

(h) provide transportation for children in nearby communities to and from any unit of the national park system in connection with organized recreation and interpretive programs of the National Park Service.

SEC. 4. The Act of March 17, 1948 (62 Stat. 81), is amended by deleting from section 1 thereof the words "over which the United States has, or hereafter acquires, exclusive or concurrent criminal jurisdiction," and changing section 3 to read as follows:

"SEC. 3. For the purposes of this Act, the environs of the District of Columbia are hereby defined as embracing Arlington, Fairfax, Loudoun, Prince William, and Stafford Counties and the city of Alexandria in Virginia, and Prince Georges, Charles, Anne Arundel, and Montgomery Counties in Maryland."

The amendments were agreed to.

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

THE FEDERAL GOVERNMENT ESTABLISHMENT

Mr. GOLDWATER. Mr. President, the tremendous size of the Federal Government was a major concern of mine when I was first elected to the Senate over 18 years ago. As some of you will recall, it was a time when we heard much discussion about big government; about the interrelationship of government agencies on the Federal, State, and local level; about need for an equitable distribution of revenue sources among these divisions of government. It was also a time when the Hoover Commission was making a determined attempt to catalog the various activities and functions of the Federal Government and making recommendations to end some of the almost unbelievable examples of duplicating programs, overlapping functions and inefficient and wasteful administrative practices it found. I do not plan here today to go into the sound and constructive recommendations of the Hoover Commission which never were acted upon or placed into operation. It is enough to recall that enormous dividends were realized in terms of money and efficiency from the recommendations which were activated and to take note that some important recommendations were never even considered.

But all that was many years ago and since that time—especially over the last decade—the size of the Federal Establishment has grown tremendously. In fact, the bureaucracy which the Federal Government maintains today has actually become a problem of man's ability to govern himself in time of massive technological change and population growth. It is so massive that it literally feeds on itself. It is so large that no one in or out of government can accurately define its power and scope. It is so intricate that it lends itself to a large range of abuses, some criminal and deliberate, others unwitting and inept. The government is so large that institutions doing business with it, or attempting to do business with it, are forced to hire trained experts just to show them around through the labyrinthine maze made up of hundreds of departments, bureaus, commissions, offices, and agencies. Some colleges and universities, for example, employ specialists called "grant finders," whose job it is to tell these schools what is available to them under the various laws and multitudinous regulations of the Federal Establishment.

Mr. President, every now and then we catch a frieghtening glimpse of this enormous structure and what it means in terms of accountability and manageability. For example, a young Member of the House of Representatives several years ago set out to determine how many assistance programs were available and maintained in the Federal Government. It took him 2 years to find out that there were over 1,300 such programs, many of which were unknown to each other and unknown to the people they were established to help. It was discovered, for example, that no one in the Federal Government had an idea how many assistance programs existed, where they were located, and how they were designed to help American citizens.

Then we have the spectacle of the House of Representatives engaging in a tense, prolonged, and emotional battle over the appropriation of funds for rat control in our major cities. After all the shouting had died down, it was discovered that there existed already eight programs in various Government departments to do the same thing. So, Mr. President, the size of the Federal bureaucracy—which just keeps growing like Topsy year after year despite the unfair and growing burden which it places on the taxpayer—is compounding the difficulty and confusion which the average American encounters as he attempts to function in today's society. If this continues, the day will come when not only business will choke to death on Government redtape but the average American wage earner and property holder will suffocate as well.

Amazingly enough, this problem for all its size, complexity, and importance, does not seem to be receiving the kind of study and attention that it should be accorded by today's leaders. Occasionally a former member of that bureaucracy sits down and attempts to find words sufficient to explain what is happening. One of these is Mr. Lee Loevinger, a Washington attorney and former member of the Federal Communications Commission. In an article which he wrote for the magazine "The Business Lawyer," Mr. Loevinger warns that the biggest danger stemming from the problem of bureaucracy is not that of error but of ignorance. He explained:

> If man is to have any hope of finding a path to a livable future, he must first take a clear-eyed look at this present situation and the institutions of his creation which surround and influence him.
>
> The most persuasive social institution of the modern age, the most characteristic social problem of the exponential growth of recent years is bureaucracy. It is like a passionless mob which can capture and conquer man unless he is wise enough to subdue it and shape it to his own purposes. This can be done, but first we must study its nature and its laws, and recognize that, for the contemporary world, bureaucracy is not an answer to our problems but it is itself one of the principal problems that is both a part and a product of expotential growth that modern society must learn to understand and control.

I agree 100 percent with Mr. Loevinger's conclusion. The problem is that before we understand and control the Federal bureaucracy, we will have to get an adequate look at it. We have not had anything like an overall view of this enormous entity since the Hoover Commission reports. And very frankly, I am beginning to have some doubt as to how such a story could be conducted in time to yield maximum benefit. The job of ascertaining just what assistance programs exist in the Government took Representative WILLIAM ROTH and his investigators several years to come anywhere close to an accurate picture. It would not surprise me that the job of listing, explaining, and cataloging the many, varied functions and services of a department like the Department of Health, Education, and Welfare would take a sizable staff of highly skilled experts 5 to 10 years to do the job well. When we consider the vast, sprawling reach which the Federal bureaucracy now maintains into every facet of American life and into every political and governmental subdivision of the 50 States, we begin to understand what I am talking about.

I mentioned the evils inherent in this gargantuan monstrosity. Anything as large as the Federal Government and as loosely administered as the Federal Government lends itself to every kind of abuse by its very nature. I have mentioned how the intricacies play into the hands of people skilled in manipulation of such matters. Now I want to emphasize how this bureaucracy problem thwarts the work that we here in the Senate and the Members of the House are engaging in. It should not, but probably would, astound most Members of the Senate to find out what actually happens to the intent which we write into major legislation when it gets into the hands of the bureaucrats in the Federal Government. Much of our purpose in enacting laws has been either contradicted, overruled, diluted, or denied in many instances by quasi-judicial rulings by Government regulatory agencies or by Government regulation or by the courts. We seem almost complacent in our belief that the people who handle the provisions of the laws we pass will understand

the motivation and the intent of the Congress which passed them. Further, we seem almost secure in the belief that where this intent is known that it will be followed without question. I think we all have seen enough examples to realize how far from the actual intent of Congress Government bureaucrats have been known to stray in the administration of the laws—either by intention, design, or mistake.

It would be downright laughable if it were not so serious to consider how many of our people actually believe that a national administration firmly controls the Federal Government. It is true that broad overall policy is determined at the White House level or at the cabinet level in the Government bureaucracy. But its implementation is too often left to the tender mercies of a long-entrenched bureaucracy. Right here, Mr. President, let me say that I am not suggesting a return to that system which we once called the "spoils system" in which an incoming national administration would clean house of all Government workers who were not alined with the new regime's political party. I recognize that this cannot be done, nor should it be done. I admit that a strong case can be made for the career employee in Government and for his protection under the civil service system. But I do not agree that a person who is making Government his career and is blanketed under civil service has an automatic, providential right to permanent employment. Nor do I believe that civil service status should empower a civil servant in the Government with the right to make his own policy. I believe Government employees have a responsibility to the people who are taxed to pay their salaries to support and implement the policies that come down to them from the elected representatives of Government. I think we have all seen enough of Washington and heard enough testimony from Government officials to understand that some of them have held their jobs so long that they feel their opinion should dominate any policy which may come to them for implementation.

Let me give an example. What do you think would happen in a private corporation if 300 of its employees held a mass meeting to protest the kind of product their employer was manufacturing? You guessed it. In private industry this kind of effrontery from people whose job is not product design would be rewarded with dismissal notices. Yet several hundred employees of the Department of HEW—none of whom was elected by the people who pay them—could hold a mass meeting to protest policy decisions reached by the White House and by the Secretary of HEW and by others whose job it is to formulate policy in accordance with the wishes of the people who elected the administration they serve. As I say, this could and was done without anything happening except the disruption of the administrative processes of the Department of HEW and the annoyance of the man chosen by the President to run that department. No action was taken at the executive level, nor was a word said.

Understand, I have no objections to any Government worker expressing in the proper forum his feeling or belief about any policy. I object most strenuously, however, to the practice of a Government official using his position as a Government employee to oppose or undermine or refuse to work for the policy of that Government.

But, I do not want to be unfair to the career employees in the Federal Government. The feeling of "ownership" which I detect in their attitudes has come about through long years of bureaucratic possessiveness. It is both a help and a hindrance to the efficient administration of Government. In considering this problem it must be understood that Government workers are motivated by much the same consideration as workers in private industry. They are interested in comfortable compensation, proper working conditions, and security in both. They oppose change because it might constitute a threat to their jobs. Their individual and collective efforts, therefore, are understandably devoted to perpetuating or enlarging their own areas of responsibility. At the same time they try to run things to suit their own policy ideas. This has to do with personal ambition on the part of the Government worker and bears very little relationship to efficiency and prudence in the conduct of Government business. It is true that bureaucrats and career employees have a great facility for cloaking their actions and their projects in terms that sound as though they would improve the efficiency or the output of the agencies where they are employed. But this is very rarely the case.

So the whole problem of Government employees working their own will on the intent of Congress and actually on the policy of their own administrators results from long years of permissiveness at the "middle management" level of Government work.

As I have tried to point out, this interaction of bureaucracy results from personal ambition and, although it is often derided and criticized as bureaucratic "empire building," it is completely understandable. What is more, it will continue so long as the present approach to management of the Federal Government is maintained.

But, Mr. President, this rigid bureaucratic system is long entrenched and deeply dedicated to its own concept of what is right and what is wrong in the realm of Government policymaking. And I want to point out right here that this rigidity, this refusal of the bureaucratic middle management to accept innovations and changes in the conduct and method of Government business is a denial of the democratic process. I have already mentioned that the system nullifies very often the expressed intent of Congress. Now I am going to declare that it also thwarts the will of the people.

Mr. President, ask yourself why do governments change? Why do we have such things as new administrations? Why do we occasionally see a switch in political affiliations of national administrations? I will tell you why. Governments change, new administrations take office, political complexions of Presidents change to reflect the will of the qualified voters of the United States.

When the people of this country become dissatisfied with the kind of government they are receiving, they go to the polls and vote to oust the officials responsible. In the old days in American politics, they had a battle cry which reformers used to defeat entrenched and unpopular officials and administrations—"throw the rascals out." And this, Mr. President, is pretty much the history of American politics. When governments change and there is massive turnover in administrations, it results from the action of people voting against the "ins" rather than for those attempting to replace them. There have been exceptions—most notably when the political party opposing the incumbent President fields a national war hero as a candidate. Perhaps 1952 and the election of Gen. Dwight Eisenhower over the nominee of the long-entrenched Democratic Party is a case in point.

So we have the will of the people being expressed in the election of new administrations. We have the concern of the people reflected in the elections of new officeholders, new policymakers.

But, Mr. President, the question is whether this will of the people, whether this concern of the people, whether this officially stamped request for a change in direction can ever be completely realized under the present system of bureaucratic management. I do not think that it can. I do not think that the will of the people and the intent of Congress goes deep enough into the places where the policies are made that most directly affect the people. Given the intricacies of the system, the attitude of those in permanent positions and the general confusion surrounding any change of command in an enterprise as vast as the Federal Government, I do not think it is possible for this job to be done with any degree of success. The officials oriented to the philosophies promoted by the Democratic Party have been in control too long, their numbers are too great and their influence too strong to quickly bring about any substantial change in the things that cause concern among the people.

Mr. President, I can assure you that the concern among our people about governmental matters has grown tremendously in the past few years. I believe this can be attested to by any Member of this Chamber who keeps an accurate count of the mail he receives from his constituents from week to week.

My office mail was extremely light when I first came to the Senate in 1953. It was about average for a State the size of Arizona. Of course, it increased tremendously prior to 1964 and much of this had to do with my nomination as the Republican presidential candidate. But even allowing for the increased population of Arizona and allowing for my questionable status as a one-time candidate for President, my office mail today reflects a greatly increased concern on the part of the people in my State.

As the Members all know, Mr. Presi-

dent, my State is some 2,500 miles away and, consequently, my office does not receive the volume of visiting constituents as would the office of a Member from nearby New York, Ohio, Pennsylvania, or Virginia. But I am enormously impressed at the number of people from Arizona who now visit my Washington office to clear up problems that have to do with the Federal Government and its relation to the communities, the land, the schools, and the hospitals in my State. It is fair to say that each month I get perhaps 10 times as many Arizona visitors as I did back in the middle and late 1950's. The number of Arizonans who come to my office today are perhaps twice the number that came in the early 1960's even though that earlier period covered a time when my name was being mentioned in speculation over the presidential nomination.

Mr. President, Arizona is certainly not unique in this respect. The concern of the American people about the problems of Government has increased tremendously and visibly. Therefore, the need for reasonable control of the Federal bureaucracy is growing more imperative.

This must be thoroughly and completely understood by the Nixon administration or it will never succeed in the multifaceted program of governmental reform upon which it has embarked. In private conversations with President Nixon and others associated with the present administration I have repeatedly observed that the President must establish some kind of administrative control over this sprawling Federal bureaucracy or it will control his administration. The magazine Business Week, back on August 3, 1968, reported on this aspect of the civilian work force in Government and commented:

> To get these hundreds of thousands of accountants, plumbers, lawyers, clerks, and engineers swinging the way he wants them to, the new President will be at the mercy of his middle managers.

The point I raise today is whether the Nixon administration has actually understood the problem and come to grips with the need for controlling the so-called middle-management level of the Federal Government. I seriously doubt it, or we would not see the freedom with which Government employees come together in mass meetings designed to oppose a major policy of the new administration.

What is more, Mr. President, I am not completely sure that the President and his advisers understand the necessity for placing at the middle management level men and women firmly devoted to the Nixon administration's philosophy of government and its attitude toward the burning public issues of the day.

It is not only "waste motion," it is "Negative motion" for the administration to place in positions of middle management responsibility individuals who either oppose the President's programs outright or who are lukewarm in their support of administration policies generally. I see no cause here to equivocate with the facts. I believe President Nixon makes a mistake in administration every time he names a Democrat or a leftist Republican affiliated or not with the so-called Ripon Society. Here is an organization which opposed Mr. Nixon's nomination for the presidency. It is an organization which has taken public positions on most important questions diametrically opposed to those being pursued by the President. It is an organization which maintains a steady drum fire of criticism in opposition to many of the programs and policies developed by Republicans in the House and Senate.

Very frankly, I believe that the administration is asking for trouble every day that it retains Republican appointees who disagree fundamentally with the President and his programs.

Without making any specific charges, I should like to point out that the situation which I have just described lends itself very easily to the kind of news "leaks" which are continually cropping up to embarrass the Nixon administration. I find it interesting, for example, that so many inner-office memorandums which reflect disagreement within the ranks of the administration find their way into print in the Washington Post or the New York Times or some other publication which has always rabidly opposed President Nixon and his policies.

I believe that President Nixon or any President who may succeed him and who is interested in programs of revision and reform will have serious trouble unless they come to grips with the problem of middle management.

And I say that because the entrenched bureaucrats resist change. They have little or nothing to gain by reform, revision, or innovation. They, of course, live in fear that such action on the part of a new incoming administration might involve a risk to their own security. The management level of Government, of course, is manned by career executives who have learned through long experience to lean and shift with policy changes coming down from the top. They have learned to do this by making absolutely minimum concessions to policy pronouncements by new Cabinet members and bureau chiefs. They realize that changes of a fundamental nature in policy take a long time to implement and consequently may not have to be completed before a new change at the top occurs.

Their attitude, I am convinced, is much the same when it is directed toward policy changes decreed by an act of Congress.

What we have here, Mr. President, is an administrative maze so complex that many newly appointed policymaking officials spend almost their entire term of office trying to find out what their duties, responsibilities, and functions are all about. The system lends itself to all kinds of abuse but its major drawback is its enormous, unfathomable size. New Cabinet members are often criticized for not having a firmer grasp of the problems relating to their agencies. Very seldom do the critics stop to realize that a mere Presidential appointment does not make an administrative expert. For example, some members of President Nixon's Cabinet come up very short in this department—through no lack of intelligence, but through a complete lack of experience in political bureaucratic administration.

These situations are always confused and complicated by political considerations. For example, a man can be a lousy administrator, but if he happens to be a liberal who does not see eye to eye with everything the national administration stands for, his dismissal is always attributed in the public press to philosophical differences. For example, when the former head of the U.S. Office of Education, Dr. James Allen, was dismissed recently, many administration critics claimed the action resulted from differences with the White House over desegregation policies. It will be recalled that Dr. Allen was a strong supporter of the practice of busing students for purposes of establishing better racial balance in the public schools. It will also be recalled that busing was a feature of school desegregation which President Nixon opposed during his campaign in 1968. While this difference of opinion may have had some bearing on the situation, the fact remains that Dr. Allen was discharged primarily because he did not possess the administrative ability to handle the job.

This should serve as an object lesson for any top officials of the Nixon administration who have run headlong into "Peter's Principle" and find that, despite their experience and interest, the job to which they have been appointed is beyond their administrative capacity. Any such official who might want to hide his administrative deficiency would be smart to begin taking issue with the President, the Vice President, the Attorney General, and the top echelon at the White House on questions of policy and ideology. This way they can rest assured that the liberal segments of the communications media will jump to the wrong conclusion when they are replaced.

Mr. President, the problem of this enormous and unwieldy bureaucracy is one to which I have devoted considerable time and study. As the presidential nominee of the Republican Party in 1964, I could not afford to run the risk of assuming that Dr. Gallup and his cohorts might not be as wrong as their counterparts were in Britain several weeks ago. I do not want to appear facetious, because this is a serious matter. But any man who finds himself running for the top office in this Nation on a major party ticket is forced to give some thought and some study to the whole question of how you go about staffing the National Government.

This whole problem is so vast that no man with even an outside chance of becoming President can do any less than to devote long hours of very concentrated study to the structuring and functioning of the Federal Government.

When you come up against such a possibility, you begin to understand that just the problem of finding qualified people to man the very highest eschelon of Government requires much searching and much investigating. I doubt if the average American has any idea what a tremendous undertaking this becomes. New Presidents literally have to organize

teams of trusted friends and associates to conduct wide-ranging talent hunts. Almost every appointment requires unusual talent if it is to be successful. A man, for example, who is named to head the Department of Health, Education, and Welfare needs much more than just a warm-hearted concern for the needy, the sick, and the undereducated. He needs to be an expert in many fields because he will be called upon to act in many primary and related fields of social welfare and education and to justify that action before the committees of Congress.

Too often it is believed that all you need to head the Department of Commerce is a good businessman and that all you need to head the Department of Labor is someone who has had experience with labor contracts and employee disputes. Of course, over the years these departments have grown beyond the confines of their names, and the old, easy assumption no longer holds. I sometimes think that many politicians and commentators are so uninformed about the complexities of Government today that they actually believe aspirants for the job of Postmaster General should be rated on the amount of mail they have received.

Mr. President, this subject is so vast that it would take many hours, even days, of speaking time to do it justice. What I have tried to do here today is detail some of the facts involved in the problem of the Federal bureaucracy and to suggest that it is time to consider new approaches and fresh attitudes in our consideration of how to make it more responsive to the desires of the American people.

Candor compels me, however, to acknowledge that a large—perhaps the largest—part of this responsibility lies with the executive branch of the Government, at least in the initial phase. In fact, in the area of what Government experts refer to as "the principle of accountability," the Congress has simply lost control over most of the money expended by the Treasury each year. For example, last year President Nixon proposed a fiscal 1970 budget of $193.3 billion. According to the original budget, relatively uncontrollable civilian outlays under existing law amounted to $98.8 billion. When you subtract spending for military defense which was budgeted as $81.5 billion, make bookkeeping adjustments, the congressional appropriation committees ended up having actual jurisdiction over only about $20 billion. And $20 billion was roughly the size of the entire Federal budget of 1919.

Mr. President, I think we must admit the Congress has simply lost its accountability for most of the money spent by the Government. Originally, the Constitution gave Congress control of the purse strings, and Congress designated the appropriation committees as their agents. But new means of funding have been established which do not simply remove control of the appropriations process from the appropriation committees, but remove it from the Congress itself.

Congress, I am sorry to report, has lost this control to men who were not elected and who are not directly responsible to the people. They cannot be voted out of office if they make costly mistakes, yet they control the offices in thousands of Government buildings and buy, sell, lend, borrow the assets, the credit, the pools, the funds, the contracts, the obligations, the debts, the accounts, the authorization to spend from debt receipts, the payments, the rates, and so on.

Mr. President, this is quite a lot of words to use to support the simple statement that we in the Congress have lost control over the purse strings to the "Gnomes" of Washington. For those among us who are unacquainted with the word, let me explain that in economic conversation it is often remarked that the assets of our international financial dealings are controlled by the "Gnomes of Zurich." The reference is to the enormous amounts of secret money which have been deposited in numbered accounts with Swiss banks.

Let me give you a few examples of how the Congress has lost its control in the area of Government spending:

First. As of January 1, 1969, the U.S. Government was authorized under law to maintain 812 trust funds, 139 revolving funds, 86 special accounts, 381 no-year accounts, and 510 deposit accounts, none of which are subject to normal year-by-year scrutiny of the appropriation process.

Second. The rent supplement program uses contract authorizations in lieu of direct appropriations. Since each contract is made on a 40-year basis, Congress already has effectively removed control over approximately $2½ billion from the Senators and Representatives who will sit in Congress in the 21st century.

Third. Three-quarters of the $11.6 billion nondefense budget increase between 1969–70 reflected, in the words of former President Johnson, "relatively uncontrollable charges which must be met under present laws." They included $2.9 billion for automatic increases in social security, medicare, and social insurance programs financed through trust funds; $2.8 billion for automatic pay raises; $1.6 billion for automatic increases in veterans' benefits, medicaid, and interest on the national debt; and $1.3 billion for increases arising out of prior-year contracts then reaching the payment stage—a half-built bridge, an almost-completed highway, et cetera.

But the purse strings by themselves are not the entire story. Take the problem of inflation. There can be no question that the American people who have gone to the polls in recent years have voted their dissatisfaction over the steadily rising cost of living and steadily increasing prices in all consumer areas. This dissatisfaction is one of the principal reasons for the election of President Nixon in 1968 and, to his credit, he is striving mightily with this problem. But it is well for us to consider that the expansionist monetary policy of the Federal Reserve Board during the period of 1961–68 is at least partly responsible for the inflationary tendencies in the late 1960's. Yet there is no way to hold those responsible accountable. Members of the independent Federal Reserve Board serve 14-year terms, regardless of whether their policies lead to inflation, recession, or depression. In other words, they are not accountable for the economic effects of their actions.

Mr. President, I suspect that study and investigation and reorganization all have their parts to play in coming to grips with the problem of overpowering bureaucracy at the Federal Government level. Indeed, action must be taken in all of these areas if we are to cope with our own governmental "Frankenstein." Yet, I believe that much of the problem lies with people. By this I mean in the selection of the right kind of people for the right kind of jobs. Further, it means better utilization of the people and their capabilities and skills who do function in the Government departments. There can be no doubt that people are the key to the success of any enterprise, Government or otherwise, especially those chosen to serve in position of top management, but I believe we have placed too much emphasis on the selection of people who have become recognized and established as experts in a particular field of endeavor. In other words, we too often select a successful builder to head up a housing project. We too often turn to western States with their water, their reclamation projects, their Federal lands and related problems to find a man to head up important branches of the Interior Department. And so it goes. Successful farmers and farm theorists are drawn into the Department of Agriculture, and so on and on.

It never seems to occur to the people running the government that one way to obtain an overbalanced policy in a department of Government is to populate it with people who are highly experienced in the general subject but who have always been alined with one of several competing viewpoints. This is no way to effect change or innovation. To obtain change or identify or promote innovation, it requires people with imagination who are not committed by past experience to the established way of doing business. Strangely enough, the greatest obstacle to fresh ideas and innovations and change in governmental policy and approaches has been the tendency always to select people for various posts who have extensive past experience and extensive past associations in the fields concerned. Such appointments work automatically against experimentation or the exploration of new ways and different methods. It stands to reason that man who has succeeded in doing things in a given field in a particular, classic way is not going to advocate a new approach. Even if he does—say on the orders of his immediate superior—he will have no heart for the endeavor and he will not push it with the kind of force and determination required.

By the same token, it is impossible to man specialized Government departments with people who are so inexperienced that they cannot make sound proposals for change or propose valid innovations in the particular field to which they have been assigned.

Mr. President, I am well aware of the

fact that it is easy to criticize and to find fault. It is too easy for those of us who do not have direct responsibility to assign verbal blame and to hand out rhetorical prescriptions as to what should be done. I am fully aware that this is a mammoth problem which is not going to be corrected overnight. Nor is it one which easily lends itself to any pat solution. I do, however, believe there is great need at the present time for the enlistment of men and women with experience in overall planning techniques. Sometimes they are called "generalists" and described as people who understand "something about everything" but not "everything about something." As a class, these are people who not only have imagination and general planning and analysis experience, but who also are more interested in innovation and problem solving than in the perpetuation of their jobs or in the impact of their views on the formulation of policy.

As I have attempted to point out here, this problem is growing larger all the time. Very soon it may be necessary for the executive branch to attempt some almost revolutionary new ideas to reduce the erosion of responsibility for carrying out the will of the people. One proposal suggests that a certain number of middle management employees above a certain government classification be rotated every few years to comparable jobs at the same pay in other Government agencies. Now, I realize, Mr. President, it sounds easy to say we will just take so many persons grade GS–15 and above from one department and exchange them for a like number from some other department. As I say, it sounds easy, but it certainly is not. In fact, it could turn out to be an administrative impossibility. However, I believe the idea is sound even if the method has yet to be devised. The idea I am talking about is one aimed at giving the career Government employee, especially the one in the middle management classification, a broader point of view. If he is allowed to spend his entire career in one agency, he is unlikely ever to have the proper appreciation for problems arising in other parts of the Government—even problems related to his own field of activity. As I see it, we need more capable, well-informed generalists and fewer specialists who are so dedicated to one point of view that they are afflicted with what Government officials call "tunnel vision."

Mr. President, there are many ways in which this enormous problem can be attacked. I am not wedded to any particular strategem or method. However, I believe very strongly that the time is long past since we should have come to grips with this enormous challenge. A concerted program of study and recommendation must be undertaken at a very early date or the will of the people and the intent of Congress will continue to disappear in the giant maw of Federal bureaucracy. The danger is to our democratic form of government in its most fundamental sense. I only hope that what I have had to say here today will underscore the importance of understanding what we are up against and encourage those in positions of responsibility to take some courageous and drastic action to meet it effectively.

Mr. President, I yield the floor.

Mr. PROXMIRE. Mr. President, will the Senator yield to me before he yields the floor?

Mr. GOLDWATER. I am happy to yield.

Mr. PROXMIRE. First, I commend the Senator on what I think is a very interesting and helpful speech. I think its stress on innovation, particularly by appointing persons to positions of responsibility who are not wedded to a particular viewpoint or have not been identified with a particular industry or interest group, is most thoughtful and helpful. It is characteristic of the Senator from Arizona that he demonstrates this kind of ingenuity and imagination, and I think it belies the false charges that have often been made against him that he is simply a conservative who stands still and is not interested in progress. He certainly is interested.

I should like to ask the Senator from Arizona about a statement which he made on July 7, and which I discussed yesterday, which I think he can clarify very quickly.

On July 7, the Senator from Arizona said:

> One of the reasons, I think, that we can go to a volunteer force, is that the Army, which is the great user of men, is depending upon what our friend from Wisconsin (Mr. PROXMIRE) discussed as the "electronic battlefield" yesterday. He did it in a very critical way, and I might say it is so highly classified that even the Armed Services Committee has not been able to hold hearings on it; but as long as he has sprung it, so to speak, I can mention it.

This was interpreted by the press as indicating that I had violated security, that I had used classified information, and I should like to ask the Senator from Arizona if his remarks, or his interpretation of his remarks, would imply that I had in any way disclosed classified information or violated security.

Mr. GOLDWATER. No. As I pointed out in the communication I sent to the Senator this morning, it is the press that "chided Senator WILLIAM PROXMIRE for lowering the wall of secrecy." I never mentioned anything like that.

I mentioned that the Senator discussed the "electronic battlefield," which he did, and that he did it in a very critical way, which he did. The Senator read further from my remarks the statement, "It is so highly classified that even the Armed Services Committee has not been able to hold hearings on it," which is true. Then I used a remark which, to a westerner, is simply saying, "You said it." that you "sprung it." The Senator did say it, and I do not read any evil connotations into that at all. In fact, I think I told the Senator——

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that we may proceed with the colloquy for another 5 minutes.

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

Mr. GOLDWATER. I think I told the Senator that had I been in the Chamber when he made the speech—I did not know he was going to make it—I would probably have engaged him in colloquy, but I would have had to be very, very careful, because, despite the voluminous material which the Senator from Wisconsin put in the RECORD, all of which is known to me—in fact, I have it all—I cannot get the Air Force, even this morning, to downgrade the classification on some items that I would like to discuss. I think it should be made public, and I am hoping——

Mr. PROXMIRE. I wanted to find out from the Senator from Arizona precisely what he is saying, because again I seem to detect in the Senator's remarks now the implication—perhaps I am mistaken—that somehow I have violated classified information. Everything I used—everything—was from public sources. Part of it was from the remarks of the Senator himself in October 1969, when he put into the RECORD a very exhaustive discussion of this subject by General Westmoreland.

Mr. GOLDWATER. I put two of them in.

Mr. PROXMIRE. I ask the Senator again—as I stated, what I used was from public sources, and the Senator says he knows it. Therefore, it was not classified information; is that correct?

Mr. GOLDWATER. The material which the Senator has put into the RECORD certainly is not classified information, because it is public property. But this whole subject is still classified. I do not agree with it, and, as I told the Senator this morning, I intend to either make a speech or put one into the RECORD with the comment I would like to make, and I am now trying to get the Air Force to downgrade the classification so that I can do it. The Senator has mentioned certain areas which I see no reason to get into at this point.

I have suggested again this morning to the chairman of the Committee on Armed Services, as I suggested last December, when I last returned from Vietnam and saw this material in action, that we hold hearings on this. I have found out that prior to my returning to the Senate there had been a number of briefings before House groups and Senate groups, but I did not know that until last night.

Mr. PROXMIRE. It is a fact, however, that everything I used was from published sources, that I used nothing classified. In fact, I have made a policy of rejecting any classified information, whether secret or confidential. So nothing in my remarks was classified.

Mr. GOLDWATER. I cannot doubt that. In fact, I have not charged the Senator with using anything of a secret nature. I have said that if we had gotten into debate about it, I would have been worried. As is the Senator, I am very "spooky" about classified material. In fact, I do not look at a lot of it myself, because I am always afraid that in speaking extemporaneously or in the heat of debate, something might be thrown out that the enemy would like to have.

I made no reference in my comments at all that the Senator used anything except reported, published material.

Mr. PROXMIRE. I have written to the Secretary of Defense and asked him to give me as much unclassified information about this new electronics developments as he can. I understand that the Senator from Arizona is also trying to persuade the Department of Defense to give us information we can use in the discussion, so that Congressmen can know what they are voting on and the taxpayers will understand.

Mr. GOLDWATER. I had remarks last night approved by the Air Force, and I was ready to send the Senator a set of them, but I was told not to do it because they have to work on them a little more. I hope this afternoon to have an Air Force version. The Army is also engaged in this and so is the Navy to a much lesser and different extent, but in the same general field.

As I indicated when I first put the material in the RECORD as to General Westmoreland's speech—I later put another one in, because I think that in these speeches he is developing the Army of the 1980's—I think this constitutes probably the greatest step forward in warfare since the invention of gunpowder.

Mr. PROXMIRE. It may be the greatest step forward in warfare since the invention of gunpowder. On the otherhand it may be a mistake, a waste of money, as Senator SYMINGTON said yesterday. The Senator from Missouri said it was characterized—and he seemed to agree with that characterization as a Rube Goldberg operation, an exercise in futility, $2 billion down the drain.

In any event, the Senator from Arizona is a respected expert in this field, and so is the Senator from Missouri. This is something we ought to discuss and understand and have hearings on, so that we can make a decision rationally, without going ahead with it until we have full, clear, open justification for it.

Mr. GOLDWATER. I think the Senator will find in the paper I will give him this afternoon that there has been authority for it. It is not $2 billion. I spoke to the Senator from Missouri about it yesterday, and he told me that he has not seen it since it was called the McNamara line, and I would have to say that at that time most of the things that the Senator has charged against this system were true.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. PROXMIRE. I ask unanimous consent that I may proceed for 3 additional minutes.

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

Mr. GOLDWATER. But since that time, the increase in the sophistication of this equipment has been nothing short of fabulous. Again, I am not allowed to say some of the things I have seen it do, some of the ways it is helping our men in Laos, particularly—our airmen and our ground forces.

I hope that before we complete the discussion on the authorization bill, we will be allowed to talk about this question. I assure the Senator that it is extremely thrilling, and it is not a waste of money. There is not an overrun. In fact, the cost per item has tremendously decreased from what it was when the first pieces were manufactured for the McNamara line.

I might say that if the Senator is ever in southern Arizona, at Fort Huachuca, he can see these sensors in operation.

Mr. PROXMIRE. On June 4 this year, before the Subcommittee on Arms Control of the Committee on Foreign Relations, there was testimony by Dr. John Foster on this subject. Senator AIKEN asked him whether there had been improvement in our ability to combat guerrilla warfare, and Dr. Foster said this:

> Well, Senator, as a matter of fact, I believe we have made considerable progress. I believe that the equipment that we have developed, for example, for the situation in Vietnam, has enormously increased the effectiveness of our fighting forces there. They have increased the effectiveness of the South Vietnamese forces. What is more, I believe that a number of these have very general application. For example, we have, as you know, developed a number of techniques for sensing on the battlefield, trying to uncover the camouflage, trying to see at night, trying to detect people as they move at great distances, trying to coordinate all of this intelligence, whether it is by some local sensors, by radars, by aerial systems, coordinate so we have a real time picture of what is going on.

Here was Dr. Foster discussing the very matter that the Senator from Arizona and I were discussing, in public session, before the Foreign Relations Committee. Yet, somehow, the Defense Department seems to be holding this under wraps and is unwilling to give us the kind of information we need in order to make the kind of informal judgment that duty as Senators requires us to make on this huge cost and revolutionary change in warfare.

Mr. GOLDWATER. I think that by this afternoon I will be able to present the Senator with a paper.

I hope that we have these hearings and that the Senator will take advantage of them and come and listen, because we have made tremendous advances. We have now, for example, an infrared device that can tell the pilot of an airplane what the fuel level is in gasoline or petroleum tanks that he is attacking. In other words, you can see through things.

It is to me, as I have said often, the biggest step forward we have made, and I think it is going to herald a greatly reduced standing army and that we can perform as well as if not better than the large forces we have had in the field up to now.

Mr. PROXMIRE. In conclusion, I might say to the Senator, with respect to the $2 billion of expenditures, that we delineated that very carefully in the RECORD yesterday and specified precisely what the spending was, and the total amount involved is on page 23827 of the RECORD, both in procurement and R.D.T. and E. It is $1.7 billion. This was the information we had up to a certain date. As of now, it could be as much as $2 billion.

Mr. GOLDWATER. $1.7 billion is the figure I would use. It will be close to that. Less was spent on it last year than had been planned. It is a program that is well in hand. There are no cost overrun problems. Research and development is practically ended on it, and we are in business, and it is the kind of program that I think even the Senator from Wisconsin will approve of when he knows all about it.

Mr. PROXMIRE. I am saying that they are spending it in other areas. Furthermore, electronic weapons systems have a way of getting out of control in terms of cost. Performance has been bad. For this reason, I am anxious to watch this carefully. I am skeptical as to whether or not it is proceeding without a cost overrun. It would be most surprising if there were no large overrun; if it works even at 80 percent efficiency, it would be one of the rare electronic weapons to do so.

Mr. GOLDWATER. This is not a weapons system. This system can kill no one. The only killing it could do is to kill itself, if the operator desires to do so. There is nothing in them that can cause casualties. It is a sensor system. It is not an electronic battlefield, although that name has been given to it by some people. It is a sensor system and that only. There is no weaponry connected with it.

Having spent a good part of my life in electronics, there is nothing particularly new about this except the miniaturized circuitry, miniaturized power sources; and it would be normal in the production of any electronic device such as this to have it reduced in cost.

I agree with the Senator that, when we talk about the advanced avionics of a B–1 or a Z–111, we talk about $1,200 a pound. This is frightening, but in these sensors we are talking about there is nothing to compare with that at all.

Again, I wish I could say more, but I do not know what I could say right now.

Mr. PROXMIRE. I thank the Senator.

I think that the one conclusion we must come to from this discussion with the Senator from Arizona and myself is that we certainly need a great deal more information, more intelligence, more discussion, and more understanding before we go ahead with something that already has cost more than $1.7 billion and may cost billions more.

Mr. President, I yield the floor.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to transact routine morning business, with statements therein limited to 3 minutes.

GOOD ADVICE

Mr. DOLE. Mr. President, reports from the anti-administration Washington Post and New York Times indicate that Richard D. Blumenthal has rejected the top job with Volunteers in Service to America, VISTA. Mr. Blumenthal is reported as saying that President Nixon should find a Republican "who can defend with real loyalty what the President is doing." I understand Mr. Blumenthal is a liberal

Democrat, but I certainly share his view and would hope that those in positions of responsibility in the White House would heed his advice.

I commend Donald Rumsfeld, Director of OEO, for his efforts to reorganize VISTA and for his statement concerning Mr. Blumenthal. In essence, it appears there was never any firm job offer made, but only discussions with reference thereto.

It is obvious that Mr. Blumenthal has no loyalty to the Republican Party or the President and his acceptance of a position of responsibility would not serve his or the administration's interests. Like most discontented liberals, Mr. Blumenthal seems to feel that President Nixon's policies must be in full accord with his before he can serve the administration. He apparently disagrees with the President on Southeast Asia, on school desegregation, domestic priorities, and other matters. He indicates a complete disagreement with the President's policies in Southeast Asia, and the fact that this would in no way be related to his duties as Director of VISTA appears to be of little consequence to him, but it should underscore the folly of attempting to placate those who seek to undermine this administration and the President.

Again, I would hope those in authority in the White House will accept the advice offered by Mr. Blumenthal. There are undoubtedly hundreds of Republicans, independents, or Nixon Democrats who could not only defend, but advocate, what the President is attempting to do for all Americans.

AN EXAMPLE OF INHUMANITY

Mr. BAKER. Mr. President, I address myself once again to the question of the American prisoners of war held by North Vietnam.

Those most cruelly affected by the refusal of this Communist government to reveal the prisoners' names, or to permit their letters to be delivered, are their wives, children, and parents here in the United States. Yet these families have not given up hope that the North Vietnamese will live up to the Geneva Convention on Prisoners of War. They have banded together to do what they can to find out what has happened to their men, and to help speed their release.

If those most poignantly affected by this example of inhumanity have not given up hope, neither can we.

SENATORS ARE GUESTS ON ABC'S ISSUES AND ANSWERS TELEVISION PROGRAM, JUNE 21, 1970

Mr. ALLEN. Mr. President, on June 21, 1970, the ABC Television Network presented a most interesting and informative television program having to do with the war in Southeast Asia.

The guests on that program were the distinguished Senators from West Virginia (Mr. BYRD), from Arizona (Mr. GOLDWATER), from New York (Mr. JAVITS), and from South Dakota (Mr. MCGOVERN).

I ask unanimous consent to have the transcript of the program printed in the RECORD.

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

[Credit any quotes or excerpts from this ABC radio and television program to "ABC's Issues and Answers," June 12, 1970]

ISSUES AND ANSWERS

Guests: Senator Robert C. Byrd (D. West Virginia), Senator Barry M. Goldwater (R. Arizona), Senator Jacob Javits (R. New York), Senator George McGovern (D. South Dakota).

Moderators: Bob Clark, ABC Capitol Hill Correspondent; John Scali, ABC News Diplomatic Correspondent.

Mr. SCALI. Gentlemen, welcome to ISSUES AND ANSWERS.

Tnis will not be a formal debate, but more or less an informal discussion with each of you being encouraged to speak up on various subjects whenever you feel you have something to say.

Bob Clark and I will serve more or less as those who throw up the questions and make sure that all of you have an ample opportunity to make your views known.

Let's start off by talking about topic number one, Cambodia.

In nine days, President Nixon has promised that all American troops will be out of Cambodia as per promise. From all signs they will be pulled out at a time when the government of Cambodia, the Lon Nol government, is under increasing pressure from Communist forces which are threatening to encircle the capital and perhaps even overthrow that government. In view of this, will we have to send more American troops into Cambodia at some later date?

Senator GOLDWATER. No, I don't think we will have to. I think the Cambodian army, together with the South Vietnamese Army, with help from Thailand, can cope with the problem. I think the President has made it abundantly clear that we will not send additional American forces in there.

I think the decision to go in was a wise one. I think it should have been made years ago, because, in effect, we have been harassed more from Cambodia than we have from South Vietnam, and I wouldn't expect that we would have to send any more forces. We might have to give some tactical air support, and I would not oppose that; but it just might be that the South Vietnamese air force could supply this. But that remains to be seen.

Senator JAVITS. Well, I think that the whole concept that we are under in Vietnam is that we are on our way out, not on our way in. And the President agrees with that. Congress seems generally to agree with that. We are not underwriting Cambodia or any other place in South Vietnam, now. We are withdrawing at the earliest time, even taking the President's word that Vietnamization will permit, to wit, reasonable readiness by South Vietnamese forces and the fact that the North Vietnamese will not unduly press us any more than they have. So I think that rules out Cambodia, no matter what happens to these amendments that are pending. And I hope very much that the Congress will, generally speaking, let the President know that that is what they want by adopting the Cooper-Church Amendment.

Mr. SCALI. Senator Byrd, do you feel the same way?

Senator BYRD. I do. The United States has no commitments to Cambodia. The President and the Secretary of State have made this clear. I am sure the President understands the feeling of the Congress and the feeling of the American people, and I am confident that the President joins with members of Congress and the people of the United States in their determination to stay out of any war for Cambodia. And with no commitments having been made to Cambodia, I see no reason why we would have to get involved.

Senator MCGOVERN. I don't think we should have gone in the first place, Mr. Scali. I think it was a great mistake. I hope we don't go back in. But that is not to imply that I think we have won any great victory by what we have done in Cambodia. As I look at the situation, at the time we went in there there were Communist forces scattered along the border of Cambodia but the rest of the country was largely free from military operations. Today, virtually half the country has fallen to Communist control. I think what we did was to go in there and dump over a beehive, and the bees have spread out all over the country, and we now have an area almost the size of South Vietnam in Cambodia that is now part of the war effort. So I think the whole thing was a mistake. I hope we won't repeat it.

Mr. CLARK. Senator Goldwater, you endorse the idea of using South Vietnamese and Thai forces in Cambodia.

Senator GOLDWATER. Yes.

Mr. CLARK. And possibly using American tactical air support. All of these things would be barred by the Cooper-Church amendment, be prohibited by that amendment in its present form, would they not?

Senator GOLDWATER. That is why I am opposed to the Cooper-Church amendment idea. I don't think the Congress should, by legislative means, try to tamper with the Constitutional powers of the President as Commander in Chief.

Now, if we want to do this—and there may be a desire on the part of the American people to do this—I would suggest doing it by Constitutional amendment. I think it is wrong to try and legislate on the floor of the Senate as we are trying, today, to put a fence around what the President, as Commander in Chief, can do. And there has never been any question about his powers. It has never been questioned in the courts, it has never been questioned except occasionally by the Congress. And I think we are making a very, very serious mistake by trying to do what the Cooper-Church amendment hopes to accomplish.

Senator JAVITS. I would like to try to make a comment on that, if I may, Barry.

I do think we have a right to deal with what the President should do, that it is long overdue, and that this war showed it up. We have been there now since 1965 in a combat role on a Congressional resolution passed at the end of 1964 which nobody, not its sponsors, not anything that was said about it, thought would mean anything more than the rebuff of forces which were imperiling—and there is a lot of argument about it; let's forget the argument—our naval forces in the Gulf of Tonkin. Under that we have had 40,000 deaths, 250,000 wounded, oceans of treasure, about $100 billion.

Now, the American people never contemplated giving one man, even if he was President, that kind of power, and that is why the Constitution gives Congress the right to declare war, to make rules for the army and navy and air force and so on. It only uses one word as to the President: He is "Commander in Chief," quote. And I think it is high time that we screened that out and decided whether we have any control over this at all, or whether any President, defining his own powers as he will, because he has the physical command of the armed forces, can put us in war and keep us in war. And if that is right, if what you say is right, then it can be five years or ten years or fifty years, and I don't think that was ever contemplated or that the people want it.

Senator GOLDWATER. Let me say in answer to that that I find myself in agreement. But the Constitution gives the power of Commander in Chief to the President. He can go to war, as we have done—we have been in

137 different military engagements. Only five of them have been declared wars. Now, this may be right or it may be wrong, but the fact that the Congress has the right to declare war is one thing. The fact that the President is the only body that can go to war is another thing. We can't go to war as a Congress. We can declare it. Only the President can engage in war. And as I say, this may be wrong, and I have a strong feeling that there is a question about it amongst the people of our country, but we should decide it by a Constitutional amendment, not by trying to pass legislation on the Floor of the Senate as we are trying to do today.

I think that there is great ambiguity between the statement of the Constitution on the powers of the Congress to raise armies, to pay for the armies, to provide this, that and the other thing, and that Constitutional powers of the President as Commander in Chief. There is nothing in the Constitution that says that he even has to consult with us. This is why I think we are working in a very dangerous way.

Senator McGOVERN. The Constitution, though, makes it perfectly clear that the Congress of the United States controls the appropriation of funds for military purposes, and it can describe what those military purposes should be. The Constitution requires that the Congress at least every two years review military appropriations to see whether the purposes for which that money is being funded meets the will of the Congress. There is nothing in the Constitution that gives the President a free hand to commit American forces abroad indefinitely. By precedent he can act in emergency situations, but the Congress has some responsibility, and I don't think we need any Constitutional amendment to make that clear. Our power comes as——

Senator GOLDWATER. Just one point there. I agree with you. When you are talking about the Constitutional powers of the purse, we do have that power, and if we want to stop the President in any war, all we have to do is deny him appropriations.

Senator McGOVERN. That is what we are trying to do, Senator.

Senator GOLDWATER. It is not that way. This is not the exact language of the Cooper-Church amendment. If we want to do that all we have to do in the forthcoming authorization bill and appropriations bill for armed services is say, "We are sorry, no money." I won't argue with that.

Senator McGOVERN. That is my amendment.

Senator GOLDWATER. There is nothing in the Constitution that prevents the President from going to war when he wants to or there is nothing in the Constitution that says the President shall confer with the Congress. I think he would be very very wise to do that, and I would like to see a Constitutional amendment suggested along these lines.

(Announcements.)

Mr. SCALI. Senator Byrd, as part of the great debate on Cambodia, the Senate is scheduled to vote tomorrow on your latest amendment, which would affirm the President's Constitutional authority to protect American troops wherever they are deployed. Does your amendment give the President the right to send American troops back into the Cambodian sanctuaries to clean them out again without advance approval of the Congress?

Senator BYRD. John, may I comment on something that my good colleague from South Dakota said, first?

In response to my colleague's statement with respect to a victory in Cambodia, I don't think the President has ever intended to go into Cambodia to win a victory, and I don't think we need look at Cambodia to determine the success of the operation there. I think if we do that we would find that it has been a great military, tactical success. I think that what we have to do to determine the success of the operation in Cambodia is to see what happens in South Vietnam, whether or not we have enhanced the withdrawal of American forces from South Vietnam, whether or not the Vietnamization program is going to be enhanced, and so on. And I feel if we look here we will find that the operation in Cambodia will have been very beneficial. Furthermore, I don't think that the President committed us to a new war. I think it was the same war, with the same enemy. I think we merely went into a different part of the war zone which the men had established, itself, by setting up an arsenal into Cambodian sanctuaries.

Senator McGOVERN. Before the Senator leaves that to go on to another point, could I just say, it is my fear that at least half of Cambodia and maybe the entire country may be taken over by the Communists. Now, I think that is a serious matter.

Senator BYRD. It is.

Senator McGOVERN. The President described the move into Cambodia as the greatest victory of the war. That was his phrase, not mine. He described it as a great military victory. I don't think it was. I think it was a military and political disaster that is going to complicate shortening the war in Vietnam. We have already committed tens of thousands of South Vietnamese forces that are in Cambodia. We don't know whether they are coming out, we don't know how many American resources will be diverted trying to help them. We know that several hundred young Americans died in Cambodia, that our casualties are at the highest rate in Southeast Asia that they have been in the last eleven months. I don't regard that as a sign of victory.

Senator BYRD. Well, that is the Senator's judgment, and he has a right to it. But I think it has been indicated that the third and fourth corps areas, which were subject to attacks from the Cambodian sanctuaries, have experienced a diminishing degree of attacks upon those areas since the Cambodian incursion began. Now, I don't think that it was a mistake. I think the President acted within his Constitutional authority to do this. I think he had a duty to protect American lives in South Vietnam. He indicated that this is why he went in. I think he had the responsibility to fulfill this duty. I think he did the right thing, and he indicated that he was going to withdraw our troops from South Vietnam by July 1. I think he is going to do this. We only have 10,000 in now, whereas we had 31,000 at one point. So I think that the President is going to show that he is going to keep his promise, and I think that in the long run he will have saved American lives. That was his duty to do that, and that is what he hopes to accomplish.

Mr. SCALI. Could we get to your amendment. Under your amendment, would American troops be allowed back into Cambodia if the President decides it is necessary in order to protect Vietnamization or anything else?

Senator BYRD. No, not to protect Vietnamization or "anything else," to quote you, John. My amendment, the thrust of this goes to paragraph 11 of the Cooper-Church amendment, and may I say in this respect I favor paragraph 2, 3, and 4 of the Cooper-Church language because I think they are calculated to keep us from getting involved in a new war and from making a new commitment in a war for Cambodia or against Cambodia or to prop up Cambodia. I am against that, and therefore, I am for paragraphs 2, 3 and 4.

Mr. CLARK. That would mean that you would disagree with Senator Goldwater about financing the operations of Thais or South Vietnamese——

Senator GOLDWATER. I did not say finances. I said the Thais might offer support as they have given us support in South Vietnam. I was in Bangkok the night the decision was made back in 1965, I believe it was, to send a battalion of Thai troops, and it was done under the wishes of the Thai government. We had nothing to do with it.

Mr. CLARK. But you would concede, Senator, that most of the military operations of the Thai government as well as the South Vietnamese, are heavily financed by the United States, and this would apparently be banned by Cooper-Church?

Senator GOLDWATER. I won't admit that, because I am not sure. But even if they are, this is not unusual, for the United States to help an ally.

Senator BYRD. I understood my able colleague from Arizona to indicate that we might give air support to the Cambodian government. I am against giving anything to the Cambodian government. Any kind of support. Air support, troop support, any kind of personnel support from the United States to the Cambodian government. We don't have any commitments to that government, and I don't think we ought to get involved.

Mr. CLARK. How about military supplies?

Senator BYRD. The President has indicated that Asians should take on the burden of fighting for Asia, and in accordance with his doctrine, which was promulgated at Guam, we would supply. We would supply equipment, small arms, et cetera, but no men.

Senator JAVITS. The real thing it seems to me, Bob—and please correct me if I am wrong—is that we are really skirting around the issue. Whatever the President was thinking about when he made his speech, whether he had half an idea that we help this Cambodian government, that is over; that is out. It almost ruined this country. Let alone what happened over there—there is some argument over that between Senator Goldwater and Senator McGovern.

I think the important thing, now, is that we must now pursue a policy of getting out. We have made that decision. We are over that bridge.

Senator BYRD. I agree with that.

Senator JAVITS. What your amendment now seeks to do, as I understand it—and I am speaking now in a sense as a Constitutional lawyer—is that we are not taking away any of the President's power as Commander in Chief to protect American troops when they are committed to hostilities, lawfully in accordance with the procedures and laws of the nation. Now, it seems to me that circumscribes his activity tremendously. And if we don't like what he is doing, as everybody agrees, we can cut off the money.

I think we can do more than that, and I would like to quote from the Constitution. The Constitution says, in Article I, section 8, that the Congress has not only the power to declare war, but "to make rules for the government and regulation of the land and naval forces," and we have done it. We did it in the reformation of the whole Defense Department, when we eliminated the separate chiefs of services and made them subordinate to the Secretary of Defense. We did it in the Selective Service Act in 1940, when we said our troops who were drafted couldn't go to certain places in the world. We can do it if we want to. The only answer, Barry, to what you said a while ago is, sure, it is true the President can make war, but we can stop it. We can stop him by money, and we can stop him by direct order. And I don't think you need any amendment to the Constitution for that.

Senator GOLDWATER. If he would yield on that point, I think you do, Jack. I don't believe that the words you just read of the Constitution gives us the right in the Congress to make strategic and tactical determinations. I think we can get at it by controlling the purse, but only that way. I don't think that we can go around the President's power to go to war and say that you can do this or you can do that and you can't

do this. I think, frankly, he could tell us to go to hell.

(Announcements.)

Mr. CLARK. Senator Byrd, because this does appear to be a critical issue in the Cooper amendment, and the question of how it will finally emerge in the Senate, would your amendment which will be voted on tomorrow permit the President to send American forces back into Cambodia to clear out the sanctuaries, again, if there was some emergency, and could he do this without going back to Congress for further approval?

Senator BYRD. Only if he deemed it to be a very critical emergency and absolutely necessary to protect the lives of American servicemen in South Vietnam. That is the intent of the Byrd amendment. To have a clear understanding, if I might hope to get a clear understanding of this amendment, let me say this: Paragraph 1 of the Cooper-Church language says that, in essence, no funds will be spent to retain United States forces in Cambodia after July 1, and the key word is "retaining," "for retaining the United States forces in Cambodia after July 1." And as the two authors of that amendment have explained time and time again on the Senate floor, they mean for that word to be the key word. That it is meant to cut off funds if any forces remain in Cambodia after July 1. But they themselves agree that in an emergency situation, where the lives of U.S. servicemen are in danger, where there might be a concentration of the enemy in the sanctuaries, and there is an impending attack about to occur upon U.S. servicemen in South Vietnam, that the President might not have time to come back to the Congress, and in this event, his constitutional authority and power as Commander in Chief would authorize him to make a quick strike of short duration and withdraw, without coming back to the Congress.

Mr. SCALI. This doesn't restrict him one whit more than previous restrictions, does it?

Senator JAVITS. I think you are right about that, and I think Bob's explanation is right, that it doesn't restrict him, that he can go back. It does restrict, however, the size of his operation if he does go back, and resolve the doubt that he will not go back for two purposes: (1) to aid the new Cambodian government in some kind of an operation to assist them, and (2) to assist others who might be assisting them.

If Cooper-Church passes, with Senator Byrd's amendment, that, in my judgment, is what is accomplished. And I believe that is a real and substantial accomplishment, because right now—and I think Senator Goldwater is very right about this—all these questions are very much up in the air. That is why I have felt it necessary to introduce a bill, myself, to try to define the powers of the Congress at long last, historically. But right now they are up for grabs. We can put the pressure on him for money which comes after the fact. We can write a bill which he may not choose to sign unless we pass it over his veto to specify his powers according to law by the regulation of the armed forces, which I am trying to do.

Senator Byrd can try to define what he means to say that he is Commander in Chief, but we are in that armorphous state now where the Commander in Chief, the Executive, has tremendous authority, except that the Congress can hold him to account as a matter of good faith, and so can the people.

Mr. CLARK. Senator McGovern, are you willing to grant the President the emergency authority under the Byrd amendment to go back in and clean out the sanctuaries again without Congressional approval?

Senator MCGOVERN. I am not, Mr. Clark. I will probably vote against Senator Byrd's amendment. I don't think the amendment is necessary, but what I object to in the language of that amendment is that it seems to imply that our principal concern, now, is to reinforce the power of the President as Commander in Chief, and I think the great need is to reassert the power of the Congress. That is what has been eroded. That is what has been neglected. It is probably not the President's fault. It is probably the fault of the Congress. That for the last 20 years we have permitted military decisions to be made almost exclusively by the President of the United States. Not just this President, but by Republican and Democrats alike. And what I am interested in is not language that underscore again the power of the President of the United States in committing American forces. I want language that reasserts the responsibility and the power of the Congress in areas of war and peace. I don't know how else to end this war. I regard the war as a disasterous mistake. I think most Americans feel that way. I want to see their elected representatives in the House and the Senate asserting their responsibility and their powers to try to bring this war to an end as quickly as possible. If I were President of the United States I would welcome that, to share these decisions of war and peace with the Congress. This is going to be a very difficult series of decisions. Let's share it between the Executive and the Congress.

Senator JAVITS. This is one of the most important things of all, because if we get out of Vietnam—and we are getting out—things may go very wrong there, and you may have a deep resentment in this country and a great body of opinion which is very angry. And unless the President and the Congress have shared the responsibility, we may be in for infinitely more trouble than we have had up to date.

(Announcements.)

Mr. SCALI. Gentlemen, last night, as most of you know, Vice President Agnew assailed half a dozen Democrats who have been critical of the Vietnam War, including Senator McGovern, who he said is "among those who apparently have developed a psychological addiction to American defeat because they have called for retreat so often."

Senator McGovern, I am going to ask you about that in just a second, but first I would like to ask Senator Javits if he shares that view?

Senator JAVITS. No, I do not. I think that Senator McGovern and his colleagues, though I am not a co-sponsor of the McGovern amendment, and though I shall probably vote for it in due course, as I deeply believe that they are in the process of revising it the way it ought to be. Change is, I think, urgently needed. But I do not agree. I think the assertion of the power of the Congress and the raising of that question by Senators McGovern, Goodell, Hatfield, Hughes and Cranston, was very desirable, and I think this only shows that the Congress can and must find a way to get out once we get in. We cannot be irrevocably committed to this war. And it raises one other point which I think is critically important, and that is this illusion about winning and losing, or this illusion about honor or about defeat. We went into Vietnam to help a small nation get self-determination. It has self-determination. That is what everybody argues about. They say the government is good, bad, indifferent, but it actually had an election and this is their elected government. They have an elected assembly functioning, et cetera. Now, do you have to stay in forever and be their guardian? Is there any national honor or national victory or defeat in that, or is it only a disguised way to destroy yourself in your own country, which is what we are doing, economically, incidentally, beyond anything else, and to paralyze ourselves from being able to conduct a policy of vigor, which will bring peace—we are in terrible trouble in the Middle East right now—in the world.

Mr. SCALI. Senator McGovern, since you have been singled out by the Vice President, what do you have to say in reply?

Senator MCGOVERN. The first thing I have to say is that I regard the Vice President's conduct ever since he has been in office as disgraceful. I think he has done more to divide and weaken the country, perhaps, than our enemies in Hanoi have done. He is undercutting the whole possibility for a unified American people. He is a divisive, damaging influence on the people of this country.

Now what is he talking about on being addicted to defeat? Does that mean he thinks we are going to score some kind of victory in Vietnam? The President does not hold to that view. He is not talking about military victory. He is talking about getting out. He is talking about withdrawing forces. That is not the way to victory. We wouldn't be withdrawing if we didn't know we had made a mistake in going, and I suspect 90 percent of the Congress wishes we weren't involved in Vietnam. What I am addicted to is peace and to ending this war.

The President talks about us being a pitiful giant. Well, we are pitiful in the sense that we are a gigantic country with one foot in a trap, and that trap is the jungle of Southeast Asia. We are not even in the main arena there. We are tied down by a fourth-rate power, and it is weakening this country, and that is the situation I want to end. I am not advocating defeat.

Mr. CLARK. Is there someone on this side who would like to say a kind word about the Vice President?

Senator GOLDWATER. Yes, I will defend the Vice President in this case.

I really think that not intentionally but inadvertently men like Senator Fulbright and others have been doing damage to our country. Now, let's look beyond South Vietnam. I think we are all agreed the country doesn't like the war, we don't like the war, we would like to get out of it.

I disagree that the Congress can create peace. We can't. We have no power to do it. The President can do that. But what about our commitments in Europe? Seventeen countries. We are committed to go to war to defend if they are in trouble. I have yet to hear Senator Fulbright say anything about this, although I have tried time after time on the Floor of the Senate to get him to set some time when the American people might hear before the Foreign Relations Committee how far that committee feels we are committed. I think we are committed to 17 wars if they care to call us to those. We have 40 or 41 other treaties around this world, and these are the things that bother me. Not South Vietnam. Getting out of there—I think we are going to be out of there within a year or maybe 14 or 16 months, following the President's program.

To answer Senator Javits' suggestion about what is honor, well what happens to the opinion of some other countries who might be enemy to us, or enemy to one of our friends when they say, "Oh, well, the United States is not going to commit its forces to the protection of that country. It is obvious by the statements made by the Chairman of the Foreign Policy Committee of the Senate and by others." And I think Vice President Agnew is doing a service—not necessarily to individuals, but I think he is doing a service in calling attenton to the fact that we in the Senate can say too much. We can say things that hurt our country.

Senator MCGOVERN. Do you think Vice Presidents can say too much, Senator?

Senator GOLDWATER. Yes, I think Vice Presidents can say too much. I can think of some that have.

Senator JAVITS. I think that this kind of a broad scale calling of the roll as it were as to who is more patriotic than somebody else——

Senator GOLDWATER. I didn't use the word "patriotic."

Senator JAVITS. No, you didn't but that is

the implication in Vice President Agnew's speech.

Senator GOLDWATER. I don't see that at all.

Senator JAVITS. Well, I do, and I think that is the way to suffocate rather than develop discussion, which is essential to the country and the hearts of people like Senator McGovern. Just as essential as Vice President Agnew. And frankly, Barry—and I would like to answer your other point—about this matter of national honor: It is inconceivable to me. What is your quotient as to how many lives have to be lost and how many people have to be dead and how much treasure has to be spent and how deeply this country has to be divided to prove to our allies in Europe, who haven't lifted a finger in this fight, that we will defend them? It seems to me we have proved that every year for the last five or six years since we have been in there, in a way which no other nation on earth would dream of doing. I don't think we need to prove it any more. If we haven't proved it to them now, they will never believe us.

Senator GOLDWATER. Well, I happen to be one who had arguments five years ago about getting out of this war and never getting into it, and had people listened to me then, I don't think we would be in war in South Vietnam, and we would have maintained the position that we have to maintain as world leader. Whether you or I like it or not, we are either going to be the world leader or we are not, and this requires strength. You asked the question about how many lives. I say not a one; but we have committed ourselves, and that is something we have to remember. We are in war. We don't like it. Our job is to get out of that war. I think the President is doing it. I don't think we need ever have gone into that war. It was not started by your party and mine, it was started by the opposite party.

Senator JAVITS. One of the most improvident commitments we have ever made in the history of our country.

Senator GOLDWATER. I couldn't agree with you more.

Senator MCGOVERN. I think one of the most encouraging things I have heard is people trying to figure out who to blame this war on, because it means all of us are ashamed of it, we all know it has been a disaster. It is robbing the economy of this country right now. We talk about the young American life that is lost and that, of course, is the principal cost. But I don't know how we can go on month after month with this wartime inflation eating up the purchasing power of the American people, preventing people from buying homes, slowing down our whole economy. We have raised interest rates in an effort to deal with this wartime inflation to the point where it is almost prohibitive to start a business or buy a home. Every housewife when she buys those groceries pays another 25 percent, because of this wartime inflation. And all of this says nothing about the divisive impact of the war on our whole body politic.

I think the question we have to ask now is not so much whether we can save South Vietnam: Can we save our own country?

Senator GOLDWATER. I think we are committed to getting out of this war. I don't think this is any longer a question. But I would like to make one comment about your statement on this wartime inflation. It is true that wars can and generally do precede inflation, but our inflation, today, has been caused by an unusually high rate of federal spending. Our military spending is going to be down this year nine percent. It is the lowest it has ever been in comparison to the gross national product. Yet other spending is up nearly 1,000 percent as we go across the board.

Senator JAVITS. The answer, Barry, is that the other spending was absolutely indispensable to the health of this country.

Senator GOLDWATER. Oh, I wouldn't say that, Jack.

Senator JAVITS. Well, I think so.

Senator GOLDWATER. Do you think that our high cost of agriculture programs is needed to keep this country going?

Senator JAVITS. No. I don't want to say 100 percent, but when you deal with the problems of health, education, welfare, hunger, I think added expenditures from this country were essential, and they should not have been jeopardized by this $30-billion that we have been spending for the Vietnam war. We made them anyhow, and we weren't ready to face the reality of taxation which goes with war, or of controls which go with war. That was all swept under the rug by the previous Administration. It is true. But it was. And when we didn't face it, we have now reaped the whirlwind.

(Announcements.)

Mr. CLARK. Senator McGovern, if the Senate ever finishes debating the Cooper-Church amendment it will eventually get on to the McGovern-Hatfield amendment. Perhaps we should ask you at this point to explain it more fully to us. Just how would it end the war?

Senator MCGOVERN. Well, of course it is a much more far-reaching amendment than the Cooper-Church amendment. It does basically three things. It would end American involvement in Camodia 30 days after passage. Now that is now a moot point. That part of the amendment I assume we don't have to debate.

The second part of it would terminate American military operations, including American military advisors, if any, in Laos, by the end of this year, by December 30.

The most important part of this amendment, though, goes to the central war in Vietnam. As Senator Byrd said a while ago, that is the central conflict. And what this amendment does is to say that, beginning the first of next year, January 1st, no funds can be spent in South Vietnam for any purpose other than arranging the safe and systematic withdrawal of U.S. forces, and that that process should be completed by June 30 of 1971, just about a year from this date.

Now, it provides that funds in addition to the withdrawal of our forces can be used to pay any costs involved in arranging the exchange of prisoners, or to provide asylum in friendly countries for those Vietnamese who might feel endangered by our withdrawal.

Mr. CLARK. Senator Byrd, you are probably the only member of the Democratic leadership in the Senate who will not vote for the McGovern-Hatfield amendment. Would you like to offer your comments on it?

Senator BYRD. Yes.

First of all, I accord to Senator McGovern every degree of sincerity and good faith. I think he wants—he thinks he is doing the right thing. He wants peace. I want peace just as much as he does. He has no monopoly on this desire for peace. I respect him for his efforts, although I disagree with the thrust of his efforts, sometimes.

Now, I do not support this amendment, because I think, first of all, it would be unworkable. I think it would be a real booby trap for American forces in South Vietnam. Why do I say that?

First of all, it sets a date for the withdrawal of all American forces from South Vietnam. I want to see those forces out of South Vietnam. I hope they can be out by July 1 of 1971. But I think we would make a very grave mistake if we stated the timetable—I think it is all right for us to have one, but for us to publicly state a timetable, I think that we play into the hands of the enemy. I think we undermine the efforts of our people at the peace table to negotiate. And secondly, I think all the enemy would have to do is just sit and wait until that date has passed and then move in.

Now, why do I say it is unworkable? In the first place, your amendment would say that after December 31st of this year, no money could be spent, no money could be spent for any purpose, quote: "any purpose," involving military conflict.

Well, this would mean, in my judgment, that our troops, who would have six months beyond December 31 of this year under your amendment, to stay in South Vietnam, would be sitting there defenseless, because we couldn't spent one dollar for any purpose connected with military conflict, I believe your amendment says.

And secondly, your amendment provides that after December 31st of this year we could not spend any funds for aerial interdiction of movement of enemy men and supplies in Laos, because it says "no funds for military operations by United States forces in or over Laos." Therefore, we couldn't interdict the movement of enemy manpower and supplies.

And the worst feature is, George, in my judgment, it says that 30 days after the passage of your amendment we would be unable to spend any money whatsoever for military operations by United States forces in or over Cambodia, which means that 30 days after the passage of your amendment we could not spend one dollar for the aerial interdiction of the movement of enemy manpower and supplies in Cambodia. This to me would render our troops defenseless, it would enable the North Vietnamese and Viet Cong to move back into the Cambodian sanctuaries. We would virtually be saying, "All right boys, come on back in within 30 days and we won't lay a hand on you."

I don't think the Senate is going to pass this. I don't think it is practicable to think that the Senate or the House will enact this into law. And I think when we speak of it, with all due respect to my colleague, when we refer to this amendment as an amendment to end the war, this amendment is not going to end the war, and nobody should know this better than the senators themselves. Because in the first place, it is not going to be enacted into law, and in the second place, it would tie down our troops rather than making it possible for them to be withdrawn.

Senator MCGOVERN. Part of what the Senator has said is an accurate description of the amendment, but it makes perfectly clear that our commanders are authorized under this amendment to take what steps are necessary to arrange the safe and systematic withdrawal of our forces. This is spelled out very clearly. I have discussed the language with some of our most respected military men, and they say that there is no problem in arranging for the withdrawal of American forces, with a minimum danger to those forces within the context of that amendment. Now, you can't carry on offensive operations, but you can carry on what defensive methods are needed to provide a cover for our forces during the withdrawal. And I think the other side would welcome that kind of a staged withdrawal.

What would be the interest on their part in intervening with it? Because the amendment states that if as we approach the end of this withdrawal period the President finds that in order to stay on that schedule our troops would be jeopardized, he can come back to the Congress and ask for verification of his findings, and then an additional extension can be given.

Senator BYRD. I think, George, you know how difficult it would be for the President to come back to the Congress and get that additional time that he might need.

Senator MCGOVERN. I don't think it would be difficult. If we get back to the Constitution, when Presidents used to confer with the Congress once in a while—

Senator JAVITS. As a practical matter, this amendment is not going to be passed in this form, anyhow.

Senator BYRD. Exactly. Absolutely.

Senator JAVITS. We know that. But it is very important that Congress assert its right

to tell the President: "Look, Mr. President, we have had it in Vietnam. You have given us a very uncertain time table. Our time table is the first of July 1971. Now, what can you do about it?"

Now, I think the Administration has to be forthcoming on that. Senator McGovern doesn't have to concede a thing. I am not the author of it. I am not a sponsor of it.

If the President came to the Congress and gave them reasonable assurance that he is getting out of Vietnam on or about July 1, 1971, you wouldn't need the amendment, and they wouldn't push the amendment. Everybody knows that. But somehow or other we have to solve this Constitutional dilemma.

Now I say—I have got a law in which tries to deal with it in terms of the future. Leave out the Vietnam war. Because Nixon found the Vietnam war. He says he is getting out of it.

Senator BYRD. He inherited it.

Senator JAVITS. The only question now is one of time-table. You can deal with my law for permanent policy, or any variant of it, but you can only settle this way: The Congress somehow must find a way to tell the President, "Look, Mr. President, after all these years, this is our idea." Unless the Administration is forthcoming, if this country gets sick enough of this war they may tie this around his neck. It might not be very good, but he leaves them no alternative.

Senator BYRD. I would hope the President would have a time table, but I think it would be a mistake to announce it. He said last June I believe it was he was going to withdraw 25,000 men; in September, 35,000 men; in December 50,000 men, and he has kept his promises. I hope he has a time table, but I think it would be a mistake to announce it.

(Announcements.)

Mr. SCALI. Senator McGOVERN, what do you say in answer to Senator BYRD's view that it would be a mistake to announce a time table for withdrawal?

Senator McGOVERN. Well, Mr. Scali, I think you have to evaluate that against the alternative, which is the President's so-called Vietnamization policy. Vietnamization, as I understand it, if it works, will have another 150,000 troops out of Vietnam a year from now. But that still leaves 284,000 American troops stuck in Vietnam a year from this date, with no indication of when they are coming out. Now, I think if Vietnamization is to work—and what I understand that to mean is to turn the war over to the Vietnamese—we have to give them a definite notice that we are coming out at such and such a time. I don't think that government in Saigon is going to begin taking the steps either to win the support of its own people or to assume the major burden for directing their own country until they know they can't depend on American help indefinitely.

The President is saying in effect now, as I understand it: We are going to stay for whatever time is necessary to permit the government in Saigon to assume the burden of this war.

Well, I think as long as we give them that assurance they are going to let us carry the burden indefinitely.

Senator BYRD. Well, George, let me concede that I think it would be a good idea for us to do something more than we have already done, to indicate to the South Vietnamese that we are definitely going to get out of there at some point in time, without announcing the exact date.

I should think that in view of the fact that the President indicated on April 20 that he expected to withdraw 150,000 men by next Spring, that now in the light of the tactical success of the Cambodian operation and the cleaning out of those sanctuaries that he might be able to accelerate this movement and have 150,000 out before next spring. If he indicated this, it seems to me this would stimulate the South Vietnamese to put forth the greater effort to take over the burden.

Senator GOLDWATER. May I point out something? When he removes another 150,000 combat troops—and this is what he is aiming at; we are not talking about support troops—in effect all we will have left in South Vietnam with rifles will be those people needed to guard what installations we will have left, air bases, communications and so forth. So I think the time table has been set. South Vietnam has been told that they are not going to have any more ground support from our ground forces. Now, we haven't said that about air, and the great bulk of the 250 to 280 thousand who will be left will be Air Force air, Army air, Navy air, and communications. So in effect, unless we say: No more air, then we can't say that we have a time table to bring the air forces home, and we haven't said that.

Senator JAVITS. I would like to make a practical suggestion. You don't like the date. Senator McGovern feels you have to have a date. The real nubbin of the thing is if the President sticks to the idea that we are getting out, conditioned on Vietnamization by the Vietnamese forces, that is their ability to take over, and conditioned by the amount of pressure or lack of it which the North Vietnamese put on us, he is giving both Hanoi and Saigon a veto over any time table. If the President will strip his policy of those conditions, the United States is getting out on a time table—I have communicated that time table to the most trusted people in the Congress—or even if he hasn't, just that there are no conditions, that we are getting out according to what we need, not according to what they have, then you may have a solution. Otherwise, you constantly run up against the proposition that he won't do it because his own conditions are going to keep him from doing it, himself.

Mr. SCALI. What do you think of that, Senator Goldwater?

Senator GOLDWATER. I think he has already done it, frankly. I think he has put the victory monkey, if there is such a thing, on the backs of the South Vietnamese. He has told them, We are pulling out our ground forces—we have already pulled the ground Marines out. 150,000 more infantry men out of that war; we will have only people left to perform guard duty. Now, whether or not he has some plan for the air forces, I don't know. He has never talked to me about it. I don't think he has talked to anybody else about it. But I think as long as the North Vietnamese are allowed to bring supplies in through Laos and Cambodia to harass the South Vietnamese, I think we are probably going to have to provide tactical and strategic air support. They just don't have the equipment nor the training to do it.

Mr. SCALI. For how long, Senator?

Senator GOLDWATER. Well, that is up to him. I don't know. I wouldn't want to hazard a guess.

Senator JAVITS. Barry, you will never know what they are able to do or what they will do, politically or militarily, unless you tell them, We are getting out, ready or not.

Senator GOLDWATER. We have a pretty good idea of what their air forces can and can't do. I have been in the midde of that, been over there to see it. I have watched them train. There are some things, Jack, they cannot do. They cannot handle our heavy tactical aircraft.

Mr. CLARK. Senator Byrd, we are about out of time. Are you convinced everybody here is certain just what the Senate will be saying if it approves your amendment as expected tomorrow?

Senator BYRD. My amendment simply states clearly that the President has the Constitutional power and may exercise it to protect the lives of American servicemen in South Vietnam. And I want this written into the law. We have over 400,000 men in South Vietnam there now. They didn't ask to go there. Our government sent them there, it has a duty to protect them. And I think that is what my amendment does. It writes it into the law so the enemy as well as everybody else gets the message that the President is not going to be prohibited or precluded from using his Constitutional power to protect our men.

Mr. CLARK. I believe I count the vote here as three to one for your amendment tomorrow, Senator Byrd.

Thank you very much, gentlemen, all of you, for being with us on Issues and Answers.

ORDER OF BUSINESS

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

The PRESIDING OFFICER (Mr. HOLLINGS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AUTHORITY FOR COMMITTEES TO FILE REPORTS UNTIL 6 P.M. TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees of the Senate have until 6 p.m. this evening to file their reports, and that any report filed today during or after the completion of business may be filed together with any minority, supplemental, or individual views, if desired, and that they be printed as part of the reports.

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

EXECUTIVE SESSION

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

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

The PRESIDING OFFICER (Mr. HOLLINGS). The nomination on the Executive Calendar will be stated.

INTERSTATE COMMERCE COMMISSION

The legislative clerk read the nomination of W. Donald Brewer, of Colorado, to be an Interstate Commerce Commissioner.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

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

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. PELL) laid before the Senate the following letters, which were referred as indicated:

REPORT ON FOREIGN CURRENCY AGREEMENTS

A letter from the General Sales Manager, Export Marketing Service, U.S. Department of Agriculture, transmitting, pursuant to law, a report of agreements signed for foreign currencies under Public Law 480 for May and June 1970 (with accompanying report); to the Committee on Agriculture and Forestry.

ANNUAL REPORT OF THE SMALL BUSINESS ADMINISTRATION

A letter from the Administrator, Small Business Administration, transmitting, pursuant to law, the 1969 annual report of the Small Business Administration (with an accompanying report); to the Committee on Banking and Currency.

PROPOSED AMENDMENT TO THE CONCESSION CONTRACT UNDER WHICH THE S. G. LOEFFLER CO. WILL BE AUTHORIZED TO CONTINUE TO OPERATE GOLF COURSES

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed amendment to the concession contract under which the S. G. Loeffler Co. will be authorized to continue to operate golf courses and provide related facilities and services for the public within the Washington, D.C., metropolitan area for a term of 1 year, from January 1, 1970, through December 31, 1970, when executed by the Director of the National Park Service (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORTS ON NATIONAL VISITOR CENTER AND OTHER FACILITIES

A letter from the Secretary of the Interior, transmitting, pursuant to law, the annual report to the Congress on the National Visitor Center and all other visitor facilities (with accompanying reports); to the Committee on Public Works.

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 the following bills, in which it requested the concurrence of the Senate:

H.R. 17146. An act supplemental to the act of February 9, 1821, incorporating the Columbian College, now known as the George Washington University, in the District of Columbia and the acts amendatory or supplemental thereof; and

H.R. 18086. An act to authorize the Commissioner of the District of Columbia to sell or exchange certain real property owned by the District in Prince William County, Va.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 3215) to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes, and it was signed by the Acting President pro tempore (Mr. PELL).

HOUSE BILLS REFERRED

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

H.R. 17146. An act supplemental to the act of February 9, 1821, incorporating the Columbian College, now known as the George Washington University, in the District of Columbia and the acts amendatory or supplemental thereof; and

H.R. 18086. An act to authorize the Commissioner of the District of Columbia to sell or exchange certain real property owned by the District in Prince William County, Va.; to the Committee on the District of Columbia.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. PELL):

A joint resolution adopted by the Legislature of the State of California, which was referred to the Committee on Public Works, as follows:

"ASSEMBLY JOINT RESOLUTION 47

"Relative to the allocation of federal research and development funds for environmental protection

"Whereas, There has been a rapidly increasing use and application of technology in the development of the United States; and

"Whereas, Many applications of technology have been made without sufficient consideration of the environmental impact of these developments and environmental damage has resulted; and

"Whereas, A renewed effort should be made to ensure that technological advances are utilized to protect and enhance the quality of the environment; and

"Whereas, In 1969 United States industries spent nineteen billion two hundred million dollars ($19,200,000,000) for research and development, one-half of which came from the federal government; and

"Whereas, Of the total federal government industrial research and development expenditures, 83 percent was used for aerospace, communications, and electrical machinery industries; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President of the United States to take the necessary steps to ensure that the impact of technology on the environment is considered before decisions are made to expend federal research and development moneys; and be it further

"Resolved, That the Legislature of the State of California respectfully memorializes the President of the United States to allocate a greater proportion of federal research and development funds to environmental problems, including, but not limited to, all of the following:

"(a) Broadening our understanding of the impact of new technologies on ecological systems and environmental quality.

"(b) Development of environmental monitoring systems to continuously assess environmental conditions and trends.

"(c) Development of cost-benefit systems which give adequate consideration to all environmental quality factors.

"(d) Development of methods and procedures to assist in the preparation of environmental impact reports on major public and private projects; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the President's Science Advisor, to the Chairman of the Federal Council on Environmental Quality, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A joint resolution adopted by the Legislature of the State of California, which was referred to the Committee on the Judiciary, as follows:

"Relative to National Raisin Week

"Whereas, National Raisin Week is the nation's oldest food festival, celebrating its 61st observation from April 26th through May 2nd in 1970; and

"Whereas, The California raisin industry, the largest in the world, provides one-half of the world's supply of raisins; and

"Whereas, The great San Joaquin Valley of California, and more particularly Fresno County, is the very heart of the raisin industry; and

"Whereas, Since raisins are a wonderfully delicious and nutritious food, packed with energy and the health giving qualities of captured sunshine, it is most fitting that during this special observance week their praise be sung throughout the land, that even more people may come to know and enjoy the raisin and take pride in this unique industry; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to proclaim the week of April 26th through May 2nd, 1970, as "National Raisin Week"; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A resolution adopted by the Veterans of World War I of the U.S.A., Department of Massachusetts, at their 16th annual convention, petitioning the Congress to pass legislation for control and suppression of subversion, sabotage, and rioting and for rigid control of and the severest punishment of illicit drug purveyors and for the penal restraint of drug addicts; to the Committee on the Judiciary.

MILITARY PROCUREMENT AUTHORIZATIONS, 1971—REPORT OF A COMMITTEE—INDIVIDUAL VIEWS (S. REPT. NO. 91-1016)

Mr. STENNIS, from the Committee on Armed Services, reported with amendments, the bill (H.R. 17123) to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes, and submitted a report (No. 91-1016) thereon; together with the individual views of Mr. SCHWEIKER, which by previous unanimous consent, were ordered to be printed.

BILLS INTRODUCED

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

By Mr. GOODELL (for himself, Mr. ERVIN, Mr. MATHIAS, Mr. BAYH, Mr. HART, Mr. KENNEDY, Mr. COOK, Mr. EAGLETON, Mr. MUSKIE, and Mr. BROOKE):

S. 4080. A bill to reorganize the courts of the District of Columbia, improve the District of Columbia Bail Agency, authorize a District of Columbia Public Defender Agency, allow the District of Columbia to participate in the Interstate Compact on Juveniles, and for other purposes; to the Committee on the Judiciary.

S. 4081. A bill to revise the laws of the District of Columbia relating to juvenile proceedings, to revise the laws of the District of Columbia relating to criminal law and procedure, and to extend the life of the Commission on Revision of Criminal laws, and for other purposes; to the Committee on the District of Columbia.

By Mr. TYDINGS:

S. 4082. A bill for the relief of Emiliano M. Mesina; to the Committee on the Judiciary.

By Mr. YARBOROUGH (for himself, Mr. RANDOLPH, Mr. WILLIAMS of New Jersey, Mr. PELL, Mr. KENNEDY, Mr. NELSON, Mr. MONDALE, Mr. EAGLETON, Mr. CRANSTON, Mr. HUGHES, Mr. JAVITS, Mr. SCHWEIKER, Mr. SMITH of Illinois, and Mr. PROUTY):

S. 4083. A bill to modify and enlarge the authority of Gallaudet College to maintain and operate the Kendall School as a demonstration elementary school for the deaf to serve primarily the National Capital region, and for other purposes; to the Committee on Labor and Public Welfare.

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

By Mr. JACKSON:

S. 4084. A bill for the relief of Comdr. Howard A. Weltner, U.S. Naval Reserve; to the Committee on the Judiciary.

S. 4083—INTRODUCTION OF A BILL TO PROVIDE FOR A MODEL PRESCHOOL AND ELEMENTARY SCHOOL FOR THE DEAF

Mr. YARBOROUGH. Mr. President, I am introducing legislation intended to modify and enlarge the authority of Gallaudet College, the only college for the deaf in the world, to maintain and operate the Kendall School, on the Gallaudet campus, as a demonstration preschool and elementary school for the deaf.

The interest and commitment of the Congress in the Kendall School and Gallaudet College dates back to February 16, 1857, when the Congress approved an act to incorporate the Columbia Institution for the Deaf, Dumb, and Blind—renamed the Kendall School for the Deaf in 1885. In succeeding acts and in its annual appropriation, Congress has continued its support of and interest in the operations of Gallaudet College and the Kendall School.

As an integral part of Gallaudet College, the Kendall School has grown with the college and has gained prominence for its service and special projects. Many faculty members of the Kendall School hold academic rank on the college faculty and a close relationship exists between the Kendall School and the college.

The Board of Directors of Gallaudet College requested a committee of nationally prominent persons to study the complete role and function of Gallaudet College and all its programs. This committee has recommended that consultants be employed to assist the college in revising and redeveloping the Kendall School as a demonstration center for the education of deaf preschool and elementary schoolchildren. The proposed bill would provide the legal framework which is necessary to operate the Kendall School in this fashion.

In its continuing efforts to serve deaf children from the National Capital region, the Kendall School must become a national demonstration preschool and elementary school for the deaf. There are a number of reasons why this is so:

First. The evolution of the Kendall School into a demonstration elementary school represents a natural progression in its development;

Second. The establishment and operation of the Model Secondary School for the Deaf—Public Law 89–694—has created a new perspective on the education of the deaf; and

Third. The rubella epidemic of 1963–65 and the predicted epidemic in 1972–73 are creating a need for a more appropriate learning environment. Professionals agree that unless major efforts are directed to the elementary level many deaf students will not be able to benefit from federally supported programs such as the Model Secondary School for the Deaf and the National Technical Institute for the Deaf—Public Law 89–36—because it is too late to bridge the educational gap. Focus must be on the establishment of a demonstration school for preschool and elementary age deaf children.

The Kendall School is an established school of quality with a competent staff and physical facilities. Therefore, a demonstration elementary program for deaf children can be established with minimum additional expenditures of Federal funds.

The full resources of Gallaudet College and the area could be utilized with comparative ease in developing and testing superior elementary programs. Visiting educators would have ready access to this demonstration center.

The current program at the Kendall School is ready to be operated as a demonstration preschool and elementary school. For the past 10 years, the Kendall School has acquired a great amount of knowledge and expertise through pilot projects, funded from Federal grants, in several critical areas. Some of these projects were piloted for the Model Secondary School for the Deaf. The data show that innovative educational approaches are of significant benefit to the elementary student as well.

The Kendall School has conducted the following pilot projects, with special one-time project grants:

First. Individualized instructional approaches:

First, computer-assisted instruction in mathematics and English, and second, individual study units; these are highly promising mediums through which deaf children can learn and to which they can relate;

Second. Media and materials production to assist teachers with the creation and production of innovative classroom materials;

Third. Integration of deaf students with hearing students on a classroom exchange basis, in areas where the children are relatively equivalent in background and interest;

Fourth. Introduction of optimal acoustic classroom conditions in order to assist deaf children in making consistent utilization of amplification equipment;

Fifth. Combined academic-recreational summer session to prevent academic regression over the summer months;

Sixth. Intensive home training and in-school parent education for families with young deaf children; and

Seventh. Social work and counseling, providing social workers with an orientation to deafness in preparation for consultation with classroom teachers, home visits, parent education, and counseling of students.

As indicated above, over the past decade an extensive body of knowledge has been accumulated for new approaches to improve the education of young deaf children. The Kendall School for the Deaf must obtain the resources to enable it to disseminate this knowledge to other schools. Demonstration of the success of these programs would facilitate the development of other area centers throughout the United States.

A demonstration elementary school for the deaf with similar resources and programs at lower age levels, will augment the needed continuity for the child's optimal educational growth. Such continuity is imperative if programs in the education of the deaf are to meet the educational needs of tomorrow's deaf children.

I ask unanimous consent to have the bill printed at this point in the RECORD.

The PRESIDING OFFICER (Mr. CASE). The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 4083) to modify and enlarge the authority of Gallaudet College to maintain and operate the Kendall School as a demonstration elementary school for the deaf to serve primarily the National Capital region, and for other purposes; introduced by Mr. YARBOROUGH, for himself and other Senators, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 4083

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of providing day and residential facilities for elementary education for persons who are deaf in order to prepare them for high school and other secondary study, and to provide an exemplary educational program to stimulate the development of similar excellent programs throughout the Nation, the directors of Gallaudet College are authorized to maintain and operate Kendall School as a demonstration elementary school for the deaf, to serve primarily residents of the National Capital region.

SEC. 2. As used in this Act—

(a) The term "elementary school" means a school which provides education for deaf children from the age of onset of deafness to age fifteen, inclusive, but not beyond the eighth grade or its equivalent.

(b) The term "construction" includes construction and initial equipment of new buildings, and expansion, remodeling, and altera-

tion of existing buildings and equipment thereof, including architect's services, but excluding off-site improvements.

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. (a) There are authorized to be appropriated for each fiscal year such sums as may be necessary for the establishment and operation, including construction and equipment, of the demonstration elementary school provided for in section 1.

(b) Federal funds appropriated for the benefit of the school shall be used only for the purposes for which paid and in accordance with the applicable provisions of this Act.

SEC. 4. In the design and construction of any facilities, maximum attention shall be given to excellence of architecture and design works of art, and innovative auditory and visual devices and installations appropriate for educational functions of such facilities.

REPEAL OF EXISTING STATUTES

SEC. 5. The following statutes or parts of statutes are hereby repealed:

(a) Section 1 of the Act of March 1, 1901, 31 Stat. 844, as amended,

(b) Section 1 of the Act of March 2, 1889, 25 Stat. 962, as amended,

(c) Act of November 7, 1966, 80 Stat. 1399,

(d) Section 1 of the Act of March 1, 1905, 33 Stat. 901, as amended.

ADDITIONAL COSPONSORS OF BILL

S. 3723

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from New Hampshire (Mr. MCINTYRE), I ask unanimous consent that at the next printing, the names of the Senator from Missouri (Mr. EAGLETON), the Senator from South Dakota (Mr. MUNDT), and the Senator from Colorado (Mr. ALLOTT) be added as cosponsors of S. 3723, a bill to provide for orderly trade in textile articles of leather footwear, and for other purposes.

The PRESIDING OFFICER (Mr. CASE). Without objection, it is so ordered.

S. 3875

Mr. PEARSON. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Nevada (Mr. BIBLE), the Senator from North Dakota (Mr. BURDICK), the Senator from New Hampshire (Mr. COTTON), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Missouri (Mr. EAGLETON), the Senator from Iowa (Mr. HUGHES), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. MANSFIELD), the junior Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Texas (Mr. TOWER) be added as cosponsors of S. 3875, to amend the Interstate Commerce Act in order to provide for the rail transportation of freight for the Department of Defense in general purpose boxcars owned by the United States.

The PRESIDING OFFICER (Mr. HOLLINGS). Without objection, it is so ordered.

S. 4002

Mr. DOLE. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senator from Alabama (Mr. SPARKMAN), the Senator from Illinois (Mr. PERCY), the Senator from Mississippi (Mr. EASTLAND), the Senator from Oregon (Mr. HATFIELD), and the Senator from Wyoming (Mr. HANSEN) be added as cosponsors of S. 4002, to establish a National Information and Resource Center for the Handicapped.

The PRESIDING OFFICER (Mr. HOLLINGS). Without objection, it is so ordered.

SENATE CONCURRENT RESOLUTION 74—SUBMISSION OF A CONCURRENT RESOLUTION TO AFFECT THE TREATMENT OF PRISONERS IN VIETNAM

Mr. MUSKIE. Mr. President, the recent report by Congressmen ANDERSON and HAWKINS on the apparently savage treatment of political prisoners in South Vietnam's Con Son prison is most disturbing.

I recognize that prison conditions in another country are not, by themselves, our usual concern—especially since our own penal system is itself in substantial need of reform.

However, the situation in South Vietnam must concern us. Supposedly, we have been fighting there in an attempt to insure freedom of political choice for the people of South Vietnam, whatever that choice may be.

Yet, the Thieu-Ky regime, which we have been supporting, continues to hound and jail its political opponents, whether Communists or non-Communists. And the hundreds of millions of dollars of direct economic aid, which we have been furnishing to the present government, has apparently been used in part to keep political prisoners in long and brutal confinement.

If the Thieu-Ky regime continues to deal with domestic political opposition in such ugly terms, the prospects for a peaceful resolution of the conflict in Vietnam are very remote. Indeed, no negotiated settlement could provide any real assurance against an eventual bloodbath between warring political factions in South Vietnam, for the simple fact that repression begets violence is as true in Southeast Asia as anywhere else.

Certainly, no amount of economic or military aid to the Thieu-Ky regime, without its own clear and demonstrated commitment to political and economic reform, can make it any more worthy of our confidence or our respect. It may well be that the greater our support—whether in the form of troops, military hardware, or dollars—the less incentive South Vietnamese Government officials have to set their own house in order.

That is why it is imperative that the United States not continue to allow our commitment to be measured in inverse proportion to the performance of the South Vietnamese themselves. We must not allow our initiatives for peace in Paris to be prematurely stunted by the wishes of the present South Vietnamese Government. And we cannot, in good conscience, let the pace of our withdrawals from Indochina be dictated by anyone but ourselves.

Mr. President, yesterday Congressmen WILLIAM ANDERSON and AUGUSTUS HAWKINS submitted House Concurrent Resolution 677, which addresses itself to the cruel and inhumane treatment of prisoners in South Vietnam and calls upon the Governments of the United States, South Vietnam, and North Vietnam to take immediate steps to provide humane and fair treatment of all prisoners. I commend the efforts of these two Congressmen and am pleased to submit this resolution in the Senate today on behalf of myself and Senators MANSFIELD, SYMINGTON, COOK, EAGLETON, GOODELL, HART, HOLLINGS, JACKSON, KENNEDY, MCGOVERN, MCINTYRE, MONDALE, RIBICOFF, WILLIAMS of New Jersey, and YOUNG of Ohio. I hope that other Senators will be interested in cosponsoring the resolution with me.

Mr. President, I ask unanimous consent that the text of this resolution appear in the RECORD at this point.

The PRESIDING OFFICER (Mr. CASE). The concurrent resolution will be received and appropriately referred; and, without objection, the concurrent resolution will be printed in the RECORD.

The concurrent resolution (S. Con. Res. 74) to affect the treatment of prisoners in Vietnam, was referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

S. CON. RES. 74

Whereas members of the House Select Committee on United States Involvement in Southeast Asia have observed and reported cruel and inhumane treatment of civilian political prisoners in a tiger cage area at Con Son National Prison in South Vietnam and widespread malnutrition and disease throughout that prison; and

Whereas similar or more severe conditions of treatment may exist at other sections of Con Son National Prison and at other national prisons administered by the Government of South Vietnam; and

Whereas the United States through the United States Agency for International Development has become involved in the South Vietnamese National Prison System through the services of United States advisory personnel and the spending of several millions of dollars in an effort to improve that system; and

Whereas the United States Agency for International Development having negligently failed to take within its sphere of observation and attention areas such as the tiger cages where cruel and inhumane treatment of prisoners exists; and

Whereas the chairman of the Interior Committee of the lower house of the South Vietnamese Assembly estimates that thousands of Vietnamese civilians are being held in prison without trial; and

Whereas a 1968 administrative decree of the Government of South Vietnam known as An Tri permits a citizen to be held for two years without trial and provides for renewals of periods of pretrail confinement; and

Whereas such system of justice is certain to result in confinement of innocent non-Communist persons and to otherwise be counterproductive of achieving self-determination of government in South Vietnam and peace throughout Vietnam; and

Whereas more than three hundred eighty-five thousand Americans have been killed, maimed, or otherwise wounded, and the United States has devoted a vast quantity of its material resources to help achieve and sustain self-determination of government

in South Vietnam and peace throughout Vietnam; and

Whereas the United States has spent abundantly of its resources and has otherwise taken all requisite steps to assure with certainty that prisoners of war camps in South Vietnam are models of the conditions of treatment specified in the Geneva Convention of 1949 and has insisted that such camps be freely open to independent internation inspection; and

Whereas the Government of North Vietnam and its allies have steadfastly refused to permit impartial inspections of prisoner of war facilities in which American prisoners of war are held: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress (1) condemns the cruel and inhumane treatment and conditions of confinement of large numbers of political prisoners held in South Vietnam; (2) urges the Government of South Vietnam immediately to (A) cease cruel and inhumane treatment of prisoners, (B) take all steps practical to adequately cope with widespread malnutrition and disease within its civilian prisons, (C) reexamine and reform its system and practice of justice, (D) bring all prisoners, political and otherwise, who have not been tried to a prompt and fair trial, and (E) release the innocent, including those whose only offenses have been to peaceably speak out against the current Government of South Vietnam and in behalf of peace in Vietnam; (3) characterizes the civilian prison assistance program carried out in South Vietnam by the United States Agency for International Development as (A) ineffectual, (B) counterproductive of the goals the United States seeks in Southeast Asia, and (C) in need of immediate investigation; (4) urges inspection of all prisoner of war facilities, humane care, attendance to dietary and health care needs, free exchange of mail and packages between families and prisoners, and the prompt exchange of American and allied prisoners of war held by North Vietnam and its allies with prisoners of war held in South Vietnam with priority of release given to sick or injured prisoners and those who have endured long periods of confinement.

SENATE RESOLUTION NO. 429—SUBMISSION OF A RESOLUTION RELATING TO BRUTALITY AT THE OHIO STATE PENITENTIARY

Mr. YOUNG of Ohio. Mr. President, in recent months from time to time word has come to me from Columbus, Ohio, that the old Ohio penitentiary located in the capital city of my State has been overcrowded in recent years. It was common knowledge that in the treatment of inmates, or prisoners, in our penitentiary, Ohio deserved a low rating compared with many other States.

Now information has come that under Warden Cardwell and Maury Koblentz, who was appointed head of the Ohio Board of Corrections, cruelty and brutality toward penitentiary inmates have markedly increased.

Today in the Washington Merry-Go-Round, written and published by Jack Anderson, he reports in detail, shocking brutality and horror recently perpetrated on penitentiary inmates.

I am submitting a resolution calling for the appointment of a Senate investigating committee to make an on-the-spot investigation of the Ohio penitentiary and its present operation.

Mr. President, it is evident to me that Maury Koblentz, head of the Ohio Board of Corrections, is blamable and must be held responsible for the mistreatment of inmates of the Ohio State Penitentiary. This fellow Koblentz, when a reporter representing Jack Anderson requested permission to talk with certain inmates in order to check out complaints that they also had been tortured and treated with great brutality, absolutely refused this requested permission. Also, I denounce Warden Cardwell for permitting cruelty to penitentiary inmates.

This fellow Koblentz, along with Warden Cardwell, should—and no doubt will—be summoned to appear and face the large number of witness who will testify to the horrible mistreatment of different inmates. It is very simple for them to deny brutality. It will be different when they are confronted with these witnesses and then placed on oath, should they choose to deny the charges.

Mr. President, the recent disclosure of a "Devil's Island" prison camp at Con Son, 60 miles from Saigon, where political opponents of the brutal Thieu-Ky regime, including two young girls, have been incarcerated for months in "tiger cages" 8 by 5 feet in size, with four or more prisoners, is shocking. Those "tiger cages" were of stone, dark, damp, and well nigh airless. When prisoners begged for food or water, lime was frequently thrown at them.

While this story rightfully continues to make angry headlines in our Nation's major newspapers, most Americans are unaware that similar atrocities occur daily in some of our American prisons.

In his column this morning, Jack Anderson has documented some examples of the sickening bestiality that has become, part and parcel, a daily routine in the Ohio State Penitentiary at Columbus, Ohio, our State capital.

These include a horrible report of chemical mace sprayed into the rectum of an epileptic black prisoner, Douglas Clark, No. 121486, by seven brutal guards.

Another disclosure describes the beating of Elbert Hawkins, No. 127536, by a group of 45 guards. Prisoner Hawkins had his head split open, and it was later necessary to take him to the Lima State Hospital for the Criminally Insane, where the unfortunate man is now confined.

In yet another case, it was charged that a prisoner, Noah Jackson, was stripped and beaten by a captain, two lieutenants, and two guards while his hands were handcuffed behind his back. One brutal lieutenant pulled on his testicles while Jackson screamed in pain from all this beating.

One of our Nation's most pressing and neglected needs is for genuine and effective prison reform. We should not permit the gestapo-like brutality reported in the Washington Merry-Go-Round of Jack Anderson, which I have narrated, to continue, and we should immediately take steps to rectify the abuse of inmates currently confined in the Ohio State Penitentiary or in any other of our penal institutions.

I ask unanimous consent that Jack Anderson's column be printed at this point in the RECORD.

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

[From the Washington Post, July 14, 1970]

THE WASHINGTON MERRY-GO-ROUND: UNITED STATES HAS PRISON OUTRAGES AT HOME

(By Jack Anderson)

Outraged congressmen have raised an almighty howl about prison atrocities in South Vietnam. Their charges have been printed in angry headlines on the front pages of American newspapers. The State Department has sternly ordered the U.S. Embassy in Saigon to investigate the charges and report its findings to Washington.

Yet the same congressmen, who are so indignant over the maltreatment of Vietcong prisoners, have been strangely silent about the abuse of American convicts at home. Only the mildest protest has been made over the documented charges this column has published about atrocities in U.S. prisons.

Our stories have given tongue, however, to the victims who have deluged us with letters, long-distance calls and smuggled documents attesting to Gestapo-like horrors in our prisons and jails. They are suddenly breaking a hopeless, helpless silence like some mute giant chained in the dark whose anguished cries no longer will be quieted.

Admittedly, the stories come from men convicted of crimes, men whose veracity, therefore, can be challenged. But the same sickening details have come from too many unrelated sources to be ignored. Some inmates have also offered to show the scars of their mistreatment at a public hearing.

Here are just a few more reports from our bulging files:

HORROR STORIES

One statement, regarded by Senate investigators as reliable, tells of an epileptic Negro, Douglas Clark, Ohio Penitentiary No. 121486, who had chemical Mace "sprayed in his rectum by seven guards."

Another report charges that Kelly Chapman, Ohio Penitentiary No. 122531, a convicted rioter, was handcuffed and thrown downstairs. "When his mother complained to Warden (Harold) Cardwell, he was surrounded by guards with shotguns who threatened to kill him . . . A guard punched him in the mouth and knocked him down. A lieutenant grabbed him by the throat and began choking him and beating him. (Chapman) was returned to the visiting room with his head smashed and blood dribbling from his mouth."

We have a report that Elbert Hawkins, Ohio Penitentiary No. 127536, "received a massive beating from a group of guards numbering 45. His head was split open." He was sent later to a state Hospital for the criminally insane.

One of the guards who participated in the beating reportedly "went home afterwards covered with blood, went into the bathroom and vomited." There is actually a rule that guards with bloodstained uniforms must remove them for cleaning before leaving the prison.

The report on the guard, taken from an official Senate document, states: "One month last year he had to leave his uniform at the gate eight times for dry cleaning because he had blood on it from beating prisoners."

A prisoner named Noah Jackson, number unknown, was allegedly "stripped, handcuffed behind his back and beaten by a captain, two lieutenants and two guards. One lieutenant pulled on his testicles while Jackson screamed with pain."

Ohio Corrections head Maury Koblentz has refused to let us talk to prisoners, thus we cannot personally check out the reports. Both Koblenz and Warden Cardwell categorically deny brutality at Ohio Penitentiary. The warden, asked whether there were beatings at the prison, said: "No. Certainly not.

I've heard some of these stories so long it's getting rather sickening."

The ACTING PRESIDENT pro tempore (Mr. PELL). The resolution will be received and appropriately referred.

The resolution (S. Res. 429) was referred to the Committee on the Judiciary, as follows:

S. RES. 429

Resolved, That the Committee on the Judiciary, or any duly authorized subcommittee thereof, is authorized under sections 34 (a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by Rule XXV of the Standing Rules of the Senate, to make a full and complete study and investigation of alleged acts of brutality committed against prisoners by prison personnel at prisons in the State of Ohio.

Sec. 2. The Committee shall report the results of the study and investigation authorized by this resolution, together with such recommendations for legislation or other action as it deems appropriate, to the Senate at the earliest practicable date.

RELIEF OF HOOD RIVER COUNTY, OREGON—AMENDMENTS

AMENDMENTS NOS. 776 AND 777

Mr. ERVIN, for himself, Mr. MATHIAS, Mr. GOODELL, Mr. BAYH, Mr. HART, Mr. KENNEDY, Mr. COOK, Mr. EAGLETON, Mr. MUSKIE, and Mr. BROOKE, submitted amendments intended to be proposed by him to the bill (H.R. 914) for the relief of Hood County, Oreg., which were ordered to lie on the table and to be printed.

CANYONLANDS NATIONAL PARK IN THE STATE OF UTAH

AMENDMENT NO. 778

Mr. BENNETT submitted an amendment, intended to be proposed by him, to the bill (S. 26) to revise the boundaries of the Canyonlands National Park in the State of Utah, which was ordered to lie on the table and to be printed.

GLEN CANYON NATIONAL RECREATION AREA IN THE STATES OF ARIZONA AND UTAH

AMENDMENT NO. 779

Mr. BENNETT submitted an amendment, intended to be proposed by him, to the bill (S. 27) to establish the Glen Canyon National Recreation Area in the States of Arizona and Utah, which was ordered to lie on the table and to be printed.

SOCIAL SECURITY ACT—AMENDMENT

AMENDMENT NO. 780

Mr. SAXBE. Mr. President, it has come to my attention that there exists an inequity in our present social security law that forthwith needs correcting. Under the current act a surviving divorced wife may only collect benefits from her husband's wage record if she has been married to the individual for 20 years immediately prior to the date when the divorce became effective. Additionally, she also must have been receiving one-half of her support from her divorced husband or have been receiving substantial contributions from such an individual pursuant to a written agreement or court order. Now I understand that H.R. 17550 seeks to eliminate these support requirements and I believe that this is a step in the right direction. Yet, whether or not coupled with a support requirement, the 20-year rule still imposes too harsh a burden, especially where benefits may be desperately needed by the surviving divorced wife in order to live.

I submit, therefore, that the 20-year requirement be lowered to 10. Perhaps it would be wise to retain some support requirement if the time requirement is reduced in order to prevent many divorced wives from claiming on the same account and to prevent other unwarranted incursions into the social security fund. In any case, if some restrictions are required, I believe it would be preferable to retain support requirements and reduce the time requirement rather than the reverse. Such a policy would reduce the arbitrary time limit now working hardships on so many of our elderly citizens who so richly deserve a better break.

So, Mr. President, I submit an amendment to H.R. 17550 and ask unanimous consent that the text of this amendment be printed in the RECORD following my remarks.

The PRESIDING OFFICER (Mr. HOLLINGS). The amendment will be received, appropriately referred and printed; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 780) was referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 780

On page 48, between line 13 and 14, insert the following:

"(d)(1) Section 216(d) of the Social Security Act is amended by striking out '20 years' in paragraphs (1) and (2) and inserting in lieu thereof in each instance '10 years'.

"(2) Section 202(b)(H) of the Social Security Act is amended by striking out '20 years' and inserting in lieu thereof '10 years'.

"(e) Section 111(d) of H.R. 17550 shall be struck and reinserted in lieu thereof as subsection (e) under section 111 of H.R. 17550."

EMERGENCY LEGAL SERVICES TO DISASTER VICTIMS—AMENDMENT

AMENDMENT NO. 781

Mr. YARBOROUGH. Mr. President, I submit an amendment, intended to be proposed by me, to S. 3619, the Omnibus Disaster Assistance Act which would authorize the Director of the Office of Economic Opportunity to assign a team of lawyers to an area designated by the President as a major disaster area for the purpose of providing legal counseling and representation to disaster victims on matters arising out of or related to such a disaster. These legal teams would be trained in the law of the jurisdiction to which they are assigned and would work closely with the local bar association and other legal assistance groups that are working in the area.

A problem that is often overlooked when disaster assistance legislation is under consideration is the need for legal assistance to the victims of a major disaster. In the wake of a major disaster, there are a multitude of legal problems that develop which require immediate attention. All too often legal help from local sources is not available to meet the immediate needs of disaster victims. This is particularly true with regard to people in the low-income bracket. These people are not accustomed to seeking out an attorney and, therefore, when they are confronted with a serious legal problem they do not know where to turn for help. Very few communities have a legal assistance program that is designed to meet the urgent needs of disaster victims. Such programs must depend on volunteer participation by local lawyers and bar associations and all too often such volunteer programs are too slow in being started to provided the immediate aid disaster victims need. My amendment would solve this problem by providing for emergency legal teams, composed of lawyers from OEO, which would be immediately deployed to any area declared a major disaster by the President. These legal teams would be trained in the laws of the jurisdiction in which they are assigned and would set up legal assistance offices in the disaster area to provide the victims immediate legal aid.

The need for this type of service has been dramatized by the events that occurred in Lubbock, Tex., after the tragic tornado that struck that city in May of this year. One of the most seriously damaged parts of the city of Lubbock was the Mexican American barrio. For years land titles in this part of Lubbock have been clouded because in many cases, the Mexican Americans who have paid on their homes for years never have received a deed to their property. In many situations, all these people have as evidence of the money they had paid is an instrument referred to as a "contract of sale." Naturally, these people were reluctant to move out of their homes into temporary housing because they fear that their property would be taken while they are away.

Another problem that these people encountered was insurance settlements. Many of these people are not proficient in English and were not able to read their home insurance policies. In other cases, the people who were buying these homes had paid the insurance premiums for years only to find that the policies were issued in the names of the original landowners.

Needless to say, these people, many of whom had never talked with a lawyer in their lives, needed legal assistance. The local bar association of Lubbock responded to the call for legal assistance and 40 local lawyers donated their time and services to assist these unfortunate people. During a 2-month period approximately 135 legal assistance cases were processed. The bar association of Lubbock should be commended for their fine efforts in this time of disaster.

However, volunteer help in major disasters cannot be relied on exclusively to solve the multitude of legal problems that arise. Often a local bar association

simply does not have enough members to meet the demands for legal aid. In some situations, local lawyers may have conflicts of interest that would prevent them from representing some disaster victims. In other cases, such as in Lubbock, not enough of the local lawyers speak the language of the people who need their help to really be of much aid. Above all else, very few volunteer lawyers can continue to devote time to these cases which often drag on for months.

My amendment seeks to lift this burden from local lawyers who have many problems of their own in times of major disaster and furnish people in these areas with the legal assistance they need.

As a cosponsor of S. 3619, I offer this amendment in the belief that it will strengthen the bill and broaden its coverage. I urge the Senate Public Works Committee to incorporate this amendment into S. 3619.

Mr. President, I ask unanimous consent that the amendment I am submitting be printed.

The PRESIDING OFFICER (Mr. CASE). The amendment will be received and printed, and will be appropriately referred.

The amendment was referred to the Committee on Public Works.

NEIGHBORHOOD YOUTH CORPS—AMENDMENT

AMENDMENT NO. 782

Mr. TYDINGS. Mr. President, the Secretary of Labor's announced plans to reduce the wages of participants in the Neighborhood Youth Corps threatens the very existence of that vital program and undercuts our efforts in the war against crime.

At a time when the Congress is appropriating hundreds of millions of dollars for law-enforcement assistance, it is essential that we do not cut back in our efforts to eradicate the joblessness and idleness that breed crime.

Yet the administration has decided to embark on a plan that will slash the wages of the NYC participants so severely that it will certainly drive many poor youngsters out of the program.

Under the administration's scheme, high school dropouts participating in the out-of-school Neighborhood Youth Corps program in Baltimore, for example, will find their wages sliced to less than 90 cents an hour for a 40-hour week. Currently, these same NYC participants receive $1.45 an hour for a 32-hour workweek. The administration's plan will go into effect July 20.

Despite the protests of Neighborhood Youth Corps directors across the country and against the express desires of the Nation's big city mayors, the administration has persisted with its plans.

A month ago, the National Conference of Mayors passed a resolution presented by Mayor Thomas D'Alesandro, of Baltimore, requesting the Department of Labor to halt its plans to tamper with the NYC program.

The NYC directors in Baltimore and across the Nation are concerned that the administration's new ill-conceived wage scheme will drive out of the program the youngsters who need it the most.

Their concerns are not idle fears. Since the changes were announced in Baltimore, the number of applicants for NYC out-of-school slots has shrunk from 20 a day to five a day. Enrollee absenteeism on the job has increased 50 percent. It is clear that the enrollees do not see much incentive to work for substantially less than our minimum wages.

The consequences of having NYC participants in cities across the country leaving the program discouraged and embittered are grave. I shudder to think of the consequences of turning 600 hostile youngsters out on to the streets of Baltimore in just 6 days.

More than 16,000 youngsters between the ages of 16 and 21—the ages of NYC participants—were arrested for crimes in Baltimore during 1969. These crimes included murder, robbery, rape, burglary, and other serious offenses. Police officials have indicated that a major cause of these youngsters turning to crime is idleness—the fact that these youngsters have nothing to do.

Tampering with the Neighborhood Youth Corps can only contribute to their idleness and crime. Half of the participants in the Baltimore program had criminal records before they enrolled. Returning them to the street more embittered would be a devastating blow to the war against crime.

The administration is apparently unconcerned about that consequence of its action. Recently, a Labor Department official was quoted in an article by Naomi S. Rovner in the Baltimore Sun as saying:

> If the lower take-home pay drives a youth out of the program, I say to hell with him. Maybe that shocks you, but it is a matter of motivation and if one doesn't want to go back to school, then another one will take his place.

I believe that attitude on the part of the top Labor Department official reveals again how far out of touch this administration is with the happenings on the streets of our great cities. It is one thing to sit behind a desk in the Department of Labor building in Washington and say "to hell" with a youngster who refuses to participate in a program paying scarcely half the minimum wage. But it is another to have to deal with that same youngster on the street after he has become even more embittered at being driven away from the NYC program because it does not pay enough money for him to live on.

The administration promises that it will offset the wage reduction by providing improved supportive services—such as vocational education classes—for the Neighborhood Youth Corps participants. While I agree that it is desirable to improve supportive services, I believe it should not be done in a manner that torpedoes the program's effectiveness by discouraging needy youngsters from joining. Nor do I believe the thrust of the program should be changed from that of a work and on-the-job training program.

For that reason, I am submitting on behalf of myself, Mr. CRANSTON, and Mr. GOODELL an amendment to S. 3867, the Employment and Training Opportunities Act of 1970, to prohibit the Secretary of Labor from paying NYC out-of-school enrollees less than the minimum wage for the time they spend on the job. In addition, my amendment will protect the current thrust of the program by providing that 80 percent of the enrollees' time will be spent working or in on-the-job training.

That vital legislation is now in markup before the Subcommittee on Employment, Manpower, and Poverty. I plan to carry this amendment to the subcommittee and ask the chairman, the distinguished Senator from Wisconsin (Mr. NELSON) to consider it before the bill is reported to the floor.

I ask unanimous consent that my amendment be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. SAXBE). The amendment will be received, appropriately referred, and printed; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 782) was referred to the Committee on Labor and Public Welfare as follows:

AMENDMENT NO. 782

On page 65, on line 11, insert a semicolon before the word "and", and on line 13, after the period, insert a comma and the following: "and the Secretary shall not limit the number of hours which participants may spend in work and on-the-job training to less than 80 per centum of the number of hours per week spent in the program, and allowances for such work and on-the-job training shall not be less than the minimum wage specified in section 6 of the Fair Labor Standards Act of 1938".

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. SCOTT. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary: Charles W. Koval, of Pennsylvania, to be U.S. marshal for the western district of Pennsylvania for the term of 4 years, vice Anthony J. Furka, term expired.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Tuesday, July 21, 1970, any representations or objections they may wish to present concerning the above nomination, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

NOTICE OF HEARINGS ON OMNIBUS RIVERS AND HARBORS LEGISLATION

Mr. YOUNG of Ohio. Mr. President, I wish to announce that the Subcommittee on Flood Control-Rivers and Harbors, of the Committee on Public Works, will continue its hearings on an omnibus rivers and harbor bill, which were initiated in April of this year.

The additional hearings will be held on July 28, 29, and 30, and September 15, 16, and 17. On these dates, the sub-

committee will receive testimony on river and harbor, flood control, and other water resources proposed projects, that have been investigated and recommended by the Chief of Engineers, U.S. Army. The subcommittee will also consider other related river and harbor and flood control matters.

The hearings will begin at 10 a.m. in room 4200, New Senate Office Building. Persons desiring to testify on pending river and harbor matters are requested to contact Mr. Joseph F. Van Vladricken, professional staff member, Committee on Public Works, Washington, D.C., telephone No. 225–6176.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 14, 1970, he presented to the President of the United States the enrolled bill (S. 3215) to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes.

ORDER FOR ADJOURNMENT TO 11 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 11 a.m. tomorrow.

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

(Subsequently, this order was modified to provide for the Senate to adjourn until 10 a.m. tomorrow.)

ORDER FOR RECOGNITION OF SENATOR YOUNG OF OHIO

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, after the disposition of the reading of the Journal tomorrow, the Senator from Ohio (Mr. YOUNG) be recognized for not to exceed 20 minutes.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. 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.

BIPARTISAN GROUP IS EVIDENCE THAT REAL LEADERSHIP EXISTS

Mr. MANSFIELD Mr. President, I was intrigued by an article in this morning's Washington Post by David S. Broder, one of the fairest and most impartial commentators I know. The title of the article is "Bipartisan Group Is Evidence That Real Leadership Exists."

The article refers to a group in the House. The names of Members of both the House and Senate are mentioned, by the way, but the names referred to in the commentary are Representatives BARBER B. CONABLE, JR., SAM M. GIBBONS, and F. BRADFORD MORSE, respectively from the States of New York, Florida, and Massachusetts.

They are carrying on an activity which indicates that there is leadership in the Congress, and especially in the House, which should be given consideration—may I say leadership outside the leadership in the Senate as well, because this is a bipartisan group.

What this group does, under the leadership of these three outstanding Members of Congress, is to meet together from time to time to discuss various matters of interest, and try to establish an initiative and a program which should be considered by Congress as a whole. The group itself is taking up the slack in a period, to use Mr. Broder's words, of "apathy, divisiveness, buck-passing, and leadership failures."

He says further:

What these men are doing is big news—and good news.

Mr. President, my reason for asking that this column be printed in the RECORD is because I have felt, for all too many years, that too much attention has been focused on the Senate and not enough attention on the House of Representatives. I think too much publicity has been accorded the Members of the Senate, and not enough publicity to the Members of the House.

There are individuals over there who are just as smart, just as intelligent, just as forward looking, and just as statesmanlike as we are, and I daresay a good many of them who are better in these departments. I deplore the fact that the Senate seems to be the fulcrum for publicity when we have so many capable Members in the House of Representatives who should be given their just due.

So I ask unanimous consent, Mr. President, to have printed in the RECORD this commentary entitled "Bipartisan Group Is Evidence that Real Leadership Exists," written by David S. Broder and published in today's Washington Post. I hope that from now on the House will be given the attention it deserves, and that recognition will be accorded to its many Members who are outstanding in every respect.

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

BIPARTISAN GROUP IS EVIDENCE THAT REAL LEADERSHIP EXISTS

(By David S. Broder)

Barber B. Conable, Jr., Sam M. Gibbons and F. Bradford Morse are not, as the sayings goes, household names. They are among the many "faceless men" in the House of Representatives, known to their constituents their colleagues in Congress and a few dozen Capitol Hill reporters—and to virtually no one else.

But Conable, Gibbons and Morse were the central figures at two occasions last week that were certainly the most hopeful and perhaps, the most significant on the Washington scene.

Conable, an upstate New York Republican, and Gibbons, a Florida Democrat, were the main spokesmen at the press conference introducing the package of congressional reform proposals backed by a bipartisan bloc of 58 representatives. Morse, a Republican from Lowell, Mass., chaired the Capitol Hill luncheon for United Nations Secretary General U Thant, sponsored by the 98-member, bipartisan group called Members of Congress for Peace Through Law (MCPL).

Press conferences and celebrity luncheons are, of course, a dime a dozen on Capitol Hill. And a cynic could easily argue that neither the congressional group nor MCPL has much in the way of concrete accomplishments so far.

The Conable-Gibbons rules reform group is brand new and its first test will come when it tries to strengthen the congressional reorganization bill on the floor of the House this week. While the omens of success are present, there is no guarantee that the standpatters will not succeed again, as they have in the past, in defeating or delaying the reform effort.

As for Morse's MCPL, it has been functioning so quietly for its almost four years of existence that even close observers of Congress were unaware of it until last week, when it drew attention by playing host to U Thant.

Financed mainly by outside contributions, its five-man professional staff and nine working committees have helped research and coordinate efforts by many individual senators and representatives to shorten the war and reduce the military budget. While it has certainly helped improve both the quality and quantity of congressional debate in these fields, it is still far from achieving the redirection of foreign and military policies it seeks.

But specific accomplishments aside, the emergence of these efforts within the Congress is of significance to those who are inclined to depair of the system's capacity to respond to the many crises of our times.

They offer evidence that real leadership is available in both parties, despite the faltering performance of so many national figures. Conable, Gibbons and Morse are all in their late 40s, with less than a decade of congressional service behind them. Many of their colleagues in these organizations are even younger in years and seniority.

Like many others, they have chafed at the reluctance of the congressional elders to make needed internal reforms or to raise for serious debate the vital issues of peace, war and national priorities.

But unlike so many of the other critics of the system, they have organized to produce change on their own initiative, instead of satisfying themselves with complaints. Also, when so many national figures seem addicted to demagoguery that divides an already-divided nation, these men are working effectively to find areas of agreement among diverse political factions.

Both efforts are genuinely bipartisan—and not in the bland, negative sense too often found in Congress of avoiding real public issues in favor of comfortable private accommodations.

The Conable-Gibbons congressional reform group includes everything from far-left Democrats to far-right Republicans, with a healthy smattering of Southern conservatives as well.

Morse's MCPL is not only bipartisan but bicameral, including 28 senators as well as 70 representatives.

In a period of apathy, divisiveness, buck-passing and leadership failures, what these men are doing is big news—and good news.

Mr. ALLEN. Mr. President, I ask unanimous consent that I be permitted to proceed for 10 minutes.

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

IRS AND THE PRIVATE SCHOOLS

Mr. ALLEN. Mr. President, there are many profound constitutional and ethical questions raised by the recent announcement by the Commissioner of the In-

ternal Revenue Service on the subject of disallowing the exemption from taxation of donations made to certain private schools. It is my intention to deal with this subject in greater detail at a later date. In the meantime, one aspect of this matter has been touched upon in a highly perspective and persuasive column by the eminent national columnist, David Lawrence, in his article appearing in the Washington Star of July 13, 1970.

Mr. President, I ask unanimous consent that the news release on this subject by the Internal Revenue Service of July 10, 1970 be printed in the RECORD together with the column by David Lawrence to which I have referred.

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

IRS ANNOUNCES POSITION ON PRIVATE SCHOOLS

WASHINGTON, D.C.—The Internal Revenue Service announced today that it has been concluded it can no longer legally justify allowing tax-exempt status to private schools which practice racial discrimination nor can it treat gifts to such schools as charitable deductions for income tax purposes.

The Internal Revenue Service will proceed without delay to make favorable rulings of exemption immediately available to private schools announcing racially nondiscriminatory admissions policies and to deny the benefit of tax-exempt status and deductibility of contributions to racially discriminatory private schools.

The Service said that favorable rulings given to private schools in the past will remain outstanding where the school is able to show that is has racially nondiscriminatory admissions policies.

All private schools with favorable rulings outstanding will receive a written inquiry from the District Director of Internal Revenue and it is anticipated that in most instances evidence of a nondiscriminatory policy can be supplied by reference to published statements of policy or to the racial constituency of the student body.

Where a school fails to establish that it has a racially nondiscriminatory admissions policy, an outstanding ruling of exemption will be withdrawn. However, a school seeking to clarify or change its policies and practices will be given a reasonable opportunity to do so in order to retain its ruling of federal tax exemption. In any event, full opportunity to present evidence and be heard will be provided in accordance with usual revenue procedures and the right to appeal to the courts will be available. Similar principles will be followed in acting upon requests made by new schools for rulings.

[From the Washington Star, July 13, 1970]

POLITICS AND THE PRIVATE SCHOOLS

(By David Lawrence)

Government by law and the Constitution or government by political expediency—that's the choice which the Nixon administration faced, and it took the latter course when it ordered white private schools to open their doors to all, regardless of race, or lose their tax exemptions.

The hypocrisy of this action was revealed when it was announced that private schools which admit persons of only one religion and other tax-exempt organizations—such as fraternal clubs which limit their membership to one race—would not be affected.

It might be asked how tax deductions can be justified for gifts to an organization known as the "National Association for the Advancement of Colored People" and yet be denied when made to organizations which seek to advance the education of white people.

In one of the cases filed in May, the Department of Justice submitted a brief supporting the tax-exempt status of private schools of all kinds and the deductibility of contributions as well. But in recent days an internal squabble in the administration resulted in a change of heart. One White House aide told the press last Friday that the President "believes that ultimately the tax status of racially discriminatory private schools will be determined by the courts and that this is desirable."

This is, in effect, passing the buck to the courts. But, in the meantime, the administration presumably is to escape criticism from the Negro groups because it has changed position.

The Supreme Court of the United States has rendered many decisions on segregation since its historic opinion in 1954 declaring that the "equal protection" clause of the Fourteenth Amendment bars racial discrimination in public schools. But no opinion of the court has said that the federal government may penalize citizens in one group while citizens in other groups are given privileges in their financing of educational projects.

Parochial schools, for example, teach religion and attract students of certain religions. This has long been recognized by the courts and by the American people as a legitimate practice and not a violation of any part of the Constitution. But now the present administration is arguing that a group of citizens who wish to exercise their freedom of association and help to maintain schools where whites can enjoy their own educational environment cannot have the same tax-exempt status or tax deductibility for contributions as is granted to citizens who contribute to religious schools. Tuition fees, incidentally, are not involved, as they are not deductible.

"Private schools" are, of course, private institutions. Each school has its own admission policy, and the government heretofore has never interfered. If anybody wished to challenge the tax exemption, the proper way would have been to file suit in the courts, and the administration need not have taken any part in the controversy. Also, dissenting citizens could have had a bill introduced in Congress with the hope of getting a law passed setting forth specifically the conditions under which the federal government could withhold tax exemption or tax deductibility.

But the chances are that no such legislation would be enacted because the proposal encroaches on the rights of privacy of American citizens. If these privileges can arbitrarily be withdrawn at the whim of any administration, irrespective of the constitutional principles that are involved, it can mean that individual rights can be suddenly curtailed by the government for almost any reason by imposing a penalty through income-tax regulations.

If the government now is to step in and pass judgment on the whole system of charitable giving in America and raise doubts as to whether particular organizations which receive aid are satisfactory politically to the administration in power, the whole edifice of philanthropic operation in America will be weakened. Contributors will be scared off, and there will be a slowdown in the growth of the rather sizable private-welfare program that exists. Politics can go too far, and the government's intrusion into the charitable help given private schools is a flagrant example of mistaken judgment.

Mr. ALLEN. Mr. President, I also ask unanimous consent to have printed in the RECORD at this point a bill (S. 3335) introduced by the Senator from Mississippi (Mr. EASTLAND) and myself, touching on this same issue.

There being no objection, the bill (S. 3335) was ordered to be printed in the RECORD, as follows:

S. 3335

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 501 of the Internal Revenue Code of 1954 (relating to exemption from tax) is amended by redesignating subsection (f) as (g) and by inserting after subsection (e) the following new subsection:

"(f) PRIVATE SCHOOLS.—

"(1) PRIVATE SCHOOL DEFINED.—For purposes of this subsection, the term 'private school' means an educational institution which—

"(A) is an organization described in subsection (c)(3),

"(B) normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, and

"(C) does not have a degree of involvement with a State or a political subdivision of a State so that action of such organization constitutes action of such State or political subdivision within the meaning of the Constitution and laws of the United States.

"(2) EXEMPT STATUS.—Exemption under subsection (a) shall not be denied to a private school on account of the admission policies, requirements for admission, or composition of the student body or faculty of such school.

"(3) EFFECT OF COURT DECISIONS.—If a court of the United States holds, in a judgment which has become final, that the Constitution or laws of the United States prohibit the granting of exemption under subsection (a) to a private school on account of the admission policies, the requirements of admission, or the composition of the student body or faculty of such school, then, for the period during which such judgment is in effect, no organization described in subsection (c)(3) shall be exempt from taxation under subsection (a)."

SEC. 2. Section 170 of the Internal Revenue Code of 1954 (relating to charitable contributions) is amended by redesignating subsections (i) and (j) as (j) and (k), respectively, and by inserting after subsection (h) the following new subsection:

"(i) PRIVATE SCHOOLS.—

"(1) PRIVATE SCHOOL DEFINED.—For purposes of this subsection, the term 'private school' means an educational institution which—

"(A) is described in paragraph (2) of subsection (c),

"(B) normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, and

"(C) does not have a degree of involvement with a State or a political subdivision of a State so that action of such organization constitutes action of such State or political subdivision within the meaning of the Constitution and laws of the United States.

"(2) DEDUCTIBILITY OF CONTRIBUTIONS.—Subject to the limitations provided in subsection (b), the allowance of a deduction under subsection (a) for a contribution or gift to or for the use of a private school shall not be denied on account of the admission policies, requirements for admission, or composition of the student body or faculty of such school.

"(3) EFFECT OF COURT DECISIONS.—If a court of the United States holds, in a judgment which has become final, that the Constitution or laws of the United States prohibit the allowance of a deduction under subsection (a) for a contribution or gift to a private school on account of the admission

policies, the requirements of admission, or the composition of the student body or faculty of such school, then, for the period during which such judgment is in effect, no contribution or gift to or for the use of any organization described in paragraph (2) of subsection (c) shall be allowed as a deduction."

SEC. 3. The amendments made by this Act shall apply to taxable years ending on or after January 12, 1970.

Mr. ALLEN. Mr. President, I am distressed and outraged at the recent ruling by the Internal Revenue Service that would seek to take from private schools in the South the longtime and traditional tax-exempt status that they enjoy. Mr. President, there are more than 30,000 tax-free foundations in this country, formed for every conceivable "do-good" or, for that matter, "do-bad" purpose. Those foundations are exempt from taxes, and contributions to those foundations are deductible for income-tax purposes. Yet the Internal Revenue Service seeks to say that private schools in the South shall be disallowed the tax-exempt status that they have enjoyed through the years.

Mr. President, this is a cruel and heartless attempt to destroy the private schools which exist in the South; and it is ironic that this ruling by the Internal Revenue Service would carry over into the treatment by the Federal Government of private schools the same dual policy that exists with respect to the public schools—the same dual Federal policy regarding the desegregation of public schools.

Mr. President, the Senator from Mississippi (Mr. EASTLAND) and I some weeks ago introduced S. 3335, which would hit at this very point, and would prevent the Internal Revenue Service or the Federal bureaucracy from denying the right of an individual to make a contribution to a private school in the South and to be allowed to claim that contribution as a deduction from his income for income-tax purposes.

Mr. President, patrons of private schools are under a double burden, because they support, or with their taxes they help support, the public school system of the country. They help support the private schools with the high tuition fees which they are required to pay. To hold that contributions which they make to the private schools are not deductible would make it absolutely impossible to have private schools in the South. But yet at the same time, the rulings of the Internal Revenue Service, in effect, would allow the existence of such private schools outside of the South, and for contributions to them to continue to be deductible.

Mr. President, S. 3335 has not made a great deal of progress since it was introduced by the distinguished Senator from Mississippi and the junior Senator from Alabama. So it is my purpose—and I trust the purpose of the Senator from Mississippi as well—at the first opportunity we have in the Senate to consider a revenue measure from the House of Representatives, to seek to add the provisions of S. 3335 to that bill. While I am a great supporter of the public school system in Alabama and throughout the country, we have been trying to preserve the public school system in our State and in our section against the onslaughts of the Federal bureaucracy and the Federal courts. This is a most unfair and a most heartless ruling by the Internal Revenue Service because it threatens the very existence of private schools in the South.

Actually, it goes against the efforts of the Justice Department itself. Up until a very few days ago, they were asserting that private schools in the South were entitled to have contributions made to them deductible from income for income tax purposes. Why the sudden change? It is for the purpose of destroying the private schools of the South. It is politically inspired.

Mr. President, I have heard a great deal about the southern strategy of the administration. I want to say that this move by the administration certainly is not going to sell in the State of Alabama or in any portion of the South. If it is part of the southern strategy, it is a mighty poor part.

At the proper time, when a legislative vehicle is afforded for the addition of the provisions of S. 3335, the junior Senator from Alabama serves notice that that rider will be offered. It will be discussed at considerable length, because all we are asking is fair play. We are asking for the preservation of the public school system in Alabama and the South, and we are asking for the preservation of the private schools of the South. Both serve their purpose and deserve our support.

It is estimated that in Alabama approximately 25 percent of our white boys and girls are now attending private schools, and if this ruling of the Internal Revenue Service is allowed to be implemented, it will completely destroy the private schools of Alabama. That certainly is not fair to the children of my State. It is not fair to the patrons of those private schools. It is not the fair play that the Senate will want to see accorded to the people of Alabama and the South.

I yield the floor.

ADDITIONAL STATEMENTS OF SENATORS

TRIBUTE TO SENATOR HOLLAND

Mr. RUSSELL. Mr. President, it is a matter of personal regret that I was not on the floor of the Senate last week to join the encomiums expressing respect and affection for our beloved colleague, the senior Senator from Florida.

Even if I dealt with this subject at filibuster length, which would be easy enough to do in view of his long and distinguished record of public service, I do not believe I could adequately express my admiration for SPESSARD HOLLAND.

Mr. President, there are many reasons why I regret that he will be leaving this body at the conclusion of this session, and not the least of them is the realization that his wisdom, diligence, and profound knowledge of agriculture will no longer be applied in the management of the agriculture appropriations bill.

Senator HOLLAND comes from a farming family and is basically a man of the soil. As a result of this background, he has acquired a natural interest in farming and farm problems.

Daniel Webster said that the cultivation of the earth is the most important labor of man, and there is no segment of our economy that is more vital to the welfare of our Nation than the agricultural community. The Nation has incalcuably benefitted because SPESSARD HOLLAND, with his amazing capacity for work and outstanding ability has been concerned with farm problems.

He and I have shared a common interest in this subject through the years, and were it not for the fact that someone of his ability and interest was in line to assume the chairmanship of the Agriculture Appropriations Subcommittee, I daresay I would have been far more reluctant to relinquish it for defense appropriations several years ago.

If his service were measured only in terms of his contributions to agriculture, he would be considered one of the great Senators of the past three decades. Important as this subject is, his service, however, should be considered in far broader terms.

As an outstanding attorney and jurist, he has a depth of understanding of constitutional government and has been a fierce defender of our basic system against the assaults of those who would capriciously change it. He likewise understands the unique role of this body in our form of government and has been a guardian of its position and power.

He has never failed to fight for the things in which he believes, and never at any time has this man departed from his honest opinions under pressure from any source.

He brought to the floor of the U.S. Senate the strength of character and courage which won for him the Distinguished Service Cross in France during World War I. He received this award from "Black Jack" Pershing for action as an aerial observer when the use of aircraft in warfare was far more dangerous than it is today.

Mr. President, I believe I can state without fear of successful contradiction that few Senators of this era have been accorded greater trust and confidence by their constituencies than SPESSARD HOLLAND.

They have called on him to serve them throughout the past three decades—first as Governor during the early 1940's, and for the past 24 years as a U.S. Senator.

Their trust and confidence has been well placed because the State of Florida has reaped manifold benefit from his service and even his enemies would deny he has ever misused his public office. I have no doubt that if he stood for reelection in November they would overwhelmingly return him to this body, and I was interested to note in the statements of last week that the junior Senator from Florida—a Republican—shares this opinion.

We Georgians feel justified in sharing in large measure the feeling of pride that the people of Florida have for Senator HOLLAND, because his roots are deep in our State. His family moved to Florida from Carroll County, Ga., and he received his college education at Emory University near Atlanta. Prior to entering law

school at the University of Florida in Gainesville, he taught school for a couple of years at Warrenton, Ga., and today he continues to serve as a member of the board of trustees at Emory.

Senator HOLLAND and I have many things in common. We come from the same region; we have similar convictions; and we have shared an unusually warm friendship throughout the years. He has manifested this friendship in many ways, and I have tried to reciprocate in full measure.

Mr. President, I know his decision not to seek reelection next fall was difficult to make because he shared with me many of his thoughts during the period in which he was trying to reach this conclusion. But he can enter retirement with the knowledge that no one is more entitled to enjoy the pleasure and contentment that is in store for him in the years ahead.

When he takes leave of this body, he carries with him the deep affection and respect of his colleagues and the profound gratitude of people throughout the Nation, as well as Florida.

PADRE ISLAND NATIONAL SEASHORE: A VICTORY TO PRESERVE A GREAT NATURAL AREA

Mr. YARBOROUGH. Mr. President, one of the great seashore areas of the Nation is Padre Island which lies along the gulf coast of Texas, stretching from Corpus Christi south to Port Isabel.

A good portion of this long, thin stretch of sandy island remains as an unspoiled wilderness thanks to the foresight of Congress in 1962 when it passed my bill creating the Padre Island National Seashore. The 74-mile long Padre Island National Seashore is the longest stretch of uncluttered and undeveloped National seashore beach in the Nation.

It took over 4 years of work to get my bill to create the Padre Island National Seashore through Congress. Then there was the struggle to get all the appropriations necessary to buy the land. Last year, while I served as a member of the Senate Appropriations Committee, that task was finished and the great beauty of Padre sland has been saved. The May issue of Texas Co-op Power gave a full report on Padre Island National Seashore, the fight to establish it, and what must be done to save it from polluters.

Mr. President, I ask unanimous consent that the article entitled "A Lasting Alliance With Nature," published in the May Texas Co-op Power, be printed in the RECORD.

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

A LASTING ALLIANCE WITH NATURE

An untamed, immaculate place to wed man to nature. This is delightfully rugged Padre Island National Seashore, and let no man tear it asunder.

Through the efforts of the National Park Service, Senator Ralph Yarborough of Texas, and nature itself, this 74-mile-long island paradise remains the longest stretch of uncluttered and undeveloped beach in the nation.

Last year more than 711,000 visitors found a wilderness area to mystify the imagination.

Rural residents accustomed to open spaces came for the greatest selection of water sports available in one location. City dwellers came merely to escape the urban crush.

Since 1969, more than $1-million has been spent on a large recreation complex and road improvements. But the new facilities are built with the desire to maintain the delicate balance between preservation and development.

A 400-foot concrete boardwalk and observation deck connect the restrooms with the recreation and first-aid building which opened in January. A small shop rents umbrellas, surfboards, and chairs. A restaurant sells sandwiches and drinks. A gift shop sells souveniors of that trip to the Gulf of Mexico.

Amazingly, the prices are reasonable. The Park Service controls concession prices to eliminate the tourist trap atmosphere of many scenic areas.

The Park Service is a division of the US Department of Interior committed to keeping the National Seashore from becoming a Coney Island of the South and remaining a showcase for nature's wonders.

The Federally-owned area known as the National Seashore is the undeveloped midsection of Padre Island, which skirts the Texas Gulf coast from Corpus Christi on the north almost to Mexico on the south.

Before establishment of the National Seashore, one of just four in the country, real estate developers were eyeing the island as a huge resort.

Senator Yarborough fought from 1958 to 1962 for his Seashore Bill, and seven more years for funds to buy land privately owned on the island.

In June, 1969, $4,129,829 was allocated to pay for land not donated by the state of Texas. The jubilant senator said, "The 56–5 vote in the Senate today is the final victory in that long, 11-year fight. This means that the full Seashore is assured down to the Mansfield Cut (two-thirds of the island's length). It will include 100,000 acres of dry land in addition to tidal lands and tidal flats. Until this authorization passed, the final length of the park was in doubt."

Reaffirming the people's right to the beaches, Yarborough noted, "We are becoming a landlocked people, fenced away from our own beautiful shores . . . This tragic encroachment on the right to use our beaches has so shackled the public that today 95 percent of our recrational shorelines are barricaded to keep people out."

The National Seashore is open to any activity that can be enjoyed in or near the water.

Swimming, surfing, sun-bathing, and scuba-diving are the most conventional pleasures. Boating and water-skiing are permitted with a concern for safety standards. Surf fishing can bag drum and redfish up to 40 pounds and other fish in season.

Horses and dune buggies are available for rent, and football and other sports can be played in the soft sand. For the mild at heart, hiking, shell hunting, and bird-watching are the best sports.

Senator Yarborough also fought for the Seashore to provide a place were species of birds and other wildlife in danger of extermination can live and be observed. Three hundred-fifty species of birds can be seen on the Seashore, and many others use the island as a migratory guidepost.

"We must not be the exterminators of additional species of nature's heritage to the earth," the senator said. "Man has shown an infinite capacity for destruction. This is one effort we can make to show he is also capable of preservation."

The trip from Corpus Christi out to the Seashore is a journey out of civilization. Quaint swing bridges on the Kennedy Memorial Causeway halt traffic for the passage of vessels traveling the Intracoastal Canal.

The island itself looks like an extension of the Texas coastal plains it protects. Padre Island is the classic example of a barrier island built by the fierce action of waves and constantly reformed by winds. From the roadway, wet lands caused by heavy rainfall contain marsh plants and grasses.

Cows roam free, part of the vanishing Dunn Ranch herd which preceded the tourists to Padre Island. Then, a collection of mud flats with occasional sand dunes give way to a line of larger dunes paralleling the shoreline.

These natural hillocks are a mixture of white sand and shrubbery. Then a wide, clean expanse of white sand beach reaches beyond the range of the human eye.

Except for necessary camp sites and water connections, the Seashore will remain in its present condition. The extent of development is determined by the Seashore's master plan, which is now being revised.

Jim Arnott, acting superintendent of the Seashore, says a team of Park Service experts will come next fall to study future development.

"There are no plans to allow motels or gas stations in the Seashore," Arnott says. People can get these services nearby in Corpus Christi or Port Aransas. Availability is what determines these things.

Development and maintenance are the responsibilities of the full-time park rangers. "Seven full-time maintenance men keep the beaches and roadways clean," Arnott says, "and we hire more in season. But the people who visit are good about helping us.

"After a big weekend, there is more trash in our cans and in sacks beside the cans than we can ever find on the beach."

Arnott's men also handle law enforcement within the Seashore, although the people who come there are so occupied with having fun that traffic violators and lost children are the greatest problems.

Also working with Arnott is Derek Hambly, park naturalist. He provides instruction to groups on conservation matters.

"Derek tries more than ever to weave in an awareness of the environment," says the acting superintendent. "He didn't used to get much response, but now people are more interested. We may in the summer hold some evening campfire talks and organize walks around the adjacent area."

There is no charge to enter the Seashore, and even the 36,500 people who camped on the beach last year paid no fee.

"There is no camping fee now," explains Arnott, "because there is nothing to pay for yet. When we enlarge our camping facilities, we will charge a small fee."

One area the Park Service does not affect is water pollution. This would be a duplication of effort, according to Arnott, who says an agency in Corpus Christi, the Texas Water Quality Board, and the U.S. Coast Guard constantly monitor pollution rates.

The bubbling surf on the Gulf side is much less contaminated than most estuarine waters along the Texas coast. And while Padre Island National Seashore remains subject to contamination, even to destruction, this rugged land has a head start on survival.

Senator Yarborough did all within his power. (He has since concentrated on other conservation matters. He helped establish the Guadalupe Mountains National Park and is still fighting for an endangered species bill, an open beaches act, and national park status for East Texas' Big Thicket.)

The National Park Service is continuing its conservation program. And nature has not surrendered to man and his machines.

Several years ago, a shipping channel was cut through a two-mile width about 20 miles into the Seashore.

But nature objected to this tampering with the island's shape. Within a few months, the shifting sands of the island began to fill the cut, which is now just part of the beach.

Nature gave no consideration to its friend

when it covered Yarborough Pass, the one landmark to the man who fought to preserve its natural state.

DOUBLE STANDARDS ON INHUMANITY

Mr. DOLE. Mr. President, this past week we have heard considerable outcry at the atrocities which the South Vietnamese Government is supposed to have committed in its Con Son Island Prison.

While no one can condone inhumane treatment of prisoners, it seems that much of the current volume of concern and criticism might well be aimed at North Vietnam and the Vietcong, who have maimed, slaughtered, and tortured prisoners on a wholesale scale throughout the course of the Vietnam war.

The National Observer, in an editorial published July 13, pointed out some of the double standards which are applied by some critics and crusaders against incidents of inhumanity.

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:

CON SON—AND WHY NOT HUE?

Con Son—that's the big name this week and probably next week and the one after that for those who are determined to get the government of Thieu and Ky, at whatever cost, and to increasingly and compulsively prove the "immorality" of United States involvement in Vietnam.

The spectacle of prisoners being mistreated is not a pleasant one. Not a very new one, either. But that the outrage was mostly political was quickly evident. There was the remark, for example, of Rep. Augustus F. Hawkins, Democrat of California, that Con Son is "a symbol of how some American officials will cooperate in corruption and torture because they want to see the war continued and the government they put in power protected." Getting Thieu and Ky is a long-standing game—in which there has been far more weeping and gnashing of teeth over what they have allegedly done than hard evidence of ill doing—of which Con Son, though not really dramatic, is rather heaven-sent.

As we say, the spectacle of prisoners being mistreated is not a pleasant one. Atrocities never are. But how much outcry have we had over some other atrocities—Hue, for example, where thousands of South Vietnamese were murdered by Viet Cong.

Hue is not publicized, of course, because it would harm the image of benign Viet Cong, more sinned against than sinning. Smith Hempstone, writing in the Evening Star of Washington, D.C., recalled some other atrocities—the South Korean "spy" mangled in a North Korean prison, the Belgian nun beaten to the bone by bicycle chains in the Congo. Somehow these incidents never caused the outcry that Con Son, for example, does.

Do the young people going from here to cut sugar cane for Castro recall how he abolished elections and sent his foes before kangaroo courts and on to the firing squads? Or do they condone it? And how about their parents who continually push for closer relations with Cuba? How about the mass murders perpetrated on the China mainland by the Chinese Communists? Are they likewise condoned by those who so ardently seek to embrace that land? Why all the outcry over Con Son and so little over the treatment of U.S. prisoners in the hands of the Viet Cong?

Well, the difference isn't hard to find. If the atrocity is perpetrated by a right-wing government, it is built into a major event. If it comes from a left-wing government, it is ignored, or swept under the rug.

We would be more impressed by all the concern over atrocity if it were applied more to atrocities themselves and less to political targets.

FAILING NEWSPAPERS?

Mr. McINTYRE. Mr. President, I do not always agree with the views expressed by Washington Post columnist Nicholas von Hoffman, but his July 13 commentary entitled "Newspaper Monopolies" is as perceptive as it is colorful and most certainly deserves widespread dissemination.

Mr. von Hoffman charges Congress with making it legal for 44 newspapers in 22 cities to "rig prices, divide markets, and pool profits." He makes a convincing case, I am sorry to say.

The measure in question, the so-called Newspaper Preservation Act, would allow the 44 newspaper giants to engage in those practices, forbidden by antitrust laws, on the flimsy premise that the newspaper industry is in dire financial straits and needs this antitrust immunity in order to save individual papers from going under.

This argument is shot through with fallacies. Von Hoffman points out that the newspaper industry—including some of the very papers whose dying voices the measure purportedly is designed to save—is enjoying unprecedented prosperity.

He also provides some evidence that the joint operating agreements countenanced by the measure will in the long run kill far more independent media voices than they could possibly save.

Mr. von Hoffman could have made two more valid points in the case against the bill.

Once newspapers are granted antitrust exemptions we can expect book and magazine publishers, the broadcast industry and motion picture producers to argue for the same exemption.

And, the very fact that the newspapers' role is to disseminate information is the strongest reason to withhold antitrust exemptions from them. Other industries which have been granted antitrust immunity—transportation and insurance, for example—in time have been subjected to the kind of detailed Government regulation that a free press could not survive.

With all this going against it, it seems incredible that the Newspaper Preservation Act could have prevailed in both Houses of the Congress. Yet, it did and by overwhelming majorities.

Last week in the House only 87 Members bucked the tide and voted against it. Earlier this year, only 13 Senators cast nay votes.

At a time when it appears certain that all of the daily newspapers in the country could be chain-owned in less than 20 years, it seems incredible that legislation to accelerate that trend would find such lopsided support in the Congress.

The sorry lesson in those votes is that the monopoly press is fully capable of exerting inexorable political pressure in its own behalf.

What we need is not legislation to make rich publishers richer and monopoly situations stronger but legislation to encourage diversification of ownership and editorial opinion.

In my opinion—and in the opinion of the responsible and independent press, I might add—further concentration of media ownership would constitute one of the gravest dangers to our democratic society.

To counter that threat, I introduced earlier this year an Independent Media Preservation Act which would encourage a multiplicity of media voices by:

First. Prohibiting any owner of five or more daily newspapers from henceforth acquiring any additional such papers, thus halting further growth of larger newspaper chains, and

Second. Barring joint ownership of press and broadcast facilities in the same metropolitan area. My bill would give any existing combination in a given area 3 years in which to sell off one property.

If the Nixon administration is truly as concerned as it says it is about newspaper concentration and unanimity of press opinion, it could most convincingly demonstrate that concern by vetoing the misbegotten Newspaper Preservation Act and throwing its support to legislation such as mine, which would, indeed, promote a multiplicity of independent editorial voices.

A veto would give Congress an opportunity to rectify its mistake and would save the monopoly press from its own ill-considered desires.

For as von Hoffman makes clear, if Congress should hang its head for passing the Newspaper Preservation Act, so too should the newspaper giants who bullied and pressured it through in a mockery of their alleged adherence to the principles of independence and free enterprise and, in von Hoffman's words, have shown themselves to be just as scurvy as the special interests they love to denounce.

Mr. President, I ask unanimous consent that Mr. von Hoffman's commentary be printed in the RECORD.

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

NEWSPAPER MONOPOLIES

(By Nicholas von Hoffman)

Last Wednesday, the day the House of Representatives voted to exempt the newspaper industry from the antitrust laws, you could see Secretary of Defense Melvin Laird out on the floor throwing handshakes and athlete's hugs at his old congressional buddies. It may have been a social call he was paying, or he may have been lobbying for a spare aircraft carrier, but whatever the reason for his presence this busy man had found time to talk to congressmen.

Spiro T. ("Ted") Agnew was not present, was not shaking legislative hands, was not lobbying against this bill which furthers the media concentration that our esteemed Vice President would have people think he objects to. The bill will make it legal for 44 newspapers in 22 cities to rig prices, divide markets and pool profits in the grand tradition of John D. Rockefeller the first. It will also permit any and all other newspapers to apply to the Justice Department for permission to do the same in the future.

The 44 newspapers which receive immediate permission to ignore the law that others must

obey have been granted this privilege on the grounds that without it they will fail. The precedent is set; if business is bad, ask Congress to exempt you from free enterprise competition so you can enter into an agreement with your erstwhile commercial rivals to screw the consumer.

If the precedent holds you won't have to be going into bankruptcy, you'll only have to poor mouth and make it seem that you are. That's what these newspaper scalawags have done: made a loud noise about how poor they and their industry are.

Newspapers are not going out of business. There were, according to the testimony on this bill, 1,749 newspapers in America at the close of World War II. Twenty years later there were 1,754. During that time daily newspaper sales have grown by more than 10 million. And the advertising revenues? Up more than 400 per cent in the last generation so that last year they went over the $5 billion mark. New dailies are being started quite regularly, 33 in the past three years. This is not a moribund industry deserving special favors.

The case for the 44 newspapers which wanted this law because they've been operating with price fixing agreements is even shakier. Three of the beneficiaries of this legislative gratuity are The Birmingham Post-Herald, the Pittsburgh Press and the Evansville Press, owned by the Scripps-Howard organization which also owns 15 other newspapers, United Press International, United Features Syndicate, the Newspaper Enterprise Association (NEA), the World Almanac, five television stations and heavy investments in cable TV.

Another outfit that will directly profit from this law is the Newhouse newspaper chain which, according to testimony before the Senate's Antitrust Subcommittee, owns or has a heavy interest in at least eight newspapers and seven television stations. It's sometimes hard to be sure; the skein of corporate control can be so complex. In any event, Newhouse also has seven cable television companies, as well as Vogue, Mademoiselle, House & Garden, Glamour and Bride's magazines.

Other winners under this law are Hearst's many enterprises and John Knight's communication chain which reported first quarter revenues of over $60 million. If these are deserving candidates for exemption from the antimonopoly laws then what about dear, little DuPont and frail, fading General Electric?

Witnesses before the House committee which reported this monstrosity out onto the floor demonstrated that these collusive agreements cost us consumers not only in dollars but in a lower quality product. After the San Francisco Examiner and Chronicle got together to fix prices, advertising costs in the Chronicle nearly doubled. Beyond that, the newspapers were able to offer two-for-the-price-of-one advertising deals that drove a new, competitive daily out of town.

Although the bill's purpose is to save financially dying newspapers and promote news and editorial diversity, the truth is the Chronicle had $7 million in the bank when it signed its agreement with its competitor. Moreover, the quality of local news coverage in both papers has become so bad that the best and most reliable periodical in the city is The Bay Guardian, a monthly put out by one man and a bunch of volunteer helpers.

The greatest shame here isn't Agnew's or Congress's but the newspapers'. In their rectitude, they denounce everybody else's circumvention of the give and take of the free market. By forcing this piece of tacky legislation through, they've shown they're just as scurvy as the special interests they love to denounce.

There are some noble, ironic exceptions to this, the most conspicuous being The New York Times which, unlike the Vice President, has spoken out against this new development in media concentration. (The Washington Post also editorialized against the Act.) Even the Justice Department, which doesn't do much right, fought it. But many newspapers have backed it or been silent. That will put them in a strange position when the printers' unions demand they be paid for the work machines do better and faster. If the publishers can violate the principles of free enterprise and live by legalized monopoly, why shouldn't the unions be just as economically irrational?

The papers will not only regret what they've done at the labor bargaining table but also in their dealings with the government. How free are they going to be when they are beholden to these same politicians for their abnormal profits? What they have done to themselves is far worse and far more worrisome than anything Agnew can do to them. Now they must live under the threat that this privilege may be taken away from them.

Perhaps the people in the newspaper industry can take some comfort in the fact that this vote showed that for a dying business they have awesome power. Members of the House of Representatives fought each other for a chance to vote for this bill, which wars against both liberal and conservative principles.

Reactionaries like the Republican Majority Leader Gerald Ford and his assistant, Les Arends, voted for it. The Baby Goldwater, Barry Jr., did also; the same for the Baby Taft, Robert Jr.

Some of the heroic liberals were just as courageous. Allard Lowenstein, the fighting Long Island peacenik, voted for it; Wisconsin's Robert Kastenmeier who's supposed to be so good, made the principal apology for it, and the fair and golden Tunney, the man California Democrats hope will beat George Murphy for the Senate, cast his vote for it, too.

Only 87 congressmen had the guts to vote no. One of them was the black lady, liberal-radical from Bedford Stuyvesant, Shirley Chisholm, and another was John Rousselot, the John Birch Society man from Orange County, California. So who says the extremes can't unite in America? The problem is what do we do about the soggy middle?

DISTRICT OF COLUMBIA CRIME

Mr. MATHIAS. Mr. President, I wish to remind Congress of our responsibility in facing and dealing with the serious crime problem in the District of Columbia, since Congress has chosen to retain virtually exclusive governmental authority within the District.

To this end, I ask unanimous consent to have printed in the RECORD a list of crimes committed within the District yesterday as reported by the Washington Post. Whether the list grows longer or shorter depends on Congress.

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

BURGLARS TAKE GROCERIES, CIGARETTES FROM SAFEWAY

An assortment of groceries and 30 cases of cigarettes with a total value of $3,000, were stolen Sunday night from a Safeway food store, police reported.

The burglars entered the store at 801 17th St. NE by breaking through a front door. The merchandise was taken from the refrigeration and storage area at the rear, according to Safeway employees.

The burglary was the fourth theft from the store during the past five weeks, store officials said.

In other serious crimes reported by area police up to 6 p.m. yesterday:

ROBBED

Sylvester Harris, of Washington, was treated at Washington Hospital Center for face and body injuries he suffered during a holdup in the 1300 block of R Street NW. Three men attacked Harris from behind about 4 a.m., knocked him to the ground and escaped with the money from his pocket.

Alma Cheryl Ross, of Washington, was beaten and robbed shortly after 11 p.m. Sunday while she was standing at the bus stop at Stanton Road and Alabama Avenue SE. Six youths surrounded her, pushed her to the ground and forced her to give them her wallet, then fled.

James Feggins, of Washington, was held up about 2 a.m. Sunday by two men with guns in their pockets who approached him while he was sitting in his car in the 700 block of Lamont Street NW. "Give me your wallet and money," demanded one of the gunmen. After taking Feggin's wallet, the pair ran into an alley.

Evelyn V. Sweeney, of Bladensburg, was robbed about 5:40 p.m. at New York Avenue and Kirby Street NW. The driver of the car Miss Sweeney was riding in stopped for a traffic light at the intersection and two youths approached the auto. One of them reached through an open window, grabbed Miss Sweeney's purse and fled.

Wilma Gregory, of Washington, was treated at Rogers Memorial Hospital for face and throat wounds she suffered during a holdup about 11:05 p.m. Saturday. A man confronted her in the 1000 block of Massachusetts Avenue NE and demanded her money. When she refused, the man struck her in the face several times and began choking her. He then took the wallet from her pocketbook, removed the money and returned the billfold. After the robbery, the assailant fled on foot.

Cleveland Nickerson, Washington, was robbed of a large amount of money about 11:50 p.m., Sunday near his home at Holmead and Monroe Streets NW. Four men yoked Nickerson, grabbed his wallet and escaped.

Stephen Collins, of Washington, was beaten and robbed about 10:30 p.m. Sunday by two women and a man who attacked him in the 800 block of 19th Street NE. After assaulting Collins, the trio took his wallet and escaped into an alley in the middle of the block.

Ronald Christopher Urbina, a member of the Air Force stationed at Hurlburt Air Force Base in Florida, was held up about 2:30 a.m. while he was walking south in the 1300 block of 17th Street NW. Two young men approached him from behind and one of them, pointing a handgun at Urbina, said, "This is a stickup." While the gunman held him at bay, the other man took his money, a money order and watch.

James Morning, of Washington, was beaten and robbed shortly after 8 p.m. Sunday by two women who attacked him at 8th and F Streets NE, removed his wallet and escaped south in the 500 block of 8th Street NE.

Emma C. Davenport, of 2604 Monroe St. NE, was robbed about 5:45 p.m. Saturday by two youths who knocked on her door and told her they were collecting for her newspaper delivery. She invited the youths inside while she got her money. When she left her money pouch on the table and went into another for additional change, the youths grabbed the cash and fled out of the front door.

John L. Mullens, of washington, was beaten and robbed about 2 a.m. Sunday by two men who approached him near his home at 8th Street and Massachusetts Avenue NE and asked for a cigarette. After Mullens gave it to them, they knocked him to the ground and took bills from his pockets.

Aristo Cleaners, 1500 H St. NE, was held up about 8:40 a.m. by a youth wielding a gun who forced the clerk to hand him the money.

ASSAULTED

John Dillard, of 1305 Clifton St. NW, was admitted to Washington Hospital Center with a gunshot wound in his chin that he suffered during a fight with a woman wielding a .22-caliber revolver at his home about 2:30 p.m. Sunday.

Danny Davis, of 1424 Park Rd. NW, was admitted to Washington Hospital Center after he was shot in the chest. Davis told police he was investigating some noises behind his apartment building when an unseen gunman fired at him.

Gwendolyn Tolson, of 113 58th St. SE, was treated at D.C. General Hospital for a gunshot wound on her wrist that she received about 11 a.m. Sunday by an unknown assailant who shot her at the rear of her home.

Elston Trammell, of Washington, was treated at George Washington University Hospital for injuries he suffered when he resisted an attempted holdup about 11:30 p.m. Sunday. Two young men approached Trammell as he was getting out of his car at the corner of 13th and U Streets NW and said, "This is it. Give me your money." Trammell then struck one of the men with his fist and knocked him to the ground. The other man then pulled out a knife, stabbed Trammell on his wrist and fled with his companion.

Harry Elmer Pierce, of Washington, was treated at Washington Hospital Center for injuries he suffered about 3:05 a.m. Saturday. Pierce was removing newspapers from the trunk of his car near his home in the 1900 block of 4th Street NE when he heard someone run up behind him. As he turned to see who was approaching, a youth warned, "Don't turn around," and fired two shots at Pierce. One of the shots missed Pierce but the other one riccocheted off his belt and wounded him slightly in the abdomen.

STOLEN

A lensometer and two electric typewriters, with a total value of $535, were stolen sometime between 3 p.m. Saturday and 9:20 a.m. yesterday from Associated Opticians Inc., 7327 Georgia Ave. NW.

A check and $672 in cash were stolen between 12:30 a.m. and midnight Saturday from David Stroy when his home at 4627 Georgia Ave. NW was burglarized.

Electronic equipment, a camera, a tape deck and $25 in cash, with a total value of $740, were stolen between 3 and 9 p.m. Sunday from the home of Eugene Rubel, 288 M St. SW.

F. W. Scott and Elizabeth Green, both of 1421 Belmont St. NW, were held up about 7:10 a.m. by two men, one with a pistol and one with a shotgun, who approached them at the rear of their apartment building. The gunmen forced their victims inside the building, robbed them and fled on foot.

Two typewriters and an air-conditioner, with a total value of $1,071, were stolen between 4:10 p.m. Sunday and 7:54 a.m. yesterday from the D.C. General Hospital.

A check writing machine and an undetermined amount of checks, a calculator, an electric typewriter, a revolver, an adding machine, a radio, two hammers, four grinders, three drills and a set of sockets, with an estimated value of approximately $1,600, were stolen between 1 p.m. Saturday and 3:30 p.m. Sunday from Superior Iron Works, 1353 E St. SE.

An electric portable typewriter was stolen sometime between 8 and 9 p.m. Thursday from an office at D.C. Teachers' college, 1100 Harvard St. NW.

STABBED

Johnnie J. Leach, of 648 E St. NE, was treated at Rogers Memorial Hospital for shoulder injuries he suffered during a fight about midnight Sunday with a man wielding a knife inside his home.

FORTY MILLION AMERICANS AND A BROKEN ODYSSEY

Mr. MUSKIE. Mr. President, at a time when politicians are beginning to focus on America's white ethnic minorities, when the Labor Department files a report on the problems of blue collar workers, and when civil rights leaders like Father Geno Baroni speak up for millions of Americans rich in their cultural heritage but uncertain about their prospects, the article by Colman McCarthy in this morning's Washington Post takes on special significance.

I commend this article, which is entitled "Forty Million Americans and a Broken Odyssey," 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:

FORTY MILLION AMERICANS AND A BROKEN ODYSSEY

(By Colman McCarthy)

Hard hats. Super patriots. Flag wavers. Wallacites. Pigs. Supposedly included by these quick-mix brand names, mostly dreamed up or whispered along by far-off liberals, are some 40 million lower middle class white workers. They live mainly in the 58 major industrial cities of the Midwest and North, either direct immigrants or first, second and third generation descendants from the old—and what for some increasingly seems a better—world. Their roots are in Italy, Poland, Lithuania and other European countries. Because a few of them beat up antiwar marchers on Wall Street and St. Louis, or stone black civil rights workers—Cicero, Ill., 1966—or vote for George Wallace, the ethnic Americans are viewed by many non-members as war-fiends, racists and slobs.

They aren't. Before the sociologists, behaviorists and other missionaries set their compasses to search out the true meaning of this group, the ethnics are doing their own self-defining, free of catch-phrases and caricatures. At a recent meeting in Washington called by the Urban Task Force of the U.S. Catholic Conference, Barbara Mikulski of the Southeast Community Organization in Baltimore, spoke out: "The ethnic American is sick of being stereotyped as a racist and dullard by phony white liberals, pseudo black militants and patronizing bureaucrats. He pays the bill for every major government program and gets nothing or little in the way of return. Tricked by the political rhetoric or the illusionary funding for black-oriented social programs, he turns his anger to race—when he himself is the victim of class prejudice.

"The ethnic American is overtaxed and underserved at every level of government. He does not have fancy lawyers or expensive lobbyists getting him tax breaks on his income. Being a home owner, he shoulders the rising property taxes—the major revenue source for the municipalities in which he lives. Yet he enjoys very little from these unfair and burdensome levies."

Miss Mikulski went on to list other hurts and losses suffered by ethnics. At the conclusion, Miss Mikulski called for a new alliance of "white and black, white collar, blue collar and no collar" workers based on mutual need, respect and interdependence. At the end of the week-long meeting, it was clear that ethnic Americans see themselves as an alienated and threatened people, bypassed by the larger society and now blamed by this same society for much of what is dragging the country down.

Except for an occasional article—such as a recent piece in the The New Republic—and a government report on blue collar workers made public two weeks ago, few people, especially those farthest away in attitude, have gone beyond the jargon words to understand the ethnics—their culture, emotions, economics and future.

Culturally, many ethnics originally allowed themselves to be fertilized with the notion of the American dream, only to find parts of their European heritage ploughed under. From this buried necessity, it is common to find ethnic children named Rodney Raziano, Kimberly Grotowski, Kelly Walszak. "The parents of those kids are trying to blend in," says Monsignor Geno Baroni, "but it only increases the feelings of isolation more. Seeking acceptance in America shouldn't mean denying or disowning the culture of your ancestry, including ethnic names like Rocco or Stanislaus. There are other ways of being accepted, which ethnics already do—like paying taxes, community service, voting, obeying laws."

Baroni, who recently left a black inner-city parish in Washington to work at the U.S. Catholic Conference and organize ethnic strength, insists that man's cultural roots cannot be torn up arbitrarily. "I remember as a kid in a mining town in Pennsylvania. My teachers, white middle class Presbyterians and Methodists, taught me ways of becoming Americanized. Give up strong smelling salami, they said, and start eating homogenized cheese. So I gave up. I thought that was how you became a real American.

"If a kid denies enough things from his culture and heritage, even something small like salami, soon he has little to hang onto that tells him he's different. The well educated and middle class have other securities available to tell them who they are. So they don't need things like music, art, literature, food, or legends in the way that an ethnic does."

As a partial remedy, Baroni believes the schools should teach ethnic culture. If this idea comes about, it will be an extension of what many schools are already doing—offering courses in African culture. "The blacks who study their heritage," said Baroni, "aren't doing it to return to Africa. Neither are the ethnics planning on going back to Europe. Both groups just want to celebrate some of the same things their fathers did. This is cultural awareness, not cultural division. If all kids learned their own heritage, as well as learning others, you'd have a lot less groping for identity. A man who has cultural roots cannot be blown around by every breezy fad or idea or come-on."

Two bills, proposed by Rep. Roman Pucinski and Sen. Ralph Smith, have recently been introduced in Congress for the formation of ethnic heritage centers. "The bills have a good chance," said Pucinski. "I am amazed at the huge response we have gotten around the country. Not just from ethnics, but from all groups. People want to know about themselves and about each other."

The emotions of ethnics currently flash like electric sparks between poles of anger and fear. Since many have come from, and perhaps have relatives in, countries like Hungary, Poland, Czechoslovakia and others in East Europe where communism rules, ethnics rise with anger against liberal intellectuals and many of the young for whom anticommunism is now a bore. Because the Vietnam war was and is advertised as a free-world-against-communism struggle, ethnics know whose side they are on. The sight of students marching against the war, supported by universities and liberals, is enraging; moreover, not only have the ethnics fought bravely in past wars with no questions asked, but today it is largely their sons and the blacks—not the affluent, often deferment-protected students—who have been disproportionately drafted first for Vietnam.

The fear of the ethnic is felt most in the

potential of what is called the black revolution. Again, liberal and intellectual reformers are involved. For many of the latter, the black revolution is just a handy phrase, stronger than the old cause of civil rights, but essentially the same old things they have always been talking up: black capitalism, equal opportunity, social programs for the ghetto. Since many of those who most want to reform the inner city live safely and conveniently in the outer city, the ethnics see themselves locked in a box tied with pretty social-reform ribbons, plus a glued-on message from the liberals: you carry out in practice the ideas of brotherhood that we will keep on preaching in theory.

The ethnics see it differently. It is *their* jobs up for grabs as more blacks are trained, their neighborhoods where racial tension is worst, *their* families who will be victims of a high crime rate. None of this is an excuse for ethnic bursts of racism, of which there have been many. But it is reason to wonder whether the spontaneous and emotional racism of an ethnic in Gary, Indiana, is more easily excused and cured than the calculated and rationalized racism of, say, a WASP in Montgomery County.

With the average industrial worker making $8,632 a year (in 1968), money is perhaps the main worry of the ethnics. According to HUD Secretary George Romney, $27,000 is now the going rate for a house; on the average, a family would need an income of nearly $14,000 to build and keep a house, a sum few in the working class can raise.

Living just above the poverty level, ethnics are ignored by federal assistance programs designed for the ladder-rung below. Few wives can work because baby-sitters are beyond the budget; adult education is not widely available; small irks like rising bus fares only increase the pinch. The ethnics are victimized by inflation—his money buys less—and by anti-inflation moves, because layoffs hit him first. "Manufacturers," said Barbara Mikulski, "with their price fixing, shoddy merchandise and exorbitant repair bills, are gouging him to death. When he complains about costs, he is told that it is the 'high cost of labor' that is to blame. Yet he knows he is the 'labor' and that in terms of real dollars, he is going backwards."

The recent report from the Labor Department on the working class says that economically the ethnic is squeezed in another way—his earning capacity levels off just when family expenses continue to rise because of costs like teen-age and college-bound children, car and home improvements, and medical expenses for aging parents. As a result the ethnic pressures for higher and higher wages, exactly what union after union is doing. Even here, as with the Cleveland bus drivers recently, the workers often strike not only management but also their own leaders, when the latter give in too soon.

The future of ethnic Americans, as with the blacks below and the middle-class above, is not their own to decide. Three sources of cooperation could begin to reach out; the intellectuals, the church and the government.

During the last decade, the intellectuals social reformers and the men of wealth and power who back them were preoccupied with the problems of the blacks and the students in a coalition to end racism and the war. Aside from the question of whether this reaching out by the intellectuals was genuine concern or mere dabbling, the ethnics were seen as untouchables; they were both antiblack and pro-war. A dialogue between ethnics and intellectuals is urgently needed, but it can only happen on two conditions. First, that the intellectuals drop their arrogance toward people who earn their living by using their muscles, not their minds; and second, the intellectuals must realize that the ethnics are not lashing out from hate but from fear.

The ethnics' side of the dialogue must be based on the realization that the war is hurting them perhaps more than anyone; they should not need more inflation, unemployment or lack of community services to convince them that Vietnam has gone on too long. At home, the ethnics ought to begin seeing that the peace movement is more than Abbie Hoffman and Jerry Rubin; supporting peace doesn't mean supporting long hair or the Viet Cong flag or mouthoffs.

As for ethnics and racism, the intellectuals must explain that the blacks and white working class are actually in the same urban fix together. Instead of letting them fight each other for useless inner-city leftovers, the intellectuals could act as a referee, creating a black-white coalition based on hard, mutual needs, not any sentimental notions of integration.

The opportunity for the church to assist ethnics lies not in starting anything new but with continuing and strengthening old ties. The church was standing up for immigrants long before the government, through its social teachings and priests like Charles Owen Rice of Pittsburgh. If the seminaries can turn out more priests who care about social justice for ethnics, and not priests who want to play games with new liturgies or fight the bishops about birth control, the dynamics of the parish offer considerably more than symbolic hope.

The recent government report on ethnics is little more than a first puff of air into a trial balloon. Many are suspicious that the Nixon administration is only making the appearance of a move, with no substance. In fact, the confidential report reinforces this suspicion by saying candidly that the ethnics are "overripe for a political response." Realizing the report would cost impossible billions to carry out, the President is advised to do cheap things like making national awards for outstanding craftsmen, issue ethnic postage stamps and other items from a summer clearance sale.

It will take a little more than a report and public relations gimmicks to con votes from the ethnics, however. On July 1, two days after the report was leaked, Leonard Woodcock, the new president of the United Automobile Workers, said in Cincinnati that the Nixon administration seemed to be "dedicated to tearing the nation apart," that its policies had set "region against region and race against race." Many have been saying this all along, but predictably it came from chronic dissenters. It may even have surprised the White House that a spokesman for the working class would add his voice so vigorously to the disillusioned chorus.

The recent speeches and sayings of Spiro Agnew are seen by many ethnics, including Msgr. Baroni, as stirring the fears, not the hopes, of the working class. In taking the low road, the administration is no better than George Wallace, who is also using ethnics for his own political ends.

Which of these three groups—the intellectuals, the church or the government—steps forward first is not as crucial as the need for all to respond simultaneously. There is no doubt that the ethnics hold a great balance of power, and that it will be used one way or the other. What still needs to be made clear, is that ethnics have a strong culture, a deep commitment to country—this one—and a solid sense of fairness. These are also assets of great value.

NETWORK CONTROL

Mr. DOLE. Mr. President, one of the points at which the internal confusion, bias, and liberal slant of the network news media has caused the most friction in the industry is in the relationships between the networks and their local affiliates. Local stations are forced to take what the networks offer in news coverage or leave it. Local news budgets are too small to support coverage of events outside the station's regions, and if the network chooses not to cover an event in another city or country, the locals have to make do with wire service stories and pictures.

The network coverage of the July 4 Honor America Day festivities provided a striking example of this difficulty, and it was the subject of a commentary by Edwin Diamond on WTOP–TV on July 9, 1970.

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

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

HONOR AMERICA

During his address at Honor America Day, Billy Graham paid tribute to the media. Instead of an Iron Curtain around our faults, he said, America has a picture window.

An apt phrase. But in the coverage of the Day itself, the picture has a big crack. The Honor America sponsors said the day was non-partisan. But it is no secret that the event was carried out as a pro-Administration answer to past anti-war marches. The networks limited their coverage of anti-war dissent in recent months—a victory, I believe, for Mr. Agnew. Honor America Day presented a challenge: should it be given the same non-treatment that the dissenters got?

NET said it would not cover either the morning ceremonies or the evening entertainment. CBS said it would carry the speeches but not the show. Pressures were applied: in this battle for attention, TV coverage counts. CBS backed down and ended up covering some of the Bob Hope show business as well. NBC offered delayed tape coverage featuring those well-known news analysts, Barbara Walters and Joe Garagiola.

It was chintz curtain coverage. The networks allowed themselves to get pushed into a corner by failing to cover the anti-war demonstrations as the news events they were.

The networks were ready to shrug off Honor America Day too until the establishment opened fire. Television's job is to show the news. And news it is when 350,000 gather, no matter how saccharine much of the program may have been. Those who recognized the news—Washington area stations WTOP and WETA—reaped the rewards that media men understand. WTOP won 73 per cent of the audience for its live full coverage. Somebody out there was interested.

ADDRESS BY SECRETARY OF HEALTH, EDUCATION, AND WELFARE RICHARDSON BEFORE INDIANA UNIVERSITY BICENTENNIAL CONVOCATION

Mr. FANNIN. Mr. President, the growth of Government and programs sometimes tends to make a nightmare of our huge departments, such as the Department of Health, Education, and Welfare.

I find it highly commendable that the Department, under the leadership, first, of Mr. Robert Finch and now, Secretary Elliot L. Richardson, is seeking to streamline procedures, consolidate programs, and speed action.

Secretary Richardson has pointedly brought these factors to public attention in his first speech since assuming office.

He notes the frustrations of a border State neighborhood health center that reported in dismay its grant application expenses exceeded $51,000. The cost in time and money was hardly worth it.

Congressionally mandated programs now administered by HEW total 260—double the figure of a decade ago.

The diversity of grant periods, the multiplicity of grants within the same local agency, undermine comprehensive planning efforts and create uncertainty of cash flow. Chaos easily can follow. In other words, bureaucratic redtape can drive you crazy.

Some idea of the need for grant consolidation is noted by Secretary Richardson in reporting that public library grants are available in five separate programs, medical library grants in seven, health service grants in six, and vocational education in nine separate formula grant programs and six separate project grant authorizations.

Simplified processing already has been started, with new procedures cutting regional review time from 6 months to 8 weeks.

Line authority has been shifted to regional directors to reduce the lines of reporting from 38 to 9.

Secretary Richardson noted that State and city officials had had to travel to offices in as many as four different cities, hundreds of miles apart, in order sometimes to discuss a single program in which several agencies had a share. Mr. President, I find Secretary Richardson's report heartening. I ask unanimous consent that his speech before the Indiana University Bicentennial Convocation on July 8, 1970, be printed in the RECORD.

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

REMARKS BY HON. ELLIOT L. RICHARDSON

A historian looking back on our epoch might record something totally unique in human experience. He would see that within the working lifespan of a generation we have reached the moon, conquered and eradicated age-old crippling diseases, and provided a vast majority of our citizens with a previously unimaginable standard of material welfare.

That incredible flowering of our abilities has also created the expectation that our social problems can be solved by application of the same visionary dynamism. We have learned to hope, for the first time in human experience, that a society can be constructed which is at once free of poverty, abundant in educational opportunity, tolerant of racial and ethnic diversity, and liberating for the human spirit.

The full potential for achieving the objectives of social and human renewal never existed before. At the same time, the very existence of that potential has created the expectation that these objectives can be quickly reached. de Tocqueville noted the correlation between rising expectations and social disaffection in 18th century France. His words are instructive for our own time:

"The evil which was suffered patiently as inevitable seems unendurable as soon as the idea of escaping from it crosses men's minds. All the abuses then removed call attention to those that remain and they now appear more galling. The evil, it is true, has become less, but sensibility to it has become more acute."

I speak for my whole Department when I say we are imbued with a sense of excitement, urgency, and mission in our own determination to confront these problems. And HEW, in its interdisciplinary approach, represents the cutting edge of the Federal thrust.

Yet we who are among those Mencken once called the "chronic hopers of the world" have also learned to temper optimism with caution. We have or should have learned that it is easier to articulate problem dimensions than problem solutions. It's too easy to fall prey to the "Washington syndrome"—the simple-minded theory that social problems will just disappear if the Federal government throws enough dollars and statute books at them. And we should also have learned that the cruel and exaggerated rhetoric of unkept promises can threaten the very credibility of government itself.

But with these high hopes—with all of our resources and dedication—what is the problem? What are we waiting for? Why hasn't the war on our social problems been won? Some would say the problem is more money, and they would be correct insofar as the spending possibilities for improving mankind's lot are literally limitless. Some would say manpower is the problem, and they would be right to the extent that skilled manpower distributed in depth over the whole spectrum of human service professions is always a scarce commodity.

But there is another obstacle, less visible, but no less important, both in itself, and because it constitutes an incredibly wasteful diversion both of money and manpower. I am speaking now of the virtual strangulation of Federal efforts as grant programs proliferate and as more resources are continually forced into narrow constricting funnels long since inadequate to the task.

This subject has been of concern to me since my earlier tenure in HEW more than a decade ago.

Without attempting to bolster my status as a prophet, I want to recall my prediction of four years ago as a Massachusetts State official explaining the purposes of my proposed Community Services Act. I quote:

"Our society is today girding itself for an unprecedented attack on age-old causes of suffering and deprivation. We are beginning to forge a whole new arsenal of weapons for the conquest of educational, emotional, and economic and physical handicaps. And in the process, we are discovering that the most serious barriers to the effective use of these weapons are barriers of communication, of jurisdictional jealousy, and of structural rigidity.

"The needs of people are seldom adequately met by any single one of the narrow categorical programs through which help has traditionally been channeled. The existing sources of help, moreover, are too numerous, too scattered, and too much isolated from each other. Their administration tends to be both cumbersome and impersonal. The result is greatly to impair the effectiveness as well as the efficiency with which we are able to bring to bear on human needs our available resources of funds and manpower.

"'The inevitable result will be overlap, discontinuity, confusion, and—in consequence—disappointment of the very expectations to which (these programs) gave rise."

I can only report that in the four years since that statement, the situation has gotten worse.

A Border State neighborhood health center recently reported to us in dismay that its most serious operational mistake was to apply to numerous Federal agencies for funding. Grant application expenses exceeded $51,000. Expert staff time diverted from productive work was irreparably lost. Federal agency guidelines were inconsistent, application procedures varied widely, and review levels were multilayered and complex. I quote from the Project Director's letter to the Department:

"I see now that I made a gross mistake to encourage my staff to make approaches to a broad spectrum of Federal agencies to fund different aspects of our program. None of the agencies seem to understand that we do not run categorical programs at the Health Center, but that we conduct integrated, family-oriented team delivery of service, and the task of educating all our reviewers to this is really too much. The other Neighborhood Health Centers . . . who receive the large bulk of their funds . . . from a single agency have certainly been wiser and more productive. It would be so much easier to deal with one agency which would be completely familiar with our program and we in turn knowledgeable of their procedures and requirements."

Most of the phenomenal growth of Federal programs in recent years has occurred within the Department of Health, Education, and Welfare. When asked recently what it was like to return to HEW, I thought a minute and replied that it was a bit like meeting an old long lost friend who had grown very fat. The Congressionally mandated programs administered by the Department now number 260, well over double the figure of a decade ago, and more in number than all of the other domestic agencies combined. Almost $19 billion of the HEW budget is allocated by Congress to categorical grant programs. In turn, about 90 percent of this $19 billion is spent through some 40,000 institutions and agencies.

The ability of these State and local agencies to secure funds and spend them effectively is, therefore, crucial to the success of HEW's central mission. But countless examples of the experiences of Federal grant recipients similar to the story of the border State health center strongly suggest that all is not well. Their stories remind me a little of Bob Benchley's treatise, "Fishing from the Viewpoint of the Fish."

A Neighborhood Health Program in Denver which utilized twelve different governmental funding sources encountered almost insuperable difficulties in grant administration. Diverse grant periods undermined comprehensive planning efforts. Legislative authority and program regulations varied to the point of inconsistency. Cash flow was uncertain because of varying payment methods. In no case were reporting requirements the same from program to program. At one point, chaos ensued because all funding agencies conducted separate audits within a 45-day period. As a final insult, some agencies cut back funds based upon more generous allocations by others.

The problem is by no means limited to the field of health care.

Approximately 30 HEW grant programs can and do support some portions of social work training in universities. These include training grant programs in support of such specialities as aging, juvenile delinquency, mental retardation, crippled children, mental health, alcoholism, and family welfare.

Yet the Dean of a major university's School of Social Work recently bemoaned the fact that his school has had to apply for and administer as many as nine training grants from DHEW to assist in the provision of undergraduate and graduate social work training.

The Dean has pointed out the administrative impossibility of confirming the use of each of these separate grants only for the categorical purpose for which awarded. In addition, the relative availability of the various grant categories in any year has a necessary influence in shaping the training program emphasis in ways unrelated to the goals of the school or the students.

These anomalies do not result from the actions of venal, obstructionist or unintelligent men. The professionals in my Department

and throughout the government are as dedicated, industrious, and competent as any professionals anywhere.

Nor does the solution lie in a vast dismantling operation. We cannot retreat, even if we wanted to, to a mythical golden age of self-help in which the government—out of despair, incapacity, or indifference—abandons the attempt to conquer the age-old problems of poverty, disease, and suffering. In that sense, to paraphrase the title of Thomas Wolfe's novel, we can't go home again. And we should not want to.

We have experienced some false starts and some promising ones in the last decade. But I believe we are now at or near the point where our ability to reform and renew the Federal grant effort could determine the fate of our entire governmental system.

I have been deeply gratified to discover just how much was already underway in HEW to initiate reforms. Administration officials have identified the problem and elaborated a corrective approach which recognizes how serious the situation really is. In a message to the Congress on April 30 of last year, President Nixon described the existing grant system in the following terms:

"The number of separate Federal assistance programs has grown enormously over the years. When the Office of Economic Opportunity set out to catalogue Federal assistance programs, it required a book of more than 600 pages just to set forth brief descriptions. It is an almost universal complaint of local government officials that the web of programs has grown so tangled that it often becomes impermeable. However laudable each may be individually, the total effect can be one of Government paralysis."

In short, the most serious impediment to the accomplishment of a program's objectives may be the very existence of other programs with the same humane objectives. Seen as such, the question of organization and procedure is not peripheral, but central; it is not a mere housekeeping function, but the most important task we confront.

President Nixon's message has set in motion a concerted effort to reform the system by means of a whole series of interrelated measures.

In the time remaining, I would like to describe, necessarily by way of thumbnail sketch, four of the most important efforts under way. These four efforts—Grant Consolidation, Fund Transfers, Grant Streamlining, and Decentralization—are interdependent and mutually reinforcing in their approaches. They attempt consciously to reverse the top-heavy trend of governmental programs. They proceed from the premise that further proliferation of programs without comprehensive structural reform will be counterproductive—counterproductive in the worst sense because Federal dollars will not alleviate the human needs for which they were targeted.

The first, and perhaps the most important of these reform proposals, is *Grant Consolidation*. The President has sought authority to consolidate existing grant-in-aid categories if Congress, within 60 days, does not overrule his proposals. If the all-too-typical examples I spelled out at the beginning demonstrate anything at all, they demonstrate a crying need for coordination of the Federal effort and a comprehensive view at the community level.

At the present time, just to give you a sense of the spectrum, public library grants are available in five separate programs, medical library grants in seven, health services grants in three separate formula grants and six project grant programs, and vocational education in nine separate formula grant programs and six separate project grant authorizations.

Categorical programs by themselves too often encourage a narrow view; they focus on a specific product to the detriment of the needs of the group to be served. We have no objection to a diversity of programs and approaches; pluralism is high in the hierarchy of American values. But as the recent McNerney Task Force on Medicaid aptly put it, "One man's pluralism is another man's incoherence." In the design and execution of public programs, we must have a coordinated strategy; and a pluralism of approaches can never be as important as a coherence of outcome.

Apart from relatively minor administrative steps which are now underway, Grant Consolidation as we have formulated it will require Congressional legislation. Unfortunately, it may be as difficult to persuade Congress to pass the legislation as it sometimes is to get Indiana to the Rose Bowl. "Difficult", you would say, "but obviously not impossible." We hope to follow your example.

Each program has an interest group constituency; some legislators are reluctant to see national program mandates altered, even in the face of local needs. But we believe this is the direction in which responsible and responsive government must move. The task is formidable, and the time to confront it short.

The second major effort is our proposal for *Fund Transfers*. The Administration's Social Services Reform Amendments to the Family Assistance Act embody just such an approach. It is frequently and correctly argued that over-centralization of decision-making at the Federal level has served to sap State and local initiative in identifying and addressing major social problems.

Under our legislative proposal, States and localities will be given incentives to coordinate and integrate their service programs in return for submission of a consolidated HEW Plan.

A Governor could include any HEW-funded program he administers, and Plan approval would allow him to transfer up to 20 percent of his Federal grant funds from any one included categorical program to another of higher priority. This critical reform allows Governors and local officials to utilize the leverage of Federal funds more flexibly to meet local needs. And we hope it would minimize the chain reaction of disaffection when last minute Federal budget alterations create major dislocations in high priority Federally-assisted State programs.

The third of our interrelated thrusts toward reform is *grant streamlining*. The Federal Assistance Streamline Task Force, appointed by Secretary Finch, mounted a major effort to analyze each step of every one of the 260 separate HEW grant-in-aid programs. Grant processing under each of these programs involves an average of 28 steps, and each of these steps might contain as many as 50 separate actions.

The results obtained in our first 50 program reviews have been startling and clearly demonstrate the value of reform.

A simplified grant processing system was developed at the regional level, resulting in a decrease of total review time from six months to eight weeks.

We reduced, simplified, and eliminated nonproductive documentation in 22 State Plan programs, with the result that 6,800 fewer pages have to be prepared and submitted annually by each State. We thus saved over $8 million and 867 man years of State and Federal effort.

We eliminated 182 of the 516 steps in the review process for project grants.

We freed 351 man-years of State and Federal manpower by eliminating or reducing reports required from grantees.

The final major reform effort underway is *decentralization*. It is an axiom of our operations that to the greatest extent possible, consistent with overall national policy objectives, we should bring the decision-making process of the Federal Government close to the State and local areas in which the problems lie. We believe that our domestic programs must support and strengthen local leadership. In the first months of his Administration, President Nixon restructured the regional boundaries of the major domestic agencies in the field so that now their headquarter cities are the same, and the regions which they cover are uniform in their boundaries.

Previously, State or city officials and grant applicants had to travel to offices in as many as four different cities, hundreds of miles apart, sometimes to discuss a single program in which several agencies had a share.

Taking this reform as a point of departure, HEW has moved to strengthen its 60,000 man regional organization. Traditionally, HEW Regional Offices had little authority. We have now shifted line authority to Regional Directors and Regional Agency Heads, and reduced the lines of reporting from 38 to 9. We have made the basic policy decision that headquarters staff will concentrate on policy development, program direction, and evaluation.

Field personnel will be responsible for detailed planning and implementation of programs, as well as technical and individual grant awards and compliance review.

Throughout this brief inventory of new departures emerge certain common themes. These are, first of all, structural reforms designed to make governmental action responsive more quickly, more effectively, and more visibly to the areas of greatest human need. In tandem they rationalize and integrate numerous programs and funding sources and target them comprehensively. At the same time, they upgrade State and local leadership in its effort to identify and articulate human needs.

And finally, because the new system of decentralization delegates decision making, it avoids diffusion of responsibility and confusion in lines of responsibility.

All of these steps, I would reiterate, are products of bitter experience, and major components of an absolutely critical task of governmental reform.

It is probably no coincidence that the writer, Franz Kafka, was also a civil servant and a bureaucrat. His novels decry the alienation of an individual who confronts an impersonal and impenetrable organization. To a great extent, the outcry besetting our society today reflects a similar protest against the dehumanizing experience of modern institutions.

I think Kafka's bureaucratic nightmare can be avoided. I believe that government service can be consistent with efficiency and with human dignity. But to achieve this balance, we must recapture a sense of urgency about reform.

This same kind of concern—this sense of urgency and mutual interdependence was expressed recently by an author writing on the problem of mental retardation. Why, the author asked, after as long a history of neglect, has a grassroots movement to combat this handicapping condition at last developed such momentum? Answering her own question, in words I would like to appropriate as my own, she replied:

"It is because the world is very much with us today. We know (many of us perhaps only subconsciously) that if our way of life is to survive, every individual, be he handicapped or whole, be he a privileged American or an under-privileged peasant in India, every individual must be counted an individual and accorded his place in the sun."

In the last analysis, it is to that end—the cause of individual self-realization . . . each man's place in the sun—that we bend our efforts at reform. No task is more challenging, and no cause more worthy of our concern.

BILINGUAL AIR FORCE RESERVE UNIT TO REMAIN ACTIVE IN SAN ANTONIO

Mr. YARBOROUGH. Mr. President, in March of this year, the Air Force announced plans for the deactivation of the 922d Tactical Airlift Group, U.S. Air Force Reserve, which is stationed at Kelly Air Force Base in San Antonio, Tex. Upon the receipt of this information, I immediately dispatched a letter to Secretary of Defense Melvin Laird in which I vigorously protested the proposed deactivation of this outstanding bilingual unit, the only such bilingual unit in the Tactical Airlift Service. A letter from the Office of the Secretary of the Department of the Air Force informs me that the 922d Tactical Airlift Group is no longer destined for deactivation.

On behalf of this fine unit and the people of San Antonio, I want to commend the Secretary of the Air Force for exercising the good judgment to continue the active status of the 922d.

Mr. President, I ask unanimous consent that my March 25, 1970, letter to Secretary Laird; the July 13, 1970, letter to me from the Department of the Air Force; and my July 14, 1970, letter commending the Secretary of the Air Force be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., March 25, 1970.

Hon. MELVIN R. LAIRD,
Secretary of Defense,
The Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: It has come to my attention that the 922nd Tactical Airlift Group, U.S. Air Force Reserves, which is stationed at Kelly Air Force Base, San Antonio, Texas, is scheduled for deactivation sometime this year. In view of this organization's outstanding record and its unique capabilities, such action would be ill-advised, and not in the best interest of the Air Force.

The 922nd Tactical Airlift Group is the only group of its kind in the Air Force that has a bilingual capability. Out of the group's 641 enlisted men, 450 have Spanish surnames. Furthermore, a large number of the men in the unit who are not Mexican-Americans can also speak Spanish. This group is capable of performing invaluable service should the need arise for it to be deployed in a Spanish speaking area.

In addition to its bilingual capability, the 922nd Tactical Airlift Group has a distinguished record of service. In 1969, it received the Loening Trophy as an outstanding group in the Air Force Reserves. In addition to this honor, the 922nd Tactical Airlift Group has received the Air Force outstanding unit citation for developing the "Alamo Sling Shot" aerial delivery system which is now used throughout the Air Force.

For these reasons, I urge that this unit not be deactivated but be allowed to continue its outstanding service to this nation.

With best wishes,
Sincerely,

RALPH W. YARBOROUGH.

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., July 13, 1970.

Hon. RALPH YARBOROUGH,
U.S. Senate.

DEAR SENATOR YARBOROUGH: Knowing of your interest in Air Force matters, the Secretary has asked me to inform you of our decisions regarding several Reserve units.

We had previously announced that due to the obsolescence of the assigned C–119 aircraft several Air Force Reserve units would either be deactivated or relocated and assigned new missions. The units affected were: the 928th Tactical Airlift Group (TAG), Chicago-O'Hare International Airport, Illinois; the 913th TAG, Willow Grove Naval Air Station, Pennsylvania; the 914th TAG, Niagara Falls International Airport, New York; the 922nd TAG, Kelly Air Force Base, Texas; and the 933rd TAG, General Billy Mitchell Field, Wisconsin. At the time of the previous announcements, we did not have follow-on airlift aircraft as replacements for the C–119s assigned to these units.

Subsequent program changes have now made C–130 aircraft available so that all five TAGs can remain at their present locations, convert to the C–130 Hercules, and continue to perform the tactical airlift role. Each unit will be authorized six aircraft, which will be made available from Fiscal Year 1971 reductions in the active inventory. Our decision to retain these units is based on a need to reduce the active force and still maintain tactical airlift capability.

The assignment of C–130 aircraft will provide a meaningful mission for our Reserve units. In addition, the retention of this highly trained manpower resource will assist the Air Force Reserve in achieving the average drill pay strength authorized by the Congress.

Shortly after this letter is delivered to your office we plan to notify the news media.

Sincerely,

JOHN J. SHAUGHNESSY,
Colonel, USAF, Chief, Plans Group, Legislative Liaison.

JULY 14, 1970.

Hon. ROBERT C. SEAMANS, Jr.,
Secretary of the Air Force, Department of the Air Force, The Pentagon, Washington, D.C.

DEAR MR. SECRETARY: Thank you for the July 13, 1970 letter from your Department notifying me that the Air Force has reversed its earlier plans to deactivate the 922nd Tactical Airlift Group, U.S. Air Force Reserve, which is stationed at Kelly Air Force Base in San Antonio, Texas. I commend you and your Department for exercising the good judgment to continue the active status of this fine unit.

As I pointed out in my March letter to Secretary of Defense Melvin Laird, protesting the planned deactivation, the 922nd Tactical Airlift Group is the only group of its kind in the nation with a bilingual capacity. The vast majority of the unit's 641 men have a command of the Spanish language. Their knowledge in this regard would certainly enhance our country's ability to deal with any emergency that might arise in a Spanish-speaking area.

In addition, your decision not to deactivate the 922nd Tactical Airlift Group will allow a continuation of the long-standing tradition of military excellence which has come to be identified with Kelly Air Force Base. The 922nd Tactical Airlift Group has a distinguished record of exceptional performance and service. San Antonio, founded as a military presidio, has a military tradition going back over 250 years. The people are proud of this unit. Morale there is high.

For the reasons outlined above, I strongly opposed the deactivation of the 922nd Tactical Airlift Group, and I believe that your decision to allow the unit to continue its record of outstanding service to the nation is indeed wise and commendable.

On behalf of this Unit and the people of that area, I thank you.

Sincerely,

RALPH W. YARBOROUGH.

THE BASTILLE: A NEW REMEMBRANCE

Mr. THURMOND. Mr. President, the editorial page of the Washington Post this morning carries an interesting article commemorating the fall of the Bastille on July 14, 1789. The article, written by J. M. Lalley, summarizes many of the facts of the true history of the Bastille as have been developed by reputable historians both of the present time and at an earlier age.

The basic situation as correctly outlined by Mr. Lalley is this:

The Bastille was a trumped-up symbol of the so-called oppression of the French monarch, a rallying cry which was used to stir up the mobs of Paris and has ever since been used as a symbol justifying every sort of revolution and anarchy. Mr. Lalley points out that the Bastille had long since ceased to be used as a real prison. The angry Paris mob found only seven prisoners inside. The tales of horror were strictly legendary. For example, the story of the so-called "iron mask" turns out to have been fabricated on the basis of a silk or velvet mask which concealed the identity of a mysterious prisoner when he was exercising. The rooms in the Bastille were better than those used by the courtiers at Versailles. So-called prisoners were fed luxurious repasts and fine wines. The inmates admitted into the Bastille at that period were mainly wealthy reprobates such as the notorious Marquis de Sade. Even the Bastille's cannons, a supposed threat which was used by the mob as an excuse to storm the Bastille, had been long since decommissioned.

These facts are not newly discovered even though they run contrary to the popular myth about the Bastille, they were widely known in the 18th century, and have been confirmed today. What I find most interesting about the article is that the Washington Post should decide to print the truth nearly 200 years after the events. The incident of the Bastille is typical of the kind of distortion which has been practiced by the opinionmakers of the left from the time of the Bastille down to the present. It is typical of the same kind of distortion which the modern media are practicing every day. I find it very magnanimous of the Post to print the truth after 200 years. The only question which remains unanswered is this: Will we have to wait 200 years for the Washington Post to correct the distortions and half-truths which are daily printed on its front pages and editorial columns? Will the Post be good enough to print the truth about Vietnam in the year 2189? Or the truth about the American South? Or even the truth about the distortions of the media today?

Mr. President, I congratulate the Washington Post for having the courage to print the truth 200 years after the event. I ask unanimous consent that the article entitled "The Bastille: A New Remembrance," written by J. M. Lalley, and published in the Washington Post of July 14, 1970, be printed in the RECORD.

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

THE BASTILLE: A NEW REMEMBRANCE

(By J. M. Lalley)

(NOTE.—*The writer, now retired, is a former member of the editorial page staff of The Washington Post.*)

In a century such as ours, which has known of Auschwitz, Belzec, Dachau and Buchenwald, of Vorkuta, the Kolyma and the other slave camps of Stalinist Russia, the name **Bastille can no longer evoke even a shudder.** Time was, however, when legend, rumor and the romantic imagination combined to produce a vision of the helpless victims of monarchical tyranny chained in lightless dungeons, rotting in their filth and slowly dying of torment and despair. "The wide world," so the learned Lord Acton assured his students, "knew the horrors of its history, the blighted lives, the ruined families, the three thousand dishonored graves." The eighteenth century English poet Cowper lived to see fulfilled his wish for the destruction of "those horrid towers, the abode of broken hearts." Yet for a good ten years before those words were written, the Bastille had been all but emptied of its prisoners by Malesherbes, the liberal minister of interior to Louis XVI, partly no doubt as a gesture befitting the humanitarian ethos of the reign, but also perhaps as a measure of economy; for whatever else the Bastille may have been, it was an extravagant drain on the royal purse. When the ancient fortress surrendered to the angry Paris mob and mutinous Gardes Francaises on the fourteenth of July, 1789, only seven prisoners were found inside, and these seem to have been deemed either too helpless or too dangerous to have been set at large.

More recent investigation, discovery and historical revision has relieved the Bastille of much of its legendary horror; even the "iron mask" which concealed the identity of its most mysterious and closely guarded prisoners turns out to have been one of silk or velvet, worn perhaps only during his periods of exercise when there was danger he might be recognized. Apart from this, about all that remains to shock our Anglo-Saxon notions of justice is the fact that almost any person anywhere in the realm could be confined, without trial or even formal accusation, for as long as suited the royal pleasure, merely on the authority of a lettre de cachet issued by the king or one of his ministers. At one period the ministers granted them rather freely to persons of influence who made use of them to punish runaway or recalcitrant children, or to rid themselves of troublesome relatives, or of personal enemies, as in the case of Voltaire after his audacious challenge to the Chevalier de Rohan. Sometimes it was a means of rescuing evil-doing nobles from the vengeances of the law, as in the case of the notorious Marquis de Sade, that present-day hero of the Sartrean New Left. He had been sentenced to death at Aix, but it was in the security of the Bastille that the mad marquis wrote his pornographic novels. There were also those who had themselves committed by cajoling or bribing a minister and as a device for evading importunate creditors or merely for living high for a while at the royal expense; for if we can trust the researches of Mr. W. H. Lewis, the Bastille was much more like a well-appointed hotel than a prison, and its accommodations were vastly superior to the lodgings of most courtiers at Versailles.

There were some dungeons, he admits, in the towers of the Bastille, but in the seventeenth and eighteenth centuries at least they were unoccupied save in brief and very rare instances when a prisoner who had become violent or otherwise obstreperous might be isolated for a day or two of sobering up or cooling off; but since no one could be sent to a dungeon without the written approval of a minister, it involved a degree of paperwork that the governors, wherever possible, were eager to avoid. The rooms in which prisoners were normally lodged were comfortable and well ventilated and furnished according to the personal tastes of their inmates; or if a prisoner's tastes were too fastidious for the resources of the castle, he could have his own furniture brought in. He could have books, writing materials, musical instruments, and if he wished, animal pets; he could even bring in a servant or two to look after his intimate needs and to be lodged and fed out of the royal largesse.

It is perhaps no great wonder that in her Memoires, the Baroness de Staal de Launay, a poor dependent of the Duchesse du Maine and arrested with others in the Sceaux conspiracy, should have looked back on her days in the Bastille as the happiest, of her otherwise rather drab and difficult life. Her memory of them was sweetened by the friendships she enjoyed there, the solicitous concern for her well-being shown by a young lieutenant of the guard, her love affair with another prisoner that she describes at some length, and also by the fact that she seems to have been at the time the only woman in the place. Anyway, she tells us that she felt herself to have been more free in prison than she had ever been afterward or before.

The cuisine of the Bastille is said to have been one of the best in Paris, though the diet was hardly one that many of our present day doctors would recommend. Mr. Lewis says there is extant a petition from some plebeian prisoners, complaining that their digestions were being ruined by the richness of the food. The midday dinners and evening suppers ran to several courses each. Every morning the prisoner was given a bottle of wine to sustain him between meals, and at dinner he had his choice of two bottles of champagne or two of burgundy, or if he preferred, one of each. If even this were not enough to satisfy his appetite and thirst he could have more sent in at his own charge. Sometimes, though, as a punishment for some serious infraction of the house rules, a prisoner might be deprived for a few days of his regular fare and obliged to subsist on nothing but soup meat, bread and a pitiful half-bottle of wine.

From the outside of course the Bastille was a grim and menacing pile, and passersby are said to have made a sign of the cross at the sight of it. It was a medieval fortress, built sometime in the fourteenth century, and the guns that glowered from its ramparts seemed to threaten the surrounding Faubourg Saint-Antoine and even the capital itself, though not a shot had been fired from them since the days of the Fronde. At the time of the attack they had been dismantled, as the governor, M. de Launey, permitted the emissaries from the Paris Electors to observe for themselves. Nor was the Bastille then in any condition to have resisted a protracted siege for it was dependent on the outside for its provisions and apparently even for water. The garrison consisted of 82 Invalides, or partly disabled pensioners, lately reinforced by 32 Swiss. Only the loyalty of the Swiss was certain; the governor's main hope lay in the anticipated arrival of other Swiss and German troops, supposed to be advancing on the capital under the command of the Baron de Besenval; but Besenval was already in retreat, wishing, as he explained afterward, to avoid bloodshed and civil war. When the assault had continued for about four hours and more than a hundred of the assailants but only one of the garrison slain, de Launey's officers urged him to capitulate. It was then that the despairing governor sought to ignite the powder magazine, and so blow up himself, the Bastille and its garrison, the attacking mob and perhaps half of the Faubourg. He was prevented by a fusilier named Becard, who then persuaded him to surrender on the promise of safe conduct from the leaders of the mob. Not long afterward the bloody head of de Launey was being paraded through the streets on the point of a pike and the corpse of Becard was dangling from a lamp post.

In the French Revolutionary tradition the fall of the Bastille signals the triumph of liberty over oppression, of equality over oppression, of equality over privilege, of the popular will over autocracy. What it signified to some contemporaries, however, was the death of liberty in the triumph of anarchy over authority, a view taken also by certain historians, among them Taine and Madelin. What followed the Bastille was not Utopia but the historical phenomenon known as the Great Panic (Grande Peur), affecting all classes of society in that long hot summer of 1789, when suddenly it was realized that the thirteen-century-old monarch had fallen like the Bastille itself. There was no longer an administration; there were no longer any laws, courts, police, army or revenues—only a kind of universal and all-pervasive terror. Thus was begun that long revolutionary cycle of which we have not yet and may never see the end.

At the time of Adolf Hitler's early victories, the Italian historian Ferrero wrote from his place of exile that instead of an occasion for festivity and dancing in the streets, the fourteenth of July should have been made a time for somber meditation on the paradoxes of politics, and on that "revolutionary apocalypse . . . which has lasted for a century and a half and now, after having devastated Europe, threatens to spread all over the world and destroy everything."

WE MUST MAKE OUR ECOLOGY SERVE OUR DAILY NEEDS

Mr. McINTYRE. Mr. President, at a time when the environmental crisis is on the minds of all Americans, there is a manifest need for deep thought about its implications and meaning in the everyday lives of our citizens.

As has often happened, however, the sounds of crisis have not yet been followed by the comprehensive philosophical and moral commitments necessary to change the ways of the past.

Business as usual will continue until certain basic recognitions are made. Our political system, which is basically sound and sufficiently adaptable to accommodate needed changes, must adjust to the new demands of ecosystematic realities. Scientific discoveries must be evaluated according to new considerations which weight the benefits to be derived against possible ecological side-effects.

Most important, however, will be the readiness of the average citizen to participate fully in a reevaluation of the ecological impact of his daily activities. This will be the most complex hurdle; for any proper adjustment will involve changing deeply ingrained habits of consumption, basic desires, and fundamental philosophical beliefs.

A process of education, spread throughout the population, young and old alike, is absolutely necessary to this reevaluation. And this educational effort must be backed by deep and comprehensive thought on the part of those who would educate. This is a job for our philosophers, political scientists, and other elements of the academic community. This process will be long—but it is essential.

I am most happy to see, therefore, that this process is now beginning. An article published recently in University, a quarterly published by Princeton University, provides a cogent example of needed political thought. I commend the author, Prof. Harold Sprout, for his past and present contributions to better ecological understanding and ask unanimous

consent that his article be printed in the RECORD.

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

HARD POLITICAL TRUTHS ABOUT ENVIRONMENTAL REFORM

(By Harold Sprout)

Major changes in priorities accompanied by massive changes in the allocation of resources are needed to arrest and reverse the current ruinous trend toward environmental deterioration in America.

First, there is need for a stronger and more widespread sense of urgency in order to sustain environmental programs that, in order to be effective, will inevitably be severely restrictive and very expensive.

Second, environmental imperatives are competing with a multiplicity of rising demands for scarce resources, with the outcome far from certain.

(I shall use *environment and environmental* with reference to nonhuman physical surroundings. When referring to urban squalor, poverty, inequality, and the like, I shall use the adjective *social* even though such things are part of environment broadly defined.)

I take off from the truism that what matters in the making of policies is not how conditions actually are, but how these are perceived by those who participate in the process. Applied to the environmental crisis, this distinction is between conditions as professional *ecologists and other relevant experts declare these to be*, and as *non-expert-law-makers and citizens believe them to be*.

This distinction becomes especially important when the ultimate effects of a current situation are not immediately obvious. Such is notably the case with environmental pollutions. For example, adverse effects of poisoned air on health may not become fully evident for ten or twenty years, or more.

Plainly, 99-plus percent of the American people (including most elected law-makers) have little or no expert knowledge of ecological cycles eco-systems, or the ramifying consequences of environmental changes. They are about as ill-equipped to assess the longer-range effects of foul air as they would be to describe the mechanisms of a space-rocket. But however limited their ecological knowledge, citizens have votes. And their elected representatives determine priorities, levy taxes, and allocate scarce resources.

There is a well-known tendency to dismiss expert predictions as unproved conjectures. This tendency is especially strong if the policy implications threaten vested interests and cherished freedoms and amenities. Thus, the first question to ask about the political context of our environmental crises is: *How is this crisis perceived by politicians and citizens generally?* If so, is it sufficient to sustain restrictive and very costly courses of action?

I think we may take it for granted that most Americans are at least intermittently and unpleasantly aware of smog, polluted water, excessive noise, rising mountains of debris, and other evidence of our deteriorating environment. Opinion polls indicate that a majority favor doing something about it. One notes, in particular, that environmental quality is becoming a serious concern of students all over the country. Some observers assert that public opinion is "forcing the pace" for environmental improvement.

But we have little basis as yet for predicting how much Americans are willing to pay for a cleaner and more salubrious environment. How will they react when they begin to feel the pinch in their accustomed style of life? How will they respond to higher taxes and higher prices that will certainly accompany significant environmental programs? My impression is that most people are reluctant even to talk about such an unpalatable prospect.

Put another way, it is doubtful if any but the tiniest minority—chiefly professional ecologists and dedicated lay conservationists—believe as yet that conditions are sufficiently menacing to justify drastic remedies. It is still more doubtful if any substantial number of Americans believe the experts who insist that continuation of present trends could render the earth uninhabitable within two or three generations. Such a possibility is simply beyond the comprehension of most people. And it is notorious that important agencies of government, strongly supported by influential bodies of citizens, cling tenaciously to ongoing programs and new projects—for example in agriculture, and in air transport, among others—even those that promise to make environmental conditions worse rather than better.

This assessment may be too pessimistic. I hope—but I do not really believe—it is.

The fact is, *environmental imperatives are competing with other massive demands on scarce resources.* Available goods and services are never sufficient to cover demands in any society. But I can think of no time (except possibly the final months of World War II) when the gap between demands and disposable resources in America has been so wide as it is today. For this reason, we need to examine environmental programs within the context of a larger American crisis—one that has been aptly called the *crisis of priorities*.

This crisis has many roots. But three are chiefly responsible for its intractability as well as centrality in American politics today. (1) The *size and inflexibility of the military budget*. (2) The *rising demand for action to arrest environmental deterioration*. (3) A concomitant *massive rise in demands for a cluster of social needs*, associated with poverty, education, the cities, and other urgent social problems.

The size of the military budget is notorious. In 1960 the military departments received 50 percent of all monies disbursed through the Federal government. By 1969, total dollar expenditures by those departments had risen from $38 billion, to $77 billion. Much of this increase was for the war in Vietnam. Some of it was inflation of prices largely attributable to the war.

During the 1960s, the percentage of Federal expenditures allocated to the military establishment declined slightly. But at the end of the decade it still amounted to 45 percent of the Federal budget. Recent decisions promise some further reduction—but how much remains to be seen.

It has been repeatedly asserted that Federal spending for military purposes could be reduced by as much as 50 percent without real loss of security. This is, of course, debatable. *But it is not debatable that the Federal government lacks adequate procedures for weighing rationally the demands of the military against those of the civil society.* Hitherto, the absence of rational allocation procedures has worked mainly to the advantage of the military establishment. In the changing climate of American politics, it may work increasingly in the opposite direction. In any case, given a taxing system as rigid as ours, the huge military budget is an obvious and attractive alternative source of large funds needed for domestic civilian purposes.

There is some tendency on the part of ecologists and conservationists generally to assume that a cleaner and quieter environment is a universal value. This may be so from a physiological perspective. But it is by no means so from a political perspective. Environmental values are strongly identified with the higher income classes—notably those in the top 20 percent who receive over 40 percent of all distributed income; and perhaps most of the next 20 percent who receive nearly a quarter of all distributed income.

From the standpoint of the less affluent, environmental values rank lower; tend to be regarded as luxuries until more elemental needs are satisfied. This is repeatedly asserted by those who speak for the poor and near-poor: for example, for the bottom 20 percent who receive less than 5 percent of distributed income; and more broadly the lowest 40 percent whose total take is only 16 percent.

When exhorted about the virtues of clean air, pure water, noise abatement, unlittered landscape and the rest, they are generally unimpressed. Their perspective is summed up tersely by Whitney Young.

"People live in blighted housing, can't find decent jobs, send their kids to second-rate schools, die too soon because they can't afford doctors, and the cities they live in are sinking under the weight of countless unresolved problems and poverty and discrimination.

"That's where our national attention should be focused. The war on pollution is one that should be waged after the war on poverty is won. Common sense calls for reasonable national priorities and not for inventing new causes whose main appeal seems to be in their potential for copping out and ignoring the most dangerous and most pressing of our problems.—(*Trenton Evening Times*, Feb. 16, 1970)

There was a time—not so long ago—when the millions whose cause Whitney Young and others are defending, constituted the "invisible poor." They were invisible in the sense that those who ruled knew little about their condition, and did next to nothing to alleviate it. The poor were ignorant and unorganized. They had little or no effective access to the government that ruled ostensibly on their behalf. They were, in effect, aliens in the society of which they were nominal members.

It is not news that times have changed. Those who speak for the poor and near-poor can make their demands heard, and oftener heeded than formerly—thanks in part to leadership and organization. But their rising political potential springs also from another source. That is their tightening grip on essential services in our easily disrupted urban society. What this might portend was fleetingly revealed in the sanitation workers' strike of 1967 in New York City. It was revealed again in the more recent firemen's strike in Gary, and the postal unions strike spreading from New York City. It was starkly evident in the chaos produced in a single day by the police strike in Montreal.

In short, demands on behalf of the less affluent parts of our society are acquiring a muscle that makes them increasingly formidable claimants in the competition for scarce resources. And most of their spokesmen, I repeat, do not put environmental values first. Specifically, I am suggesting that any program for spending large sums for cleaner air, water and the rest will run into grave political trouble, if those values are put ahead of comparable outlays to eradicate poverty and the consequences of poverty.

So far as I am aware, no one has yet offered a carefully researched estimate of the overall cost of repairing a century and more of environmental exploitation and neglect. Or how much it will cost to prevent further serious deterioration. One conservative guess is "tens of billions of dollars annually." Furthermore, estimates of cost are escalating as more is learned about the magnitude and technical complexities of the problems that confront us.

A salient feature of the present situation is the simultaneous peaking of demands for social and for environmental reform. These combined demands present a picture of needed future outlays for the domestic society that are more nearly comparable to the cost

of World War II than to the war in Vietnam. Demands of this magnitude would present formidable difficulties in any circumstances. They appear even more formidable when viewed in the light of further facets of the crisis of priorities.

I have said something about the size and inflexibility of the military budget. There are other, if lesser, claimants for scarce resources.

The modernizing countries which have come to depend upon us for economic and technical assistance—and in whose political future we profess to have a vital interest.

Further research and sorties into outer space, for supersonic air transports, and other expensive projects on the scientific and engineering frontiers.

More police and stronger law enforcement generally, and for many other things deemed essential by politically influential segments of our national community.

This peaking of demands and costs in nearly every sector of public expenditure bedevils of policy-making at all levels of government. Plainly, we are in for radical changes of priorities. But what changes?

Some, though perhaps a diminishing number, continue to give highest priority to military power on a scale sufficient to sustain all or most of the vast and scattered commitments built up around the world during the past generation. From any standpoint, military defense is a vital concern. Whether fighting wars in Asia or other distant places is essential to defense is hotly debated. One thing seems certain however. *Barring drastic changes in the international climate, such questions will no longer be decided without regard for the impact of military commitments on our domestic society and habitat.*

Specifically, the environmental and social crises present major challenges to previous modes of determining the size of military budgets. The strength of these challenges is a new factor in American politics.

Respected voices in our midst are even insisting that continued neglect of the environment will leave us nothing worth defending. George Stewart (eminent Princeton graduate and dedicated conservationist) asks starkly: ". . . who dares his death willingly to defend a garbage dump?" (*Not So Rich As You Think,* Houghton Mifflin, 1967)

Spokesmen for the poor and for our cities level on the military budget even more savagely. In the words of Robert Heilbroner: "demilitarization of the nation's budget" is "necessary to restore American society to life. . . . This budget . . . has sucked into the service of fear and death the energies and resources desperately needed for hope and life." ("Priorities for the Seventies," *Saturday Review,* Jan. 3, 1970)

Obviously, there can be no quick or clean solution to this dispute over priorities. Massive changes in the allocation of resources could not be carried out overnight, or even in a year or two, within a political system so bureaucratized and rigid as ours has become. Equally obvious, the domestic crisis is not going to subside, simply by being ignored. Nor will palliative remedies cure our environmental malaise.

Reduced to elementals, there appear to be three ways to mobilize resources on the scale needed to check environmental deterioration and provide for future protection and maintenance. One way is to reduce further the allocation to military-related purposes. A second is to provide more revenue by raising taxes. A third is to push much of the cost onto private business with the expectation that most or all will be passed along to consumers in higher prices for automobiles, power, food, newspapers, and nearly everything else.

The strategy in Washington seems to favor the third, reject the second, and resort to the first as little as possible. This strategy is accompanied by apparently sincere efforts to liquidate the Vietnam war, reduce other commitments overseas, and reach a more comprehensive detente with the Russians. But it is also accompanied by severe curtailment of ongoing and promised social programs.

This strategy has obvious limitations. It can free only a small fraction of the resources required to check the worsening environmental crisis. Cutbacks of social programs and prospect of higher consumer prices are likely to intensify the opposition of those who give first priority to poverty, the cities, and social services in general. Financing environmental programs through the market place is as inequitable to citizens of low income as are the regressive sales taxes upon which most of our states depend so heavily. For reasons previously discussed, stiffened opposition from the social sector could seriously blunt the thrust of any environmental program.

Other strategies may be lurking in the wings. What might happen, for instance, if a legislative coalition should take form between those who are carrying torches for social and for environmental reform? Would not the obvious basis for such a coalition be to mobilize support for a more drastic assault on the military budget?

It would be easy to close on a note of pessimism. To do so would be to ignore much in the picture that is more encouraging. Not since the Japanese attack on Pearl Harbor has any public issue received such massive support in all the news media, local as well as national. Restoration of environmental quality has become a concern of students that may approach in scale and intensity their opposition to the war in Vietnam. More and more politicians are finding it a congenial issue. The President and numerous Governors have spoken out strongly, as have leading members of Congress and State legislatures. Larger sums have already been allocated than one could reasonably have anticipated ten years ago. Civic organizations of many kinds are supporting the cause in scores if not hundreds of communities across the country. Increasingly, some of the most influential leaders of industry are identifying with the demand for a cleaner and more healthful environment.

A few, chiefly some of the more gross polluters, speak bitterly, as if the environmental crisis were a snyther fad manufactured by fanatics. But it is notable how relatively few such vocal dissenters there are, and how mildly they complain—at least in public.

One can cast up the account to date, and demur that all this is far from enough. And this is clearly so. But considering the rigidity and inertia of our political system, the diversity and magnitude of demands on disposable resources, and traditional American attitudes toward the earth and its subhuman inhabitants, one might conclude that what has been accomplished thus far represents a stronger beginning than might have been expected even three or four years ago.

JUSTICE DEPARTMENT FINDING ON FNMA CONFLICT-OF-INTEREST CHARGES

Mr. BENNETT. Mr. President, recently Carl Ruediger, Assistant General Counsel of the Civil Service Commission, on the basis of statements made to him by Mr. Sherman Unger, General Counsel of the Department of Housing and Urban Development, in a letter dated June 9 concluded that specified outside activities on the part of several directors of the newly established Government-sponsored private FNMA "establishes a conflict of interests" under Executive Order 11222 and would thus violate 18 U.S.C. 208.

The premises on which Mr. Ruediger made his decision were challenged and the whole matter was reviewed by Hon. William H. Rehnquist, Assistant Attorney General in the Department of Justice.

In a letter addressed to Hon. Richard C. Van Dusen, Under Secretary of the Department of Housing and Urban Development, Mr. Rehnquist reexamined the premises and found that they did not apply and, therefore, in effect, reversed the finding contained earlier in the decision of Mr. Ruediger.

I ask unanimous consent that the text of Mr. Rehnquist's letter to Under Secretary Van Dusen be printed in the RECORD.

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

DEPARTMENT OF JUSTICE,
Washington, D.C., July 10, 1970.

Hon. RICHARD C. VAN DUSEN,
Under Secretary, Department of Housing and Urban Development, Washington, D.C.

DEAR MR. VAN DUSEN: Your letter to me of July 9 reiterated the earlier request of Sherman Unger, General Counsel of the Department of Housing and Urban Development, for the opinion of the Department of Justice as to whether the provisions of the federal conflict of interest statute found in 18 U.S.C. 208 apply to the directors of the Federal National Mortgage Association. That section, in the cases in which it is applicable, makes criminally punishable the participation by an officer or employee of the Executive branch of the United States government or of an independent agency of the United States in any particular matter in which he has a financial interest.

Mr. Carl Ruediger, Assistant General Counsel of the Civil Service Commission, on the basis of the facts outlined by Mr. Unger in a letter to him dated June 9, concluded that specified outside activity on the part of several of the directors of FNMA "establishes a conflict of interest" under Executive Order 11222,* and would violate 18 U.S.C. 208. After the most careful review of the facts submitted by Mr. Unger, additional factual information furnished by FNMA, and material bearing on the legislative history of the Housing Act of 1968, I find myself obliged to differ from Mr. Ruediger's conclusion.

I am of the opinion that the directors of FNMA are neither "officers or employees of the Executive branch of the United States Government" nor are they officers or employees of an "independent agency of the United States". This being the case, the necessary predicate for the application to them of 18 U.S.C. 208 is absent, and they are not subject to its provisions. Executive Order 11222 includes in its coverage "any officer or employee of any agency", and defines "agency" as "any Executive department or any independent agency or any government corporation"; I have likewise concluded that the directors of FNMA are neither officers nor employees of an "agency" within the terms of the Executive Order.

The basis for my conclusion, set forth in greater detail hereafter, is that by the Housing Act of 1968 Congress reconstituted the then existing FNMA, assigning certain of

*This Executive Order implements the provisions of this statute, and is designed to prohibit action by government employees which would either result in, or create the appearance of, impropriety—action such as using public office for private gain, giving preferential treatment to any person, or otherwise adversely affecting the confidence of the public in the integrity of the government.

its functions to the GNMA, created by the Act and described in the Act as a "wholly owned government corporation", and assigning other functions of the former FNMA to a reconstituted FNMA, created by the Act and described therein as "a government sponsored private corporation". Analyzed either in terms of statutory language or of function, the present FNMA is not a part of the Executive branch, it is not an independent agency of the United States, and it is not a government corporation. This conclusion is buttressed by the fact that the statutory provisions for the election of directors quite clearly contemplate, if they do not require, selection of directors who are bound to have nongovernmental interests which are affected by many of the actions which would be taken by the Board, and whose participation in Board activities could be seriously limited if the conflict of interest statute or Executive Order were held applicable to them.

Mr. Ruediger used the following language in reaching his conclusion that FNMA is within the language of both the statute and the order:

". . . FNMA is an entity in the Executive branch of the government which, although substantially controlled by private stockholders, is performing a federal function under significant governmental control so as to be a quasi-governmental organization."

". . . Section 705 of Executive Order 11222 which prescribes standards of ethical conduct for government officers, defines an "officer" as an "officer . . . of an agency" and "agency" is defined in the same section to include a government corporation which FNMA basically is."

While it is perfectly clear that FNMA is subject to a number of government controls, and while it may for some purposes be described as a "quasi-governmental organization", I do not believe that these facts are determinative as to whether it is covered by either the statute or the Executive Order.

Under 18 U.S.C. 208, the inquiry is whether FNMA is a part of the "executive branch", or whether it is "an independent agency of the United States"; the Executive Order, in addition to substantially similar language respecting the Executive branch and independent agencies, adds to its coverage any "government corporation". I believe it is reasonably clear from both the language of the Housing Act of 1968, and the legislative history of that Act, that FNMA falls within none of these three categories.

The status of FNMA at present is determined by the provisions of its 1954 Charter Act, 58 Stat. 612, as amended by Title VIII of the Housing Act of 1968, 82 Stat. 536. Prior to the extensive amendments affected by the 1968 Act, which became fully effective on May 21, 1970, FNMA was defined by statute as a "body corporate" in the Department of Housing and Urban Development (12 U.S.C. 1964 ed. 1717(a)), and it was listed in 31 U.S.C. (1964 ed.) 846 as a "wholly" owned government corporation". Prior to the 1968 revisions, FNMA performed three separate functions in connection with the federal housing assistance program: "Secondary market operations" in the mortgage industry (12 U.S.C. 1719), "special assistance" (12 U.S.C. 1720), and "management and liquidation" (12 U.S.C. 1721). The agency's Board of Directors consisted of the Secretary of Housing and Urban Development and four persons appointed by him, who were either officers or employees of FNMA, of the immediate office of the Secretary, or of some other department or agency of the federal government. 12 U.S.C. (Supp. III) 1723.

The 1968 amendments to the charter made sweeping and significant changes. The "special assistance" and "management and liquidation" functions were transferred to a newly created agency called Government National Mortgage Association (GNMA), while the "secondary market operations" were retained by FNMA. 12 U.S.C. (Supp. V) 1716(b). While the management of the newly created GNMA is completely under the control of the Secretary of Housing and Urban Development (12 U.S.C. (Supp. V) 1723), the management of FNMA was drastically altered. It now has fifteen directors, five of whom are appointed by the President, while the remaining ten are elected by the holders of the common stock of the corporation. The directors all hold office for a year, and all are subject to removal by the President for cause. Of the directors appointed by the President, at least one is to be from the home building industry, one from the mortgage lending industry, and one from the real estate industry. 12 U.S.C. (Supp. V) 1723(b).

The 1968 Act retained a substantial amount of control over FNMA in the Secretary of Housing and Urban Development. See, *e.g.*, 12 U.S.C. (Supp. V) 1723a(h). The general counsel of FNMA advises us, however, that the United States no longer has any financial investment in FNMA.

The legislative history of these provisions of the 1968 Act clearly show the intent of Congress to reconstitute FNMA as an entity quite different from the one which had previously borne the same name. Indeed, the 1954 Charter Act provided that as soon as practicable provision should be made to carry out the secondary market operations of FNMA "by a privately owned and privately financed corporation." 12 U.S.C. (1964 ed.) 1718(g). House Rep. 1429, 83d Cong., 2d Sess., p. 19, explained this subsection as envisaging legislation which would provide for the transfer of "control and management of the secondary operations to the private owners of the outstanding capital stock."

President Johnson's Housing Message of February 22, 1968, which provided a substantial part of the impetus for the 1968 legislation, stated:

"I propose legislation to transfer the secondary market operation of the Federal National Mortgage Association on an orderly basis to complete private ownership." *Public Papers of the Presidents: Lyndon B. Johnson, 1968–1969*, Book I, p. 248 at 260.

The House Committee Report on the Amendatory Act of August 1, 1968 (House Rep. 1585, 90th Cong. 2d Sess.) states that the "principal" change in the statutory provisions affecting FNMA "would be in fulfillment of the congressional intent expressed fourteen years ago in section 303(g) of the Federal National Mortgage Association Charter Act . . ." (At p. 68).

After explaining the functions and status of FNMA the report continues:

"The other corporation, which will become entirely privately owned and which will operate the secondary market operations, will be known as the Federal National Mortgage Association (FNMA). The new FNMA would be a government-sponsored private corporation, regulated by the Secretary and would have a status analagous to that of the Federal Land Banks and the Federal Home Loan Banks." (At p. 69).

The regulatory powers of the Secretary mentioned in the preceding quotation are explained in the report as follows:

"It is the intent of the Committee that the regulatory powers of the Secretary will not extend to FNMA's internal affairs, such as personnel, salary, and other usual corporate matters, except where the exercise of such power is necessary to protect the financial interest of the federal government or is otherwise necessary to insure that the purposes of the FNMA Charter Act are carried out." (At p. 71.)

The Housing Act of 1968 provided that GNMA should "remain in the government" (12 U.S.C. (Supp. V) 1716b), and that it "shall be in the Department of Housing and Urban Development." GNMA is also listed as a "wholly owned government corporation" in 31 U.S.C. (Supp. V) 846.

Conversely, the Act of 1968 contains no provision retaining FNMA "in the government" nor specifying that it shall be in the Department of Housing and Urban Development. On the contrary, 12 U.S.C. (Supp. V) 1716b defines FNMA as "a government-sponsored private corporation," and it has been removed from the list of "wholly owned government corporations" embodied in 31 U.S.C. (Supp. V) 846. The 1968 Act expressly exempts FNMA from all of the provisions of Title V of the United States Code, dealing with government organization and employees, and specifically exempts it from Civil Service and Classification Laws except for purposes not here relevant.

On the basis of the foregoing statutory language and legislative history, it seems clear beyond argument that FNMA is neither a part of the "Executive branch" nor an "independent agency." On the issue of whether or not it is a "government corporation," so as to be within the terms of the Executive Order but not the statute, I have likewise concluded in the negative. The obvious difference in statutory treatment of GNMA (remaining in the government and the Department of Housing and Urban Development), on the one hand, and FNMA, on the other; the express reference to FNMA as a "government sponsored private corporation;" the removal by statute of FNMA from the list of "wholly owned government corporations"; the exemption of FNMA from all of the statutory provisions relating to government organizations and employees; and the fact that the majority of its directors are elected by stockholders, rather than appointed by the President, lead to the conclusion that FNMA is neither in fact nor in law a "government corporation."

The fact that the directors of FNMA are not full time public servants, but serve in much the same manner as outside directors of a private corporation so far as time is concerned, indicates that Congress might have significantly impaired the accomplishment of its intended purposes in the Housing Act of 1968 had it made FNMA a government corporation subject to federal conflict of interest statutes and Executive Orders. The provision for special representation on the Board of Directors from the home building industry, the mortgage lending industry, and the real estate industry suggests that these segments of the agency's clientele are intended to have special consideration in the deliberations of the Board of Directors. This notion is further implemented by the requirement of section 810(a)(3) of the Act, 12 U.S.C. (Supp. V) 1716, note, that transition to the new privately owned FNMA would become effective only when not less than one-third of the corporation's common stock is owned by persons or institutions in those three industries. This is not to suggest that self-dealing by the directors is either invited or permitted, but it does indicate that at least three of the directors will be representatives of, and presumably financially interested in, industries inevitably affected by the actions of FNMA. Application of the stringent prophylactic provision of 18 U.S.C. 208 which Congress has applied to actual government officers could well be inconsistent with this form of representation on the Board of Directors of FNMA.

Needless to say, this conclusion does not in any way indicate that there are no ethical or legal restraints on the directors of FNMA. Both general corporate statutes and common law have traditionally imposed an obligation of fidelity and fair dealing on directors of non-governmental corporations, and the directors of FNMA are undoubtedly subject to such obligations. They are not, however,

subject to the provisions of either 18 U.S.C. 208 or of Executive Order 11222.

Yours very truly,

WILLIAM H. REHNQUIST,
Assistant Attorney General,
Office of Legal Counsel.

INGREDIENTS OF FREE AND EFFECTIVE NEWS MEDIA

Mr. CRANSTON. Mr. President, free and effective news media have two fundamental ingredients: Newsmen must be able to collect information freely. And the media must be free to disseminate the information once it is collected.

In Washington, and in other cities, law enforcement officers—in their quite understandable zeal in seeming to overcome the dangerous, alarming rise in crime—are damaging the first of those two ingredients. Officers are posing as newsmen and, as a result, are hampering the legitimate reporters' efforts to gather facts.

Sources—especially sources outside the mainstream of American life—are reluctant to talk candidly with newsmen when they have reason to believe the reporters may, in fact, be undercover police officers. And, unfortunately, reporters are turning out to be undercover officers with disturbing frequency lately.

I doubt that the police get much valuable evidence by pretending to be reporters.

I doubt that the public is any safer because a policeman masqueraded as a reporter.

I doubt that the cause of justice has been advanced because an undercover officer was able to pose as a newsman.

In short, I doubt that police posing as reporters does much good.

But I am convinced that it does a great deal of harm.

It harms newsmen and cameramen and broadcasters—the thousands of legitimate American reporters who base their jobs, and often their safety, on the thin edge of public trust.

But, most of all, it harms the American public—the millions of readers and viewers who will not get a complete and accurate story because news sources no longer believe they can level with newsmen.

Last Friday, in the most recent example of this unfortunate practice, two Washington Metropolitan Police intelligence officers posed as newsmen to attend a news conference called by the National Welfare Rights Organization.

The Post and the Star both reported that the officers had attended the press conference. Now, a group of newsmen in the city are circulating a pledge that they hope will prevent a recurrence of Friday's incident.

This is a serious and growing national problem—one that merits Senate attention. I ask unanimous consent to place in the RECORD the two news stories and the reporters' statement.

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

PLEDGE BY WASHINGTON STAR REPORTERS, JULY 11, 1970

As news professionals we are distressed by confirmed reports that at least two Metropolitan Police Department agents posed as representatives of news media at a press conference July 10.

Many of us, in the course of gathering information, have been suspected of being police informers or undercover agents. In such situations it is only with great difficulty, and under the protection of legitimate press credentials, that we can assure our sources that this is not so.

We believe the only way to protect our individual and collective reputations is to be constantly on guard against infiltration of our ranks by undercover agents. Past complaints have had apparently no effect. A police spokesman, questioned by a Post reporter after the July 10 incident, said intelligence officers may pose "as anything" as long as they break no law. Chief Jerry Wilson told a Star reporter that "they can do anything that isn't illegal, immoral or fattening."

We believe our only protection is exposure. We pledge, and we urge our colleagues to follow, that we will announce the presence of any police agent we recognize masquerading as a newsman or newswoman. If it is necessary to stop a news conference long enough to verify credentials, we will do so.

We will leave it to the sponsors of news conferences to decide whether exposed police may remain and listen; our purpose will be served merely by the exposure.

A news conference presents a fairly simple situation. On the street, however, when an agent mingles with reporters it is less clear how we should react. Is he simply standing around, or does he tell someone he is a reporter? Does he ask questions, or does he simply listen in on a reporter's interview? Is he posing as a news photographer? We have no authority to clear a public area, and circumstances may not allow exposure immediately.

When we sense an infringement, we will try to identify the agent, get photos of him if possible, and complain to the department.

It should be understood that we do not intend to interfere with police undercover work. We believe, however, that policemen posing as newsmen jeopardize our effectiveness. We hope that Chief Wilson will recognize the issues raised by such police policy and will issue orders forbidding it.

(Signed by Harvey M. Kabaker and 27 other Washington Star reporters.)

[From the Washington Evening Star, July 11, 1970]

WELFARE PROTEST GROUP TO MEET MAYOR'S JET

(By Michael Anders)

The National Welfare Rights Organization, declaring it cannot hold serious negotiations with lesser city officials on furniture demands by welfare mothers, plans to appeal directly to Mayor Walter E. Washington this weekend.

NWRO executive director George A. Wiley said yesterday that a delegation of welfare mothers woud meet the mayor at Dulles Airport tomorrow when he returns from a three-week world tour.

"We are going to be appealing to Mayor Walter Washington to take charge of the city and start making responsible government (decisions) which will deal with the needs of the people," Wiley said during a news conference.

AIDES, COUNCIL BLAMED

He blamed Philip J. Rutledge who is the mayor's human resources director, the city council and Deputy Mayor Graham W. Watt for making an apparent "political decision" to be unresponsive toward the furniture demands.

The Mayor, Wiley said, can do the job if he is willing. "But it means he's got to have backbone and he's got to have guts and he's got to be prepared to stand up against the Congress and the Nixon administration, if necessary."

Wiley said NWRO will hold other demonstrations, including one today at 8:30 p.m. in Lincoln Square, 12th and East Capitol Streets.

Wiley's news conference was attended by an undercover policewoman posing as a news writer. The woman, who has been seen on several occasions at news conferences, claims either that she is working for a small college newspaper or is freelancing.

Welfare mothers in the past month have held a series of demonstrating to demand furniture assistance from the city. Two turned into violent police confrontations and scores were arrested, including Wiley who was charged with inciting to riot.

CHARGE IS REPLACED

The U.S. attorney's office yesterday replaced the inciting to riot charge with a charge of interfering with a police officer in the performance of his duty.

Wiley, who has come under personal attack from city officials because of the violence connected with welfare demonstrations, defended the need to petition the government.

[From the Washington Post, July 14, 1970]

NIXON, D.C., CRITICIZED ON WELFARE

National Welfare Rights Organization Director George A. Wiley yesterday denounced the Nixon administration as "anti-poor" and the District government as a "puppet government" that victimizes families on welfare.

At a news conference attended by Washington reporters and two plain-clothes police officers posing as members of the press, Wiley criticized the city for what he said was its lack of serious response to welfare mothers' demands for furniture grants.

He announced that his organization would hold a rally tonight at Lincoln Park "to build our support in the black community."

Wiley also said that a delegation of welfare mothers would be at Dulles Airport Sunday to greet returning Mayor Walter E. Washington and seek his help in their furniture campaign.

Welfare demonstrators clashed with police June 23 and July 2 in their month-old drive to obtain special furniture grants.

Wiley, arrested July 2 for inciting to riot, appeared for a hearing yesterday at the D.C. Court of General Sessions, where the charge was changed to interfering with a police officer. The maximum penalty for the offense, a felony, is five years imprisonment and a $5,000 fine. Another hearing in his case was set for July 16.

City officials promised June 25 they would ask Congress for money to provide furniture grants, and a City Council committee is considering a new regulation authorizing the welfare department to pay such allotments.

The news conference at NWRO headquarters at 1419 H St. NW was attended by two metropolitan police plain-clothes intelligence officers, one a policewoman.

The policewoman, Dixie Gildon, identified herself to a reporter as Ditty Ayers and said she was a free lance writer.

Police headquarters refused to identify the male officer, whom reporters also recognized as a plain-clothes policeman.

Police spokesman Paul Fuqua said intelligence officers are not issued police press passes and may pose "as anything" as long as it is not illegal, as impersonating a federal officer would be.

CONTINUED CAMPUS UNREST

Mr. FANNIN. Mr. President, it will indeed be a sad day for education and for freedom and democracy if any of our

institutions of higher learning fail to open this fall because of continued campus unrest.

Educators from Arizona have expressed strong concern to me because of news reports that two members of the President's Commission on Campus Unrest plan to submit written reports to that effect.

It is encouraging that an increasing number of educators, including respected liberal spokesmen, are taking a firm stand against those who would close our institutions of learning by yielding to disorder pressures.

Mr. President, I ask unanimous consent to have printed in the RECORD the column of James J. Kilpatrick, published in the Arizona Republic of July 8, 1970, and an Associated Press dispatch from the same edition concerning the Commission on Campus Unrest.

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

A CONSERVATIVE VIEW: THREE RESPECTED LIBERAL SPOKESMEN CHIDE THEIR IRRESPONSIBLE COLLEAGUES

(By James Kilpatrick)

It seems too good to be true—it may yet prove too good to be true—but signs keep appearing of a changing wind in academic groves.

For the first time since the dark night of campus destruction began three years ago, respected liberals openly are denouncing their irresponsible colleagues and demanding a return to reason.

Let me single out three such voices:

Nathan M. Pusey, president of Harvard; Philip B. Kurland, professor of law at the University of Chicago; and Gardner Ackley, professor of economics at the University of Michigan.

Each of them is a certified intellectual; each of them comes to the forum with impeccable credentials in higher education.

Pusey's eloquent address at a recent Harvard baccalaureate service has been widely quoted, but it will do no harm to underscore his charge of latter-day McCarthyism against the New Leftists. Among their number are "some faculty who for reasons not quite clear to me would like to see our colleges and universities denigrated, maligned, and even shut down."

"It is a shameful state of affairs," Pusey said.

And he went on to speak of these militants and their techniques in words that cracked like whips: Hateful, cunning, deceitful, ignorant, intolerant, sickening. He closed with his own confession of error. The inroads into academic life could not have grown so deep, he said, "had all of us to whom they are deeply repulsive been more ready to oppose them."

Kurland spoke on June 4 to the Women's Bar Association of Illinois. His theme was the politicization of the academy—the growing movement by which students and professors involve themselves actively in public affairs in the fashion of "Coxey's army and the oil lobby." Kurland denounced the process:

"The essence of the academy is disinterestedness. Its justification is disinterestedness. A university cannot be both a political force and an institution dedicated to the search for knowledge and its dissemination.

"As a university makes a political commitment it destroys its claim to academic freedom. And without academic freedom, the search for and dissemination of knowledge becomes more shadow than substance."

Kurland is bitter. He sees ahead nothing but the destruction of universities as America traditionally has known them. In the "caretaker institutions" of the future, "answers will be substituted for questions, and indoctrination will replace education." This is the price, he said, "that America will pay for the cowardice of its university faculties."

Ackley, at Michigan, is no coward.

In a recent address, he spoke scathingly of the weakness and permissiveness of Michigan's "own faculty and administration." The past academic year has taught the lesson, he said, "that violence and disruption either cannot or will not be punished by the university." Striking teachers are not punished; they are reappointed. Student vandals are not expelled; they are retained.

"Last Wednesday," said Ackley, "I watched the faculty of my own department, assembled in the chairman's office, discuss a demand that all classes in our building be shut down, or else. We discussed this while the entrances to the building were sealed, and while the halls outside the rooms in which we were meeting were patrolled by men carrying pipes and clubs.

"We sought guidance from the college, and were told 'Do what you think best; you will have no protection.' And so we cravenly capitulated, in fear—if not for our own safety—for that of our students and employees. That day the truth lay in those clubs."

Pusey, Kurland and Ackley are not alone. One of the most powerful voices for reason in academia is being raised by Yale's Professor Alexander M. Bickel in the New Republic. Doubtless there are others; and in them lies the only hope for recovery of our tormented institutions.

It may be too late, as Kurland fears, to undo the damage.

If so, the pusillanimous faculties must bear much of the blame. But if it is not too late, a rescue operation must be mounted swiftly by great teachers speaking to a great tradition, clearly, and unafraid.

DIM VIEW ON CAMPUS?

NEW YORK.—As President Nixon met in Washington yesterday with advisers on campus unrest, there were reports they will advise him that numerous colleges and universities might not even be able to open this fall.

The President's Commission on Campus Unrest, created June 13 to study campus disorder and make recommendations by Oct. 1, is expected to hold hearings starting within two weeks.

Nixon's meeting was with Dr. Alexander Heard, chancellor of Vanderbilt University, and Dr. James Cheek, president of Howard University, together with Robert Finch, counselor to the President.

Two television networks, NBC and ABC, have reported that Cheek and Heard will submit a written report saying extreme anger and discord among students might prevent numerous campuses from opening in the fall.

ADDITIONAL SUPPORT FOR THE RATIFICATION OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, yesterday I reported that the United Methodist Church favors immediate ratification of the Genocide Convention. Today I would like to have printed in the RECORD statements made by the Roman Catholic hierarchy concerning genocide and the ratification of the United Nations Treaty which would outlaw it. The fact that both Protestants and Catholics, despite their differences, unanimously condemn genocide and support ratification of the Genocide Convention should provide the strongest possible evidence that the time is right for the ratification of this important treaty. As a further indication of support for the ratification of the Genocide Convention, I ask unanimous consent that these statements be printed in the RECORD.

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

EXCERPTS FROM STATEMENTS BY THE ROMAN CATHOLIC HIERARCHY CONCERNING THE CATHOLIC VIEW OF GENOCIDE

Apart from the question of war itself, *we deem it opportune here to reiterate the Council's condemnation of genocide,* the methodical extermination of an entire people, nation or ethnic minority for reasons connected with race, religion or status such as that undertaken by the Nazis against the Jews among their own citizens and later against all the Jewish people, as well as so-called "gypsies." *We would urge United States ratification of the United Nations Convention on this subject,* and of every other sound implementing instruments by which the United Nations Declaration of Human Rights can be translated from the level of ideals to that of actuality. (American Hierarchy. *Human Life in Our Day,* cf. Chapter 2.)

Whatever is opposed to life itself, such as any type of murder, *genocide,* abortion, euthanasia or willful self-destruction, whatever violates the integrity of the human person, such as mutilation, torments inflicted on body or mind, attempts to coerce the will itself; whatever insults human dignity, such as subhuman living conditions, arbitrary imprisonment, deportation, slavery, prostitution, the selling of women and children; as well as disgraceful working conditions, where men are treated as mere tools for profit, rather than as free and responsible persons; *all these things and others of their like are infamies indeed.* (Vatican II. *Constitution on the Church in the Modern World,* n. 27.)

Contemplating this melancholy state of humanity, the Council wishes, above all things else, to recall the permanent binding force of universal natural law and its all-embracing principles. Man's conscience itself gives ever more emphatic voice to these principles. Therefore, actions which deliberately conflict with these same principles, as well as orders commanding such actions are criminal, and blind obedience cannot excuse those who yield to them. *The most infamous among these are actions designed for the methodical extermination of an entire people, nation or ethnic minority. Such actions must be vehemently condemned as horrendous crimes.* (Vatican II. *Constitution on the Church in the Modern World,* n. 79.)

TEXTILE IMPORTS

Mr. THURMOND. Mr. President, an important speech on the crisis facing the American textile industry as a result of low-wage imports from Japan and other countries was given June 16, 1970, by Mr. R. Phinizy Timmerman, president of the Graniteville Co., one of the Nation's oldest and best operated textile firms.

Mr. Timmerman, speaking before the Traffic and Transportation Club in Augusta, Ga., presented facts which clearly picture the plight of this industry. He noted that 65,000 textile jobs have been lost since January of 1969, and the trend is continuing at an alarming rate.

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

There being no objection, the address

was ordered to be printed in the RECORD, as follows:

ACT NOW TO SOLVE THE IMPORT PROBLEM

(By R. P. Timmerman)

America's textile-apparel industry is a national asset far too valuable to be traded off to foreign producers. Yet plagued for years by low-wage imports, now pouring into the United States at unprecedented rates, the industry faces an uncertain future unless some workable way is found to limit the inflow.

The serious extent of the problem is reflected in the tripling of imports since 1965 to a current all-time record level of nearly 4 billion square yards a year. Industry employment has declined by 65,000 jobs since January of 1969. Government efforts to gain the cooperation of foreign countries in exercising reasonable restraints on their shipments to America have been ignored. Members of Congress are calling for corrective action. The time has come for decisive, effective action to curb what has become a major problem with nation-wide ramifications.

PARALYZING IMPACT

Whatever way you measure it, the textile-apparel industry forms a cornerstone of America's economy. It directly employs some 2.4 million people with a payroll of $11 billion a year and provides indirect jobs for another 2 million men and women. It is a huge buyer of products and services from other industries. It has manufacturing operations in all 50 states.

Here in South Carolina and Georgia the textile industry is of particular importance. This past year, the textile industry provided employment for 274,000 with a payroll of $1,300,000,000. In this period of unemployment and underemployment of many less-skilled workers, we can ill afford to sacrifice this type of payroll, which offers job opportunities with a large variety of skill requirements.

The American textile industry leads the world in technical progress; its employees are the most efficient and best paid among the world's textile industries. Why, then, should such a large and important industry fear imports from countries thousands of miles away? How can imports of foreign-made goods cause serious repercussions? Why is legislation needed now? Let's look at the answers.

Unlike its competitors in Asia and Europe, the United States industry is geared to the American economy and American rules for doing business. What it pays and earns are part and parcel of an American system that has created the world's best standard of living. The very fact that this industry operates within the framework of American law with taxes, wages, antitrust regulations and the like—enables foreign producers to undercut it with low-wage imports. I am not suggesting that this should be changed, merely citing the situation as it exists.

It is a matter of irrefutable record, also, that the United States has done far more than any other nation on earth to reduce obstructions to trade and open her market to the world. But what have we received in return? Instead of following this example, many countries manipulate trade mechanisms to push their goods into the American market while sheltering their own markets. As a result, by and large, world commerce is not the two-way interchange sought by reasonable people. In many cases, international textile trade is a one-way funneling of products into the United States from abroad.

LOSSES BEYOND RECKONING

Concentrations of imports in unchecked amounts on the American market create special problems for large-employment industries that turn out products in mass volume, like textiles, apparel and footwear. These industries cannot avoid being particularly hard hit by penetration tactics of foreign producers whose methods and production costs are un-American by any standard.

Low-wage imports cause both immediate harm and long-range attrition. It is impossible to calculate the full extent of damage resulting from the constant flood in terms of plants closed, jobs eliminated, payrolls and tax revenues lost. But the record of the relentless upsurge of textile-apparel imports is clear for all to see.

The tide started to rise after World War II as soon as the textile industries of many countries had been built, often with substantial technical and financial assistance from the United States. It reached a danger point as far back as 1957 when, for the first time, imports exceeded the amounts of American textile exports. Since that year, the textile trade deficit has grown six-fold and in 1969 it reached the record size of $1.4 billion. It is worth noting that more than a third of that deficit—some $540 million—consists of textile-apparel imports from Japan alone.

In just the past 10 years, the inflow of low-wage foreign textiles and apparel made of cotton, wool and man-made fibers has gone up alarmingly: from 976 million square yards in 1959, which was then a record high, to 3.6 billion in 1969 and now at a rate of close to 4 billion yards a year.

The cumulative effect of massive imports, year after year, can only build up a heavy toll in job displacement. It is estimated that the 1969 import volume is equivalent to 250,000 jobs.

ATTACKS ARE PINPOINTED

Within the broad, general onslaught of imports, attacks from abroad are pinpointed at specific sectors of the American market. The Japanese, in particular, are adept at "zeroing in" tactics. Through what they, themselves, call "penetration pricing" they are able to seriously cripple one segment of the American market after another, as they choose. They succeed because in addition to their low-wage cost advantage, they are backed up by special financing, export subsidies, collusive schemes and similar maneuvers that would be illegal if American manufacturers resorted to such practices.

Time after time, American home market for a product is "cracked" or undermined without warning when an importer unloads a "loss leader" in the form of thousands of yards of material below the American cost. Continuous targeting, at prices below those at which American manufacturers can break even, inevitably causes the loss of an important part of the market involved. This has happened over the years with many specific items—velveteens, ginghams, canvas duck, sheetings, flannel, sweaters, to name only a few. It is happening with worsted cloth today. Tomorrow, who knows?

In many instances the import prices, though low enough to capture the business, are not reflected on retail counters. Frequently, the price advantages that might otherwise benefit consumers are absorbed by retailers' mark-ups. This explains why those who pocket the difference invariably cry out against suggestions that imports be restrained, with protests that limitations would deny low-cost foreign products to consumers.

PRICES KEPT LOW

Some people say low-wage imports should be encouraged in order to reduce prices. This, simply, is not the case where textiles are concerned. Throughout its long history, the textile industry has demonstrated that healthy competition among its many independent centers of initiative is the best way to assure reasonable prices. No few big companies dominate the textile industry. The aggregate sales of the industry's 10 largest firms would represent only a small portion of the total textile business. The textile industry is one of the remaining major manufacturing industries in this country that encourage hundreds of small concerns to vie with one another and keep prices at reasonable levels. While wholesale prices of all industrial commodities have gone up 13 per cent from the average 1957–59 base period, those of textiles have increased only 1 per cent.

It is quite true, of course, that you can find cheap foreign-made garments in discount stores and bargain basements. But who can count on such prices? Once all or a major part of a product line has been taken over by foreign producers, the provisions of U.S. law to protect consumers and employees—antitrust rules, prohibitions against conspiracy to fix prices, minimum wages, and all the rest—no longer prevail. A foreign producer has no obligation whatsoever to feel any legal or moral responsibility toward American consumers.

Silk is an example of a textile product under total foreign control. Since the 1957–59 base period, its price has leaped 69 per cent, in contrast with the 1 per cent rise of domestically produced textiles mentioned a moment ago.

NO END IN SIGHT

With markets and manufacturing operations constantly being chipped away, with the import tide swelling steadily, and with nobody able to predict where it will all end, the textile-apparel industry faces an uncertain future. Yet any business hoping to move forward needs to have clear future goals. This is especially true of the textile-apparel business, which works on a futures basis requiring long lead time. Plants are busy on orders that were contracted months ago and will be delivered months from now. Product lines and styles have to be decided in advance; raw materials are bought months ahead of time.

Textile management must make crucial, long-range decisions. Money decisions: what they can afford to spend and whether they can earn it back. Questions such as: How much should be invested in research to develop new products, in better equipment, in recruiting and training employees? How reasonable are the risks?

Sound judgments on questions like these are impossible to reach when executives do not know when and where to expect the next attack from abroad. Their plans are side-tracked when they see big pieces of the American home market vanishing in ever greater amounts—and for one reason only: Foreign textile-apparel products sell here because they are made by armies of people paid far below the legal minimum in the United States.

Only until and unless this industry gains some measure of assurance that imports will not definitely keep gaining a larger share of the American market's growth, can American manufacturers look to the future in confidence. The whole nation stands to gain, in terms of broadening job opportunities for America's labor force, if the import problem can be solved.

WHERE THE FAULT LIES

As the import situation worsened, foreign producers were entreated repeatedly in the name of common sense and good international relations to curb their rush for American textile-apparel dollars. They chose instead to build their trade walls higher and continue exploiting the American market. Japan, for example, has made a sham of free trade and a shambles of reciprocity.

ABNORMAL TRADE PATTERN

Japan's protective policies are so strict that only 2 per cent of her imports consist of manufactured products for people's use. Some 87 per cent of her purchases from the outside world are non-competitive raw materials she does not have, owing to her island location, or food she cannot grow.

The raw materials that Japan wants—minerals, cotton, wood, tobacco, wheat, soy-

beans, crude oil and similar commodities—she buys wherever she can at the price and credit terms most favorable to her. Whether she buys these materials from the United States or any other country in the world is a decision dictated only by cost advantage, necessity, and hard-nosed trade policy.

Japan and her Asian neighbors transform raw materials acquired in this manner into manufactured items of high labor content, which when sold in the United States displace American production and American jobs. They make their heaviest impact on textile mills, apparel plants and shoe factories in hundreds of communities that depend on industrial payrolls to stay alive economically.

The endless continuation of this kind of trade pattern can only spell trouble. One aspect of that trouble is the burgeoning overall trade deficit between the United States and Japan. The United States holds the short end of the stick to the tune of $1.4 billion. Just as in the case of the textile trade deficit, fully one-third of America's general trade deficit with Japan consists of textiles and apparel imported from that country. At least 25 per cent of Japan's textile exports are sold in the United States, according to the United States-Japan Trade Council. That percentage would be considerably higher if it included indirect shipments from Korea, Taiwan and Hong Kong. Japanese industry and government have combined in arrangements to send fiber, yarn and cloth to those countries, where wages are only 25 cents an hour or less, to be made into apparel for sale in the American market.

DIFFICULTIES FORESEEN

The potential dangers posed by a lopsided trade situation in textiles were recognized as the U.S. textile trade deficit grew. Early in the 1960's the United States, Japan and 29 other textile nations joined in the so-called Long-Term Arrangement for Trade in Cotton Textiles (known as the LTA). This was an agreement seeking an evenly distributed flow of textiles throughout the world's trade channels in the best interests of all participants.

The LTA has proven to be antiquated and inadequate, however. It was not geared to dramatic textile developments that followed, particularly in fabrics and apparel manufactured from man-made fibers and blends.

During the time of the LTA, floods of man-made fiber and woolen products, most of them from Asia, swept into the United States. The jump in man-made fiber articles was an amazing 1080 per cent. Wool textile imports, which as recently as 1961 stood at the exceedingly high level of 13 per cent of domestic consumption, have more than doubled since that time.

While this latest deluge was creating fresh alarm among American textile and apparel manufacturers, Japan made deals with the European Economic Community, Canada and other nations to limit her shipments of wool and man-made fiber textiles to their markets. Not so with the United States, however, even though President Nixon pointed to textiles as a "special case" and the U. S. government began efforts early in 1969 to negotiate an agreement among all textile nations to cope with the problem. Why should the United States be so different from the rest of the textile-importing nations?

EFFORTS STALEMATED

Today Japan ranks as the leader among the world's textile exporting countries—leader in volume, that is. She could take the lead in putting textile trade among nations on an even, equitable footing. But she has shown no inclination to do so.

Months of negotiations, started early in 1969, were stalled by Japanese counter-proposals, demands for "more information," requests for time-consuming investigations. At one point the Japanese resorted to the extraordinary tactic of having a member of their Diet (parliament) write to members of the U.S. Congress, commenting on the subject.

The Japanese flatly turned down a number of proposals made in good faith by the U.S. government. The final rejection was an "aide-memoire" that reached the State Department in March, 1970, described by Secretary of Commerce Stans as "entirely negative" and a "major disappointment".

SOLUTION OF THE PROBLEM

The agreement sought so painstakingly by the United States was eminently fair and reasonable. It centered on a plan for flexible but comprehensive limitations on imports of all textiles and apparel from major exporting countries. While placing the volume of foreign-made products under reasonable restraint, it would guarantee each nation access to compete in the American market—and to increase that access each year in accordance with the market's growth. Anything less than a comprehensive agreement will only shift the thrust of imports from one sector of the American industry to another.

Bills providing for a comprehensive plan have now been introduced in Congress. The sooner favorable action is taken, the better. The proposed legislation will provide a framework for a long-range solution not only of America's import problem but also of the present imbalance of textile trade throughout the world.

WHAT THE MEASURE PROVIDES

The textile-apparel-footwear trade bill, sponsored by Chairman Mills of the House Ways and Means Committee with widespread bipartisan support of scores of House members from Maine to California, calls only for reasonable restraints on imports so that foreign producers and domestic industries alike may have equitable access to the United States market. It permits exporting nations to compete for a fair share of the U.S. textile market.

The legislation places emphasis on encouraging negotiated agreements, by not imposing specific limitations on those nations that enter into agreements with the United States. Present agreements and any negotiated before or after the bill is enacted will be honored.

Only those countries which refuse to negotiate agreements would be subject to specific limitations. These limitations would during 1970, equal the average amounts of textiles, apparel and footwear that entered the United States in 1967–68; after 1970, the permissible level of imports would be adjusted up or down annually to reflect increases or decreases in domestic consumption.

No one is asking that imports be completely shut off or sharply reduced. What we are seeking is a moderation of the rate of growth of textile imports.

NEEDED: GROWING COMMERCE, NOT TRADE WAR

It is high time to end the present insanity of exposing the American home market to indefinite, no-end-in-sight floods of foreign imports from countries that have no obligation whatsoever to feel any legal or moral responsibility toward American employees, consumers or communities. This the present bill can do, while providing foreign producers the opportunity to compete for larger amounts of the market as it is expanded by research, developmental and promotional efforts of American industries.

NEW ERA FOR PROGRESS

Above all, the measure that Congress is now considering holds out the promise of a dynamic new era for large-employment industries of this country, the bedrock industries such as textiles, apparel and footwear.

Most people are concerned today about hunger and poverty in many parts of America—the movement of population from rural communities to crowded cities—the problems of jobless minorities in rural and urban areas. Many see an answer in the potential role of the large-employment industries. With rightful access to America's market and with confidence in the future, these industries can sustain if not expand job opportunities for thousands of people in cities, small towns and rural regions such as Appalachia.

Few other countries in the world depend as much as the United States does on manufacturing activities for employment of their labor force; and as time goes on, our nation will need more—not fewer—industrial occupations of many kinds to sustain the great numbers of people involved.

The textile industry's employment of black people has been growing rapidly. Since 1960, it has moved ahead four times faster than the national average. Negroes now comprise 12 per cent of total textile employment, compared with a national industrial average of 10 per cent; in some textile communities the proportion of black employees runs much higher. Because its operations involve large numbers of people at all levels of skills, it is hard to think of any major industry better situated than textiles to open the way for minorities to good job opportunities.

Consider also that one of every four jobs in Appalachia is in textiles, apparel or footwear. Or if you look in another direction, you find that the textile-apparel industry ranks as New York City's largest employer, with 224,000 garment workers in that metropolis. Women comprise 80 per cent of apparel employees and 45 per cent of the textile labor force, against an all-manufacturing average of 27 per cent.

Such numbers suffice to prove that given a fair chance to grow, the textile-apparel and footwear industries have a vital future role as major employers of people. With an end to sky's-the-limit imports, that chance will come.

THE ABC OF POLITICS

Mr. FANNIN. Mr. President, it is my pleasure to invite the attention of Senators to a refreshing booklet entitled "The ABC of Politics."

It tells how to bring about change, but not by "mobocracy." It is not a book on how to build Molotov cocktails, or how to burn down a library, or how to organize a riot.

It explains that everything that this country stands for is the "establishment" and that through the years changes have been wrought.

It points to the challenge of the 1970's—which will mark the 200th anniversary of our great Nation—to keep our free institutions and to maintain them as responsive to public needs as they have been in the past periods of challenge and change.

This 64-page booklet is published jointly by the National Small Business Association and the U.S. Jaycees.

Its commendable purpose is very well summarized in the foreword:

You are the system that brings about change. You and your fellow Americans, men and women of all races, ages, creeds and political affiliation. And if the system breaks down in any area, one reason might be because YOU aren't doing your part of the job to make it work.

Fittingly, the foreword quotes Edmund Burke, who wrote:

All that is necessary for the triumph of evil is for good men to do nothing.

The book is a good reminder that politics and government should be in the mainstream of every American's life, young and old alike.

We cannot be proud of the number of our citizens who do not exercise their right to vote. Only about 25 percent of all eligible voters bother to participate in primary elections.

The value of this right, unfortunately, is best known to those who have lost it.

ATTORNEY GENERAL MITCHELL ON THE FIRST AMENDMENT

Mr. MATHIAS. Mr. President, during the week of the 100th anniversary of the Department of Justice and the 194th anniversary of the signing of the Declaration of Independence, Attorney General John N. Mitchell addressed himself to the amendment that many commentators have said is our most treasured, the first amendment and the protection it provides for freedom of speech and assembly. In a period in which many call for increased restrictions to preserve order, the Attorney General aptly reminded his audience that freedom of expression must be a living concept.

As anxieties in our society magnify, it is heartening to note the commitment of the legal arm of the Government to "spend a great deal of time and effort protecting human rights, protecting those incorporeal values that are so necessary for human dignity that must accompany a free society."

His address was a well-reasoned and a well-documented delineation of the meaning, the right, and the limits of dissent. Through his efforts to encourage peaceful dissent, perhaps our Nation may realize President Nixon's hope for—

Order in America—not the order that suppresses dissent and discourages change, but the order that guarantees the right to dissent and provides the basis for peaceful change.

I ask unanimous consent that the address by Attorney General Mitchell before the State Junior Bar of Texas and the State Bar of Texas be printed in the RECORD.

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

ADDRESS BY HON. JOHN N. MITCHELL, ATTORNEY GENERAL OF THE UNITED STATES

I. INTRODUCTION

It is a great pleasure for me to be here in San Antonio to address this combined annual meeting of the Texas State Bar Association and the Junior Bar.

The topic I would like to discuss today is the First Amendment protection for freedom of speech and assembly which many commentators have said is the most treasured amendment in our Bill of Rights.

I have chosen to speak on the First Amendment for a number of reasons.

Only yesterday in Washington, we celebrated the 100th anniversary of the Department of Justice. As you know, most of our first century was dedicated to the problems of federalism and economic rights.

It was not until 1919 that the Supreme Court decided a First Amendment case involving the Federal government; and not until 1927 that the First Amendment was made applicable to the states.

The Civil Rights Division in the Department of Justice was only founded 14 years ago but it has become one of our most active divisions.

Our Community Relations Service, which is devoted to maintaining racial harmony, was only founded six years ago.

The pattern seems clear: in our second century the Department of Justice will spend a great deal of time and effort protecting human rights, protecting those incorporeal values that are so necessary for the human dignity that must accompany a free society.

The Department of Justice is proud of its reputation as the institutional commitment of the Executive Branch to "equal justice under law" in order "to secure the blessings of liberty to ourselves and our posterity."

And you may be sure that the President and this Administration are firmly committed to making human dignity a reality for all of our citizens.

These values have come to us in the words of the Declaration of Independence, whose signing we celebrate this weekend.

The Declaration is basically a legal document—a list of juridical complaints against the English King.

When these complaints are all put together, they become a moral indictment of despotism whose first rule is to stop free speech and association.

Your own great State of Texas has a similar tradition of independence which is symbolized by the Alamo here in San Antonio.

Your State suffered at the hands of three separate despotic governments—the French, the Spanish and the Mexican—before asserting the rights of free men.

But perhaps the most compelling reason for discussing the First Amendment today is that I am addressing a number of younger lawyers from the Junior Bar.

It is today's young men and women who will be the custodians of our Constitutional system in the future.

It is today's young people who are becoming increasingly active in social and political affairs and who—at the same time—are questioning some of the fundamental institutions of the nation.

Some are asking, for example, if our tradition of freedom of speech is really working and whether the First Amendment guarantees—as we know them—have any relevance in today's society.

What I propose to do in this short address is to discuss the legal and practical problems that face all of us in making freedom of expression a living concept.

And let me remind you that there is no nation in the world today which offers the average citizen more opportunity to speak his mind without fear or intimidation than the United States of America.

II. A NEW AGE OF DISSENT

The necessity to reexamine and reaffirm the principles of the First Amendment comes about because we are in a new age of dissent.

Thirty years ago, our young people came out of colleges and law schools anxious to make a living in an era of economic depression. Later, they went off to war and then to the relatively quiet domestic situation of the Eisenhower Administration.

It was not until the early 1960's that the young people in our country began to believe that they had a significant role to play.

Some joined the civil rights movement. Others joined the Peace Corps, the Job Corps, Neighborhood Legal Services and other projects, without much thought of financial remuneration.

The "generation gap" had started, although neither generation was prepared for the intensity of the chasm.

This intensity developed because of two trends which were not entirely obvious at the time.

First: The older generation did not fully recognize that the activists among the younger generation were indirectly attacking fundamental values of the Establishment. They were sacrificing the accepted values of financial security in favor of the human values of working with the poor and underprivileged.

But, at the same time, they were becoming disillusioned with their own efforts. Being young, they were not prepared for the years of hard work that is necessary to implement reform programs.

And so, having given their best efforts to reform society overnight within the system, they started criticizing the system itself on the grounds that it is not responsive to the needs of the nation.

Frequently, I might add, they rely on rhetoric and not facts. They throw around catch-word phrases like "repression" and "relevance" without any serious inquiry into the particular cases they cite as examples of government misfeasance.

Basically, their dissent and activism has taken two forms.

A small minority chose violence. But the great majority of the young dissenters have chosen to highlight their cause by exercising freedom of expression as it is protected by the First Amendment.

They march and sing. They walk silently with candles past the White House. They produce songs and books and newspapers and plays. They have developed their own motion picture and art techniques. They have evolved their own dress and language styles.

As they become more impatient, their message becomes more militant; their marches larger; and their platforms more radical; and they have gained some adherents of all ages.

They are a whole new culture: parading in the streets, striking against schools, crowding the halls of Congress, and organizing political campaigns.

In general, they are activist but also peaceful young men and women who—in our best traditions—are working within the system in order to change it.

Therefore, I must reject the claim that our established Constitutional methods of dissent are not working effectively for the dissemination of minority views.

If there is any greater proof that the First Amendment is alive and well and that it is working in today's society, we need only look at the recent growth and vitality of citizen action programs—most of them depending upon young people for their strongest support.

What this proves beyond a reasonable doubt is that there is more freedom of speech and more freedom of assembly today than at any time in our nation's history; and so long as I am Attorney General I will do everything within my power to see that these rights continue to flourish.

III. THE CONSTITUTIONAL RIGHT TO DISSENT

The First Amendment is based on the premise, as Mr. Justice Holmes said, that "the best test of truth is the power of the thought to get itself accepted in the competition of the market . . ."

Why we should permit this market of ideas is perhaps well explained by Mr. Justice Brandeis in his dissent in *Whitney* v. *California*. He said:

"We must bear in mind why a state is, ordinarily, denied the power to prohibit dissemination of social, economic and political doctrine which a vast majority of its citizens believes to be false and fraught with evil consequence.

"Those who won our independence . . . believed that freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth . . .

"They knew that . . . fear breeds repression; that repression breeds hate; that hate menaces stable government; (and) that the

path of safety lies in the opportunity to discuss freely supposed grievances."

In line with this reasoning, the Supreme Court has vigilantly guarded First Amendment rights and has reserved some of its most caustic comments for those who attempt to infringe on free speech and assembly.

The court has insisted that, ordinarily, citizens have the right to speak, to write and to disseminate even the most unpopular ideas by peaceful methods.

They have the right to use the streets and other public grounds to conduct peaceful demonstrations, to distribute handbills, to quietly picket; to broadcast on radio and television; to produce controversial motion pictures, and to ignore ex parte injunctions.

As evidence of our high regard for the First Amendment we have even evolved special procedural rules. These permit attacks on prospective government action limiting freedom of speech on the grounds that we must discourage any "chilling effect" on such a vital right.

IV. THE LIMITS OF DISSENT

However, there are limits beyond which the First Amendment may not be carried.

The most famous, of course, is that laid down by Mr. Justice Holmes in *Schenck*.

"The most stringent protection of free speech would not protect a man in falsely shouting fire in a theater, and causing a panic.

"It does not even protect a man from an injunction against uttering words that may have all the effect of force.

"The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent. It is a question of proximity and degree."

V. FREEDOM OF ASSEMBLY

Nowhere are the questions of "proximity and degree" more difficult than under the right of assembly provision of the First Amendment, as opposed to the right of free speech.

While today we tend to speak of assembly and speech in the same breath, they are two different rights. During the Constitutional Convention, there was a heated debate over the freedom of assembly clause, with its detractors claiming it was "minutiae."

The Supreme Court has pointed out the two different standards. It said in *Cox* v. *Louisiana*:

"We emphatically reject the notion . . . that the First and Fourteenth Amendments afford the same kind of freedom to those who would communicate ideas by conduct such as patrolling, marching, and picketing on streets and highways, as these amendments afford to those who communicate ideas by pure speech."

The Court added:

"We also reaffirm the repeated decisions of this Court that there is no place for violence in a democratic society dedicated to liberty under law . . . There is a proper time and place for even the most peaceful protest and a plain duty and responsibility on the part of all citizens to obey all valid laws and regulations."

Thus, the Supreme Court has ruled that demonstrators do not have a constitutional right to cordon off a street or to use a loud amplification system or to block the entrance of a building, or to insist that passers-by listen to speeches, or even to peacefully demonstrate on public property, such as a county jail, which is set aside for specific governmental purposes.

In that case, the Court noted:

"The United States Constitution does not forbid a State to control the use of its own property for its own nondiscriminatory purpose."

VI. THE APPLICATION OF THE FIRST AMENDMENT

Here, we come to the most difficult question: How do we, as lawyers and public officials, insure a maximum range for free speech while, at the same time, attempting to insure a minimum opportunity for violation of the rights of those who are not involved in a demonstration?

Here are some of the guidelines that we in the Federal government follow in Washington and which I believe should be considered by local and state officials.

1. Encourage the peaceful exercise of First Amendment rights, regardless of how unpopular the cause. Merely to tolerate freedom of expression is not good enough.

We believe it is appropriate to establish an atmosphere in which citizens want to express themselves on the issues of the day.

And to make sure that persons wishing to conduct a demonstration be given the benefit of the doubt; that in questionable situations it is always wiser to offer a little more freedom than a little less.

2. Realize that most large political demonstrations may entail a certain amount of inconvenience to local residents, may impose additional expenses on local taxpayers, and may engender widespread community hostility to demonstrators.

Traffic may have to be rerouted. Sidewalks may become crowded. Police and health officials may have to leave their normal routine. Additional manpower may have to be employed.

Because the police have the primary government obligation of insuring an orderly demonstration, perhaps a few words of guidance are in order.

Police should remember that they are professional law enforcement personnel who should not be swayed by their approval or disapproval of the views expressed by the demonstrators.

They should be sensitive to and understanding of the fact that persons emotionally involved in a demonstration do not always behave in a normal fashion.

If arrests must be made, they should be accomplished with a minimum of force needed to restore order.

We have found in Washington that the key to a successful demonstration is careful preparation and extended negotiations with the demonstrators.

When both the local government and the demonstrators attempt to understand the problems that each side faces, the problems tend to be solved quickly in an atmosphere of compromise.

Of course, there may be a sizeable cost in terms of manpower and money. But we think that this should be a cost that a local community is more than willing to absorb as the price of being part of a free republic.

Given our times, we cannot expect political demonstrations to be conducted like prayer meetings. We must expect language which may incite hostility or may be obscene.

This is because the First Amendment protects all of us, including men and women who choose to be unruly, unreasonable, and impolite.

On the other hand, residents of local communities have rights, rights which should not be seriously impaired.

Businessmen must be able to conduct their affairs. Schools and municipal services must be provided. The ordinary life and commerce of a city must be allowed to function effectively.

I reject the notion that persons exercising freedom of speech have a right to shut down a community any more than a community has a right to keep out demonstrators.

But this leaves several difficult problem areas still unresolved. Generally, these are cases where public officials have good reason to believe there may be violence perpetrated by the demonstrators or against them.

Because local officials have the obligation of protecting the demonstrators and the community, certain limitations may be in order on how and where the demonstration is conducted.

Most of these problems come down to case-by-case decisions, frequently made under extreme pressures of time. I do not think there are any hard and fast rules. Local officials should be familiar enough with their own communities to work out acceptable compromises.

Of course, there are always the courts as a last recourse for either side. But judges are hardly in a better position to make law enforcement decisions than are reasonable and responsible city officials.

VI. CONCLUSION

In recent months hundreds of thousands of American citizens have come to Washington, D.C., to exercise their rights of free speech and peaceable assembly.

The Department of Justice has now furnished to the Senate a voluminous report on the lessons we have learned and the steps we have taken to protect and confirm the First Amendment rights.

I think you will find the report encouraging and I believe you will agree that it matches performance to the promise offered by President Nixon when he said:

"Peaceful protest is part of the American tradition. The right to dissent is a force for change, but it is the right to disagree, not the right to disobey laws.

"So let us have order in America—not the order that suppresses dissent and discourages change, but the order that guarantees the right to dissent and provides the basis for peaceful change."

ECONOMY BOOST

Mr. DOLE. Mr. President, in today's Washington Post, Joseph Kraft indicates that the economy is showing healthy signs of a turnaround. For an observer with Mr. Kraft's record of critical regard for Republican efforts in both domestic and foreign affairs, this is a rather remarkable recognition. It is, however, yet another statement of something the President has been saying for some time; namely, that this administration is successfully engineering a wartime-inflationary base to one of peace and stability.

Mr. President, 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:

WIDE RANGE OF SIGNS SUGGEST WORST IS OVER FOR THE ECONOMY

President Nixon may be in trouble with blacks, students, blue collar workers, the Near East, the Far East, the House, the Senate, and Chet Huntley. But some semi-good news is coming to the administration on one front.

A wide range of signs suggest that the worst is over in the economy. The bad times are bottoming out; and the interesting question now is whether the turn-around can come fast enough to help the Republicans in the fall elections.

The most important signal of what has been happening comes from an esoteric blinker—the bond market. According to a technical lingo that seems to come out of early P. G. Wodehouse, there has been for the past month "a rally in bonds".

What that means is that private investors are coming forward eagerly to buy corporate offerings. The buying surge reflects a confidence that inflation is finally in hand. No

one would be purchasing good corporate bonds at 8.9 percent this week—which is the current yield—if they felt they might be able to get, say 9.5 percent next month.

This confidence that rates are leveling off, and indeed may be coming down, seems to express a basic fact of economic life. The great boom in corporate spending for new plant and equipment is evidently coming to a close. According to the National Industrial Conference Board, the thousand largest corporations cut back spending on expansion by 15 percent between the last quarter of 1969 and the first quarter of 1970.

That downward trend seems to be continuing. And if so, the inflationary surge of the past few years is plainly tapering off. For the big spenders of the past few years—the true villain of the most recent inflationary surge—has not been government, or the consumer or even the unions. The big push has come from inflation-minded businessmen, doling it out like water for new plant and equipment.

Decline in business pending, to be sure, is going to have adverse effects on production and employment. And in some areas the pinch may be severe. Industries and regions that depend on defense or space spending are apt to suffer badly. Companies in difficult financial straits are not suddenly going to get better. But two big sources of demand are standing by ready to take up the slack.

Most important of all there is consumer spending. Since consumers receive about $800 billion a year in income, they are—by far—the biggest component in the total economy. A slight change in their buying habits can have tremendous impact.

Traditionally consumers spend about 94 to 95 per cent of disposable income. But recently there has been an increased propensity to save. For reasons not clear to anybody, the amount of disposable income being spent has dropped to 93 percent.

Recently, however, there has been a drop in federal taxes and action to increase Social Security payments. The guess is that these developments will combine with the slowing of inflation to bring consumers back to the market in their usual force.

Additionally, there is the matter of housing. High interest payments offered by banks have drained funds away from the savings and loan institutions, which finance much of the private housing market. In consequence, housing has been down, and in states and industries dependent, upon housing, for example, lumber in Oregon—there has been severe economic difficulty.

But with more investors prepared to buy bonds, interest rates will be declining at least slightly. That will make money more easily available to savings and loan institutions. And that should stimulate a modest recovery in housing.

What this means is that the Nixon Administration's basic plan for the economy seems to be working. Inflation has been gradually slowed. While unemployment has gone up to nearly 5 per cent, the chances are that there will not be a severe recession. And that, of course, is good news for the administration.

But not all that good. For even though a severe recession is averted, the recovery looks to be very sluggish. There is only slight lift—not a robust thrust forward—in sight for consumer spending and housing. When the election comes around, there will probably be considerable unemployment—perhaps at 5.5 per cent.

In these circumstances, the Republicans will be able to claim a performance that licked inflation without recession. But the Democrats will have the high ground. They will be able to point once again to men without jobs in a time of Republican rule.

INTEGRATION LAWSUITS

Mr. THURMOND. Mr. President, the current integration lawsuits, including 10 against public school districts in South Carolina, are hailed by many as a triumph for the liberal ideology.

Those who view the destruction of the public school system with satisfaction must be completely unaware of the practical problems which "technical compliance" brings. They are not aware of the real hardships which are being forced upon the local areas.

It is, therefore, important to become aware of responsible public opinion such as that published by our leading newspapers. The Charleston News and Courier, Saturday, July 11, 1970, in commenting on the integration suits, says as follows:

The cause of public education will continue to suffer, until common sense and willingness to view the realities without prejudice are restored to our country. We have likened the emotional aspects of the integration issue to national Prohibition, which came and went in the space of about 14 years. Nobody can forecast how long it will be before some semblance of reason returns to management of public education. Perhaps complete wreckage of the schools in some neighborhoods will be necessary to demonstrate the futility of current policies. Meanwhile, a generation or two will be growing up without benefit of proper teaching.

Charleston, of course, is not one of the school districts under litigation, but the editorial clearly points out why.

Mr. President, I think it is important that Senators be informed of such responsible local opinion. I ask unanimous consent that the editorial from the News and Courier, entitled "More of the Same," be printed in the RECORD.

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

MORE OF THE SAME

Announcement that 10 public school districts in South Carolina are among the targets of law suits by the U.S. Dept. of Justice is more of the same kind of dismal news that for 16 years now has been coming out of Washington on the subject of race relations. The misunderstanding and blindness that afflicted the federal government under both Democrats and Republicans have not yet run their course.

The cause of public education will continue to suffer, until common sense and willingness to view the realities without prejudice are restored to our country. We have likened the emotional aspects of the integration issue to national Prohibition, which came and went in the space of about 14 years. Nobody can forecast how long it will be before some semblance of reason returns to management of public education. Perhaps complete wreckage of the schools in some neighborhoods will be necessary to demonstrate the futility of current policies. Meanwhile, a generation or two will be growing up without benefit of proper teaching.

Misconception about the progress of integration in schools is fairly general. In an Associated Press report about racial disorders in Macon, Ga., the Associated Press—without attribution of any source—listed Southern cities which have approached integration on a "gradual but improving basis." Among them is Charleston.

In some areas "improvement" would be accurate, notably in the area of public assemblies, as in the audiences that enjoyed "Porgy and Bess" at the Civic Auditorium. In public schools, however, something like "resegregation" has taken place in the city school district. Most of the schools are either totally or predominantly black. The proportion of Negro pupils in the city schools long ago passed 90 per cent.

Genuine integration is impossible in these circumstances. The same factors will apply in other regions where the population pattern is not adaptable to total integration.

The efforts of public school administrators to carry on under pressure for "compliance" are commendable. We sympathize with their dedication to the cause of teaching children, irrespective of race and other considerations. They should not be harassed constantly by a government that refuses to weigh human and educational qualities along with politics.

CHIEF JUSTICE WARREN E. BURGER

Mr. MATHIAS. Mr. President, this past June marked the end of the first year in office of a great Chief Justice, Warren E. Burger. In the past year it has become apparent that President Nixon's selection of Chief Justice Burger was indeed an outstanding choice for this most important post. In his first year, he has displayed commendable leadership for the American justice system. Throughout the year he addressed himself to the important issues of court reorganization, the responsibility of the legal profession, and penology. It already appears that Chief Justice Burger will rank among the most noteworthy of the 15 Chief Justices to date.

Within a month of the Chief Justice's first anniversary with the Court, he delivered an address to the American Law Institute indicative of the philosophy that has guided him throughout his career. His remarks reflect an understanding of the tensions of our age as well as a basic faith in the responsiveness of a system created by our Founding Fathers.

He states:

It would be foolhardy indeed not to be concerned about the turmoil and strife and violence we witness, most of it mindless and devoid of constructive ends. But concern must not give way to panic.

The Chief Justice does not doubt that our system has the durability to respond through reexamination and revision.

I commend his brief remarks to the Senate and ask unanimous consent that they be printed in the RECORD.

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

TRANSCRIPT OF REMARKS OF CHIEF JUSTICE WARREN E. BURGER, AMERICAN LAW INSTITUTE

To accept your invitation here today has elements of both nostalgia and novelty for me. The novelty is that during nearly 20 years of ALI membership I never availed myself of the privileges of the floor and never had occasion to occupy the podium. This was not due to any general reticence on my part, but rather because I always had a feeling that those who sought the floor had more important things to say than I did on the particular subject at hand. I found it more profitable to listen, as I have found that true on the Bench listening to arguments from many here this morning. One occasion which might have tempted me to enter the fray was on a subject which, by a unique application

of the preemption doctrine, the Supreme Court managed to render your debate somewhat academic. That was when you were "preempted" by *Miranda*, even though I must say I thought the Court probably had to burn the Midnight Oil to get the opinion out before ALI could get its word in!

The nostalgia I mentioned is of only recent origin and purely personal. All meetings of ALI in Washington in May will bring stirring recollections to me and to my family, for it was during last year's meeting that the President announced my nomination to the Court. There is no reason any of you should recall it, but two newspapers had predicted the identity of Chief Justice Warren's successor with considerable accuracy some time in advance. However, the two major sources were so utterly polarized that they were given little credence. One story was by Mr. Walter Trohan in the Chicago Tribune; the other was by Mr. Reston in the New York Times.

I suspect the reason the others paid little attention to these predictions was that anything agreed upon by the *Times* and the *Tribune* was so inherently improbable as not to merit the attention of reasonable men.

Parenthetically I should add that I am still a bit put out that on the night of the announcement at the White House I had to make a difficult decision but I did so manfully. The day before my nomination I had belatedly paid $15 to go to the Annual Reception and on that night, even though I knew there was no prospect of a refund, I had to decide whether to go to the ALI or the White House. I decided that, on balance, I would be well advised to go to the White House before the President changed his mind. Happily the President did not charge admission for the event so I suffered no net loss. I therefore waive all claims to a refund on last year's unused Reception tickets.

The burdens of a first year in office, complicated by the matter of being somewhat shorthanded until recently, do not allow me very much time for formal speech preparation. There are, however, a few observations I wish to make which will neither detain you long nor tax you unduly.

Systems of justice are being attacked throughout the world. These attacks reflect the uneasy temper of the time. They stir and shake the mind and spirit and erode confidence. This is an era which we will not fully understand until it is over, but meanwhile we must cope with events, with a seeming weakening of some institutions, challenges to all institutions, and the inability of even our great centers of learning to maintain the confidence of many students or to preserve that order without which no progress or development is possible. Students and some adults seem to have missed the relevance of *order* as the foundation of all things in life which have meaning.

Of more immediate relevance to us as lawyers is that gnawing doubt whether our system of justice, especially criminal justice, is sturdy enough to withstand the assaults which are leveled at it, in and out of courtrooms. Some say that we must "crack down," that we must "smash" the challengers and restore tight discipline. In periods of stress there are always some voices raised urging that we suspend fundamental guarantees and take shortcuts as a matter of self-protection. But this is not the American way of doing things short of great national emergencies.

Clare Booth Luce, when she was a Member of the House from Connecticut, said in a speech during the dark days of World War II, "There are no hopeless situations; there are only people who have grown hopeless about them."

You have not grown hopeless. That you are here today conducting your affairs as always in the month of May is proof of that.

Our system of justice is indeed in need of study and reexamination and revision to make it work. The entire history of the ALI bears witness that you have worked and fought for changes and improvements in the mechanisms of our legal system. The recent history of the organized bar, and especially the ABA, shows the power of the legal profession to bring about needed changes. If we have the long view—which the ALI surely represents—we can see that we have never been a tightly disciplined people, and, reflecting this, our legal structure has been somewhat more relaxed than those of many other societies. If this has negative aspects it also gives us a resiliency to tide us over and enable us to meet any crisis as it arises. We will respond slowly but that is the nature of a democratic society. In those few periods of our history when we suspended basic guarantees of the individual in times of great national stress we often found, in retrospect, that we had overreacted.

That courtrooms or trials are disrupted or sought to be used as stages for demonstrations or as a forum for propaganda is not entirely a "new thing" (and I deliberately put this in quotes) but it has been uncommon because Americans in the long run have trusted the legal system—the bar and the courts. We judges, like generals who have no wars for a generation, and are out of practice, have perhaps been sluggish in responding to the new ways of trying legal and factual issues. But in time we do respond as when, without dissent, the Court put its stamp of approval on the splendid qualities of patience and judicial professionalism shown by the state trial judge whose actions we affirmed in *Illinois* v. *Allen*. It would be foolhardy indeed not to be concerned about the turmoil and strife and violence we witness, most of it mindless and devoid of constructive ends. But concern must not give way to panic.

This melancholy recital and some recent and tragic events might seem to give any expression of optimism a note of rashness or insensitivity and yet I am optimistic. I believe our institutions are durable. They will surmount any attack. This is so partly because no week passes in this country without meetings of men and women, dedicated as you are dedicated, to revise, improve and reshape our institutions to serve people. There is another dimension to our task. We need urgently to find ways to convince the young that progress is not made in great leaps and that the methods of the American Law Institute and others like it are the only road to durable progress. This is the American way to progress.

The work and the formulations of the American Law Institute have always reflected this quality of studied and restrained response, of careful innovation, of progress without haste or hysteria. The influence of your work reflects the contribution of the leading figures I have heard on this floor in years past—Augustus and Learned Hand, Pepper, Goodrich, Parker, Vanderbilt, Frankfurter and Jackson—to mention only some of those now gone.

Let me conclude this brief greeting by saying in this one year of new responsibility and new overview of the legal system, I have come to value more than ever the privilege of being even a mildly participating member of this great body. I will look to the work of the ALI as one of the great resources for progress and improvement in our legal institutions. For all that you have done and are doing I salute you and assure you of my keen interest in all your efforts to improve justice.

NAVY TARGET PRACTICE ON CULEBRA

Mr. MUSKIE. Mr. President, Culebra is a small island off Puerto Rico with a population of 743 American citizens. Like many of our other possessions, Culebra is a fishing community largely untouched by mainland America. But Culebra does have a distinction—it is a target for the U.S. Navy.

I ask unanimous consent that articles from the Wall Street Journal, the Washington Post, and the Armed Forces Journal be printed in the RECORD at the end of my remarks. These articles describe the kind of life Culebrans must live under the constant threat of Navy bombardment of their small island.

I have sent a wire to the Secretary of the Navy asking for a report on the Navy's justification for this activity. I cannot imagine a less questionable manner for the Armed Forces to show its respect for the people of an American territory.

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

[From the Wall Street Journal, June 10, 1970]

CULEBRANS FIRE BACK: ISLANDERS SEEK TO END ROLE AS A NAVY TARGET—SHELLS FALL CLOSE TO GOVERNOR OF PUERTO RICO; RESIDENTS TO GET HEARING IN CONGRESS

(By Jerry Landauer)

WASHINGTON.—For more years than they care to remember, 743 American citizens living on tiny, sun-washed Culebra in the Caribbean have endured all that the U.S. Navy can dish out.

Their island and nearby uninhabited cays between Puerto Rico and St. Thomas are being bombed, strafed, shelled and torpedoed almost every day. Houses shake, women sometimes huddle in fear to pray, and children shout: "Las bombas—vamanos!" (Bombs—let's get out of here!)

Ships and planes batter Culebra—a municipality of the Commonwealth of Puerto Rico—because part of the seven-mile-long island is a target range that the Navy deems indispensable. Officials acknowledge that probably no other civilian community bears so disproportionate a share of the defense burden, but they can't promise the Culebrans relief; the Navy says no other equally suitable spot can be found to provide "realistic" training for Atlantic fleet gunners.

For years, fishermen and farmers accepted the Navy's contention. Having sent 12 young men to war in Vietnam, the islanders patriotically endured 228 days of aerial rocket firing practice last year, 123 days of naval gunfire and 114 days of strafing by jets. Target practice lasted an average of three and a half hours, even on Sundays, and it seems to be intensifying. Through May 22, naval aircraft recorded 17,860 runs to the target this year; that's a faster pace than last year's total of 37,500.

What's more, Culebra is so inviting that the Navy lets ships of friendly nations join in the shooting. In the past year the target area was raked by warships flying the flags of such countries as Venezuela, Great Britain, Brazil, West Germany, the Netherlands and even Trinidad-Tobago.

LIVING IN TERROR

All this action, according to Culebra's municipal assembly, requires islanders to live in a "psychological state of confusion, anxiety, insecurity and terror, and we are in constant danger of losing our lives."

Indeed, the islanders are in revolt, and today they're finally getting a hearing in Congress. The mayor, World War II veteran Ramon Feliciano, intends to tell a House Armed Services subcommittee that abuse of his people is making the Navy unwelcome. "The Navy must leave Culebra in peace," he insists.

What irks the islanders most right now is a Navy plan to convert 2,300 precious acres—nearly a third of the island—into a residence-free "safety zone." This land is needed, the Navy says, so that Walleye and Bulldog missiles can be fired at nearby cays with minimum danger to the population. But if this plan is executed the Culebrans will be hemmed in; a peninsula to the northeast is already an "impact area" for shells.

"They now have us, the fishermen, corralled like animals," says 56-year-old Juan Rosano.

Still, Culebrans might have accepted this further infringement on their freedom if the Navy had been more sensitive to citizen complaints. (Some officers think land speculators and left-wingers are chiefly responsible for the embarrassing agitation.) Instead, the service often appears to treat the people in a high-handed manner.

A minor but revealing example: On April 11, 1968, Anastacio Soto filed a claim for $197 to cover the loss of nine lobster traps he said were destroyed by ships on maneuver. The Navy countered on July 16 with a compromise offer of $67.50, which the poor but proud fisherman rejected; his claim for the full sum is still pending.

IGNORING THE SCHEDULE

To satisfy such small claims in full would cost far less than the ammunition poured in Culebra in a few minutes. Besides, fishermen haven't received a cent for the loss of catch caused by naval maneuvers. (Fish killed by shells or ships sometimes pile up on shore.)

In the past, moreover, aggrieved islanders rarely filed damage claims, in part because Mayor Feliciano's predecessor, who served from 1944 to 1960, seemed more friendly toward the Navy than toward them; he was, in fact, a retired Navy man. "I didn't know where to go or that I have any rights," storekeeper Justino Quinone recalls. "The Navy officials were important and they did not speak Spanish."

Yet the handling of claims is a relatively minor factor in Culebra's discontent. Far more important is the Navy's apparent inability to observe the firing schedule it tacks up at the post office and at the air strip.

As recently as May 22 the Navy pulled what could have been a ghastly blunder. No gunfire was scheduled that day, and no warning flag was hoisted from the Navy observation post, so six children went swimming in Flamingo Bay. But at 3:30 p.m. mortar shells started falling, close not only to the swimmers but to a yacht occupied by Luis Ferre, governor of Puerto Rico. The governor had just visited Culebra to find out why the Culebrans were clamoring—and to receive Navy assurances that unscheduled firings rarely occur.

"This incident changed the thinking of all of us," Gov. Ferre now says. "Every step must be taken to protect the life and tranquility of the people of Culebra."

Statements collected for the House subcommittee hearing by attorneys Richard D. Copaken and Thomas C. Jones Jr. of Covington & Burling, a Washington law firm giving free legal advice to the Culebrans, suggest that Gov. Ferre's experience isn't unique.

Fisherman Francisco Blancera says low-flying planes fired close to his boat last February, causing him to jettison fishing gear. Tomas Rivera was swimming when he sighted a warning from the Navy's observation post; "Without giving us time to leave they began shooting mortars," he complains. Oncio Cibera says four jets dived at his fishing vessel last fall; "When the first one fired I started the motor to leave, but all four of them fired, one after the other."

Angered by such incidents, Mayor Feliciano composed an "ultimatum to the United States Navy" from "we, the people of the island of Culebra." Among other things, it charges the Navy with hurling "live missiles and napalm on our birds and their nests," allegedly in violation of an order issued in 1909 by President Teddy Roosevelt, a conservationist.

Such prose is, of course, intended to tug at the sympathies of mainland Americans, in hopes of compelling the Navy to search anew for alternative firing ranges. And to make sure his message isn't being missed, Mr. Feliciano even demands "space for interment of our dead," besides a hospital, homebuilding sites and recreation facilities. The Navy notes that no islander has ever been killed by gunnery exercises.

[From the Armed Forces Journal, May 1970]

CULEBRA: NAVY FOCUS ON CINCLANT'S BULL'S EYE IS WAY OFF TARGET, BUT MAY BE COMING INTO RANGE

(NOTE.—What matters is . . .

(The Journal sometimes gets stories that we'd rather not print. In many ways, this is one of them.

(But we don't make the news: We report it.

(Sometimes our reporting isn't as accurate, we find out, as our readers rightfully expect. (For a good example, see this week's Defense Forum.) Our research isn't always as thorough as it should be for a journal which readers expect to lay out both sides of an important issue. From time to time, we realize too late that we've really not been as fair or as objective as an independent Spokesman for the Services ought to be.

(But "Spokesman for the Services" doesn't mean "mouthpiece for the brass."

(Our hearts are with the United States Navy, but not about Culebra. Not now. Our biases, our opinions have shifted from the Navy's side to the Culebrans' as we tracked down and checked out the story on these pages. In this case, we think our facts, our research, our candor will check out better than the Navy's—at least until RAdm Norvell Ward, new Commander of the Caribbean Sea Frontier, finishes an analysis he seems quickly to have set in motion when the Culebran problem was brought personally to his attention last week.

(We have spent more money, more hours, more interviews checking out this story than any news the "new" Journal has printed in 2½ years. Because we were sort of hoping there really wasn't anything of substance to report. That's why this issue went to press three days late: The substance we had hoped would evaporate, didn't. Its flavor, however, showed some prospect for improvement after The Journal visited Culebra last Friday and Saturday.

(This is not a news report. It's a commentary, with our opinions. It's candid, but we think it's fair. We hope the Navy—in time—can think so, too.

(We chose, in many instances, not to print the names of Navymen who are quoted here, but whom we now believe to be wrong, or misinformed, or poorly advised. What bothers us is that they were the Navy "experts" on Culebra. But they were sincere and, we believe, wanted to be honest—if sometimes less than candid.

(What matters is not who said what, but what now should be done. With the Culebrans. By the Navy. For the country which both of them love.—The Editors.)

(By Ben Schemmer, Clare Lewis, and the Journal Staff)

CULEBRA ISLAND, May 22.—Like the mouse that roared, the tiny island of Culebra—owned in part by 743 Spanish-speaking, patriotic U.S. citizens who have representation but no vote in Congress—has appealed to the Governor of Puerto Rico and the House Armed Services Committee to help it win a battle with the United States Navy it has tried hard to avoid.

The Navy wants to expand gunnery and bombing operations on this docile, 7,000-acre Caribbean municipality used as CINCLANT's bull's-eye. Culebrans have accepted their odd destiny with quiet humility for over 35 years, in some respects for almost 70. Now, they want the Navy to shoot at something else.

The Navy says that it has no choice: that it needs more targets and larger safety zones on Culebra for new air-to-ground missiles like Walleye, Standard ARM, Bulldog, and Hobo glide bombs. But some of the very experts who stress this now admit they haven't even read the studies telling what's wrong with a host of other, uninhabited nearby island alternatives.

You probably read about Culebra in *Life* on 10 April. But *Life* cut into the onion no deeper than the peel, and facts available to The Journal suggest that the Navy—even though it sliced a lot longer—hasn't gone much deeper. Hopefully, the Governor of Puerto Rico and the House Armed Services Committee will cut through to the middle.

Hearings on the Culebran issue will be held this week before a HASC Real Estate Subcommittee headed by Representative Charles Bennett (D-Fla). Since 1954 the Navy has wanted to buy the entire island, on which it already owns at least 2,683 acres. But on 31 December, Culebrans wrote to President Nixon objecting to Navy plans—never explained to them—to resettle Culebra's 450 families on the nearby island of Vieques, which in part is another Navy bombardment target.

The quiet islanders began making noise when bombardment operations peaked, early this year—led by the Navy, but with ships of at least six (and some say over 20) other nations peppering away, too.

Since, the mouse that roared has lost a major court battle, won a partial but ironic victory from the Navy (see page 39), and today could be calibrated on a political/social bull's-eye which the Navy apparently doesn't see.

After stabbing at the onion for the last ten days, our impressions of the "Culebra problem" could fill a book. The Navy wouldn't like it. Nor does The Journal. Here, in brief, is why:

INNUENDOS

We've heard more innuendos from the Navy than facts from either side. Navy spokesmen suggested, in The Journal's preliminary inquiries, that the Culebra problem stemmed—to a large degree—from "confusion stimulated by greedy guys." What apparently were innuendos about Culebran landowners and other U.S. citizens hoping to develop small parcels of land or exercise development options jeopardized by the Navy's Culebran plan just didn't check out.

In the case, for example, of a St. Louis Washington University professor who has a limited option on property near the harbor of Dewey, but who has been outspoken on behalf of the Culebrans—and whose interests were subtly questioned by the Navy—The Journal has a sworn affidavit that he would give up his option, *at cost*, "to the end that goals of the people of Culebra may be realized."

Suspicions that expenses incurred by Culebra's Mayor Ramon Feliciano, traveling on his islanders' behalf, were paid by land promoters just aren't true.

Slurs against a retired Methodist minister on Culebra who's added his voice to the mouse's roar aren't worth the paper they're printed on—except to put the Navy's problem in perspective.

A group of so-called "squatters" turned out to be Culebrans who have built houses on land the Navy moved them to, but for which they can't get deeds.

SINCERITY ON BOTH SIDES

The Navy is sincere, but readers who talk with the Culebrans would probably find them

even more so. The Culebran problem isn't targets: it's people—patriotic, warm, gracious, honest, candid Americans who aren't accustomed to dealing with bureaucratic subtleties. They are not at war with the Navy. The only enemy the Culebrans have is indifference. But when you're sitting on the bull's-eye, it doesn't matter whether it's friend or foe who pulls the trigger.

The Culebrans earn their living from the land, and from the sea. They have only limited access to both, and the Navy proposes to make the limits even tighter. There is no school on the island; there is, as yet, no hospital. For both, the Culebrans must go to the Puerto Rican mainland. Denial of that access becomes a major infringement on their very lives.

What the Culebrans have asked for—and for 35 years didn't get, until about two weeks ago—was a "dialogue" with the Navy.

ILL-ADVISED EXPERTS

Some Navy Culebran "experts" are, in large part, ill-advised, misinformed, or blind. Asked "How do the Culebrans really feel?" on OpNav action officer, referred to The Journal by a higher authority, said bluntly: "The Culebrans want the Navy to stay." Asked about a very recent poll in which 304 out of 313 Culebran families voted to have the Navy *leave*, this officer said he had not heard of any such vote, but got his dope from a Culebran who "really had his pulse on the people." When The Journal later got the source's name, he turned out to be custodian of the Navy's Culebran range. Culebrans said they love this man, but that he is 70-some years old, and perhaps not attuned to his people today.

Navy spokesmen—guys on the front line on the Culebran issue—had few details on and little perception of alleged serious safety problems and near tragedies that vitally concern these U.S. citizens just miles away from CINCLANT's bull's-eye—even though most have at least been mentioned by the press. Notwithstanding Navy disclaimers on civilian accidents, it is reasonably clear that at least four serious injuries have resulted from Navy/Marine Corps operations on and near Culebra since the island first "joined" the Navy in 1901.

In 1914, Isaac Espinosa lost his right arm from a grenade or detonator he picked up on Culebra's shore. In 1935, Alberto Peña Garcia, a 15-year-old schoolboy, was killed when he playfully banged a USMC grenade with a hammer. That same year, in a different accident, Vincento Romero lost his right arm.

These accidents don't quite track with carefully structured Navy statements that "no one has been killed or injured as a result of this training." Because the Navy statement technically refers to ships' gunfire practice since 1936, after Marine Corps maneuvers were moved to Vieques. But no one The Journal was referred to had ever heard of young Sixto Colon, who lost his right eye in 1964 playing catch with an explosive toy which Culebrans say the Navy left on the island. And the Navy spokesmen didn't mention the nine Navy men killed in April 1946 when an aircraft dropped its ordnance on an observation post painted the same color as the target.

Navy spokesmen mention near accidents, such as the time the battleship *New Jersey*, late in the '40s or early in the '50s, lobbed shells on a cistern between the town of Dewey and the impact area. Or when the *Missouri*, about the same time, scored on the safety zone instead of the impact area. Or when "destroyers fired over the island." But no one The Journal has been referred to by the Navy seemed remotely aware of even more recent incidents in which:

The San Juan yacht *La Vagabunda* had smokepots dropped athwartships during five passes by an aircraft on a clear day while the vessel cruised amidst a flotilla of 14 others.

A bomb "or something" landed in Dewey Harbor just months ago, 400 yards from the house of Culebra's only doctor.

"1,000-lb bombs" landed intact in six to 10 feet of water just off Culebra's eastern shore.

(Each of these allegations was verified by The Journal through recorded eyewitness reports and/or on-the-ground surveys.)

ALTERNATIVES

There may not be any alternative to expanded operation on and near Culebra. CINCLANT *does* need targets, especially for new missiles with bigger "footprints." What bothers us is that the "experts" who rejected the alternatives apparently haven't read the studies about them—that's what two of the experts conceded.

The Journal doesn't want to second-guess the Navy, but Puerto Rican Governor Luis Ferre told us on 22 May that "There is so much area nearby that has not been exhaustively studied." He mentioned such possibilities as:

Vieques—The Navy and Marine Corps already use the island's eastern 2¾ miles for naval gunfire support/aerial close support targets, the next three miles inland for a Marine landing/maneuver area, and Vieques' western end for an "inert" naval ammunition depot. *Question:* Why not move the "ammunition depot" to Culebra, the Marine maneuver area to the western end of Vieques, and the new targets and expanded safety zones for Walleye, etc., to the freed area on Vieques' eastern coasts? CINCLANT's "expert" conceded he had "never thought about it." Yet SecNav's office repeatedly deferred to this very officer on questions on the alternatives so "exhaustively studied." A CINCLANT spokesman later explained, however, that "it's really not [this officer's] job to answer these kind of questions," and referred The Journal back to Navy headquarters in Washington. Governor Ferre told The Journal Friday that the Culebra/Vieques switch could have substantial merit and that he'd probably discuss it with his "good friend Mel Laird."

Isla Palominos—At the very closest, by nautical charts The Journal looked at on the scene, this 165-foot-high island is at least 2¾ miles east of Puerto Rico, 1¾ miles from the nearest (and uninhabited) island—and it's close (10 nm) to CINCLANT's gunnery operations center at Roosevelt Roads.

Caya Lobos—A 40-foot-high island 2½ miles from the northeastern tip of Puerto Rico, which boasts of a luxurious hotel. The hotel has been empty for the past four to five years. (If the Navy needs more varied terrain than this "flat" island provides, barges of dirt could change it, we think, and dirt costs less than the rental on Culebra—even under the Navy's 30 April $70,000-a-year easement.)

We don't question Navy statements that, from a strictly military viewpoint, Culebra is "the most suitable" target complex. What's at issue is whether or not others, more "suitable" from a political/social viewpoint, still could be militarily "acceptable."

WHAT IT BOILS DOWN TO

Navy spokesmen have been less than candid. What sounded like "substantial investments" turns out to be acquisition costs of $501 for Culebran land Culebrans can't use. Injuries, incidents, and accidents alleged apparently haven't been checked out.

The irony of the "Culebra problem" merits thought. A Supreme Court ruling of 1958—won by the *American Communist Party*—held that the right to travel "across frontiers in either direction and *inside the frontiers as well*" is a right guaranteed by the fifth amendment (emphasis added). It is incongruous that Culebrans don't benefit from this ruling, while the American Communist Party does.

Culebra's new "custodian," Admiral Ward, is the Navy's former (and first) Safety Director—another irony, but perhaps a hopeful sign as well. An attorney writing Culebra's appeal to the Supreme Court is a Director of the San Juan Navy League.

And the final irony may prove to be this: The whole Culebra problem hinges on the five-mile safety zone needed for Walleye and other new guided missiles. But Walleye apparently isn't funded for production next year. And all the follow-on missiles (Condor, etc.), a Navy expert let slip, have safety-zone footprints so much larger that they "could not be tested at all on the Culebrita targets" about which the Navy has been so adamant.

The Navy may have legal as well as political and social problems with Congress over the Culebra issue. For one thing, the statute under which the new leasehold is being requested apparently requires the Navy to specify payment costs. The 30 April request says only that the new easement "exceeds $50,000." Second, a key CINCLANTFLT official told Washington attorneys representing the Culebrans—on a no-fee, "pro bono publico" (for the public good) basis—that Culebra is a "range." He said the area is not a "training camp." But Title 10 USC 2663(a)(1), from which the Navy request derives, provides condemnation power *only* for fortifications, coastal defenses, or military training camps. A fine point, perhaps—but it could be a crucial one for the Culebrans. And for the Navy as well.

As Governor Ferre told the Journal, "This is an issue *everyone* can still win," given time for the dialogue Culebrans have sought—given time for a really good whack at the onion. But if *anyone* loses, no one wins. And the Culebrans lose if the Navy wins too soon. Congress should give the Culebrans time for the Navy to catch up on its reading.

Presidential Executive orders signed in 1901 and 1902, and reaffirmed on 26 June 1903, reserved all public lands on Culebra and adjacent cays for use of the U.S. Government, under Navy jurisdiction. Air space over the island and water three miles around it were restricted to exclusive use of the military by Presidential Executive Order 8684, signed 14 February 1941.

One effect of these Executive Orders is that private planes and ships must arrange for special Navy permission to approach or leave the island—one of 76 municipalities of the Commonwealth of Puerto Rico. *Life* magazine wrote on 10 April: "To all intents and purposes, the 700 [*sic*] islanders are prisoners on their own land."

On 5 December of last year, RAdm Alfred R. Matter, then Commander Caribbean Sea Frontier, wrote a Puerto Rican land developer—who wanted to build vacation condominiums on 225 acres on Culebra's eastern tip—an unfortunate letter which described vividly what the Executive Orders mean to U.S. citizens on the island:

"Culebra Island is a keystone in the Atlantic Fleet weapons range, which encompasses Naval Station, Roosevelt Roads, nearby Vieques Island, and thousands of square miles of ocean area. This large complex is expanding and operations are becoming increasingly intensive, frequently being conducted through seven days of the week. As such use increases, inhabitants of nearby areas such as your property will be subjected to the noise of supersonic booms, gunfire, rocket fire, and heavy air traffic."

Culebrans since have lost two legal battles to replace the "supersonic booms, gunfire, rocket fire, and heavy air traffic" with the more tranquil environment for which their neighbors on the U.S. Virgin Islands just 10 miles to the east are envied. On 11 March, the U.S. Court of Appeals in Boston upheld an earlier District Court decision and reaffirmed the Navy's legal Culebra and its nearby cays and rocks.

Two days later, on 13 March, Culebrans

voted in a town meeting to ask the Navy to withdraw from their island. What turned these docile custodians of CINCLANT's bull's-eye into the mouse that roared, one citizen told The JOURNAL, was the "new generation." "We have been peaceful and tolerant, but our lives have been in danger. I am the father of two sons and a daughter. Airplanes loaded with bombs pass over. It's as simple as that."

In past years, three Puerto Rican governors have resisted DOD overtures to buy the island outright, citing a provision of the Commonwealth's Constitution that no municipality could be dissolved without approval by its own people in a referendum. On 26 March, the Puerto Rican Senate passed a unanimous resolution asking President Nixon to "re-examine the Navy's activities in Culebra for the purpose of assuring the residents . . . peace, order, free movement, and development of economic interests." Since, the Culebran issue has been widely publicized. Feature articles have appeared in the *Miami Herald* (2 April), the *San Juan Star* (4 April, 17 May), *Life* (10 April), and the *New York Times* (15 April).

President Nixon on 14 April directed staff assistant Hugh W. Sloan, Jr., to write Mayor Feliciano, informing him that the Defense Department "is reviewing restrictions imposed."

On 24 April, Culebrans won a partial victory, but a questionable destiny. RAdm Alfred R. Matter announced an alternative Navy plan at a press conference in San Juan. (The Navy never consulted with Mayor Feliciano or the citizens of Culebra in developing the plan, nor were they invited to the press conference at which it was announced.)

Instead of outright purchase of the entire island, the plan would return to the Culebrans 10 miles of beach and coastline, along with 680 acres of land near the town of Dewey (named for the naval hero) for use as homesites, recreational areas, and a medical dispensary. (Earlier, the Navy had refused to turn over two acres of unused land so that Culebrans could build a hospital for which the people—only half of whom have jobs—had already raised the money.)

But the Navy still proposed to lease, and later to buy by right of eminent domain, a new parcel of 2,350 acres covering the eastern one-third of Culebra. Since the western third of the island is an impact area and safety zone for naval ship-to-shore gunnery training, Culebran families centered in the town of Dewey felt they would be "strangled." Shells would still explode 2½ miles to their west, and bombing/missile runs would intensify 3½ miles to their east. The Navy told The JOURNAL that the bombardment operations would climb from about 5,000 sorties in FY 69 to over 9,000 sorties this year.

Governor Luis Ferre—who reportedly hadn't set foot on Culebra since 1943—greeted the revised Navy plan with enthusiasm. He said it would pave the way for the turnover to his Commonwealth of other Navy-owned land in Puerto Rico, at Ft. Buchanan and Isla Grande. (He did not say, but The JOURNAL learned, that other Navy lands on the north central coast of Vieques might also be freed.) Governor Ferre said that the Navy's new Culebran plan would "substantially improve the living conditions of residents on this island" and that it revealed a "new attitude" on the Navy's part which would probably lead to better relations in the future between the Navy and residents of Culebra.

But on 15 May, the Puerto Rican Senate voted, with only one dissenting vote, to back the Culebran islanders in opposition to the Navy plan. In the Puerto Rican Senate, Governor Ferre's party is in the minority.) On 21 May, the Senate's minority leader indicated that he would go to Washington to testify on behalf of the Culebrans. Although Governor Ferre has been careful not to take a strong public position, it is now clear that bipartisan support is coming together throughout the Commonwealth of Puerto Rico for the Culebrans. Governor Ferre made it clear to The JOURNAL on 22 May that he would give serious study to other alternatives and would get the Navy to work with him so that peace and calm could return to Culebra.

At JOURNAL presstime, however, the Navy proposal still stood. It was submitted to Congress 30 April as a routine, 1¾-page FY 70 real estate acquisition request. But the House Armed Services Committee will give the islanders a chance to make their feelings known early next week.

Their feelings are clear. Earlier this month, 304 families of 313 polled voted to back Mayor Feliciano's request that the Navy leave Culebra. Unless the House Armed Services Committee specifically disapproves the Navy request, they could still lose: condemnation proceedings could begin the day after the mouse makes its roar heard in Congress.

"Box to the Dead" an Alternative to Culebra?

One alternative to an expanded bombing range on Culebra which CINCLANTFLT may not have explored was mentioned to The Journal by Governor Luis Ferre and to others last week by Headquarters Caribbean Sea Frontier. It's an uninhabited island just two miles off Puerto Rico's south central coast.

It's called Isle Caja de Muertos, Translated, that means Box of the Dead, Or, literally, Coffin.

The View From the Admiral's Bridge

A fast fuse now burning close to the powder may have a dim chance of turning instead into a candle of hope, if the Navy's former Safety Director and new Commander Caribbean Sea Frontier, R. Adm. Norvell G. Ward, serves as an accurate "switch-board" to Washington. We hope he'll tell the Navy that what's really at stake on Culebra is people, not targets, Navy people, as well as Culebrans.

At an early breakfast in San Juan on 23 May, Admiral Ward told The Journal that:

The Navy had no record, so far as he knew, of many of the recent civilian casualties and near-miss incidents alleged (and, in The Journal's opinion, too casually dismissed by the Department of the Navy). Admiral Ward said, "Since becoming aware of the large number of alleged incidents wherein people of Culebra may have become endangered, I have asked the Missile Range Facility to report to me on all incidents they have recorded of misfires or wild shots on the bombing and gunfire support ranges."

He had not asked his staff to take a look at other possible target choices, but one senior officer there had indicated that there were other islands in the vicinity of Puerto Rico that might be alternatives. He told The Journal, "We have not studied them and do not have the necessary capability or expertise to make a meaningful study. It is the Fleet Commander who is knowledgeable of all the requirements both operationally and logistically and the needs for instrumentation. . . . I could conduct the study if provided the technical expertise, but would anticipate that CINCLANFLT would call upon those with the expertise to make any additional study, as I assume they did in the prior studies. . . ."

He had "been in conversations both with Mr. Grimes [on Friday morning, 22 May] and with CINCLANTFLT headquarters and apprised them of the latest developments," suggesting that when they appear before the House Armed Services Subcommittee, "they should have all of the substantive facts at their fingertips, and be prepared to answer many probing [and, in The Journal's opinion, embarrassing] questions. Otherwise, the results might not be as desired."

He would check out alleged near misses involving commercial and general aviation aircraft—for his personal information.

He felt that "Mayor Feliciano is very sincere in his efforts to prevent the Navy from acquiring the land deemed necessary for safety purposes if we are to continue using the range."

Allegations of "deals" between the Navy and the Commonwealth of Puerto Rico for reacquisition of land benefiting the mainlanders, at the expense of the Culebrans, could be put in a more constructive light. "The Navy does have a plan for land reverting to the Commonwealth of Puerto Rico as it is no longer required, in accordance with agreements made when it was turned over to the Navy after the Army withdrew from the island of Puerto Rico. The Navy has excessed parcels in the past two or three years which have reverted to the Commonwealth. Specifically, yes, the Navy has plans for changing the boundaries of its land on Vieques."

Asked how his command referred to the Culebran "problem," "issue," or watever, Admiral Ward said: "People around here call it 'the Culebra problem.' I assess it as a very serious issue, the outcome of which is uncertain, and one which is uncertain, and one which, if resolved by Congress in the Navy's favor, will result in an intensification of the efforts by Mayor Feliciano to marshall public opinion behind his cause. I see it as a continuing and very difficult problem for us." How serious, in our view, depends on the kind of "switchboard" Admiral Ward turns out to be.

Call to "Big Mary"—Anything To Avoid Arrest

If you want to go swimming off Culebra, call "Big Mary" first. Big Mary is the Navy observation post on the island's northwest peninsula. Call on 122.8mc if you want to dive into the water from an airplane, or fly over or land on the island.

It's illegal—a federal offense—if you don't, and the fine literally could be "$5,000 and/or imprisonment for a term not to exceed five years."

Luckily, The Journal found this out and got permission from Big Mary before going snorkeling with Culebran citizens to verify reports (which Navy first doubted) that "1,000-lb bombs" or big shells lie 10 or so feet down on the harbor bottom, near the island's best beaches—next to the Navy "safety zone," as well as in impact areas where Culebran fishermen drop anchor, with Big Mary's permission.

The ordnance was indeed there, big and ominous. Maybe a 1,000-lb bomb, maybe not—but too big to carry back to the Navy.

By virtue of the 1941 Executive Order creating "Culebra Island Defensive Area" and the "Culebra Island Naval Air Space Reservation," the 10-mile-long island is totally enveloped by an artificial legal barrier comprising its entire territorial waters three miles from the island's high-water mark, as well as the "air space over" it. Entry into these zones without prior okay from the military is prohibited.

The Journal asked RAdm Norvell G. Ward if it literally would be illegal to go bomb-snorkeling off Culebra without the prior okay of Big Mary. Admiral Ward affirmed the technical effect of the 1941 Executive Order. Asked for HIS permission to snorkel for bombs, Admiral Ward explained the Navy chain of command and asked The Journal to call Big Mary.

Culebra/San Juan, 24 May.—The resident Navy seaman in charge of firing operations on Culebra admitted in writing today that he and three other Navymen fired six mortar rounds into a bay on Flamingo Beach where "bathers were . . . earlier"—but that "when

we fired the mortar rounds, we did not look at the beach." By his description, "Three rounds were fired long and three were fired short." The shells landed within 200 yards of seven children and at least one adult, interviewed and photographed on the spot today by The Journal.

The Navyman also admitted that, at the time of the near tragedy, "The red flag was not raised" (over their observation post, which has a commanding view of the beach). The flag is a standard range signal to warn those in the area that firing operations are about to begin or are underway.

Two of the children and a 30-year-old Culebran woman signed a separate statement that:

They had checked firing schedules posted throughout the town of Dewey before going swimming; "No firing was scheduled." (The Journal has the schedules: No firing was scheduled.)

Before swimming, and moments after seeing the rounds land, they had checked for the red flag on the OP above the beach; "We looked for a red flag—but saw only the United States flag."

Just one hour earlier, Journal publisher Ben Schemmer—flying into Culebra for a meeting there with Governor Luis Ferre—listened to the Navy OP, call sign "Big Mary," advise his aircraft that "We have no operations today." Schemmer had requested permission to photograph Navy targets on Culebrita Island. Big Mary inquired, "Request why you want to take pictures of Culebrita." Told that Schemmer was an editor, Big Mary responded, "HMMMMmmm," "Wait," and then advised, "Request you remain clear of area near Twin Rocks." Targets on Twin Rocks, a federal bird sanctuary, are at least seven miles east of the beach toward which the mortar rounds were aimed.

RAdm N. G. Ward told The Journal in San Juan late today: "The incident reached my attention today and it is under active investigation to understand why it happened. There is no denial the incident occurred. The info I have is not clear and garbled."

The senior man on the island in charge of "Big Mary"—a Navy petty officer first class—said in his written statement, "I asked [the Navy range officer at Roosevelt Roads] if we could make these [mortar] firings. . . . He said go ahead." The same officer had been asked on Friday or Saturday, by Washington attorneys representing the Culebrans without fee, about the then-alleged mortar firings at Flamingo Beach last Friday, and reportedly said: "No, it's impossible, it never happened. Every mortar round was under lock and key. There were no operations scheduled and none were carried out."

The Journal was told by several Culebrans that the Navy Seaman in charge of the Friday firings said at a town meeting on 14 March (the day before the Culebrans delivered their "ultimatum" for the Navy to leave their island): "Culebra could demonstrate as much as it wants, but with one shot the Navy could blow everybody off the island."

[From the Washington Post]

U.S. NAVY ALWAYS WINS

(By Nicholas von Hoffman)

Since Sixto Colon Robinson was a young boy and sure of anything, he always knew one fact for certain: The United States Navy always wins.

Sixto Colon Robinson lives on an islet in the sun off Puerto Rico named Culebra. Somewhat less than a thousand other people live on Culebra which would be as uneventful as its permanent summer climate if it were not for the American Navy, which has kept the place under almost remitting bombardment for 10 years. Part of Culebra, the water around it and the air above it is included in the Atlantic Fleet Weapons Range.

When Sixto Colon Robinson was 13 years old and walking with playmates on their islet something happened that taught him the Navy always wins: "We found a long, black object along with five pounds of gunpowder. We playfully started setting fire to small amounts of the gunpowder. When the last gunpowder was being burnt, the long, black object fell into the flames. The object exploded violently and fragments flew in every direction injuring all my friends . . . My entire body was covered with flying fragments. One of these fragments cut into the retina of my eye . . . My mother never filed a claim against the Navy because she was told the Navy always won . . . many Culebrans with potential suits against the Navy never file because there is a belief that the Navy never loses."

Culebra loses all the time. Things are so bad there that Ramon Feliciano, the island's mayor, sent the following ultimatum, as he called it, to the Navy a couple of months ago: "You have mined, bombed and torpedoed our fish and fishing areas. You have fire-rocketed and bombed napalm over our birds and their nests. Human and computer errors have misguided your missiles to our harbors and private lands, exposing us to death. Knowing of the presence of a civilian population in the center of the area where you carry on your maneuvers, you continue and plan the increase and intensification of these activities on and around the island of Culebra.

"The intensity, the frequency, and the type of maneuvers carried out by the Navy of the United States have created a situation that passes the limits of our human tolerance."

If the alcalde seems a bit overwrought read what John Kenneth, the Culebra school principal, says:

"We conduct our school classes daily in an environment wherein at any moment we can be the victims of a tragedy. Low flying aircraft, often at supersonic speeds, conduct mining maneuvers one mile southwest of the school; bombing and rocket practice 1½ miles west of the school; and heavy bombing with live bombs as heavy as 1,000 pounds 3¾ miles east of the school. Naval gunnery is practiced year round on target two miles north of the school. Navy torpedoing is carried out 4½ miles east of the school. The resulting noise is so intense that on many occasions it is impossible for the teachers to maintain the attention of the students in classes. We conduct classes in a constant atmosphere of fear for our lives, in school buildings tremble. You can see fear in the dangerously cracked by the vibrations caused by the explosions of ordnance."

Carmelo Feliciano, a teacher in the school, also testified before the House Armed Services Real Estate Subcommittee that, "When bombs and shells are exploding the school buildings tremble. You can see fear in the children's eyes. They sit in a peculiar way as if ready to run at a moment's notice. During periods of heavy night bombing, students fall asleep in class. Bombing is carried out far past midnight every day and these kids are kept awake until early morning hours."

Senor Gonzalez, the island's grocer, told the subcommittee, "For some time now, it has been increasingly difficult to get any kind of goods to Culebra. Navy restrictions on sea transportation allow only one boat through from mainland Puerto Rico. The space on this boat is limited, and the costs are high so that the people must pay more for what they buy. Eggs, milk, bread, meat and other basic foods are frequently out of stock.

The operator of the air taxi serving the island says that Navy regulations require him to make an approach in adverse winds that is often so dangerous he can't land.

The economy of Culebra is ruined, according to Claro Feliciano who tries to make a living raising livestock:

"In our farm we raise almost exclusively Brahma cattle for beef. It is a very nervous breed of cattle but especially suited for the hot and dry climate of Culebra. The noise of the jets, the bombing and shelling continually provoke stampedes, and the cattle break fences and go for days without eating or watering properly. Because of this our cattle do not put on enough weight and we lose money. The Navy does not compensate us for this.

"Navy personnel in Culebra are very rough on private landowners. They trespass on private property and build roads on private land without permission. The landowners are afraid of Navy officers because they threaten the landowners with taking them to court if they do not allow them to use their land. They are afraid of being dispossessed if they do not allow Navy men to do as they please.

"During the drought season the cattle owners suffer a great deal. The pastures dry up and the star shells fired by naval vessels set fire to dry pastures, reducing considerably the available forage for cattle. Again no compensation is paid. We live in constant danger of being killed while working in our farms. There are many unexploded bombs and shells. A few bombs exploded in Francisco Feliciano's farm about 30 feet from a house occupied by Diego Boano and his wife. The bombs killed a steer and damaged Bonano's home. No compensation was paid."

The Navy's response to the killing of Diego Bonano's steer was a letter to the mayor from Capt. W. D. Dietz which said, "It has been determined that the shells which fell near the residence of Mr. Diego Bonano did so as the result of either a mechanical error, a personnel error or possibly both, during the gunnery exercise which was being conducted at the time. I am very sorry that this incident occurred and you can rest assured that every precaution will be taken to prevent such incidents from recurring."

The fisherman, Anastasio Soto, said that, "The Navy ships destroy lobster traps and fishing nets which take a year to come apart and meanwhile they trap fish and lobsters. When this trapped and wasted catch dies and rots, the sea is contaminated, which further depletes the area of its sea life. The use of explosive kills off fish, lobsters and birds so that on one occasion approximately 15 tons of fish washed up on the beaches and were taken away by the truckload. Just last week, seven large lobsters and a giant green turtle crawled out on the beach to die. The full damage done is immensely greater since most of the wildlife killed would sink to the bottom or be carried away by strong currents."

The people of Culebra wouldn't have any chance except that their case has been taken up free of charge by the powerful Washington law firm of Covington and Burling. They began poking around and discovered that in the opinion of competent naval officers Culebra was a highly unsatisfactory target range because real battlefield conditions couldn't be simulated there; more astonishing, they learned it was being used for out-of-date rockets in order as one of them submitted to the subcommittee "merely to permit the Navy to reduce its inventory of an obsolete weapon."

The best, however, came from a conversation with Joseph A. Grimes Jr., special civilian assistant to the Secretary of the Navy. According to Covington and Burling's representatives, Mr. Grimes vouchsafed that the vast silent majority of Culebrans were content to be blown to smithereens and that only a few land speculators were making a fuss.

It is the peculiar weakness of so many of our statesmen to believe that the people we bomb enjoy it. When we do it in Southeast Asia it is always said that Hindus, Buddhists and other such pagan rifraff simply don't share our vaunted American regard for human life. Since the inhabitants of Culebra *are* American citizens that observa-

tion isn't directly transferrable, but still Culebrans are Puerto Ricans and Puerto Ricans, you know, aren't really exactly white. They jabber a strange lingo and, although they do make acceptable messboys to serve our so pasty white admirals, there is no undeniable resemblance to the slopes, zipperheads, and gookygeeks who really don't care if we kill them off or not.

Yet the ugliest aspect of this affair is the niggling over a few bucks to pay for dead cows and broken lobster traps. An admiral or a special civilian assistant can honestly, though mistakenly, believe bombing Culebra serves that infinitely vanishing will o' the whisp called national security, but what's the rationalization for not paying Anastasio Soto for destroying the tools of his livelihood? Maybe there's nothing left in the till after paying out hundreds of millions on cost overruns.

Sixto Colon Robinson is right. The United States Navy always wins.

[From the Armed Forces Journal, June 3, 1970]

CULEBRA, INTERMISSION: THE TARGET SHOOTS BACK: CULEBRANS TESTIFY AT HASC REAL ESTATE SUBCOMMITTEE HEARINGS

(By Clare Lewis and Bruce Cossaboom)

Hearings on the Navy's plans for Culebra were scheduled to begin on Wednesday, 10 June—just as this issue went to press.

In a statement prepared for presentation before the House Armed Services Committee's Real Estate Subcommittee, attorney Richard D. Copaken, counsel for the Municipality of Culebra, said his focus would be twofold:

"1. Is there an acceptable alternative for the Navy training mission now carried out on the Island of Culebra and its neighboring cays?

"2. To whom is the Navy proposal a matter of grave concern? . . ."

In describing his early conversations with Joseph A. Grimes, jr, Special Civilian Assistant to SecNav John Chafee, Copaken says: "I learned that the Navy assumed that only land speculators were dissatisfied with the present level and proposed level of Navy training operations on Culebra and its neighboring cays. Mr. Grimes conceded that his assumption that the vast majority of Culebrans were content with the Navy's present operations and proposal was based on questionable sources of information that are second-hand at best. I explained to Mr. Grimes that Covington & Burling [Copaken's law firm] had an identity of interest with the Navy in ascertaining whether the Navy assumptions were accurate because if they were, Covington & Burling would be obliged to withdraw."

Copaken says, in his statement, that he urged Grimes to check out the situation for himself—to go to Culebra and talk with the islanders, adding that "Mr. Grimes refused to undertake this inquiry."

In an effort to determine the true sentiments of the majority of Culebrans, Copaken says, his firm sent Thomas C. Jones, jr, another attorney, to the island.

Jones, in his statement, details the thoroughness with which he attempted to objectify his survey, beginning with his announcement to the crowd gathered at the airport upon his arrival that he "wanted to interview anyone interested in expressing his opinion about the general subject of the relationship between the United States Navy and the Island of Culebra."

In response to his invitation, Jones says, "A large crowd gathered outside the Town Hall and people lined up patiently to be interviewed."

Not satisfied with this approach, and fearing that he might be seeing "only the vocal persons," he extended his interviews to stopping persons at random on the street and interviewing them "in the nearest shady place," and began going house-to-house.

SEARCH FOR OBJECTIVITY

Jones' surveying practices seem to present a model of objectivity: "I attempted in every manner I could conceive of to guarantee that the results of the survey would reflect an accurate and impartial impression of the attitudes of the people of Culebra. Indeed, because the results that I was obtaining showed virtually unanimous opposition to the Navy proposal, I searched out four of the Navy's five, six, or seven employees (the number of Navy employees seems to vary between five and seven and even Admiral Ward was unable to give us the precise number) in order to see whether there was some hidden reservoir of support of the Navy that I had been unable to uncover myself. However, even the Navy employees admitted to me that there was virtually no one in Culebra who supported or would benefit from the Navy plan. Thus, I am personally convinced that if there is any error in the results of my survey it is an error which would tend to exaggerate the support for the Navy proposal rather than the opposition to it."

As a check on his findings, Jones says, he announced the results of his survey to an open town meeting of "approximately 150 Culebrans," explaining how the results had been obtained, and inviting comment and/or criticism. "Not a single complaint was voiced," he adds.

The lopsided results are, in Jones' words, "clear and unequivocal statistics." Of the Culebrans he interviewed, 95% opposed the Navy plan, and approximately 75% wanted the Navy to leave the island altogether.

"Thus," he concluded, "Mr. Grimes' assertion was completely erroneous, as is any decision which relies on such an assumption."

Having established the Culebrans' attitudes toward the Navy, Jones' statement goes on to detail the effect on the islanders of the Navy's attitudes toward the Culebrans.

"The sketch of the life of a Culebran shows a people who have been abused by the Navy is a particularly devastating and to me unexplainable sense," Jones says. "I refer to the fact that the Navy's warning system with regard to its bombardment and shelling schedules has been absolutely unreliable. Every single fisherman with whom I spoke on this subject said that he had had to flee or turn back as a result of unannounced weapons activity. This inexcusable neglect has clearly added greatly to the anxiety and outright fear which is so apparent."

Culebra's Mayor Ramon Feliciano has come to Washington to testify at the hearings, as the next step in his efforts to improve the quality of life for the Culebrans. According to a statement prepared in conjunction with his testimony before the Subcommittee, "The constant shelling and the occurrence of accidents which the Navy has denied instilled fear and desperation in the citizens to the extent of fearing for their lives and demanding that the Navy abandon Culebra and leave the Culebrans to live in peace."

WHITE HOUSE DISINTEREST?

Mayor Feliciano has been working toward that end for some time, now. His private letter campaign to enlist Executive Branch support—if not direct intervention—on behalf of Culebra did not meet with much success, although he apparently escalated it from SecNav to the White House itself.

On 19 February, Frank P. Sanders, Assistant SecNav (I&L), replied to Feliciano "on behalf of President Nixon" that the position of the U.S. Government is that Executive Order No. 8684 "must remain in force" and that the pending court action made it "inappropriate to comment further at this time."

"Thank you for expressing your feelings on this subject to the President," Sanders told Feliciano.

Apparently Feliciano had the feeling he hadn't gotten through. On 26 March, the White House received both a telegram and a letter.

On 14 April, another letter to Feliciano "on behalf of the President" arrived but this time from Hugh W. Sloan, Jr., Staff Assistant to the President.

Sloan reiterated the Navy position, essentially, and advised Feliciano that DoD "is reviewing the restrictions imposed by the naval operations to ensure that the civilian inhabitants are allowed a maximum freedom of movement, consistent with safety."

Sloan expressed regret that a personal appointment with the President requested by the Mayor could not be granted, but added "thank you for corresponding with the President."

BIRDLIFE THREATENED?

As the Culebrans' protests reached the U.S. mainland, the Department of Interior apparently began to wonder what effect all this Navy activity was having on its sanctuaries in the area.

Concerned by possible damage to nesting birds at national wildlife refuges on Culebra Island (but mainly on the adjacent small cays) the Department of Interior (Bureau of Sport Fisheries and Wildlife) sent the Chief of its Division of Wildlife Refuges, Robert Scott, and other staff members to Culebra last month to make an on-the-spot reconnaissance of Culebra Island and adjacent cays to determine means for providing greater protection for migratory birds.

Scott told The JOURNAL that his trip produced no "specifics" about injuries or deaths that may have been suffered by birdlife on the island as a result of naval bombardments.

A Navy official indicated, however, that these small islands—never before considered to be prime targets—now face an uncertain future on this score.

They have had an uncertain past as well, according to Culebrans: In may 1968 the Navy launched a massive coordinated air strike against Twin Rocks, one of the bird refuges. "It sounded as if the world were coming to an end," said one of the Culebrans. Thousands of nesting marine birds were killed, said islanders who visited the refuge the next day.

Scott said no one had told him of this incident.

Scott explained that, as a result of his trip and Interior Department concern over the refuges—a concern not previously evidenced, apparently engendered by the current publicity—Interior and Navy have set about working out a "memo of agreement," a joint understanding for modifying and improving present wildlife management practices there.

Scott said nothing had been formalized on this, but it would probably involve having the Navy avoid using the refuges as targets during certain crucial nesting periods or targeting parts of the refuge which Interior had determined to be free of the nests.

Scott cites as a precedent for establishing peaceful Navy Interior coexistence between bull's-eye and nest eggs on the same island a joint management agreement that now prevails on "No Man's Island" off the coast of Massachusetts.

This agreement maintains the goals of both agencies, Scott said, and he sees nothing "mutually exclusive" about having birds and bombs on the same islands.

Scott explained that in 1909 Theodore Roosevelt dedicated the cays off Culebra and other small outlying islands as national wildlife refuges "superimposed on a prior right" of Naval use.

The only concern on Culebra itself, Scott told The Journal, is for a colony of nesting sooty terms in the northwest impact area.

Scott said the refuges themselves are lo-

cated on the offshore islands, but that the "exact status of the ownership of the offshore islands is not clear to us."

Scott said the Department's realty people have been instructed to answer the question: "Who owns what?"

Scott said some of the islands are known not to be public property at all, but leased. North Cay, for example, one of the larger offshore islands, was reportedly leased by the Navy from a single individual owner.

There are no wildlife refuges on it, the Navy said, "just someone running some goats."

LAND VALUES VS. HUMAN VALUES

Attorney Thomas Jones apparently has no doubt that at least a portion of the problem is land value. But his investigations have led him to conclude that it is not the "speculators" the Navy points its finger at who are the culprits, but rather the Navy itself. As he says in his statement:

"There is no mystery in the strong opposition of the people of Culebra to the Navy plan. The plan is widely believed to be the penultimate step in the Navy's desire to obtain the entire island; a high-ranking Puerto Rican government official told us that the Navy has wanted to resettle the Culebrans at least since 1960.

"This date corresponds to the time when the Navy began slowly to intensify its military training maneuvers. This intensification reached the point where last year—1969—the Culebra target system was in use day and night for an average of 9½ hours per day from Monday through Saturday and 3½ hours on Sunday. An even greater intensification is planned for this year. The effect of this intensification, naturally enough, has been to decrease the value of the land which the Navy will have to pay for if it acquires additional land. . . .

"Thus, the sketch of a Culebran is the portrait of a man who feels that his present way of life is imminently threatened, a man who feels forced by his sense of self-preservation to cry out."

THE STAGE IS SET

The stage is set for the third—but possibly not the final—act in the Culebra story.

Senator Edward M. Brooke (R-Mass)—who has expressed concern over the Navy's proposal for Culebra—told The Journal that Senate Armed Services Committee Chairman John C. Stennis (D-Miss) has agreed to place a 30-day "hold" on any further Navy plan.

"There is a possibility that hearings may also be held in the Senate at a later date," Brooke told The Journal. The law requires a report to both committees on any proposed real estate action. How thoroughly the background of a given transaction should be explored is at the discretion of each committee. Sources close to SASC told The Journal there are no present plans to hold a Culebra hearing.

MORE HILL CONCERN?

Aside from the Armed Services Committee itself, at least one other member of the House has become involved in the Culebra matter: Representative James Symington (D-Mo) received questions on Culebra from one of his constituents, a Mr. Daniel Kohl, relative to property interests there, but also expressing concern, Symington's office told The Journal, about "a small group of people being exploited."

Feeling that "some important issues are involved," Symington requested—and received—information (based on plans as of 11 May) on the Navy's plans for use of the Atlantic Fleet Weapons Range (see map, not printed in the RECORD).

Important issues *are* involved, and important questions being asked. Once again, Congress is faced with a matter of priorities—and it's up to the Navy to explain why its priorities should come first. All the Culebrans want is their own island back.

IS CULEBRA STEVENSON'S "TREASURE ISLAND"?

"The Navy should have learned its lesson with Bikini," observed RAdm Colby G. Rucker to The Journal in an exclusive interview.

Admiral Rucker, who retired in 1949, should know: He observed Culebran affairs at first hand throughout his 30-year naval career, beginning with a landing there as a midshipman. And when he was in the Pentagon as planner for all overseas bases just after WWII, he handled both Culebran land claims (even then a problem) and the transfer of the Bikini islanders from their Pacific atoll to clear the way for the 1946 atomic bomb tests.

Admiral Rucker's reference in linking the lesson of Bikini with Culebra was to the dissatisfaction of the Bikini islanders with any other islands but home—Bikini. "Every island we moved them to was objectively better than Bikini," said Rucker. "They had more coconut palms, more pigs, better fishing reefs, more taro patches . . . but they still weren't home to them and they were unhappy."

The Navy, when it proposed to move the Culebrans to another island, was preparing to make the same mistake, concluded Admiral Rucker.

Admiral Rucker, who spent many years of his career in the Caribbean (and who taught history and English at the Naval Academy), is steeped in the history, literature, and lore of that area.

He was amused that The Journal (23/26 May) had suggested that one alternative target for Navy use instead of Culebra might be Isla Caja de Muertos—Box of the Dead, or Coffin Island. This can also be translated as "Dead Men's Chest," Rucker pointed out. He said this is the very island referred to in the old pirate song: "Fifteen men on dead men's chest, yo-ho-ho and a bottle of rum!" The pirates evidently had marooned 15 captives on Isla Caja de Muertos.

But of greater literary interest is Admiral Rucker's well documented thesis that Culebra is Robert Louis Stevenson's "Treasure Island." The topography, hydrography, and sailing directions for entering the harbor all jibe perfectly, says Rucker.

When asked how he had connected Stevenson with Culebra, Rucker said the literary detective work wasn't too difficult. To earn a living between books, Stevenson had worked for the *Coastal Pilot*, a publication of the Royal Navy's Hydrographer. Stevenson had never been to Culebra, but he consulted *Coastal Pilot* for details to add realism to the seafaring portion of his books. "You could sail into many a Pacific harbor just by following the directions in the right Stevenson book," added Rucker.

Admiral Rucker stressed his conviction that the Navy hasn't always been as heavy-handed and unfeeling in its dealings with the Culebrans as more recent events appear to indicate. In fact, as he describes them, earlier Navy dealings with the Culebrans could have been taken as a model for the positive aspects of what has come to be known as "Civic Action" and "winning the hearts and minds" of the people.

Bluejackets from the fleet dug the first canal across the narrow neck of the peninsula which shelters the town of Dewey. This saved a five-mile trip for ships' boats and also for Culebran craft sailing to the fishing grounds or to mainland Puerto Rico.

Well water on Culebra is brackish (Culebrans save rainwater for drinking), and the resulting forage is a high, tough wiregrass. The Navy introduced a special breed of brahma cattle capable of subsisting on brackish water and wiregrass.

Mail from ships anchored off Culebra for gunnery practice was routed through the Dewey post office. The increase in volume was so great that Dewey qualified as a first class post office—which meant a larger salary for the postmaster and additional employment for Culebrans.

Doctors and corpsmen from the ships in the area went ashore to hold sick call for Culebrans and more serious cases were brought back to the ships for treatment.

Shortly after WWII the dynamic lady mayor of Dewey had a dispensary built—but, as it turned out, it was on Navy land. Rucker, in Washington, obtained an easement which enabled the dispensary to remain where it was.

—BROOKE NIHART.

CULEBRA—ACT II: HOUSE PANEL RESCHEDULES HEARINGS—NAVY STILL ADAMANT ON NEED FOR TARGETS

(By Ben Schemmer and Bruce Cossaboom)

The Navy apparently intends to turn a deaf ear to the mouse that roared—the tiny Puerto Rican island of Culebra.

Navy officials this week told Puerto Rico's Resident Commissioner in Washington, Jorge Cordova, they have no intention of abandoning their missile target range activities on the island, despite recent shore-shelling incidents and misfires on the island.

Cordova, who sits as a non-voting member of the House Armed Services Committee, met this week with Assistant Secretary of the Navy (I&L) Frank Sanders and SecNav Civilian Special Assistant (on Culebra) Joseph A. Grimes, Jr.

Cordova told Sanders of his conviction (and that of the island's political leaders) that the Navy should cease use of Culebra as a target area—much less expand it, as the Navy now proposes in an action pending before the House Armed Services Real Estate Subcommittee.

Cordova told The Journal he was informed the Navy "could not accede" to this request.

The Navy is now investigating the firing incidents (Journal, 23/26 May) and told Cordova that, after studying its findings, it would try to insure that there would be no repetition of the near misses.

Cordova had suggested to the Navy that it extend its investigation beyond the shelling incidents to the whole question of the use of the island. He said the Navy should find other uses for its property on the island, and consider abandoning it altogether as a target area.

The Navy says it needs Culebra as a target range and that the "incidents don't change the picture," Cordova told The Journal.

Meanwhile, a Real Estate Subcommittee hearing on the Navy's proposal to expand bombardment activities on the island—originally scheduled for 1 June but postponed after a public furor broke over the island—has been rescheduled for 10 June.

Two days after a 23/26 May Journal Commentary suggested that "Congress should give the Culebrans time for the Navy to catch up on its reading," Representative Charles E. Bennett (D-Fla) announced on 28 May that his panel would postpone hearings on the Navy's 30 April request to lease—and later to buy—a new, 2,350-acre safety zone on the 7,000-acre island for Walleye and other guided missiles.

Bennett's original postponement action apparently stemmed in part from news that mortar rounds fired without warning on 22 May toward a beach on which Culebran children were swimming—on a day when no firing operations were scheduled—caused the yacht on which Governor Luis Ferre was leaving the island to change course after its pilot heard the rounds.

Ironically, Ferre's visit to Culebra was his first there since 1962—and he had just been briefed by the Navy on ship-to-shore bombardment and aerial bombing exercises on

and near the island. The incident happened within an hour or so after The Journal interviewed the governor on Culebra.

Ferre got his briefing from the Navy at the very observation post from which the mortar rounds were later fired. A Navy officer at Roosevelt Roads called them "marking rounds" without much explosive.

Bennett said, "Before conducting hearings on any new plans for the island, I want to first get a report from the Navy Inspector General, who has been asked to look into this most recent incident. I then plan to ask my Subcommittee to conduct its own investigation."

The Subcommittee staff declined to state whether Congressman Bennett or the Navy initiated action to postpone the hearings.

Governor Ferre told The Journal in Washington earlier this week that he does not expect to testify personally at the hearings. But he said, "Every measure must be taken to protect the lives and tranquillity of the Culebrans" and that he supports Jorge Cordova's efforts. He said the Navy may be reexamining an alternative target area, the island of Desecheo, about 20 n.m. from Ramey AFB on Puerto Rico's northwest corner.

(The Journal was in error last week when we said that Governor Ferre had suggested, when interviewed on Culebra 22 May, another possible alternative, an island called "Box of the Dead," only six miles from his home town. That alternative was mentioned by a Navy official in the area. Governor Ferre did cite the other island target alternatives mentioned in the 23/26 May issue.)

Ferre has been cautious in recent weeks, commending the Navy for its revised 24 April proposal to return to the Culebrans about 680 acres of land in and around the harbor of Dewey, but not endorsing Navy plans for a new 3,250-acre easement on the island's eastern tip.

Bi-partisan support on behalf of the Culebrans, who now want the Navy to quit shooting at their island altogether, has been mounting.

Cordova announced on 28 May in San Juan that he would testify against Navy plans to continue, much less expand, range activities on the island. Heretofore, he has been relatively non-committal on the issue.

Also in Puerto Rico, the Commonwealth's Senate minority leader, number two man in Governor Ferre's own party, on 26 May made public his position that the Navy should stop using Culebra as a target. The next day, the Senate's majority leader announced that he, too, opposed the Navy's continued use of the island.

DOT, WHITE HOUSE INTEREST?

The Journal also learned that at least three senior members of the White House staff have begun looking into the Culebran issue. So, apparently, has Senator Edward Brooke (R-Mass). Brooke's interest reportedly stems from a conversation he had with Transportation Secretary (and former Massachusetts governor) John Volpe, shortly after Volpe read page proofs of The Journal's 23/26 May Culebra Commentary while he was flying back to the U.S. on 25 May from a brief weekend respite on St. Thomas, 10 miles east of Culebra.

Governor Volpe told The Journal that he was unaware of but would look into allegations of near misses between commercial and general aviation aircraft flying into Culebra and St. Thomas and Navy aircraft engaged in bombing and gunnery operations on the range near Culebra (see photo caption, page 20 (not printed in Record)).

Senator Sam Ervin's Subcommittee on Constitutional Rights may also look into the Culebran problem. (Ervin is also a member of the Senate Armed Services Committee.) Previous Supreme Court rulings indicate that restrictions imposed on the islanders' free access to and from their island may violate their rights under the Fifth Amendment. The restrictions stem from a 1941 Executive Order (No. 8684) which prohibits anyone from entering or leaving the island, or the airspace above it, without explicit prior Navy permission. One such Supreme Court ruling cited similar restrictions imposed on U.S. Japanese citizens impounded on the west coast during WWII and said: "We allowed the government in time of war to exclude citizens from their homes and restrict their freedom of movement only on a showing of the greatest imminent danger to the public safety—[But] the nation was then at war. No such condition presently exists."

A related report (Number 940) filed by the Committee on Naval Affairs, 2nd Session, 64th Congress, said that powers which Congress gave to the President under 18 U.S.C. 96—the authority cited for the 1941 Executive Order on Culebra—to establish defensive sea areas for purposes of national defense "is valid only in times of actual or threatened war."

The President has exercised the expropriation powers under 18 U.S.C. 96 on some 26 different occasions, designating defensive sea areas in Chesapeake Bay (Executive Order #2898), in the Los Angeles-Long Beach Harbor area (#8970), and in New York Harbor (#8978). But all of these designations have since been expressly revoked. Currently, there are only about 10 such defensive sea areas still in effect: besides, Culebra, the areas affected include Pearl Harbor, Guam, Honolulu, and Whittier, Alaska.

Some of the Constitutional issues in question include:

Whether the unusual restrictions imposed on the Culebrans—who are U.S. citizens with representation but no vote in Congress—represent a curtailment of their liberty of movement to such an extent as to be prohibited under the Fifth Amendment;

Whether enforcement of the 1941 Executive Order represents a taking of property without prior compensation and without the due process of law also spelled out in the Fifth Amendment; and

Whether Congress specifically intended under 18 U.S.C. 96 for the President to create *permanent* defensive sea frontiers which would remain in force even when a state of actual or threatened war no longer existed.

Culebrans have said they decided to ask the Navy to withdraw entirely from the island after bombardment operations were intensified earlier this year. But CINCLANTFLT spokesmen told The Journal that there has been negligible, if any, change in the pattern or intensity of operations over 1969. On Friday, 22 May, a blackboard in the Navy's observation post on Culebra showed that to date this year, 17,680 target runs had been carried out, compared with a total of 37,500 in all of 1969. The same blackboard showed that in 1969 rockets were fired on 228 days, strafing was conducted 114 days, air-to-ground missiles were fired on 13 days, aerial mines were emplaced on 42 days, and naval gunfire practice was conducted on 123 days. The Navy states that it needs additional land on Culebra because operations will intensify in the future.

When asked by The Journal why they remained quiet for so long about Navy bombardment operations on their island, several Culebrans stated that their previous mayors just "weren't interested" in the issue.

Cordova, in Washington before his meeting with Navy officials, told The Journal that the Navy's investigation came about as a result of the incidents, his request and those of others, and the Journal Commentary.

Cordova called The Journal publicity "more helpful" than anything else he could cite.

THE PRESIDENT'S CRIME LEGISLATION FOR THE DISTRICT OF COLUMBIA

THE PRESIDENT'S BILL

Mr. TYDINGS. Mr. President, 12 months ago, President Nixon submitted his long-awaited proposals to Congress to reduce crime in the District of Columbia. Favorable Senate action now on the conference version of this legislation will send it to the President for his signature into law.

The Senate amended and passed all the President's proposals within a few months after they were submitted to Congress last year. Each of the Senate bills passed unanimously, without a dissenting vote either in committee or on the Senate floor.

The House passed a different version of these same Presidential proposals on March 14 of this year. The House bill contained a number of highly controversial proposals, like pretrial detention, which the President had not requested in the bill he sent the Senate. The House also included a number of provisions, such as mandatory minimum sentences and dismemberment of the District of Columbia corrections system, which the President had not sought in either House.

THE CONFERENCE ON THE BILLS

The House-Senate conference on this legislation has met 24 times during the last 3 months to resolve the more than 174 major differences between the two bills. The product of that conference—the bill which will become law—incorporates the most effective features of both the Senate and the House bills.

Its main and dominant feature, as in the President's proposal, is a total and complete overhaul of the archaic and hopelessly inadequate court system in the National Capital.

The bill also includes a constitutional, effective, and closely safeguarded form of pretrial detention for dangerous criminal defendants. It excludes first offense minimum mandatory sentences and leaves the District of Columbia corrections system intact.

The conference bill adopts most of the reforms which the Senate added to the President's legislation, especially in the court reorganization, juvenile procedure, and public defender provisions. The conference bill also contains the wiretap provisions of the Senate bill which are more thoroughly refined and safeguarded than those in either the House bill or present District of Columbia law. Particularly important, the conference bill adopts the Senate version of so-called no-knock warrant authority—a provision which not only does not expand existing law, but actually adds additional safeguards for our rights of privacy.

THE CONTROVERSY

Born in the havoc of a city being torn apart by crime and violence, this bill has had a tumultuous course through Congress. Massive misunderstanding of the bill's purposes and provisions has alarmed responsible critics at both ends of the political spectrum. The administration's exaggerated claims for the significance of some of its proposals have compounded

this confusion. And a number of misinformed spokesmen have simply flatly misstated many features of the legislation.

Sometimes the news media have failed to accurately report the legislation so as to make it at all clear that each House of Congress had passed separate bills, dramatically different from one another, which would have to be further refined and amended in conference. For some reason, no degree of pleading seemed to make some reports reflect that there was more than one "D.C. crime bill," and that, whereas the Senate bill had passed unanimously, the House bill had been the target of the bitter controversy.

Some—friends and critics alike—have actually suggested that we should not pass this bill at all—at least not now—because the division about it goes so deep among law-abiding citizens.

But I reject this course. For, while I fully recognize the insensitivity of many administration policies, I believe this conference bill is a constitutional, sound, and urgently needed measure. While I understand the concern of citizens who do not understand this bill, I also recognize another kind of fear—the fear of unchecked crime which is ravaging the National Capital every day and night; ripping its social and economic structure to shreds; and viciously crippling and smashing lives, families and businesses, every hour of every day of the year.

To those who know this bill is sound, but say that we should not pass it, I say look to the morass of despair, terror, and fear into which the people of this city are sinking. Look at the barred windows of private homes, the deserted nighttime streets, the empty stores, the broken lives of crime's victims.

To those who say this bill is anti-black, I say crime in this 70 percent black city is anti-black. President Johnson's District of Columbia Crime Commission tells us that 86 percent of all District of Columbia murder victims are black; 86 percent of all aggravated assult victims are black; 80 percent of all rape victims are black; 66 percent of all auto theft victims are black; and 60 percent of all burglary victims are black. In fact, the only crime of violence which afflicts blacks and whites equally in this city is robbery.

To those who say the bill is repressive, I say study the conference version of the bill.

See that its court reform provisions will cut pretrial delays by 75 percent.

See that updating half-century-old criminal statutes to conform to Supreme Court decisions in no way unwisely increases police powers.

See that the juvenile procedure sections will radically improve the treatment of juveniles caught up in the judicial system.

See that the wiretap section does not expand the present wiretap law in the District beyond the additional offenses Congress explicitly authorized local governments to cover in the 1968 Federal wiretap law now in force in the District.

Examine the "no knock" warrant provision. See that it meets the standards of the unanimously passed Senate bill; that it does not expand on the existing law of the land as declared by the Supreme Court; and that it adds a new safeguard for privacy; prior judicial review of police intentions in every case possible.

The conference bill simply conforms the District of Columbia law on search and arrest with Supreme Court decisions which have been rendered since the statutes were last revised half a century ago. It simply states the conditions which the Supreme Court has already held permit a police officer to dispense with the standard notice of his identity and purpose when he serves a search or arrest warrant.

Nothing in the conference bill in any way enlarges the authority of officers to search a place without a warrant. The conference bill merely codifies the Supreme Court decision in Ker against California which specified that a police officer may enter premises without knocking, when an announcement of his presence and purpose would endanger his life or result in destruction of the evidence for which the court has authorized him to search.

In addition, the conference bill, like the Senate bill, adds a protection for privacy which does not exist under the Supreme Court decisions or even in the law of Maryland. The bill requires prior judicial review of so-called "no knock" entries whenever the officer knows in advance he may have difficulty in executing a search or arrest warrant. The bill provides that when an officer knows beforehand that his life may be in danger or that evidence may be destroyed, he must seek a specific authorization from a judge before he can enter the premises to be searched without knocking.

What we are talking about are the conditions under which a warrant can be served. I do not believe that anyone would suggest a police officer must absorb a bullet in his stomach as the price for announcing his presence at the door of a known dangerous criminal, perhaps fleeing from a murder or robbery. Nor do I think anyone would suggest a policeman should have to stand helplessly by outside the door while he listens to heroin being flushed down the sink.

The conference provision is an essential protection for the safety of police officers and a necessary measure to prevent the destruction of evidence in criminal cases.

PRETRIAL DETENTION

Study the pretrial detention section. Examine its restriction to a specific, limited number of grave crimes; its guarantee of due process hearing procedures; right to counsel; cross-examination; quick appeal from a pretrial custody order; and its expedited trial within 60 days for affected defendants.

Compare these provisions with the present situation, in which, according to the Bureau of Standards, 40 percent of all felony suspects are detained under subterfuge of high money bond; without a full due process hearing; without a guarantee of counsel; with a trial delay of 8 to 12 months while the defendant rots in jail.

Compare the 60-day trial guarantee in this bill with the so-called speedy trial bills, which contain enough loopholes for a guilty defendant to delay his trial and remain at large for an indefinite period.

The pretrial detention provision of this legislation is not a new, unique, or original idea. It was recommended by President Johnson's District of Columbia Crime Commission in 1965. It has been endorsed by the Judicial Council Committee of the District of Columbia. I have advocated pretrial detention since I had the opportunity of studying its operation in considerable detail in Great Britain in 1967.

The British success with pretrial detention over hundreds of years demonstrates that a carefully safeguarded system can be consistent with the concept of the Bill of Rights and still meet the public safety needs of a modern society.

As the Right Honorable Lord Denning, Master of the Rolls—third-ranking member of the judicial system in England—has said:

> Be it murder, rape, bank raid, or the like, in England we do not allow that man out on bail; we keep him imprisoned pending his trial. It isn't necessary to show that he may abscond. If there is reason to think that he may make another offense, we do not let him out so that he may do it pending trial. We keep him in prison until he is tried.
>
> But I believe here, and I have heard the controversy, that it is an unfair procedure; you are imprisoning him without trial; he has not been convicted; what right have you to imprison him like this pending trial?
>
> In England we do. I think it is right, myself, but this is important: We make sure that he is tried speedily. In England, every man, after his arrest, we arrange for him to be tried within 8 weeks, the greatest length between arrest and trial.
>
> I have been most interested to hear of the bill now before Congress in which proposals are made for preventive detention in this country providing always that the man is tried within 60 days. To my mind, our experience in England, we would have thought that very desirable. It is a matter of controversy for you, but I let out that thought because in our experience in England it is better for society that criminals or potential criminals should not be let loose pending trial. We do not let them out on bail, although we have in our bill of rights, like you, the prohibition against excessive bail being demanded.

The concept of protecting the public against persons who might reasonably be believed or presumed to be dangerous is common in our country and perfectly consistent with our notions of individual liberty. There is no strong objection today to the detention of narcotics addicts for their own protection and that of the public. Who would suggest that persons believed to be mentally defective or dangerously unbalanced ought to be released rather than committed to an appropriate institution?

And, in fact, criminal suspects judges believe to be dangerous are detained with trial in every State in the Union through the subterfuge of high money bond which the defendant cannot pay.

I believe dangerous defendants should be held in custody before trial. But I do not think we should use the hypocritical high money bond system to achieve pretrial detention. Use of money bond unfairly penalizes the poor and does not

deter the affluent. We should instead have the kind of carefully safeguarded pretrial detention system this conference bill proposes.

The conference bill's pretrial detention provision is fully constitutional. The eighth amendment to our Constitution, which originated in the First Congress in the history of our Republic, provides a guarantee that excessive bail shall not be required in criminal cases. But that same Congress made it abundantly clear that it never intended the eighth amendment to keep a judge from jailing a defendant prior to trial. That First Congress, in the first Federal bail law, provided that a judge could refuse bail and jail any suspects accused of most serious crimes.

Indeed, the eighth amendment language on bail is taken directly from the British Bill of Rights, which has always been interpreted in that country to authorize pretrial detention.

The law has been changed since our early colonial days. Since enactment of the Bail Reform Act in 1966, the only ground for detaining criminal suspects in the District of Columbia is the possibility that they might not appear at trial. This concept incorporated in the Bail Reform Act of 1966 is the one I support in general.

I was proud to be a cosponsor of that legislation. I believe that our bail laws should make no distinction between the rich and the poor. But the bail law should make a clear distinction between the ordinary defendant and the defendant whose case and record demonstrates a high probability that if released he may very well commit a crime before trial on the original charge.

When a judge has before him a man whose record supports a reasonable belief that he will commit a crime if released, the judge ought to be able to take more into account than merely whether the defendant will show up for trial after his further crimes have been committed.

The law in the National Capital presently provides that defendants must be released even if it is clear they are likely to commit further crime. The law ought to be changed.

Some have suggested that the amount of serious crime committed by those released under the present law is so statistically insignificant as to make new legislation providing for pretrial detention unnecessary.

I disagree.

Whatever the percentage of crime committed by suspects released awaiting trial, it is no consolation to the dead store owner or his family, or to the victim of rape, or to the robbed, wounded, maimed, and terrorized citizens against whom these crimes have been committed, that their experience is part of what some people would call a statistically insignificant number of crimes.

Ask yourself if you would change places with the District of Columbia busdriver who, on the night of March 12, 1968, was threatened with having his throat slashed by a robber who, only 10 days before, had been released without bail after he had robbed another busdriver only a few blocks away. Subsequently, the culprit was convicted of both offenses.

Would you change places with the downtown bank teller who, on the morning of May 4, 1968, faced down the barrel of a pistol held by a thug who had robbed a Safeway store 4 months earlier, but had been released without bond? He was subsequently convicted of both crimes.

Would you change places with the young woman who was choked and raped in her own apartment near Capitol Hill on June 11, 1968, by an assailant who, 3 weeks later, after he was released without bond on the rape case, appeared at his victim's place of work, fired five shots at her, and struck her down with a bullet in the shoulder?

The blistering, demoralizing record of crime in the National Capital area presents too devastating a picture for us to blind ourselves to the reality that a very large portion of all that serious crime is committed by a small, hard group of criminals, many of whom have been accused of one crime, but released pending trial of that charge.

CONCLUSION

The Capital and much of its surrounding suburban area have become a virtual ghost city by night. Law-abiding residents fear for their lives and property both on the streets and in their homes. Robbery and commercial crime are so out of control that many businesses have either curtailed their operations or left the city altogether.

The perpetration of major felonies is increasing at a rate of 22 percent a year. The number of felonies reported in the National Capital annually has doubled during the last 5 years. Yet, felony convictions in the District of Columbia courts in 1969 represented only 2½ percent of the 56,419 felonies reported here last year.

The need for action is urgent. The time for action is now. Consider this bill on the basis of its merits, not on the basis of the misunderstanding and emotionalism which surrounds it.

Nearly 2 years of hard legislative work has produced a vital, constitutional, effective bill to help answer the National Capital crime crisis.

Study the bill. Look at this city riddled by the fear and destruction of crime. Then, I believe, you too will support this legislation.

THE 1970'S—DECADE OF THE ENVIRONMENT AND THE OCEANS

Mr. MURPHY. Mr. President, on June 27, I had the pleasure of addressing the Marine Technology Society in Los Angeles. In this speech I discussed the oceans and the environment and the opportunities and problems they present for marine technology and the country. As I have done before, I called for the creation of a national agency to consolidate the country's efforts in the pollution fight, and exploration of the ocean.

I had previously introduced S. 2204 which would establish a National Oceanic Agency. Also, I joined Senator SCOTT in introducing this year S. 3388 to establish a national agency to coordinate our environmental efforts. I was pleased that the President, on July 9, announced the creation of an Environmental Protection Agency and a National Oceanic and Atmospheric Administration.

I ask unanimous consent that my speech and the White House fact sheet of July 9 be printed in the RECORD.

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

SPEECH OF SENATOR GEORGE MURPHY BEFORE THE MARINE TECHNOLOGY SOCIETY

It's a pleasure to be with you this evening and discuss with you the country's ocean program, the environment, and the opportunity both of these present for marine technology.

The Stratton Commission in its report, "Our Nation and the Sea," said "the nation's stake in the uses of the sea is synonymous with the promises and the threat of tomorrow."

The promise is presented by the great economic potential of the oceans. The dangers are represented by our own pollution of this resource and the national security implication.

World population is much in the news these days. The world's population is expected to double by the year 2000. Particularly alarming is the projected population growth for less developed countries, where two-thirds of the world's population lives. If projected growth rates prove accurate, less developed nations by the year 2000 will have four times as many people as the developed nations. These are sober statistics for a world already beset with problems of starvation and malnutrition. To merely keep up with population growth over the next 20 years, we must increase food production by 50 per cent. One possible answer—the oceans. The Department of Interior says that the oceans can provide the needed food and protein for double the world's current population. Despite the need and the great potential of the ocean as a food source, only one half of the world's food is presently derived from the sea. We must better utilize the sea's resources for food and must put them in forms easily marketable and easily consumed. Here is a task for industry and a place where your services will be particularly required.

Notwithstanding the need, the United States lags in the harvesting of marine food products. Fish are the most important harvested resource of the ocean. Although the world fishing industry is growing at a rate of 6 per cent annually, the United States' fishing industry has not participated in this growth.

Our catch over the past thirty years has stayed approximately the same. Our fishermen today had only four per cent of the world's catch, which is about one-third of the fish consumed by American citizens. With the exception of our tuna and shrimp fisheries, the United States fishing industry for the most part is technically outmoded. Not only, it is important that we regain prominence in the fishing industry, because we have been traditionally a nation that reealizes the importance of the seas, but the importation of fish and fish products into the United States in 1968 added over one-half billion dollars to our critical balance-of-payments problem.

One also must be concerned with the rate at which the world's mineral resources are being used. Consumption of metals in the next 35 years is expected to exceed that of the last 2000 years. Energy used in the next 20 years is estimated at three times that of the last 100 years. Finding adequate minerals will challenge industry's and the nation's ingenuity. Minerals abound in the ocean. In fact, scientists say that the ocean contains more minerals than those that have been mined by man in all past history.

As a member of the Health Subcommittee, I am naturally interested in the use of animal and plant life for medicinal raw materials. We are desperately searching for a cure of cancer. We know that for some strange reason, invertebrate marine animals have not acquired cancer. Why not? Some scientists also feel that compounds in vertebrates may hold a clue to the biochemistry in sanity and insanity. Yet, despite these intriguing medical possibilities, the Stratton Commission report tells us that only one per cent of marine and animal life known to contain biologically active materials have been studied. They is why I have joined Senator Magnuson in introducing S. 1588, which would establish a National Institute of Marine Medicine and Pharmacology in the National Institutes of Health.

While the economic potentials of ocean development are important, there are even higher stakes, perhaps even the survival of our nation, that compel us to move ahead in the field of oceanology. Last year the Chief of the Soviet Navy proclaimed: "The flag of the Soviet Navy now flies proudly over the oceans of the world. Sooner or later the United States will have to understand that it no longer has mastery of the seas." Russia already is ahead of the United States among the world's shipbuilding nations, and expects a 50 per cent increase in the size of its merchant fleet.

President Nixon has sent to the Congress a far-reaching proposal. Specifically, he proposes that we build 300 ships over the next 10 years. As one who has frequently voiced concern over the sorry state of our merchant fleet, I support the President's efforts to revitalize our Merchant Marine fleet. The recently reported stories with respect to Soviet submarine activities off our shores should remove any doubts about the defense implication.

I have been long concerned about this nation's total ocean effort. In 1966, the Senate was considering the Sea Grant legislation which I cosponsored and strongly supported, I said then of our lagging ocean efforts: "For some time I have felt this nation's efforts in the exploration of the oceans have been inadequate and moving at a snail's pace . . . The Johnson Administration, however, has treated oceanology as a stepchild. It has failed to provide the leadership and the vision necessary to insure that the United States will be the leader in this endeavor."

I am pleased that the period of drifting and indecision is coming to a halt. The Nixon Administration will soon officially unveil its idea for the establishment of a new National Oceanic and Atmospheric Administration within the Department of Commerce. This move is a welcomed one by me and I am sure by you in the marine science community. The present proliferation of Departments and Agencies involved in the oceanographic program simply does not provide the leadership and coordination needed if America is going to be first in oceanology. The establishment of this centralized agency will bring into being what I have long advocated. As you probably know, I am the author in the Senate of legislation, S. 2204, which proposed a National Oceanic Agency.

As the unfortunate experience at Santa Barbara illustrates, of all the ocean issues before us these days, perhaps none is more important than those involving the quality of the marine environment and the absolute need for wise management of our coastal resources.

The ocean shores are usually the sites of urban centers and industry, also a place of refuge from industrial civilization for the commercial and sports fisherman, swimmer, boatsman, surfer and sunbather. We humans are only one of the ocean's users, the most recent. Yet we have hurriedly acquired and employed the means to greatly alter the ocean environment, and measured in the time of evolutionary change, the living creatures in that environment do not have the time to adjust. Chemical wastes from factories, heat from power plants, domestic wastes and sewage from cities and towns, insecticides and fertilizers from land runoff, atmospheric fallout of gasoline vapors, are all flowing into the ocean. The sheer bulk of the material disposed in and the presence of new types of non-degradable waste products are now beginning to affect our waters at an increasing rate; the wastes can no longer so readily be diluted, dispersed or degraded.

If there is ever any doubt about it, the tragedy at Santa Barbara has demonstrated that environmental considerations must be as important as exploration goals. I welcome the public concern voiced with respect to the fouling of our environment. I might add that my voice had been raised in this matter long before the pollution voices became a national chorus. Since coming to the Senate, I have co-authored or supported every single piece of air and water pollution legislation that has been enacted into law.

You will recall that it was my amendment to the Air Quality Act of 1967 that has enabled California to set emission standards for automobiles higher than any state in the nation. I believe that industry has not been as concerned with and has not done as much with respect to the protection of the environment as they could and should have done. I think it is equally true that all of us as individuals have not been as concerned with and have not done enough to enhance our environment as could and should have been done. Many lose sight of this latter fact and often those who condemn industry are the very ones who throw and leave beer cans on our beaches. I do not think that any purpose is served in placing past blame. There is enough blame for all of us—both individuals and industry to share. The important thing is that we clean up, and that we clean up now, and that a conservation movement and concern over the quality of our environment sweep the country similar to that led years ago by Teddy Roosevelt. We must remember, however, that Teddy Roosevelt also said: "The Nation behaves well if it treats the natural resources as assets which it must turn over to the next generation increased and not impaired in value." We must also remember, however, that same Teddy Roosevelt at the same time pointed out the equally important fact that "conservation means development as much as it does protection."

I would like to share with you for a moment some of my activities in connection with Santa Barbara. Following the disastrous blowout, I testified before the House Public Works Committee and made five recommendations. First, I urged that all drilling stop. Secondly, I urged the upgrading of the 15-year-old federal drilling regulations. This has been done. Thirdly, I urged an accelerated research, development, and testing program to increase and improve the capabilities for preventing, controlling, and cleaning up oil spills. Fourth, I urged the establishment of contingency plans at the federal, state and local levels so that an immediate response to oil spills and disasters might result. And fifth, I urged the passage of legislation to clearly spell out the fiscal and clean-up responsibility when a spill occurred. I might add that S. 7, the Water Quality Improvement Act of 1969, which I co-authored, now spells out the liability question. Also, the White House on June 1 announced the establishment of a national contingency plan to coordinate the oil for regional plans covering all coasts and waterways of the United States. Later in the Congress, I took legislative steps that would terminate operations in the channel and would use the oil in the Elk Hills Petroleum Reserve as a possible source of repayment. I have also been urging the Administration to join with me to find a workable and practical solution. I am glad that the President and the Secretary of the Interior have faced up to this problem, and have developed a legislative package which I introduced in the Senate on Wednesday of this week.

This plan would create a national energy reserve off the existing state-created Santa Barbara oil sanctuary in which there would be no oil production. In doing so, twenty existing leases would be terminated, the leaseholders being reimbursed in cash from the sale of the oil produced from the Elk Hills Naval Petroleum Reserve. A federal court will determine the value of the leases so terminated.

The *Los Angeles Times* headlined the story that some lease holders under this bill would be given "something for nothing." I can assure this audience and the nation that this is not my intent nor is it the intention of the Administration. On the other hand, both our constitution, as well as our sense of fair play preclude us from giving leaseholders "nothing for something".

The Senate Subcommittee on Minerals, Materials and Fuels has scheduled hearings on all the bills relating to the Santa Barbara Channel for July 21. I believe these hearings will be most significant in determining the future use of this beautful part of our California coastline. I hope as many of you as possible will provide your candid views to the Subcommittee. Certainly you in industry could do no bigger sevice to the protection of our coastal environment as well as to the development of our natural energy reserves than to join the Congress and the Executive Branch in finding an equitable and practical solution to the problems presented by Santa Barbara.

When I was a member of the Subcommittee on Air and Water Pollution, the fact that the Federal Government was a major polluter bothered me. I feel that the Government, if it is going to prod private industry and the public into cleaning up, and it should do this, should see to it that its own house is in environmental order. President Nixon agrees and has issued an Executive Order which should help to force the Federal Government practice what it preaches with respect to pollution.

Simply stated, if we are to continue to enjoy coastal pleasures, such as those offered by California, we are going to have to work hard, clean up our waters, and learn how to manage better this priceless resource—and it would seem to me that this area is one of great potential for those of you in marine technology.

Just as a single agency is needed to give focus, coordination and momentum to our ocean program, we urgently need a national agency to coordinate and accelerate our national battle against pollution. A recent study identified 43 federal agencies spending over five billion dollars on pollution. I have joined the distinguished Minority Leader, Senator Scott, in introducing S. 3388, which would establish such a national agency. I am also pleased that the Administration will also soon unveil its proposal to create a new Environmental Protection Agency to coordinate and improve our environmental effort similar to that proposed in the Scott-Murphy bill.

This important organizational issue resulted from a study by the President's Advisory Council on Executive Organization chaired by Mr. Roy Ash of Litton Industries. It is expected that the National Oceanic and Atmospheric Agency as a part of the Department of Commerce will bring together the Environmental Science Services Administration (Department of Commerce); the National Oceanographic Data Center and Instrumentation Center; the National Data

Buoy Project (Department of Transportation) — Coast Guard; the Sea Grant Program (National Science Foundation); the Lake Survey Functions of the Corps of Engineers (Army); the Bureau of Commercial Fisheries and other fisheries elements of the Department of the Interior, as well as the Department's Marine Mining Program.

In my judgment, the past years on the Washington scene have witnessed a lot of "happenings" but not enough "happening" in the environmental and ocean development areas. Last fall the President announced a priority marine science program for management of a lake restoration program, improvement of the merchant fleet and the U.S. participation in the international decade of ocean bills, which I have cosponsored, which would tighten national pollution controls on automobiles, make surplus federal land available for recreational uses at discount prices to local governments, problems, provide for federal financing of much needed waste treatment plants and assure that adequate financing will be available to state and local governments.

The reorganization plans I have will make certain that much "happens" and will make the seventies the decade of environmental and oceanic development. That this does happen is important for the stakes are high. This the Stratton Commission pointed out when it said: "How fully and wisely the United States uses the sea in the decades ahead will affect profoundly our national security, our economy, food and raw materials, would influence and leadership and the quality of our environment—they are high stakes indeed.

Government through the new proposed national oceanic and atmospheric agency will provide much of the leadership and support for ocean research and development. The university community will also have an important part to play. In the final analysis, I am sure the Ash counsel, and the President himself agree with me that the development and exploration of marine resources is the responsibility of private industry. Our success then will largely depend on the leadership, the imagination and the energies of American, and particularly California, industries.

I note that this coming Monday, the Marine Technology Society will kick off its sixth annual conference and exposition in Washington; Based on the scope of that Washington agenda and the industry's track record, I am certain that the country can count on you to meet the exciting and difficult challenges posed by ocean development and the environment.

FACT SHEET

The President is submitting to the Congress today Reorganization Plans Nos. 3 and 4 of 1970, establishing the Environmental Protection Agency (EPA) as a new, independent agency within the Executive Branch, and the National Oceanic and Atmospheric Administration (NOAA) in the Department of Commerce.

ENVIRONMENTAL PROTECTION AGENCY

The EPA brings together in a single organization the major Federal pollution control programs now existing in four separate agencies and one interagency council. The creation of the EPA fulfills the President's pledge of February 10, 1970, to recommend improved administrative machinery to meet the current pollution crisis.

The mission of the EPA will be to organize the fight against environmental pollution on an integrated basis which acknowledges the critical relationships between pollutants, forms of pollution, and control techniques. Under the present organization, pollution control activities are conducted by many departments and agencies. Each is typically concerned with a single pollutant or source (radiation, pesticides), a single environmental medium (air, water, food), or a limited aspect of the total problem (health or economic effects, aesthetics). This fragmentation of effort has resulted in confusion and overlap, some delay in the recognition of new problems, and the continuance of inefficient management techniques. It has effectively inhibited any comprehensive examination of the total effects of pollutants by man, plants, animals, and ecological systems.

The creation of EPA will have the following advantages:

It will upgrade the effectiveness of the Federal Government's major pollution control programs.

It will provide a central focus for an evaluation of all pollution-related activities of the Federal Government.

It will serve to upgrade the importance of environmental considerations and pollution programs within the Federal Government, and over a period of time tend to have a similar effect on program priorities within state and local governments.

It will clarify industry responsibility by providing consistent standards and a single enforcement agency.

State and local pollution control agencies will be able to look to one Federal agency for all their financial support and technical assistance.

It will insulate pollution abatement standard-setting from the promotional interests of other departments.

The EPA will have an estimated FY 1971 budget of $1.4 billion and 5650 personnel, and consist of the following:

The Federal Water Quality Administration (FWQA), now in the Department of the Interior;

The National Air Pollution Control Administration (NAPCA), now in the Department of Health, Education, and Welfare;

Parts of the Environmental Control Administration (Bureaus of Solid Waste Management, Water Hygiene and a portion of the Bureau of Radiological Health), also from HEW;

The pesticides research and standard-setting program of the Food and Drug Administration, HEW;

The pesticides registration authority of the Department of Agriculture;

Authority to perform general ecological research, from the Council on Environmental Quality (CEQ);

Certain pesticide research authorities of the Department of Interior;

The environmental radiation protection standard-setting function of the Atomic Energy Commission;

The functions of the Federal Radiation Council (FRC).

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NOAA brings together in a single administration the major Federal programs dealing with the seas and atmosphere. These programs presently exist in four departments and one agency. The creation of NOAA will improve the overall management of programs dealing with the three-fourths of the earth covered by the oceans.

The mission of NOAA is to organize a unified approach to the problems of the ocean and the atmosphere and to create a center of strength within the civilian sector of the Federal Government for this purpose. Although each of the units which will comprise NOAA presently carries out oceanic functions according to its particular mission, the lack of overall planning and systems approach has resulted in an impetus towards oceanic affairs which has been much less than it should be.

The NOAA will have an estimated 1971 budget of about $270 million and over 12,000 personnel and will consist of the following:

The Environmental Science Services Administration, already a part of the Department of Commerce; most of the Bureau of Commercial Fisheries, now in the Department of the Interior; the Marine Minerals Technology Program of the Bureau of Mines in the Department of the Interior; the marine sports fishing program of the Bureau of Sports Fisheries and Wildlife in the Department of the Interior; the Office of Sea Grant Programs of the National Science Foundation; elements of the United States Lake Survey of the Department of the Army.

Upon the establishment of NOAA, the following programs will be transferred to it by executive action. (No legislative authority is required to effect these transfers):

The National Oceanographic Data and Instrumentation Centers of the Department of the Navy; the National Data Buoy Program of the Department of Transportation.

The President will request, upon approval of the plan, that the Secretary of Commerce establish a National Advisory Committee for the Oceans and Atmosphere to advise him on the progress of governmental and private programs in achieving the nation's oceanic and atmospheric objectives.

CRITICISM OF THE ASSOCIATED PRESS

Mr. ALLEN. Mr. President, an Associated Press dispatch, correspondence from Alabama concerning it, and my remarks relating to it were printed in the CONGRESSIONAL RECORD on June 22, 1970, Mr. Harry T. Montgomery, deputy general manager of the Associated Press, has taken exception to some of these remarks by way of letter and requests that his letter be printed in the CONGRESSIONAL RECORD. Mr. President, I am pleased to comply with this request and ask unanimous consent that Mr. Montgomery's letter and my reply be printed in the RECORD.

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

THE ASSOCIATED PRESS,
New York, N.Y., July 7, 1970.

Hon. JAMES B. ALLEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ALLEN: Our attention has been called to your remarks as reported in the Congressional Record of June 22, 1970, and to a press release from your office of the same date, both critical of The Associated Press.

These attacks upon The Associated Press were based on a two-paragraph news item which you alleged to be a complete Associated Press dispatch. In fact, these two paragraphs were only the first of five paragraphs contained in the Associated Press dispatch, which was transmitted nationally as follows:

BIRMINGHAM, ALA.—An all-white jury has decreed the death penalty for a Negro convicted of robbing a white girl of $30 and a wrist watch.

The seven women and five men of the Circuit Court jury deliberated less than three hours Thursday night before returning the verdict against John Henry Jones, Jr., 23.

The 18-year girl testified Jones forced his way into her car at gunpoint last Sept. 13.

The maximum penalty for armed robbery under Alabama law is death. All death sentences are appealed automatically to the state Supreme Court.

Jones still faces two counts of criminal assault, one of abduction and one of assault with intent to murder the girl.

You will note that the story as transmitted by The Associated Press reported the facts which you alleged were withheld from the

public. Further, the dispatch which you entered in the Congressional Record carried the headline "$30 Robbery Brings Negro Death Penalty". It should be noted that The Associated Press does not write or transmit headlines, and did not in this case.

Since you concluded that The Associated Press in reporting this conviction had "deliberately slanted" the news, we request that you place this letter in the Congressional Record as a matter of fairness.

Sincerely yours,

HARRY T. MONTGOMERY.

U.S. SENATE,
Washington, D.C., July 14, 1970.

Mr. HARRY T. MONTGOMERY,
Deputy General Manager,
The Assosiated Press,
New York, N.Y.

DEAR MR. MONTGOMERY: I am glad to comply with your request that your letter of July 7, 1970, be printed in the *Congressional Record*. I will ask unanimous consent of the Senate that your letter, together with this reply be printed in the *Record*.

You are aware, of course, that only the first two paragraphs of the complete AP dispatch were used, according to the District Attorney," . . . in papers throughout this country and foreign countries . . . as a result . . . the Governor of Alabama. the Attorney General of Alabama, other officials and I have received many letters critical of our judicial system in the State."

As to your statement that I alleged the two paragraphs contained in the news item to be a complete Associated Press dispatch may refer, of course, to my reference to the item as it appeared in your member newspapers. This was the dispatch so far as any reader would be concerned. A reader naturally does not know what you send out on the wire. All he would know about the item is the way it appears in the publication of your member newspapers.

For your information I am sending you a resume of this dastardly crime and I would like for you to judge for yourself as to whether the dispatch, whether in two paragraphs or in five paragraphs, gives any idea whatsoever of the horrible nature of the multiple crimes committed against this girl.

From reading the resume and then reading the dispatch a reader would be hard put to gather from the news account that it has reference to the same horrible crimes.

Come now, Mr. Montgomery, do you think the AP dispatch was up to the high standards that you would like to have your Association meet.

Sincerely yours,

JAMES B. ALLEN.

EXHIBIT A

On a Saturday afternoon last fall, a seventeen year old girl named Rose Marie Campisi was reported missing and was last seen at a local hospital where she had taken her brother for emergency treatment. Late that afternoon search parties were organized and throughout the following day search continued for this young girl. On Sunday morning, the members of her church, mostly young teenagers, organized a search party under the direction of the church priest and approximately 4 o'clock that afternoon, while searching an isolated and remote rural area, found a charred envelope with the young lady's name on it. An intensive search of the area revealed her automobile at the bottom of a 100 foot ravine over which it had been driven. Upon searching the automobile this young girl was found locked in the trunk compartment, disrobed, beaten and very seriously injured. She was taken to a hospital where she remained for several weeks and suffered permanent injuries from internal infections which developed in her body. Law enforcement agencies of state, county and several municipalities spent days and weeks searching out every possible lead in an attempt to find the culprit. In addition to having been beaten and run over by an automobile, there was every indication that she had been raped.

For months the case went unsolved until on January 1, 1970, a young Negro woman made a complaint to the Birmingham Police Department that she had been raped on the previous night. Similarities of description and mannerisms of the culprit in that case resulted in the arrest of John Henry Jones, Jr., and charges being placed against him arising out of offenses committed against both women. Rose Marie Campisi's wrist watch, which had been forcibly taken from her at or about the time of the rape, was recovered from a local pawn shop and John Henry Jones was identified by the operator as being the person who pawned the watch. When arrested, John Henry Jones had the pawn ticket for the watch on his person. Rose Campisi made a positive identification of this defendant from photographs and from personally viewing him among a large group of persons. Additionally, with full constitutional guarantees and the Miranda procedure followed, Jones made and signed a written statement admitting having forced the young girl into her automobile and leaving the hospital area with her but claimed not to remember subsequent events partly because of a high degree of intoxication.

Rose Marie Campisi testified that after the defendant abducted her at the hospital, he drove her to an isolated area in a rural community, where he stopped the car, drug her from it, beat her with his fists, kicked her, stomped her, dragged her seventy feet into the woods, stripped her clothing from her and shot over her head as she struggled to try to prevent him from removing her panties. She further testified that he raped her, drug her back on to the roadway where he tied her hands and feet together, placed her in front of the car and ran the car over her arm and leg, she having succeeded in squirming out of the path of the wheels as they passed over a part of her body. She further testified that the defendant then put her in the trunk of the car in this bound condition, laughed at her, slammed the trunk door on her and she then knew the car was being driven into the ravine because of the crashing and bumping. She remained in the trunk of this automobile for approximately twenty-four hours, being conscious most of the time.

When the car was found it was substantiated that the defendant had obtained all available paper material in the car and set it on fire prior to running the car into the ravine.

John Henry Jones, Jr. was indicted in four separate cases for the offenses of Kidnapping, Assault With Intent To Murder, Rape and Robbery. Under Alabama law the offenses of Rape and Robbery are capital offenses, either one of which carry a penalty from ten years to a maximum penalty of death. Only one case can be tried at a time and the state elected to go to trial on the Robbery case first. Upon a trial of this case on the Robbery charge, the state was permitted to show all the acts of the defendant as set out herein.

POW SURVIVAL

Mr. DOLE. Mr. President, an unfortunate fact in the lives of American servicemen who are involved in combat operations in Vietnam is the possibility of their being captured by the enemy. The North Vietnamese and Vietcong have compiled a terrifying record of prisoner abuses in the course of this war. Escaped American officers and enlisted men have recounted violations of the 1949 Geneva Convention and fundamental humanitarian principles, through psychological and physical abuse, propagandization, and humiliation at the hands of their captors.

That captive men would be so shamefully treated is deplorable and contemptible, but it is something with which our men must be prepared to contend if they are to survive such captivity without being broken mentally or physically. Writing in the April 1970, issue of the Marine Corps Gazette, Lt. Col. Paul E. Wilson, USMC, discusses what might be done to better prepare combat servicemen for survival at the hands of merciless and cruel captors.

Mr. President, I ask unanimous consent that Colonel Wilson's article, entitled "Three C's: The Code, the Convention, the Conflict," be printed in the RECORD.

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

THREE C'S: THE CODE, THE CONVENTION, THE CONFLICT

(By Lt. Col. Paul E. Wilson)

The lot of prisoners of war has never been a very happy one. They generally became slaves and served at the pleasure, or displeasure, of the winner-master. Examples such as the human propulsion systems for the matinee are all too familiar.

Despite occasional periods of more charitable treatment, in general such conditions stretched well into the 17th century. Fortunately, however, both nations and individuals began to realize a need for rules governing the fate of POWs. The European view generally was that prisoners should not be placed in abject slavery or subjected to revengeful treatment nor should they be allowed to rejoin the enemy force to fight again. By the time of the American Revolution such ideas were still fairly vague and of little comfort to the POWs of that conflict. An alleged 12,000 or more Americans died in British custody during the war. One of the most notorious places of confinement was a prison ship, *New Jersey*, anchored off of Brooklyn. Not quite 100 years later when the Americans waged their own Civil War other names, such as Andersonville, give clear evidence that not much progress had been made in obtaining firm agreements between conflicting powers concerning conditions of confinement and care of POWs.

Hard on the heels of that war, however, there was some substantial progress. The International Red Cross appeared in 1864, the Brussels Conference in 1874, the Hague Conferences of 1899 and 1907, and some prodigious efforts by various individuals had produced a written set of rules concerning POWs. Very basic to this was mere recognition of the POW as a prisoner of the state or nation rather than any individual captor and his right to humane treatment. These ideas had an almost immediate test in the bloody conflict of World I and generally proved extremely successful by comparison to any other major conflict. As anticipated, there were individual instances of cruel and inhuman treatment but they were very rare. Due to late entry into the war, the United States had fairly limited experience regarding POWs but that experience was on the whole quite satisfactory in the broad sense. The death rate of prisoners was about 3½%, many of whom had been captured while seriously wounded and may well have died regardless. The survivors felt they had been well treated and had acquitted themselves well. It should be noted that all of the major powers engaged in WWI had affirmed the principles laid down at the Hague.

Following the war there was general agreement that a formal document was needed

concerning the matter of POWs. This led to the Geneva Convention of 1929. A formal code was drawn up, and a sincere effort made to anticipate all possible situations confronting the nations in conflict dealing with POWs. While this was a remarkable document it should be noted that several major powers did not participate in nor subsequently sign the Convention. A prime absentee was the USSR. As events were to prove however, the act of signing didn't assure compliance.

FACED SHOCKING BRUTALITY

Despite what had appeared to be solid evidence that mankind had taken giant strides in compassion, World War II unleashed some examples of barbarianism comparable to any in history. Names like the "Bataan Death March" and Buchenwald are representative of the infamous list. From an American point of view, the WWII serviceman matched his Revolutionary, Civil War, and WWI predecessors for standing up well as POWs. Nearly 130,000 become POWs of which nearly 11% died. They generally helped one another, faced shocking brutality in some cases, and managed to remain steadfastly loyal to their country.

The experience of WWII and some of the innovations of war; i.e., paratroopers, made it obvious that many questions relating to POWs were as yet unanswered. After lengthy and often acrimonious conferences, a total of 61 nations signed the "Geneva Convention Relative to the Treatment of Prisoners of War of August 12, 1949." There were some reservations on specific parts of the Convention by individual nations, but on the whole this document assured any future POW the most equitable treatment possible if two or more signators engaged in conflict—regardless of the designation as a "war" or not.

It should be noted that each signatory nation did not become automatically bound by the provisions. It was necessary to complete the ratification in accordance with the Constitutional processes of each nation. (As a matter of fact the United States did not complete such action until 2 February 1956). Despite this technicality, provisions had been made to cover situations which might take place before the final ratification. Individual nations could notify the International Red Cross that it was their intention to observe the provisions of the Convention.

Less than a year later the Korean conflict was to provide a test case in which the Communists flagrantly disregarded commitments to the International Red Cross regarding the treatment of prisoners.

On 17 August 1950, North Korean soldiers stripped 26 American soldiers of their possessions, tied their hands behind their backs, and shot 22 of them to death at a place called "Hill 303." On 30 October 1950, after having mistreated 180 American prisoners for several days, North Korean soldiers directly slaughtered or subsequently caused the death of 138 of those Americans at or near the "Sunchon Tunnel." These were but the first indications of what the next three years would bring. By the end of the Korean War some 7,190 U.S. fighting men had been taken prisoners by the Communist forces. When the exchange of POWs was completed less than 4,500 of these returned. That represents a death rate of almost 37%.

The death rate was only part of the story. Following exchange there were ugly stories of treason, collaboration with the enemy, mistreatment of fellow prisoners, etc. When the stories were unfolded and investigated, much of the air was cleared but the thought persisted that the POW of Korea had not matched the Americans in prior experience of war. This led to an exhaustive study of the POW situation and all of its aspects by a blue ribbon group entitled, "The Defense Advisory Committee on Prisoners of War."

Reduced to basic results the Committee did the following: first, gave public exoneration to the vast majority of the Korean POWs; noted a need for both educational and spiritual assistance to possible future POWs; identified the responsibility of the United States Government to POWs; and finally, proposed a "Code of Conduct for Members of the Armed Forces of the United States," which became effective by Executive Order in 1955.

What clearly appears in the hearings of the Committee was that the average American serviceman taken prisoner was ill-equipped to withstand high powered Communist propaganda which was coupled with poor physical conditions and a "carrot and stick" mode of operation.

Broadly speaking, the new Code was to provide the serviceman with a set of guidelines if he should be taken prisoner. Copies of the Code and posters on individual parts of it were posted throughout every military facility, and the services incorporated periods of instruction about it into their required subjects list. In some instances, prior to deployment outside the United States, servicemen were required to sign a document attesting to the fact that they had read and been instructed on the Code. Despite all such measures however, it is fair to say that emphasis on the Code and the Korean experiences which brought it into being faded. When the events in Vietnam began to heat up and troop deployments began in earnest, knowledge of the Code became important again, but there were too many other things that needed doing to spend much time on the Code.

All Marines receive instruction during their early training and at the end of the first six months. Upon reenlistment, the regulations call for additional instruction on the Code. Generally speaking, however, limited emphasis was given to the subject by the military services.

There appear to be a variety of reasons why the Code has not gained a strong and sincere foothold on the military. Much of this can be seen from the very testimony which brought it into being. Most of the blame for the alleged poor showing of POW's in Korea could be laid at the doorstep of those institutions which had preceded the military services in the care and feeding of the individuals. Many POW's had little or no background of knowledge about the government or political history of the United States. Many of the worst offenders and the "turncoats" were a product of troubled lives before entering the services and few POWs had any well-developed religious convictions or ties.

The Committee itself made the point quite clear that a great deal had to be done *before* the individual reached the services to provide a basis on which to build.

There is another point which placed an important role in the attitude toward the Code as such. This relates to what appears to be the set of double standards which the government exhibited. Soon after the Code had been incorporated into the military training systems, a rather well-known incident took place which made this difference all too clear. It involved a civilian pilot who was flying under contract for the United States Government and was shot down over Russia. He reportedly had the means to take his own life to avoid possible interrogation, but he apparently failed to use them. Subsequently, of course, he was the subject of a show trial in the USSR and revealed a great deal about his mission, the objectives of it and apparently any other information he was asked about. He was later returned to U.S. custody in a prisoner exchange. He has never been subject to trial or any form of punishment for his actions.

MORE STRINGENT RESPONSIBILITIES

A fair question to raise seems to be if there can and should be such a marked difference in the responsibilities expected? When one considers that he had made a voluntary agreement with the government to do such flying, received a great deal of money for doing so, had the right to withdraw at any time, and was well aware of the sensitive nature of the task and possible repercussions if taken prisoner, then it would appear that much more stringent responsibilities should have been imposed. It is probable that much of the information concerning this case has never been revealed, but there remain a great many questions which a young serviceman taken prisoner might well raise.

What about the Code itself and its relationship to reality? From the very beginning there have been many well recognized authorities who have disagreed with the whole idea of a Code. They suggest that quite the contrary would be more effective an approach. They would permit the POW to admit to almost anything, sign almost anything, and tell whatever he knows. The single restriction would be that his actions not cause adversity to a fellow prisoner.

Such a policy, given wide publicity, they say would completely destroy any value the enemy might gain from so-called "confessions." This group points to the fact that in order to obtain the release of the *Pueblo* crew, a general officer was directed to sign such a "confession." The fact that he refuted it before, during, and after most surely must have severely degraded what ever value it could have to the other side. It is a rather weighty point for those favoring abolishing the Code.

Following that line of reasoning one should also consider the general intelligence value of the average POW. Most of them have little or nothing to offer to an enemy. What information they do have is quickly degraded under normal combat conditions. On the other side of the coin, we find that intelligence pictures are a mosaic of small bits of information. The Germans managed to gain remarkable dossiers of data during WW II, particularly on the air picture, with a minimum of force or threat of force. They based it on highly skilled interrogation. The question in this area then seems to center around how much the average POW could reveal if given absolute freedom against the strict rule for him to refuse to tell anything beyond name, rank, and service number when he may not in fact know much more of any value.

Countering this argument for complete freedom to speak is the group which wants strict adherence to the provisions of the Code. They base this on the need for establishing high ideals and standards of resistance so that when the challenge comes the individual can meet it. They say that failure to do so provides a perfect defense for those who lack the stamina or guts, or whatever other term one might use, to withstand great pressure. In the final analysis, then, they feel any lessening will provide the slight tear in the entire fabric of patriotism and esprit which must be an essential part of serving one's country under such adverse conditions.

Prior to attempting to judge between these arguments it seems important to relate the Code to the Geneva Conventions. Such a relationship seems essential since the one would seem to stem from the other. It is incredible for us to expect an individual to comply with a Code when he has no idea what his conditions would be in captivity. Unfortunately, there is an immediate stumbling block when we discuss the Vietnam situation. Although the Government of North Vietnam affirmed the Conventions in 1957, it has repeatedly refused to agree that it has application to the present conflict. The National Liberation Front has announced the same position. Regardless of this, however, since the wording of the Convention clearly covers such a situation by the following, ". . . any other armed conflict which may arise between two or more of the High Contracting Parties *even if the state of war is*

not recognized by one of them," (italics provided), we should note what is called for in prisoner care.

Sorting through all the "officialese" the basic provisions provide for the major points shown here:

The POW is to be free from bodily harm, humiliating or degrading treatment.

The prisoner will be provided adequate medical and dental care.

He will be provided with adequate food and clothing.

There shall be a canteen where one can buy tobacco, soap, and other such articles.

The POW will have a medical checkup every month and have his weight recorded.

There shall be facilities and equipment for games and sports and time to use them.

Each POW will receive monthly pay (equivalent to 8 Swiss francs for those below sergeant and up to 75 Swiss francs for general or flag officers and the equivalent—Author's Note).

The POW shall be provided dentures and spectacles when such items are needed.

Now, although those are just brief glimpses of what is contained in a rather lengthy document, the average person will find them totally unrealistic when viewed in the present conflict. The enemy in Vietnam refuses to acknowledge them. If the *Pueblo* case is any evidence, the North Koreans have not changed much; and the information from escapees or returnees out of other Communist hands in Laos and Cambodia doesn't credit them with the milk of human kindness either.

But if the other side did suddenly say they would play the game, could they really meet all the needs? Just on the matter of sufficient food, we reach an impasse. What is "sufficient and adequate" for a Viet Cong is a far cry from the usual U.S. Armed Forces fare. Where would all the medical personnel and material come from? In view of their complete dependence upon outside sources for almost everything, would they really pay the American POWs money and provide facilities at which to spend it?

TELL HIM "LIKE IT IS"

To advise a potential POW of such possibilities would not only be inadvisable—it would be inexcusable. Therefore, I would say that our first responsibility to the individual is to tell him "like it is" (or probably will be). The vast majority of our efforts along this line have been to stress "escape and evasion" survival techniques. While this is intended to teach how to eat the inedible, make traps and shelters, and make your way to friendly forces while fending for yourself it doesn't do much if you are held prisoner. What we need are some really good first-hand reports by those who have been there to provide guidance. Only those who have been in captivity for protracted periods can truly provide an insight into what the prisoner's lot will be.

Troops being deployed to areas of conflict should be given this kind of information; *and* if at all possible they should have some period in training when they must subsist on what they would probably get to eat and at least be shown the probable facilities they would have to live with and in. They often say that "You don't have to practice to be miserable," but I for one totally disagree with that. Even a vague glimmer in the darkness makes a lot of difference and even a little idea of what is in the unknown helps one cope with it.

At the same time the inference of the Code and the Convention is that everyone is created equal, mentally and physically. This just isn't fact. Our enemy has demonstrated that they can and do have the capability and the willingness to probe at each prisoner until they find the point or points which are most vulnerable. To counter this we must prepare the potential prisoner physically as well as psychologically. There is overwhelming evidence that just simple isolation is used as a common practice to break down a prisoner. The Russians have given us sufficient evidence of this, in accounts by POWs and political prisoners prior to, during, and after WW II. From the testimony of Commander Bucher and his crew it appears that isolation as well as both physical and mental torture were used. From conversations with medical personnel, it seems that there is enough knowledge and technique to provide such material to the average individual to assist him if and when he is subjected to such situations. Again, that edge of basic knowledge may well be sufficient to face the unknown more securely.

If we refer to the words of the Code, we find there is a great deal of "I" in it and not a great deal of "We." In general, the Code levies a great deal on the individual prisoner in a very personal way, but does not define the responsibilities of the other confinees. Experience has proven that few of us can grasp such a large entity as "The United States." But the majority of individuals respond to very restricted groupings or numbers of individuals within a group. The fire team, squad, platoon, and company have a great deal of meaning to the average rifleman. The airman may have extremely close feelings about his airplane, his crew, or the squadron. A sailor responds to his division, department, or when small enough to the whole ship. Only when you go well up the rank structure, do you get real comprehension of such things as the largest description of any organization.

The point is that we can be most successful if we appeal in training for adherence and belief in the smaller unit. Men have done incredible acts of bravery in combat and out because "a buddy" or "my outfit" or some similar entity could only be served through such a brave act. At the same time we could never teach the individual to do the same thing on behalf of some unknown or generally unidentifiable nonentity. During training then, instruction concerning the possibilities of becoming a prisoner of war should be directed along the same lines. Build the ideas of facing hardships and possible physical and/or mental abuse for the recognizable close things that the average individual can identify with. Then, even if isolated, one can be psychologically able to handle things more easily. He is doing it so as not to "let so and so down."

In some ways, the Code is a great deal like the Ten Commandments. While almost everyone agrees that the Commandments have a lot of merit, the same people find it very hard to avoid breaking one or more of them frequently. Our religious teachings are that despite minor infractions, we need something to guide us over the long haul. Any approach to instruction about being a prisoner of war should be similar to that approach to the Ten Commandments. The individual must also be assured that his country, his service, his unit, and his buddy will be all doing all they can to get him back as soon as possible. It is a fact the longer he is a POW, the harder it is to resist.

NO LEGAL STATUS

It should be noted that the Code has no legal status as such. There are provisions in the Uniform Code of Military Justice (UCMJ) to cover any foreseeable situation. There is a great deal of misunderstanding on this, however. In the *Pueblo* case, it was carefully explained that the individuals involved were not "prisoners" as intended by the Code. Much less pointed explanation was given that if punishment were meted out, it would be under the UCMJ in any event.

It is impossible for most of us who have not been prisoners to make the same judgment on this matter as one who has been. On the other hand, a good doctor doesn't have to have cancer in order to be able to cure or curb it. Not all the possible solutions have been provided. There is, however, a need to probe and discuss this matter. We are in combat and we do have people in the POW status in many places. Most of the reports indicate that things haven't changed too much in that part of the world as relates to the care and feeding of POWs. In a book entitled "Reported To Be Alive," the author, a civilian cameraman, who was a prisoner of the Pathet Lao for 15 months dedicated his account thus: "To. . . . all captives. To those at the mercy of the unmerciful, and especially those who with me survived this ordeal; and to those who did not."

We must always remember that we do have Americans in the hands of the "unmerciful" right now—and more are exposed to that possibility every day. Have we done and are doing all that we can to provide them a maximum chance to survive that ordeal? I suggest that we have not and are not. The fact is that the Geneva Convention is being ignored and the Code has not, and probably never will be, invoked. *But* the Conflict goes on.

If we hope to face the return of the POWs at the end of this conflict with any degree of confidence that we did all we can to help them through their ordeal, perhaps we have one additional responsibility—let's resolve the Confusion. That appears to be a fourth "C" which now exists as strongly as the first three.

THE ENDANGERED SPECIES ARE IN TROUBLE; CHRISTIAN SCIENCE MONITOR AND SCIENCE WRITE OF DANGERS

Mr. YARBOROUGH. Mr. President, once again I would like to express the grave concern that I have for the endangered species of animals in this country and around the world.

Currently, approximately 275 mammals and more than 300 species of birds face immediate danger of extinction. These animals will soon meet the sad fate of the passenger pigeon and the Carolina parakeet unless responsible Federal and international action is taken now.

Last December, Congress made an initial and major step in providing protection for the endangered species by enactment of the Endangered Species Act. In addition to a growing National Wildlife Refuge System and continued experimentation in breeding and propagation programs designed to preserve these species, the Endangered Species Act outlaws the pet and fur market for native and forign endangered species in the United States, where the animals are taken contrary to the law of the United States.

Mr. President, I sponsored and fought hard for the passage of this bill last year. It empowers the Secretary of the Interior to maintain a list of fish and wildlife threatened with extinction. This list, according to the law, is to be employed by Federal inspectors at warehouses and ports of entry to confiscate imported coats, skins, or manufactured pieces, or imported live animals whose names have been placed on that list.

Furthermore, the interstate commerce of birds, mammals, or fish poached in any State is now prohibited by Federal law. The Endangered Species Act also extends this protection to amphibians, reptiles, mollusks, and crustaceans taken

in violation of State, Federal, or foreign laws.

The bill was passed after many years of work. But still the endangered species are in trouble. The sperm whale, for instance, has been killed and diminished in number by 25,000 in the past 3 years, despite international laws on whale hunting and despite the efforts of the International Whaling Commission. The blue and humpback whales, too, stand on the brink of extinction while our law does little to prevent the countries of the world from hunting in the whale breeding grounds.

In 1965, I called for a worldwide convention that would bring all the nations together in order to devise proposals that could and would put an end to the dangerous disappearance of many of our fine animals.

Now I ask again that the Secretary of the Interior, in compliance with the law, seek the convening of an international meeting on fish and wildlife, for the purpose of holding a binding international convention for the protection of the endangered species. On March 13, 1969, I introduced Senate Concurrent Resolution No. 11 calling for an international convention on conservation of wildlife. This convention, I propose, must also look into alternative multilateral methods of control and enforcement for behavior in local animal and hunting markets that are not subject to the direct jurisdiction of the convention. For it is there that the wildlife population suffers its first and major depletion.

This gradual and ugly slide into extinction of such animals as the Asiatic cheetah, the wooly spider monkey, the snow leopard, and the Himalayan giant panda must be halted. For naturalistic as well as economic reasons, we, as members of the world community of nations, must conserve and defend our great wildlife heritage.

Mr. President, I ask unanimous consent to have printed in the RECORD two excellent articles that have called to public attention the danger of extermination of the whale and other animals. The first is entitled "Drop That Harpoon, Captain Ahab!" written by George H. Favre, and published in the Christian Science Monitor of July 11, 1970. The second is entitled "Endangered Species: Congress Curbs International Trade in Rare Animals," written by Mark W. Oberle, and published in Science, January 9, 1970.

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

[From the Christian Science Monitor, July 11, 1970]

DROP THAT HARPOON, CAPTAIN AHAB!

(By George H. Favre)

NEW YORK.—Moby Dick's fate is no longer decided by Captain Ahab's harpoon, but by a bureaucrat's pen.

A conference table in the United States Department of Interior replaces the sturdy whaleboat, and the brine-drenched battle between man and leviathan is reduced to the dry rustle of legal briefs.

These are the components of a 20th century battle between American importers of whale products and conservationists who warn that overhunting threatens to make earth's largest mammals extinct.

Biologist Roger S. Payne and a few of his colleagues may be the whales' best friends. They want to keep intact a United States ban on all whale-product imports. The ban was published June 2. It is part of the Endangered Species Act passed by Congress last December, and it takes effect next year.

Dr. Payne is connected with both Rockefeller University and the New York Zoological Society.

EXCEPTIONS ASKED

Importers of whale oil are fighting the ban. One of the largest, Werner G. Smith, Inc., of Cleveland, insists that the ban is illegal because it was published without public hearings. The importers are petitioning the Interior Department to remove fin, sei, and sperm whales from the endangered-species list.

The Smith company is a major importer of sperm whale oil, which has unique properties as a high-pressure lubricant. Reportedly it is used in submarines. Sperm oil is on the strategic stockpile lists of the Department of Defense, which according to one source has accumulated 23 million pounds of it.

Dr. Payne says that in the last three years between 20,000 and 25,000 sperm whales have been killed. He charges that kills are being made in the whales' breeding grounds, close to the equator.

"Now you know that you don't hunt any animal on its breeding grounds," said the biologist. "Furthermore, there is an international ban on hunting whales between 40 degrees north and 40 degrees south of the equator." However, Japan, Russia, and Norway have all dissociated themselves from this ban, he said, and are hunting on the breeding grounds.

Dr. Payne, who has degrees from Harvard and Cornell, is no dilettante in whaling matters. With two colleagues, Scott McVay of Princeton and Frank Watlington of Columbia University, he has done considerable firsthand research on the huge marine mammals.

The trio discovered that whales utter "songs," much in the manner of birds. Whale songs are as long as the singers are large, lasting from 7 to 30 minutes. Also as loud. They can be heard over areas up to hundreds and perhaps thousands of square miles.

Dr. Payne fears that the larger species of whale are in danger despite efforts of the International Whaling Commission (IWC), which he considers well-intentioned but impotent.

Citing the case of the blue and the humpback whales (blues were hunted almost to extinction in the 1960's, leaving perhaps 1 percent of the original 100,000), he charges that the whaling commission has "a lethal lag in its ability to keep abreast of the needs of those animals it was convened to protect."

Dr. John L. McHugh, U.S. commissioner to the commission, disagrees.

"At a conservative estimate, there are over half a million sperm whales in the world oceans today," he says. "That doesn't sound like extinction to me."

UNILATERAL ACTION OPPOSED

Granting that the IWC has not solved all the problems, Dr. McHugh warns that "it's the only mechanism that exists for regulating world whaling right now."

He himself has protested the recent ban on all whale-product imports, on grounds that "unilateral action by the U.S. is contrary to our international agreements under the whaling convention. . . . If we persist in trying to do it on a unilateral basis, we will weaken rather than strengthen the IWC."

As the legal and technical battle rages in bureaucratic and corporate offices, the whale slaughter goes on. Japan and Russia, using whaling factory ships that weigh up to 44,000 tons and using helicopters to spot herds, can flense and melt down the largest whale in 30 minutes. On old-time sailing ships it took several days for whales half the size.

ENDANGERED SPECIES: CONGRESS CURBS INTERNATIONAL TRADE IN RARE ANIMALS

(By Mark W. Oberle)

The Himalayan giant panda and the Nubian wild ass were granted a reprieve early in December when the President signed into law a bill (PL 91-935) to eradicate U.S. trade in endangered species of wildlife. Instead of relying on game wardens here and abroad to halt poachers at the production end of the rare animal trade, the law would eliminate the market for such rare animals as the Asiatic cheetah, woolly spider monkey, bush baby, and snow leopard.

Conservationists have long stressed the importance of preserving individual species of wildlife, both for possible genetic, behavioral, or medical research and for esthetic reasons. "The prospective picture of man, living alone on his planet except for domesticated food animals or pets, seems a rather dreary one," observed one Congressional subcommittee.

But with human expansion into former wildlife habitat, many wild animals populations have been reduced to the point where hunting pressure or climatic quirks could push them over the brink. Since the turn of the century, an average of one species a year has quietly made its exit somewhere in the world, and one endangered species list currently popular in government circles includes 275 mammals and over 300 species of birds. The U.S. Department of the Interior fears that some North American animals, including the Southern bald eagle, the whooping crane, and the peregrine falcon might soon follow the passenger pigeon and Carolina parakeet to extinction if no action were taken to save them.

Over the last few years, a three-point federal welfare policy has emerged for endangered species, regardless of their economic worth:

Since 1966, the Bureau of Sports Fisheries and Wildlife has maintained a captive propagation program at its Patuxent Research Refuge in Maryland. The Bureau is experimenting with breeding stocks of the Hawaiian nene goose, the Aleutian Canada goose, the Southern bald eagle, the whooping crane, and the masked bobwhite. The National Zoological Park and other zoos in the United States are emphasizing captive propagation rather than further collection of endangered foreign species.

Rare animals have been traditionally protected by regulating hunting and by including critical habitat types in the 28-million-acre National Wildlife Refuge System. The bill authorizes an extra $1.75 million for land acquisition in the endangered species program, plus $1 million annually for fiscal 1970-1972 for purchase of privately owned lands within the boundaries of areas administered by the Interior Secretary to preserve or protect endangered species.

Under the new legislation, the pet and fur market for both native and foreign endangered species will be outlawed in the United States. The Secretary of the Interior will maintain a list of fish and wildlife threatened with worldwide extinction. Federal inspectors at ports of entry, warehouses, or retail stores could confiscate imported live specimens or any imported skins, coats, or manufactured items made from a species on the list. Federal law now prohibits the interstate commerce of birds, fish, or mammals poached in any state, whether or not they are rare. The new law extends this protection to reptiles, amphibians, mollusks, and crustaceans taken in violation of federal, state, or foreign laws, and to fish taken illegally in a foreign country.

The law provides an exception to the prohibition on importation of endangered species for zoological, educational, scientific, or propagation purposes.

In the past, the idea of preserving a species indirectly by restricting the consumption end of the trade has worked well with some native animals. In the early 1900's, the Audubon Society found that its game wardens were fighting a losing battle to save the American egret, a bird, common in the South, whose large white feathers were prized for ladies' hats. But once the federal government exercised its authority under the interstate commerce laws to outlaw the trade (after a warden had been murdered), egret poaching came to a halt.

Without the protection of an interstate commerce law, an animal such as the alligator could be poached in its home territory and then transported to a hide market in New York. A New York City ordinance recently signed by Mayor John Lindsay appears to end this situation. The alligator population in the United States has dropped to 200,000 and is declining rapidly in the face of heavy poaching and marsh drainage. The soft belly skin of the reptiles (the only part that poachers use) sells for as much as $10 a linear foot, and reptile poaching is reportedly a $1 million industry in southern Florida alone.

Last March Secretary of the Interior Walter J. Hickel publicized the alligators' plight with a visit to Everglades National Park. "A million alligators once abounded in the Park, and now only about 20,000 remain," Hickel said at the time. "Because of the limited manpower and equipment available to the National Park Service, poachers have been able to butcher the alligators by the thousands and sell the illicit hides at fancy prices." Hickel assigned seven extra rangers and a "conservation posse" of local residents to control poaching over the park's vast area. Interior officials expect the anti-poaching drive to cost nearly $100,000 this year; yet it will still offer incomplete protection.

The developing nations have experienced comparable problems in protecting endangered species in the field. For example, prior to 1966, orangutans were effectively protected only in their native Indonesia and Malaysia, and the wild orangutan population dropped to an estimated 4000 individuals under pressure from human settlements and zoo collectors. Once a collector reached Bangkok, Singapore, or Hong Kong with a contraband orangutan, the local game laws would not apply to his cargo.

Zoo directors in the United States watched the price of the wild apes climb to $3000 apiece as the supply dwindled, and in 1966 they deicded to preserve the wild population by cutting off the trade and relying on captive propagation for future zoo display. British, Japanese, and German zoo directors eventually joined the orangutan embargo, and the international market has been virtually eliminated. "We chose the orangutan because it is a very conspicuous animal," said John Perry, Assistant Director of the National Zoological Park in Washington, D.C., but the zoo directors have since extended their embargo to the Galapagos tortoise, the golden marmoset, and the woolly tapir.

However, women's fashion crazes and the demand for exotic pets pose a much greater threat to rare wildlife than zoo collectors do. Last year, U.S. fur brokers imported the skins of 1,283 cheetahs, 13,516 jaguars, and 9,556 leopards—a small harvest when compared with the total volume of the U.S. fur trade, but a number far larger than some subspecies of these big cats can sustain.

Some fur industry spokesmen, recalling the loss of jobs after a 1952 embargo on Russian and Communist Chinese furs, have not been overjoyed at the prospect of import restrictions. New York, they claim, is the world's middleman for furs much as London is for gold, and unilateral U.S. legislation would simply eliminate this broker role. Unless the endangered species bill "is accompanied by some form of joint international action, it would have the effect of simply diverting these skins from our country to some other, while not one single endangered species would be benefited," said Herman Ringelheim, a New York fur dresser.

Supporters of the legislation argue that, if a species is rare enough to be put on the endangered list, it can be of little permanent economic importance. The new law's impact on any business, said John Perry of the National Zoological Park, would be "well under 1 percent of its existing volume." The International Union for Conservation of Nature and Natural Resources (IUCN), a semigovernmental group that keeps track of rare wildlife, has proposed an international convention to protect endangered species. The IUCN members expect the major consumer and producer nations to sign the pact by the end of next year. U.S. legislation "will give considerable impetus to the convention on a worldwide basis," S. Dillon Ripley, secretary of the Smithsonian Intsitution, told a Congressional subcommittee.

The new law directs the Interior Secretary, through the Secretary of State, to seek the convening of an international meeting on fish and wildlife prior to 30 June 1971, for the purpose of drawing up a binding international convention for the conservation of endangered species. Congress has authorized $200,000 for this purpose.

For any one species, this international convention and the new U.S. law would come into play only at the last minute, if then. The rules would not curb the excesses that deplete a wildlife population in the first place. In East Africa, for example, much of the poaching is done for the domestic meat market and not for the international fashion trade. In northern South America, the new regulations would not affect local live animal markets that supply the U.S. laboratory and pet supply industry. Some ecologists estimate that only 1 out of 50 birds survives the trip from the jungle to the U.S. market, and the Amazon River Basin, despite its lushness and size, stands in danger of losing even its common fauna to satisfy U.S. demand for reptiles, monkeys, and parrots. For some animal populations, the endangered species bill may offer little hope for survival.

CUBA TODAY AS A SOVIET COLONY

Mr. GURNEY. Mr. President, I ask unanimous consent to have printed in the RECORD a speech given to the Miami Kiwanis Club by Dr. Manalo Reyes on April 10, 1970.

Dr. Reyes is a well-known Cuban patriot and journalist. I know Dr. Reyes personally, and he is, in my judgment, a man of integrity, honor, and great commonsense. Since his exile from his homeland, he has become the Latin American news editor of WTVJ, Wometco's Miami outlet.

Dr. Reyes is neither an alarmist nor a pessimist. But, in his view, Castro's Cuba is a Soviet colony which represents a clear and present danger to the security of the American Continent. He makes a strong case that the presence of missile boats in Cuba—now numbering 60 or 70 equipped with missiles capable of receiving nuclear warheads—pose an immediate threat to several countries in Central and South America.

In our dealings with Fidel Castro, it seems to me, it is a mistake to dismiss him as, on the one hand, a puppet of Moscow, or as yet another petty tyrant and dictator on the other. He has proven to be a most mercurial and unruly ally for the Russians. He is not, in my judgment, a stable man mentally. It seems to me that we have to recognize that we are dealing with a fanatic, who because he is so impulsive and so lacking in caution and restraint, is capable of doing great harm, harm far out of proportion to the size of his army or his arsenal. Castro, in my judgment, is very capable of precipitating a crisis of extremely wide dimensions, nothwithstanding the physical limitations he operates under.

Things have not been going well for Castro domestically: this year again the sugar crop has not come up to expectations. His brutal and tryannical treatment of his own people, coupled with the decade-long deprivation of consumer goods, austerity, and economic hardship has made the Cuban people restive and dispirited. There is, I think we all recognize, a pattern in situations of this sort. When the times become difficult at home, the despot frequently seeks to divert attention from those troubles by stirring up the pot abroad. As things become more and more tense at home, I think we can expect attempts by Castro to spread his revolution to nearby countries of Central and South America—to distract the attention of the Cuban people from their hardships and privations at home.

While I cannot confirm Dr. Reyes' figures, I agree with his analysis. We should never ignore the threat that Castro poses in this hemisphere—a threat made all the more acute because he is a fanatic. We cannot expect him to behave rationally. On the contrary, we must expect that he will behave irrationally, impulsively, and irratically.

I think we are all indebted to Dr. Reyes for his levelheaded and sober analysis in this case and throughout the years. I think it is fair to say that when the Castro depotism is finally overthrown, Dr. Reyes will have a place of honor in the new, free Cuban Government.

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

CUBA TODAY AS A SOVIET COLONY

(By Dr. Manolo Reyes)

I want to express my most sincere thanks for this invitation extended to me by the Greater Miami Kiwanis Club, the biggest Kiwanis Club in the United States.

Today, April 10, Pan American Week begins in Dade County. I wish I could bring a better picture of the situation in the American continent. A climax of aggression, kidnappings, terror and death in the continent has been witnessed only a few days ago with the murder of the ambassador of West Germany in Guatemala.

And even before his body was given burial, the Communist regime of Fidel Castro has publicly brought out a "mini-manual" for urban guerrillas in the American continent, teaching them and instructing them on how to kidnap prominent persons to propagate its hideous doctrine.

This is just one of the many forms that Fidel Castro uses to export his so called revolution. Today, just a few hours ago, the use of Cuba's embassy in Paris to support revolutionary activities in Latin American countries was revealed in a closed session testimony released by Chairman James O. Eastland, of the Senate Internal Security Subcommittee. A Cuban defector from that em-

bassy in Paris, Orlando Castro Hidalgo, told the committee that his main tasks were to provide lodging, money, communication with Havana and visas to Czechoslovakia for Latin American trainees in their way to Havana.

All of this is the direct influence on the topic of our speech: "Cuba Today". And I would dare to add: "Cuba today is a Soviet colony."

In the words which follow we will reveal new elements of the Soviet domination in Cuba, and the threat that Castro's communism means to the countries in the continent today.

In a recent interview I identified the sources of my information as follows: First: The Cubans inside the island of Cuba. Second: Cubans arriving to exile. Third: Sources that cannot be revealed at this time.

Let us say at this moment, according to the information I have received, that there are indications that there are—and it is a conservative figure—approximately ten thousand Soviet soldiers in Cuba. They may be posing as technicians, agriculturists, etc., but they are, in the end, Russian soldiers that are in Cuba against the sovereign will of the Cuban people. At present, Raul Castro, so called minister of the armed forces of Cuba, is in Russia, by invitation of the Soviet minister of defense.

And it is peculiar that Raul Castro visited Russia in the company of another Cuban, Emilio Aragones, on January of 1962, a few months before the missile crisis of October of the same year.

It seems that when Raul Castro goes to the Kremlin, the military supplies in Cuba are increased.

A year before the missile crisis, Castro's soldiers began making tunnels and using the numerous caves in the different sections of Cuba. A year ago this month, we began receiving reports of a Soviet military increase in Cuba. We made the denunciation on channel four.

On this first slide, we see a headline in the Miami News of April 29, 1969, pointing out our denunciation, where we stated that a great part of that military increase was centered on the northern side of the Province of Matanzas where there are many nearby caves.

Ten months later, the 13th of February of 1970, officials in Washington admitted that there had been an increase of Soviet weapons in Cuba. This is the headline that appeared in the Miami Herald of that day concerning that fact.

As the months went by, the truth became apparent and we were backed in our statement that there had been a considerable increase of Soviet weapons in Cuba, but that the same did not pose a threat to the United States.

The great problem was that the Soviet arms sent to Fidel Castro are considered by technicians of the free world as defensive weapons. Not as weapons that could be used offensively, or to attack the U.S. Our concept is that this is a problem in semantics and that both kinds of weapons are made to kill.

In addition, we have received reports that state that Fidel Castro is preparing to attack, in the coming months, several countries of the continent, in support of the guerrillas now operating inside those countries, or to attack openly those same nations in case of a world wide war in the Middle East, or due to a direct confrontation with the United States.

Now you will see the means that, according to the information we have received, Castro plans on using, essentially, on those attacks:

As general information, let us say that it is the first time that the Communist regime of Castro publishes pictures of missile boats. They were published only a few weeks ago on Castro's Army magazine called Verde Olivo.

Observers believe that Castro has published those pictures to gain the confidence of his followers in Latin America.

This launching took place, apparently, only a few weeks ago. About twenty of these boats arrived at Cuba, together with the ICBM intercontinental missiles, on July of 1962, some time before the missile crisis of that year.

According to the reports we received, the regime of Fidel Castro has, in the last six months tripled this number, adding 40 or 50 very modern Soviet missile boats.

The boats are about 80 feet in length and can operate in a range of 100 miles.

These are the missile boats that, according to the reports, Castro would preferably use in his attacks anywhere on the continent. For military operations outside the range of 100 miles, these boats could very easily be operated from a mother ship.

The missiles used by those boats are of the torpedo type, 20 to 25 feet in length. Those missiles go up 80 to 100 feet in the air.

The missiles used on these boats are of the snark type, which the United States used to operate, and seem to have a jet motor in the rear.

These missiles are of surface to surface and guided by radar, and even though they are generally used on attacks from ship to ship, experts on the matter state that they can be also used from ship to land. The range of those missiles is of 40 to 50 miles. And *there* is where the "defensive" missile becomes "offensive".

Any of those missile boats of Castro could launch a missile from open sea near the Florida coast, and hit, for example, the heart of Homestead Airforse Base. Each of these boats is equipped with two of those missiles.

The reports that have reached us, which after a careful evaluation, indicate that Castro has in his arsenal, at present, some 300 missiles of this type for his fleet of 60 to 70 missile boats.

Observers from the underground on the island of Cuba believe that Castro has received nuclear heads that can be attached to the front of those missiles as war heads.

It is indisputable, according to the experts of the free world, that there are in existence, projectiles that use such nuclear heads. So they believe it is possible that in Cuba they already have such nuclear war heads, but they affirm that those nuclear war heads are in the hands of the Soviets, and not under the control of Castro.

We have tried to push our contacts inside and outside the island, to obtain a confirmation of this matter of such a great importance to the security of the American continent, without results so far.

The summary of this presentation is that the regime of Fidel Castro is a real and present threat to peace and security in the American continent, and the countries which are the immediate object of Castro's aggression are: Guatemala, Panama, Venezuela, the Dominican Republic, Haiti, Brazil, and Nicaragua.

AGRICULTURAL CONSERVATION SERVICE SUBSIDY PAYMENT LIMITATIONS

Mr. HATFIELD. Mr. President, during the recent debate on the 1971 agricultural appropriations bill, I gave my full support to an amendment by the Senator from Illinois (Mr. SMITH) to limit subsidy payments to $20,000 for all payees. The amendment was agreed to, 40 to 35.

Under the present system, over one-third of all subsidy recipients receive less than $500 in payments. Only one-half of 1 percent receive over $20,000, but this group receives $508,602,613—14 percent of all payments. That means only 13,000 of the 2½ million farmers in America receive the payments over $20,000. In the cotton business, 28 percent would be affected by the $20,000 limitation; 2 percent of the feed growers; and between 3 and 4 percent of the wheat growers.

At present, a large portion of the payees receiving over $20,000 are corporations such as Southern National Bank, subsidized over $224,000 in 1969; Standard Oil, $127,000 in 1969; and Reynolds Aluminum. Many of the rest are large "agribusinesses." In short, corporations and agribusinesses are receiving large sums of money from programs originally intended to strengthen the rural family farmer. I am aware of the positions taken by the opponents of this amendment; but the current program is making the rich richer and the poor poorer, because it is widening the monetary gap between the small farmer and the corporate farmer.

In Oregon, only 86 of our thousands of farmers would be affected by the $20,000 limitation, 69 of which are in wheat farming. The Oregon payees receiving over $20,000 receive a total of $2.3 million—a small percentage of the same group on the national scale, which receives $374,000,000. Thus only six-tenths of 1 percent of the over-$20,000 payments received nationally are received by Oregonians. Only 44 Oregon payments are over $25,000; the other 57 are between $20,000 and $25,000.

This amendment will save American taxpayers from $350 to $400 million annually.

I ask unanimous consent that a table of statistics relating to Oregonians, outlining in detail how this limitation would affect our State, be printed in the RECORD.

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

1969 OREGON ASCS PROGRAM PAYMENTS EXCLUDING PRICE-SUPPORT LOANS ON WOOL AND SUGAR

Payments between the following	Number of payees	Percent of payees	Total amount paid over $5,000	Percent of total amount paid over $5,000
$5,000 to $7,499	455	41.5	$2,776,560	25
$7,500 to $9,999	277	25.5	1,960,440	18
$10,000 to $14,999	203	18.5	2,434,253	22
$15,000 to $19,999	68	6.2	1,370,770	12
$20,000 to $24,999	47	4.3	959,547	9
$25,000 to $49,999	39	3.5	1,210,819	11
$50,000 to $100,000	5	.5	323,352	3

U.S. DEPARTMENT OF AGRICULTURE ASCS PAYMENTS TO PRODUCERS IN OREGON BY PROGRAM DURING CALENDAR YEAR 1969

Feed grains acreage diversion and price-support payments	$1,986,092
Wheat acreage diversion and price-support payments	16,993,254
Sugar Act program	1,123,526
National Wood Act payments	1,392,119
Agricultural conservation program	2,393,464
Emergency conservation measures	46,357
Cropland conversion program	11,055
Soil bank conservation reserve	298,579
Cropland adjustment program	98,981
Total payments	24,343,427

PHYSICIANS IN FAMILY PRACTICE

Mr. YARBOROUGH. Mr. President, last February I introduced a bill, S. 3418, which, if enacted, would substantially assist in meeting the growing need for

physicians engaged in family practice. Last week, the Health Subcommittee of the Labor and Public Welfare Committee conducted intensive hearings on my bill. S. 3418, into the substantial need for a specialty in family practice.

Today, I invite the attention of Senators to an article prepared by Mrs. Mary Overpeck which presents a statistical analysis of the great and growing need for family practitioners. Her well documented study makes clear that, while the number of physicians in the country has continued to grow, physician potential in family practice has shown a reverse trend.

Advances in the generation of new biomedical knowledge have, of course, contributed to the growing specialization of the physician's education. However, if this trend is not complemented with an increasing number of practitioners who are principally engaged in family medicine, this country's health care delivery crisis will continue to worsen.

Mr. President, I ask unanimous consent that Mrs. Overpeck's article, "Physicians in Family Practice 1931–67," contained in the June 1970 issue of Public Health Reports, be printed in the RECORD.

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

PHYSICIANS IN FAMILY PRACTICE 1931–67

(By Mary D. Overpeck, M.P.H.)

A specialty in family practice was established in 1969 in response to growing concern about the need for increasing the availability of comprehensive and continuous patient care. The great consideration given to the breadth and depth of residency training by those establishing this new specialty reflects the intention to improve the scope of responsibility and the quality of care provided by the traditional family physician.

Another major consideration in establishing the residency program for the specialty was to make the new "family practice" more attractive to the student whose major exposure in medical school had been to specialties rather than to general practice. An approved residency in general practice with no recognized specialty board has existed for a number of years. Only a small number of physicians have been taking advantage of this residency.

Although many educators and planners have felt that specialists in internal medicine, pediatrics, obstetrics, and gynecology would serve the functions of the family practitioners, these specialists have not replaced the losses occurring in the field of general practice, either in numbers or geographic distribution. This article documents the national numerical trends in those fields of practice of most physicians engaged in family practice in the last few decades.

In 1959 the Surgeon General's Consultant Group on Medical Education reported the trend toward specialization as it had affected the gross potential of family physicians.[1] They stated that the 1957 count of physicians (doctors of medicine and doctors of osteopathy) showed that less than half of the physicians in private practice limited themselves to specialty practice (table 1) compared with one in four in 1940 and one in six in 1931. For the 1931–57 time period, detailed information available for doctors of medicine only was used in the report to obtain physician-population ratios. Specialists in private practice per 100,000 population increased from 17.9 in 1931 to 25.5 in 1940, 36.8 in 1949, and 43.5 in 1957.

For purposes of estimating the potential number of physicians performing the functions of the family practitioner, the report[1] combined specialists who limited their practice to internal medicine and pediatrics and physicians who were in general practice or part-time specialties. Information available only for doctors of medicine in private practice from 1931 to 1957 showed that 75 percent were part of this pool of potential family physicians in 1931 compared with 67 percent in 1940, 55 percent in 1949, and 45 percent in 1957. Specialty information for the doctors of osteopathy during this period was not available. The family physician potential, based on the number in private practice per 100,000 civilian population, dropped from 94 in 1931 to 89 in 1940, 75 in 1949, and 60 in 1957 (fig. 1 and table 2).

(NOTE.—Mrs. Overpeck is a statistician in the Professional Activities Branch, Division of Physician Manpower, Bureau of Health Professions Education and Manpower Training, Public Health Service. Members of the Physician Resources Branch of the Bureau assisted in preparation of the data.)

Since the Surgeon General's report was published, a number of changes have been made in counting methods and classification systems for physicians.[2,3] Although the information improved, the changes affected the comparability of data published for the periods before and after 1963. Estimates and adjustments were made for several major categories in the earlier period, but comparisons between these periods for the specialties and private practice classification are difficult.[2]

Interest in this grouping of physicians is still pertinent, particularly since the new specialty in family practice was formed. The data used to compare time periods from December 31, 1963, to December 31, 1967, were taken from detailed tabulations[4–7] published by the American Medical Association (AMA) and the American Osteopathic Association (AOA). The report of the Surgeon General[1] and later Public Health Service publications used similar tabulations.

The data for my article are presented in the usual Public Health Service format, with minor modifications and with definitions inherent to the tabulations used. The category of general practitioner includes those physicians who did not specify a specialty (about two-thirds of whom are in internship programs) and those specifying a part-time specialty. This grouping is consistent with the earlier general practice category in which all active physicians who did not specify a full-time specialty were assumed to be general practitioners.

In the AMA tabulations, physicians specifying a specialty practice were not necessarily trained or certified in that specialty. The American Medical Association formally recognized the family practice specialty on January 1, 1970. When the data are tabulated for 1970, it will be interesting to see how many general practitioners, pediatricians, and internists have designated family practice as their specialty.

The difficulties of trying to describe numerically the changes in the pool of physicians serving the public have been discussed frequently. Changes in the methods of applying our rapidly expanding knowledge and the productivity of physicians, as well as quality changes, cannot be measured easily. Changes in population composition and demand also are not reflected. The increasing proportions of persons in the old and very young age ranges affect the incidence of certain types of diseases that must be treated. Changing expectations for health care created by economics, education, and mobility magnify the effects of the age factor on the services sought by the public. The physician-population ratio, although an insensitive index, is still the primary means of relating the number of physicians to the population served.

The number of total active physicians increased about 12 percent from 1963 to 1967, while the gross potential of family physicians, adjusted for activity, increase only about 4 percent (table 3). Although the ratio of total active physicians to population continued to increase in the 1963–67 period, from 140 to 150 per 100,000 population, the ratio of the gross potential for family physicians (all active in family practice specialties) remained about the same.

TABLE 1.—PHYSICIANS (M.D.'S AND D.O.'S) IN THE UNITED STATES, BY TYPE OF PRACTICE, MIDYEAR 1957

Type of practice	Doctors of medicine		Doctors of osteopathy	
	Number	Rate per 100,000 population	Number	Rate per 100,000 population
Total	226,625	132.4	13,692	8.0
Private practice	155,827	91.1	9,501	5.6
General practice and part-time specialty	81,443	47.6	8,656	5.1
Full-time specialty	74,384	43.5	845	.5
Not in private practice	60,137	35.1	1,205	0.7
Hospital service except Federal	36,371	21.2	872	.5
Teaching, research, public health, other	7,168	4.2	321	.2
Federal Government	16,598	9.7	12	(1)
Retired, not in practice	10,661	6.2	[2] 2,986	1.7

[1] Less than 0.05.

[2] Includes 2,006 D.O.'s who did not report type of practice.

GROSS POTENTIAL OF FAMILY PHYSICIANS

The gross potential numbers of family physicians among total active physicians, without considering the possible activities, increased from 142,901 in 1963 to 149,426 in 1967 (table 3). Despite the increased numbers, the gross potential percentage of family physicians among total active physicians dropped from 52.4 to 48.9 in the 5-year period. Most of the decrease occurred in the general practice and unspecified physician category, from 34.4 to 29.2 percent. The proportion of specialists limited to pediatrics increased slightly from 5.2 to 5.8 percent, while the proportion in internal medicine increased from 12.8 to 13.9 percent.

The ratio of the gross potential of family physicians per 100,000 population stayed about the same for 5 years: 73.6 in 1963 and

Footnotes at end of article.

73.4 in 1967. Specialists in internal medicine, whose ratio increased from 18.0 to 20.9 per 100,000 population, maintained the balance. (This balance does not hold for only those physicians in patient care, as explained in the next section.) The proportion of specialists in pediatrics also increased from 7.3 to 8.7 per 100,000 population. The increases in these specialties offset the decrease in the general practitioner and unspecified categorey from 48.3 to 43.8 per 100,000 population. The gross potential of family physicians does not tell the whole story of access by the civilian population or of physicians' activities.

Comparisons of total active physicians are inadequate for these purposes. The figures include non-Federal physicians (M.D.'s and D.O.'s) in the United States, Puerto Rico, American Samoa, the Canal Zone, Guam, Pacific Islands, and Virgin Islands; those with addresses temporarily unknown to the American Medical Association; and Federal physicians in the United States and abroad. The corresponding population data include resident civilian and military personnel in the United States, Puerto Rico, and the outlying areas, military personnel and their dependents abroad, and civilians abroad employed by the U.S. Government.[8 9] Categories that make the data more definitive are discussed in the next section.

TYPE OF PRACTICE AND ACTIVITY

The old AMA classifications accorded to private practice are no longer used or available. The American Medical Association changed the classification system (see following list) to reflect patient care activities.

Old classification

Private practice.
Training programs: Interns, residents and fellows.
Full-time hospital staff.
Preventive medicine.
Research.
Medical school faculty.
Administration.
Laboratory medicine.
Inactive, address unknown.

New classification

Patient care: Solo, partnership, group, or other practice. Hospital-based practice: Interns, residents and fellows, full-time physician staff.

Other professional activity: Medical school faculty, administration, research.

Inactive, address unknown.

The categories of preventive medicine and laboratory medicine were eliminated. Physicians in these two categories were reclassified according to principal employer. Physicians in the specialty of administrative medicine were reclassified according to their secondary specialty, and those who did not report a secondary specialty were reclassified as "not recognized."

TABLE 2.—FAMILY PHYSICIAN (M.D.) POTENTIAL AND RATIOS TO POPULATION, UNITED STATES, MIDYEAR 1931–57

NUMBER OF PHYSICIANS

Type of practice	1931	1940	1959	1957
Total physicians	156,406	175,163	201,277	226,625
Family physician potential [1]	117,079	117,386	110,236	101,973
Pediatrics [2]	1,396	2,222	3,787	5,876
Internal medicine [2]	3,567	5,892	10,923	14,654
General practice and part-time specialty	112,116	109,272	95,526	81,443
All others	39,327	57,777	91,041	124,652

PHYSICIANS PER 100,000 CIVILIAN POPULATION

Type of practice	1931	1940	1949	1957
Family physician potential	94	89	75	60
Pediatrics	1	2	3	3
Internal medicine	3	4	7	9
General practice and part-time specialty	90	83	65	48

PERCENT OF TOTAL PHYSICIANS

Family physician potential	75	67	55	45
Pediatrics	1	1	2	3
Internal medicine	2	3	5	6
General practice and part-time specialty	72	63	48	36

[1] Includes only physicians in private practice.

[2] Estimated from total number of physicians limited to a specialty.

TABLE 3.—GROSS FAMILY PHYSICIAN POTENTIAL, UNITED STATES, PUERTO RICO, AND OUTLYING AREAS, DEC. 31, 1963 AND 1967

Specialty category	All physicians		Doctors of medicine		Doctors of osteopathy	
	1963	1967	1963	1967	1963	1967
NUMBER						
Total active physicians [1]	272,500	305,453	261,728	294,072	10,772	11,381
Gross family physician potential	142,901	149,426	133,001	139,131	9,900	10,295
General practice and unspecified	93,705	89,157	84,052	79,192	9,653	9,965
Pediatrics [2]	14,253	17,678	14,207	17,614	[3] 46	[3] 64
Internal medicine	34,943	42,591	34,742	42,325	[3] 201	[3] 266
PERCENT [4]						
Total active physicians	100.0	100.0	100.0	100.0	100.0	100.0
Gross family physician potential	52.4	48.9	50.8	47.3	91.9	90.4
General practice and unspecified	34.4	29.2	32.1	26.9	89.6	87.6
Pediatrics [2]	5.2	5.8	5.3	6.0	.4	.6
Internal medicine	12.8	13.9	13.3	14.4	1.9	2.3
PHYSICIANS PER 100,000 POPULATION [4]						
Total population (thousands) [5]	194,169	203,708	194,169	203,708	194,169	203,708
Total active physicians	140.3	149.9	134.8	144.4	5.5	5.6
Gross family physician potential	73.6	73.4	68.5	68.3	5.1	5.0
General practice and unspecified	48.3	43.8	43.3	38.9	5.0	4.9
Pediatrics	7.3	8.7	7.3	8.6	([6])	([6])
Internal medicine	18.0	20.9	17.9	20.8	.1	.1

[1] Includes non-Federal physicians in the 50 States, District of Columbia, Puerto Rico, American Samoa, Canal Zone, Guam, Pacific Islands, and Virgin Islands; those with addresses temporarily unknown to the AMA; and Federal physicians in the United States and abroad.

[2] Includes pediatrics, pediatric allergy, and pediatric cardiology.

[3] Private practice only.

[4] Totals of percents and ratios may not add because of rounding.

[5] Includes civilians in the United States, Puerto Rico, and outlying areas; the Armed Forces in the United States and abroad; dependents of the Armed Forces abroad; and U.S. civilians working for the U.S. Government abroad.

[6] Less than 0.05 per 100,000 population.

In the new classification system, physicians providing patient care are grouped by hospital and nonhospital-based pratices. Hospital-based patient care is delivered by interns, residents, and fellows, and a full-time physician staff. Nonhospital-based patient care includes only non-Federal physicians in the category of solo, partnership, group, or other practice.

Nonhospital-based patient care is somewhat similar to the old private practice group but is larger and includes all physicians in patient care not otherwise classified. Besides physicians providing patient care in office settings, this category includes physicians in clinical laboratories or institutional settings other than hospitals, those providing patient care in industrial plants and as State and local health officers, and those in other settings. Many physicians in "other" settings are in administration or research and are not included in patient care; therefore, they are not included in the category of patient care. Descriptions of this sort are not clean-cut.

The American Osteopathic Association still uses a private practice classification. Adjustments in the AOA data have been made wherever possible to make the two systems comparable.

During the 5-year period 1963–67, the activity categories showed great change (table 4). The total number of physicians, active and inactive, increased from 289,188 to 322,045, or 11 percent; those active in solo partnership, group, or other practice increased from 189,267 to 200,146, or 6 percent. Of the physcians in solo, partnership, group, or other practice, those limiting themselves to a specialty practice increased from 59 to 64 percent. The number of hospital-based physicians increased from 68,341 to 85,239, or 25 percent. While the number of all physicians

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in patient care increased from 257,608 to 285,385 (11 percent), the number of physicians in nonpatiant care increased from 14,892 to 20,068 (35 percent); therefore, the fastest growth was in nonpatient care activities. The number of physicians in hospital-based patient care also increased at a fast rate.

The ratio of physicians per 100,000 population increased as follows: total physicians from 148.9 to 158.1, physicians in patient care from 132.7 to 140.1, and those in solo, partnership, group, or other practice from 97.5 to 98.3. The large increase in hospital-based physicians, from 35.2 to 41.8 per 100,000 population, should be viewed with some reservation since more than half of these physicians were in the Federal service. Although a large increase occurred in the non-Federal segment, part of the increase may have reflected a temporary buildup in the Federal service for the Vietnam conflict.

In 1967, the doctors of osteopathy represented about 4 percent of all active physicians, 7 percent of those in the gross family physician potential, 11 percent of those in general practice (table 3), 4 percent of all physicians in patient care, and 5 percent of those in solo, partnership, group, or other practice—acutally private practice for the doctors of osteopathy. Within the category of solo, partnership, group, or other practice, they comprised 11 percent of general practioners (table 4).

FAMILY PRACTICE FOR CIVILIANS

The civilian population had most access to the group of family practice physicians in solo, partnership, group, or other practice (table 5).

TABLE 4.—PHYSICIANS (M.D.'s AND D.O.'s) BY TYPE OF PRACTICE, UNITED STATES, PUERTO RICO, AND OUTLYING AREAS, DECEMBER 31, 1963 AND 1967

Type of practice	All physicians		Doctors of medicine		Doctors of osteopathy	
	1963	1967	1963	1967	1963	1967
NUMBER						
Total physicians	289,188	322,045	276,475	308,630	12,713	13,415
Patient care	257,608	285,385	246,951	274,190	10,657	11,195
Solo, partnership, group, or other practice [1]	189,267	200,146	179,449	190,079	9,818	10,067
General practice and unspecified	77,427	71,495	68,728	62,844	8,699	8,651
Limited to specialty practice	111,840	128,651	110,721	127,235	1,119	1,416
Hospital-based physicians [2]	68,341	85,239	67,502	84,111	839	1,128
Not in patient care [3]	14,892	20,068	14,777	19,882	115	186
Inactive, address unknown	16,688	16,592	14,747	14,558	1,941	2,034
PHYSICIANS PER 100,000 POPULATION [4]						
Total population (1,000's) [3]	194,169	203,708	194,169	203,708	194,169	203,708
Total physicians	148.9	158.1	142.4	151.5	6.5	6.6
Patient care	132.7	140.1	127.2	134.6	5.5	5.5
Solo, partnership, group, or other practice [1]	97.5	98.3	92.4	93.3	5.1	4.9
General practice and unspecified	39.9	35.1	35.4	30.8	4.5	4.2
Limited to a specialty practice	57.6	63.2	57.0	62.5	.6	.7
Hospital-based physicians [2]	35.2	41.8	34.8	41.3	.4	.5
Not in patient care [3]	7.7	9.9	7.6	9.8	.1	.1
Inactive, address unknown	8.6	8.1	7.6	7.1	1.0	1.0

[1] D.O.'s in private practice only.
[2] Includes interns, residents, fellows, and full-time physician staff.
[3] Includes medical and osteopathic school faculties and those in administration and research. Also includes 7 D.O.'s in 1963 and 34 in 1967 in miscellaneous categories that were not private practice, hospital staff, osteopathic school faculty, administration, or research.
[4] Totals may not add because of rounding.

TABLE 5.—PHYSICIANS IN SOLO, PARTNERSHIP, GROUP, OR OTHER PRACTICE, UNITED STATES, PUERTO RICO, AND OUTLYING AREAS, DEC. 31, 1963 AND 1967

Type of practice	All physicians		Doctors of medicine		Doctors of osteopathy	
	1963	1967	1963	1967	1963	1967
NUMBER						
Physicians in solo, partnership, group, or other practice	189,267	200,146	179,449	190,079	9,818	10,067
Family physician potential	108,324	106,243	99,378	97,262	8,946	8,981
General practice and unspecified	77,427	71,495	68,728	62,844	8,699	8,651
Pediatrics [2]	9,458	10,530	9,412	10,466	46	64
Internal medicine	21,439	24,218	21,238	23,952	201	266
PERCENT [3]						
Physicians in solo, partnership, group, or other practice	100.0	100.0	100.0	100.0	100.0	100.0
Family physician potential	57.2	53.1	55.4	51.2	91.1	89.2
General practice and unspecified	40.9	35.7	38.3	33.1	88.6	85.9
Pediatrics [2]	5.0	5.3	5.2	5.5	.5	.6
Internal medicine	11.3	12.1	11.8	12.6	2.0	2.6
PHYSICIANS PER 100,000 CIVILIAN RESIDENT POPULATION [3]						
Civilian resident population (thousands)	190,892	199,783	190,892	199,783	190,892	199,783
Physicians in solo, partnership, group, or other practice	99.2	100.2	94.0	95.1	5.1	5.0
Family physician potential	56.8	53.2	52.1	48.7	4.7	4.5
General practice and unspecified	40.6	35.8	36.0	31.4	4.6	4.3
Pediatrics [2]	5.0	5.3	4.9	5.2	(4)	(4)
Internal medicine	11.2	12.1	11.1	12.0	.1	.1

[1] D.O.'s in private practice only.
[2] Includes pediatrics, pediatric allergy, and pediatric cardiology.
[3] Totals may not add because of rounding.
[4] Less than 0.05 per 100,000 population.

Other physicians providing patient care were the hospital-based interns, residents, and fellows, and full-time hospital staff. The hospital staff generally are not considered to be available as family physicians.

Nonhospital-based physicians in solo, partnership, group, or other practice increased from 189,267 in 1963 to 200,146 in 1967, slightly increasing the physician-population ratio from 99.2 to 100.2 per 100,000 civilian resident population. The physician potential in family practice, however, declined. The total total number decreased from 108,324 in 1963 to 106,243 in 1967, and the physician-population ratio, from 56.8 to 53.2 per 100,000 civilian resident population. This decrease reinforces current discussions concerning national shortages of family or primary physicians although it does not reflect the many variations in numbers and characteristics of physicians in geographic areas.

The component changes demonstrate that the increase in the number of specialists in pediatrics and internal medicine was not enough to balance the decrease in the general practitioner and unspecified category. (The number of physicians in unspecified activities was only about 100 each year. The following references to general practice include the unspecified although they may not be mentioned.) The decrease of 5,932 general practitioners (77,427 to 71,495) for the 5-year period was not offset by the increase of 1,072 limited-specialty pediatricians and 2,779 limited-specialty internists. In ratios of physicians per 100,00 civilian residents, general practitioners decreased from 40.6 to 35.8, pediatricians increased from 5.0 to 5.3, and internists increased from 11.2 to 12.1 (fig. 2).

Osteopathic physicians represented such a small segment of the national total of physicians that their main effect was only as general practitioners. About 12 percent of general practitioners in nonhospital-based patient care were doctors of osteopathy; the percentage varied significantly in certain States and counties. Within the osteopathic profession, the proportion of specialists in pediatrics increased from 0.5 to 0.6 percent of all doctors of osteopathy in private practice, and the proportion of internists increased from 2.0 to 2.6 percent.

OBSTETRICS AND GYNECOLOGY

Although general practitioners historically have functioned as all-round family physicians many of the more technical and sophisticated applications of our vast medical knowledge have been referred to specialists as they have become available. Many pediatricians and internists provide the more comprehensive functions of the family physician, according to the age of the patient. Sample surveying by the Health Information Foundation and the National Opinion Research Foundation in 1963 indicated the primary specialty of doctors of medicine used as regular sources of care. Fifty-six percent of the sampled population obtained care

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from general practitioners, 12 percent from general surgeons, 10 percent from internists, 8 percent from pediatricians, 7 percent from obstetrician-gynecologists, and 7 percent from other specialists.[10]

A great, continuing need exists for obstetrician-gynecologist care, particularly; the limited numbers of specialists in this field have not been able to meet the demand for these specialized services. General practitioners and some internists still treat a number of such patients in order to cover the shortage.

Despite comparability difficulties, the data indicate that both the number and percentage of specialists limited to obstetrics and gynecology in the total of all active physicians have increased steadily in the last few decades. These increases, from less than 1 percent of total active doctors of medicine in 1931 to almost 6 percent of all active physicians in 1967, show the growing contribution to one segment of family practice.

The Surgeon General's report[1] did not include obstetrician-gynecologists in the discussion of family practice. Midyear data concerning all active doctors of medicine who limited their practice to a specialty,[11] 1931 through 1962, showed less than 1 percent in 1931 and almost 5 percent in 1962; there were 1,418 in 1931, 2,551 in 1940, 5,074 in 1949, 8,147 in 1957, and 11,680 in 1962. Obstetrician-gynecologists represented about 6 percent of all doctors of medicine who limited their practice to a specialty in 1931, and about 9 percent in 1962. This increase indicates that the growth of the specialty more than matched the growth of all specialties during the 30-year period.

During 1963–67, the number of specialists limited to obstetrics and gynecology increased from 15,789 to 18,044, increasing the physician-population ratio from 8.1 to 8.8 per 100,000 population (table 6). The number of physicians serving the civilian resident population in solo, partnership, group, or other practice, increased from 11,874 to 13,205 and their ratio from 6.2 to 6.6. With a decrease in potential family practice in solo, partnership, group, or other practice from 56.8 to 53.2 per 100,000 civilian resident population, the slight increase in the ratio of obstetrician-gynecologists did not have much impact on family practice.

TABLE 6.—SPECIALISTS IN OBSTETRICS AND GYNECOLOGY, UNITED STATES, PUERTO RICO, AND OUTLYING AREAS, DEC. 31, 1963 AND 1967

Specialty category	Total active physicians		Physicians in solo, partnership, group, or other practice	
	1963	1967	1963	1967
NUMBER				
Total active physicians	272,500	305,453	189,267	200,146
Obstetrics-gynecology specialists [1]	15,789	18,044	11,874	13,205
M.D.'s	15,720	17,964	11,805	13,125
D.O.'s [2]	69	80	69	80
PERCENT [3]				
Total active physicians	100.0	100.0	100.0	100.0
Obstetrics-gynecology specialists	5.8	5.9	6.3	6.6
M.D.'s	5.8	5.9	6.2	6.6
D.O.'s [2]	(4)	(4)	(4)	(4)
PHYSICIANS PER 100,000 POPULATION [3]				
Population (1,000's) [5]	194,169	203,708	190,892	199,783
Obstetrics-gynecology specialists	8.1	8.8	6.2	6.6
M.D.'s	8.1	8.8	6.2	6.6
D.O.'s [2]	(4)	(4)	(4)	(4)

[1] Physicians limiting their practice to a specialty.
[2] D.O.'s in private practice only.
[3] Totals may not add because of rounding.
[4] Less than 0.05.
[5] Ratios based on total population for total active physicians, civilian resident population for physicians in obstetrics and gynecology in solo, partnership, group, or other practice.

SUMMARY

A continuing increase in the total number of physicians in the United States has resulted in a rising physician-population ratio in the last few decades. Physician potential in family practice, on the other hand, consistently has shown a reverse trend, both in numbers and in relation to population. The pool of potential family physicians, defined as general practitioners, internists, and pediatricians, in solo, partnership, group, or other practice, decreased from 56.8 in 1963 to 53.2 in 1967 per 100,000 civilian resident population. Increases in the internal medicine and pediatrics categories were not enough to make up for the decrease in the general practice category. The slight increases in the number of obstetrician-gynecologists did not have much impact on the decreasing trend in family practice.

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ARTICLE BY SENATOR THOMAS F. EAGLETON ON ELECTORAL COLLEGE REFORM

Mr. ERVIN. Mr. President, one of the thoughtful voices of concern which has recently been raised over the dangers of the direct election proposal is that of the Senator from Missouri (Mr. EAGLETON). In an article in the June issue of the American Bar Association Journal, Senator EAGLETON frankly admits that the deceptively simple appeal of the direct election proposal prompted him to cosponsor the proposed legislation when he first entered the Senate. Now, however, the Senator indicates that he has had "serious second thoughts" about the proposal and in his article he expressed the conclusion that:

". . . (Direct election) would be an invitation to political extremism and that it would institutionalize an antimajoritarian system which would virtually assure that we would have minority Presidents. Moreover, I believe it would be all but workable.

Because of his concern, Senator EAGLETON has introduced his own plan for electoral college reform called the federal system plan, and he commented on this plan in detail in the article. While I would prefer Senate Joint Resolution 191, the so-called Katzenbach plan, which I have introduced, I certainly agree with Senator EAGLETON on the dangers of direct election, and I feel that his proposal makes immeasurably more sense than direct election.

In his article, Senator EAGLETON mentions many of the weaknesses of direct election, including the possibility that Presidents would be elected by large population areas concentrated in only a few States while the rest of the Nation would lose its voice in presidential politics. Senator EAGLETON also realizes that the passage of direct election would bring about a proliferation of splinter Presidential candidates which could result in the destruction of our two-party system and the end of the political stability which this Nation has enjoyed for almost 200 years.

Senator EAGLETON takes a very incisive look at the problems of recounts and fraud under the direct election proposal, and he concludes that these problems are infinitely greater under direct election than the present system. As the Senator says:

Under a simple direct election system, it would not be possible—as it is today—to isolate the States in which vote count problems had arisen.

In other words, fraud and recount problems under the present system are localized within certain States, and thus more easily avoided. The Senator illustrated the dangers of fraud under direct election by pointing out that just one miscounted vote in one-half of this Nation's polling places in 1960 could have changed the results in that Presidential election. This "invitation to fraud," as one national commentator has called it, is a dangerous consequence of direct election and is just not possible under the present system.

On the subject of increased fraud under direct election, Senator EAGLETON asks the following questions which I believe must be fully considered before the Senate casts an intelligent vote on the direct election proposal:

How would one deal with cases of election fraud in a direct election system, particularly when margins were slim? Would an entire election be invalid because ballot boxes had disappeared in some precincts or been stuffed in others? In what courts would the matter be justiciable, if any? Who would be the parties to such an action? Would aggrieved candidates sue local or state election officials—or the United States government—or each other?

One needs little imagination to conjure up visions of elections in which the country anxiously awaited word of who its new President would be while recounters puzzled over discarded or poorly marked ballots in rural and urban precincts throughout the entire United States and candidates sought injunctions against declaration of a winner.

For a very thoughtful analysis of the electoral reform issue, I wholeheartedly recommend Senator TOM EAGLETON'S article entitled "Direct Election Versus Vox Populi," published in the June, 1970, issue of the American Bar Association Journal. 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:

DIRECT ELECTION VERSUS VOX POPULI

(By THOMAS F. EAGLETON)

Direct election is not the way to ensure the election of a President who is favored by a majority of the voters. The reason for this is the "antimajoritarian paradox": Direct elections will encourage a great number of candidates to run, and support for middle-of-the-road men will wither as factions unite behind their own parochial leaders. A runoff election will be necessary, and the two leading candidates may well be men too extreme to satisfy a majority of the electorate. The Federal System Plan would avoid this danger and, at the same time, eliminate the problems inherent in the archaic electoral college.

The idea that legitimate political authority flows from the voice of the people has a long and respectable history in Western culture—from Hesiod to Charlemagne to Jefferson, from Ivan the Terrible to Gene McCarthy. And for as many centuries constitutional myths (like vox populi, vox dei) or the mechanisms (like our electoral procedures) that will make this formula work in practice.

Today we face an urgent and widely accepted need to reform our Presidential electoral process in the United States—to make it fairer, more representative and less likely to produce Presidents who do *not* have a clear popular mandate.

ASSOCIATION CLEARLY FAVORS DIRECT ELECTION

The American Bar Association has taken a position firmly in favor of the direct nationwide election of Presidents—one man, one vote, with a runoff election if no candidate receives at least 40 per cent of the vote. A constitutional amendment to this effect has passed the House of Representatives by a vote of 339 to 70, has cleared the Senate Judiciary Committee and is on the Senate floor. A full exposition of the evils of the present system and a case for the proposed direct election system is presented by William T. Gossett, a former President of the American Bar Association and Chairman of the Association's Special Committee on Electoral College Reform, in the March issue of this *Journal* (56 A.B.A.J. 225).

Direct election of the President—what could be simpler and fairer than that? I think this is the kind of ready reasoning that accounts for the lopsided vote in the House and for polls that show that state legislators and citizens alike, from large states and small, favor the direct election idea. This is the simple reasoning, I frankly admit, which prompted me to cosponsor Senator Birch Bayh's direct election proposal more than a year ago when I first entered the Senate.

RUNOFFS WOULD ASSURE ELECTION OF MINORITY PRESIDENTS

I have recently had serious second thoughts about the direct election proposal and particularly about its runoff provision. I now believe this formula would be an invitation to political extremism and that it would institutionalize an antimajoritarian system which would virtually assure that we would have minority Presidents. Moreover, I believe it would be all but unworkable.

The more important flaws, it seems to me, are these:

The runoff and special interest splinter parties. The Special Committee on Electoral College Reform found no risk that direct election with a runoff would splinter the two-party system. As Mr. Gossett states, "Analytically there are three distinct types of third party efforts—local, regional and national. The first two would undoubtedly be weakened by direct election [in comparison with their potential strength under the present electoral college]". As for the third possibility—national third parties—Mr. Gossett adduces expert opinion to the effect that inertia will perpetuate the two-party system, but nevertheless states that he and the Committee were "sufficiently concerned about the possibility of weakening the two party system" that they insisted on the 40 percent runoff rule. A 50 percent runoff provision, they felt, "would make runoffs the rule rather than the exception and positively encourage splinter candidacies", while no runoff at all would permit the election of Presidents with an unacceptably small plurality.[1]

Would a 40 per cent runoff rule offer significantly less encouragement to splinter parties than a 50 per cent runoff rule? I doubt it. In the absence of electoral votes, many racial, ethnic and other special interest groups would feel that they had lost all power in the election process since their ability to influence the outcome in key states with large blocs of electoral votes would be gone. Their only hope for regaining leverage under a direct election system would be through the creation of New Presidential parties. These parties would then solicit votes to promote their parochial causes—the National Gun Party, the National Dairy Farmers' Protective Party, the National Students' Party, the Black Welfare Rights Party, the Anti-War Party, the Antischool Busing Party. They would seek enough votes to create an opportunity for bargaining, either in a runoff election or immediately before the initial election when surveys indicated the closeness of the vote between the two major party candidates or the uncertainty that either of these candidates would obtain 40 per cent of the popular vote.

To quote Richard Scammon of the Elections Research Center, who is an advocate of direct election:

If you really want to stop proliferating candidates under any system you give people one vote. This is really why we have two parties operating in this country in November. You only get one shot at voting. Once you allow people a second shot under any conditions you give the opportunity, for example, for Mr. Wallace to in effect say to his electorate, "Now, on the first ballot vote your convictions. Stand up for what you really believe in. You will get another chance on the second ballot if you have to. Besides, we might make second place." . . . [The direct election with a runoff] is why in some parts of the South in primaries you get the first ballot loaded up with candidates, sometimes enormous numbers . . . because everybody knows, though, they are going to have a second shot at this.[2]

At one time, the difficulties of having one's name placed on the ballot in enough states to make a national campaign feasible would have prevented a proliferation of national candidacies. The Supreme Court's decision in *William* v. *Rhodes*, 393 U.S. 23 (1968), however, eliminated this impediment by ruling out unreasonably restrictive state requirements for third party participation.

The antimajoritarian paradox. While a multiple-candidacy election may give people a chance to vote for the man they most favor, it works against the election of Presidents favored by most of the people—majority Presidents.

Even a candidate who won the first heat by winning slightly over 40 per cent of the vote would have only a minority mandate. A runoff winner, even though he received a majority of the votes in the runoff, might well be a distant second choice of a majority

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[1] Gossett, *Direct Popular Election of the President*, 56 A.B.A.J. 229–231 (1970). See also Professor Ernest Brown's Comment on the Association's position: "The ABA Commission seems oblivious of the effect of a runoff system upon party structure, even in the face of evidence that its own report cites, but appears to misunderstand. In connection with assertions concerning the basis of the two-party system, its report refers to works of Key, Schattschneider, and Sindler. Yet if one checks those references, particularly the first two, they point strongly to the conclusion that a plurality system of election tends to bring into being and support a two-party organization, whereas the requirement for a runoff encourages the formation of multiple parties, and multiple candidacies. Perhaps even more instructive, though not referred to by the ABA Commission, is the late V. O. Key's notable study, *Southern Politics;* references to the operation and effects of a runoff system appear throughout the book. On more broadly based evidence, Duverger's *Political Parties* reach even firmer conclusions on the effects of a runoff, or second-election, system." Brown, Review of BICKEL, THE NEW AGE OF POLITICAL REFORM, 118 U. PA. L. REV. 314–315 (1969).

[2] *Hearings on Electoral College Reform before the Subcommittee on Constitutional Amendments of the Senate Committee on the Judiciary*, 91st Cong., 1st Sess., at 341 (1969).

of the voters who initially voted for someone else.

Indeed the runoff might tend to keep consensus candidates out of the running altogether. As each faction united behind the person who best expressed its parochial views, the potential support for middle-of-the-roaders on the first ballot would tend to shrivel. The constituencies of two special interest candidates might be large enough to assure them places in a runoff, but too extreme to enable either candidate to satisfy a majority of the voters. For example, the voters could easily be confronted with a runoff choice between a Ronald Reagan and a Eugene McCarthy, neither of whom could serve as a consensus President.

TWO-PARTY SYSTEM ENCOURAGES CANDIDATES WITH WIDE APPEAL

Majority Presidents are a natural byproduct of a two-party system—both mathematically and in terms of voter appeal. (Despite its disorderly compromises and uncomfortable contradictions, a two-party system at least promotes the election of Presidents whose sole objective from the moment they decide to run is to appeal to and represent the broadest possible spectrum of our pluralistic electorate.)

Geographical distribution. It is easy to argue that a vote is a vote, no matter where it is counted, and that in a united nation each vote should count the same.

Under a direct election plan with a 40 per cent runoff, however, a Presidential candidate could be elected even though he failed to receive a plurality of the popular votes in most—or conceivably in any—of the states. In 1968 Hubert Humphrey was the popular choice of only thirteen states plus the District of Columbia. Had he simply carried New York state by half the popular vote margin by which Lyndon Johnson carried it in 1964, he could have lost the seven states that he won by relatively close margins and still have been elected President by approximately 250,000 votes. He would, however, have been the preferred choice of the voters of just six out of fifty states and the District of Columbia.

Those who argue that the fatal flaw in the electoral college is that it can permit the election of a President who receives fewer popular votes than his rival point to the Harrison-Cleveland race of 1888. Cleveland had a popular vote margin of 95,000 gained by overwhelming victories in the solid South, but Harrison was elected by an electoral vote of 233 to 168. Under a direct election system, Cleveland's overwhelming victory among Alabama's 174,000 voters would have offset the popular preference of 2.9 million voters in New York, Ohio and Illinois.

In a federal system such as ours, it seems no more acceptable that a man should be President when he is the popular vote winner but the choice of people in only a small geographical area than when he is the winner in the electoral college but the loser in the popular vote.

Mechanics of direct election and runoff. In the computer age, it should be possible to count and, if need be, recount, a hundred million votes with accuracy and speed. As Mr. Gossett states, "'The trend toward better regulated and more scientific vote counting has reduced and will continue to reduce the possibilities of irregularities while expediting the final outcome.'" Unfortunately, the direct election proposal now before the Senate has no provisions for actually executing the direct election formula. This responsibility is assigned to the states individually, with reserve power in Congress to override state regulations.

RECOUNT PROBLEM COULD BE STAGGERING

Potential vote count and fraud problems, however, would have to be dealt with completely and in detail before the first direct election. If it were a close election, like those of 1960 and 1968, the recount problem could be staggering. There are more than 150,000 polling places in the United States. Under a direct election system, two miscounted votes in each polling place would have shifted the 1968 election from Richard Nixon to Hubert Humphrey. The miscount of only one vote in *half* of this country's polling places in 1960 could have changed the result in that Presidential election. Under a simple direct election system, it would not be possible—as it is today—to isolate the states in which vote-count problems had arisen.

The possible incidence of recounts would be higher under a system requiring a runoff than under any other system. Not only might the two leading candidates run very close together, necessitating a recount; they might run so close to 40 percent as to make it difficult to determine whether a runoff were necessary. Even if a runoff were obviously required, proximity between the vote totals of second and third candidates might necessitate a recount to determine which would participate in the runoff.

How would one deal with cases of election fraud in a direct election system, particularly when margins were slim? Would an entire election be invalid because ballot boxes had disappeared in some precincts or been stuffed in others? In what courts would the matter be justiciable, if any? Who would be the parties to such an action? Would aggrieved candidates sue local or state election officials—or the United States Government—or each other?

One needs little imagination to conjure up visions of elections to which the country anxiously awaited word of what its new President would be while recounters puzzled over discarded or poorly marked ballots in rural and urban precincts throughout the entire United States and candidates sought injunctions against declaration of a winner.

"VOX POPULI, VOX HUMBUG"?

Let me hasten to state at this point that I do not share the view of General Sherman, a champion of liberty, who wrote home to his wife in 1863, "Vox populi, vox humbug." On the contrary, I think the need for electoral reform is urgent today if the confidence of the electorate in our system of government is to be maintained. Equally urgent, however, is the need to devise a new electoral process that will produce candidates satisfactory to most of the people, most of the time.

An alternative—the Federal System Plan. In an effort to perpetuate the essential rightness of the one-man, one-vote concept, but to do so within a stable institutional framework, I have introduced what I call the "Federal System Plan", S.J. Res. 181, which is cosponsored by Senator Dole, Republican from Kansas, and Senator Stevens, Republican from Alaska.

WHAT THE FEDERAL SYSTEM PLAN WOULD PROVIDE

This system would provide that any candidate who was the popular vote victor under circumstances that demonstrated that this victory was based upon support throughout the nation would be elected President. It would substitute for the runoff an instant and automatic legitimating procedure in case no candidate had a broad popular mandate. And it would induce ideological groups to work within a two-party context by denying them the ability to paralyze the electoral process.

The Federal System Plan would work as follows:

1. A President would be elected if he (1) won a plurality of the national vote *and* (2) won *either* pluralities in more than 50 per cent of the states and the District of Columbia, *or* pluralities in states with 50 per cent of the voters in the election. The latter would be called the "50 per cent rule."

2. If no candidate qualified, the election would be decided by electoral votes with each state having the number it has today. Each candidate would automatically receive the electoral votes of the states he won, thus avoiding the faithless elector. A candidate who won a majority of the electoral votes would be elected President.

3. In the unlikely event that no candidate received a majority of the electoral votes, the electoral votes of states that went for third party candidates would be divided between the two leading national candidates in proportion to their share of the votes in those states. This automatic redistribution, should it ever occur, would avoid the dangers of horse-trading—and the concomitant danger to the balance of power—that would occur if Congress were the court of last resort, as it is now.

"FIFTY PERCENT RULE" INDICATES AMOUNT OF SUPPORT

The "50 per cent rule" is designed to buttress the principle of popular sovereignty with an additional legitimating factor that stems from our federal tradition. It would award the Presidency to the national popular vote winner *if* he had been able to demonstrate that he had a broad base of support across the country. In my judgment, the "50 per cent rule" would provide a better indication of whether a popular vote winner had the national support needed to govern this country effectively than would the 40 per cent minimum popular vote formula contained in the present direct election proposal.

As for the third-party problem, the real key to eliminating third-party fragmentation in a Presidential election system is to persuade the voter that he is wasting his power to choose the next President if he votes for the candidate of a special interest party. The Federal System Plan achieves this result by providing that if the popular vote winner has not satisfied the "50 per cent rule", then the President will be selected on the basis of the vote outcome broken down on a state-by-state basis, where the votes of splinter candidates lose their effect. Virtually all third parties that did not have a broad national base—such as the Bull Moose Party had in 1912—would be discouraged from entering candidates.

Because this plan would perpetuate the two-party system, the vast majority of elections would be decided on the basis of the popular vote without resort to the fallback electoral votes; the redistribution of third party votes would be even rarer.

It is conceivable, under the Federal System Plan, that a President who did not have a popular plurality could be elected on the basis of electoral votes if the top vote getter failed to meet the established criteria for broadly based support. The plan would not have changed the outcome of any past Presidential election, including the Cleveland-Harrison election of 1888. But the incidence of close calls, when the will of a plurality of voters might have been overridden by electoral votes, would have been substantially reduced had the Federal System Plan been in force.

In 1916, for example, Wilson won by a margin of 580,000 in the popular vote. He won in thirty-one states—mostly small ones—with 277 electoral votes. A change of only 1,904 votes in California would have given that state's thirteen electoral votes—and the election—to Hughes, although Wilson still would have been the choice of most of the voters in most of the states. Under the Federal System Plan, Wilson would have won a clear victory with his popular plurality and with victories in over half of the states.

In 1948 a shift of 24,294 votes from Truman to Dewey in California, Illinois and Ohio could have given Dewey a victory in the electoral college, while Truman still held a plurality of the popular vote. If Dewey had won

California and Illinois, but not Ohio, Truman's electoral votes would have thrown the election into the House. Under the Federal System Plan, the election would not even have gone as far as the electoral vote stage, because Truman would still have won a popular plurality as well as victories in over 50 per cent of the states.

The Kennedy-Nixon race of 1960 could have been thrown into the House if Kennedy had lost three very close states: Illinois (margin: 8,000 votes), South Carolina (margin: 9,600 votes) and Hawaii (margin: 115 votes). Under the Federal System Plan, Kennedy's popular vote victory would have been confirmed by his victory in states with over 50 per cent of the voters in the 1960 election, with no resort to electoral votes.

By melding the direct election plan with a concept that takes this nation's federal design into account, I think we reduce the difficulties inherent in a simple one-man, one-vote proposal without abandoning the basic idea that a majority should pick the President.

MAJOR PARTIES MUST WIN NATIONAL AND STATE VOTE

Under the Federal System Plan, the objective of each of the major parties would not only be to win in the national popular vote, but also to win in each state.

Candidates could be persuaded to pay attention to the needs of all parts of the country.

The power of swing states and the compensatory power of minority groups who live in them would be retained and the prospect of flourishing splinter parties negated.

The problem of voter fraud could be localized, and the complexities relating to vote recounts could be more easily avoided.

Finally, by increasing the potential importance of any state in proportion to the total vote cast by its citizens, we would create a new incentive to get out the vote.

THE MERCHANT MARINE AND SEAPOWER

Mr. MURPHY. Mr. President, Mr. A. E. Gibson, Maritime Administrator of the U.S. Department of Commerce, on May 22 spoke before the Propellor Club in San Diego, Calif.

The title of his speech, "The Merchant Marine and Seapower," in itself indicates the importance of the speech. For some time, I have been concerned with the sorry state of our merchant fleet, and have been urging United States action in this area. Certainly President Nixon's appreciation of the importance of seapower in its broadest sense and the new maritime program he has sent to the Congress calling for some 300 ships over the next decade is indeed long overdue and welcome.

Mr. President, I ask unanimous consent that Mr. Gibson's speech be printed in the RECORD.

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

THE MERCHANT MARINE AND SEAPOWER

The great nations of the world, for many centuries, have clearly recognized two principal reasons for fostering and maintaining a strong merchant fleet—their nation's defense and economic welfare. Sometimes one has predominated, sometimes the other. Frequently one or the other has been neglected, to the ultimate cost of both.

Here in San Diego, with your long association with our Pacific fleet, I believe you probably have a better understanding that most of the importance of seapower as an element of national strength. But I doubt that even here is there a full awareness of the close relationship of the merchant marine to seapower.

President Nixon, in an often quoted speech, defined seapower as:

The ability of a nation to project into the oceans, in times of peace, its economic strength; in times of emergency, its defense mobility.

"Seapower is composed of all those elements enabling a nation to use the world ocean advantageously for either trade or defense—its navy, its merchant shipping, its shipbuilding, its fishing, its oceanographic research, and its port facilities."

Admiral Mahan included the merchant marine in his classic definition of seapower, but many of our latter day arm-chair strategists seem to have overlooked it, even with the lessons of Korea and Vietnam fresh in mind.

For Korea we were fortunate in having large numbers of serviceable World War II built ships in our fleet. For Vietnam we spent 100 million dollars to reactivate 160 ships from our reserve fleet and over 600 million to operate them, because 15 years later, our privately owned fleet was insufficient to meet the requirements of what had been termed a limited war.

We have in fact permitted a serious deterioration of every element of our seapower. Over half of our Navy is composed of ships 20 years old or more. Obviously, such ships are deficient in the speed, flexibility, and sophisticated devices which are now being incorporated in ships of the latest design.

More than two-thirds of our merchant fleet likewise is of World War II vintage. Only about 200 ships in our merchant fleet are less than 10 years old. At the peak of the Vietnam effort, the Navy had to charter one-fourth of its total tanker fleet from foreign countries to meet the demands for fuel to keep our planes and trucks in operation. Serviceable American flag tankers for this purpose just did not exist.

Vice Admiral Arthur R. Gralla, Commander of the Military Sea Transportation Service, in commenting on this unhappy circumstance, said, "When more than one-fourth of our tanker force is composed of foreign flag ships, far too substantial a portion of U.S. defense posture is dependent on foreign shipping, and that's a rather frightening picture for even the most optimistic among us."

In terms of shipbuilding, the relatively small production runs and uncertainties as to future procurement policies have had a detrimental effect on American shipyards. While foreign yards have achieved an enormous expansion and upgrading of their facilities during the past two decades, it has only been in the last few years that the American shipbuilding industry has allocated substantial funds for capital improvements.

Our ports, too, in many instances have failed to provide the modern facilities required to keep up with new developments in shipping—such as efficient interchange procedures between ships and other transportation modes, and new bulk facilities for super tankers and huge ore carriers.

But the picture is not all black. In the last 15 years our merchant fleet has been expanded by over 150 of the most modern cargo ships in the world. In recent years we have witnessed a technical revolution, and some of our new containerships have proved to be so productive that they have captured more than 50% of the container trade in the principal North Atlantic and Pacific routes. Some are operating without government help in competition with the best that other countries can put to sea.

We have designed new types of ships, such as the barge-carrying LASH and Seabees, that promise to extend the container revolution directly into midcontinent through the inland waterways.

Two completely new shipyards, using the latest automated techniques, are under construction, and a former naval shipyard is being modernized for the building of supertankers. In recent years, the American yards have expended some half billion dollars for capital improvements, and present indications are that heavy expenditures will continue well into the 1970's as a result of the President's maritime program. As a consequence, we believe that substantial reductions in delivery times and major gains in productivity will be achieved by American shipyards in the years immediately ahead.

Many of our ports are undertaking heavy investments in new facilities, and serious consideration is being given to the possibility of offshore terminals capable of handling giant tankers and bulk carriers.

We could afford to be complacent about such progress as we have made, were it not for the chilling realization that the Russians are rapidly overtaking us in almost every category of seapower.

The specter of a Russian behemoth about to swallow us has been vividly described on the maritime banquet circuits for many years. The fact that the Russians are aggressively developing their maritime might does not unduly concern me, for it is the logical, deliberate act of a major world power. What does concern me is the alarming failure on the part of past Administrations to realize that if we are to maintain world leadership, we can do no less.

We have been accustomed to categorize the USSR as a land power only, with little interest in or understanding of the uses of seapower. This is no longer true. The Cuban confrontation taught the Russians a lesson which they took very much to heart. As Dr. John J. Clark, Dean at St. John's University, points out in an excellent article in the *Naval Institute Proceedings:* "The single most ominous episode of contemporary history, largely underrated by West European states, is the gradual shift of emphasis by the Soviets to a maritime strategy. The Russian Bear senses that in any struggle of global dimensions, control of the sea constitutes the center of gravity. . . . A maritime strategy will permit its possessor to intervene at a time and place of his choosing and to define the area of conflict in the most favorable terms."

Let me repeat for emphasis the last few words of that quotation and think for a moment of our Vietnam problems. ". . . intervene at a time and place of his choosing and define the area of conflict in the most favorable terms." This is what we are now doing in Cambodia. We have defined the area of conflict to suit our own objectives—not to seize Cambodian territory or support the Cambodian government, but to clean out the sanctuaries from which the enemy has attacked our men in South Vietnam. The President's objective is to shorten the war and to bring men home, and this deserves our wholehearted support.

In 1960, though the Russian Navy was second in number of vessels, most of its ships were old and out-of-date. Its merchant fleet ranked 13th in deadweight tonnage among world fleets. In 1969 the Russian merchant marine ranked third in number of ships and seventh in deadweight tonnage in the world. Less than one percent of her surface combatant ships and submarines are now over 20 years old. To quote Admiral Thomas H. Moorer, the Chief of Naval Operations and soon to be chairman of the Joint Chiefs of Staff, "By any measuring stick, they are today the second largest seapower in the world. In a mere 10 years, the Soviet Union with dedication of purpose, huge outlays of funds, and with priorities equivalent to or even surpassing their space program, has transformed itself from a maritime nonentity to a major seapower."

As the British have withdrawn from their historic naval positions, the USSR has moved

in. The strength of her naval power was clearly demonstrated in the recent Okean exercise, when all four fleets were simultaneously in operation in the North Atlantic, the Baltic, the Black Sea, and the Pacific. The Mediterranean and the Sea of Japan were also included in the operations. Nearly 200 ships, from heavy rocket carriers with maximum speed of 34 knots to nuclear subs, were included in the exercise. Her fishing fleet and oceanographic ships are among the most modern afloat and are actively supporting this Navy.

According to Soviet Navy Chief Adm. Gorshkov, "The flags of Soviet ships now fly in the farthest corners of the seas and oceans. Our Navy has become a real power and can successfully protect the state interests of the Soviet Union and of the whole socialist camp." It seems evident that the USSR is not just playing games. In 1963 Adm. Gorshkov established his objective for the Soviet fleet—" . . . we must be ready to engage in comprehensive offensive operations and to level annihilating blows against the sea and land strongholds of the imperialists everywhere in the world's oceans and in the hinterland." "America sooner or later will have to understand that she no longer has the mastery of the seas," he wrote recently.

That this is not an idle boast is confirmed by one of our leading naval strategists, Rear Adm. George H. Miller. Testifying before the Special Subcommittee on Sea Power last year, Adm. Miller said, "The thing that impresses me the most in looking at the overall Soviet maritime set-up is the modernity and vigor of the maritime industrial base. I think they recognize, and it is historically so, that a modern, vigorous maritime industrial base is the very foundation of a nation's effective seapower . . . I am struck by the degree of government-level coordination that they seem to have in the Soviet Government, a coordination of all maritime assets in the furtherance of national objectives . . . this support is continuous through so-called war, peace, crisis, and so forth. I might even say that the merchant marine, together with the Communist political arm, are spearheading their drive for world supremacy."

The prick of this spearhead was very sharp when it was announced early this month that a Russian flag line has applied to institute a merchant shipping service from various Japanese ports to ports on the West Coast of the United States, and is offering rates far below conference rates in direct competition with U.S. steamship lines.

This was only the latest in a series of Soviet moves to enter the competition for world trade. They are participating in Canadian, South American, Mediterranean, North European, Eastern and Far Eastern routes, in some instances offering cut rates or rebates of up to 70 percent from the published conference rates.

The purpose of such attacks on trade patterns is not one of mere commercial competition. A Soviet publication recently stated that "The Russian maritime fleet is to be considered as a weapon in the competition with the capitalist countries, and it must contribute toward breaking the expansion of certain capitalist countries in the framework of world merchant shipping in order to support the developing countries." There should be no doubt that the USSR has an understanding of strategic geography and recognizes the economic assets to be gained from building ships, carrying world cargo, and reaping the revenues.

If the Russians have read history correctly in their determination to establish their claims to world power, and I believe they have, our own record is all the more dismal.

More than 95 percent of our trade is at the present time carried by foreign-flag ships. If these vessels are driven from the tradelanes by Russian predatory rate-cutting, the USSR can clamp a vise on our trade arteries.

The Russians have been adding to their fleet at a net rate of about 1,000,000 tons a year. They plan to have 20,000,000 deadweight tons of merchant shipping by 1980. Our plans for the next decade are to have a fleet whose total deadweight tonnage will be about the same as at present, about 15,000,000 tons. Our competitive advantage, however, will result from the increased productivity of our fleet, which is projected to increase by at least 25% in carrying capacity over today's fleet.

The size and speed of Russian merchant ships is much less than those of most modern fleets. Under these circumstances they would seem to constitute little threat to us in capturing the high value liner trade or even the huge tonnages of bulk cargo which constitute a large part of U.S. foreign trade in any type of fair competition.

It seems evident, however, that the Soviet Union has deliberately designed its fleet with other purposes in mind—principally the control of the trade of developing nations, whose ports and inland transport will not for some time accommodate large, highly sophisticated and productive containerships and bulk carriers.

The Russian can plan their fleet in every aspect to carry out their national political objectives. If their need is for small ships to capture the trade of underdeveloped nations, they order small ships. While not unmindful of the need to obtain income from the use of their resources, or to obtain foreign exchange, they can subordinate these objectives to their overall political objectives.

In the United States our Merchant Marine is a private business endowed with a public interest. In peacetime we expect our companies to base their decisions as to what kinds and how many ships and services to provide on the probability of profits. Government aid to private companies is designed to enable them to compete on an equal footing in foreign markets with lower cost competitors, but it does not guarantee a profit or even guarantee against loss. Yet we expect at the same time that the ships so designed and operated will be available and suitable for any emergency that may demand their use.

The wonder is not that we do not always have the exact types of ships we need for military purposes, considering the lack of past planning, but that we have been able to do so well. I am thinking not just of the 160 government-owned ships broken out of the reserve fleets, which have carried 9 million tons of cargo to Vietnam from mid-1965 to the present. Privately owned ships, either on time or berth charter, were made available to MSTS and carried 27 million tons, or over 70 percent of the total cargo. More than half of the available cargo space on ships on berth service to the Southeast Asia area was given over to carrying military cargo. Some of the converted privately owned containerships proved so efficient that many of the government-owned ships could be returned to layup.

Given the growing awareness of the need, at long last, to aggressively develop our seapower, we are now developing a coordinated effort between our merchant and naval fleets. In the future I see the possibility that containerships may be equipped with the capability of transferring containers at sea via heavy-lift helicopters. I also see the possibilities of barge-carrying ships providing the instant response capability so desired by the Department of Defense. Barges loaded with the latest in military equipment, including wheeled and tracked vehicles, can be prepositioned at strategic locations. In an emergency the nearest commercial barge carrier can pick up the loaded military barges and be on its way immediately. Loaded and unloaded in open water, the barges can be dropped off at any desired point, regardless of lack of port facilities, deep water channels, or cargo handling equipment.

Aside from their adaptability for specific military uses, however, the most important task performed by merchant ships in wartime is the one they perform in peacetime—carrying the raw materials and manufactured products needed by our factories and our citizens to keep up our productive capacity. It is this industrial base which Adm. Miller referred to that is vital to the success of any sustained effort in wartime.

The trade that makes our nation strong and prosperous in peace gives it the power to carry out its military commitments. The merchant ships that are needed to support our armed forces are the same ships that carry goods for our civilian economy. In a sense, therefore, it is the U.S. shippers using U.S. ships to carry their goods who are providing the capacity to protect our country's security in an emergency. This is the other side of the coin—the trade which our merchant marine also supports. If we have the ships adequate to carry our trade, we also will have the ships to supply our military requirements in time of emergency.

President Nixon has clearly understood this dual role of the merchant fleet and has taken decisive action to assure that it will be adequate to fill both its roles. In his new maritime program he has provided not only for the building of some 300 ships in the next decade, but has also provided incentives for a balanced fleet. It will have bulk carriers as well as liners, so that we shall be able to protect our access to strategic ores and petroleum as well as to manufactured and semi-manufactured goods. An increase in our Federal Ship Mortgage Insurance ceiling will benefit not only builders of cargo ships but of fishing and oceanographic vessels as well. The new cargo ships to be built will be fast enough and flexible enough to carry out whatever emergency services may be required of them. As in the past, they will be available to carry military supplies at the call of the Department of Defense, but their capacity and capabilities will be much greater than those of most of the commercial ships on which the armed services have had to rely in the past.

By providing incentives to build highly productive ships at lower cost through standardized multi-ship, multi-year procurement methods, the President is not only reestablishing our shipbuilding capability, but is providing shippers with modern, fast ships that can provide efficient service for their goods. These ships will operate at rates competitive with foreign vessels, whether in liner or bulk trades. There will be every reason for U.S. shippers to use U.S. ships and we are undertaking an intensive campaign to urge them to do just that.

You have seen the Maritime Day posters on U.S. mail trucks that remind us that shipping is a partner in progress. I hope you are displaying on your own car one of the bumper stickers that calls the attention of all Americans and all shippers to the fact that U.S. ships will serve us and the nation if we will in turn use them to carry our goods. These are only the opening salvos in our campaign to sell the use of U.S. ships to U.S. shippers. Part of the effort will be devoted to finding ways in which our ships can serve you better. It will seek to find out where the cargoes are and where they are going so that U.S. shipping lines will know where to look for business.

Under the President's new program we shall have for the first time in many years a fleet truly adequate to its dual role as servant of trade and defense. Unlike the Soviet Union, our government does not coerce shippers or assign the cargoes to our own ships. We must rely on U.S. businessmen to appreciate the value of having U.S. ships ready at all times to serve them, and by serving them, serve us all. Thank you.

RARE TREASURES OF BIG THICKET BEING DESTROYED; AN APPEAL TO SECRETARY HICKEL

Mr. YARBOROUGH. Mr. President, yesterday I received alarming news of increased destruction of the Big Thicket. In a letter from Dr. Peter Gunter, a well-known conservationist and chairman of the department of philosophy of North Texas State University at Denton, Tex., I learned that very destructive cutting is being carried on the Big Thicket Profile Unit, the largest of the so-called pearls selected by the U.S. Park Service in their 1967 recommendation for preservation of the Big Thicket.

This destructive cutting has been going on despite the highly publicized moratorium on cutting in these designated units declared by the large lumber interests. This is just more evidence that the interests opposed to the Big Thicket National Park are trying to destroy all the most beautiful tree treasures of this rare wilderness area before Congress can pass my bill which would save a part of the Big Thicket.

In view of the need to act quickly if we are to save the Big Thicket, I have urged the Department of the Interior to state its position on my Big Thicket National Park bill as soon as possible to the Subcommittee on Parks and Recreation. The subcommittee held hearings on S. 4, my bill to create a 100,000 acre Big Thicket National Park in Beaumont, Tex., on June 12, 1970. The subcommittee, chaired by Senator ALAN BIBLE of Nevada, gave the Department of the Interior until August 1, 1970, to submit its report.

When the news of this increased destruction of one of the rarest gems in the Big Thicket reached me, I notified the Secretary of the Interior and the Director of the National Parks Service by letter.

Mr. President, I ask unanimous consent that my letter of July 13, 1970, to Hon. Walter J. Hickel, Secretary of the Interior, and to Hon. George B. Hartzog, Jr., Director of the National Park Service, be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., July 13, 1970.

Hon. WALTER J. HICKEL,
Secretary of the Interior,
Department of the Interior,
Washington, D.C.

Hon. GEORGE B. HARTZOG, Jr.,
Director, National Park Service,
Department of the Interior,
Washington, D.C.

DEAR MR. SECRETARY AND DIRECTOR HARTZOG: When Senator Alan Bible, Chairman of the Subcommittee on Parks and Recreation of the United States Senate, finished the hearing in Beaumont, Texas, on the Big Thicket National Park bill (S. 4) on June 12, 1970, he left the record open for additional statements by proponents and opponents of the park until June 28, 1970. He then gave the Department of the Interior until August 1, 1970, to state its position on the Big Thicket National Park.

I am today in receipt of a letter from Dr. Peter Gunter, Chairman, Department of Philosophy, North Texas State University, Denton, Texas, who is a naturalist and who has often visited the proposed site of the Big Thicket National Park. Dr. Gunter has written many magazine articles about the Big Thicket and was a witness at the Senate hearings.

His letter to me of July 9, 1970, received today, July 13, 1970, states: "I have been hiking in the Big Thicket recently along the Profile Unit along Pine Island Bayou. I managed to get lost in there, and in the process found out that someone has done a lot of very destructive cutting along the Bayou in the Profile Unit. It makes one furious, yet I am convinced that a hiking trail along the Bayou would be beautiful in 15 or 20 years when it all grows back, even if every blade of grass were cut now." The Profile Unit is one of the so-called string of pearl units. The opponents of the park are systematically trying to destroy every ecologically advantageous unit there.

It is imperative that we move at once if we are to save the Big Thicket.

I beseech you to file your report. I beseech you to file your recommendations with Senator Bible before August 1, 1970, and give us working time at this session of Congress.

The need is desperate and time is of the essence. The time for action is here and almost passed.

With appreciation for the genuine interest each of you has expressed in a national park in the Big Thicket area and with my appreciation for that interest, I am

Very sincerely,

RALPH W. YARBOROUGH.

SOCIAL SECURITY DISCOURAGES SENIOR CITIZENS FROM WORKING

Mr. MURPHY. Mr. President, the present social security law discriminates against persons over 65 who wish to continue working. The retirement test in the present law will allow a person over 65 to earn only $1,680 a year without affecting his retirement benefits. If his earnings fall between $1,680 and $2,880, his benefits are reduced $1 for every $2 he earns above $1,680. On earnings above $2,880, the reduction is $1 of benefits for every $1 earned.

The House of Representatives has moved part way toward removing this disincentive for retirees to continue working. It has passed a social security bill, H.R. 17550, which would raise the ceiling on fully exempt earnings to $2,000, and would cut benefits by $1 for every $2 of earnings above $2,000. This is a step in the right direction, but clearly not far enough.

Many persons over 65 believe that even with the easing voted by the House the retirement test still would stifle the initiative of thousands of individuals. One such person is Mr. Truman D. Weller. He is the author of a thoughtful article in the June 8 issue of Barron's, which puts forward a strong argument for complete elimination of the retirement test. In the article as printed, tables II and III were incorrect. Mr. Weller has furnished corrected tables to accompany his article. I ask unanimous consent that they be printed in the RECORD.

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

DISINCENTIVE PLAN—THE SOCIAL SECURITY LAW DISCOURAGES RETIRED FOLK FROM WORKING

(By Truman D. Weller)

If the House of Representatives has its way, retired citizens soon will have more money to jingle in their pockets. On top of a 15% boost in social security benefits voted late last year, the Congressmen last week passed and sent along to the Senate a measure that would up their checks another 5% (and also boost to $9,000 the wage base on which social security taxes are paid). However, what set the bill apart were some new departures. One, particularly controversial, was an amendment which would for the first time tie retirement benefits to increases in the cost of living. Its fate remains uncertain.

Less likely to offend anyone is the proposal to lift to $2,000 from $1,680 at present, the amount an individual receiving benefits can earn before his payments are affected. Yet it is this aspect of the law which probably most frustrates people over 65. For the fact is that anyone on social security earning $3,600 under present law enjoys more spendable income than a retired individual who manages to gross $4,800.

TABLE I

$3,600 earned income:			
Salary or profit from self-employment		$3,600	
Social security benefits		1,560	
Total income		5,160	
Less taxes:			
Federal income	170		
Social security at 4.8 percent	172.80	342.80	
Net income with salary			$4,817.20
Or in self-employment:			
Federal income	170		
Social security at 6.9 percent	248.40	418.40	
Net income from self-employment			4,741.60
$4,800 earned income:			
Salary or profit from self-employment		4,800	
Social security benefits		360	
Total income		5,160	
Less taxes:			
Federal income	354.00		
Social security at 4.8 percent	230.40	584.40	
Net income with salary			4,575.60
Or in self-employment:			
Federal income	354.00		
Social security at 6.9 percent	331.20	685.20	
Net income from self-employment			4,474.80

Note: Figures based upon social security benefits to husband and wife totaling $240 monthly, income tax on amount indicated at the 1969 tax rate schedule, with exemption of $2,400 for the couple.

TABLE II.—COMPARABLE SPENDABLE INCOME OF 2 INDIVIDUALS IN 1970—1 COLLECTING SOCIAL SECURITY BENEFITS AND THE OTHER FORFEITING BENEFITS THROUGH SELF-EMPLOYMENT

	Mr. "A"	Mr. "B"
Earned income (self-employment)	0	$6,000.00
Company pension	$6,000.00	6,000.00
Dividends and interest	1,000.00	1,000.00
Total	7,000.00	13,000.00
Less standard deduction	700.00	1,000.00
Total	6,300.00	12,000.00
Less 4 exemptions	2,500.00	2,500.00
Taxable income base	3,800.00	9,500.00
Normal tax	586.00	1,710.00
Surtax	14.65	42.75
Social security tax	0.00	414.00
Total taxes	600.65	2,166.75
After tax income	(1)	(2)
Total	6,399.65	10,833.75
Tax-free social security (14 percent increase of 1970 included)	2,875.00	0.00
Spendable income	9,274.35	10,833.75

[1] $7,000 less $600.65.
[2] $13,000 less $2,166.75.

Note: Both individuals considered to have the same private pension, returns from interest and dividends and social security benefits. Latter assumed to be $2,500 per year as of 1969.

In truth, social security actually is killing the initiative and incentive of thousands of

people. An elderly Indiana farm couple, for example, found themselves hard pressed because their interest in a small sorghum crop pushed their income over the prescribed limit, cutting social security payments. Then there is the 67-year-old man from Philadelphia. Offered a clerical position at $70 a week, he declined, saying: "If I took the job I would have to sacrifice my social security payments, which add up to $1,380 a year. I would have to pay more than three times my present federal income tax, which is now slightly over $400. I would also be subject to three taxes I am not now paying—social security, unemployment and a local wage tax. I would also pay an increase in the state personal property tax as well as a local school tax."

UNJUST RULES

Much of the unfairness is caused by the stringent, unjust rules governing the social security program. Basically five points cause these difficulties.

(1) Limiting earnings to $1,680 during a calendar year, so as not to affect benefits. As a result, when a social security recipient approaches the ceiling, he is inclined to quit working for the remainder of the year.

One person concerned with the trend is Lewis Wald, president of Industrial Experience Inc., a Worcester, Mass., firm organized to furnish retired executives, experts and specialists to industry on a temporary basis. He says a large number of enrollees will only work until they have earned $1,680. Moreover, he points out, men with exceptional backgrounds in advertising, engineering and finance tend to forgo additional income over the exempt amount.

(2) The inconsistency of a worker obtaining greater total spendable income by earning less. Robert M. Ball, Commissioner of the Social Security Administration, explained this clearly last spring to the Special Committee on Aging: "An individual who has the opportunity to take a job paying somewhat over $2,880—because earnings are taxable and social security benefits are not—with a dollar-for-dollar reduction may actually be worse off than if he earned less." The analysis in Table I illustrates this point.

$150 PER MONTH

(3) The inequities which arise from the narrow monetary advantage gained by the person who works and forfeits all or part of social security benefits, compared with the individual who only collects the benefits. In a typical example, an individual earning $6,000 a year, as indicated in Table II, will enjoy an advantage of just $150 a month more than someone with comparable retirement benefits but not working.

In 1971, with a 5% benefit increase and a raise in the social security tax, the disparity will be even greater. Thus, Mr. A will be receiving $143.75 more in benefits, while Mr. B, not eligible for benefits, will be paying $36 additional tax.

(4) The test which limits earnings by salary or wages in a single month unless benefits are forfeited. The test says those earning over $140 in a month must forfeit benefits for that month. In many instances, total benefits of husband and wife are greater than $140. Consequently, any earnings between $140 and up to the amount of the total benefits, would represent a loss for the couple.

The problem is underscored by a retiree who takes a part-time job prior to Christmas. If employment is at the minimum wage of $1.60 an hour, he can work 87 hours that month before reaching the monetary limit. If the work is in a retail store, business invariably gets heavier as Christmas approaches. So if he doesn't quit work after 87 hours, benefits will be forfeited. Again, the retiree has to choose whether to risk losing his benefits or disappointing his employer at the peak of the buying season. The practice has brought disfavor among employers using retirees for part-time work.

(5) Restrictions of the retirement test or the self-employed retiree and the handicaps to the operation of his own business. This part of the guideline deals in terms of the amount of time a person over 65 may engage in his business and still collect benefits. It is termed as performing "substantial service." A person who spends more than 45 hours a month in his business is considered as rendering "substantial service," according to the interpretation made by the Social Security Administration. If less than 45 hours, then the service would not be substantial unless one is "performing highly valuable services, such as management of a sizeable business, highly skilled work, etc. Less than 15 hours of service in a month is never considered substantial."

Here, the amount of profit is not a restricting factor. One can make $2,000 or $20,000 from his business. Instead, time is the criterion and anyone spending more than 45 hours a month in his business is as a rule deemed to be rendering "substantial service" and thus prone to forfeiture of benefits.

Back in March 1968, the Senate's Committee on Aging observed that "the complexities of these (retirement test) limitations have perplexed many older persons. Some even decide that the intent of the law is to discourage them from seeking employment." This is an understatement, to say the least. The Task Force questioned if some "liberalization" of the retirement test wasn't in order or if the retirement test shouldn't be eliminated entirely.

NOT SATISFACTORY

Commissioner Ball says: "The present retirement test is not satisfactory. Under the present test it is possible for people at certain earnings levels to actually have less income—that is, social security benefits plus earnings after taxes—than if their earnings were lower. It is not right that people who do additional work or take a job at a higher pay are disadvantaged. The test should be revised so that people would have an incentive to earn more and so that the more they earn the more income they will have."

Supporters of the retirement test point to the fact that in 1966 "only 1.6 million of the 17 million eligible for retirement benefits appear to have been affected by the retirement test." However, their figure includes 8.7 million in the age 72-and-over group who are not affected by the test, and another 5.7 million who are wives of retired workers collecting benefits on that basis.

TABLE III

Earnings	Current plan benefits	Nixon plan benefits	Proposed H.R. plan benefits	Taxes	Spendable income: Current plan	Spendable income: Nixon plan	Spendable income: Proposed H.R. plan
$1,679	$2,880			$80.59	$4,478.41		
$1,799		$2,880		86.35		$4,592.65	
$1,999			$2,880	95.95			$4,783.05
$2,400	2,040	2,100	2,200	115.20	4,324.80	4,384.80	4,484.80
$3,600	1,560	2,100	2,200	342.80	4,817.20	5,357.20	5,457.20
$4,800	360	1,500	1,000	584.40	4,575.60	5,715.60	5,215.60
$6,000		900		840.00	5,160.00	6,060.00	5,160.00
$7,200		300		1,117.60	6,082.40	6,382.40	6,082.40

Note: Husband and wife with total benefits of $2,880. Annual exemption amount of benefits: $1,680 present plan; $1,800 Nixon plan; $2,000 plan passed by House of Representatives.

Social security was adopted in this country during the Depression of the 'Thirties. At the time the legislation was being considered, unemployment varied between seven and 11 million, and the great hue and cry was to remove those over 65 from the labor market in order to provide jobs for the younger workers. Unfortunately, that philosophy still remains with the social security program. It does not square with the relative economic affluence of our present age, nor with a shortage of technical manpower predicted by the National Industrial Conference Board.

WORKERS ARE HAPPIER

Moreover, retired people who work for pay are happier. So says Frances M. Carp, director of the Human Development Research Program at the American Institute of Research. This study shows that they have a higher self-esteem, their relations with people are better and they tend to complain less of having too much spare time.

Every working retiree pays at least two taxes on earnings—the federal income and the social security levies. In some states, he also pays a state income tax and many metropolitan cities now levy a city wage tax as well.

According to the latest Internal Revenue Service figures available, there were more than eight million individuals over 65 who filed returns for 1967. Retirees with private pensions are required to pay income tax on their benefits, once the contributory part has been exhausted. Today, one out of five retirees pays such a tax and in another 10 years the number is expected to double. This serves to put earnings of retirees in a higher bracket, since they already are liable for the income from their pension. And the necessity of paying tax on earnings in a higher range serves as another repressive measure to discourage earnings by retirees.

NIXON'S PROPOSALS

Last September, President Nixon, noting that "the present retirement test actually penalizes social security beneficiaries from doing additional work or taking jobs at higher pay," made a number of proposals. He suggested that the minimum earnings be raised to $1,800 from the present $1,680, that the present $2,880 ceiling be abandoned, and that one-half benefits be given over the first $1,800 earned.

With a single exception none of the President's proposals is incorporated into the present House-passed bill. The exception: a more liberal exemption of earnings to $2,000. In addition, the limit it could be upped as of January 1973 if certain economic indexes rose sufficiently over the next two years. Just how a retiree might fare under the Nixon plan and the House revision, which are compared with the present plan, is detailed in Table III.

Under each plan, it is evident the beneficiary receives more spendable income at the point just before he goes over the exempt amount than at the $2,400 earnings figure. However, the Nixon plan provides an added incentive—it escalates steadily from $3,600 and gives the beneficiary the reward of additional income with added earnings.

Furthermore, increasing the social security tax base heaps new injustice on the person over 65 currently earning $7,800 or more. Compared with 1969, in the years ahead and until reaching 72, he must fork up the following extras: (1) In 1971, he will be pay-

ing at least $46.80 more social security tax on his earnings with no return in benefits; (2) starting in July he will be paying $2.60 more monthly towards Medicare for his wife and himself; and (3) if he is hospitalized, he will have to pay $8 more (an 18% increase) as his share of the expense; since January, Medicare beneficiaries were compelled to pay $52 of the first part of their hospital bill, rather than $44.

Thus, the oldster, caught in the squeeze of inflation and trying to offset it by working, this year and next—even if his earnings remain the same—will find himself with less spendable income than in 1969. The optimism engendered by President Nixon's recommendations towards encouraging retirees to earn additional income has been sidetracked. The House measure, as regards changes in the retirement test, is merely an extension of the present program. It has done nothing in the way of encouraging initiative and creating incentive.

The choice of whether a person over 65 wants to live a quiet life of leisure or continue working should be an individual decision. But those who choose to work should be free to do so. Senior citizens should not be hampered by arbitrary rules and regulations.

A THOUGHTFUL ANNIVERSARY OF THE OLDER AMERICANS ACT

Mr. KENNEDY. Mr. President, today marks the fifth anniversary of the enactment of the Older Americans Act. It is a time to celebrate the accomplishments of the programs and activities under the Administration on Aging for, and by, older Americans throughout the Nation. For the Older Americans Act, passed in 1965, has opened up opportunities for companionship, employment, improved nutrition and health care, housing and educational services, and other benefits for a great many older individuals.

In my own State of Massachusetts, Older Americans Act programs have been extremely successful.

The State grant program under title III has developed and strengthened local councils on aging throughout the Commonwealth. And operation of the program has succeeded in making councils and projects self-sufficient, preparing grantees and elderly participants for the time when Federal funding will end. From the outset of a project, everyone involved actively works to make the community aware of their efforts and of the needs of the elderly. Throughout the life of the project, progress reports are sent to municipalities, foundations, federated funds, and other charitable organizations. As a result of this concentrated effort, all seven of the Massachusetts title III grant programs which have been terminated have been picked up by a community source and are continuing in operation.

In the title III program run out of Boston State Hospital, elderly patients about to be discharged are provided with counseling and placement opportunities. The project, Patient Rehabilitation Program, Inc., helps older persons, who may have been in the hospital for many years, find and strengthen family ties which have been lost. The project may soon be expanded to include day care services for the elderly and for potential older State hospital patients, in the hopes of preventing unnecessary hospitalization.

Roxbury's Council of Elders established a family aid program under title III to hire older persons and old age assistance recipients as outreach workers. The program proved so successful that after only 2 years the State Department of Welfare has absorbed the financing.

The statewide school hot-lunch program for elders is perhaps the most far-reaching activity aided by title III funds. The program now operates in approximately 30 communities and is expanding as local councils are strengthened. About a third of the ongoing programs are continuing throughout the summer.

Local councils on aging and school boards cooperate in organizing the hot lunches. Elderly recipients pay 50 cents per meal and title III funds make up the difference. But the program has been administered so well that it is practically self-supporting.

The hot-lunch program has proved to be a possible bridge over the so-called "generation gap." The elderly have their meals as soon after the last school lunch period as possible. High school and junior high school students serve meals, act as escort to the more feeble elderly, and help carry trays.

So there has been much friendly interreaction between the two generations in all of the programs. In fact, in two vocational high schools, the Boston Trade School and the Greater Lawrence Vocational and Technical Regional High School in West Andover, the students run the entire program: they prepare and serve the meals, as well as decorating the tables in the lunchroom with flowers grown in their horticulture classes.

At the Deane Junior College in Franklin, Mass., title III funds have been used to train older people as teacher aides. All of the elderly participants in this project have been hired as aides in Franklin, Wrentham, and Foxborough. School administrators, students, and seniors are pleased with the relationship between young and old.

A number of research and demonstration projects under title IV of the Older Americans Act are also proving their worth throughout the State. The Ecumenical Center in Roxbury, for example, has shown that older people in the model cities neighborhood can effectively serve as outreach workers—helping elderly isolated ghetto residents to participate in community activities and services.

Another excellent project developed by the Roxbury Center is a coordinated nutrition program for the elderly. Older people in the area are trained and employed to provide the nutrition services—which include meals, education, and health screening.

The Massachusetts State Agency on Aging, working in cooperation with the Massachusetts State Employees Association, has shown a great interest in preretirement counseling and presently serves about 1,700 State employees on the verge of retirement. The State is also training a cadre of older employees to work as resource personnel within various State service agencies. The statewide activities are an outgrowth of a title IV research and development project granted to the University of Massachusetts in 1968 and terminating this September. The success of the project, whose purpose was to demonstrate the impact of preretirement educational programs on selected retirees, is underscored by the State's subsequent interest and involvement.

Earlier title IV research and development projects also made an important impact on the State Agency on Aging and on overall awareness of the needs of older people. The Community Services for the Aging project, developed by the Combined Jewish Philanthropies of Greater Boston, determined the amount and scope of services available to older individuals living in a large urban area, interrelationships between agencies, patterns of delivery of service to older people, and factors associated with lack of use of existing services. The Oliver Wendell Holmes Association "Demonstration Institutes for Older Americans" illustrated that older persons could put their knowledge and experience to work in many community service and related activities.

Under title V of the Older Americans Act, a number of educational institutions in the State have developed important training programs. The Age Center of New England, Inc., trains teachers to work specifically with older students.

Brandeis University has offered a seminar course in gerontology to train executives and personnel working in the State agencies on aging. They are preparing a textbook based on the papers presented at the seminars. Brandeis also has developed a doctoral program to train professional personnel in the field of aging.

As a result of a grant made to the Boston University School of Social Work, in conjunction with the United Community Services of Boston, two training manuals have been designed to provide help to professionals, technical experts and lay personnel in understanding and working with the elderly. One manual will be used by trainers and the other by students or trainees.

The experience has been the same in many other States as well. And the ultimate beneficiaries are those who both need and richly deserve our support—the senior citizens of our great Nation.

That is why today is an appropriate moment to pause and consider our accomplishments under the Older Americans Act. As chairman of the Special Subcommittee on Aging, of the Committee on Labor and Public Welfare, I am particularly proud to have worked both on the original act and on subsequent amendments.

However, Mr. President, we must also recognize today that many of the needs and problems of our older citizens have been unmet or aggravated over the last few years.

Inflation has soared, unemployment is threatening the jobs of many older people and the high crime rate has virtually driven many older urban dwellers into isolation.

Recent Federal budgetary policies have done little to help such conditions. Indeed, administration cutbacks have rendered a number of excellent demonstration programs under the Older Americans Act almost useless. And the administration has requested no money at all to begin the Retired Senior Volunteer

Program (RSVP) enacted as part of the amendments to the Older Americans Act of 1969.

We now spend only an average of about $5.41 a year for each older person under the Older Americans Act. The administration has requested only 37 percent of authorizations under the act for fiscal 1971, compared to 45 percent in fiscal 1970.

Eighty-five million dollars is authorized for fiscal 1971 under the Older Americans Act. But the administration has requested only $31 million, or less than half of what Congress views as necessary.

The Older Americans Act authorizes $40 million for title III—grants for community planning and services, model projects, and State planning and evaluation. The administration seeks only $15.2 million.

The act authorizes $15 million for titles IV and V—research and demonstration projects and training grants. The administration seeks only $5.8 million.

The act authorizes $30 million for title VI—the foster grandparent program and RSVP. The administration seeks only $10 million, none of it for RSVP.

Fewer than 10 to 20 percent of approximately 300,000 professional workers in programs for the elderly have had formal preparation for work with older persons. Yet the administration's budget request for training is less than what we spent last year.

In addition, I am deeply distressed at the slow pace and low priority which the 1971 White House Conference on Aging is receiving from the administration. When we consider that the earlier 1961 White House Conference on Aging resulted in development and passage of the Older Americans Act we pay tribute to today—as well as medicare and other programs for the elderly—the potential of the 1971 conference is great indeed.

Yet of $1.9 million authorized for the conference, the administration has requested only $1.0 million—compared to $2.1 million for the 1961 event. Although 40 percent of the elderly are poor or near poor, the administration presently has no plans to provide Federal funds to enable low income elderly persons to attend as delegates.

Mr. President, the Older Americans Act has accomplished much, but nowhere near as much as it would have if adequately funded. Our senior citizens have hope, but we still must vigorously work for responsive Federal programs and a thorough White House Conference if those hopes are to be realized.

On this fifth anniversary of the Older Americans Act let us not only look back, but look ahead. And let us dedicate ourselves anew to the principle that every senior citizen shall have a genuine opportunity to live his or her later years in dignity and comfort and respect.

POLLUTION PREVENTION

Mr. PERCY. Mr. President, while a great number of words have been spoken and written concerning what we should do to solve our problems of pollution, unfortunately, there is frequently more smoke than fire.

However, small but important steps have been taken. Many of the laws passed by this body, and many of the bills still pending before this body, are of great value.

In the private sector too, new initiatives have emerged. I refer in particular to two articles published in the June 1, 1970, edition of Forbes.

The First National Bank of Miami is offering 2-year, 5¾-percent bonds to the public in denominations as low as $25. Funds generated by these bonds will be loaned to those organizations which will use the money in the fight to save our environment, and at rates one-half percent below the borrower's normal rate.

In the second article, the Insurance Company of North America has announced that those companies that knowingly pollute are not insurable.

Mr. President, I believe that these two instances well document the type of individual initiative and responsibility that the business community has demonstrated in the past, and that it must demonstrate in the future. I believe that this is the way that the private sector should cooperate with the Government in solving our common problems.

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

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

POLLUTION BONDS

Seeking to capitalize on the current antipollution sentiment (FORBES, *Mar.* 1), the First National Bank of Miami is offering two-year, 5¾% bonds to the public in denominations as low as $25. Funds generated by this campaign will be loaned only to pollution fighters, at rates ½% below the borrowers' normal rate. Borrowers could include airlines for noise abatement, industries for waste recycling, even individuals for extending municipal sewage lines. The bonds reportedly sold well the first week, suggesting that antipollution sentiment is strong in Miami.

SOME BITE BEHIND THE HOWLING

In the midst of all the hopeful hoopla against pollution, two businesses are making moves that will have immediate, meaningful and widespread impact.

The Insurance Co. of North America, a sharp, sound old Philly-based giant, has announced as "not insurable" firms that knowingly pollute. Its liability policies now state: "this insurance does not apply to bodily injury, personal injury or property damage arising out of pollution or contamination 1) caused by oil, or 2) caused by the discharge or escape of any other pollutants or contaminants, unless such discharge results from a sudden happening . . . neither expected nor intended."

California banks are considering, and Maine banks are adopting a code that would require the assessment of all loan requests by new or existing "industrial, commercial, or housing development, to satisfy themselves that by virtue of granting such credit, no significant pollution of air, land, or water will result."

This bank loan proviso is motivated by economic as well as logical concern. Companies that now pollute, sooner rather than later, are going to be required by law to curb it or cease it, and the processes to accomplish this will cost money. Loans to companies that cannot handle or are not making provision to eliminate at least their most blatant polluting are not good loan risks.

Again, it's a Pennsylvania outfit pointing the way. The First Pennsylvania Banking & Trust Co. has earmarked $25 million for antipollution loans at an interest rate one-half percent below the borrowing company's going rate.

As more banks adopt the antipollution clause to loans—as perforce they must in and for their own interest—and as more insurance companies shuck pollution liability in their corporate coverage—as perforce they must in and for their own interest—the result will be real results in the fight to preserve a livable environment.

SAFETY OF THE CITIZENS OF CULEBRA

Mr. KENNEDY. Mr. President, I am becoming increasingly concerned about the failure of the U.S. Navy to take the most basic precautionary measures to insure the safety of the citizens of the island of Culebra. Testimony at the hearing before the House Armed Forces Subcommittee on Real Estate showed the absence of adequate regulations and procedures to prohibit indiscriminate firing and to insure that the target area was unoccupied.

At the same time, testimony from the citizens showed the absolute incompatibility of conducting normal life on an island, 11 square miles in size, while bombs and artillery shells are bursting nearby.

Carmen Feliciano, a schoolteacher on the island testified:

> When bombs and shells are exploding, the school buildings tremble with every explosion. You can see fear in the children's eyes. They sit in school in a peculiar way as if ready to run at a moment's notice. During the periods of heavy night bombing, students fall asleep in class. . . . bombing is carried out far past midnight every day and these kids are kept awake by the noise and tremor caused by the bombs until early morning hours.

Now the Navy intends to increase the intensity of the weapons practice even beyond what it has been. Last year, 6,101 Navy planes made between 35,000 and 40,000 target runs alone.

The safety of the citizens also is called into question when the Navy's record of accuracy by U.S. allied naval forces shows artillery misses of up to 2,000 yards. Now, with the introduction of an even more intensive firing schedule and the inclusion of more powerful missiles, it appears quite inconsistent for the Navy to anticipate an accommodation with the desires of the 700 persons on the island of Culebra to live out their lives in peace.

The Navy's plan to acquire an additional 2,350 acres for safety zones in keeping with its plan to test the Walleye missile on the nearby island of Culebrita appears to be the first step of a Navy plan to acquire the entire island. This, however, is impossible without the affirmative action of a plebiscite of the people of Culebra. The people already have spoken. They want to remain where they are and they want the Navy to cease its target practice. Thus, the Navy decision to add even more land conflicts directly with the expressed will of the people of the island.

The Navy action also has drawn sharp and continued criticism from every political force on the Commonwealth of Puerto Rico. In so doing, the Navy and the administration, in actions that are

simply not understandable, appear to be risking the $300 million installation at Roosevelt Roads, our second largest Caribbean naval base, for the tiny island of Culebra. I say this because already Puerto Rican groups have used the Navy's disregard for Puerto Rican desires concerning Culebra to arouse feelings against all U.S. military bases in the Commonwealth. The political consequences of the Navy's continued opposition to Puerto Rican opinion will be serious and far reaching.

All Puerto Rican political parties have taken a united stand against the Navy's plan to expand its use of Culebra. Party spokesmen representing the full spectrum of Puerto Rican political opinion appeared before the House hearing last month. I would ask unanimous consent that the testimony of Hernandez Colon, President of the Puerto Rican Senate, and of the Resident Commissioner of Puerto Rico, Jorge Córdova, be printed at the conclusion of my remarks. These gentlemen represent the two largest parties in the Commonwealth, yet their views on this question are nearly identical.

I also am concerned that the Navy never examined all other alternatives to the use of the island. There are uninhabited islands in the Caribbean. All of them should be examined as alternatives to Culebra. Although the Navy has asserted that they recently have studied "every conceivable" site, at no time have any of these studies been made public. Also, the Navy has admitted that it has not considered the possibility of man-made islands or contoured floating platforms, both having already been used by the Navy in the Pacific for other purposes.

I hope that the Navy will reconsider its current stand and undertake an immediate review of the alternatives to the continued use of the island of Culebra. As the Washington Post stated in an eloquent editorial today, July 14, 1970:

We simply cannot afford as a nation to get into the posture of putting bombs ahead of people.

If the Navy does not act in this matter, I believe that the U.S. Congress must.

I ask unanimous consent that the Washington Post editorial, and also my correspondence with the Navy be printed in the RECORD.

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

[Washington (D.C.) Post, July 14, 1970]

WHY BOMB AN INHABITED ISLAND?

It is time that high-level attention be paid to the controversy over Culebra. The Navy, which already owns about one third of this 7,000-acre island in the Commonwealth of Puerto Rico, is trying to obtain another third of it so as to expand its training operations there, with the installation of a Walleye missile target on the immediately adjacent small island of Culebrita. The move is bitterly resisted by most of the 726 inhabitants and many other Puerto Ricans on the ground that the use of the island as a target has already made life there almost intolerable.

The Puerto Rican Civil Rights Commission has described the military training operations on Culebra as "excessively intense, continuous, irregular and dangerous." The cattle business on the island is said to have been virtually ruined. Fishing has been gravely impaired, and since these two industries have been the chief source of income for the families living on the island, the economic impact of the shelling and bombardment has been severe. Equally troublesome is the effect on education. One teacher reports that the school buildings "tremble with every explosion" and that the children are too frightened, distracted by noise and plagued by loss of sleep (from the night bombing) to give serious attention to their studies.

Repercussions from this use of an inhabited island as a target have spread far beyond Culebra itself. Many Puerto Ricans see in it evidence of a general lack of sensitivity in Washington to commonwealth problems. Tensions on the island have risen notably since the shelling and bombing on Culebra have been stepped up. A columnist for the San Juan Star recently suggested that if Congress should grant the Navy's request to take over more of the island it "could swing popular sentiment toward independence or at least away from statehood more effectively than anything else."

Aside from the injustice of inflicting conditions akin to warfare on the people of Culebra, therefore, the Navy's policy threatens to complicate the relations between the United States and the commonwealth. Just now those relations are in a delicate state. Sentiment in favor of independence has been growing along with sentiment for statehood, although a substantial percentage of the people still seem to favor the existing common-wealth status. It would be most unfortunate if the government in Washington should unduly influence the outcome of the debate now going on in regard to Puerto Rico's future by continuing a shortsighted and inhumane policy in Culebra.

The need for good relations between Puerto Rico and the United States will remain an imperative of the future whether the commonwealth is retained or statehood is requested. For one thing, the Roosevelt Roads Naval Base is the second most important naval installation in the Caribbean. For another, the relations between Washington and San Juan are enormously influential in our dealings with the rest of Latin America. Even though the Navy finds Culebra a convenient area for its training operations, we simply cannot afford as a nation to get into the posture of putting bombs ahead of people.

TESTIMONY OF HERNANDEZ COLON, PRESIDENT OF THE PUERTO RICAN SENATE

Mr. COLON. Honorable Chairman of the House Real Estate Subcommittee, honorable members of the Subcommittee:

My name is Rafael Hernandez Colon, President of the Senate of the Commonwealth of Puerto Rico. I address you in my official function as spokesman for the Commonwealth's Upper House and to bring to your attention the opinion of that House on the Culebra problem as made clear in two resolutions directed to the President of the United States and approved by the Senate of Puerto Rico.

Senate Resolution No. 165 was approved on March 25, 1970. A reply on behalf of the President of the United States was made to this resolution by Frank Sanders, Assistant Secretary of the Navy, on April 29, 1970. Mr. Sanders stated in his letter that a plan announced by Rear Admiral Alfred R. Matter, United States Navy, Commander, Caribbean Sea Frontier, on April 24, 1970 would resolve the Culebra problem as elucidated in Senate Resolution 165, to which I referred.

The plan elucidated by Rear Admiral Matter most emphatically did not solve the problem faced by the American citizens of Culebra; on the contrary the plan offered by the Admiral worsened the conditions of each of the 743 citizens of Culebra.

As a direct result of Admiral Matter's plan and Mr. Sanders' letter, the Senate issued its Resolution No. 188 on May 13, 1970, requesting that the President of the United States "urgently provide an exhaustive study of the plan for the disposal and acquisition of lands in Culebra which the United States Navy intends to put into effect; to reject, as inadequate the proposed plan, until reviewed in accordance with the legitimate rights claimed by the municipality of Culebra; to entreat from the Committees of the Congress of the United States with jurisdiction, to detain all action in connection with said plan and to carry out an investigation of the situation prevailing in the island of Culebra, giving the residents of said island the opportunity to be heard; and to emphatically reassert the formal declaration of the Senate of the Commonwealth of Puerto Rico that the Navy must guarantee the residents of Culebra the peaceful and orderly enjoyment of their lives and in due time relocate its activities in other appropriate places."

Since the date that that resolution was passed, nothing has been done by the Navy to change for the better the conditions of the citizens of Culebra and no facts have been uncovered that would justify a modification of Senate Resolution 188.

On the contrary, events since May 13, 1970, make it clear that at present the only alternative left for the Navy is to drastically curtail all its activities on Culebra so that the residents of that island can enjoy those benefits guaranteed to them by the United States and Commonwealth Constitutions and upheld by the United States Supreme Court.

Since May 13, it has become clear that the objectives of the Navy and the residents of the island are incompatible and that the island must either be ceded to the Navy in full or returned to its proper owners.

Morally, it is inconceivable that the U.S. Navy would deprive the residents of Culebra of their homes and destroy a municipality of the Commonwealth of Puerto Rico in the process. For 35 years, Culebrans have had their lives restricted and limited by the Navy's presence in Culebra. The length of time that that injustice has endured has not guaranteed its permanency. The Culebrans are only asking for what is their due, and this committee can begin the process of returning to the Culebrans what is the birthright of every American and Puerto Rican citizen.

In 1958, the United States Supreme Court held that the right to travel "across frontiers in either direction and inside frontiers as well" is a right guaranteed by the Fifth Amendment. This right is daily denied to every citizen of Culebra. The Constitution of the United States and the Constitution of the Commonwealth of Puerto Rico guarantee the inalienable right of every citizen to enjoy his property, his life and the pursuit of happiness. These are rights daily denied to the citizens of Culebra by the Navy of the United States.

The original purpose of this subcommittee, I believe, has become broadened from the simple approval or disapproval of the Department of the Navy's Acquisition Report No. 102 and Disposal Report No. 300, which together comprised the Navy's "plan" to solve the Culebra problem. What these two documents achieve is to return to Culebrans 680 acres which the Culebrans now have access to and to allow the Navy to acquire 2,350 acres of land from which the Culebrans would be barred from using for residential and commercial purposes. It is palpably clear that this "plan" would not solve the Culebran problem, unless the Navy's definition of the Culebran problem implies that its solution is to make the island unlivable for its citizens.

Today, the House Real Estate Subcommittee has heard the many anguished pleas from Culebrans and those who are aiding them in claiming what is their birthright. Many of the arguments you have heard have legal,

constitutional bases. However, sight must never be lost of the fact that the basic issue involved is a moral one. The most recent arguments used by the Navy over Culebra have been financial. Rear Admiral Norwell G. Ward was quoted by the Puerto Rican Press as saying on Thursday, June 4, 1970, that the Navy has over $300 million invested in the Atlantic Fleet Weapons Range and for that reason would not consider giving up Culebra. On closer questioning, he did admit that only a small percentage of this total investment has been made on Culebra. But no matter what the amount of money invested in Culebra has been, if in the final analysis this is the best argument that the Navy can make, then it seems clear that the Navy's case is a doomed one since questions of money do not deserve to be considered in the same breath as questions of morality that directly affect the lives of exemplary United States citizens who have made innumerable sacrifices over 35 years.

The citizens of Culebra, the citizens of Puerto Rico and the Senate which represents them await justice at the hands of this subcommittee. They not only expect that Acquisition Report No. 102 and Disposal Report No. 300 will not receive approval, they expect that this Subcommittee will begin the investigations and studies that will once and for all end the problems posed by the Navy's use of Culebra as a bulls-eye for gunnery and bombing operations.

It is up to the Navy to show that its interests transcend those of Culebra's citizens. So far, it has not begun to make a headway towards achieving that end. The Navy has for 35 years ignored the pleas and requests of Culebra's citizens as regards the protection of their inalienable rights. In passing, I would like to state that this conclusion is the same one reached by the Armed Forces Journal of May 23, 1970. This prestigious journal made the comment, "Our hearts are with the United States Navy, but not about Culebra." This is the basic position of almost everyone who will address this Subcommittee.

Knowing the history of the United States and the history of this Subcommittee, I am confident that the Culebrans will here receive the justice they have waited so long for. I am confident that this Subcommittee will come to the same conclusion that Puerto Ricans have come to after much soul-searching and study: The Navy must return to the Culebrans what is theirs and must begin the process of retrenchment in Culebra that will once and for all return that island to the mainstream of Puerto Rican life.

Back in the early 1800's, Daniel Webster argued the Dartmouth College case before the Supreme Court in what was to become a landmark decision with an import far beyond the borders of that campus. On that occasion, he said, "It is, sir, as I have said, a small college—and yet there are those who love it."

There are many who love Culebra. And there will be more once this problem is ended.

Thank you.

STATEMENT OF JORGE L. CÓRDOVA, RESIDENT COMMISSIONER FROM PUERTO RICO

Mr. Chairman, My Colleagues:

The Navy proposes to release 680 acres of land in Culebra, and to substantially restrict 2,350 acres more.

When this proposal was first announced less than two months ago, it was hailed as an important step in the right direction by Governor Ferré of Puerto Rico and by me. It was a significant retreat from the position which the Navy had taken over ten years—that it was necessary to remove all civilians from Culebra and to turn the entire island over to the Navy for the target practice without which the crews of the ships and planes of the Atlantic Fleet could not be properly trained.

It is true that for a year or so sounds had been emanating from Culebra which seemed to indicate that some of its citizens were not happy with the Navy's operations in and around Culebra. And it was clear that the Navy had paid little attention to the complaints of the citizens of Culebra. But the Navy assured us that its operations in and around Culebra were, and would continue to be, perfectly safe, and were being conducted, and would continue to be conducted with due consideration for the interests of the Culebrans. As to the complaints, there was reason to believe that they were being encouraged, if not inspired, by outsiders interested in Culebran real estate.

Recent events, however, have caused me to reconsider my position.

Shortly after the announcement of the Navy proposal, Mayor Feliciano, of Culebra, visited Washington to express his objections. He showed me a sworn statement made by citizens of Culebra who claimed that on April 19, 1970, a Sunday when no firing was scheduled, mortar shells were dropped near the spot on Flamingo Beach where they were bathing. They felt the shelling was for the deliberate purpose of driving them from the beach. They lost no time in leaving.

Meantime, on May 22, 1970, a day when the Governor of Puerto Rico, as well as two attorneys from Washington, were visiting Culebra to see for themselves something of what was going on, and to talk to the citizens about their complaints, six mortar shells were again dropped without warning on Flamingo Beach, where children were bathing at the time. The man in command of the mortar crew has signed a statement stating, among other things, that "Three were fired long and three short into Flamingo Beach. The red flag was not raised. Bathers were on the beach earlier but when we fired the mortar rounds we did not look at the beach. We did see a blue fishing boat about a mile to the north of the bay."

I cannot help but wonder whether these shells would have been fired if the children on the beach had been the children of naval officers. I cannot help but wonder whether these shells would have been fired if the mortar crew had known that the Governor of Puerto Rico was aboard the fishing boat they thought they saw about a mile away.

A few days later, I read in the *Armed Forces Journal* issue of May 23 an amazingly revealing letter addressed by Admiral Alfred R. Matter on December 5, 1969 to a developer who planned to build dwellings to attract vacationers to Culebra:

"Culebra Island is a keystone in the Atlantic Fleet weapons range, which encompasses Naval Station, Roosevelt Roads, nearby Vieques Island and thousands of square miles of ocean area. This large complex is expanding and operations are becoming increasingly intensive, frequently being conducted through seven days of the week. As such use increases, inhabitants of nearby areas such as your property will be subjected to the noise of supersonic booms, gunfire, rocket fire, and heavy air traffic."

Now I can understand, and must believe, the complaints of the citizens of Culebra. One has told me of an extraordinary explosion just off shore, which shook his dwelling. Another saw a robot plane flying low over a building on the island. One tells me of machine-gun strafing just off shore, and of machine-gun shells found on the beach after the strafing.

Now I can understand why the citizens of Culebra, who had patiently tolerated the Navy's activities in and around their island for over thirty years, have been complaining with an ever louder voice. Admiral Matter's letter of last December is illuminating in this respect. He tells us that the weapons range is expanding, that operations are becoming increasingly intensive, and that the inhabitants of Culebra are being subjected to an increasing level of explosive noise and terror.

It must be borne in mind that, at the time Admiral Matter wrote his letter, the Navy was insisting that all inhabitants must be removed from Culebra. It would seem that he, and the Navy, were right: the Navy's increasingly noisy and dangerous use of Culebra as a target area is not compatible with the use of Culebra as a place to live, to work, or to raise children.

The alternatives have been made very clear to me by Admiral Matter's letter and by the incidents of April 19 and May 22: either Culebra's inhabitants are evacuated so that the Navy can use it for its weapons range, or the Navy foregoes using Culebra as a target area, or as an area subjected to supersonic booms. And even the Navy has now been convinced that it should not insist on the evacuation of Culebra.

It is true that no civilians have as yet been killed in Culebra by the Navy. But we know that servicemen have died in Culebra as a result of an error by the crew of a plane in dropping its bombs. And we know that the mortar crew on the observation post overlooking Flamingo Beach will deliberately and repeatedly ignore all of the Navy's safety regulations when they are dealing with citizens of Culebra.

I submit to this Subcommittee that the interests of the Navy, and of the nation, will be best served by withholding approval of the Navy proposal. This Subcommittee should not sanction a proposal which at best would submit a community to the intense noise and concussions which Admiral Matter correctly suggests are not lightly to be endured by human beings, and at worst holds the ever-present threat of dressing that community in mourning.

The Atlantic Fleet needs a target. It needs some place where intensive firing can be conducted seven days a week, a place which can be subjected to the noise of supersonic booms, gunfire, rocket fire and heavy air traffic, a place where mortar crews can drop their shells at random and without warning. This place is clearly not Martha's Vineyard, nor Nantucket, nor Sea Island. It is equally clear to me that it must not be Culebra.

JUNE 9, 1970.

Hon. JOHN H. CHAFEE,
Secretary, Department of the Navy.

DEAR MR. SECRETARY: I have read recent accounts of an incident in which the Governor of the Commonwealth of Puerto Rico and bathers on the shore of the island of Culebra were nearly struck by mortar or artillery shells.

This incident raised additional questions of the feasibility of the Navy continuing its use of the island of Culebra as a target and training area. It particularly brings into question the current application by the Department to acquire some 2300 acres of the island for the same purposes.

I would appreciate your comments on this question and also like to know whether there has been an investigation of the recent incident in which shells apparently fell in an unrestricted area.

Moreover, I would appreciate knowing what alternatives have been explored by the Navy to the continued use of the island of Culebra.

I look forward to your response on this matter.

Sincerely,

——— ———.

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D.C., June 29, 1970.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: Thank you very much for your letter of June 9, 1970 to Secretary Chafee regarding the Island of Culebra.

The U.S. Atlantic Fleet Inspector General thoroughly investigated the incident involving the mortar firing in the Flamingo Bay area while the beach was in use and a civilian craft was present. The investigation con-

cluded that neither the bathers on the beach nor the craft were in any danger. Six white phosphorous mortar rounds were fired for test purposes. Contrary to some of the information that has been circulated regarding the incident, the rounds impacted in the bay about one mile from the beach and equally as far from the civilian craft anchored some 60 degrees to the right of the line of fire. At the time of the incident, range regulations prescribed that the red warning flag was to be hoisted only when the range was "activated," that is when aircraft or ships were scheduled to use the ranges. The firing of the six rounds was out of the ordinary in that it was designed to test a new concrete footing and did not occur during a period when the range was otherwise activated. We sincerely regret that the bathers were frightened, and let me assure you that the Navy has taken action to ensure that the warning flag is hoisted in all future firings of this kind.

As far as potential alternatives to the use of the Culebra complex is concerned, the Navy has conducted, in recent years, a continuing investigation of possible alternatives to both the Atlantic Fleet Weapons Range as well as the use of Culebra itself. Every conceivable site, including all of those that were raised before and during the recent House Armed Services Subcommittee hearing, has been extensively examined. Without exception, the Navy has concluded that Culebra is an irreplaceable part of the Atlantic Fleet Weapons Range. If, in fact, Culebra were not available, the training of the Atlantic Fleet would suffer significantly because there are no real alternatives for the kind of training conducted there.

I am hopeful that this information will answer the questions you have posed and adequately clarifies the Navy's position regarding Culebra.

Sincerely yours,

FRANK SANDERS,
Assistant Secretary of the Navy, Installations and Logistics.

PROPOSED REVENUE-SHARING ACT

Mr. BAKER. Mr. President, on September 23, 1969, I introduced the proposed Revenue-Sharing Act sent to Congress by President Nixon. I have been joined in cosponsorship by 33 other Senators who recognize the fiscal pressures and unmet needs confronting our State and local governments.

This measure, if enacted, will require the regular distribution of a specified portion of the Federal individual income tax to each State primarily on the basis of population with no strings attached. A portion of the money allocated to each State will be required to be distributed to all general purpose local governments—cities, towns, and counties.

When fully implemented the legislation will provide a total annual national distribution of $5 billion. At my request the Treasury Department has supplied a breakdown as to the amount of money that will be received by each general government in Tennessee.

Based on 1968 population and 1967 revenue and income data, the total annual amount distributed to Tennessee will be over $92,000,000 with $52,000,000 going to the State government and $40,000,000 to local governments.

I ask unanimous consent that the complete table be printed in the RECORD.

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

Total U.S. distribution: $5 billion.

Total Tennessee State and local government distribution: $92,354,520.

Percentage that must flow through to local governments: 43.49 percent.

State government share: $52,188,077.

Local government share: $40,166,443.

Total to cities	$20,972,162
Clinton	39,487
Oak Ridge	218,717
Shelbyville	95,332
Camden	7,651
Alcoa	68,245
Maryville	60,330
Cleveland	65,167
LaFollette	81,524
McKenzie	9,410
Elizabethton	135,610
Henderson	7,651
Newport	64,199
Manchester	23,745
Tullahoma	82,140
Crossville	15,742
Belle Meade	3,606
Metro Nashville-Davidson County	6,168,676
Oak Hill	791
Goodlettsville	2,550
Dickson	13,368
Dyersburg	78,358
Winchester	39,487
Humboldt	60,154
Milan	46,786
Trenton	10,817
Pulaski	45,027
Greeneville	111,601
Morristown	175,625
Chattanooga	1,916,922
East Ridge	46,435
Redbank-Whiteoak	15,566
Signal Mountain	18,029
Bolivar	11,697
Savannah	12,400
Rogersville	12,576
Brownsville	25,064
Lexington	16,358
Paris	37,200
Waverly	10,114
Jefferson City	8,091
Knoxville	1,668,655
Ripley	9,410
Lawrenceburg	27,263
Fayetteville	39,575
Lenoir City	39,487
Loudon	8,355
Athens	47,754
Etowah	11,697
Jackson	609,454
South Pittsburg	10,817
Lewisburg	39,047
Columbia	140,271
Mount Pleasant	10,026
Sweetwater	32,715
Clarksville	150,297
South Fulton	9,410
Union City	72,026
Livingston	7,651
Cookeville	126,816
Dayton	17,765
Harriman	120,484
Rockwood	29,110
Springfield	42,477
Murfreesboro	97,970
Smyrna	13,543
Sevierville	10,114
Memphis	5,819,801
Millington	20,579
Bristol	282,213
Kingsport	344,830
Gallatin	52,767
Covington	33,595
Erwin	57,428
McMinnville	72,026
Johnson City	269,022
Martin	26,647
Sparta	791
Franklin	78,007
Lebanon	62,528
All other cities with less than 2,500 population	$597,493
Total to counties	19,194,281
Anderson County	219,069
Bedford County	193,038
Benton County	28,934
Bledsoe County	20,227
Blount County	232,085
Bradley County	446,141
Campbell County	121,803
Cannon County	30,165
Carroll County	102,719
Carter County	123,474
Cheatham County	64,815
Chester County	38,168
Claiborne County	104,830
Clay County	21,986
Cocke County	99,729
Coffee County	152,671
Crockett County	73,258
Cumberland County	72,906
Decatur County	56,021
De Kalb County	24,800
Dickson County	78,446
Dyer County	212,122
Fayette County	60,770
Fentress County	90,231
Franklin County	149,769
Gibson County	142,118
Giles County	157,332
Grainger County	48,545
Greene County	137,193
Grundy County	30,693
Hamblen County	119,868
Hamilton County	1,904,961
Hancock County	15,126
Hardeman County	96,827
Hardin County	139,831
Hawkins County	115,207
Haywood County	94,716
Henderson County	108,523
Henry County	205,702
Hickman County	49,073
Houston County	20,227
Humphreys County	69,740
Jackson County	33,243
Jefferson County	78,886
Johnson County	35,002
Knox County	1,553,360
Lake County	44,588
Lauderdale County	141,854
Lawrence County	157,948
Lewis County	63,232
Lincoln County	178,703
Loudon County	116,702
McMinn County	221,883
McNairy County	129,014
Macon County	48,545
Madison County	263,481
Marion County	85,746
Marshall County	70,004
Maury County	361,715
Meigs County	19,172
Monroe County	91,726
Montgomery County	433,302
Moore County	10,289
Morgan County	52,855
Obion County	270,253
Overton County	39,751
Perry County	50,304
Pickett County	11,960
Polk County	80,997
Putnam County	128,750
Rhea County	91,726
Roane County	122,946
Robertson County	205,702
Rutherford County	183,979
Scott County	64,287
Sequatchie County	26,207
Sevier County	117,494
Shelby County	4,924,616
Smith County	46,698
Stewart County	23,041
Sullivan County	758,783
Sumner County	325,218
Tipton County	148,450
Trousdale County	26,911
Unicot County	46,523
Union County	19,700

Van Buren County	$9,146
Warren County	104,918
Washington County	232,173
Wayne County	107,292
Weakley County	99,729
White County	95,244
Williamson County	231,645
Wilson County	134,731

BASTILLE DAY

Mr. KENNEDY. Mr. President, today, the 14th of July, is a great national holiday for one of the oldest nations of the Western world and for free people the world over. This day holds a hallowed place in the national heritage of France. For on July 14, 181 years ago, the Bastille fell to the people of Paris. For the people of France, the 14th of July is symbolic of a fight for human freedom, a fight that was successful and whose effect is felt today by the people of France. To Americans of French descent, today is a day of great pride.

While this holiday is cause for great celebration, I take the time to add a sober reflection. The fall of the Bastille created a unifying call for freedom, among the French people, but the struggle continued. As J. M. Lalley noted in the Washington Post this morning, what followed the Bastille was not utopia but the historical phenomenon known as the Great Panic, affecting all classes of society in that long hot summer of 1789. Realization that the monarchy had fallen with the Bastille itself, brought with it the realization that there was no longer a national administration; there were no longer any laws, courts, police, army, or revenues—only the universal and all pervasive terror that is engendered by mob rule. It seems to me that while order without justice is counterfeit, so too, justice without order carries a hollow ring.

This is a time for us to renew our commitment to the principle of freedom. We are all bound in an inexplicable web of history, so that where there is one man without freedom, we are all in danger. Freedom creates freedom. But more, being free, we must strive for the freedom of all men. Now, like our French comrades before us, we are bogged down in a senseless war in Vietnam, a war that continues to claim numbers of lives every day. How long must the path to freedom be paved in gravestones?

It was our forefathers who fired the "shot heard around the world" which in a sense began the revolution for human rights and the dignity of man. The citizens who took the Bastille were surely following in the same path. I am pleased to join the people of France and all Americans of French descent on this day which is so significant not only for their great nation, but for all free men and all freedom-loving people.

COLLEGES IN CRISIS

Mr. PERCY. Mr. President, polarized conditions on campus at Stanford University brought about the recent resignation announcement of President Pitzer after a relatively brief term of office.

Dr. Malcolm Moos, president of the University of Minnesota, recently stated that a major danger facing us is the "joint clout that elements of the new left and the far right have in trying to tear our universities apart."

An article entitled "Colleges in Crisis," written by Richard Starnes, of the Scripps-Howard staff, who has initiated a series of articles on this vital subject, appears on the first page of today's Washington Daily News. The article points out the dangerous road ahead for higher education in America.

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:

[From the Washington Daily News, July 14, 1970]

COLLEGES IN CRISIS

(By Richard Starnes)

American colleges and universities are reeling under the impact of a deepening crisis that may well destroy some of them and that inevitably will impose profound changes on all that survive.

Campus violence, largely the result of assaults from the New Left, is the most dramatic symptom of the malaise that has overtaken the nation's institutions of higher learning. But it is by no means the sole cause.

Based on interviews with more than a score of leading educators across the country, a team of Scripps-Howard reporters has drawn these conclusions:

Colleges and universities are facing a financial emergency so severe that some may not survive. While it may have been exacerbated by the student rebellion, the money squeeze is principally a product of inflation, shrinkage of stock values (and hence endowments), growing taxpayer resistance to any new spending programs, and drying up of key federal support.

The days of timid temporizing by college administrators faced with campus disorders have ended. Altho many educators still shy away from open endorsement of hard-line reaction to violence, pressure from legislators, regents and outraged public opinion makes it clear that this will be the prevailing campus climate when the fall term opens this year.

In the whole subtle range of changes affecting colleges and universities an important one is the sharply critical look that is being taken at the life-and-work styles of tenured faculty. Administrator after administrator told interviewers that means must be found to increase teachers' productivity," which is a euphemism for saying that hours are going to be longer, classes larger, and professors' performance more closely monitored.

When the gathering storm was heralded by the Berkeley uprisings of 1966, many university presidents assumed they were watching a temporary phenomenon. This is no longer true. Almost universally college administrators now glumly anticipate a generation of turmoil, trouble and far-reaching change. "The tipoff," said one, "is that the high schools right now are experiencing mini-rebellions of their own."

A great deal more student participation in policy-making decisions is in the cards, and parental-type guidance by schools (dormitory rules, curfews, etc.) is fast vanishing.

Altho the men who run our colleges are chary of asserting that the student rebellion is a product of conspiracy, a number of them pointed out that the New Left has contrived a "fantastically efficient" communications network linking campuses all over the country.

Barring unforeseen expansion of the Vietnam war or other unpredictable factors the next subdivision of the crisis seems certain to occur in the fall when schools come to grips with a chorus of student demands for time off to participate in political campaigns. Few large institutions are willing or able to meet this demand, and many expect trouble as a consequence.

Hardest to define, but perhaps most important of all, there has been a widespread loss of public confidence in colleges and universities. "Ten years ago," mused one administrator, "people believed universities could do anything. Now they are convinced we can't do anything." Implicit in this new mood of skepticism is the possibility of shrinking public support in the future, a reversal of the nation's traditional bias that deeply worries college presidents.

TROUBLED MINNESOTA

Altho wedded to calculated optimism ("when you are treed by a bear you might as well try to enjoy the view") Malcolm C. Moos, president of the gigantic University of Minnesota, (50,500 students), in many ways epitomizes the nation's troubled college administrators. As a craft their professional longevity is beginning to resemble that of baseball managers, and they are hag-ridden by the dual specters of rebellion from the left and repression from the right.

In an unusually frank discussion in his office on the university's Minneapolis campus recently, Mr. Moos spoke of his bedrock fear: "the great danger of politicizing the university." He warned that faculty and student attempts to use their schools as "political megaphones" would compromise, weaken and possibly overwhelm the nation's institutions of higher learning.

"The other major danger facing us," he said, "is the joint clout that elements of the New Left and the far right have in trying to tear our universities apart. They don't like to admit it, but that is their aim."

Mr. Moos, who first won national attention as the speechwriter who drafted the farewell address in which the late President Eisenhower warned of the growing power of the "military-industrial complex," declared that "much of the attack on our schools is based on misinformation—people wanting to believe the worst, and never for a moment dwelling on the great and grand accomplishments by both students and faculty that are going on in universities all over the country."

INTERMALE MARRIAGE CONFLICT

But as an illustration of the nightmare confronting many university presidents, Mr. Moos ruefully related the current issue that is stirring unrest on the Minnesota campus. The school recently hired a young man as an assistant librarian, and was promptly shaken to its respectable Middlewestern shoetops when he and another Minneapolis male applied for a marriage license.

The University of Minnesota's ponderous machinery for un-hiring the librarian was fired up, a hearing is in prospect and students (of whom some 20,000 are currently attending the summer session) sense an issue of personal freedom. Mr. Moos is moodily wondering if the dispute will turn out to be the spark that will light the fuse that curls beneath the chair of every university president in the land.

"The New Left, supported by a militant group of students and a small cadre of faculty, believe that the university has failed," Mr. Moos said as he surveyed the broad problems of higher education. They're going to try to tear it down, and they've announced that the fight is going to be long and hard and dirty."

Mr. Moos agrees with numerous of his colleagues that the war in Vietnam, while still the most visible issue besetting universities, is not the sole cause of campus travail and turmoil.

WAR NOT ONLY ISSUE

"The thought that these things would fade out if you ended the was is wrong," he said. "Other issues would remain; one that

is a very real one is the feeling among students that they are being shortchanged."

For all its size, Minnesota has escaped the chronic agonies that have lacerated other big schools, including neighboring Wisconsin. Its only major outbreak occurred when black students, aided by militants from the Minneapolis ghetto, seized the administration building two years ago. Altho the episode was handled with no violence and a minimum of damage, it made a lasting impression on Minnesota's proud, paternalistic regents, and on Mr. Moos.

It is significant that as relatively mild as the happening was, Mr. Moos now thinks he was wrong in not "ringing the building with police" to keep trouble-making outsiders away. Mr. Moos, however, disclaims any affinity for repression.

"If you use repressive measures it is like a kite against the wind—the stronger the wind blows the higher the kite flies," he noted.

But he quickly underlined the new mood of no-nonsense that is apparent in university administration buildings all over the country when he continued: "I've always said that if classes are disrupted I'll move and move fast."

Altho small- to medium-sized private schools are feeling the economic pinch most, huge institutions like Minnesota are by no means immune.

"We're caught in a bind when it comes to the economics of it," Mr. Moos declared. "The federal government has pulled back sharply and this particularly hurts in the graduate schools. Graduate teaching is very expensive and graduate enrollment has increased tremendously. Then, too, we're caught in a big crunch with the growth of junior colleges, two-year colleges. They all fulfill a very important educational function, but they are all claimants to public funds."

Mr. Moos does not see any "drastic new grand design" in the future of universities, but he concedes that "bold and adventurous" new departures are in prospect. Like other educators he welcomes the growing involvement of universities in the communities around them ("maybe we can help solve urban problems as we once did farm problems") and he refuses to panic at the growing clamor for special treatment of underqualified ghetto students.

But in the troubled world of universities all visions of the future are seen as thru a glass darkly. For the reality is that universities have emerged as an ideological battleground and there is no way of telling what the ultimate effect of this will be.

Mr. Moos, among others, inclines toward a dim view of this development.

"More difficult than the activism of violence," he said, "is the activism that seeks to convert universities, as institutions, into political partisans thumping for this or that ideological position. Yet the threat of this form of activism is great, in that it carries with it a threat to the unique relationship between the university and external social and political institutions."

GREEN REVOLUTION IN ASIA

Mr. KENNEDY. Mr. President, considerable attention has been paid recently to the phenomena called the "green revolution"—the revolution that has developed during the last year or so in agriculture with the introduction in Asia of special high-yield seeds. The first word of this green revolution was, of course, good news to all of us who have heard the Malthusian timeclock tick as population continued to outdistance food production.

Inevitably, the first glow of success and optimism created by the thought of a green revolution has given way to the realization that it is only a first step toward meeting the growing crisis in world food production. Besides the unexpected social forces unleashed by the disparate pattern of prosperity caused in some areas by the green revolution, an awareness has also developed that high yield seeds are only one way—obviously an important way—to increase the nutritional level of developing nations.

One other approach has recently been successfully tried in India—a nation facing massive food problems, but also a nation which has successfully undertaken massive efforts to meet the crisis. This new attack against malnutrition is a program of protein supplements to existing foods and is described by Alan Berg in a thoughtful article for the Washington Post of July 12. Formerly chief of the food and nutrition section of the Agency for International Development in New Delhi, Mr. Berg describes the successful experience India has had with protein supplements in combating malnutrition. The implications for other nations in Asia and Africa is clear, and I believe such programs should receive the greatest support.

So that Senators may share this important article, I ask unanimous consent that Mr. Berg's essay be printed in the RECORD.

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

[From the Washington Post, July 12, 1970]

INDIA FORTIFIES ITS CHILDREN

(By Alan D. Berg)

At a time when American politicians are groping for solutions to domestic malnutrition, experience from an unlikely source may offer some helpful insights. The source is India, where Indira Gandhi's wing of the Congress Party recently adopted a Children's Charter as a major plank of its platform.

The act was another indication of a growing public concern for nutrition as an important aspect of national policy. If fully met, the charter will provide for nearly half a billion dollars a year to guarantee a minimum diet to 80 million preschool-age children.

Though it is too early to judge the effect of this political commitment, India already has taken substantial steps to build a national nutrition policy, to launch a national program and to establish projects. This is not to suggest that India's nutrition problems have been solved or are even well on their way to solution, but an encouraging and probably irrevocable beginning has been made.

Nutrition as a profession is no stanger to India. For the past half century, India's laboratory and clinical work has ranked with the finest in Asia. As in most nations, however, the linkages between the scientific community and the government and political policy-makers were few. Laboratory findings often remained in the laboratory. Meanwhile, the policymaker saw malnutrition as a welfare problem and addressed it accordingly.

A REVELATORY FAMINE

It took the Bihar famine of 1966–7 to dramatize the magnitude and implications of malnutrition. Ninety million people in eastern India were trapped in the worst drought in post-independence India. Pictures of bloated bellies appeared in the world press, and millions of starvation deaths were predicted.

Fortunately, the forecasts proved to be wrong. The Indian government mobilized a massive relief program and, aided by substantial quantities of food from the international community, was able to hold the line until the next monsoon. The experience, however, made a deep impression on Indian officials.

This concern was intensified by findings reaching India during the same period which suggested a link between malnutrition and mental development. Government officials already knew that malnutrition was the major cause of childhood deaths and that poor food affected bodily growth and thus physical performance. Now they realized that there was a connection between protein deprivation in early life and the sluggishness commonly observed among the extremely poor.

When the head of the national laboratory reported that 80 per cent of Indian children suffered from "malnutritional dwarfism," some Indian political leaders expressed fears that India could be raising a generation of substandard citizens. Moreover, the problem seems to be getting worse. The average Indian today receives 8 per cent less protein than in 1960.

The Bihar crisis accelerated the government's effort to produce more grain. Introduction of high yield varieties, combined with rapidly increasing inputs of fertilizer and other accouterments of modern agriculture, has been highly successful. The production of wheat, the major beneficiary, has increased 67 per cent over 1960–5 averages.

Although of obvious benefit to the well-being of the population, the cereals emphasis is an insufficient answer to India's nutrition dilemma. In fact, a composite examination of 220 Indian diet surveys coupled with national economic projections, suggests that unless a new nutrition strategy is implemented, at least a generation will pass before many Indians will afford an adequate diet.

The data suggest that per capita disposable income must reach $4 to $5 a month to achieve an acceptable diet. Between 60 and 70 per cent of India's urban dwellers fall below this line, and the percentage is higher in the rural population. One-third of India's families would need at least twice their current incomes to attain adequate diets on the basis of rising earnings alone. Even on the optimistic assumption of a 3 per cent annual per capita real income rise, it would take 30 years for one-third of India's families to reach the required level.

Although the new Five-Year Plan projects food grain self-sufficiency by 1972, broad distribution of the additional income generated is not assured. Indeed, it seems likely that if the agricultural revolution continues along the current path, the income distribution problem will be further aggravated.

Policymakers have begun to recognize that national development cannot take place unless hundreds of millions of the poor begin to experience some betterment of their welfare and believe they are participating in that development. A Home Ministry report warned last December that failure to improve the lot of India's masses "may lead to a situation where the discontneted elements are compelled to organize themselves and the extreme tensions building up within the 'complex molecule' that is the Indian village end in an explosion." It was against this backdrop that the Home Minister suggested, "Unless the green revolution is based on social justice . . . the green revolution may not remain green."

No one factor alone will meet the minimum aspirations of the very poor, but better nutrition could play an important and relatively fast-acting role. It has a direct and visible relationship to well-being and is within the means of India to provide.

It was soon apparent to Indian policymakers that many of the highly nutritious

foods were priced out of reach for all but the very affluent. This was especially true of those foods needed for very young children. Experience had further demonstrated the difficulty of altering established food habits.

If diets could be improved inexpensively without requiring conscious decisions by consumers to buy, cook or eat differently, the likelihood of success was greater. They therefore began to give attention to the use of established foods as carriers of the additional nutrients.

Besides its obvious value of improving nutrition inexpensively, fortification has other interesting development implications. It is a conceded form of income supplementation—for specific purposes. It achieves this without the massive organizational apparatus required for welfare services or even child feeding programs.

India's first venture into fortification of cereal foods came with the introduction of Modern Bread in January, 1968. During the drought years of the mid '60s, the Food Ministry made a concerted effort to increase bread consumption, wheat, unlike rice, being available in large quantities from abroad. With help from Australia and Canada, nine Indian government Modern Bakery plants, capable of producing 100 million loaves of bread a year, were established in major cities. To each loaf baked in these plants, the government added the synthetic form of the amino acid lysine to increase the protein value, plus vitamins and minerals tailored to India's major nutritional maladies, viz., vitamin A deficiency and iron deficiency.

POOR LIKE IT, TOO

There had been some skepticism that only the urban wealthy were bread eaters and would benefit. Recent studies report otherwise. In Bombay, 40.6 per cent of those with family incomes under $26 a month are daily bread consumers.

Also, bread increasingly is reaching into nonurban areas. Three-quarters of the large bread producers report that from 10 to 30 per cent of their sales are rural.

Although bread is not a major factor yet in the general Indian diet, commercial bread production is expanding rapidly—a 250 per cent increase in the 1960s—and an annual compound 13.2 per cent growth rate is projected for the next five years.

More importantly, the success of Modern Bread dramatized the possibilities of fortification to the government. Last year, the Secretary of Food announced a policy of fortification and the government approved a large-scale project designed to fortify a more traditional Indian food, atta—the ground wheat product used to make Indian chapattis, the round, flat, breadlike staple of the North Indian diet.

People who buy the premilled atta, the least expensive form, are often from the lowest economic group. Beginning in February, Bombay residents purchasing atta also received sizable doses of vitamins, minerals and protein (in the form of peanut flour, an oilseed product seldom used for human consumption in India). The program is scheduled for introduction in other major cities.

Although reaching the bottom of the income ladder, fortified atta benefits only the urban population. Because nearly 80 per cent of Indians live in rural areas and each of India's hundreds of thousands of villages has its own wheat grinding equipment (chaki), it is logistically impossible to undertake a rural wheat fortification program. As a result, a search was made to identify low-cost, centrally processed foods which already reached all elements of the population.

The most attractive item meeting these criteria was salt. Everyone uses salt. Those not participating in the monetized economy barter for it. Produced in relatively few places, salt is consumer year round in nearly equal quantities at all income levels. Those in need of greatest nutrition help, in fact, may be the heaviest consumers; it is often the only flavoring agent they can afford.

The vast majority of Indian women and small children suffer from anemia. Salt with iron added could reduce this condition significantly at a cost of only about $4 million a year. Calcium also could be added without increasing the cost of the salt. Laboratory and clinical tests on iron and calcium fortified salt have been completed and field tests are scheduled to begin this summer. Laboratory experiments to incorporate also vitamin A and synthetic amino acids are at an earlier stage.

Research is also taking place on the fortification of tea. Unlike nearly all other food products, tea is consumed in quantity by rich and poor in both rural and urban areas. A recent study in the state of Gujarat revealed that 87 per cent of villagers give tea to their children, including 84 per cent of the lowest income group (family incomes of under $13 a month).

The interest in tea fortification stems in part from discouraging findings of an investigation into the possibility of fortifying rice. A study last year reported that the vast majority of Indian rice eaters cook it in large quantities of water which is then discarded. In the case of tea, it is the residue itself which is consumed.

FOOD HABITS STUDIED

A second feature of the Indian experiment is the role of private enterprise. In contrast with most other developing countries, India has sizable and sophisticated food processing and pharmaceutical industries. Yet until the recent stage of nutrition activity, these industries were little involved in addressing the country's nutrition needs.

In mid-1967, a group of business leaders met to evaluate the responsibility and the commercial opportunity. What emerged has grown to a 32-firm organization—known as the Protein Foods Associations of India—designed to do collectively what few firms can afford to do alone.

The group's priority project is a series of regional food habits surveys. Little was known of what people ate (by income, cultural group and community size) and how it was prepared. The western regional study pinpointed several foods popular in the lowest economic classes which might qualify for fortification or improved genetic seed development. Similarly, specific widely consumed condiments emerge as potential carriers of better nutrition to the lower classes.

The industry group has just inaugurated an institutional advertising campaign to create greater public awareness of the nutrition problem and receptivity to new foods being developed by individual firms. Twenty-seven new beneficial products are under development, being market tested or are being sold.

The government's response to the initiatives of industry has in general been positive, if belated. Throughout 1969, a joint government-industry committee conducted hearings into problems of the food processing companies with an eye toward meeting industry needs for food standards, more flexible licensing procedures and possible incentives.

A third element of India's nutrition effort is the school and preschool child feeding program. Sizable numbers of children were reached for the first time during the Bihar famine, and the visible effect of the feeding on the youngsters was dramatic.

Today, 17 million Indian children receive a regular meal. This often includes Bal Ahar (child's food), a lowcost, locally produced, nutritious blend of donated American wheat and inexpensive Indian oilseed protein. After a stumbling start, production of 100 million pounds of Bal Ahar is scheduled this year.

A lately added dimension to the Indian experiment is nutrition education. Mass media are employed, with commercial advertising agencies assisting. Efforts are made to avoid the earnest "four food groups" cliches of the standard nutrition posters and to use appeals playing on universal values. (One theme proposed for mass media transmission: "Mother, love is not enough.") Adventure comic books with a nutrition message have been distributed to millions of children who never before had been exposed to this medium.

Special efforts are being made to reach people where they regularly congregate. The government for example, is producing 10 movie shorts on nutrition to reach the millions of ardent Indian filmgoers. The Food Ministry is organizing a new information division which will carry the nutrition message to towns and villages via the mass media. To reach the unlettered, instruction for dietary improvement is being transmitted by All-India Radio through both community and private receivers.

Giving unified direction to these and other activities is an interministerial committee at cabinet secretary-level. This group last year developed an approach to nutrition which formed the basis of a chapter in India's fourth Five-Year Plan. Eighty million dollars has been budgeted for a nutrition program in the plan.

This catalogue of new starts is not intended to suggest that India's nutrition problems are under control. Massive logistical and cultural barriers stand in the way of reaching the neediest elements in the society. Obviously, one of the greatest constraints is sheer poverty. For all the growth accomplishments, it is easy to lose sight of the enormous shortage of resources of all kinds in countries afflicted with severe underdevelopment.

The possibility of reaching the targets of need is, however, greatly strengthened as a result of the experience to date. Of special significance is the matter of scale.

The necessity of working within the confines of overstrained health ministry budgets has inhibited nutrition experts in many countries from taking the kind of quantum jump now planned in India. Today, there are officials in New Delhi who are working on the premise that a massive attack on malnutrition could virtually eradicate major nutritional diseases, just as smallpox and malaria have been overcome in India and in much of the world. This is a scale of thinking perhaps never before envisioned.

SOCIOLOGICAL TERMS

Also of interest is the recognition in India that further expansion of the nutrition program hinges not so much on answers to medical problems as on answers to social science problems. Nutrition need has raised basic questions about income distribution, resource allocation and the nutritional implications of agricultural policy.

A few government leaders are beginning to think of nutrition in terms of the increased productivity of the properly nourished man; the added contribution of a child with full mental and physical capacities; the costs of malnutrition through waste in bearing and rearing children destined for early death or through relief for those whose productive years are curtailed; the implications of better nutrition for family planning.

The relationship between nutrition and population growth is particularly intriguing. It is now being suggested that better nutrition can increase the survival rate of children and in the process induce parents in traditional societies to accept the idea of conceiving fewer children.

The Indian experience is significant for its scientific achievements and applications of technology. Perhaps more important are the underlying reasons these programs have been taken up and the innovative approaches employed in implementing them.

Their adoption reflects serious thought for the first time to the developmental ramifica-

tions of malnutrition, to the economic dimensions of the problem, to the vote-getting appeal of nutrition in a democracy, to national planning implications and to evaluating alternate cost solutions.

TOCQUEVILLE'S AMERICA

Mr. KENNEDY. Mr. President, in 1831, America was visited by a Frenchman of extraordinary perception, Alexis de Tocqueville, whose travels in what was then our new Nation formed the background and experience for the lasting insights in his classic work "Democracy in America." Although he wrote more than a century ago, many of Tocqueville's perceptions about our Nation are entirely relevant today.

Last week, in an excellent documentary television program produced by the Canadian Broadcasting Corp., Tocqueville's words were portrayed against the settings of the America of 1970. In the course of the broadcast, some of Tocqueville's most celebrated observations about America—observations on issues like war, the frontier spirit, and race—were considered, and discussed by a number of distinguished contemporary Americans, including three of our colleagues, Senator HUGH SCOTT, Senator EUGENE MCCARTHY, Senator VANCE HARTKE, and Floyd McKissick as well as taped comments by the late Senator Everett Dirksen.

I believe that this remarkable discussion of America will be of interest to all of us, and I ask unanimous consent that a transcript of the broadcast be printed in the RECORD.

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

CANADIAN BROADCASTING CORPORATION CHANNEL 26—TOCQUEVILLE'S AMERICA

(Liberty Bell.)

(Sailing ship in New York Harbour.)

NARRATOR. This is America. In 1831, a young French aristocrat named Alexis de Tocqueville crossed the Atlantic to visit America. He wanted to see the future of a changing world.

(Ship's figurehead.)

TOCQUEVILLE. I confess that in America I saw more than America. I looked for the image of democracy itself, with its inclinations, its character, its prejudices and its passions, in order to learn what we have to fear or to hope from the progress of democracy.

(Two figures on deck.)

(Portrait of Tocqueville.)

NARRATOR. Tocqueville wanted to see the future of his world.

(Sailing ship against skyscrapers in New York Harbour—New York Skyline.)

NARRATOR. For America was once the scene of a great new experiment in equality. But that was many years ago. The land where democracy was once new is now the oldest democracy in the world. But if Tocqueville returned to America today, he might still see the future of the world, for better or for worse, here in America.

(New York Harbour in 19th century.)

The month of May, 1831. This growing town is New York City. Two-hundred-thousand people live here. Across the clear, fresh water of the East River we are looking at Manhattan, and beyond, the green hills of New Jersey. New York is a city of churches, newspapers and banks. But of all the buildings which Tocqueville saw, only three still stand.

(Modern New York Harbour—New York Skyline.)

NARRATOR. These modern skyscrapers are built on a political framework almost two centuries old.

The United States of America is the newest country in the world in science and technology, and the oldest country in the world constitutionally.

That is why Tocquaville's great book on *Democracy in America* still has the power to astonish and instruct, to make us humble, to make us hope: to call on a new world to make the old world new.

TOCQUEVILLE. New York is a city of bustel and business. The profound passion of all Americans is to get rich. There are a thousand ways of acquiring money, and any kind of trade is regarded as honourable.

Sometimes, however, Americans try to get rich too quickly, and so in America you don't say anything offensive about bankrupts, because nearly all the rich people I met have been bankrupt themselves at one time or another.

(Old New York Street—Church steeple.)

And, of course, you can never tell how much money a man has by the way he dresses.

(Old New York City Hall.)

Above all, in America I am struck by the general appearance of outward equality.

(Crowds in Wall Street.)

NARRATOR. The crowds in Wall Street are sober, ambitious, anxious, and competitive.

(New York hamburger stand.)

An American is always on the lookout for fear his neighbours get the better of him.

Everyone agrees that if a hundred Americans were going to be shot, they would argue about who's going to be first, so strong is the habit of competition.

(Embracing couple.)

TOCQUEVILLE. Manners are open, free and easy.

(Black face.)

But the presence of the blacks on American soil will, in my opinion, prove disastrous.

(Accusing white girl's face.)

(Paddle steamer and sailboat in harbour.)

NARRATOR. By sailboat and by steamboat—by stage coach and on horseback—Tocqueville journeyed eight-thousand miles through the America of the 1830's. From free-New England, to the slave-owning South. From the Indian territories of the frontier, to the plantations of Louisiana.

(19th century Albany Harbour.)

When Tocqueville visited Albany, the political capital of the State of New York, it was a thriving town of twenty-five-hundred people.

(19th century Albany skyline.)

(Albany family by river.)

TOCQUEVILLE. There, on the morning of July the Fourth, 1831, I joined in the Fourth of July celebrations.

(Cannon fires.)

(Chatham, Mass., 4th July Parade.)

Voice over (Declaration of Independence): When, in the course of human events, it becomes necessary for one people to dissolve the political bonds which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent . . . .

(Eugene McCarthy in crowd.)

TOCQUEVILLE. In this return of an entire people toward the memories of its birth, there is something deeply felt and truly great.

(Parade.)

MCCARTHY voice over: When I was young, there was much more emphasis simply on patriotism, and stories and so on. We'd have a patriotic float.

MCCARTHY on camera: Thirty years ago, everyone pretty much stayed at home, and we didn't have as many other distracting celebrations as we have now. And I think probably World War II was kind of a watershed, too, because from that time on, our problems became so much more complicated, and reached so much farther around the world, that the simple question of Independence began to be much less important.

(McCarthy at ball game.)

NARRATOR. The question of Independence is no longer simple, but the annual celebration of Independence is the celebration of the birth of equality as a national ideal.

(McCarthy shakes hands with ball player.)

TOCQUEVILLE. The rich must sacrifice their pride and shake hands with the poor to gain political power.

They must be polite to everybody, for every body has political rights. Extreme quality in social relationships is what strikes me most in America.

(P.A. introduces McCarthy.)

(McCarthy throws ball.)

People all seem to wear the same clothes. All the classes seem to be intermingled. The most important protection for American liberty lies in the manners of democracy—the customs—the habits of the heart.

(McCarthy hands ball to boy—freeze.)

(Lantern-decorated boats on lake.)

NARRATOR. The belief that equality, democracy and brotherhood will make everybody happy: this belief is the basis of the American dream.

(Room in Independence Hall, Philadelphia.)

Independence Hall in Philadelphia. Tocqueville visited this room, where the continuing revolution was set in motion: the room where Thomas Jefferson set forth the words of the American dream: inspiring . . . disturbing . . . accusing.

VOICE over: We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men deriving their just powers from the consent of the governed. . . .

TOCQUEVILLE. The sovereignty of the people became the law of laws.

(Book on table.)

The people reign in America as God does in the Universe. The people are the cause and the aim of all things—everything comes from, and everything is absorbed in, the people.

(Independence Hall.)

I could not help thinking how different from France.

(Gardens at Fontainebleau, France.)

The French Revolution led to Napoleon Bonaparte, who ruled as Emperor until he was finally forced to abdicate.

(Statue George Washington.)

The American Revolution led to George Washington, who peacefully retired to his farm at Mount Vernon, and was followed by an orderly succession of constitutional Presidents.

(George Washington's farm at Mount Vernon.)

(Erie Canal.)

TOCQUEVILLE. In July 1831, I started west on the Erie Canal, through the wilderness and on to the territory of Michigan.

(Tow rope over canal.)

(Mules towing barge.)

I wished to see the great fact of America, which is the presence of the frontier, which has helped to shape the American character.

(Farmer clearing land.)

The pioneer intends to civilize the wilderness. He clears the land.

(Log cabin.)

He puts up buildings.

(Fence.)

He makes fences. He has no intention of living on the frontier like an ignorant peasant.

(Pig foraging around cabin.)

His log cabin is an ark of civilization.

(Interior of log cabin.)
(Bible.)
In it are an axe, a Bible, Milton, Shakespeare and some newspapers.
(Oil lamp.)
(Newspaper on chair.)
(Canal.)
DIRKSEN voice over: In his day, of course, people began to go through the Allegheny and the Appalachian passes.
DIRKSEN on camera: They went out across the Prairies of Ohio and Indiana, and Illinois. And they built themselves with their hard hands into the roads, into the bridges. I can think of my mother coming from overseas as a girl.
(New York in winter.)
DIRKSEN voice over: But with her own hands going out to help build a church . . . first thing they wanted to do out in the town where the taproot of my family is still in existence, and where that church that she helped to build is still there.
DIRKSEN on camera: But you see, life was rugged, and they worked a good deal harder.
Now, life has become simpler. It's become somewhat mechanized, it has become very pleasant indeed. So it's not identified with the disappearance of the land as such. But frankly, there is an essential character in the American people that fully understands. So even though we get away from the pristine ruggedness of the frontier life, we have other fields to conquer. Well let me give you an example that is so very current. Who could have worked harder, who could have endured more, who could exhibit greater courage and daring, than the three men who got in that capsule and finally landed on the moon two-hundred and forty-eight thousand miles away?
If that isn't an exemplification of character and courage, then of course I've never seen it.
(Spacemen drifting into van.)
DIRKSEN voice over: Their families had to be willing to surrender them. And they had to be willing to undertake this project. Otherwise it couldn't have been done.
They knew the hazards. They knew the risks that were involved. So that's another way of saying why there are new frontiers.
(Herons.)
You see the frontier is up. Heretofore the frontier was horizontal. It was in a single plane—going east and going west; going north up to the Hudson Bay country; going south. But now the frontier closed on itself when the explorers got to the Pacific.
DIRKSEN on camera: Then you had two strange forces. You had, first, what I call a centrifugal force, that hurls things away from a common center. That's the force that picked up families and individuals, and spewed them out through these mountainous passes, until they got to the Pacific.
And then came the other force. The physicist calls that a centripetal force. It doesn't hurl things away from a common center . . .
(Industrial Philadelphia.)
DIRKSEN voice over: It hurls things into a common center. And it begins to pick up these families and individuals and gradually threw them into beehives. And out of that you get the strange geographic development of great megalopolitan centers: New York, Chicago, Philadelphia, Toronto, Montreal, San Francisco, Los Angeles.
DIRKSEN on camera: You see, we developed a balanced civilization out of those two forces. And so, all that at the end of the pioneer stage.
(Heron; vertical space craft.)
DIRKSEN voice over: So what fields to conquer now? And on what horizons to hold the eye? Well, it's up, and it's down, in addition to some other frontiers in the horizontal plane.
(Industrial Philadelphia.)
DIRKSEN on camera: And those, of course, will tax the courage, and the competence, and the understanding, and the ability, and the persistence . . . that's a great quality . . . the *persistence*, of the human race.
(Barges on Erie Canal.)
NARRATOR. In 1831, the line of the Frontier was moving westward at the rate of about seventeen miles a year.
TOCQUEVILLE.—The American frontier is the guarantee of order, for men who feel themselves ill at ease can always move to the West.
(Detroit Harbour.)
NARRATOR. When Tocqueville passed through the frontier town of Detroit, it had less than three-thousand inhabitants.
(Mini-Chicago.)
And Chicago was only a few log cabins in the middle of the prairie wilderness.
(Travel up canal.)
TOCQUEVILLE. In my judgment, the existence of the frontier is essential to the spirit of Democracy.
Senator MCCARTHY voice over. I think one would probably have concurred in de Tocqueville's judgment back in 1830 or 35.
MCCARTHY on camera. But I don't think it really marks the character of democracy necessarily, I don't think his judgment would have to prevail at all times.
The challenge I think within the cities, or the movement from the rural areas to the cities, tends to contradict his position, and the fact is that much of that movement was really a movement away from democracy to the kind of isolation, the kind of independence. What those people did, in fact, was to set up kind of baronies as they moved into the west, and I don't see it as essential to democracy. I don't know whether we are adjusting very well to the complications and congestions of urban society, but I don't see the need of open space and farms and so on, as a condition to the working of democracy . . . This is probably one of the judgments about democracy de Tocqueville made which I think has least real validity, and not just with reference to this country, but in the historical test of democracy.
(Wilderness.)
MCCARTHY voice over: It's a somewhat more sophisticated kind of democracy than that which simply says, we'll go westward, or we'll cross the ocean. It has to be an opening up . . . there has to be, I think, a frontier, and the people wanting to improve their economic condition, or their social position, or their culture, whatever it may be. You can't have a static democracy.
(NASA construction building.)
(Herons.)
But I don't think it means it has to be physical; it doesn't have to be new space and new land. And it doesn't have to be a scientific achievement that has no real consequence for most people.
(Vertical spacecraft.)
I don't think it can be vicarious, principally, as I think the moon shot is.
Senator HUGH SCOTT voice over: I believe the frontier spirit still exists in the United States.
SCOTT on camera: I believe that we still have some overlap of the ancient method of acquiring things, by force and violence. An active, aggressive people always has to remember the components of discipline, and we are still fighting that battle within ourselves. I think by and large we are succeeding. We have subdued the atom, only to find that it is both enemy and friend.
SCOTT voice over: We have achieved great wonders in putting together what we proudly call a civilization, but we have some shameful spots upon it. There is an old saying that unless above himself he can erect himself, how mean a thing is man!
(Industrial Philadelphia.)
NARRATOR. The moving frontier has stopped at last, and men who feel themselves ill at ease can no longer move to the west.
(Urban sprawl.)
The frontier as Tocqueville's guarantee of order is no longer the great fact of America. *This* is the great fact of today's America.
(Suspension bridge.)
(Philadelphia slum.)
But the frontier helped to make the American character, and that character is still with us . . . marked by the frontier . . . marked by violence . . . marked by waste . . . marked by a sense that things need not be made to last, for after all, there are always fresh fields over the horizon.
(Sourly man under tree.)
(Moving train.)
(Philadelphia slum street.)
(Sourly man under tree.)
Now the horizons are closed—and the courage and initiative of the pioneers are needed now much closer to home.
(Train passing—ancient street.)
(Pioneer woman spinning.)
TOCQUEVILLE. To understand American society, you must understand American woman.
(Pioneer woman.)
(Pioneer woman weaving.)
(Old street.)
She has scarcely ceased to be a child when she already thinks for herself, speaks with freedom, and acts on her own impulse.
(Pioneer woman candle dipping.)
She makes her own home with her own hands.
She is full of reliance on her own strength, and her confidence seems to be shared by all around her.
(Old street.)
(Young pioneer women.)
I have nowhere seen women occupying a loftier position. I attribute the prosperity and growing strength of the Americans mainly to the superiority of their women.
(Modern girl reclining on grass with boyfriend and flags.)
(19th Century Washington.)
This is Washington—as I saw it. A town of twenty-thousand people.
(White House.)
(Blue Room in White House.)
I was taken directly to the White House and shown into this room.
The White House is a modest residence, in keeping with a democratic society.
There were no guards, no footmen. I found that anyone could receive an invitation to a White House party simply by leaving a card.
(Portrait Andrew Jackson.)
I was then introduced to General Andrew Jackson, the seventh President of the United States, and the first President to come from the Frontier.
(Battle of New Orleans—several battle scenes.)
General Jackson's great fame is to have won the Battle of New Orleans against the English. He is an energetic man, prone by nature and habit to the use of force.
(Portrait young Jackson.)
NARRATOR. Yes, Old Hickory rewarded his friends and punished his enemies. He had just fired his entire Cabinet, and was about to destroy the nation's greatest bank.
He was the first President to exercise the full powers of the Office.
But eight years as President left their mark.
(Weary-looking Jackson.)
The man in the White House now holds the toughest job in the world. The President of the United States is not only leader of his party, but leader of the Nation.
(American soliders on beach.)
He is also the real Commander in Chief of the armed forces—the actual head of the armies when the democracy is at war.
And he is responsible with the advice of the Senate, for trying to devise a sensible foreign policy.
(White House.)
TOCQUEVILLE. But good sense is not always enough in dealing with foreign nations.

Foreign policy needs the perfect use of two qualities in which democracy is deficient: secrecy, and patience.

(Equestrian statue.)

(American soldiers on beach.)

I foresee there are two things that a democratic people will always find very difficult—to begin a war, and to end a war.

(McCarthy on camera.)

I think he's wrong about war; certainly he's half right. It's hard for us to get out of wars. But not hard for us to get in.

We've been able to get into wars pretty quickly in this country really throughout our history: 1812, and the Mexican War, and the Civil War, and the Spanish-American War. And in the case of World War I we didn't get into it very quickly, but it was largely because we couldn't get there I think.

And World War II, we would have gotten into it, but we weren't ready for it. Once we've been ready, we've been ready for war since the end of World War II. And since Korea; we get into it before we know it.

We got into Cuba, the Dominican Republic, and into Viet Nam.

(American soldiers in field.)

(McCarthy on camera.)

The problem of getting out, whether it's part of democracy or the condition of the kinds of wars we now fight, I couldn't quite determine, but I'd say he's right in saying we have trouble getting out, but not much trouble getting in.

Senator SCOTT (tanks) voice over. Well here of course, de Tocqueville was right.

(Scott on camera.)

In a democratic society the consequences when one enters into a war, usually for motives of the highest idealism, are never fully apparent and have never been adequately debated. We either enter by surprise attack, as at Pearl Harbour, or we enter to support and uphold what we feel are our principles of freedom. And we often find that we have bitten off more than we can chew.

You remember that Lord Macaulay also commented on our Constitution, that it was all sail and no anchor. I think he had in mind the same principle, that a democracy finds it hard to conduct foreign policy because of our division of powers, executive, legislative, judicial—because of the contest between Congress and the Executive, the fear that the Executive may move too fast, too far.

(Khrushchev meets Eisenhower.)

TOCQUEVILLE. There are at the present time two great nations in the world which started from different points, but seem to tend towards the same end . . . the Americans, and the Russians.

Their courses are not the same, yet each of them seems marked out by the will of heaven to sway the destinies of half the globe.

(Khrushchev meets Kennedy.)

(Senator SCOTT voice over.) Yes, de Tocqueville said in time the Russians and the Americans will become the two great powers in the world.

And he said, one is built upon the plowshare, and the other upon the sword—one upon freedom, the other upon servitude; that both, when they finally reach their natural frontiers will remain as the last two great powers in opposition to each other. He was right. He was startlingly right.

(White House.)

NARRATOR. But Tocqueville saw that even in America, whose ideal is freedom, there may be servitude.

(New York City Hall.)

To the Tyranny of the Majority. The man in the street says: You can't fight City Hall! And Americans know that even an *elected* master can be a tyrant.

TOCQUEVILLE. The people shake off their state of dependence just long enough to select their masters, and then fall back into it again. It is the majority that holds the end of the chain.

(Row of parked cars.)

NARRATOR. It is the majority that decrees that it's un-American to be different.

(Bobby Kennedy shakes hands.)

TOCQUEVILLE. In America, politicans praise and appeal to the people so that they can exercise the rights of the majority to their own advantage.

(Humphrey shakes hands.)

(Nixon shakes hands.)

In America, faith in public opinion becomes a kind of religion, and the majority is its ministering prophet.

(Capitol building.)

NARRATOR. The President quotes public opinion polls to prove that he is supported by the majority, and therefore right.

The issue can be raised that the losing minority has the moral obligation, not only to go along but to go quietly.

Senator MCCARTHY on camera. It's been raised with reference to the opposition to the war in Viet Nam. Some of the students who supported me, within the last month or two, went to the White House to talk to one of the Presidential advisors, and he said, "Well, you shouldn't be protesting this war. You lost the election!"

(Riots.)

NARRATOR. "You lost the election." The majority feels that the decision has been made, and the losers should say no more.

But the losers often have a lot to say, about the decision and about the attitude of the majority.

Senator DIRKSEN on camera. I often thought of it as the arrogance of the majority. And I remember even now in the debates on the Floor of the House of Representatives, with this great host of New Deal people on one side of the aisle, and us handful of Republicans on the other. And they used to look across and gloat and taunt us, and say, "It's our inning now. Just lie down and behave. Subside. We're running the show."

You see, we thought there would be a safeguard in two terms, as exemplified by George Washington. But there were three terms, and there were four terms. And you see, that way, a party finally feels when it's in the majority, that it owns the country, and it wants to do as it pleases. Therein is where you can find the tyranny.

(Demonstrations and riots.)

NARRATOR. You can also find the tyranny in the attitude of a minority, so sure that it is morally right, that it acts to prevent the will of the majority from prevailing.

(Demonstrations.)

(Crowds on Wall Street.)

TOCQUEVILLE. The public among a democratic people has a singular power, for it does not persuade others to its beliefs, but it imposes them and makes them permeate the thinking of everyone by a sort of enormous pressure of the mind of all upon the mind of each.

That's the tyranny of the majority.

NARRATOR. But even the enormous pressure of the majority only goes so far. Eventually another pressure rises—the wish to be free.

(Liberty Bell.)

Senator DIRKSEN. You see, that man was born to be free.

That is innate. That is instinctive. And government goes just so far, and the minute it poaches upon that delicate fabric of freedom, then watch out, because they are going to be pushed back. And that's been the history of the country.

(Statue John Marshall.)

TOCQUEVILLE. While in Washington, I also visited the Supreme Court, then led by its great Chief Justice, John Marshall, who, for the first time, established the power of the Court as the great check upon the power of the President and of the Congress. The peace, the prosperity, and the very existence of the Union are placed in the hands of those Federal Judges.

(John Marshall.)

(Supreme Court Judges.)

Senator MCCARTHY VOICE OVER. It is the critical point, I think, the ultimate testing of the whole structure of American Government. My feeling has been that those who are in more active areas of politics, the Executive Branch, the Congress, have to be very careful not to put too great a burden on the Court for difficult and hard decisions.

MCCARTHY on camera. I think we were remiss and slow on acting on civil rights in the Congress, the Executive Branch of the government, to the point where the court finally made the hard decisions when there was really no administrative machinery and very little in the way of procedure whereby their determinations would have to be carried out.

(Supreme Court courtroom.)

TOCQUEVILLE. If the Supreme Court is ever composed of imprudent or bad men, the Union may be plunged into anarchy or civil war.

NARRATOR. In this room, just over a hundred years ago, the Supreme Court ruled in the Dred Scott case that Congress had acted unconstitutionally in prohibiting slavery in the Western Territories. Many felt this decision was either imprudent or bad, so the great question was whether it could be changed.

(Eagle.)

Senator DIRKSEN. There was a fear in the country, and perchance there may have been a fear in the Congress, that you could not quarrel with a Supreme Court decision. But Abraham Lincoln quarreled with it because in the Dred Scott decision, you may remember, he said, "I do not concur in the decision of the Court, but I do respect it." And it can be changed. It took a war to change it. It took a lot of blood to change some decisions.

(Abraham Lincoln portrait.)

(Photos Gettysburg battlefield.)

(Gettysburg battlefield today.)

And so we see today, a hundred years later, some of the fruits of what happened at that time.

TOCQUEVILLE. If ever America undergoes great revolutions, they will be brought about by the presence of the black race. That is, they will be due, not to equality, but to inequality.

(Mississippi River, barge, fishing boat.)

NARRATOR. Now Tocqueville sailed down the Mississippi to see the slave-owning South.

In this land of democracy, the Southern slave owners thought of themselves as aristocrats and gentlemen of culture and civilization. Slavery was a crime and a calamity, but Tocqueville, who saw it, did not particularly blame the South for it.

(Rosedown plantation house gardens.)

(Slave quarters.)

TOCQUEVILLE. My indignation is not directed to the men of our time who are the instruments of these outrages. I reserve my execration for those slave traders who brought back slavery into the world after a thousand years of freedom.

(Interior slave cabin.)

The Southerners who do not believe that the Negroes can ever be co-mingled with themselves have forbidden them to be taught to read or write under penalty of death.

(Black boy and man.)

Since they will not raise them to their own level, they sink them as nearly as possible to that of brutes.

(Black man.)

(Black boy.)

Slavery not only degrades the blacks, but also the whites.

There are but two chances for the future: the Negroes and the whites must either wholly part, or wholly mingle.

(Rosedown drive.)

(Interior dining room rosedown.)

A dictator might subject Southerners and their former slaves to the same yoke, and succeed in co-mingling them. But so long as American democracy remains, no one will undertake so difficult a task. So that the freer the black population becomes, the more isolated it will remain.

(Black boy pulling punka.)

(Rosedown drive.)

(Mississippi River.)

When I look at the South, I see only two possibilities: either to emancipate the Negroes and to intermingle with them, or to remain isolated from them to keep them in slavery as long as possible. All intermediate measures seem to me to end, perhaps soon, in the most horrible of Civil Wars, and perhaps in the extermination of one or the other of the two races.

(Cajun Cemetery.)

(Mississippi paddle steamer.)

NARRATOR. At the mouth of the Mississippi lay the busy semi-tropical port of New Orleans, part of the territory which the United States had recently purchased from Napoleon.

Here, in this cosmopolitan city of mixed cultures, mixed languages, and mixed people, Tocqueville attended the celebrated quadroon ball, where white gentlemen gave formal entertainments for their beautiful coffee-colored concubines.

(19th Century New Orleans Harbor.)

(Cathedral of New Orleans.)

(Carriage wheels pass along cobbled street.)

(Black profile.)

(Smiling black girl.)

(New Orleans ballroom.)

TOCQUEVILLE. Immorality has created the single tie between the two races. Everywhere else slavery develops those deep-seated prejudices that outlive slavery itself.

FLOYD MCKISSICK. De Tocqueville perceived the system of slavery as having developed new kinds of prejudice not heretofore known in European society. And he described them as these prejudices which grow out of slavery which will always be with us because this form of slavery existed. And they were, one; prejudice against the individual; prejudice against a race; and prejudice because of color. And that a black man would always suffer, be the victim of these prejudices and be tormented by them, even though so-called freedom, liberation, would come.

George Washington Statue; dancing black man.

NARRATOR. In New York City, a so-called free black man dances at the foot of George Washington's statue for coins that passers-by throw to him.

(Watching crowd.) (Dancing black.)

TOCQUEVILLE. The tradition of slavery dishonours the race, and the peculiarity of the race perpetuates the tradition of slavery. Thus, the Negro transmits the eternal mark of his humiliation to all his descendants, and although the law may abolish slavery, God alone can obliterate the traces of its existence. The danger of a conflict between black and white haunts the imagination of Americans like a painful dream, especially in the south.

FLOYD MCKISSICK. The Southerner had a tremendous amount of fear, and his fear was with the fact that sooner or later he would have to deal with the problem of the black man.

Either he would have to continue to keep him in slavery, or else he would have to co-mingle. And the South had primarily made up its mind that they would never co-mingle. And by co-mingling, he also used the word inter-mixture.

(Black ghetto.)

And he said the North had already decided that there would be no inter-mixture. And even in the North where people were free to marry and do anything they wanted to, even whites ostracised other whites who even showed an affinity toward black people. And he could not see where inter-marriage would become a wholesale thing or acceptable. And, of course, I think that today the situation has changed merely by degrees, and the basic general assumption of de Tocqueville still applies.

Then he attempted to dissect the problem. He said, as I look at the Northern part of the United States, there's far more prejudice, in the Northern part of the United States than in the Southern part of the United States. He said, I say this because of the attitude of the North, is that we shall not associate with the blacks in any respect whatsoever.

NELKE EMANON. You know that here in New York, for instance, you know that you can go anywhere, but they have here what is known as the invisible prejudice and segregation. You go there, they don't say that you can't come in, but once you go there you can feel the vibrations that you aren't really wanted.

Now in the South, I've found you know where to go, and I'm not going to say some of my best friends are white, because I have . . . like a friend of mine, he's a white fellow I was raised with. Now I knew where to go there. I respected my brother, my white brother there, because he told me, in this way, we don't want you here, but you find more black millionaires in the South than you do in the North East.

(Black Ghetto.)

TOCQUEVILLE. The inhabitants of the North constantly talk about the dangers of a black and white conflict. They devise means of averting the misfortunes which they foresee. In those parts of the United States where Negroes are not slaves, they are no nearer whites. On the contrary, the prejudice of race appears to be stronger in states that have abolished slavery than in those where it exists. And nowhere is it so intolerant as in the states that never had slavery.

(Black boy on statue; black boys playing in fountain.)

The lower ranks which inhabit these great cities constitute a rabble even more formidable than the population of European towns. They consist in the first place of free black who are condemned by the laws and by public opinion to a hereditary state of misery and degradation. I venture to predict that the cities will perish unless the government succeeds in creating an armed force which, though it remains under the control of the majority, will be independent of the city population and able to suppress its excesses.

(Ghetto slum.)

(Imperiale force car patrol.)

Narrator. Tocqueville says 'armed force' under the majority should control the cities, but some say private armed forces are needed.

(Councilman Antony Imperiale.) After the riots of 1967 we just about had the nonsense we've been plagued with throughout our country, especially here in the City of Newark. We had the loss of a policeman, and the loss of a fireman killed in the line of duty . . . made a lot of us mad.

We didn't like what was going on in our City Hall—radicals tearing it apart. So we formed the North Ward Citizens' Committee of which I was the founder. We got the community involved in knowing what is going on around us.

(Citizens' patrol.)

Since we were 260 policemen at that time short, we organized a Citizens' Patrol which consists of radio-equipped cars, three to four men to a car, with our base unit here, which will patrol the entire area here.

We wanted to look out for those who may contemplate coming in to loot or burn, mug our women, children, harass old people—shoplifters, pocketbook-snatchers.

It got to be that our community of people couldn't go to church no more, and we were tired of it. So we formed the organization with Karate instructions, judo instructions for men, women and children.

We formed rifle squads, and as you are well aware, if there was a breakdown of law and order, under the Constitution we have the right to bear arms to protect our property, life and limb. I make no bones about it, and I told our people, that if anyone came to our community to burn our homes, hurt our families, shoot and shoot to kill.

(Force enter headquarters.)

TOCQUEVILLE. I am obliged to confess that I do not regard abolition of slavery as a means of warding off the struggle of the two races. The Negroes may long remain slaves without complaining; but if they are once raised to the level of freemen, they will soon revolt at being deprived of almost all their civil rights, and as they cannot become equals of the whites, they will speedily show themselves enemies.

(Armoured tanks.)

(Riots.)

Senator SCOTT. De Tocqueville had a major premise that the blacks might revolt, because they would become aware of the fact that they could never become equal to the white race. There was the fault, or the crevice, in his reasoning. Our obligation, our duty, our long delayed responsibility, has been to bring about the promised equality.

In Mr. Jefferson's statements, and in our Constitution and Bill of Rights, between all our people, black and white, this is what is in progress now. And someone has said that no condition is so unstable as when it is improving.

And while it is improving here, as indeed it is, and while the opportunities of black men and women are immensely advancing, nevertheless they are bound to see that there are mountains ahead. They have not reached a plateau of equality, and therefore the revolution of rising aspirations that Adlai Stevenson referred to is very much going on apace.

These are difficult times, and these times are accompanied by threats, by violence, by student unrest, by all of these things. But they are so because things are better, and not because things are worse.

(Black and white youth.)

College student JUDY BRUCE. I think we are moving toward integration, but really in convulsive leaps. The white and black people of this nation haven't had a common heritage at all. The black culture has often been one of default. The black man's food, or soul food, is what the white man wouldn't eat, and he has always been portrayed as what the white man isn't.

Now in our youth culture, popular culture and music, there is a merging of heritages. There is a common experience. You can't have a common heritage without a common experience.

In the final analysis, I think intermarriage is the only way to really solve the problem of racial conflict, because people must make a common heritage between black and white within their families. Now I think this will come about very slowly. In any social revolution, when the horizon is in view, change takes place exponentially.

But until that point, I don't really have great faith. I have no patience with people who find this violence ugly. It's ugly, but it also exciting, and it's very American. We have public convulsions, and we are being honest and direct, and it's raw and basically it has a kind of beauty for me.

(Jazz hall.)

TOCQUEVILLE. At any rate, the destiny of the American blacks is certainly interwoven with that of the whites. These two races are fastened to each other without intermingling, and they are alike unable to combine or entirely to separate.

(Punch Miller playing trumpet.)

Senator DIRKSEN. It's only, let us say, in the last twenty years that we have become definitely race-conscious all over the country.

Heretofore, there was a certain docility

among the black people, and there was a certain tolerance, up to a point, a rather paternal tolerance, on the part of the white people. Now obviously, living side by side, that couldn't last too long. Something had to give a little.

(Black ghetto.)

To be sure, I'm not arguing for a moment that we don't have ghettos, and we don't have slums, because we do.

(Blacks swimming in surf.)

But those can be cured in due time, and it takes a little while for that kind of adjustment, because when two separate races come together, so that they live together, that requires a tremendous amount of adjustment.

So you see, you have to live some generations before you ever get around to a solution to that problem.

But it will be solved in proportion as our tolerance develops. And that is developing, and that also comes out of an understanding heart. So perhaps that's a thing that Tocqueville did not foresee. Give it time, and it will heal itself.

NARRATOR. (Ploughman.) Perhaps Tocqueville did not foresee that there might be some hope of solving the dilemma of the blacks and the whites insolubly bound together on American soil. He tried to see America with a vision untouched by hopes or fears, and he tried to see the future of democracy as far as he could reasonably predict it. Perhaps if he returned today he would see something different, and perhaps he would be less pessimistic—and perhaps not.

(Canoe in American wilderness.)

(Crowds.)

Senator VANCE HARTKE. I think that if he were alive today he probably would be equally pessimistic, because a lot of people in the United States are pessimistic. A problem which we thought we had solved a hundred years ago has re-emerged in a new guise, and it's probably more dangerous than ever before, and the polarization of the races has been accelerating rather than decelerating.

But here again, the great challenge of America is the fact that we are attempting to meet a problem of this nature, and I suppose for all the world this question is going to be settled on the basis of what happens in the United States of America.

If we solve the race problem, then we will be the leaders in this field and lead the way for the rest of the world to solve it.

If we fail, and we may, but if we fail, then the rest of the world has much less to look forward to.

(Black family in surf; crowds; black boy and man; young crowds; ship's rigging against New York skyline.)

NARRATOR. Tocqueville originally came to America to see the future of his world. For better or for worse, Tocqueville might still today see the world's future in America.

(Girl in boat decorated with lanterns.)

TOCQUEVILLE. In my journey through America, I saw that human societies, like people, become worthwhile only through their use of liberty. It would seem as if the rulers of our time sought only to use men in order to make things great. I wish they would try a little more to make great men.

But I cling with a firmer hold to the belief that, for democratic nations to be virtuous and prosperous, they require but to will it.

(Water at might; vertical spacecraft.)

(Young couple in grass.)

(Young crowds.)

(Lantern-decorated boats on lake.)

The nations of our time cannot prevent the conditions of men from becoming equal, but it depends upon themselves whether the principle of equality is to lead them to wretchedness or to prosperity, to barbarism or to knowledge, to servitude or to freedom.

(Philadelphia; Independence Hall.)

(Liberty bell—closing door.)

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

CIVIL RIGHTS COMMISSION APPROPRIATIONS AUTHORIZATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the unfinished business.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The BILL CLERK. A bill (S. 2455) to authorize appropriations for the Civil Rights Commission, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time consumed not be charged against either side.

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

The clerk will call the roll.

The bill 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.

Mr. MANSFIELD. Mr. President, I yield the time under my control to the distinguished Senator from Michigan, so that he can control the time on his side.

I suggest the absence of a quorum, and I ask unanimous consent that no time be taken out of the bill.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Mr. President, is there a unanimous-consent agreement on the bill?

The PRESIDING OFFICER. There is a unanimous-consent agreement providing 1 hour on the bill, 1 hour debate on the McClellan amendment, and 20 minutes on all other amendments.

Mr. HART. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 5 minutes.

PRIVILEGE OF THE FLOOR

Mr. HART. Mr. President, I ask unanimous consent that staff members of the Committee on the Judiciary be permitted on the floor in excess of the usual number.

Mr. TYDINGS. Mr. President, would the Senator extend his request to include my legislative assistant?

Mr. HART. Mr. President, I ask unanimous consent that the legislative assistant of the Senator from Maryland, Mr. Daniel Lewis, be permitted to be on the floor during the discussion of the bill.

The PRESIDING OFFICER (Mr. MCINTYRE). Without objection, it is so ordered.

Mr. HART. Mr. President, the purpose of S. 2455 is to authorize appropriations for the Commission on Civil Rights not to exceed $3,400,000 for each fiscal year until expiration of the Commission on January 31, 1973. The bill also amends the Commission's statute to raise the per diem salary of Commission members from $75 to $100 a day and to enable the agency to pay consultants and experts up to $100 a day.

BACKGROUND

The Commission on Civil Rights was established in the Civil Rights Act of 1957. The present Chairman is Father Theodore M. Hesburgh, president of Notre Dame University, who has been a member of the Commission since his appointment by President Eisenhower in 1957. The Commission has issued over 40 major reports and studies with recommendations for legislative and executive action in the field of civil rights. Since 1967 the Commission has operated under an authorization of $2,650,000. As a result of this limitation, the Commission has had to absorb Federal pay increases and other cost increases from its operating budget. The proposed authorization increase of $750,000 is intended to restore the Commission to its 1968 operating level.

COMMITTEE ACTION

S. 2455 was reported favorably by the Subcommittee on Constitutional Rights. The Committee on the Judiciary raised the authorization by an additional $200,000 and ordered it reported by a vote of 12 to 5.

Mr. President, the role that has been played by the Commission on Civil Rights has been constructive and has been enormously helpful to the public in terms of understanding the nature of the problem of civil rights, a problem that is, perhaps, more basic in terms of our survival as a nation than any other.

It has been enormously helpful in permitting Congress to develop legislative responses, prudent responses, responses which, as exemplified in the 1965 Civil Rights Act, have increased enormously the confidence which minority groups in this country, black Americans, can take in the functioning of our Government.

There are many beneficial results that can be cited as flowing from the reports of this Commission over the years.

Mr. President, I hope that the Senate will approve the authorization which the committee recommends. I reserve the remainder of my time.

Mr. McCLELLAN. Mr. President, will the Senator yield me 5 minutes on the bill?

Mr. HRUSKA. Mr. President, I yield 5

minutes on the bill to the Senator from Arkansas.

Mr. McCLELLAN. Mr. President, we have a situation in which I want to work out a parliamentary problem.

I have an amendment at the desk that I had intended to call up, but there has been an agreement on a time limitation. I am sorry that it is partly my fault. I did not have time to read a message that was handed to me yesterday. I was told that the majority leader only wanted to know if I was ready and willing for the bill to be made the pending business today. I answered in the affirmative. I did not know then that it contained a time limitation of 1 hour on the amendment which I have at the desk.

I should now like, however, to call up my amendment but, in view of discussions I have had about it, I think that the amendment needs further study and refinement. In addition, I do not have time to present it. I should like to call up the amendment but substitute for it another amendment which would include only part of what is covered by the amendment that is now at the desk. However, if I do that, I understand that I would have only 20 minutes, 10 minutes on each side.

The PRESIDING OFFICER. The Senator is correct.

Mr. McCLELLAN. Mr. President, for that reason I want to undertake to bring about a parliamentary situation in which the limitation of time of 1 hour that has already been agreed to would apply to the substitute, and not call up the amendment, but present what would be a substitute for it and have an hour's limitation of time on the substitute.

I am trying to preserve an hour's time for debate. If I can get a unanimous-consent agreement to that effect, then I will not call up the amendment.

I am trying to lay the cards on the table, so to speak. If I can get a unanimous-consent agreement to that effect, I will not call up the amendment at the desk, but will offer an amendment to it as a substitute for it and let the hour's time limitation apply to that amendment.

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

Mr. McCLELLAN. I yield.

Mr. HART. The Senator from Nebraska and I are anxious to accommodate the Senator.

Do I understand that an amendment which had been filed will not be called up; and rather another amendment, not yet offered, will be called up, provided the 1-hour limitation is attached to the not-yet-offered and not-yet-filed amendment? Is that right?

Mr. McCLELLAN. That is what I am seeking to do. I am seeking to have that 1-hour limitation applied to this amendment which I would offer as a substitute. If I had offered it as a substitute, I would have 20 minutes.

I did not understand that I apparently agreed to the 1-hour time limitation. Apparently I did not understand the question presented to me. I thought it was only a question of whether it was all right to bring up the bill today. I think they are correct that in the memorandum or note sent to me they suggested the 1-hour time limitation, but I was presiding over an appropriation hearing, and I was in the process of interrogating witnesses before the hearing. I thought the substance of the note was whether it was all right with me to bring up the bill today, and I said that it was.

Now, we have this unanimous-consent agreement. I want to shift that unanimous-consent agreement to another amendment which, in effect, could be a substitute amendment for the amendment at the desk.

Mr. President, I ask unanimous consent that on the McClellan amendment the 1-hour time limitation, as agreed to by unanimous consent yesterday, now be applied to an amendment which I shall offer in lieu of the amendment that is now at the desk. I ask unanimous consent to that effect.

The PRESIDING OFFICER (Mr. McINTYRE). Is there objection?

Mr. HART. Mr. President, reserving the right to object, and I think I shall not object, it is my understanding that by entering into this agreement the Senator from Arkansas would be in the same position he would be in if, under the existing unanimous-consent agreement, we proceeded to the amendment already filed.

Mr. McCLELLAN. That is right. I want to use the 1-hour time limitation on this amendment.

Mr. HART. I would have no objection.

Mr. HRUSKA. No objection.

The PRESIDING OFFICER. Without objection, the request is agreed to. The Senator from Arkansas is recognized for 1 hour.

Mr. McCLELLAN. Mr. President, I thank my distinguished colleagues. We could work it out by different tactics, but I do not want to employ those tactics. I appreciate the unanimous-consent agreement.

Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Insert the following new section 4:

"SEC. 4. Subsection (e) of section 102 of the Civil Rights Act of 1957 (71 Stat. 634, as amended, 78 Stat. 249) is amended by inserting the following after the last period: 'If a report of the Commission tends to defame, degrade or incriminate any person, then the report shall be delivered to such person 30 days before the report shall be made public in order that such person may make a timely answer to the report. Each person so defamed, degraded or incriminated in such report may file with the Commission a verified answer to the report not later than twenty days after service of the report upon him. Upon a showing a good cause, the Commission may grant the person an extension of time within which to file such answer. Each answer shall plainly and concisely state the facts and law constituting the person's reply or defense to the charges or allegations contained in the report. Such answer shall be published as an appendix to the report. The right to answer within these time limitations and to have the answer annexed to the Commission report shall be limited only by the Commission's power to except from the answer such matter as it determines has been inserted scandalously, prejudiciously or unnecessarily.'"

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLELLAN. Mr. President, does the 1-hour agreement on time begin now?

The PRESIDING OFFICER. As of now.

Mr. McCLELLAN. I thank the Presiding Officer. I yield myself 19 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 10 minutes.

Mr. McCLELLAN. Mr. President, the amendment just reported merely assures that an individual defamed, degraded, or incriminated in a report of the Civil Rights Commission will have the right to "plainly and concisely state the facts and law" constituting his defense to the charges or allegations contained in a Commission report.

Under present law, such an individual has no right to have his side of the story included in the report made by the Commission. In short, my amendment would give the individual who has been defamed, degraded, or incriminated in the Commission's report the opportunity to be heard and nothing more—by having his answer—what he says in reply to it—what his answer is to the charges against him—annexed in the Commission report.

Mr. President, adoption of the amendment is the minimal step that the Senate should take to protect those named in Commission reports. I note that the Commission's recent Mexican-American report had included in it accusations of brutality against several police officers, among whom were two named Texas State Highway Patrol officers (Report at pp. 3–4, 24, 25–26, 29–30). Grand juries refused to indict either of these officers, but both of their names have now been published in a report of the Commission while neither officer has had an adequate opportunity to explain or to answer the criminal charges made against him, and to have it printed in the report itself. They may have made an answer in the Commission's hearings, but the report that goes to the public need not include it.

Where is the justice in this situation?

Is there not some more just way for the Commission to issue its reports?

There is, and the adoption of this amendment would provide at least the minimal protection for the individual by assuring him that at least his answers to charges or allegations contained in a Commission's report would be printed as an annex to that report.

It seems to me that we can do no less than agree to this amendment if we are to claim that consideration for the individual rights and civil liberties of our people is our paramount objective in establishing and supporting the Civil Rights Commission.

Mr. President, my amendment would not require a review by the courts as we did in title 1, the reporting provision

of S. 30, recently passed by this body. It will be remembered that we had in that bill a provision that the grand jury could not make a report on public officers except where the report was reviewed by a court and the officer degraded by the report had an opportunity to reply and have that reply published along with the report of the grand jury.

We give them that degree of protection in that act. Nevertheless, it will be remembered that a motion was made here on the floor of the Senate to strike those reporting provisions from title I of S. 30, passed here in January. Some felt that these reports were unfair even with these limitations. That motion to strike, however, was defeated by a rollcall of 59 to 13.

We provided safeguards for officers against whom a grand jury may report. We provided safeguards to protect officers or employees of the Government to give them an opportunity to have their side go before the public and to have it reviewed by a court to determine that there was a preponderance of the evidence supporting the charges or allegations made in the report.

Can a Civil Rights Commission that wants to deal with civil rights, or emphasize civil rights or civil liberties, equitably or conscientiously deny to individuals the right to protect their rights against the Civil Rights Commission itself?

Should we not allow them to have the right to speak in their own defense?

This proposal does not keep the Commission from reporting that officers are engaged in police brutality or that they are corrupt, or whatever the Commission wants to report, but it does compel the Commission to allow the accused to file with the Commission answers to the allegation made against them and have their defense published along with the report.

Are we setting the Commission up on a pedestal, where it can violate the civil liberties of others, in the process of its proceedings, supposedly designed to protect civil rights? I do not think we should do that, and here is an opportunity to make but a small correction in the law as it is today.

I hope my colleagues will see the wisdom of it. I hope the distinguished Senator managing the bill would find the amendment acceptable to him, because I know of his great interest in protecting the civil rights of the people in this country. I do not think that that interest should be limited or restricted or that there should be excluded from it and an exception made to it for the acts of the Civil Rights Commission when it sets out to make a report containing charges against an officer of malfeasance or with neglecting their office or with police brutality, while not giving that officer or individual, the right to have his answer, his defense, published right along with the report. This is necessary so that it will not be one sided, so that the public will get both sides and then it can be the judge of whether the officer was telling the truth or whether the report should be given the impact that the Commission would like to see it have had his answer not been there.

I do not see how a civil rights advocate can conscientiously oppose this amendment. It embraces every principle of equity, justice, right, civil liberty, and due process that all civil rights advocates should support.

Mr. HART. Mr. President, I yield myself 5 minutes.

Perhaps to a degree greater than that which attaches to any commission that the Congress has established, the Civil Rights Commission is under obligation to permit anyone who is defamed by testimony taken before it to come in and make a case in his defense on the record. It is true that that defense is not printed as a part of the published series of reports of the Commission, as the amendment of the Senator from Arkansas would require. However, as we begin this discussion, let us be clear on the fact that under existing law this Commission, unlike many others—indeed, it may be the only one—is required to offer the defamed person the opportunity in the hearing record to state his case. Counsel is permitted to have questions addressed to his client, the one allegedly defamed. All of that is a part of the hearing record.

The question before us, I think, is whether, in addition, it shall be required that in the reports from the Commission there be contained the statement of the person alleged to have been defamed.

Remember, these reports, unlike the hearing records, are, generally speaking, volumes which are developed for the guidance of Congress in developing legislation or the public in developing an understanding of the problems that the Commission, in its series of hearings, has identified.

I suggest, Mr. President, that Congress has already undertaken, in the case of the Civil Rights Commission's proceedings, to insure a greater degree of protection for individuals alleged to have been defamed than we have as to any other commission. The Civil Rights Commission is, in a sense, comparable to one of our own legislative committees. We have yet to suggest that the legislative committees give to an individual the degree of protection that we have already established shall be available to the individual in the case of the Civil Rights Commission.

The Civil Rights Commission is comparable, in many respects—certainly not all—to other agencies and commissions. I am sure that the Securities and Exchange Commission takes testimony in which individuals are subject to criticism, and who might be defamed. There is no requirement that the Commission in its reports shall publish separately the position of defense by the person alleged to be defamed. Indeed, I am not sure that, in the case of this and many other commissions, there is a requirement which attaches to the Civil Rights Commission that the Commission shall advise the individual of the alleged defamatory statement and give him the opportunity to present his case in the hearing record.

So my suggestion to the Senate would be that, while it may be desirable that all agencies of the Federal Government, and perhaps all committees of the Congress, consider the inclusion of the statement of a person alleged to have been defamed in its report, we not at this time, and without hearings, extend further the already substantial obligation that we have imposed on the Civil Rights Commission to give an allegedly defamed person an opportunity to be heard.

We have already said to the commission that certain safeguards shall be extended. Those safeguards go beyond the directive we have given, as far as I am aware, to any other agency or any other commission.

The Supreme Court, in two cases, has said that the commission was similar to other agencies and commissions.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HART. I yield myself 2 additional minutes.

In one sense the court was not correct, because, unlike the other agencies and commissions, the Civil Rights Commission is required to extend an opportunity to an allegedly defamed individual far beyond the requirements respecting any other commission, or at least any of which I am aware. If I am wrong, I shall be glad to be corrected.

I would suggest that, under existing practice, the obligations and burdens imposed on the Civil Rights Commission, extending as it does a degree of protection to an individual greater than we have provided as to any other agency or commission, now is adequate to safeguard the rights the Senator from Arkansas is concerned about. If it is thought prudent, that the printing of an individual statement be contained in the report, as distinguished from the transcript record of commission and agency hearings, then let us do it across the board.

I would suggest that we ought to do that only after a careful hearing, to see whether it is indeed a constructive, worthwhile, and prudent course of action. For this reason, Mr. President, I would suggest that the amendment not be agreed to, taking the position that the commission which it affects already carries a heavier burden and a clearer responsibility to protect the rights of an individual than any other commission or agency that we have ever established.

I reserve the remainder of the time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I yield myself 3 minutes.

My colleague speaks of the legislative process and notes that these hearings are out in public. They go out all over the country and hold them.

This is not just my complaint.

Let me read from a reaction of one member of a minority group.

I ask unanimous consent to have printed in the RECORD at this point the remarks of Representative GONZALEZ on May 26, which appear at pages 17003–4 of the CONGRESSIONAL RECORD.

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

QUESTIONS FOR THE COMMISSION ON CIVIL RIGHTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 10 minutes.

Mr. GONZALEZ. Mr. Speaker, it is the duty and the obligation of Government to inform

itself of injustice, and to seek ways and means of redressing just grievances. Because it is a fact that large numbers of our citizens are denied full and free access to the liberties most citizens take for granted, simply because these luckless ones are poor or ignorant or members of some ethnic minority, this Congress established the U.S. Commission on Civil Rights to investigate these grievances and assist in resolving them.

But the high expectations that I had for the Commission on Civil Rights reached a sad decline when I observed the operation of the Commission at close range. I do not know if the performance of the Commission in its San Antonio hearings in December 1968 is typical of that body's operations. I hope not, because if that performance is typical, the value of the whole operation is very much open to question.

I remember that the Committee on Un-American Activities used to be pilloried because it paid witnesses. But the same can be said of the Commission on Civil Rights, and I do not believe that if there is guilt on the one hand the same facts would lead to a conclusion of innocence on the other.

It is a fact that the Commission on Civil Rights hired a number of experts and consultants to help it prepare for its San Antonio hearings. A number of those same people who helped set up the hearings later appeared as witnesses before that hearing, but the Commission never identified these people as employees or former employees of the Commission. The hearings also heard from paid expert witnesses, who were paid consulting fees for their work in testifying, but these were not identified as paid witnesses at the hearing.

Mr. Speaker, there is a difference between a person who testifies out of his own motivation and a person who is paid to prepare testimony. There is a difference between being an employee one week and a witness the next. That difference is the same difference between an honest deal and a stacked deck.

I do not believe that the Commission on Civil Rights has any more right to stack the deck at its hearings, by direction or by indirection, than does any other agency of this Government.

I will make available to the House full details of this matter at a later date. For the moment, however. I ask you to read the account of this odd Commission practice as it appeared in the San Antonio Express and News last Saturday.

I stated at the time of the hearings that the Commission on Civil Rights had stacked the hearings, and that its report could have been written without having gone to the trouble of conducting hearings. I did not know at the time how right I was.

["From the San Antonio (Tex.) Express and News, May 23, 1970]

"WITNESSES WERE PAID

("By Kemper Diehl)

"A group of key witnesses who appeared at the U.S. Commission on Civil Rights hearings in San Antonio on Dec. 9–14, 1968, performed extensive services for the commission prior to the hearings for which they were paid amounts ranging from $50 to $75 a day, U.S. Rep. Henry B. Gonzalez disclosed Friday.

"Among those who received substantial payments for services were Rev. Ralph H. Ruiz, who gained nationwide headlines with an attack on FBI agents in his testimony, and Rev. Ed Krueger, formerly in the Valley Ministry of the Texas Council of Churches, who charged Texas Rangers with brutal treatment of striking farm workers there.

"Ruiz was paid $525 for seven days work, according to a commission report, and Krueger received $350 for a similar number of days.

"Largest sum paid to a South Texas witness for services prior to the hearings went to Mike V. Gonzales, Del Rio attorney, who criticized the administration of justice in cases involving Mexican-Americans. He received $1,575 for 21 days work.

"Others receiving fees as consultants or experts included Erasmo Andrade, recently defeated in a Democratic primary race against State Sen. Wayne Connally. He was paid $350 for seven days work.

"Andrade was not a witness.

"Raul Valdez, director of the Guadalupe Community Center, was paid $250 for five days work, but was not a witness. He was reported by the commission to have provided the commission with contacts with young people in San Antonio.

"A more recent recipient of Civil Rights Commission funds was Edward L. Holmes, recently defeated in a Democratic primary race for the legislature. He was paid $625 for 12½ days work during the 1970 fiscal year.

"Rep. Gonzalez took note of the explanation by the U.S. Commission on Civil Rights that it is not permitted under the law to 'utilize the resources of voluntary or uncompensated personnel . . .'

"But he took issue with the failure of the Commission to identify witnesses who had been employed prior to the hearing.

" 'This bears out what I said at the time,' declared Gonzalez, who had been critical of the selection of witnesses by commission staffers. I knew it was a hand-picked and predirected affair.'

"Gonzalez noted that the commission had engaged two witnesses in the role of paid, expert witnesses. These were Jack Forbes, Berkeley, Calif., who described Mexican-Americans as a 'conquered' population, and Alex Mercure of Albuquerque, N.M. The congressman observed:

" 'There is, of course, nothing wrong with hiring consultants and expert witnesses. But it seems a startling oversight that these persons were not identified as paid experts at the hearings.'

"Gonzalez released a report by the commission which described duties performed by various consultants in fiscal 1969.

"Of Ruiz, it related:

" 'Assisted in the preparation of the San Antonio hearing. Through his work as a priest in the Mexican-American area of San Antonio, he provided commission staff members with many contacts with potential witnesses.'

"Krueger was described as having assisted in preparations for the hearings. The report related: 'His intimate knowledge and widespread connections in the Lower Rio Grande Valley were helpful to commission attorneys in their investigations and interviews of appropriate witnesses.'

"Mike Gonzalez was said to have helped in hearing preparations with 'a great deal of information and a number of contacts knowledgeable in the areas of education and the administration of justice.'

"Of Andrade's services, the commission reported:

" 'Provided consultant services to the Office of General Counsel in connection with preparation for the San Antonio hearings. Through his familiarity with many community groups in San Antonio he introduced commission attorneys to persons knowledgeable with respect to hearing issues.'

"Edwin Gaida of San Antonio was listed as receiving $1,275 for 17 days of work as a photographer for the commission. Several other San Antonians were listed as working either in Fiscal 1969 or Fiscal 1970 as consultants, but their duties were not described. These included Peter F. Nabekov, four days for $240; Edwin J. Stanfield, 10 days for $500; Jose V. Uriegas, seven days for $350; and Richard J. Bela, 49 days in Fiscal '70, for $3,675."

Mr. McCLELLAN. Mr. President, this is what he says about the Commission hearings in San Antonio—his hometown—in relation to the Mexican minority groups:

Mr. Speaker, it is the duty and the obligation of Government to inform itself of injustice.

And so forth. Then he goes on:

But the high expectations that I had for the Commission on Civil Rights reached a sad decline when I observed the operation of the Commission at close range. I do not know if the performance of the Commission in its San Antonio hearings in December 1968 is typical of that body's operations.

Mr. President, I interject that this is the hearing in which they were investigating the treatment of Mexican Americans by the police in that section of the country, and here is what one Mexican American leader says about it. He does not know if it is typical of that body's operations, but he says:

I hope not, because if that performance is typical, the value of the whole operation is very much open to question.

I remember that the Committee on Un-American Activities used to be pilloried because it paid witnesses. But the same can be said of the Commission on Civil Rights, and I do not believe that if there is guilt on the one hand the same facts would lead to a conclusion of innocence on the other.

It is a fact that the Commission on Civil Rights hired a number of experts and consultants to help it prepare for its San Antonio hearings. A number of those same people who helped set up the hearings later appeared as witnesses before that hearing, but the Commission never identified these people as employees or former employees of the Commission. The hearings also heard from paid expert witnesses, who were paid consulting fees for their work in testifying, but these were not identified as paid witnesses at the hearing.

Mr. Speaker, there is a difference between a person who testifies out of his own motivation and a person who is paid to prepare testimony.

He further said:

I do not believe that the Commission on Civil Rights has any more right to stack the deck at its hearings, by direction or by indirection, than does any other agency of this Government.

Mr. President, I am simply asking that if they publish a report degrading and defaming someone, the Civil Rights Commission, who ought to set the example on the observance of civil rights and the observance of due process, should be willing—and we should require it—to give the man who is being charged the right to have his statement published as a part of the report itself.

In this instance these police officers were charged, in effect, with a crime. The grand jury had refused to indict them. But the commission published these reports defaming their character, and holding them up to public ridicule, without making public the defense of the persons accused.

I say that if we are going to have a civil rights commission in this country, supported by law, established and sustained by law, that commission ought to set the highest example of observance of civil rights and due process, and Congress should require no less a standard of them.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I am about to suggest the absence of a quorum, without it being taken out of anyone's time. I want to make a brief statement before the vote. Then I will ask for a rollcall vote.

If I may make this observation, one side of this body is off in a conference. It is the time for the minority Members of this body to have their weekly conference, and they are not present.

I suggest the absence of a quorum, they should have the opportunity to be here with the time not to be taken out of either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. McINTYRE). Without objection, it is so ordered.

JURISDICTION OVER CERTAIN CONTRACT CLAIMS BY U.S. COURTS

Mr. TYDINGS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 980.

The PRESIDING OFFICER (Mr. CASE) laid before the Senate the amendments of the House of Representatives to the bill (S. 980) to provide courts of the United States with jurisdiction over contract claims against nonappropriated fund activities of the United States, and for other purposes, which were, on page 1, line 6, strike out all after "with" down to and including "States" in line 8, and insert "the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration."

On page 2, line 3, strike out all after "with" down to and including "States" in line 5, and insert" the Army and Air Force Exchange Service, Navy Exchanges, Marine Corps Exchanges, Coast Guard Exchanges, or Exchange Councils of the National Aeronautics and Space Administration."

Mr. TYDINGS. Mr. President, S. 980 was passed by the Senate on June 30, 1969. When enacted it will remove a loophole from the Tucker Act, which provides for the waving of the sovereign immunity of the United States with respect to contract claims. Under the Tucker Act, the United States is liable in the Court of Claims of the United States and in appropriate cases in the district courts of the United States, to suit "upon any express or implied contract with the United States" 28 U.S.C. 1491; 28 U.S.C. 1346 (a)2. The courts have repeatedly held, however, that the Federal Government liability to suit under these sessions only exists with respect to contract obligations to be paid out of appropriate funds.

The injustice and inequity worked by this Tucker Act loophole have been recognized often. Indeed, a judge in the Court of Claims has declared "this is a matter which strongly needs congressional correction."

Under the provisions of S. 980 as passed by the Senate, the sovereign immunity of the United States would be completely removed with respect to all nonappropriated fund activities. Judgments against the United States would be paid by the Comptroller General of the United States and the nonappropriate fund activity would be required to reimburse the United States only "to the extent that the Comptroller General of the United States determines that a reimbursement may be made without unduly jeopardizing the operation of such activity."

As amended by the House of Representatives, S. 980 would provide for the waiver of the sovereign immunity of the United States only with respect to post-exchange type of operations which are conducted within the Defense Department and the National Aeronautics Space Administration. Moreover, the House version of the bill would require the exchanges to reimburse the United States in the event of any judgment incurred by them which is paid by the United States.

The amendments added by the House of Representatives do not diminish the value of S. 980 in any appreciable degree.

Mr. President, I have cleared the amendments with the distinguished ranking member of the Committee on the Judiciary, the Senator from Nebraska (Mr. HRUSKA), who held the hearings with me in 1969.

I move that the Senate concur in the amendments of the House to the Senate bill.

The motion was agreed to.

CIVIL RIGHTS COMMISSION APPROPRIATIONS AUTHORIZATION

The Senate resumed the consideration of the bill (S. 2455) to authorize appropriations for the Civil Rights Commission, and for other purposes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time not to be taken out of either side.

The PRESIDING OFFICER (Mr. CASE). Without objection, it is so ordered, and the clerk will call the roll.

The bill 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.

Mr. McCLELLAN. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

Mr. McCLELLAN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER (Mr. CASE). The Senator is recognized for 5 minutes.

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

Mr. McCLELLAN. I yield.

Mr. MANSFIELD. Mr. President, for the information of the Senators, there will be a vote shortly. I think that Senators ought to be on notice to that effect.

Mr. McCLELLAN. Mr. President, I say to the Senators who have just come in that we began this debate under adverse circumstances. The minority Members were engaged in a weekly conference. Nevertheless, we have substantially covered the issue before us.

But I want to state briefly again what the pending amendment would do. The amendment deals with reports of the Civil Rights Commission.

I read the present law:

> If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony or summary of such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by him, before deciding to use such evidence or testimony. In the event the Commission determines to release or use such evidence or testimony in such manner as to reveal publicly the identity of the person defamed, degraded, or incriminated, such evidence or testimony, prior to such public release or use, shall be given at a public session, and the Commission shall afford such person an opportunity to appear as a voluntary witness or to file a sworn statement in his behalf and to submit brief and pertinent sworn statements of others. The Commission shall receive and dispose of requests from such person to subpena additional witnesses.

Mr. HANSEN. Mr. President, may we have order?

The PRESIDING OFFICER. There will be order in the Senate.

Mr. McCLELLAN. Mr. President, my amendment would add one requirement to the provisions of present law. Now witnesses can appear and they can testify. But there is no requirement that, in the report, in the Commission's report, there appear the defense of an accused individual or what the defendant or the accused himself says.

The Commission may take such parts of the hearings and write the report in anyway it wants.

My amendment simply gives the one who is defamed the right to file a statement of his own, which would go in the report itself and say what happened and what did not happen in the accused's own words.

Bear in mind that this Commission can report on individuals and on officers for not performing their duties. The Commission does do that. They did it in Texas, in San Antonio, where they held hearings and reported on two police officers, charging them, in effect, with police brutality, after the officers had been investigated by a grand jury and the grand jury had refused to indict them.

Mr. President, we gave to the subjects of critical reports more protections in S. 30, the "Organized Crime Control Act of 1969." We provided for grand jury reporting. But we put far greater protections for the individual than is provided here in the Civil Rights Act.

There we gave the court the duty to supervise the exercise of the reporting power, and provided that, before reports

went out, the court had to determine whether there was a preponderance of the evidence to support it.

Here we only require that if the commission is going to publish a report that defames someone or charges him with crime—even after a grand jury has refused to indict him—it should permit that person to file a statement to be printed with the report that is published all over the Nation.

What is wrong with that?

Is that too high a standard for a Civil Rights Commission to observe?

What is wrong with it?

I say that if we reject this amendment we will have adopted a double standard. We have a double standard, one applicable to a grand jury report, and another applicable to the Civil Rights Commission.

We have imposed on the grand jury a limitation that it cannot make a report without court review or without the accused being given an opportunity to file a statement of his own, to be published right along with the report.

Cannot the Civil Rights Commission, should not the Civil Rights Commission, be required to meet just as high a standard as a grand jury?

Why not?

Do we want to lower the standards?

What about the image of the Civil Rights Commission?

I had printed in the RECORD earlier in the debate here—and Senators should read it—what Representative GONZALEZ had to say about how the Commission acted in San Antonio, Tex., where it published reports airing charges of police brutality about police officers that a grand jury had refused to indict. The Commission was investigating brutality. The Congressmen suggested that the Commission was playing with a stacked deck.

I now point out one way to unstack the deck. We should permit a man that is charged to make his statement and require the Civil Rights Commission to publish it—line for line and word for word—in the Commission's own report.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HART. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. CASE). The Senator from Michigan has 23 minutes remaining.

Mr. HART. Mr. President, prior to the quorum call the Senator from Arkansas and I exchanged our differing opinions about the amendment.

I would like, very briefly, to summarize the reasons that we suggest the amendment is not desirable.

First of all, the existing law imposes on the Civil Rights Commission a broader and fuller responsibility to assure an opportunity to anyone defamed to have a right to state publicly in the hearing record his position than any other commission or agency that Congress has ever established. It is far broader than any other agency or commission that Congress has established.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD section 102(e) of the Civil Rights Act of 1957, as amended.

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

> If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony or summary of such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by him, before deciding to use such evidence or testimony. In the event the Commission determines to release or use such evidence or testimony in such manner as to reveal publicly the identity of the person defamed, degraded, or incriminated, such evidence or testimony, prior to such public release or use, shall be given at a public session, and the Commission shall afford such person an opportunity to appear as a voluntary witness or to file a sworn statement in his behalf and to submit brief and pertinent sworn statements of others. The Commission shall receive and dispose of requests from such person to subpena additional witnesses.

Mr. HART. Mr. President, I shall read one excerpt:

> In the event the Commission determines to release or use such evidence or testimony in such manner as to reveal publicly the identity of the person defamed, degraded, or incriminated, such evidence or testimony, prior to such public release or use, shall be given at a public session, and the Commission shall afford such person an opportunity to appear as a voluntary witness or to file a sworn statement in his behalf and to submit brief and pertinent sworn statements of others. The Commission shall receive and dispose of requests from such person to subpena additional witnesses.

What we are being asked to do in the amendment is to impose a still further burden, which is not onerous, I think. But I suggest that it is unwise unless we want to extend it to every agency and commission. In addition to the statutory mandated right of the witness to have a transcript of the hearing record, we would go still further and say that when the Commission issues an annual report or a summary of its hearings, there shall be contained in that record additionally the repeated statement that is already in the hearings record. I think that that goes beyond any sense of due process.

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

Mr. HART. I yield.

Mr. MANSFIELD. Mr. President, if the amendment is agreed to, could this procedure then be applicable to other commissions and agencies on the same basis?

Mr. HART. Mr. President, this was one of the points that had occurred to those of us who opposed the amendment. The answer to the question of the Senator from Montana is "No." The requirement is limited solely to the Civil Rights Commission.

Mr. MANSFIELD. Yes, but a precedent will have been laid down.

Clearly we sometimes invoke precedent when it serves our purpose and we reject it when it does not serve our purpose. As a practical matter, if we allow this opportunity in proceedings before the Civil Rights Commission, then the precedent would be laid for extending the same opportunities in proceedings before the Securities and Exchange Commission, the Interstate Commerce Commission, the Federal Trade Commission, the Subversive Activities Control Board and the entire sweep of executive agencies and independent offices. Indeed, such protections as are here urged by the Senator from Arkansas could well apply to our own congressional investigative committees. Why not have the same requirement?

Mr. McCLELLAN. Mr. President, this is why. Here people are named and they are charged with a wrong, possibly a crime. In this case, they certainly should have a right to reply.

But the Senator says they have already replied when they testified. I suggest that they have not, and that it is somewhat like the trial of a lawsuit. A man is accused of something, he is brought in and testifies, and he gets to sum up his case to the jury. But here when you go to the jury of public opinion there is no one to sum up for him. This is not fair.

Maybe a similar rule should be adopted by some of the other commissions. I do not know. We have to take up things one at a time. But if it is done anywhere, it should be done in connection with a Commission which has as a part of its name the phrase "civil rights."

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HART. Mr. President, I was going to yield to the Senator from Maryland.

Mr. ERVIN. Mr. President, will the Senator yield to me for 3 minutes so I may answer?

Mr. McCLELLAN. I yield.

Mr. ERVIN. Mr. President, the distinguished Senator from Michigan asked why this amendment should not be extended to the Interstate Commerce Commission and other agencies. The difference is that the Interstate Commerce Commission deals with commercial transactions and questions relating to whether or not certain railroad rates or transportation rates should be charged or whether franchises should be given to operate bus lines, and things of that nature. The investigations by the Civil Rights Commission are essentially investigations in which derogatory statements are elicited concerning individuals who are, in effect, charged with violations of the law; and they are charged, in essence, with criminal offenses. When these investigations are made public, these persons are injured, in their reputations, while that is not true with respect to such things as the administration of the pure food and drug laws, the administration of the regulations of the Interstate Commerce Commission, and things of that nature. That is the reason why the amendment should be agreed to. It gives a man the opportunity to protect his character and reputation against defamatory statements elicited and published by the Commission.

Mr. TYDINGS. Mr. President, will the

Senator from Michigan yield to me for 5 minutes?

Mr. HART. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Michigan has 18 minutes remaining.

Mr. HART. I yield 5 minutes to the Senator from Maryland.

Mr. TYDINGS. Mr. President, I rise to oppose the amendment offered by the distinguished Senator from Arkansas.

First, I would like to comment on the arguments made by the Senator from North Carolina. He drew the analogy between the reports issued by the Securities and Exchange Commission and the Interstate Commerce Commission and those made by the Civil Rights Commission. The Senator seemed to think it would not be a precedent for these other Commissions if we adopted such a position for the Civil Rights Commission.

I might ask Senators if we should urge the SEC to provide an opportunity for every person charged in a report to Congress to have a special rebuttal in the report? Should we apply the same thing to the Federal Trade Commission, the Commission on Student Disorders, or the Subversive Activities Control Board? All these agencies involve reports concerning individuals and possible illegal behavior.

I might point out there are rather unusual stringent procedures now in effect under the Civil Rights Commission Act which provide great protections to persons adversely mentioned in the hearings on which the Civil Rights Commission bases its final report. Incidentally, the final report of the Civil Rights Commission is a report designed to be provided to Congress on which Congress is to base legislative action; it is the evaluation of all the evidence which Congress requested when creating the Commission.

In the proceedings which come before the actual adoption of a report by the Civil Rights Commission, a person who might be defamed has a right to an executive hearing before the Commission. If he is the subject of a public hearing he also has the right to appear publicly and be accompanied by counsel; this counsel has the right to examine his client, to make any objections on the record, and to argue for those objections. If testimony in the hearings before the Civil Rights Commission defames, the rules provide that counsel for the defamed individual can submit questions to those witnesses appearing with adverse testimony. The person before the Commission can subpena other witnesses. Section 102(a) of the Civil Rights Commission Act requires 30 days' notice be given prior to public hearings, and the notice must include the subject of the hearings. If there is an executive hearing to be held, the person mentioned must be given 10 days' notice and furnished a summary of the anticipated testimony before his testimony is actually received.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HART. Mr. President, I yield 2 additional minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. TYDINGS. Mr. President, more protections are provided for the procedures referred to by the Senator from Arkansas under the Civil Rights Commission Act than any other administrative commission in the Federal Government.

To open the door to such drastic change of the system of independent agencies reporting to Congress in this instance, I think, would be to open a veritable Pandora's box. People are criticized in reports of the Securities and Exchange Commission; great railroads and business leaders are criticized in reports of the Interstate Commerce Commission; great companies and individuals are criticized in reports of the Federal Trade Commission. This would be a precedent that if a person is criticized in the final report, he would be able to respond to a report, and the thrust of the report as a recommendation to Congress would be forfeited.

I hope the amendment is rejected.

Mr. ERVIN. Mr. President, will the Senator yield to me for 1 minute?

Mr. McCLELLAN. I yield 1 minute to the Senator from North Carolina.

Mr. ERVIN. I would say that proceedings before the Federal Trade Commission and the Securities and Exchange Commission are adversary proceedings where parties are charged with misdeeds and given an opportunity to be heard in full as parties to the proceedings. The same thing applies to the other instances mentioned by the distinguished Senator from Maryland. Those are adversary proceedings where charges are filed against parties and they are given the opportunity to testify at length. The same thing is true with respect to the Securities and Exchange Commission. However, in connection with the Civil Rights Commission, people are summoned, not in adversary proceedings, but they are merely to give such testimony as may be sought by the Commission.

Mr. McCLELLAN. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 2 minutes.

Mr. McCLELLAN. Mr. President, I have previously read to the Senate the statute to which the Senator from Maryland has referred and he is correct. However, what he refers to is the transcript. All of that is a part of the transcript, but when the Commission makes a report, it only takes from the transcript what it wants to and it expresses its own concept of what the accused may have said. They place their interpretation on it in the report. They may take it out of the transcript, but the transcript itself is not published along with the report.

My amendment simply gives a man who is defamed the opportunity to make his own summation in the court of public opinion. It makes certain that those who read the report see what he had to say about the matter. The Commission is, of course, free to reject it. It could still add to his answer any rebuttal they wanted to make. But the only fair thing to do is to let him state his own case. Mr. President, this Commission is out to air and to make charges, and it does air and make charges. In the Texas case to which I referred, the Commission published its report. It published, in effect, the charge that the police officers had committed a crime, even after grand juries had refused to indict them, and that report is in circulation all over the country. A Member of Congress from that district, who is of the same national ancestry as the people who made the accusations, denounced the whole proceeding.

It is in the CONGRESSIONAL RECORD. I inserted it as a part of my remarks earlier today.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McCLELLAN. I yield myself 1 minute.

Here is an opportunity for the Senate to say there is not going to be a double standard in making accusations against people. This body set up high standards in the area of grand jury reports. This is the high standard against which accusatory-type bodies should be judged.

Should the Civil Rights Commission have a lower standard, or should it be required to meet some measure of fair dealing with those whom it accuses?

Mr. President, I am ready to vote.

Mr. KENNEDY. Mr. President, as cosponsor of S. 2455, legislation to increase the authorization for appropriations for the Commission on Civil Rights, I am pleased that the Senate today will vote a long overdue increase in that agency's authorization.

In 1967, the Senate, for the first time since the creation of the Commission in the Civil Rights Act of 1957, voted a limit on the authorization of the Commission. This limit, set at $2,650,000, was equal to the agency's appropriation for fiscal year 1968. Since that time, the Commission has had to absorb a number of salary increases voted by Congress as well as other costs which have risen over the years. As a result the vital work of the agency has been cut back.

Last fall, when it appeared uncertain that the Subcommittee on Constitutional Rights would totally remove the limitation on the Commission's authorization, as provided in S. 2455, as introduced, I sponsored a substitute amendment, which restored the Commission to its 1968 operating level. This amounted to a $750,000 increase in the agency's authorization, or an increase of about 22 percent. While I would like to see that agency spending much more on its vital work, I offered my amendment to expedite favorable action. The Subcommittee on Constitutional Rights approved the substitute amendment and reported it favorably to the committee in time for the Commission to request $3,200,000 for its fiscal year 1971 appropriation—the maximum allowed to the Commission by the Bureau of the Budget.

The amount of the new authorization, I believe, will enable the Commission to continue to diversify its work in the field of civil rights. I am most interested that the Commission complete its landmark study of Mexican American education

and undertake new programs in Puerto Rican studies. I also hope the Commission will give attention to the relation between the aspirations of blacks, Mexican Americans, Puerto Ricans, other Spanish-surnamed citizens, American Indians, and those of ethnic groups of European and Mideastern descent.

The Commission on Civil Rights throughout its 13 years has proven to be an effective and honest critic of the performance of the Federal Government in the field of civil rights. Its reports and studies have been reliable and informative, and has led to the passage of landmark legislation vital to our democracy.

There continues to be a need for reliable information on civil rights. As Father Theodore Hesburgh, Chairman of the Commission and president of Notre Dame University, has said:

I believe that if the American people know the facts about civil rights that they will do what is right.

The Commission on Civil Rights operates in this spirit and I firmly believe it deserves our continued support.

Mr. HART. Mr. President, I yield back the remainder of my time.

Mr. McCLELLAN. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Arkansas. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Tennessee (Mr. GORE), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUYE), the Senator from North Carolina (Mr. JORDAN), the Senator from Utah (Mr. Moss), the Senator from Minnesota Mr. MONDALE), and the Senator from West Virginia (Mr. RANDOLPH), are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) and the Senator from Iowa (Mr. HUGHES), would each vote "nay."

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) and the Senator from North Carolina (Mr. JORDAN) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Colorado (Mr. DOMINICK) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) and the Senator from Maine (Mrs. SMITH) are absent because of illness.

The Senator from New York (Mr. JAVITS) is detained on official business.

If present and voting, the Senator from Maine (Mrs. SMITH) would vote "yea."

On this vote, the Senator from South Dakota (Mr. MUNDT) is paired with the Senator from New York (Mr. JAVITS). If present and voting, the Senator from South Dakota would vote "yea" and the Senator from New York would vote "nay."

The result was announced—yeas 44, nays 40, as follows:

[No. 239 Leg.]

YEAS—44

Allen	Fannin	Murphy
Allott	Fong	Packwood
Anderson	Fulbright	Pearson
Baker	Goldwater	Russell
Bennett	Gurney	Saxbe
Burdick	Hansen	Smith, Ill.
Byrd, Va.	Holland	Sparkman
Byrd, W. Va.	Hollings	Spong
Cook	Hruska	Stennis
Cooper	Jordan, Idaho	Talmadge
Cotton	Long	Thurmond
Curtis	Mansfield	Tower
Dole	McClellan	Williams, Del.
Ellender	McIntyre	Young, N. Dak.
Ervin	Miller	

NAYS—40

Aiken	Hatfield	Percy
Bayh	Jackson	Prouty
Bible	Kennedy	Proxmire
Boggs	Magnuson	Ribicoff
Brooke	Mathias	Schweiker
Case	McCarthy	Scott
Cranston	McGee	Stevens
Eagleton	McGovern	Symington
Goodell	Metcalf	Tydings
Gravel	Montoya	Williams, N.J.
Griffin	Muskie	Yarborough
Harris	Nelson	Young, Ohio
Hart	Pastore	
Hartke	Pell	

NOT VOTING—16

Bellmon	Gore	Moss
Cannon	Hughes	Mundt
Church	Inouye	Randolph
Dodd	Javits	Smith, Maine
Dominick	Jordan, N.C.	
Eastland	Mondale	

So Mr. McCLELLAN's amendment was agreed to.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD of West Virginia. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HART. Mr. President, as far as I am aware, there are no further amendments.

Mr. McCLELLAN. Mr. President, I yield back whatever time I may have, on amendments or on the bill.

THE PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2455) was ordered to be engrossed for third reading, read the third time, and passed, as follows:

S. 2455

A bill to authorize appropriations for the Civil Rights Commission, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Subsection (a) of section 103 of the Civil Rights Act of 1957 (71 Stat. 635; 42 U.S.C. 1975b(a)), as amended, is further amended as follows: Strike "$75" and insert in lieu thereof "$100".

SEC. 2. Subsection (a)of section 105 of the Civil Rights Act of 1957 (71 Stat. 636; 42 U.S.C. 1975d(a)), as amended, is further amended as follows: Strike "$75" and insert in lieu thereof "$100".

SEC. 3. Section 106 of the Civil Rights Act of 1957 (71 Stat. 636; 42 U.S.C. 1975e), as amended, is further amended to read as follows:

"SEC. 106. For the purposes of carrying out this Act, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, the sum of $3,400,000, and for each fiscal year thereafter until January 31, 1973, the sum of $3,400,000."

SEC. 4. Subsection (e) of section 102 of the Civil Rights Act of 1957 (71 Stat. 634), as amended, 78 Stat. 249) is amended by inserting the following after the last period: "If a report of the Commission tends to defame, degrade, or incriminate any person, then the report shall be delivered to such person thirty days before the report shall be made public in order that such person may make a timely answer to the report. Each person so defamed, degraded, or incriminated in such report may file with the Commission a verified answer to the report not later than twenty days after service of the report upon him. Upon a showing of good cause, the Commission may grant the person an extension of time within which to file such answer. Each answer shall plainly and concisely state the facts and law constituting the person's reply or defense to the charges or allegations contained in the report. Such answer shall be published as an appendix to the report. The right to answer within these time limitations and to have the answer annexed to the Commission report shall be limited only by the Commission's power to except from the answer such matter as it determines has been inserted scandalously, prejudiciously, or unnecessarily."

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (H.R. 7618) to provide for the conveyance of certain real property of the Federal Government to the Board of Public Instruction, Okaloosa County, Fla., and it was signed by the President pro tempore (Mr. RUSSELL).

ALASKA NATIVE CLAIMS SETTLEMENT ACT OF 1970

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate S. 1830, which the clerk will state.

The LEGISLATIVE CLERK. Calendar No. 926, a bill (S. 1830) to provide for the settlement of certain land claims of Alaska Natives, and for other purposes.

Thereupon, the Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Alaska Native Claims Settlement Act of 1970".

DECLARATION OF POLICY

SEC. 2. (a) Congress hereby finds and declares that there is an immediate need for a fair, just, and final settlement of all land claims of Alaska Natives, Native Villages and groups; that the claims of Alaska Natives to the lands of Alaska, because they have not been judicially or legislatively determined, constitute a cloud on the title to lands in Alaska; that the best interests of the Alaska Native people, the State of Alaska, and the Federal government are served by a prompt and final legislative settlement; and that the

purpose of this Act is to effect such a settlement by providing—

(1) a grant to each Native Village which qualifies under the requirements and procedures set forth in this Act of title to the village site and additional lands adjacent thereto for community use and expansion;

(2) for the organization of Native corporations and, in order to promote economic self-sufficiency as well as enhance the Natives' present and future welfare, for a transfer of lands, rights, and revenues to such corporations;

(3) a payment of $500,000,000 over a period of twelve years as compensation for lands taken in the past for Federal purposes or conveyed by patent or otherwise to the State of Alaska or to other third parties and for the extinguishment by this Act of all remaining aboriginal rights;

(4) a right to receive a portion of the revenues from the leasing and sale of minerals on certain lands in Alaska, subject to the limitations of this Act, as compensation for lands taken in the past and for the extinguishment by this Act of all remaining aboriginal rights;

(5) authority for individual Natives to acquire ownership of the lands which they use and occupy for homes, businesses, fishing, hunting and trapping camps, and for reindeer husbandry;

(6) a grant to the Alaska Native Services and Development Corporation of the right to select certain lands for their economic potential and to avoid cases of undue hardship; and,

(7) protection of Native subsistence hunting, fishing, trapping and gathering rights and, where it is within the power of the Federal Government, measures for the conservation of subsistence biotic resources.

(b) The Congress further finds and declares that the legal settlement provided in this Act constitutes compensation for the extinguishment of claims to land and does not and will not constitute a precedent for reopening, renegotiating or legislating upon any past settlement involving land claims or other matters with any Native organization or any tribe, band, or identifiable group of American Indians.

(c) It is the intent of Congress to carry out the terms of this settlement promptly, with certainty, and in conformity to the real economic and social needs of Alaska Natives by avoiding litigation, by maximizing the participation by Natives in decisions affecting their rights and property and by vesting in them as rapidly as prudent and feasible control over the land set aside and the corporations organized pursuant to this Act, without (1) establishing any permanent racially defined institutions, rights, privileges, or obligations; (2) creating a reservation system or lengthy trusteeship; or (3) ultimately adding to the categories of property and organizations enjoying special tax privileges or to the legislation establishing special relationships between the United States Government and the State of Alaska.

(d) No provision of this Act shall be construed to replace, diminish or otherwise modify any right, privilege, or obligation of Alaska Natives as citizens of the United States and the State of Alaska, nor to relieve, replace, or diminish any obligation of the United States or the State to protect and promote the rights and welfare of Alaska Natives as citizens of the United States and the State of Alaska. The payments and grants authorized under this Act constitute compensation for the extinguishment of claims to land, and shall not be deemed a substitute for any governmental programs otherwise available to the Native people of Alaska as citizens of the United States and the State of Alaska, nor to effect a change or changes in the petroleum reserve policy reflected in sections 7421 through 7438 of title 10 of the United States Code except as specifically provided in this Act.

(e) No provision of this Act shall be construed to constitute a jurisdictional Act, to confer jurisdiction to sue, nor to grant implied consent to Natives to sue the United States or any of its officers with respect to the claims extinguished by the operation of this Act.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term—

(a) "Commission" means the Alaska Native Commission established by this Act;

(b) "Fund" means the Alaska Native Compensation Fund in the Treasury of the United States established under the terms of this Act;

(c) "Investment Corporation" means the Alaska Native Investment Corporation authorized to be established pursuant to this Act under the laws of the United States;

(d) "Municipal Corporation" means any Native Village incorporated as a general unit of municipal government under the laws of the State of Alaska;

(e) "National Corporation" means the Alaska Native National Corporation established pursuant to this Act;

(f) "Native" means a citizen of the United States who is an Alaska Indian, Eskimo, or Aleut of one-fourth degree or more Alaska Indian, Eskimo, or Aleut blood, or a combination thereof, including any Native as so defined whose adoptive parents is not a Native, and, in the absence of proof of a minimum blood quantum, also any citizen of the United States who is regarded as an Alaska Native by the Native Village or Native group of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by such village or group: *Provided, however,* That "Native" as defined in this Act does not include any Tsimshian Indian blood, or the blood of any other Native tribe, band, clan, or group which came to reside upon or occupy lands in Alaska after June 30, 1867;

(g) "Native group" means any tribe, band, clan, village, community, or village association of Natives in Alaska;

(h) "Native Village" means any Native group which is composed of at least twenty-five or more Natives and which meets the requirements set forth in section 13 or 22 of this Act;

(i) "public lands" means all Federal lands and interests therein situated in Alaska as of the effective date of this Act, except: (1) the smallest practicable tract (but not less than forty acres), as determined by the Secretary, enclosing improved land actually used in connection with the administration of any Federal installation, and (2) land selections of the State of Alaska which have been patented or tentatively approved under section 6(g) of the Alaska Statehood Act as amended (72 Stat. 341, 77 Stat. 223);

(j) "Secretary" means the Secretary of the Interior;

(k) "Services Corporation" means the Alaska Native Services and Development Corporation established pursuant to this Act under the laws of the United States;

(l) "State" means the State of Alaska;

(m) "Village Corporation" means an Alaska Native Village Corporation organized under the laws of the State of Alaska to hold, invest, manage and/or distribute lands, property, funds, and other rights and assets for and on behalf of a Native Village in accordance with the terms of this Act; and

(n) "Urban Corporation" means the Alaska Native Urban Corporation established pursuant to this Act.

DECLARATION OF SETTLEMENT

SEC. 4. (a) The provisions of this Act shall constitute a full and final settlement and extinguishment of any and all claims against the United States, the States and all other persons which are based upon aboriginal right, title, use, or occupancy of land in Alaska (including submerged land underneath all water areas, both inland and offshore, and including any aboriginal hunting or fishing rights that may exist) by any Native, Native Village, or Native group or claims arising under the Act of May 17, 1884 (23 Stat. 24), or the Act of June 6, 1900 (31 Stat. 321), or any other statute or treaty of the United States relating to Native use or occupancy of land, including all land claims (but not claims based on grounds other than loss of original Indian title land) pending before any court or the Indian Claims Commission on the effective date of this Act.

(b)(1) The Secretary is authorized and directed, together with other appropriate agencies of the United States Government, promptly to initiate a study and to develop programs for the orderly transition of educational, health, welfare, and other responsibilities for the Alaska Native people from the United States to the State of Alaska. Within five years from the date of enactment of this Act, the United States shall cease to provide services to any citizen of Alaska solely on the basis of his racial or ethnic background: *Provided,* That nothing in this subsection shall affect services furnished the Natives through the Department of Health, Education, and Welfare, or diminish the applicability of the Act of April 16, 1934, as amended (48 Stat. 596), or the Acts of September 23, 1950, as amended (64 Stat. 967), and September 30, 1950, as amended (64 Stat. 1100).

(2) The Secretary shall report annually to the Congress on the implementation of this subsection, on the need for any additional legislative authority, and on the availability of State and general Federal assistance programs to provide any necessary and needed services to Alaska Natives as Citizens of the State of Alaska and the United States. Within four years of the dates of enactment of this Act the Secretary shall present a plan to the Congress for the transition of programs referred to in subsection (b)(1) hereof. The plan presented by the Secretary shall take effect within five years from the effective date of this Act: *Provided,* That the plan presented by the Secretary shall be subject to the provisions and the procedures set out in section 906, title 5 of the United States Code.

(3) None of the provisions of this subsection 4(b) shall apply to the services and programs furnished the Tsimshian Indians on the Annette Islands Reserve.

ALASKA NATIVE COMPENSATION FUND

SEC. 5. (a) There is hereby authorized to be appropriated $500,000,000 as compensation to the Natives for lands and interests in lands taken in the past or to which their rights and claims are extinguished by this Act, such compensation to be paid into the Alaska Native Compensation Fund in accordance with the following twelve-year payout schedule:

(1) $20,000,000 during the fiscal year in which this Act becomes effective, of which $1,500,000 shall be set aside in the Fund for the purpose of paying attorneys' fees pursuant to section 25 of this Act, and $350,000 shall be set aside in the Fund for the purposes set out in subsection 5(g) hereof;

(2) $50,000,000 during the second fiscal year;

(3) $70,000,000 during the third, fourth, and fifth fiscal years;

(4) $40,000,000 during the sixth fiscal year; and

(5) $30,000,000 during each of the next six fiscal years.

(b) As additional compensation to the Natives for lands and interests in lands taken in the past or to which their rights and claims are extinguished by this Act, there shall be paid into the Fund all revenues derived from revenue sharing pursuant to section 17 of this Act and the limitations therein.

(c) No interest shall be paid on the unappropriated or unaccrued balance of the compensation under subsections 5(a) and

(b) of this section: *Provided*, That annual payments or portions of annual payments which are due under the schedule set out in subsection 5(a), but which have not been appropriated within six months after the end of the fiscal year in which payable, shall draw interest at the then current rate on short term treasury obligations.

(d) All moneys paid into the Fund shall bear interest from the date of deposit at the rate of 4 per centum per annum until paid to the Services Corporation or its successor and the Investment Corporation or its successor. Until incorporation and formal organization of the corporations pursuant to sections 8 and 10 of this Act, the Secretary may temporarily withdraw moneys from the Fund for investment in short-term obligations of the United States or for deposit with financial institutions qualified to receive and hold public funds of the United States: *Provided*, That any such investment or deposit made by the Secretary shall be at the highest current rate obtainable.

(e)(1) Moneys paid or deposited into the Fund shall be paid or distributed for the benefit of the Natives in accordance with the provisions of this Act. The Secretary of the Treasury shall make such payments and distributions pursuant to the following payment schedule to the Services Corporation and to the Investment Corporation:

[In percent]

Fiscal year (commencing in the fiscal year of enactment)	Alaska Native Investment Corp.	Alaska Native Services and Development Corp.
1st	20	80
2d	25	75
3d	30	70
4th	35	65
5th	40	60
6th	45	55
7th	50	50
8th	50	50
9th	55	45
10th	55	45
11th	60	40
12th	60	40

(2) For the first five fiscal years from the date of enactment of this Act, prior to making the payments and distributions required by subsection (e)(1) hereof, the Secretary of the Treasury shall pay from the Fund to the Investment Corporation the difference between the Investment Corporation's current earnings on its investments and $4,000,000. Moneys paid to the Investment Corporation pursuant to this subsection shall be used to pay shareholders a minimum quarterly dividend pursuant to the provisions of subsection 10(h)(1).

(f) All moneys paid or deposited into the Fund after the twelfth fiscal year from the date of enactment of this Act shall be distributed to the Services Corporation and the Investment Corporation or their successors on the same basis as in the twelfth year in the payment schedule set out in subsection (e)(1) hereof.

(g) Up to $350,000 of the moneys paid or deposited into the Fund in the first fiscal year shall be paid by the Secretary of the Treasury upon certification by the Commission to recognized Associations of Alaska Natives to reimburse them for actual costs incurred in filing protests, preserving land claims, advancing land claim settlement legislation, and presenting testimony to the Congress on the Alaska Native land claims. Moneys paid pursuant to this subsection shall be paid first to the recognized Statewide association, and then, to the extent funds are available, to regional Native Associations as determined by the Commission. The determination of the Commission shall be final without regard to subsection 6(j) of this Act. Such moneys shall not be used to pay any attorney's fees or expenses.

(h) None of the funds paid or distributed pursuant to this section to any of the Corporations established pursuant to this Act shall be expended, donated, or otherwise used for the purpose of carrying on propaganda, or intervening in (including the publishing or distributing of statements) any political campaign on behalf of any candidate for public office. Any person who willfully violates the foregoing provision shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or imprisoned not more than twelve months, or both.

ALASKA NATIVE COMMISSION

SEC. 6. (a) The Alaska Native Commission is hereby established. The Commission shall be in existence for seven years from the date of its first meeting, or for less than seven years if its duties under this Act are completed. The Commission shall be composed of five members to be appointed by the President with the advice and consent of the Senate. Not more than three members of the Commisison shall be members of the same political party, and at least two of the members appointed by the President shall be Natives who are residents of the State. Upon assuming office, each member of the Commission shall become a full-time Federal employee. The Federal laws and regulations on conflicts of interest applicable to other Federal employees shall be applicable to the members of the Commission, but this provision shall not be deemed to preclude a Native from serving as a member: Provided, That such Native Commissioner shall not participate in any proceeding before the Commission in which his participation would be in conflict with section 208 of title 18, United States Code.

(b) The term of office of members of the Commisison shall be for four years for the first three members appointed, and three years for the remaining two members. Thereafter the terms shall be until the Commission expires: Provided, That any member appointed to fill a vacancy on the Commission occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of his term of office, a member of the Commission shall continue to serve until his successor has been appointed and has qualified to take office. The President shall choose a Chairman from the Commission's membership, and the Commission may elect by a majority vote of its membership other officers, such as a Vice Chairman, as it may find necessary to perform its functions. A member of the Commisison may be removed by the President only if inefficiency, neglect of duty, or malfeasance in office.

(c) The Chairman shall initially receive compensation at the rate of $32,500 per year. The other four Commissioners shall receive compensation at the rate of $30,000 per year. The salaries of the Commission members and the Chairman may increase at the same rate as general increases for classified Federal employees. No member of the Commission's staff shall be compensated at a rate in excess of that paid to members of the Commission.

(d) The principal office of the Commission shall be in Alaska. Whenever the Commission deems that the convenience of the public or the parties may be promoted, or delay or expense may be minimized, or at the request of any party, it may establish other offices, hold hearings or conduct other proceedings at any other place, including other states, for the convenience of the parties involved, that a majority of the Commission shall direct. The Commission shall have an official seal which shall be judicially noticed, and which shall be preserved in the custody of the secretary of the Commission.

(e) The Commission shall, without regard to the civil service laws, appoint and prescribe the duties of a secretary of the Commission and such legal counsel as it deems necessary. Subject to the civil service laws, the Commission shall appoint such other employees as it deems necessary in exercising its power and duties. The compensation of all employees appointed by the Commission shall be fixed in accordance with chapter 53 of title 5, United States Code, subject to the provisions of subsection 6(c) hereof.

(f)(1) For the purpose of carrying out its functions under this Act, three members of the Commission shall constitute a quorum and official action may be taken only on the affirmative vote of at least three members, but a special panel composed of one or more members upon order of the Commission may conduct any hearing or other proceeding provided for in this Act and submit the record of such hearing or proceeding to the entire Commission for its action thereon. Such record shall be made available to the parties, and they shall be afforded an opportunity to comment thereon, before any final action of the Commission.

(2) The Commission shall give reasonable notice to the interested parties and an opportunity for them to appear and be heard, and shall afford the parties an opportunity to present evidence before making a final determination upon any protest, claim, or other contested matter.

(3) A party to any proceeding before the Commission may appear on his own behalf or be represented by counsel of his own choice.

(g) The Commission shall have power to establish its own rules of procedure to carry out its duties under this Act. Except where inconsistent with this Act the Federal Administrative Procedure Act (5 U.S.C. 500 et seq.) will apply. Each official action of the Commission shall be entered in writing, and its hearings and records thereof shall be open to the public.

(h)(1) Any member of the Commission may sign and issue subpoenas for the attendance and testimony of witnesses and production of relevant papers, books, and documents, and may administer oaths. Witnesses, other than direct parties in interest, summoned before the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Any person who fails to comply with a Commission subpoena shall be subject to punishment in accordance with section 104 of title 43, United States Code. The Commission may order testimony to be taken by deposition in any proceeding before it and in any stage of such proceeding after reasonable notice is first given in writing by the party or his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition.

(2) The Commission shall have the power to call upon any of the departments or agencies of the United States for any information it may deem necessary for carrying out its functions under this Act.

(3) In any hearing or other proceeding before the Commission, letters, papers, documents, maps, transcripts, or records of any executive agency or court of the United States (or a certified copy thereof) may be used in evidence insofar as relevant and material. Every executive agency of the United States having possession thereof shall make available for copying and inspection such letters, papers, documents, maps, transcripts, and records bearing upon matters before the Commission to any interested Natives, Native group, Native Villages, or Native corporations, or their representatives as provided by section 552 of title 5, United States Code.

(i) Each decision made by the Commission shall show the date on which it was made, and shall bear the signatures of the members of the Commission who concur therein and, upon issuance of a decision under this

Act, the Commission shall cause a true copy thereof to be sent by certified mail to all parties and their attorneys of record. When appropriate, each decision also shall include the findings of fact upon which the Commission's conclusions are based, and a statement of its reasons for such findings and conclusions. The Commission shall cause each decision to be entered on its official record together with any written opinion prepared by any members in support of, or dissenting from, any decision.

(j) Except where otherwise provided, decisions issued by the Commission shall be subject to judicial review by the United States District Courts upon the filing in such court within sixty days from the date of such decision of a petition by any person aggrieved by the decision praying that the action of the Commission be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to any other party to the proceeding and to the Commission, and thereupon the Commission shall certify and file in such court the record upon which the decision complained of was based. The court shall hear such appeal on the record made before the Commission. The findings of the Commission, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any decision or may remand the proceeding to the Commission for such further action as it directs. The judgment of the court shall be subject to review by the United States Court of Appeals for the Ninth Circuit, and by the Supreme Court of the United States upon certiorari or certification as provided in section 1254, title 28, United States Code.

(k) The duties and responsibilities of the Commission shall include during the period of its existence—

(1) the issuance of rules and regulations for preparing a final membership roll of Natives and a roster of Native Villages qualified for benefits under this Act;

(2) the determination of eligibility for inclusion on such roll and roster, respectively, and of protests with respect thereto;

(3) the hearing of, and decision upon, any appeal from a refusal of the Services Corporation to approve a village plan for the management and expenditure of funds, as provided in section 11(e);

(4) the determination of Village land entitlement, the determination of regional boundaries under section 9(a), the determination of land disputes between Native Villages, the determination of disputes relating to land patents, and the certification of eligibility for patents under this Act;

(5) the approval of land transactions as provided under this Act; and

(6) such other duties and responsibilities as are provided under this Act.

(l) During the same period of time no person may serve in more than any one of the following capacities:

(1) as a member of the Commission;

(2) on the board of directors or as an officer of the Services Corporation;

(3) on the board of directors or as an officer of the Investment Corporation.

(m) Upon termination of the Commission's existence or upon completion of its duties under this Act pursuant to subsection 6(a) hereof, any pending business, any uncompleted matters, or any duties required to be performed by the Commission shall be performed by the Secretary in accordance with the provisions of this Act insofar as is practicable, and the Secretary, in consultation with the Commission and the General Services Administration, shall provide for the disposition and preservation of the Commission records: *Provided,* such records shall remain available for public inspection, copying, and other appropriate use.

ENROLLMENT

SEC. 7. (a)(1) In order to facilitate the selection and management of lands, the use of funds and the organization of corporations in furtherance of this Act, the Secretary shall prepare within six months after the effective date of this Act, pursuant to such rules and regulations as may prescribe, a temporary census roll of all Natives born on or before April 15, 1969, and living on the date of enactment of this Act. Such roll shall show with respect to each Native, insofar as is practicable, his name, date and place of birth, date and place of parents' birth, degree of Native blood and the Native Village or Native group of which he is a member. The decision of the Secretary regarding the eligibility of any person for inclusion on the temporary census roll shall be final: *Provided,* That any person listed on an existing membership roll of any Native Village or group pursuant to requirements similar to those set out in subsection 3(f) shall be presumed to be eligible for enrollment.

(2) Any person listed on the temporary census roll who is nineteen years of age or over at the time of voting shall be entitled to vote in the election of directors for the Corporations, as provided in this Act, and in the election for the Land Selection Committee of the village, if any, of which he is a member, as provided in sections 11, 14, and 22. The population of each Native Village which meets the requirements set out in, as is appropriate, section 13 or 22 of this Act, as shown on the temporary census roll and as corrected at the time of determination, shall be the basis for determining the number of acres of land to which the Native Village Corporation is entitled pursuant to this Act. Except as provided in this subsection, however, the temporary census roll shall not be used as a basis for determining the right of any Native, any Native Village Corporation, or any other corporation to receive funds and property or otherwise to share in the benefits accorded the Native people of Alaska under this Act.

(b)(1) The Commission shall prepare, in accordance with such rules and regulations as it may prescribe: (A) within five years after the effective date of this Act a final membership roll of all Natives born on or before April 15, 1969, and living on the effective date of this Act, including a separate listing and designation of the membership of each Native Village Corporation, the Urban Corporation and the National Corporation; and (B) a roster of all Native Villages which meet the requirements of section 13 or 22 and are eligible for benefits hereunder, within three years after the effective date of this Act. Before any such roll or roster is finally approved by the Commission, it shall be published in the Federal Register and in such other manner as the Commission shall find practicable and effective (including posting in each Native Village listed in the roster and in each village which was denied inclusion in the roster). Any applicant denied enrollment or any village omitted from the roster shall be notified by the Commission in writing of the Commission's action and of his or their right to protest such action.

(2) Within three months after notice of the Commission's action, any person denied enrollment or any Native group whose village is omitted from the village roster, as the case may be, shall have the right to protest such denial or omission to the Commission, and within three months after publication in the Federal Register, the Secretary or any Native Village eligible under section 13 or 22 or the Urban and National Corporations shall have the right to protest to the Commission the inclusion of any individual on the membership roll or any village on the roster of Native Villages. Any Native Village shall have the right, for three months after publication of the membership roll in the Federal Register, to protest a designation of membership therein by a Native on behalf of himself or his children below the age of nineteen under subsection (c) hereof. Such protests shall be the subject of a hearing by the Commission and judicial review as provided in section 6(j) of this Act. The membership rolls and village roster prepared by the Commission, as modified after any hearing or judicial review, shall be final and shall be promulgated by publication in the Federal Register.

(c) Each Native shall have the right to designate the Native Village in which he and his children under the age of nineteen years are to be listed as members and, in the absence of a protest by the named village pursuant to subsection (b)(2) hereof, such designation shall be final. In the event a Native Village does protest a designation of membership, the Commission shall determine the Native Village or villages, if any, of which the Native and his children under the age of nineteen are members, and the burden of proof of membership shall be upon the individual. In making its determination, and subject to the provisions of subsections (d) and (e) hereof, the Commission shall give priority to villages in the following order: (1) to the Native Village where the Native resides on the effective date of this Act, if such residence has continued without substantial interruption for a period of more than two years; (2) to the Native Village where the Native previously resided for a period or periods which aggregate ten years or more; (3) to the Native Village where the Native was born; (4) to the Native Village where either parent of such Native was born; (5) to the Native Village where the Native resides on the effective date of this Act; and (6) to a Native Village from which an ancestor of the Native came: *Provided,* That the Commission, upon the request of any Native, shall have discretion to deviate from the foregoing priorities and declare such person and/or his child under the age of nineteen to be a member of a Native Village from which he otherwise would be excluded in order to avoid hardship (such as the division of a family) or any other unreasonable classification.

(d) Nations who do not meet the requirements to qualify as members of a Native Village set out in this section or Native residents of urban areas who do not indicate or state their intention to return to a Native Village shall be enrolled as members of the Urban Alaska Native roll and shall be entitled to receive benefits under this Act through the Urban Corporation established pursuant to section 12.

(e) Natives living outside the State and who do not meet the requirements to qualify as members of a Native Village or who do not indicate or state their intention to return to a Native Village shall be listed as members of the Alaska Native National roll and shall be entitled to receive benefits under this Act through the National Corporation established pursuant to section 12.

(f) In preparing the final membership roll the Commission shall insure that each Alaska Native is designated a member of an eligible Native Village or a member of either the Urban or the National Corporations established pursuant to section 12.

(g) Any person who gives false information to qualify himself or any other person for inclusion on the temporary census roll or upon a Native membership roll, willfully and with knowledge that such information is false, shall be guilty of perjury and, upon conviction, shall be fined not more than $1,000 or imprisoned not more than a year, or both.

ALASKA NATIVE SERVICES AND DEVELOPMENT CORPORATION

SEC. 8. (a)(1) There is hereby established the Alaska Native Services and Development Corporation as a nonprofit membership cor-

poration which shall have the powers hereinafter granted. The Services Corporation shall be a federally chartered corporation but shall not be an agency or establishment of the United States Government and shall cease to be in existence after twelve fiscal years from the date of enactment of this Act.

(2) The members of the board of directors appointed by the President shall serve as the incorporators and shall prepare the original articles of incorporation for the Services Corporation in a form consistent with the provisions of this section, and shall serve as the initial board of directors until the Native members of the board are elected. The incorporators shall file the articles of incorporation with the Secretary within six months after their appointment as members of the board of directors, and the Services Corporation shall be deemed to be incorporated and formally organized as of the date of such filing. The incorporators also shall transmit a copy of the articles of incorporation to the Commissioner of Commerce of the State. The Secretary of the Treasury is authorized and directed to advance from the Services Corporation's share of moneys in the Fund such sums as may be reasonably necessary for the organization of the Services Corporation.

(b)(1) The management of the Services Corporation shall be vested in a board of directors, which shall consist of eighteen members:

(A) four members of which shall be appointed by the President of the United States and each member shall serve a term of one, two, three or four years. Members so appointed shall serve until their successor has been appointed; and

(B) fourteen members of which shall be elected by the voting members of the Services Corporation on the following basis:

(i) one member representing and elected by each of the twelve regions of Alaska as determined by section 9 of this Act;

(ii) one member representing and elected by the members of the Urban-Alaska Native roll; and

(iii) one member representing and elected by the members of the Alaska Native National roll.

Members of the board so elected shall serve for terms of four years or until their successors have been elected and qualified; *Provided,* That among the directors first elected, two shall serve for terms of one year, four shall serve for terms of two years, four shall serve for terms of three years, and four shall serve for terms of four years: *And provided further,* That the directors who serve the shorter terms shall be determined by a drawing of lots conducted by the initial board. Any director elected to fill a vacancy shall serve only for the period of the unexpired term of the director whom he succeeds. Elections for membership on the board of directors shall be conducted in accordance with procedures set forth in the articles of incorporation or bylaws of the Services Corporation: *Provided,* That the first such election shall be held not less than six months nor more than one year after the effective date of incorporation of the Services Corporation.

(2) The board of directors shall elect a chairman annually from among its own membership. The board also may appoint a member of the Services Corporation to fill a vacancy within its membership, but such appointed director shall serve only until the next regular election of directors.

(3) Notwithstanding any other provision of this Act or the articles of incorporation to the contrary, the initial board of directors of the Services Corporation appointed by the President shall exercise only the following corporate powers: (A) completion of the organization of the Corporation and qualifying it to do business, including, but not limited to, the adoption of a corporate seal, the opening of bank accounts, the establishment of a place or places of business and the rental or acquisition of all necessary offices, furnishings, equipment and supplies related thereto, subject to the condition that no lease shall be for a period in excess of one year; (B) approval of amendments to the articles of incorporation; (C) the appointment of officers of the Corporation, the hiring of other employees and the employment of consultants, accountants, and other professional or financial advisers, subject to the condition that no contract of employment shall be for a period in excess of one year; (D) the receipt, investment, and distribution of moneys from the Fund in accordance with subsections 8(e) and (f) thereof; (E) the expenditure of corporate funds to pay for or carry out the activities authorized under this section; (F) the conduct of the first election for membership on the board of directors; and (G) take any actions necessary to organize the Urban and National Corporations.

(c) The Services Corporation shall have a president, and such other officers as may be named and appointed by the board, at rates of compensation fixed by the board and serving at the pleasure of the board. The president and other officers of the Services Corporation may, but need not, be members of the board. No officer of the Services Corporation shall receive any salary from any source other than the Services Corporation during the period of his employment by the Corporation. The president shall be responsible for conducting the business and affairs of the Services Corporation in a manner consistent with the provisions of this Act, the articles of incorporation, and the policies of the board of directors, and shall appoint such other employees as the board deems appropriate.

(d)(1) Until publication of the membership roll in accordance with subsection 7(b)(1) of this Act, the members of the Services Corporation shall consist of all Natives shown on the temporary census roll prepared pursuant to section 7(a). After publication of the membership roll in accordance with subsection 7(b)(1) and before such roll becomes final in accordance with subsection 7(b)(2), the members of the Services Corporation shall consist of all Natives shown on the temporary census roll, and any other Native whose name is listed on the membership roll except an individual whose inclusion thereon is the subject of a pending protest. After promulgation of the final membership roll in accordance with subsection 7(b)(2), the members of the Services Corporation shall consist of all Natives listed upon such roll, as amended to reflect the death of any individuals so listed.

(2) The right to vote for directors and on such other matters as properly may be placed before the membership for decision shall be limited to members of the Services Corporation nineteen years of age or over at the time of voting.

(e) As soon as the Services Corporation is incorporated and formally organized in accordance with subsection (a) hereof, the Secretary of the Treasury shall pay to the Services Corporation all moneys deposited in the Fund to which the Services Corporation is entitled up to the date of such incorporation, together with any accrued interest. Thereafter, on January 1, April 1, July 1, and October 1 of each calendar year, the Secretary of the Treasury shall pay to the Corporation additional moneys deposited in the Fund to which the Services Corporation is entitled up to the date of payment, together with any accrued interest. The Secretary of the Treasury shall also furnish to the Services Corporation each month a statement showing the amount and source of moneys on deposit in the Fund.

(f)(1) Except as otherwise provided in this section, and pursuant to the provisions of subsection 11(e), the Services Corporation shall distribute moneys paid to it out of the Fund after the receipt thereof to the Native Village Corporations, and to the Urban and National Corporations in accordance with the provisions of this Act. The amount of money distributed shall, except as provided in section 9(d)(1), be apportioned in direct proportion to the membership of each of the Village Corporations, the Urban Corporation and the National Corporation as shown on the final membership rolls promulgated in accordance with section 7. Moneys received from the Fund which the Services Corporation must distribute in accordance with this subsection shall not constitute income to the Services Corporation for any purpose.

(2) Until the membership roll becomes final in accordance with subsection 7(b)(2) of this Act, the Services Corporation shall distribute only eighty per centum of all moneys paid to it out of the Fund. The amount of money distributed to each Native Village Corporation and to the Urban Corporation and the National Corporation shall be apportioned in direct proportion to the Native population before publication of the membership roll in accordance with subsection 7(b)(1) as shown on the temporary census roll prepared in accordance with section 7(a), and after publication of the membership roll in accordance with subsection 7(b)(1) as shown thereon. Appropriate adjustments shall be made in actual distributions to reflect any prior advances, and the relative rights of the beneficiaries under this paragraph: *Provided,* That all distributions made pursuant to this paragraph shall be deemed advances of moneys to which the beneficiaries will become entitled upon promulgation of the final membership roll in accordance with section 7(b) and shall not constitute a determination of their relative rights to receive funds or property under this Act. Moneys paid to the Services Corporation out of the Fund, which are withheld by it pursuant to this paragraph, shall be invested by the Services Corporation for the benefit of the beneficiaries as their interests therein ultimately are determined.

(3) After promulgation of the final membership roll in accordance with subsection 7(b)(2) the Services Corporation shall distribute all moneys withheld under subsection (f)(2) hereof (adjusted to reflect earnings or losses from investment), after appropriate adjustments in the amounts of actual distributions also to reflect prior distributions and their respective rights in moneys derived from the Fund, to the beneficiaries as provided in subsection (f)(1) hereof.

(4) The Services Corporation shall withhold and invest any moneys due a Native Village Corporation or the Urban or National Corporations until such corporations are organized and qualified. The Services Corporation may withhold and invest in trust any moneys due a Native Village Corporation or the Urban or National Corporations if it is found that a corporation is violating any provision of this Act or of its articles of incorporation. All moneys so withheld (adjusted to reflect earnings or losses from investment) shall be paid over to the affected corporation upon a determination that the violations have been corrected or upon termination of the Services Corporation.

(5) The Services Corporation shall prepare and distribute to the Native Villages proposed articles of incorporation and other appropriate forms necessary to their organization and shall provide funds to the Native Villages for organization of the Village Corporations.

(g) The Services Corporation shall retain out of moneys paid to it out of the Fund: (1) such amounts as are necessary, but not in excess of 5 per centum for carrying on the business and affairs of the Services Corporation; and (2) 5 per centum as a contingency fund to be used for purposes specified in the articles of incorporation: *Provided,* That payments to the contingency

fund shall not exceed a total unused balance of $5,000,000 and moneys in the contingency fund shall be prudently invested.

(h)(1) The Services Corporation shall be considered a public instrumentality eligible for grants and contracts for planning and development programs under any Federal law which will assist Natives, Native Villages, and Native Village Corporations. For a period of twelve fiscal years after the date of its formal organization, the Services Corporation shall be subject to audit by the General Accounting Office. Copies of such audits together with a report of the Administrator shall be filed with the appropriate committees of Congress. At the end of twelve fiscal years, and after a final audit by the General Accounting Office and the filing of a final financial report with the Congress, the limitations established, and the powers granted under this Act for the Services Corporation shall terminate.

(2) Upon expiration of the Charter of the Services Corporation, the assets and liabilities of the Services Corporation may, at the option of its membership:

(A) be transferred to the Investment Corporation or the Successor to the Investment Corporation;

(B) be transferred to a new corporation organized pursuant to subsection 8(h)(3) hereof; or

(C) be liquidated and distributed among the members in any form permitted by law.

(3) In the event that the members of the Services Corporation, pursuant to subsection 8(h)(2)(B) hereof, elect to establish a new corporation to succeed the Services Corporation, the Directors of the Services Corporation shall appoint the incorporators of a new business for profit corporation (hereinafter called the successor to the Services Corporation), to which the assets and liabilities of the Services Corporation shall be transferred. Ten per centum of the total number of shares issued and outstanding shall be reserved for the Foundation established pursuant to section 24 of this Act. The remaining number of shares issued shall be distributed equally among Natives on the final roll and to those who have succeeded to their interest by request or pursuant to the statutes of descent or distribution. The successor to the Services Corporation will not be an agency or establishment of the United States and shall be governed entirely by the Federal and State laws ordinarily governing business corporations of the same type, and shall not be governed by the terms of this Act, except as follows:

(A) payments from the Fund to the Services Corporation or its successor as provided in subsection 5(f); and

(B) shares of stock in the successor to the Services Corporation shall not be alienable for fifteen years from the date of enactment of this Act, and shall be subject to the provisions of subsection (h)(4) hereof.

(4) Any shares of stock held by Alaska Natives under any successor corporation established pursuant to this section for the benefit of Alaska Natives shall be inalienable for a period of fifteen years from the date of enactment of this Act. No contract to sell, pledge, or otherwise alienate such stock during this period of time shall be of any validity or enforceable in any court of law. Any person who knowingly seeks to acquire from an Alaska Native such stock in violation of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

(i) The Services Corporation shall have and may exercise all rights and powers vested in a nonprofit membership corporation under the laws of the State. In addition, and without limitation upon any of the powers so conferred, or the powers conferred elsewhere in this Act, the Services Corporation shall have the following powers—

(1) to maintain an appropriate staff to provide professional, technical, engineering, social services, and financial assistance and advice to Natives, Native villages, and Native Village Corporations: (A) in the selection, use, management, leasing, and disposition of lands or interests therein; (B) in the development of comprehensive land use plans; (C) in the use, investment, and expenditure of funds; and (D) in the acquisition, use, and disposition of other property;

(2) to assist Native villages and Native Village Corporations in the planning and execution of programs for community development, including, but not limited to, housing, the establishment of local industry and the construction of public works;

(3) to enter into contracts with Natives, Native villages and Native Village Corporations, where appropriate, for the use, management, investment, economic development or disposition of lands, interests in lands, funds and other property for the benefit of such Natives and Native organizations;

(4) to provide loans and grants for the education and relief of distress of individual Natives, or their descendants and subject to the provisions of this Act, make distributions of funds to Native Village Corporations, and to municipal corporations in predominantly Native areas;

(5) to exercise authority to conduct the business and affairs of any Native Village Corporation shown to be violating any provision of this Act or of its articles of incorporation;

(6) to carry out any and all activities directed toward promoting the health, welfare, education and social and economic development of Natives and their descendants; and

(7) to provide any advice or assistance requested by the Urban and National Corporations.

(j) The internal affairs of the Services Corporation shall be governed in accordance with the laws of the State relating to nonprofit membership corporations, except to the extent inconsistent with the provisions of this Act; and except that—

(1) amendments to the articles of incorporation and annual reports shall be filed with the Secretary and certified copies thereof shall be transmitted to the State Commissioner of Commerce;

(2) the Services Corporation shall not be subject to any State licensing requirements, incorporation fees or other corporate charges, except the designation of a registered office and registered agent, and nominal fees for the filing of corporate papers, or to the imposition of State taxes as provided in this Act; and

(3) the Services Corporation shall not be subject to any State law which places a burden or duty upon it greater than is placed upon any other nonprofit membership corporation, or, unless the Corporation so consents, to any State corporate law which is in effect applicable only to the Services Corporation.

REGIONAL ADVISORY BOARDS

SEC. 9. (a) For purposes of this Act, the State shall be divided by the Commission within one year after the effective date of this Act into twelve geographic regions, with each region composed as far as practicable of Natives having a common heritage and sharing common interests. In the absence of good cause shown to the contrary, such regions shall approximate the areas covered by the operations of the following existing Native associations:

(1) Arctic Slope Native Association (Barrow, Point Hope);

(2) Bering Strait Association (Seward Peninsula, Unalakleet, St. Lawrence Island);

(3) Northwest Alaska Native Association (Kotzebue);

(4) Association of Village Council Presidents (southwest coast, all villages in the Bethel area, including all villages on the Lower Yukon River and the Lower Kuskokwim River);

(5) Tanana Chief's Conference (Koyukuk, Middle and Upper Yukon Rivers, Upper Kuskokwim, Tanana River);

(6) Cook Inlet Assocation (Kenai, Tyonek, Ekutna, Iliamma);

(7) Bristol Bay Native Association (Dillingham, Upper Alaska Pensinsula);

(8) Aleut League (Aleutian Islands, Pribilof Islands, and that part of the Alaska Peninsula which is in the Aleut League);

(9) Chugach Native Association (Cordova, Tatitlek, Port Graham, English Bay, Valdez, and Seward);

(10) Tlingit-Haida Central Council (southeastern Alaska);

(11) Kodiak Area Native Association (all villages on and around Kodiak Island); and

(12) Copper River Native Association (Copper Center, Glennallen, Chitina, Mentasta).

Any dispute over the boundaries of any region or regions shall be determined by the Commission and, without regard to subsection 6(j), shall be final.

(b)(1) There are hereby authorized to be established, at the option of the Natives within each region, pursuant to such procedures as the Commission may prescribe, a Regional Advisory Board for each of the regions defined under subsection (a) of this section. The Services Corporation, the Investment Corporation and the Village Corporations shall establish procedures for consultation from time to time with the appropriate Regional Advisory Boards on matters affecting the region represented thereby.

(2) There is hereby authorized to be established under the laws of the State by the Natives of the region described in section 9(a)(1) a North Slope Native Corporation which may carry out the duties of a Regional Advisory Board as specified in section 9, and shall in addition hold title to lands patented to it pursuant to section 18(f)(1). The North Slope Native Corporation shall be so organized that it may manage such lands, distribute to its members or shareholders revenue therefrom, and carry on such other activities as its members or shareholders may decide.

(3) The Regional Advisory Boards established pursuant to this subsection shall not be agencies or establishments of the United States Government. The Regional Boards shall be considered political subdivisions of the State solely for the purpose of being eligible for grants, loans, and contracts for regional planning, housing assistance, economic development, public works, construction, transportation and other programs under any Federal law which will assist Natives, Native Villages, and Native Village Corporations. Village corporations located within each region may allocate funds for that Regional Board.

(c) For purposes of electing the regional members to the board of directors of the Services Corporation as provided in section 8(b)(1) of this Act, the regional boundaries determined by the Commission under this section shall be used as the boundaries for the election.

(d)(1) In the distribution of funds the Services Corporation shall segregate, on a regional basis, revenues derived from the sale, lease, permit, development, use or other disposition of the leasable mineral estate of the Village lands to which the Services Corporation acquires a patent under section 15(c) and 22(m)(3) of this Act. The Native Village Corporations within each region as defined in subsection (a) of this subsection shall be entitled, on a direct proportion of membership basis, to 50 per centum of the net proceeds derived from the disposition of the mineral estate to Village lands located within that region's boundaries. The remaining 50 per centum of such net proceeds shall be distributed among all the other Native Village Corporations and the Urban and National Corporations in direct proportion to their membership. For purposes of

this subsection, membership shall be as shown on the final membership roll promulgated in accordance with subsection 7(b)(2).

(2) Moneys distributed pursuant to paragraph (1) hereof shall not constitute income of the Services Corporation, but shall constitute income of the receiving Native Village Corporations and the Urban and National Corporations and shall be subject to taxation on the same basis as like income is taxed when received by any other nonprofit membership corporation.

ALASKA NATIVE INVESTMENT CORPORATION

SEC. 10. (a)(1) There is hereby established the Alaska Native Investment Corporation (hereinafter referred to as the "Investment Corporation") as a business for profit corporation, which shall have the powers and duties hereinafter granted. The Investment Corporation shall be subject to the provisions of this Act and, to the extent consistent with subsection (i), to the Investment Company Act of 1940, as amended (11 U.S.C. 72a, 107f; 15 U.S.C. 80a–1 to 80a–52 et seq.). The Investment Corporation shall be a Federally chartered corporation, but shall not be an agency or establishment of the United States Government.

(2) The directors appointed by the President pursuant to subsection (b)(1)(A) hereof shall serve as the incorporators and as the initial board of directors, and shall take whatever actions are necessary to formally establish the Investment Corporation, including the preparation of the original articles of incorporation in a form consistent with the provisions of this Act. The incorporators shall file the articles of incorporation with the Secretary within six months after their appointment, and the Investment Corporation shall be deemed to be incorporated and formally organized as of the date of such filing. The incorporators also shall transmit a copy of the articles of incorporation to the Commissioner of Commerce of the State of Alaska and to the appropriate office of the State designated pursuant to subsection (e) hereof. The Secretary of the Treasury is authorized and directed to advance to the incorporators from the Investment Corporation's share of moneys in the Fund such sums as are reasonably necessary for the organization of the Investment Corporation.

(b)(1) The management of the Investment Corporation shall be vested in a board of directors, which shall consist of twelve members:

(A) five members of which shall be appointed by the President of the United States, within six months of the date of enactment of this Act: *Provided,* That no more than three members of the initial board shall be members of the same political party;

(B) four members of which shall be elected by Alaska Natives as provided in subsection (b)(6) hereof; and

(C) three members of which shall be elected by the nine directors named in subsections (b)(1)(A) and (B) hereof.

(2) Directors appointed by the President pursuant to subsection (b)(1)(A) hereof, and directors elected pursuant to subsection (b)(1)(C) hereof, shall, insofar as is possible, be persons who have demonstrated business ability and who have displayed a high degree of expertise in national and international investments or corporate enterprise.

(3) Members of the board of directors shall serve for terms of six years or until their successors have been elected and qualified: *Provided,* That among the directors first appointed and elected, two shall serve for terms of six years; two for terms of five years; two for terms of four years; two for terms of three years; two for terms of two years; and two for terms of one year. The directors who serve the shorter terms shall be determined by a drawing of lots conducted by the initial board, except that the member appointed by the President to serve as the initial Chairman of the board of directors pursuant to subsection (b)(4) hereof shall serve for a full six-year term. Elections for membership on the board of directors shall be conducted in accordance with procedures set forth in the articles of incorporation or the bylaws of the Investment Corporation. Any director elected to fill a vacancy shall serve only for the period of the unexpired term of the director whom he succeeds. Upon the expiration of each director's term of office the shareholders of the Investment Corporation shall elect a new director to serve a term of six years, or until reorganization of the Investment Corporation as required in subsection (l) hereof.

(4) The President of the United States shall appoint one of the members of the initial board of directors to serve as Chairman of the board. The member appointed shall serve as Chairman for a three-year term. Thereafter, the board of directors shall elect a Chairman annually from among its own membership. The board also may appoint persons to fill vacancies within its membership, but such appointed directors shall serve only until the next regular election of directors.

(5) Notwithstanding any other provision of this Act or the articles of incorporation to the contrary, the initial board of directors appointed pursuant to subsection (b)(1)(A) hereof shall exercise only the following corporate powers: (A) completion of the organization of the Corporation and qualifying it to do business, including, but not limited to, the adoption of a corporate seal, the opening of bank accounts, the establishment of a place or places of business and the rental or acquisition of necessary offices, furnishings, equipment and supplies related thereto, subject to the condition that no lease shall be for a period in excess of one year; (B) approval of amendments to the articles of incorporation; (C) the appointment of officers of the Corporation, the hiring of other employees and the employment of consultants, accountants, and other professional or financial advisers, subject to the condition that no contract of employment shall be for a period in excess of one year; (D) the receipt, investment and distribution of moneys from the Fund in accordance with the provisions of this Act; and (E) the expenditure of corporate funds to pay for or carry out the activities authorized under this paragraph.

(6) Within ninety days after the filing of the articles of incorporation of the Investment Corporation, the initial board of directors shall organize and conduct an election for the four directors named in subsection (b)(1)(B) hereof.

(c) The Investment Corporation may establish such executive committees as are necessary for the conduct of business and may have a president and such other officers as may be named and appointed by the board, at rates of compensation to be fixed by the board and serving at the pleasure of the board. The president and other officers of the Investment Corporation may, but need not, be members of the board. No officers of the Investment Corporation shall receive any salary from any source other than the Investment Corporation during the period of his employment by the Corporation. The executive committee or committees or the president, as determined by the board, shall be responsible for conducting the business and affairs of the Investment Corporation in a manner consistent with the provisions of this Act, the articles of incorporation, and the policies of the board of directors, and shall appoint such other employees as the board deems appropriate.

(d)(1) The board of directors of the Investment Corporation shall contract with a Business Management Group or groups to manage and advise upon the conduct of the affairs of the Investment Corporation, subject to the terms of this Act and the policies established by the board. The Business Management Group or groups shall be an "investment adviser" as defined in the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 to 80b–21 et seq.), as amended, but need not be registered under the Act, and to the extent consistent with this section and subsection (i) hereof shall be subject to the terms of the Investment Advisers Act. The Business Management Group or groups may, if the board of directors so decides, have a power of attorney for the sale, purchase, exchange, and transfer of securities of the Investment Corporation. The terms of the original contract between the Investment Corporation and the Business Management Group or groups shall be no longer than a renewable term of one year, and the contract shall be subject to review and comment by the Securities and Exchange Commission as provided in subsection (i) hereof.

(2) At the end of any year or upon cancellation of a contract the Investment Corporation may:

(A) award new contracts to the Business Management Group or groups;

(B) award contracts to another Business Management Group or groups; or

(C) at the end of three years establish an in-house management and investment capacity and staff to manage the affairs of the Investment Corporation.

The Investment Corporation through the board of directors and the Business Management Group or groups shall, to the extent consistent with sound management practices and the provisions of this section and the policies of the board, train and employ Alaska Natives in executive, management, and staff positions.

(3) The board of the Investment Corporation and the Business Management Group or groups shall manage the Investment Corporation's assets in such a manner as to maximize the financial interests of the shareholders, by investing in a balanced and diversified portfolio of:

(A) national and international public and private securities ("securities" as used in this section shall have the same meaning as defined in the Investment Company Act of 1940, as amended) (11 U.S.C. 72a, 107f; 15 U.S.C. 80a–1 to 80a–52);

(B) enterprises based in, or doing business in Alaska;

(C) enterprises having an impact on sectors of the economy especially important to Natives; and

(D) enterprises wholly or partially owned by Natives.

Neither (B), (C), nor (D) of this subsection shall be construed as obligating or authorizing the board of the Investment Corporation or the Business Management Group to make any investment which does not meet prudent investment standards and which is not in the best financial interests of the shareholders.

(e) The Investment Corporation shall have and may exercise, in addition to the powers and rights granted by this Act, all rights and powers vested in a business for profit corporation under the laws of any State which the board of directors designate in the articles of incorporation as the state whose law is to be applied in resolving legal questions arising from the corporate activities of the Investment Corporation. In addition, and without limitation upon any of the powers so conferred, the Investment Corporation may—

(1) make any lawful investments in local, national, and international business enterprises and securities which the board of directors determines would yield an acceptable return; and

(2) make loans and investments in such a manner as to maintain a creditor's protected interest which may, at the option of the board of directors, be converted into an

equity interest: *Provided,* That notwithstanding any other provision of this Act, no more than twenty percent of the assets of the Investment Corporation may at any time be invested in venture capital situations.

(f)(1) As soon as the Investment Corporation is incorporated and formally organized in accordance with subsection (a)(2) hereof, the Secretary of the Treasury shall pay to the Investment Corporation all moneys deposited in the Fund to which the Investment Corporation is entitled up to the date of such incorporation and formal organization, together with any accrued interest. Thereafter, on January 1, April 1, July 1, and October 1 of each calendar year, the Secretary of the Treasury shall pay to the Investment Corporation or its successor additional moneys deposited in the Fund to which the Investment Corporation is entitled up to the date of payment, together with any accrued interest. The Secretary of the Treasury also shall furnish to the Investment Corporation or its successor each month a statement showing the amount and source of moneys on deposit in the Fund.

(2) The board of directors may retain out of moneys paid to the Investment Corporation such funds as are necessary for contingency funds, for the payment of dividends and for the administrative costs and the business expenses of the Corporation: *Provided,* That the compensation to be paid to the Business Management Group or groups during any year shall not exceed $250,000 or not more than one-half of 1 per centum of the invested assets of the Investment Corporation.

(3) The Investment Corporation and the Business Management Group shall be subject to periodic audits by a qualified group of certified public accounts to be selected by the board of directors. Such audits as are in accord with standard business practice shall be made at least once a year.

(g)(1) The Investment Corporation shall issue and have outstanding not more than one hundred shares of no par common stock for each Native.

(2) Until publication of the membership roll in accordance with section 7(b), the stockholders of the Corporation shall consist of all Natives shown on the temporary census roll prepared pursuant to section 7(a). After publication of the membership roll in accordance with section 7(b)(1) and before such roll becomes final in accordance with section 7(b)(2), the stockholders of the Corporation shall consist of all Natives shown on the temporary census roll, except an individual whose inclusion thereon is the subject of a pending protest. Stock held pursuant to this paragraph shall carry a right to vote in elections for the board of directors and on such other questions as properly may be presented to stockholders, and the right to file a stockholder's derivative suit, but shall not vest in the holder any right to dividends or other distribution from the Corporation, except as provided in subsection (h) hereof.

(3) Upon promulgation of the final membership roll in accordance with section 7(b)(2), all stock issued pursuant to section 10(g)(2) shall be deemed canceled, new shares shall be issued and thereafter the stockholders of the Corporation shall consist of all Natives shown on the final membership roll. Stock held pursuant to this paragraph shall carry a right to vote in elections for the board of directors and on such other questions as properly may be presented to stockholders, shall permit the holder to receive dividends or other distributions from the Corporation, and shall vest in the holder all rights of a stockholder in a business corporation organized under the laws of the State designated pursuant to subsection (e) of this section.

(4) Upon the death of any stockholder holding stock in the Corporation pursuant to section 10(g)(2) or (3), ownership of such stock shall be transferred to natural persons in accordance with his last will and testament or under the laws of intestacy: *Provided,* That such stock shall carry voting rights only if the holder thereof through inheritance also is a Native: *And provided further,* That in the event the deceased stockholder fails to dispose of his stock in the Corporation by will and has no heirs under the laws of intestacy, such stock shall escheat to the Corporation.

(5)(A) In the event that a Native under the age of nineteen shall become entitled to shares of stock in the Investment Corporation pursuant to section 10(g), such shares shall be issued to that member of such Native's family who is highest in the order of priority set forth in section 10(g)(5)(B) who shall agree, within thirty days of his receipt of notice of eligibility, to accept such shares as custodian for such Native. If a person designated as custodian or successor custodian under this section dies, resigns, is removed, or becomes legally incapacitated before such Native attains the age of nineteen, there shall be designated as successor custodian that member of such Native's family who is next highest in the order of priority set forth in section 10(g)(5)(B) who shall agree, within thirty days of his receipt of notice of eligibility, to accept such shares as successor custodian for such Native. In the event that no member of the Native's family accepts such shares as custodian (or successor custodian) pursuant to this section, such shares shall be held by the Secretary as custodian for such Native.

(B) The order of priority in which members of the family of a Native under the age of nineteen shall be eligible to receive shares of stock in such business corporation as custodian for such Native is the following:

(i) the father;
(ii) the mother;
(iii) a brother;
(iv) a sister;
(v) an uncle;
(vi) an aunt;
(vii) a grandparent.

If more than one individual shall occupy any of the foregoing priority categories, the individuals within such category shall have priority in accordance with date of birth, with the individual having the earliest date of birth being assigned the highest priority.

(C) The custodian or successor custodian for a Native under the age of nineteen appointed pursuant to subsection(5)(A) hereof shall have the rights and obligations of, and be subject to the terms and conditions applicable to, custodians under the Alaska Gifts of Securities to Minors Act (Alaska Stat. Ann. § 45.60.010 et seq.), or corresponding provisions of subsequent law, except where inconsistent with the foregoing provisions of this subsection.

(6) The stock issued pursuant to this section and the right to any dividends paid pursuant to section 10(h) may not be sold, pledged, subjected to a lien or judgment execution, assigned in present or future, or otherwise alienated. Any person who knowingly seeks to acquire from a Native such stock in violation of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000. or imprisoned not more than twelve months, or both.

(7) Contemporaneous with any issuance of stock pursuant to this Act, each stockholder shall receive a report which shall contain the type of information similar to that normally contained in a prospectus of a corporation subject to the provisions of the Investment Company Act of 1940. Such additional information shall be included as the board of directors may require.

(h)(1) Commencing no later than eighteen months from the date of its incorporation, the Investment Corporation shall pay to its shareholders a quarterly dividend. Regardless of the current or cumulative earnings on the investments of the Investment Corporation, the total cash dividends paid in any quarter shall not be less than $1,000,000 for the first five fiscal years after enactment of this Act: *Provided, however,* That dividend payments prior to the first distribution of stock shall be made only subject to the provisions of subsection (g) hereof.

(2) The Investment Corporation shall pay out in dividends to holders of stock issued pursuant to section 10(g)(2) no more than 80 per centum of the moneys available in any quarter for payment of dividends. The Investment Corporation shall retain in a reserve account sufficient moneys to pay dividends, plus interest at 4 per centum, to persons not listed on the temporary census roll who are later determined to be eligible for benefits under this Act and enrollment on the final membership roll.

(3) The Investment Corporation may withhold any dividends due to a person eligible to receive stock pursuant to section 10(g)(2) whose eligibility for inclusion on the final membership roll is subject to a pending protest or is subject to substantial doubt, until such time as the stockholder's eligibility for benefits under this Act has been determined. Any stockholder who receives dividends and who is later determined to be ineligible for enrollment on the final membership roll shall repay the amount of those dividends, plus interest at 4 per centum to the Investment Corporation.

(i)(1) The provisions of the Investment Company Act of August 22, 1940 (54 Stat. 789), as amended; the Investment Advisers Act of August 22, 1940 (54 Stat. 847), as amended; the Securities Act of May 27, 1933 (48 Stat. 74), as amended; and the Securities Exchange Act of June 6, 1934 (48 Stat. 881), as amended, relating to public disclosure, reporting, and protection of the interests of stockholders shall, to the extent consistent with the purposes of this Act, be applicable to the activities of the Investment Corporation for a period of thirteen years.

(2) The Investment Corporation and its duly authorized representatives may, by application to the Securities and Exchange Commission, in accord with the procedures of section 6(c) of the Investment Company Act of 1940, request appropriate waivers and exemptions from any of the provisions of the Acts referred to in subsection (1) hereof if necessary to accomplish the purposes of this Act or to avoid hardship. This provision shall apply only to the Investment Corporation and only during its period of existence as a federally chartered corporation under this Act.

(3) The Securities and Exchange Commission is authorized, should it prove necessary to provide business certainty, to prepare rules and regulations which identify those provisions of applicable law or existing regulations of the securities law which, consistent with the purposes and provisions of this Act, may be applied to the Investment Corporation. Rules and regulations prepared pursuant to this subsection may be waived or exemptions made thereto in accord with subsection (2) hereof. Such rules shall be prepared and issued according to the procedures set forth in section 4 of the Administrative Procedure Act, section 553 of title 5, United States Code, and shall be subject to judicial review only as rules issued in such manner are normally reviewed.

(j) The Directors shall annually prepare and cause to be deposited with the Securities and Exchange Commission a report or reports which shall include information and data required under the provisions of the Investment Company Act of 1940 and such additional information and reports as the Securities and Exchange Commission and the Investment Company Act of 1940 may require. Copies of the report or reports herein required shall be made available for public inspection at the chief offices of the Investment Corporation and a summary shall be furnished upon request tc any shareholder

of the Investment Corporation. The report herein required shall be in addition to, and not in lieu of, any other report or disclosure required by law.

(k) The internal affairs of the Investment Corporation shall be governed in accordance with the laws of the state designated by the board of directors pursuant to subsection (e) hereof, except to the extent inconsistent with the provisions of this Act, and except that—

(1) amendments to the articles of incorporation and annual reports shall be filed with the Securities and Exchange Commission and certified copies thereof shall be transmitted to the appropriate office of the state referred to in subsection (e) hereof; and

(2) the Investment Corporation shall not be subject to any State law which places a burden or duty upon it greater than is placed upon any other similar corporation, or, unless the Corporation so consents, to any State corporate law which is in effect applicable only to the Investment Corporation.

(l) (1) At the end of the twelfth fiscal year commencing with the fiscal year in which this Act becomes effective, by operation of law all of the assets of the Investment Corporation shall be transferred to and all of its liabilities assumed by a new business for profit corporation (hereinafter called the Successor Corporation) established pursuant to this subsection, and the Investment Corporation shall terminate.

(2) During the fiscal year preceding the date specified in section 10(l)(1), the directors of the Investment Corporation shall draft the articles of incorporation for the Successor Corporation, appoint incorporators, and take all other steps necessary to create the Successor Corporation under the laws of any State selected by the directors. The Successor Corporation will not be an agency or establishment of the United States, and shall not be governed by the terms of this Act, except as follows:

(A) payments from the Fund to the Investment Corporation provided in section 5(f);

(B) limitations on disposition of shares within fifteen years of incorporation of the Investment Corporation in section 10(g); and

(C) merger of the Services Corporation with the Successor Corporation to the Investment Corporation as allowed pursuant to subsection 8(h).

(3) The stock in the Investment Corporation issued pursuant to section 10(g)(3) shall be deemed canceled on the date specified in section 10(l)(1), and shares of stock in the Successor Corporation shall be issued in replacement to all stockholders in the investment Corporation on that date.

(4) The Successor Corporation shall also issue shares of stock to the Foundation established pursuant to section 24 in such number that the Foundation shall hold 10 per centum of stock issued and outstanding under this section.

NATIVE VILLAGE CORPORATIONS

SEC. 11. (a) The Native members of each Native Village entitled to receive lands and benefits under this Act shall organize as a nonprofit membership corporation under the laws of the State before the Village Corporation may receive patent to lands or benefits under this Act except as otherwise provided. The initial articles of incorporation for each Village Corporation shall be subject to the approval of the Services Corporation. Amendments to the articles of incorporation and the annual budget of the Village Corporations shall, for a period of five years, be subject to review by the Services Corporation. The Services Corporation shall assist and advise Native Villages in the preparation of articles of incorporation and other documents necessary to meet the requirements of this subsection.

(b) Native Villages which are qualified under Alaska State law to organize as Municipal Corporations are encouraged to do so to be eligible for Federal grant-in-aid programs. In Native Villages which do not meet the population and other requirements of the State to organize as Municipal Corporations, and only for so long as they do not meet these requirements, the Village Corporations required to be established pursuant to this section shall be considered political subdivisions of the State solely for the purpose of being eligible for grants, loans, and contracts for planning, housing assistance, economic development, public works, construction, and other programs under Federal law which will assist Natives and Native Villages.

(c) Each Village Corporation shall have five incorporators. The incorporators shall be the Village Land Selection Committee as elected by the Native Village members pursuant to subsection 14(c) of this Act. After promulgation of the final membership roll in accordance with subsection 7(b)(2) the board of directors shall be elected by the Natives shown on the final membership roll in accordance with the articles of incorporation and the bylaws of the Village Corporation.

(d) Each Village Corporation shall be devoted to promoting the health, welfare, education, and economic and social well-being of its members and their descendants, and shall be authorized by its articles of incorporation, among other purposes, to construct, operate and maintain public works and community facilities, to engage in medical, educational, housing and charitable programs, to make loans and grants consistent with its corporate purposes, to foster industrial and economic development, to lease, sell, and manage real property and to distribute funds to its members and their descendants in furtherance of family plans.

(e) The Services Corporation shall not distribute more than the reasonable sums required for planning and administrative purposes and to deal with any pressing health and social problems to a Village Corporation until the Village Corporation has developed an initial program for the management, investment, and expenditure of such funds, and such program has been approved by the Services Corporation: *Provided*, That a failure or refusal of the Services Corporation to approve a Village program within ninety days after its receipt may be appealed to the Commission, and the Commission's decision thereon shall, without regard to subsection 6(j), be final. After approval of its initial program, each Village Corporation shall be entitled to distributions from the Services Corporation in accordance with this Act. The Services Corporation may invest for the benefit of a Village Corporation all moneys withheld under this paragraph until the Village program is approved.

(f) The articles of incorporation for each Village Corporation shall include the following provisions—

(1) all persons shown as members of the Native Village on the final membership roll prepared in accordance with section 7(b) of this Act shall be entitled to membership in the Village Corporation;

(2) for a period of at least thirteen years after the effective date of this Act, membership in a Village Corporation shall be limited to Natives and their descendants.

(g) (1) In any Native Village which is now organized or which becomes organized as a Municipal Corporation under State law within five years from the effective date of this Act, the Municipal Corporation shall be entitled to receive title to the surface estate of the land on which the village is located and as much additional land as is necessary for community expansion. Prior to the transfer of lands from a Village Corporation to a Municipal Corporation, lands shall be granted to occupants pursuant to section 15(b)(2)(A), (B), and (D) and section 22(m)(2)(B)(i), (ii) and (iv). The acreage limitations in section 15(b)(2)(C) and section 22(m)(2)(b)(iii) shall apply to the transfer.

(2) In addition to the land grants referred to in subsection (1) hereof, Village Corporations shall also grant to Municipal Corporations or, where appropriate, to the State, title to existing rights-of-way necessary for public use, airport sites, and such other interests in land as are reasonably necessary for public use and benefit: *Provided*, That this subsection does not require the creation of floating easements or rights-of-way unless the Village Corporation decides to grant such rights-of-way for future use and expansion

(3) The Alaska Native Commission shall settle any disputes with respect to the land transfers required under subsections (1) and (2) hereof and the Commission's decision shall, without regard to subsection 6(j), be final.

URBAN AND NATIONAL CORPORATIONS

SEC. 12. (a)(1) There shall be established two nonprofit, membership corporations as follows:

(A) Alaska Native Urban Corporation; and

(B) Alaska Native National Corporation.

(2) The Urban Corporation shall be incorporated under the laws of Alaska. The Natives listed on the temporary census roll under section 7(a)(1) who are listed as residents in Alaska but not as members of any Native Village shall be its temporary members and the Natives listed as members of the Urban Alaska Native roll under subsection 7(d) of this Act shall be its permanent members.

(3) The National Corporation shall be incorporated under the laws of any State other than Alaska determined by the incorporators and approved by the board of the Services Corporation to be the most appropriate. The Natives listed on the temporary census roll under section 7(a)(1) who are listed as not resident in Alaska and not members of any Native Village shall be its temporary members, and the Natives listed as members of the Alaska Native National roll under subsection 7(e) of this Act shall be its permanent members.

(4) The board of directors of the Services Corporation shall, within thirty days after their appointment, appoint five incorporators for each of the corporations established under this section and shall select as such incorporators persons whom the board deems to be knowledgeable in the needs of, and benefits desired by, the respective members of each corporation. The incorporators of each corporation shall, within sixty days after their appointment, prepare and submit to the Services Corporation, articles of incorporation and bylaws for the government of their respective corporations not inconsistent with the provisions of this Act. When the articles of incorporation and bylaws of either of such corporations are approved by the board of the Services Corporation, or if they shall not have been disapproved by the board within thirty days after they shall have been received, the articles of incorporation shall be filed with appropriate authorities in the state of incorporation and all other actions necessary to establish corporate existence shall be performed.

(5) The Urban and National Corporations shall be managed by their respective boards of directors, each of which boards shall be comprised of not less than five members.

(A) The incorporators shall constitute the initial board of directors to hold office until their successors are elected. They may engage such legal counsel, advisers and employees and perform such further acts as may be required to carry out the purposes of this Act. Any contract or other obligation of the corporation existing upon the date of the first election of directors shall be terminable at will by the corporation at any time within ninety days thereafter.

(B) All directors other than the initial board of directors shall be elected by the members of the respective corporations who

are nineteen years of age or over at the time of voting. The first election shall be held within four months following:

(i) completion of the temporary census roll under subsection 7(a) of this Act, or

(ii) commencement of the existence of the corporation under the laws of its state of incorporation, whichever occurs later.

(6) The article of incorporation and the bylaws of the Urban Corporation and the National Corporation may be amended from time to time. Such amendments made during the first five years after the effective date of this Act shall be filed with the Secretary and the Services Corporation.

(7) The Urban Corporation and the National Corporation shall manage and use the funds distributed to them in accordance with this Act to serve the needs of their members and members' descendants. They shall have all of the powers granted to nonprofit corporations under the laws of their respective states of incorporation, except as such powers may be limited by their articles of incorporation and bylaws; and they shall carry out activities, either directly or through other instrumentalities, directed toward promoting the health, welfare, education, and cultural, social and economic development of their members and members' descendants.

(8) The National Corporation shall maintain an office or offices in its state of incorporation and in such other location or locations as will best serve the needs of its members.

(b) The provisions of subsection 11(e) of this Act relating to the distribution, withholding and investment of sums to, and for the benefit of, Village Corporations shall apply also with regard to sums received by the Services Corporation for distribution to the Urban and National Corporations.

(c) The Urban and National Corporations shall be entitled in proportion of their memberships to the total final membership roll to receive distributions from the Services Corporation on the same basis as Village Corporations, including, prior to completion of the final membership roll, advances for organizational, planning, and administrative purposes and to deal with pressing health and social problems.

(d) The Urban Corporation and the National Corporation shall be entitled to a share, in proportion of their respective memberships to the total final membership roll, of the funds, retained pursuant to subsection 8(g), for administrative expenses and for contingency purposes.

(e) The Urban Corporation and the National Corporation shall be considered public instrumentalities eligible for grants, loans, and contracts for planning, housing assistance, economic development, and other programs under Federal law which will assist their members and members' descendants.

(f) Upon termination of the Services Corporation pursuant to subsection 8(h) the limitations established and the powers granted under this Act for each of the corporations established under this section 12 shall terminate, and by vote of not less than a majority of its members casting votes in accordance with its articles of incorporation and bylaws, the members of the Urban and National Corporations shall elect to reincorporate either as a nonprofit corporation or a business corporation for profit, or to merge or consolidate with other corporations or otherwise reorganize or liquidate as the members deem appropriate. If either such corporation fails for any reason to make such election and carry it into effect within one year after the Services Corporation shall have gone out of existence, it shall be dissolved and liquidated in accordance with the provisions of its articles of incorporation and bylaws and applicable State law.

WITHDRAWAL OF PUBLIC LANDS

SEC. 13. (a) Public Land Order Numbered 4582, 34 Federal Register 1025, is hereby revoked.

(b)(1) There are hereby withdrawn, subject to valid existing rights, from the selection by the State under the Statehood Act (72 Stat. 341, 77 Stat. 223) and from all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, all public lands in each township, which encloses all or part of any Native Village listed in subsection (c) hereof, and any Native Village not listed, but which is approved for benefits under this Act by the Alaska Native Commission pursuant to subsection (e) hereof, plus all public lands in each township which is contiguous to or corners upon the townships in which such Native Villages are located, except lands withdrawn or otherwise reserved for national defense purposes other than Naval Petroleum Reserve No. 4, as shown on current plats of survey or protraction diagrams of the Bureau of Land Management, or protraction diagrams of the State where protraction diagrams of the Bureau of Land Management are not available.

(2) At the time any Native Village not listed in section 13(c) is approved for benefits under this Act by the Commission pursuant to section 13(e), there shall be withdrawn, subject to valid existing rights, from selection by the State under the Statehood Act and from all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, all public lands in each township which encloses all or part of the Native Village, plus all public lands in each township which is contiguous to or corners upon the township in which the Native Village is located, except lands excepted from withdrawal under section 13(b)(1).

(3)(A) In the event that any Native Village referred to in subsections (b)(1) and (2) hereof is located on lands which are not available for selection under this Act, there shall be withdrawn, subject to valid and existing rights, from selection by the State under the Statehood Act and from all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, from among the available public lands, except lands excepted from withdrawal under section 13(b)(1), in order of their proximity to the center of the village, as much land of at least an equal character and value as the land upon which such Village is located as may be necessary for a withdrawal of nine townships of public lands for such Native Villages.

(B) The land exchange authority granted pursuant to section 16(a) of this Act may be exercised to make land exchanges with the State or other parties for the purposes of making lands on which villages referred to in subsection (b)(3)(A) hereof are located available for selection: *Provided*, That the Secretary shall classify those public lands suitable for exchange under this section before any exchanges are made.

(c) The following Native villages are qualified for land withdrawals under the provisions of subsection (b)(1) hereof:

NAME AND PLACE AND REGION

Akiachak, Southwest Coastal Lowland.
Akiak, Southwest Coastal Lowland.
Akutan, Aleutian.
Alakanuk, Southwest Coastal Lowland.
Aleknagik, Bristol Bay.
Alatna, Koyukuk-Lower Yukon.
Allakaket, Koyukuk-Lower Yukon.
Ambler, Bering Strait.
Anaktuvuk Pass, Arctic Slope.
Andreafsey, Southwest Coastal Lowland.
Aniak, Southwest Coastal Lowland.
Anvik, Koyukuk-Lower Yukon.
Arctic Village, Upper Yukon-Porcupine.
Atka, Aleutian.
Atkasook, Arctic Slope.
Barrow, Arctic Slope.
Beaver, Upper Yukon-Porcupine.
Belkofsky, Aleutian.
Bethel, Southwest Coastal Lowland.
Bill Moore's, Southwest Coastal Lowland.
Biorka, Aleutian.
Birch Creek, Upper Yukon-Porcupine.
Brevig Mission, Bering Strait.
Buckland, Bering Strait.
Candle, Bering Strait.
Cantwell, Cook Inlet.
Canyon Village, Upper Yukon-Porcupine.
Chalkyitsik, Upper Yukon-Porcupine.
Chanilut, Southwest Coastal Lowland.
Chefornak, Southwest Coastal Lowland.
Chevak, Southwest Coastal Lowland.
Chignik, Kodiak.
Chignik Lagoon, Kodiak.
Chignik Lake, Kodiak.
Chistochina, Copper River.
Chukwuktoligamute, Southwest Coastal Lowland.
Circle, Upper Yukon-Porcupine.
Clark's Point, Bristol Bay.
Copper Center, Copper River.
Crooked Creek, Upper Kuskokwim.
Deering, Bering Strait.
Dillingham, Bristol Bay.
Eagle, Upper Yukon-Porcupine.
Dot Lake, Tanana.
Eek, Southwest Coastal Lowland.
Egegik, Bristol Bay.
Eklutna, Cook Inlet.
Ekwok, Bristol Bay.
Elim, Bering Strait.
Emmonak, Southwest Coastal Lowland.
English Bay, Cook Inlet.
False Pass, Aleutian.
Fort Yukon, Upper Yukon-Porcupine.
Gakona, Copper River.
Galena, Koyukuk-Lower Yukon.
Gambell, Bering Sea.
Georgetown, Upper Kuskokwim.
Golovin, Bering Strait.
Goodnews Bay, Southwest Coastal Lowland.
Grayling, Koyukuk-Lower Yukon.
Gulkana, Copper River.
Hamilton, Southwest Coastal Lowland.
Holy Cross, Koyukuk-Lower Yukon.
Hooper Bay, Southwest Coastal Lowland.
Hughes, Koyukuk-Lower Yukon.
Huslia, Koyukuk-Lower Yukon.
Igiugig, Bristol Bay.
Iliamna, Cook Inlet.
Inalik, Bering Strait.
Ivanof Bay, Aleutian.
Kaktovik, Arctic Slope.
Kalskag, Souhwest Coastal Lowland.
Kaltag, Koyukuk-Lower Yukon.
Karluk, Kodiak.
Kasigluk, Southwest Coastal Lowland.
Kiana, Bering Strait.
King Cove, Aleutian.
Kipnuk, Southeast Coastal Lowland.
Kivalina, Bering Strait.
Kobuk, Bering Strait.
Koliganek, Bristol Bay.
Kokhanok, Bristol Bay.
Kongiganak, Southwest Coastal Lowland.
Kotlik, Southwest Coastal Lowland.
Kotzebue, Bering Strait.
Koyuk, Bering Strait.
Koyukuk, Koyukuk-Lower Yukon.
Kwethluk, Southwest Coastal Lowland.
Kwigillingok, Southwest Coastal Lowland.
Larsen Bay, Kodiak.
Levelock, Bristol Bay.
Lime Village, Upper Kuskokwim.
Lower Kalskag, Southwest Coastal Lowland.
McGrath, Upper Kuskokwim.
Makok, Koyukuk-Lower Yukon.
Manokotak, Bristol Bay.
Marshall, Southwest Coastal Lowland.
Mary's Igloo, Bering Strait.
Medfra, Upper Kuskokwim.
Mekroyuk, Southwest Coastal Lowland.
Mentasta Lake, Copper River.
Minchumina Lake, Upper Kuskokwim.

Minto, Tanana.
Mountain Village, Southwest Coastal Lowland.
Nabesna Village, Tanana.
Naknek, Bristol Bay.
Napaimute, Upper Kuskokwim.
Napakiak, Southwest Coastal Lowland.
Napaskiak, Southwest Coastal Lowland.
Nelson Lagoon, Aleutian.
Newhalen, Cook Inlet.
Nenana, Tanana.
New Stuyahok, Bristol Bay.
Newtok, Southwest Coastal Lowland.
Nightmute, Southwest Coastal Lowland.
Nikolai, Upper Kuskokwim.
Nikolsi, Aleutian.
Ninilchik, Cook Inlet.
Noatak, Bering Strait.
Nome, Bering Strait.
Nondalton, Cook Inlet.
Nooiksut, Arctic Slope.
Noorvik, Bering Strait.
Northeast Cape, Bering Sea.
Northway, Tanana.
Nulato, Koyukuk-Lower Yukon.
Nunapitchuk, Southwest Coastal Lowland.
Ohogamiut, Southwest Coastal Lowland.
Old Harbor, Kodiak.
Oscarsville, Southwest Coastal Lowland.
Ouzinkie, Kodiak.
Paradise, Koyukuk-Lower Yukon.
Paulof Harbor, Aleutian.
Pedro Bay, Cook Inlet.
Perryville, Kodiak.
Pilot Point, Bristol Bay.
Pilot Station, Southwest Coastal Lowland.
Pitkas Point, Southwest Coastal Lowland.
Platinum, Southwest Coastal Lowland.
Point Hope, Arctic Slope.
Point Lay, Arctic Slope.
Portage Creek (Ohgsenakale), Bristol Bay.
Port Graham, Cook Inlet.
Port Lions, Kodiak.
Port Heiden (Meshick), Aleutian.
Quinhagak, Southwest Coastal Lowland.
Rampart, Upper Yukon-Porcupine.
Red Devil, Upper Kushkowim.
Ruby, Koyukuk Lower Yukon.
Russian Mission (Kuskokwim) (or Chauthalue), Upper Kuskokwim.
Russian Mission (Yukon), Southwest Coastal Lowland.
St. George, Aleutians.
St. Mary's, Southwest Coastal Lowland.
St. Michael, Bering Strait.
St. Paul, Aleutians.
Salamatof, Cook Inlet.
Sand Point, Aleutians.
Savonoski, Bristol Bay.
Savoonga, Bering Sea.
Scammon Bay, Southwest Coastal Lowland.
Selawik, Bering Strait.
Shageluk, Koyukuk-Lower Yukon.
Shaktoolik, Bering Strait.
Sheldon's Point, Southwest Coastal Lowland.
Shishmaref, Bering Strait
Shungnak, Bering Strait.
Slana, Copper River.
Sleetmute, Upper Kuskokwin.
South Naknek, Bristol Bay.
Squaw Harbor, Aleutians.
Stebbins, Bering Strait.
Stevens Village, Upper Yukon-Porcupine.
Stony River, Upper Kuskokwim.
Tanacross, Tanana.
Tanana, Koyukuk-Lower Yukon.
Telida, Upper Kuskokwim.
Teller, Bering Strait.
Tetlin, Tanana.
Togiak, Bristol Bay.
Toksook Bay, Southwest Coastal Lowland.
Tuluksak, Southwest Coastal Lowland.
Tuntutuliak, Southwest Coastal Lowland.
Tununak, Southwest Coastal Lowland.
Twin Hills, Bristol Bay.
Tyonek, Cook Inlet.
Ugashik, Bristol Bay.
Unalakleet, Bering Strait.
Unalaska, Aleutian.
Unga, Aleutian.
Uyak, Kodiak.
Venetie, Upper Yukon-Porcupine.
Wainwright, Arctic Slope.
Wales, Bering Strait.
White Mountain, Bering Strait.

(d) Any of the villages listed in subsection (c) hereof shall not be eligible for land or benefits under this Act if the Commission determines within three years from the effective date of this Act that—

(1) less than twenty-five Natives are residents of the village; or

(2) the village is of a modern and urban character, that the majority of the residents are non-Native, and that the best interests of the Native residents would be served if they derived benefits through the Urban Corporation and other land provisions of this Act rather than as a Native Village; or

(3) the village was not in existence of the date of enactment of this Act: *Provided,* That this provision shall not be used to exclude any Native Village otherwise eligible which has been required to move to a new location because of a natural disaster or the actions of any governmental agency.

(e) Native Villages not listed in subsection (c) hereof shall be eligible for land and benefits under this Act and added to the village roster if the Commission determines that—

(1) twenty five or more Alaska Natives are residents of an established village; and

(2) the best interests of the Native residents would be served if they derived benefits under the Act as a Village Corporation; and

(3) the village would not be disqualified by the provisions of subsection (d) hereof.

(f) In making the determinations required pursuant to subsections (d) and (e) hereof, the Commission shall review all relevant evidence offered by the members of the concerned Native group or their representatives and shall review any recommendations of the State and the Secretary. The Commission's determination shall, without regard to section 6(j), be final.

(g) In addition to determining which villages are entitled to land and other benefits under the terms of this Act, the Commission shall determine the total land acreage which eligible Village Corporations shall be entitled to select. The maximum grant of land which the Commission may award to an eligible Village Corporation shall be twenty-three thousand and forty acres for those Villages having an enrollment of less than four hundred Natives and an additional twenty-three thousand and forty acres for each additional four hundred Natives enrolled as members of the Village as follows: four hundred to eight hundred enrolled Natives, forty-six thousand and eighty acres; eight hundred to one thousand and two hundred enrolled Natives, sixty-nine thousand and one hundred twenty acres; one thousand and two hundred to one thousand and six hundred enrolled Natives, ninety-two thousand and one hundred sixty acres; one thousand and six hundred to two thousand enrolled Natives, one hundred and fifteen thousand two hundred acres; and two thousand to two thousand four hundred enrolled Natives, one hundred and thirty-eight thousand two hundred forty acres. In making determinations pursuant to this subsection the Commission shall consider the following factors:

(1) the Native population of the Village;

(2) the nature of the use, both historic and present, of the lands surrounding the Native Village including the carrying capacity of the surrounding lands and biological community in relationship to the village population and subsistence use patterns of the Native residents therein;

(3) the amount of land needed for prospective community expansion, the area to be granted to Municipal Corporations or to the State, and the area to be granted for access, rights-of-way, and other public services and facilities;

(4) the nature and economic value of the lands surrounding the village (without regard to the mineral estate) for the purpose of insuring some degree of comparability in value as between Native Villages; and

(5) the comprehensive land use plan prepared by the Village Corporation with the assistance of the Services Corporation staff pursuant to subsection (8)(i) hereof.

In making the determinations required by this subsection the Commission shall consider the geographical relationship of individual villages to the lands in question and should avoid determinations which result in land grants that are separated by large bodies of water unless one of the above factors or the operation of section 13(b)(3) makes such a determination reasonably necessary. The Commission's determinations under this subsection shall, without regard to section 6(j), be final.

(h)(1) The Secretary, after consultation with the Commission and, where appropriate, with the Secretary of Agriculture or the Secretary of Defense, is authorized to withdraw from all forms of appropriation under the public land laws any public lands reasonably necessary to protect: (A) any settlement of a Native group established as of April 15, 1969, and not otherwise eligible for lands under this Act; (B) any historic Native village from which the population has been required to move, because of either direct or indirect actions of the Federal, State, or local government, and to which twenty-five or more adult Natives wish to return and reside; (C) any place which constitutes a new Native village location to which by virtue of natural phenomenon, or direct or indirect governmental actions, twenty-five or more adult Natives wish to relocate; or (D) any land occupied by a Native as a primary place of residence on May 1, 1970, and continuing on the effective date of this Act: *Provided, however,* That any withdrawal made pursuant to this subsection shall not exceed one township.

(2) The Commission shall determine the amount of land to which any Native group or individual is entitled under paragraph (1) hereof. The decision of the Commission shall, without regard to subsection 6(j), be final. Lands granted to Native groups or individuals pursuant to this subsection shall not exceed five thousand seven hundred and sixty acres under subsections (1)(A), (B), and (C) hereof nor more than one hundred and sixty acres under subsection (1)(D) hereof. Any lands granted under this subsection shall be patented by the Secretary on the basis of the Commission's decision and shall be deducted from the one million-acre "miscellaneous" selection right created by subsection 18(b)(2). Patents issued pursuant to this subsection shall not include the leasable or locatable mineral estate.

(3) Where the lands referred to in subsection (h)(1) hereof are located within the national park system, the national forest system or the national wildlife refuge system the Secretary in withdrawing lands, and the Commission in granting lands pursuant to this subsection, may reduce the amount of lands withdrawn and granted to insure that the purposes for which these lands were reserved by the United States may be achieved with a minimum of interference.

(i) If the Secretary determines that a substantial dispute is involved or that the best interests of justice would be served he may direct that a public hearing be held in accordance with such rules as he shall prescribe prior to making any of the withdrawals permitted by subsection (h) hereof. Any hearings held pursuant to this subsection shall be held within five years of the date of enactment of this Act. The Commission shall consider, in any contested case, the hearing record prepared by the Secretary as well as his recommendations in making its determinations. The actions of the Commission under this subsection shall, without regard to section 6(j), be final.

(j) Pending the disposition of any lands

withdrawn under this section, the Secretary is authorized to take such actions as may be necessary to administer, manage, and protect the withdrawn public lands for the benefit of the potential beneficiaries and the United States in accord with section 16 of this Act.

SELECTION OF PUBLIC LANDS

SEC. 14. (a) Upon application of any Native Village found eligible for land selections pursuant to section 13 of this Act, and upon certification thereof by the Commission, and after survey of the area selected pursuant to section 15(a), the Secretary shall issue a patent, without payment therefor, to the Village Corporation, or, if not yet incorporated, in trust to the Services Corporation for the benefit of the Native Village pending its incorporation as provided in section 11, for that amount of land to which the Native Village is found entitled by the Commission pursuant to the procedures set out in subsection 13(g). Lands to be patented may be selected, subject to all valid existing rights, from any public land within areas withdrawn for each Native Village under the provisions of section 13 of this Act.

(b) In exercising selection rights pursuant to subsection (a) hereof, Native Village Corporations shall select from among the public lands withdrawn pursuant to section 13, and all such selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water or by lands which are unavailable for selection, and shall be in whole sections and, wherever feasible, in units of not less than one thousand two hundred and eighty acres. In the event the public lands withdrawn pursuant to section 13 are not sufficient in amount to satisfy the entitlement of any Village Corporation, as determined by the Commission, such Corporation may select noncontiguous tracts from among the vacant and unappropriated public lands, without regard to section 23, in order of their proximity to the center of the village until the Village Corporation's selection rights are exhausted.

(c) Within 2 months after a determination by the Commission that a Native Village is eligible for a grant of land pursuant to subsections 13 (d) and (e), the Secretary shall conduct an election for the village, under such rules and regulations as he may prescribe, to choose a five-member Village Land Selection Committee. The committee so elected is hereby authorized to exercise the land selection rights of the village pending organization of the Village Corporation. The persons entitled to vote in the election or serve on the Land Selection Committee shall be the members of each Native Village nineteen years of age or over, as shown on the temporary census roll prepared pursuant to section 7(a).

(d)(1) Where two or more Native Villages, because of proximity in location, are entitled to select lands in the same townships and actually select the same lands, their Village Corporations, or if not yet organized, their Land Selection Committees, shall be authorized to settle the overlap by negotiation and, in furtherance of any such settlement, to release selected lands to each other. If Native Villages making overlapping selections do not reach agreement within six months after the date such conflict arises, the controversy may be referred to the Commission by the Village Corporation or the Land Selection Committee for decision in accordance with section 6 of this Act. The Commission shall award the land, or portions thereof, to the Native Village or Villages shown historically by a preponderance of the evidence to have made greater use and occupancy thereof, or in such manner as will do substantial justice. The decision of the Commission shall, without regard to subsection 6(j), be final.

(2) A Native Village which releases selected lands in order to settle an overlap, or which loses selected lands under a Commission award in accordance with subsection (d)(1) hereof, shall be entitled to select additional public lands pursuant to subsection (b) hereof, until its selection rights are exhausted, and, notwithstanding the provisions of subsection (e) hereof, all townships withdrawn under section 13 around a Native Village which is a party to a selection overlap shall remain in withdrawn status until three months after final settlement of the overlap or a final decision of the Commission concerning the overlap.

(e) Except as otherwise provided in subsection (d)(2) hereof, all public lands withdrawn pursuant to section 13, which have not been selected by a Village Corporation under this section, shall eighteen months after the effective date of this Act, or six months after the election required under subsection (c) hereof, whichever later occurs, be placed in the status provided for by section 23 of this Act: *Provided,* That lands withdrawn around a Village whose eligibility for land selection has not been finally determined by the Commission within eighteen months after the effective date of this Act shall remain withdrawn until six months after the Commission makes the determinations required pursuant to subsection 13 (d) through (g).

SURVEY AND CONVEYANCE OF LANDS

SEC. 15. (a) The Secretary shall promptly survey the townships withdrawn under section 13 and the areas selected for conveyance to Village Corporations pursuant to section 14 of this Act, but need monument only the exterior boundaries of these townships or areas. He also shall promptly survey (1) within the townships withdrawn or areas selected all lands occupied as a primary place of residence, a primary place of business, subsistence campsites, reindeer grazing grounds, and for other purposes as required under subsection (b)(2) hereof, and (2) any other land to be patented under this Act.

(b)(1) Upon completion of the survey of lands selected by a Village Corporation, as provided in subsection (a) hereof, the Secretary promptly shall issue a patent or patents to the Village Corporation to the land and all interests therein, except minerals covered by the Federal mineral leasing laws, subject to valid existing rights, and subject to the provisions of paragraph (2) hereof, and the provisions of section 14(a).

(2) Upon receipt of a patent or patents to selected lands, Village Corporations or the Services Corporation on their behalf—

(A) shall issue deeds to the occupants, without payment of any consideration, to the surface estate for any tracts occupied by Natives as a primary place of residence, as a primary place of business, or used for subsistence campsites or for reindeer husbandry, subject to valid existing rights;

(B) shall issue deeds to the occupants, either without consideration or upon the payment of an amount not in excess of fair market value for such property, determined as of the date of initial occupancy and without regard to any improvements thereon, to the surface estate for any tracts occupied by non-Natives as a primary place of residence or a primary place of business, subject to valid existing rights: *Provided,* That all occupants of the same general character shall be accorded similar treatment with respect to any payment for land;

(C) shall issue deeds pursuant to subsection 11(g), without payment of any consideration, to any Municipal Corporation in the Native Village or to any Municipal Corporation established in the Native Village within five years of the date of enactment of this Act, to the surface estate of the improved land on which the village is located and of as much additional land as is necessary for community expansion, for appropriate rights-of-way for public use, airport sites, and such other interests in land as are reasonably necessary for public use and for foreseeable community needs: *Provided,* That prior to the transfer of lands from a Village Corporation to a Municipal Corporation, individuals shall receive patent to any lands used for residences and businesses: *And provided further,* That the amount of lands to be transferred to the Municipal Corporation shall be no less than one hundred and sixty acres;

(D) shall issue deeds to the occupants, either without consideration or upon payment of an amount not in excess of fair market value for such property determined as of the date of initial occupancy and without regard to any improvements thereon, to the surface estate for any tracts occupied by nonprofit organizations for the purposes for which such organizations were established, subject to valid existing rights: *Provided,* That all nonprofit organizations of the same general character shall be accorded similar treatment with respect to payment for land; and

(E) may issue deeds, subject to valid existing rights, to all others.

Any dispute over the boundaries, use, occupancy or value of any tract which is covered by this paragraph may be submitted by any party to the dispute to the Commission for decision. The decision of the Commission, without regard to subsection 6(j), shall be final.

(c) Upon completion of the survey of lands selected by any Village Corporation, as provided in subsection (a) hereof, and contemporaneous with the issuance of patents to Village Corporations as provided in subsection (b) hereof, the Secretary shall issue a patent or patents to all minerals in such village lands covered by the Federal mineral easing laws, subject to valid existing rights, to the Services Corporation. At the time of such conveyance, the Services Corporation shall succeed and become entitled to any and all interests of the United States, as lessor, contractor, or permitter, in any mineral leases, contracts or permits covering lands selected by any Village Corporation as provided in subsection (j) of this section.

(d) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years from the effective date of this Act, issue a patent, without payment thereof, to any adult Native or Native group, subject to all valid existing rights, to the surface estate of any public land located in Alaska, outside of areas selected pursuant to this Act, except land within the national park system, national wildlife refuge system, national forest system, or land withdrawn or reserved for national defense purposes, other than Naval Petroleum Reserve No. 4, which has been used by such adult Native or Native group for a period of more than three years immediately prior to the effective date of this Act as a campsite for the harvesting of fish, wildlife, berries, fuel, or other products of the land. Such patents shall be issued—

(1) for five-acre tracts for each subsistence use campsite separate from the campsite of any other applicant;

(2) for forty-acre tracts where the campsites of several applicants are in such proximity to each other as to make it not feasible to patent individual five-acre campsites; or

(3) for larger tracts, not to exceed sixty acres, where individuals can establish, under such rules and regulations as the Commission may prescribe, historic occupancy and use of the larger tracts.

Applications for patents under this subsection must be filed with the Commission within five years after the effective date of this Act. Pending the issuance of a patent for campsites under this subsection the Secretary is authorized to permit the use of such lands, upon which applications have been filed, as campsites. The Secretary is authorized to apply the rule of approximation with respect to acreage limitations set forth in this subsection.

(e) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years after

the effective date of this Act, issue a patent, without payment therefor, for the surface estate of up to two thousand five hundred and sixty acres to each bona fide reindeer husbandryman, family, or Native group who on the effective date of this Act was practicing reindeer management. Patents issued under this subsection may cover any public lands in Alaska outside the areas selected pursuant to this Act, subject to all valid existing rights, that on the effective date of this Act are leased, permitted, or used for reindeer management purposes, including summer and winter range facilities and intervening line camps. Lands granted pursuant to this subsection shall not include any lands selected pursuant to section 14 and shall not include lands within the national park system, national wildlife refuge system, national forest system or land withdrawn or reserved for national defense purposes, other than Naval Petroleum Reserve No. 4. The Secretary is authorized to apply the rule of approximation with respect to acreage limitations set forth in this subsection.

(f) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years after the effective date of this Act, issue a patent without payment therefor, for up to, but not to exceed, one hundred and sixty acres of land and interests therein, except the minerals covered by the Federal mineral leasing laws, and subject to all valid existing rights, from any public lands within the areas withdrawn for Natives under section 13, but not selected pursuant to section 14 of this Act to any Native occupying land within such one hundred and sixty acres on the effective date of this Act as a primary place of residence. The Secretary is authorized to apply the rule of approximation with respect to the acreage limitations set forth in this subsection.

(g) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years after the effective date of this Act, issue a patent without payment therefor, of up to, but not to exceed, one hundred and sixty acres to the surface estate of any public land located in Alaska, subject to all valid existing rights, except land within the national park system, national wildlife refuge system, and national forest system, and land withdrawn or reserved for national defense purposes, other than Naval Petroleum Reserve No. 4, to any Native nineteen years of age or older occupying such lands as a primary place of residence on the effective date of this Act and whose residence is outside the areas withdrawn for the benefit of Native Villages by section 13 of this Act. The Secretary is authorized to apply the rule of approximation with respect to acreage limitations set forth in this subsection.

(h) Notwithstanding the provisions of subsections (d) and (e) hereof any adult Native or Native group may apply for and shall receive special use permits for lands within any national wildlife refuge for the purposes set out in subsections (d) and (e) hereof: *Provided further,* That notwithstanding the provisions of subsection (g) hereof any Native nineteen years of age or older whose primary place of residence or business is outside the areas withdrawn by section 13 of this Act, but within the national wildlife refuge system, shall be entitled to a patent of up to eighty acres of land. Such patent shall be issued pursuant to the procedures set forth in subsection (g) hereof.

(i) In carrying out the provisions of this section, patents shall be issued by the Secretary in accordance with the following priorities:

(1) Within the areas withdrawn pursuant to section 13 of this Act—

(A) lands selected by Native Village Corporations;

(B) land for individual places of residence; and

(C) land for subsistence campsites and reindeer management areas.

(2) Outside the areas withdrawn pursuant to section 13 of this Act—

(A) land for individual places of residence;

(B) land for subsistence campsites; and

(C) lands for reindeer husbandry.

(j) Where, prior to patent of any land or minerals under this section, a lease, contract, or permit has been issued for the utilization of surface or mineral resources covered under such patent, the patent shall contain provisions making it subject to the lease, contract, or permit and the right of the lessee, contractee, or permittee to the complete enjoyment of all rights, privileges, and benefits granted him by such lease, contract, or permit. Upon issuance of the patent, the patentee shall succeed and become entitled to any and all interests of the United States as lessor, contractor, or permitter, in any such leases, contracts, or permits covering the estate patented. The administration of such lease, contract, or permit shall continue to be by the United States. In the event that the patent does not cover all of the land embraced within any such lease, contract, or permit, the patentee shall only be entitled to the proportionate amount of the revenues reserved under such lease, contract, or permit by the United States which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, contract, or permit which is included in the patent and the denominator is the total acreage contained in such lease, contract, or permit.

(k) The Secretary shall require as a condition to the granting of each permit to prospect, or to the granting of each lease to mine or drill for minerals covered by the Federal mineral leasing laws, on lands patented pursuant to subsections (d) through (h) of this section, and are not covered by such patent, that the permittee or lessee shall provide a bond, satisfactory to the Secretary, to indemnify the surface patentee for any damages which such permittee or lessee may cause in connection with the development of such permit or lease, and further the Secretary shall include provisions in such lease or permit which will protect the surface patentee against unreasonable interference in the use of his land.

ADMINISTRATION OF LANDS

SEC. 16. (a) Natives, Village Corporations and the Services Corporation may exchange lands and interests in lands with each other, or with the State or the United States and the Secretary, the Secretary of Agriculture, and the Secretary of Defense, under such rules and regulations as they respectively may prescribe, may exchange land and interests in lands under their jurisdiction and classified as suitable for exchange with Village Corporations, the Services Corporation, and Natives, for the purpose of effecting land consolidations or to facilitate the management or development of land. Exchanges of land and interests in lands hereunder shall be made on the basis of equal value, and the value of improvements on lands shall be given due consideration and allowance made therefor in any valuation: *Provided,* That either party to an exchange under this subsection may pay or accept cash in order to equalize the values of the properties exchanged.

(b) Pending the patenting to a Village Corporation pursuant to section 15 of public lands withdrawn pursuant to section 13, or the restoration of such lands to the status in which they had been placed pursuant to section 23, the Secretary may take such actions as shall be necessary to administer, manage, and protect such withdrawn public lands: *Provided,* That the Secretary shall not sell or otherwise permanently dispose of lands or interests therein, except as provided in this subsection: *And provided further,* That the Secretary shall not, without the consent of the Services Corporation, issue or enter into any lease, contract, or permit covering lands withdrawn pursuant to this Act which will be in effect more than eighteen months after the effective date of this Act. The Secretary may renew existing leases which would be in effect more than eighteen months after the effective date of this Act only if the basic lease provides for a right of renewal and then only on the terms provided in the basic lease. The Secretary, with the approval of the Commission, and in accordance with such rules and regulations as he shall prescribe, may grant an easement or right-of-way for a public purpose over, across, under, or through withdrawn public lands on condition that the grantee of such easement or right-of-way (1) shall provide a bond, satisfactory to the Secretary, in an amount sufficient to pay the fair market value of any interest the grantee acquires in lands which may be subsequently selected by a Village Corporation, issue or enter into any lease, contract, or permit resources of the land and the environment, including fish and wildlife, and to protect the surface owner from unreasonable interference in the enjoyment of his land. All payments or revenues attributable to the use or other disposition of withdrawn lands later selected by a Village Corporation, after deducting the cost of administration thereof, shall be paid to the Village Corporation, or to the Services Corporation, as appropriate: *Provided,* That if the selected land does not include all of the land covered by a particular lease, contract, or permit, the amount of the revenues therefrom to be paid to such Village Corporation, or to the Services Corporation, as appropriate, shall be the proportion which results from multiplying the revenues attributable to such lease, contract, or permit (after deducting the cost of administration thereof) by a fraction in which the numerator is the acreage of such lease, contract, or permit which is included in the selected land and the denominator is the total acreage contained in such lease, contract, or permit.

(c) After lands are patented pursuant to sections 15 and 22 of this Act, Village Corporations and the Services Corporation may hold, manage, lease, or dispose of such lands and interests therein in accordance with the laws of the State: *Provided,* That for a period of twelve fiscal years after the effective date of this Act, any sale (other than a sale or grant under section 15(b)(2)), mortgage, surface lease for a term (including renewals) of more than twenty years, grant of a permanent easement or right-of-way, or gift of such lands, or interests in lands by a Village Corporation shall require the approval of the Services Corporation in order to be valid: *Provided further,* That easements or rights-of-way for public purposes may be acquired within such lands by condemnation in accordance with the laws of the State without any necessity for approval of the Services Corporation.

REVENUE SHARING

SEC. 17. (a)(1) Disposition of all deposits of coal, phosphate, sodium, potassium, oil, oil shale, gas, or sulfur located in public lands in Alaska and of all deposits of any other minerals located in such lands which the Congress may hereafter authorize to be disposed of by sale or lease, after the effective date of this Act shall be made only pursuant to the terms of this Act and shall be subject to the provisions on revenue sharing as provided in this section. The provisions of the Mineral Leasing Act of February 25, 1920, as amended and supplemented (41 Stat. 437; 30 U.S.C. 181 et seq.), and the Mineral

Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) shall apply to the extent that such provisions are not inconsistent with this Act.

(2) All revenues derived by the United States from rentals and bonuses upon disposition of such minerals during the period beginning January 1, 1969, and ending on the effective date of this Act, shall be distributed as provided in the Alaska Statehood Act of July 7, 1958 (72 Stat. 339), except that, prior to calculating the shares of the State and the United States as set forth in such Act, 2 per centum of such proceeds shall be deducted and paid into the Fund. From the royalty derived by the United States from the disposition of such minerals during the same period, an amount equal to 2 per centum of the gross value of the minerals (as the gross value thereof is determined for royalty purposes under the lease involved) shall be deducted and paid into the Fund, and the respective shares of the State and the United States in such royalty shall be calculated on the remaining balance.

(3) All leases or other dispositions of such minerals made after the effective date of this Act shall provide that prior to calculating the respective shares of the State and the United States in such proceeds under the Statehood Act: (A) a royalty of 2 per centum upon the gross value of any minerals produced (as that gross value is determined for royalty purposes under such lease or other disposition) shall be paid into the Fund: and (B) 2 per centum of all revenue derived from rentals and bonuses shall be deducted and paid into the Fund.

(b) Should the United States ever dispose of deposits of minerals referred to in subsection (a)(1) of this section located within Naval Petroleum Reserve No. 4, such disposition shall be made only under such competitive bidding procedures as the Secretary shall prescribe by regulation. The provisions of the Mineral Leasing Act of February 25, 1920 (30 U.S.C. 181 et seq.), as amended and supplemented, shall apply to the extent that such provisions are not inconsistent with this Act. Any leases or other dispositions of such minerals shall be made in accordance with this subsection and shall provide: (1) that a royalty of 2 per centum upon the gross value of any minerals produced (as that gross value is determined for royalty purposes under such lease or other disposition) shall be paid into the Fund from the royalties derived by the United States; (2) that 2 per centum of all revenues derived from rentals and bonuses upon disposition of such minerals shall be deposited in the Fund; and (3) that the remaining proceeds from the disposition of such minerals shall be deposited as miscellaneous receipts to the Treasury of the United States.

(c) The royalties provided under this section shall not operate to exclude lands subject thereto from selection by the State under the Alaska Statehood Act of July 7, 1958 (72 Stat. 339), if such lands otherwise are available for selection. Every patent of public lands issued to the State under the Statehood Act after the effective date of this Act, however, shall expressly reserve for the benefit of the Natives: (1) a royalty of 2 per centum upon the gross value (as such gross value is determined for royalty purposes under any lease or other disposition by the State) of the minerals referred to in subsection (a) hereof produced on or removed from such lands from the royalties payable to the State; (2) a right to receive 2 per centum of all revenues derived by the State from rentals and bonuses upon disposition of such minerals. There are also reserved for the benefit of the Natives from and after January 1, 1969, an amount equal to a like royalty and other revenues from rentals, royalties and bonuses payable to the State under (i) leases of the United States which are or may be assumed by the State under section 6(h) of the Alaska Statehood Act, and (ii) under conditional leases and sales made pursuant to section 6(g) of the Alaska Statehood Act in the case of lands heretofore or hereafter selected by the State, the selection of which is or was tentatively approved by the Secretary, but as to which patents had not issued to the State by January 1, 1969: *Provided, however,* That the bonus revenues received by the State at the September 1969, sale of lands tentatively approved under the Statehood Act shall not be subject to the 2 per centum revenue sharing provisions of this section, nor shall rentals received pursuant to such sale to the date of April 15, 1970. Any royalty, and rentals received to such sale after April 15, 1970, shall be subject to the revenue sharing provisions of this section.

(d) Revenues received by the United States or the State as compensation for estimated drainage of oil and gas shall, for purposes of this section, be deemed to be revenues from the disposition of oil and gas and the appropriate payments shall be paid into the Fund on account thereof. All royalty and other revenues required to be paid under this section shall be paid into the Fund promptly after the expiration of the fiscal year in which they accrue by the Secretary of the Treasury or the State, as the case may be, and shall be distributed or withdrawn therefrom only in accordance with this Act. In the event the United States or the State elects to take royalties in kind, there shall be paid into the Fund on account thereof an amount equal to the royalties that would have been paid into the Fund under the provisions of this section had the royalty been taken in cash.

(e) The payments required pursuant to this section shall continue only until $500,000,000 has been paid into the Fund. Thereafter the provisions of this section shall not apply and the reservation required in patents under subsection (c) of this section shall be of no further force and effect.

(f) The provisions of this section requiring revenue sharing by the State shall be enforceable by the United States on behalf of the Natives but this shall not preclude the Services Corporation, or its successor, from pursuing any remedies available to it in the event of default by the State. In the event of default by the State in making any payments due under this section, and in addition to any other remedies provided by law, there shall be deducted annually and deposited in the Fund the amount of any underpayment, to be taken first from the share of mineral revenues from public lands in Alaska which would otherwise be paid to the State pursuant to Federal law and, if such share is insufficient, from any other funds otherwise payable to the State as grants-in-aid by the United States which the President of the United States, at his discretion, deems appropriate.

(g)(1) The provisions of this section requiring revenue sharing by the State and the United States are enacted pursuant to the authority reserved by the United States in section 4 of the Alaska Statehood Act to determine the disposition of lands used and claimed by Natives and as to which the State was, by the Alaska Statehood Act, required to and did disclaim all right and title. Therefore:

(A) in the event that the State initiates litigation or becomes a party to litigation to contest in any manner the operation of this section 17 all rights of land selection granted to the State by the Alaska Statehood Act shall be suspended as to any public lands which are determined by the Secretary as potentially valuable for mineral development, timber or other commercial purposes, and no selections shall be made, no tentative approvals shall be granted, and no patents shall be issued for such lands during the pendency of such litigation; and

(B) in the event that the State or any other party initiates litigation to contest in any manner the operation of this section and any of the provisions of this section are judicially determined to be inapplicable to the State, such suspension and prohibition on the granting of tentative approvals and issuance of patents shall continue for as long as may be necessary, but not in excess of two years, to allow the Services Corporation or its successor an opportunity to select, out of lands described in section 18(a), in addition to the selection rights provided for in that section, the mineral estate of one million acres of land in noncontiguous blocks of our townships, half of which must be south of the Brooks Range. The Secretary upon application therefor filed by the Services Corporation or its successor shall issue to the Services Corporation or its successor, without payment, a patent to the mineral estate in the lands selected, subject to all valid and existing rights. Where, prior to such patent, a lease, contract, or permit has been issued for the utilization of the mineral resources covered under such patent, the patent shall contain provisions making it subject to the lease, contract, or permit and the right of the lessee, contractee, or permittee to the complete enjoyment of all rights, privileges, and benefits granted him by such lease, contract, or permit. Upon issuance of such patent, the Services Corporation shall succeed and become entitled to any and all interests of the United States as lessor, contractor, or permitter, in any such leases, contracts, or permits covering the minerals patented. The administration of such lease, contract, or permit shall continue to be by the United States. In the event that the patent does not cover all of the land embraced within any such lease, contract, or permit, the Services Corporation shall only be entitled to the proportionate amount of the revenues reserved under such lease, contract, or permit by the United States which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, contract, or permit which is included in the patent and the denominator is the total acreage contained in such lease, contract, or permit.

(2) Any civil action commenced by the State or by any other parties to contest in any manner the purpose and the substantive operation of this section 17 shall be barred unless the complaint is filed within one year of the date of enactment of this Act. The purpose of this limitation on suits is to insure that, after the expiration of a reasonable period of time, the right, title and interest of the United States, the Natives and the State to share in revenues will vest with certainty and finality and may be relied upon by all other parties in their dealings with the State, the Natives and the United States.

(3) In the event that rights of land selection granted to the State by the Alaska Statehood Act should ever be suspended pursuant to the provisions of subsection (g)(1)(A) hereof, the State's right of land selection pursuant to section 6 of the Alaska Statehood Act, Act of 1958 (72 Stat. 341, 77 Stat. 223) shall be extended for a period of time equal to the period of time as the selection right was suspended pursuant to the provisions of subsection (g)(1)(A).

(h) The respective shares of the United States and the State with respect to payments to the Fund required by this section shall be determined pursuant to this subsection and in the following order:

(1) first, from sources identified under subsection (c) hereof;

(2) then, from sources identified under subsection (a) hereof; and

(3) then, subject to the provisions of subsection (b), from sources identified in subsection (b) hereof.

(i) The provisions of this section do not apply to mineral revenues received from the Outer Continental Shelf.

LAND SELECTION FOR ECONOMIC POTENTIAL

SEC. 18. (a) Upon application filed by the Services Corporation with the Commission and upon certification thereof, the Secretary shall issue a patent, without payment therefor, to the Services Corporation, subject to all valid and existing rights, to the appropiate interest in any public lands located in the State as provided in subsection (b) hereof. Any lands within the national park system, national wildlife refuge system, and national forest system, and lands withdrawn or reserved for national defense purposes including Naval Petroleum Reserve No. 4, shall be excluded from the selection rights granted to the Services Corporation by this section.

(b) The Services Corporation is granted the right to select, subject to subsection (a) hereof, lands in the amounts set out below and subject to the limitations of this section:

(1) the surface estate of two million acres of public land for timber and forest products potential, to be selected in noncontiguous tracts of two to four townships; and

(2) the surface estate of one million acres of public land which the Services Corporation will select, administer, and grant to Natives and Native groups to avoid undue hardship; to provide protection for cemeteries, abandoned villages, and areas of historical and cultural significance to Natives; and for such other equitable purposes as the Services Corporation deems appropriate: *Provided*, That tracts selected pursuant to this paragraph shall, insofar as possible, conform to township survey designations and shall be no larger than eight sections nor smaller than one hundred and sixty acres.

Patents issued to the Services Corporation by the Secretary pursuant to this section shall cover only the interests in land designated in subsection (b) (1) and (2) hereof. The remaining estate shall be held by the United States and shall be subject to the applicable public land laws of the United States.

(c) Lands granted pursuant to this section are granted to provide the Services Corporation with a diversified land resource base, to avoid hardship, and to create opportunities for Natives to enter commercial enterprises not otherwise readily open to them. The Secretary and the State may submit comments upon the Services Corporation's applications for proposed land selections. The decision of the Commission in certifying applications shall, without regard to section 6(j), be final.

(d) (1) Lands selected and granted pursuant to subsection (b) (1) must be at least ten miles outside the boundaries of any city organized as a municipal corporation under State law. Lands granted pursuant to subsection (b) (1) shall be managed in accordance with sustained yield principles of forest management.

(2) "Noncontiguous" for the purposes of this section means that any tract selected under subsection (b) (1) hereof must be separated from any other tract selected by an area at least twice as large as the largest of the areas selected.

(3) All selections made pursuant to this section shall be surveyed by the Secretary and shall conform to township survey designations.

(e) (1) Lands granted pursuant to subsection (b) (1) hereof shall be selected within two years of the date of enactment of this Act. In the event that the Services Corporation, the State, and the Secretary are unable to agree upon a mutual plan for the selection of these lands, the Services Corporation shall select four townships, then the State may identify four townships to be reserved for State selection under the Statehood Act (72 Stat. 341, 77 Stat. 223). The Services Corporation then shall select four more townships and the State shall identify until the Service Corporation's selection rights are exhausted. State identification acts only as a withdrawal for purposes of subsection (b) (1) hereof and does not grant any rights nor does it interfere with any other selection rights granted by this Act. In the event of any overlap or conflict with the selection rights granted to Village Corporations, the village selection right shall have priority.

(2) Lands granted pursuant to subsection (b) (2) hereof shall be selected within ten years of the date of enactment of this Act. In the event of conflict, lands selected pursuant to subsection (b) (2) shall have priority over selections by the State pursuant to the Statehood Act (72 Stat. 341, 77 Stat. 223). At the end of ten years the right of selection shall terminate and any remaining right of the Services Corporation to select additional lands shall revert to the United States.

(f) (1) Upon application filed by the North Slope Native Corporation with the Commission and upon certification thereof by the Commission, the Secretary shall issue a patent, without payment therefor, to the North Slope Native Corporation, subject to all valid and existing rights, to the surface estate of any public lands located in the State of Alaska as provided in subsection (2) hereof. Any lands within the National Wildlife Refuge system and lands withdrawn or otherwise reserved for national defense purposes other than Naval Petroleum Reserve No. 4, shall be excluded from the selection rights granted to the North Slope Native Corporation by this subsection (f).

(2) The North Slope Native Corporation is granted the right to select, subject to subsection (f) (1) hereof, the surface estate of five hundred thousand acres of land, subject to all valid and existing rights. Lands granted by this subsection shall be selected from the geographic region designated by the Commission pursuant to subsection 9(a) (1). All selections made pursuant to this section shall be surveyed by the Secretary, conform to township survey designations, and shall be in tracts of two to four townships.

(3) Lands granted pursuant to this subsection shall be selected within two years of the date of enactment of this Act. In the event of any overlap or conflict the priority of land selections shall be as follows:

(A) The Village Corporations;

(B) The North Slope Native Corporation; and

(C) The State of Alaska.

(4) Prior to certifying applications under subsection (f) (1) hereof, the North Slope Native Corporation shall prepare and submit to the Commission a comprehensive land-use plan for the lands designated in the application.

REVOCATION OF INDIAN ALLOTMENTS IN ALASKA

SEC. 19. (a) No Native covered by the provisions of this Act may hereafter avail himself of an allotment under the provisions of any Indian allotment Act including the Act of February 8, 1887, as amended and supplemented (24 Stat. 389; 25 U.S.C. 334, 336), or the Act of June 25, 1910 (36 Stat. 363; 25 U.S.C. 337). Further, the Act of May 17, 1906, as amended (34 Stat. 197), is hereby repealed.

(b) Native persons who have deeds to lands granted by the United States pursuant to the Acts referred to in subsection (a) hereof or any other public land laws which have restrictions upon the sale, use, or disposal of such lands shall, upon application to the Secretary, be granted unrestricted deeds.

PROTECTION OF SUBSISTENCE RESOURCES

SEC. 20. (a) The Secretary is authorized and directed to classify, in accordance with appropriate ecological criteria, varying environmental circumstances and varying subsistence needs, public lands surrounding any or all of the Native Villages and groups for which lands are withdrawn under sections 13 through 15 and under section 22 as Subsistence Use Units.

(b) The Secretary in preparing such classifications shall hold public hearings concerning the proposed classifications units and shall consult with the State and other appropriate departments of the Federal Government and invite the comments of all parties concerned. Upon determining the lands and resources required for subsistence use in each area, the Secretary shall publish notice in the Federal Register of a proposed classification. Classification of an area as a Subsistence Use Unit shall not prevent disposal of such lands under the public land laws in conformity with subsection (a) hereof.

(c) After an area has been classified as a Subsistence Use Unit and final notice thereof has been published, the Secretary may, upon petition by residents of, or request by a local governing body within the unit, and upon the concurrence of the State, determine that the health, welfare, or livelihood of residents of the unit are threatened by the depletion of subsistence resources. Upon such a determination, the Secretary may close the area to entry by persons for the purpose of fishing, hunting, and/or trapping other than by residents of the unit for subsistence purposes.

(d) The maximum duration of such emergency closure shall be two years unless, after a public hearing, the Secretary determines the closure should be extended for an additional two-year term.

(e) Any person who knowingly enters upon lands within a subsistence-use classification unit closed under the provisions of this section, for the purpose of hunting, fishing, or trapping in violation of said closure, shall be guilty of a trespass aaginst the United States and shall be subject to a fine of $1,000 or one year imprisonment or both. Complaints may be issued and arrests may be made under this subsection by Department of the Interior personnel designated by the Secretary to enforce this section.

REVOCATION OF RESERVATIONS; EXCEPTIONS

SEC. 21 (a) Notwithstanding any other provisions of law, and except where inconsistent with the provisions of this Act, the various reserves set aside by legislation or by Executive or Secretarial Order for Native use or for the administration of Native affairs, including reserves created under the Act of May 31, 1938 (52 Stat. 593), in Alaska and hereby revoked, subject to any valid existing rights.

(b) Notwithstanding any other provision of law, lands within the various reserves described in subsection (a) hereof are hereby withdrawn from selection by the State and all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, until the Native groups that are the beneficiaries of such reserves have selected lands to which they are entitled under section 14 and until the Secretary issues a patent pursuant to section 15. The requirements set forth in subsections 13(d) through (f) shall not apply to any Native group settled as a village or community within the various reserves described in subsection (a) hereof, and lands shall be patented to the Village Corporation representing any Native group whose reserve was revoked pursuant to this section without regard to subsections 13(d) through (f).

(c) Notwithstanding any other provision of law, the Tanina Indians, the beneficiaries of the Moquawkie Reservation (hereinafter referred to as the Tyonek Indians), shall vote, within one year of the date of enactment of this Act, under procedures established by the Secretary, whether their tribe:

(1) shall accept abolition of the existing reservation and a grant to an appropriate entity of which they are the members, stockholders or owners, of twenty-six thousand nine hundred and eighteen acres of such reservation lands, subject to the condition that

the mineral estate underlying such lands may not be sold by the Tyonek Indians to anyone other than the United States or the State: Provided, That the Tyonek Indians may lease such lands; or

(2) shall accept abolition of the existing reservation and be entitled to full benefits under the terms of this Act.

In the event the Tyonek Indians decide to acquire title to the Moquawkie Reserve set aside by Executive order of February 27, 1915, in accordance with this subsection (1) hereof, the Secretary shall issue a patent to the appropriate entity referred to in subsection (1) hereof to all lands and interests in lands (including oil, gas, and other minerals) within such Reserve, subject to valid existing rights, and the Tyonek Indians shall not be eligible for benefits under this Act. Where, prior to such patent, a lease, contract, or permit has been issued for the utilization of surface or mineral resources covered by such patent, the patent shall contain provisions making it subject to the lease, contract, or permit and the right of the lessee, contractee, or permittee to the complete enjoyment of all rights, privileges, and benefits granted him by such lease, contract, or permit. Upon issuance of such patent, the appropriate entity referred to in subsection (1) hereof shall succeed and become entitled to any and all interests of the United States as lessor, contractor, or permitter, in any such leases, contracts, or permits covering the surface or minerals patented. The administration of such lease, contract, or permit shall continue to be by the United States.

(d) The Annette Islands Reserve established by the Act of March 3, 1891 (26 Stat. 1101), is hereby excluded from and shall not be affected by the terms of this section and the terms of this Act.

(e) Nothing in this Act shall repeal, modify, or otherwise affect the right of the Secretary to establish a townsite on Saint Paul Island or the right of Natives of the Pribilof Islands to acquire title to tracts therein pursuant to the Act of November 2, 1966 (80 Stat. 1094), and to participate in the benefits under this Act.

TLINGIT-HAIDA SETTLEMENT

SEC. 22. (a)(1)(A) There are hereby withdrawn, subject to valid existing rights, from selection by the State under the Alaska Statehood Act (72 Stat. 341, 77 Stat. 223) and from all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, all public lands, including lands in the Tongass and Chugach National Forests, in each township, which encloses all or part of any Native Villages listed in subsection (b) hereof, and any Native Villages not listed, but which are located in southeast Alaska and which are approved by the Commission pursuant to this section, plus all public lands in each one-quarter township which is contiguous to or corners upon the townships in which such Native Villages are located, except lands withdrawn or otherwise reserved for national defense purposes, as shown on current plats of survey or protraction diagrams of the Bureau of Land Management, or protraction diagrams of the State where protraction diagrams of the Bureau of Land Management are not available.

(B) At the time any Native Village not listed in subsection (b) hereof is approved for benefits under this Act by the Commission pursuant to this section, there shall be withdrawn, subject to valid existing rights, from selection by the State under the Statehood Act and from all other forms of appropriation under the public land laws, including the mining and mineral leasing laws, all public lands, including lands in the Tongass and Chugach National Forests, in each township which encloses all or part of the Native Village, plus all lands in each one quarter township which is contiguous to or corners upon the township in which the Native Village is located, except lands excepted from withdrawal under subsection (a)(1)(A) hereof.

(2) Any and all claims of the Tlingit and Haida Indians to the two and six-tenths million acres of land in southeast Alaska referred to in the Court of Claims case of "Tlingit and Haida Indians of Alaska against United States," jacket number 47900, are hereby extinguished.

(3) The benefits provided for in this Act and the lands granted pursuant to this section are in addition to the judgment award received by the Tlingit and Haida Indians of Alaska in the Court of Claims and constitute full and final compensation for the extinguishment of title made in subsection (a)(2) hereof, and are in lieu of the additional land selection rights granted Village Corporations outside of southeast Alaska by sections 13 to 15.

(b) The following Native Villages are qualified for withdrawals under the provisions of subsection (a) hereof:

Angoon, Southeast.
Craig, Southeast.
Hoonah, Southeast.
Hydaburg, Southeast.
Kake, Southeast.
Kasaan, Southeast.
Klawock, Southeast.
Klukwan, Southeast.
Saxman, Southeast.
Tatitlek, Gulf of Alaska.
Yakutat, Southeast.

(c) Any of the villages listed in subsection (b) hereof shall not be eligible for land or benefits under this Act if the Commission determines within three years from the effective date of this Act, that—

(1) less than twenty-five Alaska Natives are residents of the village;

(2) the village is of a modern and urban character, that the majority of the residents are non-Native, and that the best interests of the Native residents would be served if they derived benefits through the Urban Corporation and other land provisions of this Act rather than as a Native Village; or

(3) the village was not in existence as of the date of enactment of this Act: Provided, That this provision shall not be used to exclude any Native Village otherwise eligible which has been required to move to a new location because of a natural disaster or the actions of any governmental agency.

(d) Native Villages located within southeast Alaska and not listed in subsection (b) hereof shall be eligible for land and benefits under this Act and added to the village roster if the Commission determines that—

(1) twenty-five or more Alaska Natives are residents of an established village; and

(2) the best interests of the Native residents would be served if they derived benefits under the Act as a Village Corporation; and

(3) the village would not be disqualified by the provisions of subsection (c) hereof.

(e) In making the determinations required pursuant to subsections (c) and (d) hereof, the Commission shall review all relevant evidence offered by the members of the concerned Native group or their representatives and shall review any recommendations of the State, the Secretary or the Secretary of Agriculture. The Commission's determination shall, without regard to subsection 6(j), be final.

(f) In addition to determining which villages are entitled to land and other benefits under the terms of this section and this Act, the Commission shall determine the total land acreage to which eligible Village Corporations shall be entitled to select pursuant to this section. In no event shall any Village Corporation be awarded a grant of more than twenty-three thousand and forty acres. In making determinations pursuant to this subsection the Commission shall consider the following factors:

(1) the Native population of the Village;

(2) the nature of the use, both historic and present, of the lands surrounding the Native Village including the carrying capacity of the surrounding lands and biological community in relationship to the village population and subsistence use patterns of the Native residents therein;

(3) the amount of land needed for prospective community expansion, the area to be granted to Municipal Corporations or the State, and the area to be granted for access, rights-of-way, and other public services and facilities;

(4) the nature and economic value of the lands surrounding the village (without regard to the mineral estate) for the purpose of insuring some degree of comparability in value as between Native Villages; and

(5) the comprehensive land use plan prepared by the Village Corporation with the assistance of the Services Corporation staff pursuant to subsection (8) (i) hereof.

In making the determinations required by this subsection the Commission shall consider the geographical relationship of individual villages to the land in question and should avoid determinations which result in land grants that are separated by large bodies of water unless one of the above factors make such a determination reasonably necessary. The Commission's determination under this subsection shall, without regard to section 6(j), be final.

(g) If the Secretary determines that a substantial dispute is involved or that the best interests of justice would be served he may direct that a public hearing be held in accordance with such rules as he shall prescribe prior to making any of the withdrawals he is required to make by this section. Any hearings pursuant to this subsection shall be held within one year of the date of enactment of this Act. The Commission shall consider, in any contested case, the hearing record prepared by the Secretary as well as his recommendations and the recommendations of the Secretary of Agriculture in making its determination. The actions of the Commission under this subsection shall, without regard to subsection 6(j), be final.

(h) Pending the disposition of any national forest lands withdrawn under this section, the Secretary of Agriculture is authorized to take such actions, subject to existing rights, as may be necessary to administer, manage and protect such lands for the benefit of the potential beneficiaries and, in so far as is consistent with this section, in accordance with the laws, rules, and regulations applicable to the national forests and to permit access or grant easements, rights-of-way, or other interests in lands for the purpose of administration, use, or development of contiguous or adjacent national forest lands not withdrawn.

(i) Upon application of any Native Village found eligible for land selections pursuant to this section and upon certification thereof by the Commission, and after survey of the area selected pursuant to subsection (m)(1) of the Secretary shall issue a patent, without payment therefor, to the Village Corporation, or, if not yet incorporated, in trust to the Services Corporation for the benefit of the Native Village pending its incorporation as provided in section 11, for that amount of land to which the Native Village is found entitled by the Commission pursuant to the procedures set out in this section. Lands to be patented may be selected, subject to all valid existing rights, from any public land within areas withdrawn from each Native Village under the provisions of this section.

(j) In exercising selection rights pursuant to this section, Village Corporations shall select from among the public lands withdrawn pursuant to this section and all such selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water or by lands which are un-

available for selection, and shall be in whole sections and, wherever feasible, in units of not less than six hundred and forty acres. In the event the public lands withdrawn pursuant to this section are not sufficient in amount to satisfy the entitlement of any Native Village Corporation, as determined by the Commission, such Corporation may select noncontiguous tracts from the Tongass National Forest in order of their proximity to the center of the village until the Native Village Corporation's selection rights are exhausted.

(k) Within two months after a determination by the Commission that a Native Village is eligible for a grant of land pursuant to this section, the Secretary shall conduct an election for the village, under such rules and regulations as he may prescribe, to choose a five-member Village Land Selection Committee. The committee so elected is hereby authorized to exercise the land selection rights of the village pending organization of the Village Corporation. The persons entitled to vote in the election or serve on the Land Selection Committee shall be the members of each Native Village nineteen years of age or over, as shown on the temporary census roll prepared pursuant to section 7(a).

(l) All public lands withdrawn pursuant to this section, which have not been selected by a Village Corporation, shall be restored eighteen months after the effective date of this Act, or six months after the election required under subsection (k) hereof, whichever later occurs, to the status in which such lands have been placed pursuant to section 23 of this Act: Provided, That lands withdrawn around a village whose eligibility for land selection has not been finally determined by the Commission within eighteen months after the effective date of this Act shall remain withdrawn until six months after the Commission makes the determinations required pursuant to this section.

(m)(1) The Secretary shall promptly survey the townships withdrawn under this section and the areas selected for conveyance to Native Villages pursuant to subsections (i) to (l) of this section, but need monument only the exterior boundaries of such townships or areas. He also shall promptly survey within the townships withdrawn or areas selected all lands occupied as a primary place of residence, a primary place of business, subsistence campsites, and for other purposes as required under subsection (2)(A) hereof, and any other land to be patented under this section.

(m)(2)(A) Upon completion of the survey of lands selected by a Village Corporation, as provided in subsection (m)(1) hereof, the Secretary promptly shall issue a patent or patents to the Village Corporation to the land and all interests therein, except minerals covered by the Federal mineral leasing laws, subject to valid existing rights, and subject to the provisions of subsection (m)(2)(B) hereof, and the provisions of subsection (i) hereof: *Provided*, That any conveyance of national forest lands under the provisions of this section shall be subject to reservations in the United States of easements, rights-of-way, or other interests in land necessary for access to or for administration, use, or development of contiguous or adjacent national forest lands not conveyed. Such easements, rights-of-way, and interests shall be based upon existing and planned roads and trails as depicted on national forest transportation system plans and related resource plans available for public inspection at the office of the Regional Forester and at the office of the Forest Service in Washington, D.C.: *Provided further*, That in any conveyance of national forest lands under this section the Secretary shall consult with the Secretary of Agriculture and, where possible without working a hardship on a Native or Native Village, shall exclude areas now used or planned to be used for the following purposes:

(i) national forest administrative sites;

(ii) airfields;

(iii) recreation sites necessary to serve visitors to national forest lands not conveyed; and

(iv) public service or other sites necessary to facilitate administration of national forest resources.

The Secretary shall, where he deems appropriate, reserve interests in land recommended by the Secretary of Agriculture as necessary for continued access to such areas. Such excluded areas shall be administered by the Secretary of Agriculture in accordance with the laws, rules, and regulations applicable to the national forests.

(B) Upon receipt of a patent or patents to selected lands, Village Corporations or the Services Corporation on their behalf—

(i) shall issue deeds to the occupants, without payment of any consideration, to the surface estate for any tracts occupied by Natives on September 1, 1969, as a primary place of residence, as a primary place of business, or used for subsistence campsites, subject to valid existing rights;

(ii) shall issue deeds to the occupants, either without consideration or upon the payment of an amount not in excess of fair market value for such property, determined as of the date of initial occupancy, and without regard to any improvements thereon, to the surface estate for any tracts occupied by non-Natives on September 1, 1969, as a primary place of residence or a primary place of business, subject to valid existing rights: Provided, That all occupants of the same general character shall be accorded similar treatment with respect to any payment for land;

(iii) shall issue deeds, pursuant to subsection 11(g), without payment of any consideration, to any Municipal Corporation in the Native Village or to any Municipal Corporation established in the Native Village within five years of the date of the enactment of this Act, to the surface estate of the improved land on which the village is located and of as much additional land as is necessary for community expansion, for appropriate rights-of-way for public use, airport sites, and such other interests in land as are reasonably necessary for public use and for foreseeable community needs: *Provided*, That prior to the transfer of lands from a Village Corporation to a Municipal Corporation, individuals shall receive deeds to any lands used for residences and businesses: *And provided further*, That the amount of lands to be transferred to the Municipal Corporation shall be no less than one hundred and sixty acres;

(iv) shall issue deeds to the occupants, either without consideration or upon payment of an amount not in excess of fair market value for such property determined as of the date of initial occupancy and without regard to any improvements thereon, to the surface estate of any tracts occupied on September 1, 1969, by nonprofit organizations for the purposes for which such organizations were established, subject to valid existing rights: *Provided*, That all nonprofit organizations of the same general character shall be accorded similar treatment with respect to payment for land; and

(v) may issue deeds to all others subject to valid existing rights.

Any dispute over the boundaries, use, occupancy, or value of any tract under this subsection may be submitted by any party to the dispute to the Commission for decision. The decision of the Commission, without regard to subsection 6(j), shall be final.

(m)(3) Upon completion of the survey of lands selected by any Village Corporation, as provided in subsection (m)(1) hereof, and contemporaneous with the issuance of patents to Village Corporations as provided in subsection (m)(2)(A) hereof, the Secretary shall issue a patent or patents to all minerals in such village lands covered by the Federal mineral leasing laws, subject to valid existing rights, to the Services Corporation. At the time of such conveyance, the Services Corporation shall succeed and become entitled to any and all interests of the United States as lessor, contractor, or permitter in any mineral leases, contracts, or permits covering lands selected by any Village Corporation as provided in subsection (r) of this section.

(n) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years from the effective date of this Act, issue special use permits, without payment therefor, to any Native or Native group, subject to all valid existing rights, to the surface estate of any public land located in the Chugach or Tongass National Forest, but which has been used by such Native or Native group for a period of more than three years prior to the effective date of this Act as a campsite for the harvesting of fish, wildlife, berries, fuel, or other products of the land. Such permits shall be issued—

(1) for five-acre tracts for each subsistence use campsite separate from the campsite of any other applicant;

(2) for forty-acre tracts where the campsites of several applicants are in such proximity to each other as to make it not feasible to patent individual five-acre campsites; or

(3) for larger tracts, not to exceed sixty acres, where individuals can establish, under such rules and regulations as the Commission may prescribe, historic occupancy and use of the larger tracts.

Applications for permits under the subsection must be filed with the Commission within five years after the effective date of this Act. Pending the issuance of a permit for campsites under this subsection the Secretary is authorized to permit the use of such lands, upon which applications have been filed, as campsites. After five years after the effective date of this Act permits may be issued pursuant to the laws and regulations on the administration of the national forests.

(o) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years after the effective date of this Act, issue a patent of up to, but not to exceed eighty acres of land and interests therein, except the minerals covered by the Federal mineral leasing laws, and subject to all valid existing rights, from any public lands within the areas withdrawn for Natives under this section, but not selected pursuant to subsections (i) to (l) of this section without payment therefor, to any Native occupying land within such eighty acres on the effective date of this Act as a primary place of residence.

(p) Upon application filed with the Commission and certification thereof, the Secretary shall, for a period of seven years after the effective date of this Act, issue a patent of up to, but not to exceed, forty acres to the surface estate of any public land, in Southeast Alaska including the Chugach and the Tongass National Forest, subject to all valid existing rights, without payment therefor, to Natives nineteen years of age or older occupying such land whose primary place of residence, on January 1, 1970 and continuing to the date of enactment of this Act is outside the area withdrawn for the benefit of Native Villages by this section.

(q) In carrying out the provisions of this section, patents shall be issued by the Secretary in accordance with the following priorities:

(1) Within the areas withdrawn pursuant to this section—

(A) lands selected by Native Village Corporations;

(B) land for individual places of residence; and

(C) land for subsistence campsites.

(2) Outside the areas withdrawn pursuant to this section—

(A) land for individual places of residence; and

(B) land for subsistence campsites.

(r) Where, prior to patent of any land or minerals under this section, a lease, contract, or permit has been entered into or issued for the utilization of surface or mineral resources on land covered under such patent, the patent shall contain provisions making it subject to the lease, contract, or permit and the right of the lessee, contractee, or permittee to the complete enjoyment of all rights, privileges, and benefits granted him by such lease, contract, or permit. Upon issuance of the patent, the patentee shall succeed and become entitled to any and all income from the patented land and all interests of the United States as lessor, contractor, or permitter, in any such leases, contracts, or permits covering the estate patented. The administration of such lease, contract, or permit shall continue to be by the United States. In the event that the patent does not cover all of the land embraced within any such lease, contract, or permit, the patentee shall only be entitled to the proportionate amount of the revenues reserved under such lease, contract, or permit by the United States which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, contract, or permit which is included in the patent and the denominator is the total acreage contained in such lease, contract, or permit.

(s) The Secretary shall provide as a condition to the granting of each permit to prospect, or to the granting of each lease to mine or drill for minerals covered by the Federal mineral leasing laws, which minerals are situated in lands patented pursuant to subsections (o) and (p) of this section, and are not covered by such patent, that the permittee or lessee shall provide a bond, satisfactory to the Secretary, to indemnify the surface patentee for any damages which such permittee or lessee may cause in connection with the development of such permit or lease, and further the Secretary shall include provisions in such lease or permit which will protect the surface patentee against unreasonable interference in the enjoyment of his land.

(t) Notwithstanding the provisions of existing national forest timber sale contracts extending for a period more than three years from the date of this Act and directly affected by conveyances authorized by this Act, the Secretary of Agriculture is authorized to modify any such contracts with consent of the contractor to adjust the areas to which it or they apply for the purpose of avoiding hardship to Natives, unnecessary conflicts, and of offsetting the impacts of conveyances or special use permit authorized by this Act on national forest lands which are subject to any such contracts. Wherever possible such contracts shall be modified to avoid any overlap or conflict with lands withdrawn and lands selected and patented pursuant to this section.

TRANSITIONAL OPERATION OF PUBLIC LAND LAWS

SEC. 23. (a)(1) Except as otherwise provided in this Act, all unreserved public lands in Alaska which have not been previously classified by the Secretary are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, for not to exceed five years. The Secretary of the Interior is hereby authorized, at his discretion, and after consulting with the State, to classify any lands withdrawn by this section and to open to entry, selection, or location for disposal in accordance with applicable public land laws, such lands as he determines are chiefly valuable for the purposes provided for by such laws.

(2) Nothing in this section shall restrict the land selection rights of the State under the Statehood Act (72 Stat. 341), or restrict the acquisition, granting, or use of leases, permits, or rights-of-way under existing law, except that rights-of-way under Revised Statutes section 2477 shall take effect only under such terms and conditions as the Secretary may establish.

(3) In making the classifications required by subsection (a)(1) hereof the Secretary shall conduct detailed studies and investigations of all unreserved public lands in Alaska, and of Naval Petroleum Reserve No. 4 and the Rampart Power Site Withdrawal, which are suitable for inclusion as recreation, wilderness or wildlife management areas within the National Park System and the National Wildlife Refuge System, and shall advise the Congress within three years of the date of passage of this Act of the location, size and values of such areas, and shall simultaneously with notification to the Congress withdraw these areas from any appropriation under the public land laws, including application of the mining and mineral leasing laws, until such time as the Congress acts upon the Secretary's recommendations, but not to exceed the five year period during which all unreserved public lands are hereby withdrawn from appropriation.

(b) Upon the application of any applicant qualified to make entry, selection or location, under the public land laws, on lands not classified for entry under subsection (a) hereof, the Secretary shall examine the lands described in the application and if he classifies them as suitable for the purpose described in the application and opens them to entry, said applicant shall be entitled to enter, select or locate, such lands.

ALASKA NATIVE FOUNDATION

SEC. 24. (a)(1) There shall be created an Alaska Native Foundation during the ninety-day period prior to the dissolution of the Services Corporation as provided in subsection 8(h) of this Act. The Foundation shall be a nonprofit membership corporation with the powers hereinafter granted.

(2) The Foundation shall not be an agency or establishment of the United States Government.

(b)(1) The board of directors of the Services Corporation on the date specified in subsection (a) hereof shall act as the incorporators of the Foundation.

(2) The incorporators shall prepare the original articles of incorporation and bylaws for the Foundation, subject to the approval of the Secretary of the Treasury, in a form consistent with the provisions of this section and in a form that shall qualify the Foundation for tax exemption under section 501(c)(3) of title 26, United States Code or any successor provisions thereto.

(3) The incorporators shall serve as the initial board of directors until permanent directors are appointed as provided in subsections (c) and (e). The incorporators shall file the articles of incorporation with the Secretary within thirty days, and the Foundation shall be deemed to be formally organized as of the date of such filing. The incorporators also shall transmit a copy of the articles of incorporation to the Commissioner of Commerce of the State.

(c)(1) The management of the Foundation shall be vested in a board of directors which, with the exception of the initial board, shall consist of the members of the Foundation as selected in accordance with subsection (e).

(2) The board of directors shall elect a chairman annually from among its own membership.

(d) The Foundation shall have a president, and such other officers as may be named and and appointed by the board, at rates of compensation fixed by the board and serving at the pleasure of the board. The president and other officers of the Foundation may, but need not, be members of the Foundation.

(e)(1) There shall be seventeen members of the Foundation, fourteen of whom shall be initially elected by the voting members of the Services Corporation on the following basis:

(A) one member representing each of the twelve regions as determined by section 9 of this Act;

(B) one member representing the members of the Urban Alaska Native roll;

(C) one member representing the members of the Alaska Native National roll; and

(D) three members shall be appointed by the Governor of the State.

(2) Members of the Foundation shall be entitled to reasonable fees and shall serve until their death, resignation, retirement, or removal for cause. A member may be removed only by a two-thirds vote of the members of the Foundation (without the participation of the affected member) upon a showing of physical disability or mental impairment preventing the reasonable performance of his duties, or upon a showing of a willful failure to perform his duties in a reasonable manner.

(3) Upon the death, resignation, retirement, or removal of a member, the remaining members shall elect a new member by a majority vote.

(f)(1) The purposes of the Foundation shall be to engage exclusively in charitable, educational, and scientific activities for the benefit of individuals of Native background.

(2) In furtherance of the purposes set forth in subparagraph (1), the Foundation may carry out such charitable, educational or scientific projects as may be consistent with its status as an organization exempt under section 501(c)(3) of title 26, United States Code, or any successor provisions thereto.

(g)(1) The Foundation shall have and may exercise all rights and powers vested in a nonprofit membership corporation under the laws of the State.

(2) The Services Corporation, before its dissolution pursuant to section 8(h) of this Act, shall distribute to the Foundation and its incorporators sufficient funds to meet the necessary costs of the Foundation's organization and initial operation.

ATTORNEY FEES AND EXPENSES

SEC. 25. (a) The chief commissioner of the Court of Claims is authorized to receive, consider, and settle, in accordance with the provisions of this section, any unreimbursed claim submitted to him for attorneys' fees, and out-of-pocket expenses by any person in connection with services rendered, on or before the date of enactment of this Act, on behalf of any Native, Native Village, statewide or Regional Native Associations or other Native tribe, band, or group (1) in the actual prosecution pursuant to any contract, of a claim pending before any court or the Indian Claims Commission which is dismissed pursuant to this Act, or (2) for legal representation with respect to the scope and preparation of this Act and previously proposed legislation to settle claims against the United States or the State based upon aboriginal right, title, use, or occupancy of lands by Natives, or with respect to litigation (other than litigation covered under clause (1)) involving the validity of or otherwise affecting such claims.

(b) Any claim made pursuant to subsection (a) of this section shall be filed with the chief commissioner of the Court of Claims within six months following the date of the enactment of this Act, and shall be in such form and contain such information as the chief commissioner shall prescribe. The chief commissioner shall give reasonable notice to the interested parties and an opportunity for them to be heard and to present evidence before making a final determination upon any such claim. The amount of attorney fees payable pursuant to any claim filed in accordance with this section shall be determined by the chief commissioner on a quantum meruit basis. Out-of-

pocket expenses shall be approved for payment pursuant to this section only if the chief commissioner has first determined that such expenses were unreimbursed and were necessary, reasonable, and actually incurred.

(c) (1) No more than $100,000 in the aggregate shall be available for the payment of claims for attorneys' fees (exclusive of approved out-of-pocket expenses) for such services (referred to in subsection (a)) rendered prior to January 1, 1964. In the event that the amount determined by the chief commissioner to be payable as attorneys' fees for such services rendered prior to such date exceeds in the aggregate $100,000, the chief commissioner shall authorize, in accordance with subsection (d), payment of each such claim for such fees on a pro rata basis so that the aggregate amount authorized therefor does not exceed $100,000.

(2) No more than $400,000 in aggregate shall be available for the payment of claims for attorneys' fees (exclusive of approved out-of-pocket expenses) for such services (referred to in subsection (a)) rendered during the period commencing January 1, 1964, and ending on December 31, 1967. In the event that the amount determined by the chief commissioner to be payable as attorneys' fees for such services rendered prior to such date exceeds in the aggregate $400,000, the chief commissioner shall authorize, in accordance with subsection (d), payment of each such claim for such fees on a pro rata basis so that the aggregate amount authorized therefor does not exceed $400,000.

(3) No more than $1,000,000 in the aggregate shall be available for the payment of claims for attorneys' fees (exclusive of approved out-of-pocket expenses) for such services (referred to in subsection (a)) rendered during the period commencing January 1, 1968 and ending on the date of the enactment of this Act. In the event that the amount determined by the chief commissioner to be payable as attorneys' fees for such services rendered during such period exceeds in the aggregate $1,000,000, the chief commissioner shall authorize, in accordance with subsection (d), payment of each such claim for such fees on a pro rata basis so that the aggregate amount authorized therefor does not exceed $1,000,000.

(d) The chief commissioner of the Court of Claims shall certify to the Secretary of the Treasury, with respect to each such claim, the name and address of the claimant and the amount determined by the chief commissioner, pursuant to subsection (c), to be payable to such claimant under this section for attorneys' fees and out-of-pocket expenses. The Secretary of the Treasury, upon receipt of such certification, shall pay to each such person named therein the amounts so certified. Any amounts so certified as attorneys' fees shall be payable from moneys in the Fund set aside pursuant to section 5(a)(1) of this Act. Such amounts so certified as out-of-pocket expenses shall be payable from other moneys in such Fund.

(e) No remuneration on account of any such services referred to in subsection (a) of this section and for which a claim is made pursuant to this section shall be received by any person for such services in addition to the amount paid in accordance with this section, and any contract or other agreement to the contrary shall be void. Whoever receives, on account of such services, any remuneration in addition to the amount paid in accordance with this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000 or imprisoned not more than twelve months, or both.

TAXATION

SEC. 26. (a) The compensation paid to Natives pursuant to section 5(a) of this Act, and any interest earned with respect thereto while such funds are deposited in the Fund or are invested by the Secretary pursuant to section 5, shall not be subject to any form of Federal or State taxation either (1) at the time of receipt, or (2) upon distribution to any Native corporation or individual Native, whether directly by a per capita payment or indirectly through such corporation or corporations. For purposes of this subsection, the first dividend payments or other cash distributions made by any Native corporation shall be deemed to be distributions out of its share of funds derived from section 5(a), including interest, until such share has been fully distributed.

(b) The compensation paid to the Natives pursuant to section 5(b) of this Act, and any interest earned with respect thereto while such funds are deposited in the Fund, shall not be subject to any form of Federal or State taxation either (1) at the time of receipt, or (2) upon distribution to any Native corporation or individual Native, whether directly or by a per capita payment or indirectly through such corporation or corporations, for a period of twelve fiscal years commencing with the fiscal year during which this Act becomes effective. For purposes of this subsection, the first dividend payment or other cash distributions made by any Native corporation, after the distribution of compensation paid pursuant to section 5(a) in accordance with subsection (a) hereof, shall be deemed to be distributions out of its share of funds derived from section 5(b), including interest. After the expiration of the foregoing twelve fiscal years period, the compensation paid to the Natives pursuant to section 5(b) and any interest with respect thereto while such funds are deposited in the Fund, shall not be subject to Federal or State income taxation at the time of receipt, but shall be subject to taxation upon distribution to any Native or Native corporation on the same basis as like income is taxed when received by a non-Native individual or corporation.

(c) The receipt of shares of stock in the Investment Corporation or its successor by or on behalf of any Native pursuant to section 10(g) or (l) or pursuant to section 8(h) by a successor to the Services Corporation shall not be subject to any form of Federal, State or local taxation. The basis for computing gain or loss on subsequent sale or other disposition of any shares in the successor to the Investment Corporation issued pursuant to section 10(l) or in any successor to the Services Corporation issued pursuant to section 8(h) shall be the fair market value of such shares at the time of receipt.

(d) The receipt of money or other property pursuant to section 8(h) or 10(l) by the successor to the Investment Corporation or pursuant to section 8(h) by a successor to the Services Corporation shall not be subject to any form of Federal, State or local taxation. No money or property so received shall be treated as a contribution to capital for purposes of section 362(c) of the Internal Revenue Code, title 26, United States Code. The basis for computing gain or loss on subsequent sale or other disposition of any property so received by the successor to the Investment Corporation, for purposes of any Federal, State or local tax, shall be the fair market value of such property at the time of receipt.

(e) The receipt of land or any interest therein pursuant to sections 13, 14, 15, 16, 18 or 22 or of cash in order to equalize the values of properties exchanged pursuant to section 16(a), shall not be subject to any form of Federal, State or local taxation. The basis for computing gain or loss on subsequent sale or other disposition of such land or interest in land for purposes of any Federal, State or local tax imposed on or measured by income shall be the fair market value of such land or interest in land at the time of receipt.

(f) Real property interests conveyed, pursuant to this Act, to a Native individual, group, village, corporation, or any other Native organization, shall be exempt from State real property taxes for a period of twelve fiscal years after the effective date of this Act: *Provided*, That municipal taxes, real property taxes, or assessments may be imposed upon individually owned real property within its jurisdiction by any Native village incorporated as a governmental unit under the laws of the State: *And provided further*, That easements, rights-of-way, leaseholds, and similar interests in such real property may be taxed in accordance with State or local law. All rents, royalties, profits, and other revenues or proceeds, derived from such real property interests shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation.

(g) Real property interests conveyed, pursuant to this Act, to a Native individual, group, village, corporation, or any other Native organization, shall, so long as the fee therein remains not subject to State or local taxes on real estate, continue to be regarded as public lands for the purpose of computing the Federal share of any highway project pursuant to title 23 of the United States Code, as amended and supplemented, and so long as there are also no substantial revenues from such lands, continue to receive forest fire protection services from the United States at no cost.

(h) The Foundation established pursuant to section 24 shall be treated as a private foundation for purposes of applying the taxes and restrictions on self-dealing provided for in section 4941 of the Internal Revenue Code, title 26, United States Code, and on expenditures for political purposes described in section 4945(d) (1) and (2) of the Internal Revenue Code, title 26, United States Code, or corresponding provisions of subsequent law, but otherwise shall not be treated as a private foundation.

REVIEW BY CONGRESS

SEC. 27. On or before March 1 of each year during the thirteen years following the effective date of this Act, the Commission, until its termination, and the Secretary, respectively, shall submit reports to Congress concerning the operation and implementation of this Act during the previous calendar year. Within ninety days after the end of each five-year period following enactment of this Act, the Commission and the Secretary also shall submit to Congress, through the President, a joint report on the status of the Natives and their organizations, a summary of actions taken under this Act, and their respective recommendations as may be appropriate for extension, amendment, or clarification of any provisions of this Act. This joint report and the Commission's annual report shall include as an appendix all statements, memorandums, reports, and other written comments presented to the Commission for forwarding to Congress by any Native Village, corporation, or association.

APPROPRIATIONS

SEC. 28. (a) There is authorized to be appropriated to the Alaska Native Commission such sums as are necessary to carry out the functions and responsibilities it is required to perform under the provisions of this Act.

(b) There is authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to prepare the temporary roll, to survey lands to be granted pursuant to this Act, to classify lands and to carry out other functions and responsibilities required to be performed under the provisions of this Act.

(c) The President of the United States is requested to advance from the contingency fund established for his office such sums as the Director of the Bureau of the Budget determines to be necessary to defray the initial organizational and administrative expenses of the corporations to be established pursuant to this Act, pending the availability of moneys in the Fund. Such advances shall be reimbursed to the President's contingency

fund from the Fund when sufficient moneys become available therein.

PUBLICATIONS

SEC. 29. The Secretary of the Interior and the Commission are authorized to issue and publish in the Federal Register, pursuant to the Administrative Procedures Act (5 U.S.C. 500 and following) such regulations as may be necessary to carry out the purposes of this title.

SAVING CLAUSE

SEC. 30. Except as specifically provided for in this Act, nothing in this Act shall be construed as repealing any other provision of Federal law applicable to Alaska. To the extent that there is a conflict between any provision of this Act and any other Federal laws applicable to Alaska, the provisions of this Act shall govern.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. 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.

Mr. JACKSON. Mr. President, the purpose of S. 1830, the Alaska Native Claims Settlement Act of 1970, is to provide for a just and final legislative settlement of the longstanding land claims of the Alaska Native people to the lands which now comprise the State of Alaska.

The bill as reported by the committee is very long and very complex. This measure is the product of 3 years of hearings and countless executive sessions which were dedicated to the preparation and drafting of a settlement package which provides legal justice to all of the parties involved—the Native people, the State of Alaska, the Federal Government—and opens the door of opportunity to the Native people of Alaska.

BACKGROUND

The legal history of the Alaska Native land claims is a history of inaction, postponement, and preservation of the controversy for resolution at a later point in time. In part, this history of delay is due to the fact that no treaties were ever made between Alaska Natives and the Federal Government. In larger measure, however, the delay has been due to the complex social, legal, and institutional problems which are involved in a settlement.

The essential points in the history are as follows:

First. Since the acquisition of Alaska from Russia in 1867 the Federal Government has consistently recognized that the Alaska Natives should not be disturbed in the possession of lands actually being used by them, and that Congress has reserved to itself the determination of their title. This recognition is expressed as early as 1884 in the Organic Act and as recently as 1958 in the Alaska Statehood Act.

Second. The Alaska Native people have no clear legal remedy or recourse to advance their claims except as is specifically provided by Congress.

Following passage of the Alaska Statehood Act the State of Alaska began to select land from the generous 103-million-acre land grant that had been accorded by the Congress. These State land selections together with private development under the public land laws brought increased pressures on the Native people. Beginning in 1961 a series of Native protests based upon the doctrine of aboriginal rights were filed with the Bureau of Land Management protesting the granting away of lands claimed by Native groups to the State and to others. In November of 1966 the Secretary of the Interior announced that no further mineral leases would be issued or lands granted until the Native protests had been resolved. By April of 1968, 296 million acres were subject to Native protest.

Following a period of time during which the Department of the Interior imposed an administrative land freeze, on January 17, 1969, the land freeze was formalized with the issuance of Public Land Order No. 4582. This order withdrew all unreserved public lands in Alaska until the Native land claims were resolved or until December 31, 1970.

The legal issues involved in the land claims controversy are complex. The unresolved status of the claims creates difficult problems concerning Native livelihoods and opportunity, the fiscal and economic vitality of the State, and the proper conservation and development of Alaska's resources. The urgency and complexity of these issues require the certainty, the flexibility, and the detail of a legislative settlement.

MAJOR PROVISIONS OF NO. 1830

A major purpose of the legislative settlement proposed by S. 1830 is the final extinguishment of all Native claims to lands in Alaska. As compensation for the extinguishment of these claims the bill provides for substantial land grants to both individuals and to Native Village Corporations; the organization of modern and democratic corporate enterprises to administer funds granted by the bill; a Federal appropriation of $500 million to be paid over a 12-year period; a right to share in revenues derived from the mineral resources of Alaska until $500 million has been received; and protection of subsistence resources used by Native people.

A. Persons eligible.

Persons eligible for benefits under the acts are Alaska Indians, Eskimos, and Aleuts of one-fourth degree or more blood who are citizens of the United States. Native people living in urban areas of Alaska or living in other States are entitled to benefits under the act and special provisions have been made in the bill for them.

B. Monetary compensation.

First. Appropriated funds.

An authorization for $500 million of Federal funds to be paid over a 12-year period is provided. These funds are paid to the Alaska Native Investment Corp. and to the Alaska Native Services and Development Corp. These corporations receive and distribute moneys to the Native people in the form of shares of corporate stock, dividend payments, to individuals and cash distributions to village corporations and the urban and national corporations.

Second. Revenue sharing.

In addition to the federally appropriated funds the Native people of Alaska are granted the right to receive 2 percent of the revenues derived from the disposition of leasable minerals on the public lands in Alaska until a total of $500 million has been paid. The bulk of these revenues—99.5 percent—will come from funds which would otherwise go to the State of Alaska.

C. Compensation by land grants.

First. Individual land grants.

The bill provides that individual Natives who have a residence, business or a hunting, fishing or trapping campsite will receive title to the land occupied or used by them for these purposes.

Second. Village land grants.

Villages which are believed to be entitled to select lands are listed in the bill. The bill also provides a procedure for adding villages not listed in the bill if they meet certain requirements.

Third. Land selection for economic potential.

The Services Corp. is granted the right to select two million acres of public lands for their timber potential. The Services Corp. also may select an additional 1 million acres to be used to avoid hardship to Native groups and individuals and to protect areas of unique cultural and historical significance.

Five hundred thousand acres of surface estate land is granted to the North Slope Native Corp. in recognition of the fact that on the north slope larger areas of land are needed for subsistence.

The maximum amount of land granted under the bill is a little over 10 million acres. The lands granted are broken down as follows:

[In acres]

Grants to village corporations	5,884,200
Grants to individuals	635,000
Grants to services and North Slope Native corporations	3,500,000
Total	10,019,200

D. Institutions established.

First. Alaska Native Commission.

An Alaska Native Commission is established to perform a number of quasi-judicial functions in the administration and implementation of the provisions of the bill. These duties include the preparation of a final membership roll of all eligible Native people, preparation of a final village roster, the determination of boundary questions and disputes, and the review and approval of certain land transactions.

The Commission will consist of five members, at least two of whom must be Alaska Natives. Commission members will be appointed by the President, subject to Senate confirmation, and will be compensated by the Federal Government. The Commission will terminate at the end of 7 years or earlier if its duties under the bill have been completed.

Second. Alaska Native Corp.

The bill would establish two statewide corporations. The first, the Alaska Native Investment Corp., will engage exclusively in investments and business for profit activities. The second, the Alaska Native Services Corp., will perform needed social services and distribute funds made available under the bill. Eligible Native Villages are required to establish nonprofit membership corporations under Alaska State law to hold title to lands granted by the bill and to

distribute benefits to individuals. An urban corporation and a national corporation will be established to perform similar functions for Natives living in urban areas of Alaska and for Natives living outside the State of Alaska.

Third. Alaska Native Foundation.

At the end of 12 years a charitable foundation, the Alaska Native Foundation, will be established. The foundation's purposes will be educational and charitable, and it will carry on the social betterment functions previously performed by the Services Corp.

E. General provisions.

First. Protection of subsistence resources.

The Secretary of Interior is directed to classify public lands surrounding all Native villages as subsistence use units. These units will be much larger than the areas of land granted to the villages and will provide a means of closing these areas for a limited period of time to nonresident hunters, fishermen, and trappers, when necessary to protect subsistence resources.

Second. Transitional operation of public land laws.

The bill legislatively withdraws, for a period of 5 years, all unreserved public lands in Alaska and sets up a system for opening these lands to entry after they have been appropriately classified as chiefly valuable for the specific purposes provided for under the public land laws.

The bill also directs the Secretary of the Interior to make a detailed study of all unreserved public lands in Alaska which are suitable for inclusion in the National Park or Wildlife Refuge Systems. The Secretary is to make recommendations to the Congress on these areas within 3 years.

Third. Transfer of education and welfare responsibilities to the State of Alaska.

The bill requires the Secretary to initiate a study to develop a program for ending the Bureau of Indian Affairs control over the affairs of the Native people of Alaska within 5 years. The basic responsibility for the welfare of Native people in Alaska would, as it is for all Alaska citizens, be vested with the State of Alaska. Federal programs which are excepted from this transfer are the Native public health service programs and certain educational programs.

Fourth. Attorneys' fees and expenses.

Compensation of attorneys for fees and expenses incurred in connection with the Alaska Native land claims legislation, or in connection with claims pending before the Indian Claims Commission which would be terminated by the terms of the bill, would be set by the Chief Commissioner of the Court of Claims. The bill provides that the fees shall be paid on a quantum meruit basis for services actually performed. A total limitation of $1.5 million for attorneys' fees is established by the bill.

NEED FOR SETTLEMENT

S. 1830 as reported by the committee will go far toward providing the Alaska Native people the means for correcting and improving many of the conditions under which they live. The measure is not, however, in any sense to be considered as social welfare legislation. The bill provides compensation for the taking and extinguishment of claims to land which—though they have not been litigated—in the judgment of many competent Government and private attorneys raise substantial issues of both law and fact.

First. Social need.

The Alaska Native people as a group are among the most disadvantaged citizens of the United States in terms of income, employment, educational attainment, life expectancy, health, nutrition, housing, and every important indicator of social welfare.

Statistics on the condition of the Alaska Native are appalling. His average age at death is less than 35 years; the infant mortality rate is more than twice the national average. Tuberculosis preys on him at 20 times the rate for the rest of the United States. Other diseases run rampant in his communities, particularly those caused by environmental conditions. Alaska Native Villages contain the worst housing in America. Of some 7,500 dwellings, 7,100 need replacement.

Out of 2,014 Native households recently surveyed, 1,561 have no water supply or waste disposal and 393 have well water only. Only 60 households have well water and sanitary waste disposal.

The Alaska Village Native has an average formal education of less than 8 years—after which he must leave his community and family and often this State for grades 9 through 12.

The Alaska Native has an unemployment rate of 60 percent and an annual per capita income of less than $1,000—much less than the official poverty level of the U.S. Government.

These conditions did not result only or even mainly from the lack of clear title to the lands occupied by the Natives. They will not be resolved alone by the opportunities which would be made available by certainty in land tenure. The unresolved status of those lands has, however, subverted both traditional livelihoods and the possibility of social and economic progress on a modern footing. Without title to the lands they use and occupy, Alaska Natives are defenseless against commercial development which changes the character of and sometimes depletes subsistence resources, and against the population influx which disorganizes indigenous ways of life. At the same time, the Native people have no usable property rights in the commercial resources of the lands they have historically used and occupied. As a consequence, they have lacked real property assets to develop or to use as security for loans for home improvement or entry into commercial enterprise.

The bill approved by the committee will correct many of these conditions and will provide the resources and the institutional framework for dealing with other problems.

Second. Need for certainty.

Intelligent, planned development as well as the preservation of scarce resources—and attaining the optimum balance between them—requires sophisticated land-use planning and land management by both the Federal Government and the State. Neither government can plan or manage effectively so long as the Native claims issue is unresolved.

The fact that unresolved Native claims have been made to most of the lands in Alaska has halted both Federal mineral leasing and the transfer of lands selected by the State under the Statehood Act. Some contend that the Native land claims may also cast a cloud over the State's title to mineral revenues it has already received. If continued indefinitely into the future, the present impasse will seriously limit the possibilities of human development as well as resource and economic development in Alaska and compromise both the State's fiscal viability and its capacity to provide opportunity for all of its citizens—first as well as last.

The alternative to a prompt legislative disposition of the Alaska Native claims is a myriad of lawsuits which cannot provide justice to any of the parties involved but which may be expected to increase the existing antagonisms between Native people and other Alaskans.

The legislative settlement recommended by the committee reflects an exceptional degree of unity and agreement among the parties involved on the goals and principles to be achieved by its enactment. There is concurrence on the relevant history and on the main facts; there is general agreement on the principles of law and on the limits within which the formulation of public policies must be conducted; there is consensus on the structural elements which constitute the settlement; and there is a common recognition that the institutions and machinery of settlement are in large measure dictated by the nature of the problem and the elements of the settlement.

To the Federal Government, S. 1830, if enacted by the Congress as recommended by the committee, can mean that the last chapter in the history of the U.S. relations with the Alaska Indian, Eskimo, and Aleut people will have a just, generous, and honorable closing.

To the State of Alaska, the bill provides the means for lifting of the land freeze and for going forward with proper and planned economic development of the State. It means that the cloud which the Native claims cast on all land titles in Alaska will have been removed. It means that State selections under the Statehood Act may proceed, free from the threat of litigation and conflicting claims.

To the Alaska Native people, the bill provides opportunity for a better life for themselves and for their children.

The bill approved by the committee presents the Congress with the chance to provide the Native people of Alaska with justice, hope, and opportunity and to end 100 years of less than benevolent wardship.

If Congress does not provide for the settlement of the land claims of the Natives of Alaska in this session, it is reasonably certain that many consequences, all of them undesirable from the viewpoint of the Native people, the State of Alaska, and the United States, will follow. These include additional years of delay in doing justice to the Native people;

the probable initiation of litigation by the parties involved as part of an effort to protect their position; probable continued delay in State selections under the Statehood Act; the expiration of Public Land Order No. 4582 and the possibility that through the operation of the public land laws, increased conflicts between the claims of the Native people, the State, and others will develop.

To date, all of the parties involved have supported and worked toward a legislative settlement in which all stand to benefit. The time to enact that legislation is now. In virtually every major piece of legislation dealing with Alaska from the time of its purchase from Russia, Congress has stated that it was reserving the settlement of the claims of the Natives for future legislation. S. 1830 provides a carefully considered, carefully drafted legislative settlement through which the Nation may honorably settle the longstanding claims of the Alaska Native people.

Mr. President, I ask unanimous consent that selected portions of the committee report on S. 1830 be printed in the RECORD.

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

I. INTRODUCTION

1. GENERAL

The Committee on Interior and Insular Affairs has, over a period of four years, heard many witnesses and compiled a voluminous hearing record concerning the long standing claims of the Indian, Eskimo, and Aleut people of Alaska to the lands which now comprise the State of Alaska. Some of this testimony was conflicting on important legal, social, and economic issues that are involved in bringing about a just resolution and settlement of this issue.

In spite of the differences in point of view on some of the particular issues involved there has been a remarkable unity of purpose on the goals sought and the principles to be advanced by this settlement. The goals and principles sought to be achieved by the Committee in this legislation are stated as well as they can be stated in the preamble of the *Official Constitutions and Bylaws* of the Alaska Federation of Natives, the Statewide Association of the Native people of Alaska:

We, the Native People of Alaska, in order to secure to ourselves and our descendants the rights and benefits to which we are entitled under the laws of the United States, and the state of Alaska; to enlighten the public toward a better understanding of the Native people; to preserve the Native cultural values; *to seek an equitable adjustment of Native affairs and Native claims;* to seek, to secure, and to preserve our rights under existing laws of the United States; to promote the common welfare of the Natives of Alaska and to foster the continued loyalty and allegiance of the Natives of Alaska to the flag of the United States and the state of Alaska, . . . (emphasis supplied)[1]

The land claims of the Native people of Alaska are the main remaining body of unresolved claims by aboriginal peoples in the United States. They are not encumbered with a history of conquest or of treaties between tribal groups and the United States, and with minor exceptions no wardship or reservation system has been imposed either on the Natives or on the lands they use and occupy.[2] The Congress has an opportunity in this last major settlement between the United States and the Native peoples of America to arrive at a more just and wiser resolution than has been typical of our country's history in dealing with Native people in other times and in other states.

This Committee believes that doing justice to Alaska's Native people and acting in the larger national interest both demand a prompt settlement of these claims. Their unresolved status threatens Native livelihoods and opportunity, the fiscal and economic viability of the State of Alaska,[3] and the proper conservation and development of Alaska's resources. Moreover, the Committee is convinced that the urgency and the complexity of these issues—especially the urgency of the Natives' need for better living conditions—requires the certainty, the flexibility and the detail of a legislative settlement rather than a judicial settlement. This is a position shared by all of the parties involved.

The measure reported by the Committee reflects an exceptional degree of agreement among the representatives of the Alaska Native people, the responsible agencies of the United States government, and the State of Alaska. All three parties concur in the main facts, principles of law, justice, and public policy involved, and in the main structural elements of the settlement proposed. The presentations of the parties have, of course, differed in emphasis and detail and this legislation is not based preponderantly upon the recommendations of any one of them, but draws selectively from each and contains many new major innovations and refinements. Like any "out of court" settlement, this bill is in many respects a compromise, and it will not be wholly satisfactory to any of the major concerned groups. Nevertheless, the areas of agreement are outstanding and provide the background for this measure and for a final settlement of this long standing, long neglected issue.

2. OUTLINE OF THE MAJOR PROVISIONS OF THE ALASKA NATIVE LAND CLAIMS BILL

Outlined below are the major provisions of the Alaska Native Claims Settlement Act of 1970 as ordered reported by the Committee.

Title

"Alaska Native Claims Settlement Act of 1970"

Declaration of policy

This bill provides for a final legislative settlement to the long standing and long ignored claims of the Alaska Native people to the lands which now comprise the State of Alaska.

The bill extinguishes all Native claims to lands in Alaska. As compensation for the extinguishment of these claims the measure provides for substantial land grants to both individuals and to Native Village Corporations; the organization of modern and democratic corporate enterprises to administer funds granted by the bill; a Federal appropriation of $500 million to be paid over a twelve year period; a right to share in revenues derived from the mineral resources of Alaska until $500 million has been received; and for protection of subsistence resources used by Native people.

Persons eligible

Persons eligible for benefits under the Act are Alaska Indians, Eskimos and Aleuts of one fourth degree or more blood who are citizens of the United States. Native people living in urban areas of Alaska or living in other States are entitled to benefits under the Act and special provisions have been made in the bill for them.

Monetary compensation

1. Appropriated Funds

An authorization for $500 million of Federal funds to be paid over a twelve year period is provided. These funds are paid to the Alaska Native Investment Corporation and to the Alaska Native Services and Development Corporation. These Corporations receive and distribute moneys to the Native people in the form of shares of corporate stock, dividend payments to individuals and cash distributions to Village Corporations and the Urban and National Corporations.

Funds are paid pursuant to the following schedule:

Year:	*Millions*
1	$20
2	50
3	70
4	70
5	70
6	40
7 to 12 ($30 million annually)	180
Total	500

2. Revenue Sharing

In addition to the Federally appropriated funds the Native people of Alaska are granted the right to receive two percent of the revenues derived from the disposition of leasable minerals on the public lands in Alaska until a total of $500 million has been paid. Lands patented to the State under the Statehood Act are excluded, but lands tentatively approved to the State and lands selected by the State are included to insure that the State makes a contribution to the settlement.[4]

3. Division of Revenues

The Services Corporation receives 80 percent of the funds made available in the first year and the Investment Corporation receives 20 percent. These figures change yearly, and by the end of twelve years, the Service Corporation receives 40 percent and the Investment Corporation receives 60 percent of the funds available from Federal appropriations and revenue sharing. This formula will insure that in early years the larger share of available funds will be devoted to dealing with the pressing social and economic problems facing individual Natives and Villages. In later years a larger share of the funds are dedicated to long term investments which will result in larger dividend payments and a substantial increase in the value of the stock held by each Alaska Native.

Compensation by land grants

1. Individual Land Grants

The bill provides that individual Natives who have a residence, business or a hunting, fishing or trapping campsite will receive title to the land occupied or used by them for these purposes.

2. Village Land Grants

Villages which are believed to be entitled to select lands are listed in the bill. The bill also provides a procedure for adding Villages not listed in the bill if they meet certain requirements.[5]

Villages with a population of less than four hundred eligible Natives will be entitled to select up to twenty three thousand and forty acres of land or one full township. Villages having a population of more than four hundred would be entitled to receive up to an additional township of land for each additional four hundred Native residents. The exact amount of land granted to each eligible Village will be based upon the population of the Village, the historic and present uses of the land, foreseeable needs, and the value of the lands. The acreage determinations will be made by the Commission following a review of the recommendations of the members of the Village, the Secretary of the Interior, and the State of Alaska.

To prevent major changes in management, in recognition of the previous judgment awarded the Tlingit-Haida Indians by the Court of Claims, and primarily in view of the higher value of forest lands when compared with most other land areas in Alaska, Villages located in the Tongass and Chugach National Forests would be entitled to receive up to one township only regardless of their eligible Native population.

Footnotes at end of article.

3. Land Selection for Economic Potential

The Services Corporation is granted the right to select two million acres of public lands for their timber potential. The Services Corporation also may select an additional one million acres to be used to avoid hardship to Native groups and individuals and to protect areas of unique cultural and historical significance.

500,000 acres of surface estate land is granted to the North Slope Native Corporation in recognition of the fact that on the North Slope larger areas of land are needed for subsistence.

Alaska Native Commission

An Alaska Native Commission is established to perform a number of quasi-judicial functions in the administration and implementation of the provisions of the bill. These duties include the preparation of a final membership roll of all eligible Native people, preparation of a final village roster, the determination of boundary questions and disputes, and the review and approval of certain land transactions.

The Commission will consist of five members, at least two of whom must be Alaska Natives. Commission members will be appointed by the President, subject to Senate confirmation, and will be compensated by the Federal government. The Commission is authorized to have a small legal staff, hearing examiners if necessary, and a clerical staff. The Commission will terminate at the end of seven years or earlier if its duties under the bill have been completed.

Alaska Native Corporations

The proposed bill would establish two Statewide Corporations. The first, the Alaska Native Investment Corporation, will engage exclusively in investments and business for profit activities. The second, the Alaska Native Services Corporation, will perform needed social services and distribute funds made available under the bill. Eligible Native Villages are required to establish non-profit membership corporations under Alaska State law to hold title to lands granted by the bill and to distribute benefits to individuals. An Urban Corporation and a National Corporation will be established to perform similar functions for Natives living in urban areas of Alaska and for Natives living outside the State of Alaska.[6]

1. Alaska Native Services and Development Corporation

The Alaska Native Services and Development Corporation would be established as a nonprofit membership Corporation to administer and disburse appropriated funds and funds received from revenue sharing to Native Village Corporations and to the Urban and National Corporations.

The Services Corporation will have an eighteen member board of directors, fourteen of whom will be elected on a regional basis by Alaska Natives. The Corporation will have an appropriate staff with the necessary legal, financial, social and public works expertise to provide any needed advice and assistance to the Village Corporations and to the Alaska Native people.

The Services Corporation would be in existence for twelve fiscal years. At the end of twelve years the Services Corporation's Federal charter would expire and, at the option of the Native members, the Services Corporation would be merged into the Investment Corporation, liquidated or reorganized as an ordinary business for profit corporation under State law.

2. Alaska Native Investment Corporation

The bill authorize the establishment of an Alaska Native Investment Corporation. The Investment Corporation is to be organized as a regulated business investment corporation and in many respects is similar in corporate organization to a modern mutual fund.

The Investment Corporation will have a twelve member board of directors and will handle investments and engage in business for profit activities. The Committee has purposely kept the business for profit activities and social services activities separate. While this has required the creation of two statewide corporations rather than one it avoids any confusion of activities, guidelines and personnel. Without this separation it would be difficult if not impossible to evaluate the performance of the investment and business for profit functions.

The board of directors in the early years of its operation will award a contract to a "Business Management Group" which would be responsible for managing the Investment Corporation's assets, subject to the terms of the bill, the Investment Company Act of 1940, and the policies established by the board. At the end of three years the board, at its option, may develop an in-house management and investment capacity and terminate any existing management contracts.

The board is charged with the responsibility of making balanced and prudent investments in:

(i) a portfolio of sound national and international investments;

(ii) business activities having an impact on sectors of the economy especially important to the State of Alaska and Alaska Natives; and

(iii) enterprises wholly or partially owned by Alaska Natives.

The Investment Corporation would issue shares of stock to all Alaska Natives on the final membership roll. The stock would be inalienable for a period of 15 years. Dividends would be paid quarterly to the stockholders.

3. Village Corporations

Each Native Village eligible for benefits under the bill is required to organize as a non-profit membership corporation to hold title to lands granted under the Act and to distribute moneys granted by the Act.[7]

Parallel corporations, the Alaska Native Urban Corporation and the Alaska Native National Corporation, are established under the bill to perform similar functions for Natives in urban areas of Alaska and for Natives living outside the State of Alaska.[8]

Alaska Native Foundation

At the end of twelve years a charitable foundation, the Alaska Native Foundation, will be established. The Foundation will receive 10 percent of the stock of the successor or successors to the Investment Corporation and the Services Corporation. The Foundation's purposes will be educational and charitable, and it will carry on the social betterment functions previously performed by the Services Corporation.

Attorney's fees and expenses

Compensation of attorneys for fees and expenses incurred in connection with the Alaska Native land claims legislation, or in connection with claims pending before the Indian Claims Commission which have been dismissed by the terms of the Act, would be set by the Chief Commissioner of the Court of Claims. The bills provides that the fees shall be paid on a quantum meruit basis for services actually performed. A total limitation of $1.5 million for attorney's fees is established by the bill.

General provisions

1. Protection of Subsistence Resources

The Secretary of Interior is directed to classify public lands surrounding all Native Villages as Subsistence Use Units. These units will be much larger than the areas of land granted to the Villages and will provide a means of closing these areas for a limited period of time to nonresident hunters, fishermen and trappers, when necessary to protect subsistence resources.[9]

2. Transitional Operation of Public Land Laws

The bill legislatively withdraws, for a period of five years, all unreserved public lands in Aalska and sets up a system for opening these lands to entry after they have been appropriately classified as chiefly valuable for the specific purposes provided for under the public land laws.

The bill also directs the Secretary of the Interior to make a detailed study of all unreserved public lands in Alaska which are suitable for inclusion in the National Park or Wildlife Refuge Systems. The Secretary is to make recommendations to the Congress on these areas within three years.

3. Transfer of Education and Welfare Responsibilities to the State of Alaska

The bill requires the Secretary to initiate a study and to develop a program for ending the Bureau of Indian Affairs control over the affairs of the Native people of Alaska within five years. The basic responsibility for the welfare of Native people in Alaska would, as it is for all Alaska citizens, be vested with the State of Alaska. Federal programs which are excepted from this transfer are the Native Public Health Service programs and certain educational programs.[10]

3. LAND TO BE GRANTED TO INDIVIDUALS, VILLAGES, AND CORPORATIONS

S. 1830 as reported by the Committee contains a number of provisions granting land to the Native people and to corporations established under the bill. It is not possible to give an exact figure on the total amount of land which would be granted to the Alaska Native people under the provisions of the bill because the total will depend upon specific decisions of the Commission, the total enrolled Native population and a number of other variable factors.

Taking account of these variable factors and making certain assumptions with respect to Native population and other matters it is possible to project the probable amounts of land which will be granted under the bill as reported by the Committee.

The maximum amount of land which could be granted is slightly more than 10 million acres. This total consist of the following:

Grants to Village Corporations:	
(a) less than 400 Natives	4,354,560
(b) over 400 Natives	1,276,200
(c) Villages in national forests	253,440
Total	5,884,200
Grants to Individuals:	
(a) hunting, fishing, and trapping campsites	270,000
(b) homesites outside the areas selected by Villages	365,000
Total	635,000
Grants to Corporations:	
(a) Services Corporation:	
(i) timber lands	2,000,000
(ii) miscellaneous lands	1,000,000
(b) North Slope Native Corporation	500,000
Total	3,500,000
Total	10,019,200

There are 179 villages with more than 25 but less than 400 Natives listed in the bill for which withdrawals will be made and which may be eligible for land grants. It is assumed that ten more villages will be found eligible for land grants under the bill. Thus, these 189 villages could be granted a total of 4,354,560 acres. The leasable mineral estate for these lands is granted to the Services Corporation to assure full-time specialized management. Benefits from the mineral estate are divided equally between the region of origin and all eligible Natives.

Footnotes at end of article.

In the list of Native Villages in the bill 16 presently have populations greater than 400. These Villages are entitled to additional lands. The total given assumes that an additional five Villages will grow to a population of 400 or more by date of enactment. Thus, these 21 Villages could be granted a total of 1,276,200 acres as a result of the bill's provision for Villages of larger populations.

There are eleven Villages located on National Forest lands, which are entitled to receive land under the bill. To minimize interference with the purposes for which these lands were set aside these Villages are limited to a grant of 23,040 acres or one township regardless of size. Thus, these villages could be granted a total of 253,440 acres.

Recognized within the bill are the traditional uses of land made by the Alaskan Native people. Provision is made for the granting of various size tracts of land for their use as hunting, fishing, and trapping campsites, as reindeer grazing areas, and as traditional food gathering camps. Based on rather arbitrary assumptions the Committee assumes that approximately 270,000 acres would be granted for these purposes, although this figure could be substantially higher. In addition provision is made for special protection of subsistence use units.

Approximately five percent of the Natives live in areas outside of the Native Villages or urban areas. To provide them with title to the lands on which they presently reside, provision is made for the granting of residence units in areas outside of lands selected by the Village Corporations. Again based upon rather arbitrary assumptions the Committee assumes that approximately 365,000 acres would be granted for these purposes, although the figure could be substantially higher. (Individuals living within areas selected by a Village Corporation would receive title to homesites, business and camps directly from the Village Corporation. Consequently, totals for this purpose are included in the Village land grants and are not separately stated).

The other major land granting features of the bill involves lands patented to Native corporations. The Services Corporation receives 3,000,000 acres to serve as a "land bank" to provide a resource base for future Native economic development, and to protect certain areas of the State which have cultural or historical significance to the Natives. The North Slope Native Corporation is granted the right to select 500,000 acres because of the need for more extensive land for subsistence use for the North Slope region.

II. Background of the Alaska Native Land Claims

The following is a summary of the background of the "Alaska Native Land Claims Act of 1970," the major issues raised by the Act and the policy considerations which the Committee feels are of special importance in the recommended settlement.

3. The common legal thread: a claim of aboriginal use of occupancy

An early problem this Committee had to face in considering any settlement of Alaska Native land claims was the bewildering diversity among the claims and claimants. Claimants include individuals as well as traditional and corporate tribal and regional associations. Many are of different language and cultural groups and differ in the patterns of their historic use of the land and in their present location with respect to it; they vary widely in their levels of acculturation and in their economic condition. The claims differ in the type of relief sought, in the apparent ownership and status of the lands claimed, and in the length of time over which they have been formally asserted.[11]

The common legal thread which runs through the diversity indicated above is the assertion of rights or claims based upon *aboriginal use or occupancy*. The crux of the legal issue raised by Native land claims in Alaska was set out first and most definitively in Section 8 of the Alaska Organic Act of 1884 (Act of May 17, 1884, 23 Stat. 24):

That the Indians or other persons in said district shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them but the terms under which such persons may acquire title to such lands is reserved for future legislation by Congress.

The same issue has been posed sharply in recent years by the implementation of the Alaska Statehood Act (72 Stat. 339) which in section 6 authorizes the State to select for itself public lands within Alaska, but which in section 4 (as amended by the Alaska Omnibus Act, 73 Stat. 141) provides that "* * * the State and its people * * * forever disclaim all rights and title * * * to any lands or other property (including fishing rights), the right and title to which may be held by any Indians, Eskimos, or Aleuts." Such lands, "* * * remain under the absolute jurisdiction of the United States until disposed of under its authority * * *"

The ultimate implications of these respective provisions of the 1884 and 1958 Acts and of similar and related provisions of other laws are subject to a variety of legal interpretations. However, the intention of Congress is beyond dispute with respect to two issues:

(1) Congress refused in each instance to determine substantively what lands were in fact used or occupied by the Natives, or what was the nature of the title that the Natives held by virtue of that use or occupancy; and that

(2) Congress intended in each instance that the *status quo* be maintained with respect to Native use, occupancy, and title to lands in Alaska until Congress should act upon these questions.

These intentions are explicitly reinforced in further language of section 4 of the Alaska Statehood Act. ". . . that nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States . . ."

Congress has, therefore, given Native claims precedence over other claims on the public lands of Alaska, but it has reserved to itself the power to define, confirm, deny, or extinguish Native title, and, with minor exceptions, Congress has so declined to do so. As a result:

(1) There is serious doubt about the authority of the Department of the Interior to grant to the State or other parties rights in, or patent to, public lands in Alaska claimed by Natives; consequently, almost all mineral leasing on and state selection of such lands have been brought to a halt; [12]

(2) The title to public lands or other property in Alaska transferred to the State or to private persons in the face of a Native protest is seriously compromised; yet [13]

(3) Congress to date has granted no agency or court the jurisdiction to make a determination on their merits concerning Native claims in Alaska.

4. The issue of fact: the Native land claims have substantial validity

The question of fact in each of the Alaska Native land claims is whether the claimants or their ancestors have used or occupied the lands or other property claimed. The testimony, exhibits, and materials examined by the Committee show a wide variety of patterns of land use and occupation in different parts of Alaska, but they demonstrate beyond any doubt that the Alaska Native land claims in general do have substance in fact. Substantial portions of land and water in Alaska, with the exception of the ruggedest mountain and glacier areas, historically were or presently are being used or occupied by some group of Eskimos, Indians, or Aleuts. However, this does not exhaust the issues of fact involved in settlement of these claims. There are great differences in the intensity and in the continuity of land use by the Native people of Alaska. Several hundred Native "places" have been continuously or regularly occupied as villages, camps, etc., since long before 1884; together these places may not total more than a million acres. On the other hand, there are millions of acres of land used by, and indispensable to, Natives as wildlife habitat and hunting ranges. In many of these areas, however, the intensity and frequency of use have been very low because of the nature of the use. Between these extremes there are other millions of acres which have received varying degrees of intensity in land use and occupation for subsistance and other purposes.[14]

The Committee found no principle in law or history, or in simple fairness, which provides clear guidance as to where the line should be drawn for the purpose of confirming or denying title to public lands to Alaska Natives. Some of the factors which the Committee considered in arriving at the present land grant provisions of S. 1830 are as follows: (1) the need to confirm in all Native people the title to lands they occupy for home sites or businesses and lands they use as campsites for hunting, fishing and trapping; (2) the need to grant each eligible village lands for community expansion and to provide protection and a buffer from the intrusions of others; (3) the desire to avoid the granting of huge land enclaves which in most cases would involve expensive administration and which could result in remote, land locked reservations rather than viable open communities; (4) the desire to grant lands which can provide new economic opportunities to the corporations established under the Act; and (5) the need to provide protection for subsistence uses of the land.

The Committee, after careful consideration, recommends confirming title to every eligible Native person of the land occupied and used by him as a primary place of residence or business. The Committee recommends granting to each Village Corporation the lands in and around the Village for community use and expansion. This grant is to be made after considering population, use and other factors and for small villages may be up to one township (23,040 acres) and for larger villages up to an additional township for each additional four hundred Native people. In addition, the Committee recommends that certain lands be granted for economic development, to avoid unintended hardships and to protect hunting, fishing, and trapping camp sites as well as other historic subsistence uses.

Depending upon the determination of the Alaska Native Commission established by this measure, the lands granted may total up to slightly more than ten million acres. This is more than the Federal Field Committee for Development Planning recommended. It is less than the Alaska Federation of Natives proposed. It is approximately the same as could be provided under the bill submitted by the Department of the Interior.

5. Justice and public policy require a legislative, rather than a judicial settlement

There have been witnesses before this Committee who maintain that the Natives are entitled by virtue of aboriginal use and occupancy to, if anything, nothing more than the residential lots on which their cabins stand. Others have maintained that the Natives rightfully own all of Alaska, that they should receive a patent in fee to all the unreserved lands in the State, and compensation at full market value for all lands which have been withdrawn from the public domain or transferred to other parties including the State.

Each of these positions is to some extent logically defensible, and the law itself does

Footnotes at end of article.

not provide clear answers or sufficient ground to reject either of them out of hand. Yet neither extreme is acceptable from the standpoint of justice or from the standpoint of public policy. The claims of the Natives of Alaska are far more substantial, and their needs in either a traditional or a modern way of life are far greater, than for residential lots alone. By the same token, however, their needs and a just settlement of their claims do not require a grant to the whole of the State of Alaska and the consequent frustration and defeat of the reasonable expectations of all who have since made Alaska their home and invested in its future.

This Committee is not persuaded that the rights and welfare of the Natives would be sufficiently served to justify the additional inequities and the legal and administrative complications involved in revoking existing land reserves which have been made for public purposes or in overturning patents or otherwise threatening valid rights in land previously granted to the State or private parties. Nor does this Committee believe it is necessary or wise to confirm tens or hundreds of millions of acres of public lands in private ownership by virtue of historical utilization at very low levels of intensity.

Yet these are the extreme alternatives which could follow from committing the resolution of the Native land claims issue to the Federal Courts for a decision based strictly on the legal merits of the Natives' claim. The Committee considered and rejected this course of action as did the Department of the Interior, the State of Alaska and the representatives of the Alaska Native people. No one in a position of responsibility has seriously suggested or endorsed it in this session of Congress.

The reasons are obvious. Justice to the Native people and the wise allocation and disposition of the lands and resources of Alaska both require a surer, more complex and imaginative resolution than simply confirming or denying title to specific tracts and awarding cash compensation. The Committee is also convinced that fairness and wisdom require a far more prompt and timely resolution of the claims and protests than can reasonably be expected from the Courts. In addition, questions of certainty, of wide latitude in the adoption of the elements of settlement, and the ability to create exceptions to treat special cases make it clear that the legislative settlement proposed in S. 1830 is in the best interest of all the parties involved.[9]

It is imperative to reach a settlement, but, in the words of the bill (Subsection 2(c)), the public interest demands that—

The terms of this settlement [be carried out] promptly, with certainty, and in conformity to the real economic and social needs of Alaska Natives by avoiding litigation, by maximizing the participation by Natives in decisions affecting their rights and property . . . without (1) establishing any permanently racially defined institutions, rights, privileges, or obligations; (2) creating a reservation system or lengthy trusteeship; or (3) ultimately adding to the categories of property or organizations enpoying special tax privileges or to the legislation establishing special relationships between the United States and the State of Alaska.

VII. Costs and Benefits of Monetary Compensation

SUMMARY

S. 1830 as recommended by the Committee authorizes the payment of total monetary compensation of $1 billion to the Alaska Native people for the claims which will be extinguished by the enactment of the Alaska Native Claims Settlement Act of 1970.

The monetary compensation would be derived from two sources. First, $500 million is authorized for appropriation from the United States Treasury over a period of twelve years. Second, provision is made for the Alaska Native people to receive a total of $500 million by sharing at the rate of 2 percent in the revenues derived from mineral leasing on the public lands and on lands which will be patented to the State of Alaska under the terms of the Statehood Act.

The nine tables set out below have been prepared to show the cost of this settlement to the United States and to the State of Alaska; the per capita value to each Native of the benefits to be received; the funds available for social services and investment; sample cash flows in the Investment Corporation; and a projection of anticipated benefits to a typical Native family of five persons and a typical Native Village with a population of two hundred.

In summary the tables disclose the following with respect to the cost and benefits of S. 1830:

COST TO THE FEDERAL GOVERNMENT

Funds to be appropriated from the United States Treasury total $500 million to be paid on a variable payment schedule over twelve years. The Federal contribution to the moneys received from 2 percent revenue sharing totals $2,621,000 to be paid by 1998. The total cost to the United States is $502,621,000.

At an 8 percent discount rate the present value of the Federal share of the monetary compensation to be paid under the bill is $356 million.

COST TO THE STATE OF ALASKA

Funds to be paid from the 2 percent revenue sharing provisions of S. 1830 total $500 million. 99.5 percent of this total, or $497.3 million, will be paid from funds which would otherwise go to the State of Alaska. The Federal share is 0.5 percent and amounts to $2.6 million.

At an 8 percent discount the present value of the State contribution is $160.8 million.

PER CAPITA COST TO THE UNITED STATES TREASURY

Assuming a total final enrollment of 75,000 eligible Natives the cost to the Treasury would be $6,704 per person. At an 8 percent discount rate the present value per person is $4,749.

DIVISION OF FUNDS BETWEEN INVESTMENTS AND SOCIAL SERVICES

S. 1830 provides for a division of the funds made available under the Act ($1 billion) between the Native Investment Corporation and the Native Services Corporation. At the end of twelve years the Alaska Native Foundation is established and receives 10 percent of the stock in the successor corporations.

Funds made available for investment to the Investment Corporation (sources are revenue sharing and Federal appropriations) total $641 million. Their present value at an 8 percent discount rate is $259 million.

Funds made available for social services to the Services Corporation total $357 million ($393 million if the assets of the Foundation are included). Their present value at an 8 percent discount rate is $256 million.

TOTAL PER CAPITA BENEFITS TO ALASKA NATIVES

The gross value of the settlement proposed in S. 1830 per Native person is $12,727 ($6,526). Of this total, funds for social services are $4,177 ($3,062), and funds for investment are $8,550 ($3,454). The figures in parenthesis represent value per Native person at an 8 percent discount rate.

CASH FLOW OF THE NATIVE INVESTMENT CORPORATION

It is projected that the Native Investment Corporation will receive $641 million between 1971 and 1998. Management expenses are projected at $46 million for the same time period. Dividends paid to the shareholders are projected at a total of $691.4 million. The value of the stock in the Corporation in 1998 is projected at $1,220 million. At an 8 percent discount rate the present value of the Corporation's prospective earnings and asset value is $328 million.

DIVIDENDS PAYMENTS PER SHAREHOLDER

Dividends paid to each shareholder by the Investment Corporation begin at $53 per year and reach $729 per year by 1998. In 1986 stock held by Native people will become alienable and its value per share for that year is projected at $8,221. By 1998, the value per share in projected at $15,368. At a discount rate of 8 percent, however, present value per share is $3,786.

BENEFITS TO A TYPICAL NATIVE FAMILY OF FIVE PERSONS

The total benefits made available by the monetary compensation provisions of S. 1830 to a typical Native family of five persons (parents and three children) between 1971 and 1998 total $63,130.

$21,070 of this total is in the form of social services. 89 percent of these funds are made available in the first twelve years through the Services Corporation's payments to Village Corporations and Urban and National Corporations. The remainder are made available after 1983 by the Alaska Native Foundation.

$42,060 of the total is received in the form of dividends paid to the family's five shareholders by the Investment Corporation and the successor corporation(s). 86 percent of these funds are not made available until the period 1983 to 1998. The present worth of all benefits to this family of five persons when discounted at 8 percent is $32,678.

BENEFITS TO A TYPICAL NATIVE VILLAGE OF 200 NATIVES

A typical Native Village with a population of 200 eligible Native people would receive payments from the Services Corporation totalling $886,000 between 1971 and 1982. Payments would be made to the Village Corporation and would be distributed in accordance with a plan prepared by all of the members and approved by the Services Corporation.

Funds received by the Village Corporation could be used for cash distributions; housing subsidies; community health programs; investment in community facilities such as sanitation or water systems; loans; productive enterprise; or a combination of these and other purposes. The typical Alaska Native Village presently consists of a cluster of shacks and a few stores. There are no paved streets, sidewalks or plumbing. Most public services which Americans take for granted are nonexistent. Funds made available to Village Corporations and to the Native people will enable them to establish their own priorities and to improve the quality of their communities and their lives.

CONCLUSION

Whatever the form in which funds provided through the Services and development Corporation are disbursed, they may be expected to raise the real incomes of a typical Native family of five persons by an average of $1537 per year during the first twelve years. These benefits will be supplemented by average cash dividends during the same period of approximately $500 per year with substantial increases in later years. The total increase in family income of over two thousand dollars per year will amount to a doubling of the real incomes of more than one-fifth of such families, and to a fifty percent increase for about half of them.

While this settlement is not intended either as public assistance legislation nor as a substitute for existing public assistance, health, education, or community development programs, its possibilities for reducing future Federal and State costs for these programs are obvious.

FOOTNOTES

[1] Portions of the *Official Constitution and Bylaws* together with a history of the Alaska Federation of Natives and other Native organizations are found in *Alaska Natives and the Land* at page 27.

[2] See chapter 5 of *Alaska Natives and the Land*, page 429 for a discussion of the Native land claims and their background.

[3] For a discussion of the impact of the Native claims on Alaskan development see *Alaska Natives and the Land*, pages 519–528.

[4] The legal issues posed by revenue sharing are discussed in the section of this report on "History of the Problem," and briefs and rebuttals on the questions involved are printed in the Committee hearing record.

[5] Information on the number of villages in Alaska and their population is found in the Committee hearing record at page 555.

[6] The need for management organizations is discussed in *Alaska Natives and the Land* at pages 545–546.

[7] Present forms of village government are described in *Alaska Natives and the Land*, page 47. The importance of villages to Native people is discussed in *Alaska Natives and the Land*, page 83.

[8] The need for Urban and National Corporations for Natives not residing in Villages is discussed in *Alaska Natives and the Land*, page 543.

[9] Regional occupation and livelihood patterns for the regions of Alaska are discussed in *Alaska Natives and the Land*, pages 129–284. For a map of village locations, see page 41.

[10] The cost of Federal programs is discussed in *Alaska Natives and the Land*, pages 14–31.

[11] A discussion of the lands effected by the Native claims is found in *Alaska Natives and the Land*, 442–453.

[12] See December 19, 1969 decision of the U.S. Court of Appeals for the Ninth Circuit in *State of Alaska* v. *Udall*, 420 F. (2nd) 938, *cert. den.* This decision is discussed under Part 2 of the section of this report on "History of the Problem."

[13] A list of the lands patented by year when the patent was issued in Alaska is found in *Alaska Natives and the Land*, page 449.

[14] A careful study of the varying land usage patterns for the various regions can be found in *Alaska Natives and the Land*, pages 129–286.

Mr. STEVENS. Mr. President, I want to begin by commending the chairman of the Interior and Insular Affairs Committee, the distinguished Senator from Washington, for the tremendous amount of time and dedication he has given to this subject which is so vital to the people of the State of Alaska.

As he has said, over a period of several years the committee has conducted hearings both in Alaska and the Nation's Capital. The pending bill is one which will resolve many of the conflicts which were presented to the committee.

Mr. President, the measure now before the Senate is of tremendous importance to my State of Alaska. Not since the Alaska statehood bill was before this body over a decade ago has a measure of such importance to Alaska been presented for the Senate's consideration.

The measure is a complex one. It is carefully tailored to accomplish a specific goal. It will convey to the Native villages sufficient land for homes and business; it will guarantee that sufficient land to maintain their subsistence way of life will remain available for as long as they choose that way of life; and it will provide a sufficient capital base in both land and money to permit them to develop the basic services they need to move into the 20th century at a pace of their own choosing.

The Alaska Native Land Claims Settlement Act is the most innovative settlement ever developed. It is designed to make available the machinery and the resources to allow Alaska's Natives to become self-sufficient and in control of their own destiny. It does not perpetuate Federal paternalism; it does not create additional enduring Federal bureaucracies. It does provide necessary land and money to allow the Natives to build a society of their design; it does provide the necessary administrative machinery to facilitate the attainment of this goal.

The point I would most like everyone to keep in mind is that the bill is a package. It strikes a careful balance among the alternatives of land in fee, land for restricted use, compensation in cash and a share of the future revenues from Alaskan lands. It is a compromise; but it is a fair one. It is fair to the Natives of Alaska; it is fair to the people of Alaska; and it is fair to the people of America.

Simple justice requires passage of S. 1830.

Again I commend our chairman for his consideration of this measure and for the work that he and his staff have done on it.

Mr. President, I ask unanimous consent to have printed in the RECORD three memoranda prepared by the Alaska Federation of Natives.

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

THE $500 MILLION CASH PAYMENT

The following considerations demonstrate the appropriateness of a cash settlement of $500 million over a period of 12 years:

$500 million is not an exorbitant sum when viewed against the claims surrendered by the Natives. The Natives have substantial claims to the vast bulk of Alaska—more than 350 million acres. Every serious student of Alaska has recognized the substantial nature of these claims. While it cannot be said with certainty that the Natives could establish the required use and occupancy for all of these lands, it is abundantly clear that they would be found to hold aboriginal title to vast areas of Alaska. The traditional legal standard for Native claims is the value of lands at the time of taking. For most of Alaska, the taking has occurred very recently or is taking place today. And by today's standards, the value of land in Alaska is enormous.

The present value of $500 million paid over 12 years is less than $355 million if a discount rate of 8% is utilized. See Committee Report p. 102. If an allowance for inflation at an anticipated rate of 6% is also included, the present value of this cash payment is less than $288 million. The total cash payment at present value is thus less than $1 an acre for land claims surrendered.

This settlement is not exorbitant on a per capita basis when compared with other recent Native claims settlements, several of which have exceeded this settlement on a per capita basis. See Committee Report pp. 103–4. There are, by the best estimates available, in the neighborhood of 60,000 Natives who would benefit from the bill. Their present per capita income is only one-fourth of non-Native Alaskans.

The cash payment will allow the Natives to help themselves, alleviating their crying social needs for housing and other necessities, and permitting them to become meaningful participants in the Alaskan economy. The average age of death for Alaskan Natives is less than 35 years. Much more than 95% of their housing needs to be replaced completely. Less than 1% of the rural housing has adequate sanitation facilities. Alaska Natives lack the dollar capital to seize attractive business opportunities. The cash payment, together with the revenue sharing plan, will allow Native corporations to remedy these problems.

REVENUE SHARING PLAN

The following considerations demonstrate the justification for and wisdom of the Revenue Sharing Plan provided for in Section 17 of S. 1830:

The State of Alaska, which should participate in a Native claims settlement, will bear 99.5% of the total cost. The Revenue Sharing Plan will impose a cost upon the federal treasury only where federal lands are involved. Because revenues are divided 90–10 between the State and federal governments on those lands, the cost to the federal government will be minimal. Overall, the federal share will be only 0.5%; an amount of $2.6 million. See Committee Report pp. 99, 104–5.

The present actual value of the Revenue Sharing Plan is much less than the $500 million ceiling specified in the bill. Because revenues will be received only over a substantial period in the future, the total value of the plan should be discounted to reflect its present value. Using a discount rate of 8%, the present value is only $160 million.

In addition, the likely effect of inflation should be recognized. If an inflationary trend of 6% a year is used, the present value of the settlement in today's dollars is reduced to less than $88 million.

Finally, the value of those dollars should be viewed in light of the generally higher price levels in Alaska. Using an index which uses food prices in Seattle as 100, prices in Alaska range from a low of 124 in Ketchikan to a high of 186 in Bethel.

The Revenue Sharing Plan offers the Natives a continuing interest in the progress and prosperity of the State.

The Revenue Sharing Plan allows the Natives to participate as partners with the State rather than in competition with it (as would be the case if the Natives were forced to compete with the State for land selections for mineral potential).

The Revenue Sharing Plan eliminates the cost and risk which would be imposed upon the Natives by an alternative provision allowing them to select lands for mineral potential.

The Revenue Sharing Plan will tie Native prosperity to the prosperity of the State; revenues will vary directly and proportionately with the mineral income received by the State.

A LAND SETTLEMENT OF AT LEAST 10 MILLION ACRES

The Natives of Alaska are entitled to retain a minimum of 10 million acres of the lands they claim, for the following reasons:

They hold historic Native title to the vast bulk of a truly vast State. The State of Alaska has more than 380 million acres. The Natives have substantial claims to virtually all of this land. A settlement allowing them to retain ownership of 10 million acres would thus represent less than 3% of the lands they have historically used and occupied.

Almost all of Alaska is presently unoccupied except for Native villages and will remain so in the future. A recognition of Indian title in and surrounding these villages will deprive no one else of these lands.

There is no danger of racial enclaves or reservations. Native villages are and will continue to be open communities, which Natives may leave and which non-Natives may enter to settle. Many of these communities have been or will be incorporated as municipalities. Natives and non-Natives will be able to acquire town real property in all communities.

The Natives of Alaska are deeply attached to what they justly regard as their land. To deny them confirmation of title to a fair proportion of these lands would be a needless cruelty that would promote no useful goal.

Mr. JACKSON. Mr. President, I take this opportunity to commend the able Senator from Alaska for his help in connection with the pending measure. It has been a real pleasure for the chairman to work with the two Senators from Alaska (Mr. STEVENS and Mr. GRAVEL). They have been extremely helpful to the committee and made our task a great deal easier in trying to get a good bill, which I believe we now present to the Senate today.

Mr. GRAVEL. Mr. President, the Senator from Washington (Mr. JACKSON) is very humble when he talks in terms of the good work of the committee and his own efforts.

It was stated in committee, by members a good deal senior to me and my colleague, Mr. STEVENS, that there has been no bill in the history of the Committee on Interior and Insular Affairs which has demanded more in time, more in attention, and more in effort on the part of a chairman and on the part of the committee itself than this one.

The Alaskan community, both Native and Caucasian, will owe a debt of gratitude to the distinguished Senator from Washington that will last for time immemorial.

I can only compliment him on the leadership he has displayed, the sincerity of his efforts and, really, the depth of the empathy he demonstrated toward this problem, as well as the accommodation in leadership that was worked out between the Senator from Colorado and the Senator from Washington in effecting compromises on difficult issues.

I also wish to commend the distinguished Senator from Montana (Mr. METCALF) who went to Alaska and held hearings and who demonstrated creative leadership in this effort, and in the individual efforts of others on the knotty problems that came up.

The claims legislation we take up today is probably the second most significant piece of legislation in the history of Alaska, the first being, of course, the Statehood Act.

In the Statehood Act, it was recognized that we left one vital issue unresolved, the issue of the indigenous people of the land to a claim they had which went directly to their heritage.

Today, we tidy up that legislation, realizing, first, that the Natives of Alaska have a legal and just claim, so ably laid out in the Senate report; second, that they have a strong and undeniable moral claim; and, third, that it is in the enlightened self-interest of all the residents of Alaska and all the residents of this Nation to effect a fair result so that all parties are satisfied.

In comparing this claim to claims from other parts of the United States and settlements and sums of money given to other Indian tribes, our claim stands monetarily no higher or no lower. In fact, it is very much on an average.

If there is a new area that is plowed, a new concept that is developed in this claim, it is certainly in the approach and in the utilization of funds rendered within the Alaskan community.

Natives and Indians in other parts of the Nation have been given per capita settlements. In Alaska what has been required has been a planned, effective, and intelligent utilization of the moneys so that they are not dissipated and so that there is a legacy which will go beyond the immediate generation. Children many years hence can look back and say that a trust was handed down and was handed down intelligently.

That is the new ground we are breaking with this legislation. For many reasons this legislation is good. It is not perfect because it is impossible to draw a piece of legislation that would attack so many facets and be a perfect document.

I think it is one that the chairman and members of the Committee on Interior and Insular Affairs can be proud of, and it is also one that the entire Senate can be proud of.

I certainly urge Senators to vote for its approval.

Mr. JACKSON. Mr. President, I take this opportunity to express my appreciation, as I did a moment ago to the Senator from Alaska (Mr. STEVENS), for the cooperation afforded the committee by the Senator from Alaska (Mr. GRAVEL). The help of the two distinguished Senators from Alaska has been extremely useful to the chairman and the members of the committee. It has made possible a bill which will make possible a unanimous vote.

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

Mr. JACKSON. I yield.

Mr. MANSFIELD. Mr. President, I am in receipt of a letter from a constituent, who is living in Anchorage, Alaska.

The letter is addressed to me under date of July 6, 1970.

The letter reads:

DEAR SENATOR: This letter is written as an allottee and enrolled member of the Confederated Salish and Kootenai Tribes of Montana who is quite concerned with the proposed Alaska Native Land Claims Settlement Act of 1970. It has been my understanding that the Nixon administration has gone on record as being opposed to the termination of American Indians and their lands.

This proposed bill is in reality the biggest termination bill ever written. It provides for a full and final settlement and extinguishment of all claims against the United States based on the Natives' aboriginal right, title, or ccupancy of land in Alaska as well as any hunting and fishing rights that they may have. It further provides for the transition of education, health and welfare from the United States to the State of Alaska within five years from the date of the enactment of the bill.

The writer of the letter then proceeds to ask some questions. The first one I would like to call to the attention of the chairman of the committee. She asks: "What impact will this have on the Flathead Reservation and its tribal rights?"

Mr. JACKSON. Mr. President, may I answer the questions one at a time?

Mr. MANSFIELD. Yes, indeed.

Mr. JACKSON. Mr. President, the bill is confined in particular to the Natives' situation in Alaska. It has no applicability to any other State in the Union.

Mr. MANSFIELD. The second question is: "Will the enactment of this termination bill be used as a wedge for opening the door to termination of Indians in the lower 48?"

Mr. JACKSON. The answer is, "No."

Mr. MANSFIELD. The third question is: "Will we be forced to follow in the footsteps of the Klamath and Memoninee Tribes by the disposition of all our tribal resources?"

Mr. JACKSON. This question, of course, can only be answered by getting at the proper time the views of the Indian tribes involved.

The Committee on Interior and Insular Affairs has followed a policy of insisting that there be a referendum among the Indians themselves before any act of termination is undertaken.

What we have tried to follow is a policy of self-determination. This has been the policy of the committee ever since I have served as chairman.

Mr. MANSFIELD. In other words, no force of any kind, shape or form would be used and does not come within the confines of the bill.

Mr. JACKSON. Mr. President, I want to be emphatic in saying that—and I think I speak for all committee members—that the committee does not intend by anything it has done in this legislation to establish a precedent for legislation or a policy in any other State of the Union as it pertains to Natives.

Mr. MANSFIELD. Mr. President, I thank the distinguished chairman for answering the questions from a constituent. I am appreciative of the answers in the RECORD.

Mr. JACKSON. Mr. President, I have some minor amendments. Some of them are technical. I think this would be the appropriate time to offer them.

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

Mr. JACKSON. I yield.

Mr. HARRIS. Mr. President, I join with the other Senators in complimenting the outstanding efforts of the distinguished Senator from Washington (Mr. JACKSON), chairman of the Interior and Insular Affairs Committee, and the members of that committee for reporting out S. 1830. They have spent many long hours working on a most difficult matter and they should be congratulated for the results of their efforts.

Some have indicated they felt that the U.S. Senate is being too generous to the American Indian, Eskimo, and Aleut is somewhat unusual. I know of no time in the past history of this country that we have been too generous toward the American Indian; the opposite has been true. Today, as we consider S. 1830, we are not being too generous to the Alaskan Natives, and I doubt seriously if at any time in the future we will be too generous to the American Indian.

I think the overall significance of this bill and the moral need to treat the Native peoples of Alaska with fairness and equity is a sufficient answer to any charge of being overly generous.

All of us are aware that this legislation is of critical importance to the Native peoples and to all Alaskans. But its significance extends far beyond Alaska's borders.

Each day our deliberations here reflect and focus an agonizing process in which all Americans are engaged—that of reexamining, redefining, and rediscovering the moral standards on which our na-

tional policies and priorities at home and abroad are based. This process of self-examination is the fundamental need of national social and political life.

It is in this context that the broad significance of Alaskan Native claims legislation becomes apparent and in this context that any claim of excessive generosity on the part of the U.S. Senate should be considered.

In the rush toward manifest destiny in the lower 48 States, by treaties and statutes—and, indeed, by force of arms—we took Indian lands. We extinguished their titles to land and confined Indians in ways which were designed to destroy their cultures and patterns of life. In return, we paid them a bit of money, always too little, and encumbered their lives and spirits with the white man's paternalism and control.

In the pending bill we have an opportunity to begin to redress some of those wrongs in regard to the Native peoples of Alaska.

I again compliment the chairman of the committee and the members of the committee for bringing before the Senate the pending legislation. I believe that improvements can be made on the floor of the Senate in the provisions of the bill—and I hope they will be—in the form of amendments. Amendments will be offered, some by me and some by other Senators.

Basically this will be good legislation with the improvements that I hope will be agreed to by the Senate.

If the Senator would yield to me for a question—Does the bill contain any termination of the Bureau of Indian Affairs services to, or the trust status of, the Indians, Eskimos, and Aleuts who would receive land or payments now or in the future under this legislation?

Mr. JACKSON. Mr. President, I can best answer the Senator's question by reading from page 3 of the report, section 4 (b) (1) as follows:

(b) (1) The Secretary is authorized and directed, together with other appropriate agencies of the United States Government, promptly to initiate a study and to develop programs for the orderly transition of educational, health, welfare and other responsibilities for the Alaska Native people from the United States to the State of Alaska. Within five years from the date of enactment of this Act, the United States shall cease to provide services to any citizen of Alaska solely on the basis of racial or ethnic background: *Provided*, That nothing in this subsection shall affect services furnished the Natives through the Department of Health, Education and Welfare, or diminish the applicability of the Act of April 16, 1934, as amended (48 Stat. 596), or the Acts of September 23, 1950, as amended, (64 Stat. 967), and September 30, 1950, as amended, (64 Stat. 1100).

In other words, simply stated, there would be, which is the request of the Natives themselves, a termination of BIA activities other than to take care of health needs, which the Senator knows is handled by the Public Health Service, and the provisions of the Johnson-O'Malley Act which pertain to educational requirements.

The Natives, as the Senator is aware, were concerned over the years with the problems involved in connection with the operation of the Bureau of Indian Affairs. They have felt very strongly it is too bureaucratic. We excluded, of course, the need for an ongoing health program and an ongoing educational program. We did this primarily because of the remoteness of the villages where the Natives lived. We endeavored to carry out their wishes with regard to the role of the BIA by providing for termination as it pertains to supervision by BIA.

Mr. HARRIS. Mr. President, will the Senator yield further?

Mr. JACKSON. I yield.

Mr. HARRIS. Would the act terminate the trust status of land owned by individual Indians, Eskimos, and Aleuts, and/or their tribal organizations?

Mr. JACKSON. The act gives those Natives a full fee title and it does terminate any such trust arrangement.

Mr. HARRIS. Their lands, then, would be on the tax rolls and would be fully alienable as with land of any other citizen of Alaska, after the effective date in this provision?

Mr. JACKSON. The Senator is correct. We do have a trust arrangement which prohibits any alienation for 12 years in connection with awards they will receive under this legislation. This is done, as a matter of fact, to protect the Natives themselves from any earlier alienations of the judgments and awards they will receive.

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

Mr. JACKSON. I yield.

Mr. STEVENS. For the information of the Senator from Oklahoma there is no statewide property tax in Alaska. If these lands go on any tax rolls it will be the municipality, which is the village to which we are granting the land, and it will make the determination if the residents will have tax on their lands. That could be within a borough, which is equivalent to a county, but it would be a local determination as to whether there will be a property tax applied to these lands after 12 years.

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

Mr. STEVENS. I yield.

Mr. GRAVEL. What happens with respect to that situation could be illustrated by the situation at Point Barrow. If a Native owns a lot which is 50 feet by 150 feet, the Native cannot sell that land without going to the Bureau of Indian Affairs and getting the signature of some official. A person will now have a deed or he could go to a bank and get a mortgage, if he so desires. He cannot do this now.

Mr. HARRIS. Mr. President, will the Senator yield further so that I may ask a question of the Senator from Alaska?

Mr. JACKSON. I yield.

Mr. HARRIS. Does the Senator from Alaska intend to offer an amendment which would further terminate the authority of the Bureau of Indian Affairs for services to Alaska Natives?

Mr. GRAVEL. No; my views are encompassed in the legislation as it is now drawn.

Mr. JACKSON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 108, line 19, strike all of lines 19 through 25 and on page 109 strike all of lines 1 through 22 and insert the following new language:

"(3) The National Corporation shall be incorporated under the laws of any State other than Alaska determined by the Secretary to be the most appropriate. The Natives listed on the temporary census roll under section 7(a)(1) who are listed as not resident in Alaska and not members of any Native Village shall be its temporary members, and the Natives listed as members of the Alaska Native National roll under subsection 7(e) of this Act shall be its permanent members.

"(4) The Secretary shall, within sixty days after the effective date of this Act, appoint five incorporators for each of the corporations established under this section and shall select as such incorporators persons whom the Secretary deems to be knowledgeable in the needs of, and benefits desired by, the respective members of each corporation. The incorporators of each corporation shall, within sixty days after their appointment, prepare and submit to the Secretary, articles of incorporation and bylaws for the government of their respective corporations not inconsistent with the provisions of this Act. When the articles of incorporation and bylaws of either of such corporations are approved by the Secretary, or if they shall not have been disapproved by the Secretary within thirty days after they have been received, the articles of incorporation shall be filed with appropriate authorities in the state of incorporation and all other actions necessary to establish corporate existence shall be performed."

Mr. JACKSON. Mr. President, this amendment is in the nature of a substitute to subsections 12(a) (3) and (4) of the pending measure. This amendment is technical in nature. Its purpose is to correct printing errors and to provide that incorporators of the Urban and National Corporations will be appointed by the Secretary of the Interior rather than by the board of directors of the Services Corporation.

Concern has been expressed that under the present language of these two subsections a delay of a year or more in preincorporation organization could result, because the organization of the Services Corporation will require both Presidential appointments and elections in each of the 12 regions of Alaska. Vesting appointment powers in the Secretary of the Interior will enable the Urban and National Corporations to organize at an earlier date.

Mr. President, I have checked this matter with the minority side and, as I understand it, there is no objection to the pending amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Washington (Mr. JACKSON).

The amendment was agreed to.

Mr. JACKSON. Mr. President, I send

to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 90, line 22, delete the words "shall be an 'invest-'", and delete all of lines 23, 24, and the words "need not be registered under the Act and" in line 25.

Mr. JACKSON. Mr. President, the pending amendment, which is to section 10(d)(1), the pending measure, is to delete language requiring that the business management group or groups which provide financial advice to the Services Corporation be an "investment advisor" as that term is defined in the Investment Advisers Act. The effect of the present language of the bill is to exclude bank trust departments from serving as an investment advisor. This was not the intent of the committee.

The amendment I have proposed will continue the protection afforded by the Investment Advisers Act, but will not operate to exclude banks from providing the investment corporation with financial advice and services.

I have cleared this matter with the minority side and I understand there is no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Washington.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I yield the floor.

Mr. HARRIS. I yield to the Senator from Alaska.

Mr. GRAVEL. Mr. President, I send to the desk an amendment on behalf of myself and my colleague (Mr. STEVENS).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. GRAVEL. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

Delete "surface estate" from line 18, page 157, and substitute in lieu thereof "land and all interests therein."

After "subsection (2) hereof", line 19, page 157, *insert* new language as follows:

"The North Slope Native Corporation shall be entitled to retain fifty per centum of revenues derived from the sale, lease, permit, development, use or other disposition of the mineral estate of the land to which it acquires a patent under section 18(f)(1). The remaining fifty per centum of such net proceeds shall be paid to the Services Corporation for distribution in accordance with the formula set forth in section 9(d)(1) of this Act."

Delete "the surface estate of" in lines 1–2, page 158, and insert after "land" in line 2, page 158, the following: "and all interests therein."

Delete the period after "subsection 9(a)(1)" and insert thereafter the following:

"and shall be within or contiguous to the areas withdrawn pursuant to section 13(b)(1) respecting any of the Native Villages named in section 13(c) that are located in such region."

Mr. GRAVEL. Mr. President, what we are seeking here is a minor change in the land proposal as it was originally contemplated; that is, that the 500,000 acres that was to go to the North Slope area be changed from a surface type of title to a fee type of title, and that the villages in that part of the State be able to acquire that land on a basis of contiguity to their existing allotments.

I think the chairman and my colleague the senior Senator from Alaska (Mr. STEVENS) have discussed it. We discussed it with the Senator from Oklahoma. Apparently there are no objections from the minority on it.

If the chairman will signify his views, we could probably get the amendment accepted, without having any objection to it.

Mr. JACKSON. Mr. President, as I understand it, the amendment would require that the land—and I quote from the amendment—"shall be within or contiguous to the areas withdrawn pursuant to section 13(b)(1) respecting any of the Native Villages named in section 13(c) that are located in such region."

Is that correct?

Mr. GRAVEL. That is correct.

Mr. STEVENS. Mr. President, I am happy to be a cosponsor of the amendment. We have just returned from a visit to Point Barrow. The people there wish these 500,000 acres of land, to which they would have had surface title only, be associated with the villages and not to be a grant of land independent of the villages.

As I understand the amendment which we have offered, it will mean that the land granted under the 500,000 acre provision will be within the nine sections of village lands reserved under the bill or contiguous to it, and it will be in fee title, to be associated with land granted to the villages under the formula applying to all other villages in the State.

Mr. JACKSON. Mr. President, I support the amendment offered by the two distinguished Senators from Alaska. This matter was discussed in the committee. Many of us felt that the title should have been in fee instead of just a surface title.

Therefore, I strongly support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senators from Alaska.

The amendment was agreed to.

ORDER FOR ADJOURNMENT TO 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 10 o'clock tomorrow morning.

The PRESIDING OFFICER (Mr. EAGLETON). Without objection, it is so ordered.

ALASKA NATIVE CLAIMS SETTLEMENT ACT OF 1970

The Senate continued with the consideration of the bill (S. 1830) to provide for the settlement of certain land claims of Alaska Natives, and for other purposes.

Mr. HARRIS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

On page 55, line 11, insert the following: "and at least three of the members appointed by the President shall be Natives", and delete the language "and at least two of the members appointed by the President shall be Natives."

Mr. HARRIS. Mr. President, section 6 of the bill establishes a Commission of five members to be appointed by the President with the advice and consent of the Senate. The bill provides that at least two of the Committee members shall be Natives who are residents of Alaska.

The duties of the Commission include supervising preparation of the final membership roll of the Alaskan Natives and the roster of Native villages; determining eligibility of those seeking to be placed on the rolls; determining how much land each village shall be entitled to and determining land boundary disputes; approving other land transactions provided in the act; and making determination of any appeal from refusal of the Service Corps to approve village plans. These duties are all sensitive ones. They involve issues with which only the Native peoples will be familiar.

Deciding those issues may affect the future lives of individual Natives and their descendants and the future development of Native villages.

The amendment I propose would modify section 6 to require three, rather than two, members of the five-man Commission, appointed by the President, to be Natives.

The spirit of this amendment is in keeping with the objectives of this bill, to vest in the Native people the power to determine and control their own destiny and affairs.

Indeed, Mr. President, this amendment recognizes the importance of Native self-determination in implementing the provisions of the act and is in keeping with the worthy objectives for Indians and Natives which were expressed by the President in his July 8 message on Indian affairs.

Mr. JACKSON. Mr. President, I rise in opposition to the amendment. I supported in committee the concept of representation on the Commission by Natives of Alaska.

When one gets into the question of ethnic participation in an impartial body, it is fraught with all kinds of difficulties and perhaps some bad precedent.

I would like to point out to the Senator that there is a large number of disparate Native groups in Alaska. We have the three fundamental ethnic groups—the Eskimos, the Aleuts, and the Indians—and then there are differences within all three categories. I submit that there is a real danger of a conflict of interest developing if a majority of the Commissioners are to be Natives.

I would point out the additional prob-

lem that thousands of Natives of Alaska—Aleuts, Eskimos, and Indians—are no longer living in Alaska. They are living all over the United States. We then get into the question of whether or not there should be a representative on the Commission who is a nonresident participant.

I fully understand the objective of my good friend from Oklahoma, and I believe in Native participation. My concern here runs to the fundamental question as whether or not there might not develop a conflict of interest among the Natives themselves such that the work of the Commission could be hampered.

It is for those reasons that I must oppose the amendment.

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

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

Mr. HARRIS. Mr. President, the President of the United States treated at some length the other day in a written statement with the affairs of American Indians. One of the things the President spoke about was self-determination—the right of the American Indians, Eskimos, and Aleuts to have greater control over the decisions which govern their own lives.

The instant amendment, now pending before the Senate, is in line with that philosophy which the President—in my judgment rightly—expressed in his Indian message.

I have already indicated to the Senate, in the statement I made in explanation of this amendment, how important the decisions that are made by this five-member Commission appointed by the President will be for the Native Alaskans.

The argument is made that if a majority of that five-member Commission—that is, three members of the five-member Commission, rather than two members of the five-member Commission—are Natives, they are likely to be capricious and arbitrary and unfair in their decisions. I ask the Senate: why would three Native Alaskans, who would know more about and be more sensitive to these problems than any other people who might be appointed, be more likely to be arbitrary and capricious and unfair than would non-Natives?

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

Mr. HARRIS. I am glad to yield.

Mr. STEVENS. That is not quite the argument.

Mr. HARRIS. Will the Senator state it for me, then?

Mr. STEVENS. I will state the argument. The bill provides for a five-member Commission which is a quasi-judicial body. The basic job it has to do is to determine the roll of those who will be the beneficiaries of this act. If a majority of the Commission is made up of Alaskan Native people, that means that those people will have to make the decision as to who becomes eligible for benefits under the act.

Every time someone appeals to the commission from a determination of the village or a determination of the group that is authorized under the act to make the initial determination of membership in this group of beneficiaries, those three Native people, if they are majority, will have to make a decision which in effect will reduce their own participation under this act. There is an automatic conflict of interest built in this act under the Senator from Oklahoma's amendment if a majority of these people control the commission.

I invite the attention of the Senator from Oklahoma to the fact that this is a temporary commission. In every other Act with which I am familiar, the Secretary of the Interior has made this determination. In the past, we have asked the Secretary of the Interior to determine who is the beneficiary of each one of these judgment funds. In this instance, at the special request of the Alaska Native people—and I commend the chairman again for his wisdom in this—he yielded to the request of the Alaska Native people that a special commission be created to determine eligibility under this act, and that special commission takes away from the Secretary of the Interior the power to make up the final roll.

In the past, if one made an appeal, it was to a Federal officer, and his determination was final—subject, of course, to the appeal to the courts in the event it was arbitrary or capricious. In this case, we have substituted an Alaska Commission for the judgment of the Secretary of the Interior in the vital role of making up the final roll of beneficiaries.

I would urge the Senator to consider the problem that the chairman of the committee has mentioned. There are Alaska Native people who are residents of California and Oregon. I am informed that the largest single collection of Alaska Native people lives in Tacoma, Wash. If this is correct, there will be a number of conflicts between those people who claim they are Alaska Natives—that is, that they have one quarter quantum blood by descent—and those who the village people or the people in Alaska say are not Natives.

We have tried to set up an impartial group with representation from the Native group—two of the five members. In my opinion, if the Alaska Native people have a majority, one might as well argue that we should require that a majority of the FTC be members of the power industry, or that a majority of the FTC should come from the tobacco industry, because what we would be saying is that the people who are most affected should control the quasi-judicial agency.

It involves much more than just determining the boundaries of the villages. This group will have the complete power of the Secretary of the Interior over the area. The outlines of these villages were never known before, and we are creating these areas under this act. Therefore, the relationship between Native and non-Native is going to be determined by this Alaskan Commission. I feel that the majority of this commission should not have any benefit coming from this act. If they do, an automatic conflict of interest situation would be created, and I would urge the Senator from Oklahoma to reconsider this.

I have discussed this matter with the leaders of the ANF and their attorneys. They know our feelings about this amendment and the feelings expressed in the committee about it. Those of us who have studied this problem for years believe that this is the best mechanism to resolve these controversies without a conflict of interest, and no potential conflict of interest is involved in the section to which the Senator's amendment applies.

I believe that every time a person who claims he is an Alaskan Native is turned down, he will go to court and say that was an unfair decision because the majority were biased against him to start with. He will say, "They could not decide my case and let me in without diminishing their own share from that bill."

I know the Senator is fair-minded, and he will see the position. Every case decided by the commission will be appealed to the courts if that conflict of interest exists.

Mr. HARRIS. I think the Senator from Alaska has restated my argument very strongly, although that was not his intention.

I might say, further, that it seems to me that the Senator's argument fails on his own last statement. I think the likelihood of appeals by those aggrieved by decisions of this Commission is far greater if the decisions are going to be made primarily by non-Natives, rather than by Natives.

How does the Senator from Alaska feel that people who live outside of Alaska, whose claims are being considered by the Commission, will somehow have a better chance to fairness if a majority of the Commission is non-Native than Native? The Senator has indicated that he thinks that the Commission will be less fair and more arbitrary and more capricious if a majority of the Commission is Native than if it is non-Native. I think the Senator's argument is totally unproved, and he may want to state it again. It seems to me that what he is saying is that those who know most about it, those who are most involved, are not going to be fair about this matter, when, at the same time, the Senator has indicated that if the Commission's judgment is arbitrary or capricious, anybody would have a right of appeal to the courts, anyway.

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

Mr. HARRIS. I yield.

Mr. STEVENS. The Senator has confused my statement. I did not have anything to say about fairness. I was talking about conflict of interest.

Mr. HARRIS. Well, what is conflict of interest, I ask the Senator?

Mr. STEVENS. There is not a court in the land, if you go before a judge of a Federal court or a State court, where you cannot disqualify the judge if he has a personal interest in the subject matter

before the court. This is the mater I am raising. There is not an Alaskan Native, who could satisfy the category of being an Alaskan Native, who would not automatically have an interest under this act and, therefore, be subject to challenge on the basis of conflict of interest. It has nothing to do with fairness.

Mr. HARRIS. In what way is the Senator's position different from a statement such as this: that we who are non-Natives are best able to determine these issues for the Natives? In what way does it differ?

Mr. STEVENS. Mr. President, that has nothing to do with it. As a matter of fact, the chairman of General Motors would probably be in a position to know more about the corporation and sit as a Federal judge on a case affecting General Motors, but that does not have anything to do with conflict of interest in the matter. The question is whether one has a conflict of interest, whether his decision in the matter automatically affects his own interest in the matter. Solomon, himself, could not be the third Alaska Native on this commission without affecting his own rights under the bill, and as such, there is a basic conflict of interest that ought not be permitted.

Mr. HARRIS. If there is a conflict of interest for a Native majority on the commission, why would it not be a conflict of interest to have any Natives whatsoever—two or whatever number—on the commission? If the Senator wants to respond to that, I will be glad for him to do so.

If not, now, I will go further and say this: The Senator indicated that the Natives who appeared before the committee did not feel satisfied that the Secretary of the Interior should, alone, make the decisions. They asked that a commission be set up, rather than leaving the decisions to the Secretary alone. They felt that that was not a satisfactory situation. If they felt that this was not a satisfactory situation, why are they any better off, from their viewpoint, since the Secretary of the Interior is an Alaskan and was appointed by the President by and with the advice of the Senate, with a separate commission, the majority of which is non-Native, appointed by the President by and with the advice of the Senate, than they would be if there were no commission at all?

Mr. GRAVEL. Will the Senator from Oklahoma yield at that point?

Mr. HARRIS. I yield.

Mr. GRAVEL. I think the Senator is confusing one facet of it. The law provides a guarantee to these people so that there is some representation of the Native community, so that some of their views are guaranteed to be heard. If the President desires, he can name five Natives. So that that can be accomplished.

What has to be distinguished is that there are two facets to the bill. One is the adjudicatory facet where someone sits there and, implementing the bill, acts as judge and jury. They should have some hope of objectivity and should not have anything built in that really goes to areas like self-interest. In the operation of their own corporations within 5 years, they will have charge of their own destinies and their own enlightened self-interest. So that they call the shots there. But we need a group to decide who will be on the rolls. I submit, from the Native's position, when sitting on the commission, the smaller the roll, the more their own interest is satisfied. It is just human nature. I think that is where there is a built-in conflict of interest. The people may be fair and all of that, but their interest is to have a small roll, since they share proportionately higher.

Second, the person sitting on the Commission, the Native part of the Alaskan community would be constantly between a rock and a hard place when talking about the setting of boundaries, say, that might have an effect on the Alaskan Native community and he would be subjected to unusual pressure. If the President desires to appoint three people who are not Natives, because they want the Natives who are there to guarantee that the Native position will be heard, they can go ahead and vote for the Native position. But they surely have no license to act adversely to the Native community in the decisionmaking powers. That is of vital concern. We share the Senator's concern that, as much as possible, the Natives determine their own livelihoods. We have built this into the bill, but when it comes to adjudication, I think it serves the purpose both of the Native community and the remainder of the community which is not Native.

Mr. HARRIS. May I just respond. I respect the Senators who oppose this amendment, the two Senators from Alaska, who spoke earlier, and the distinguished chairman of the committee, but, Mr. President, I think that we are inconsistent if we say that the Natives are capable of directing the affairs of their own tribal governments and their own corporations but are not competent to have three, rather than two, members of the Commission which will make such basic decisions, including decisions concerning those who are to be considered to be Natives who are to be entitled to the benefits under this act. That is a basic kind of question. This is a fundamental matter. The Alaskan Federation of Natives feels that way too. I have a statement signed by their leaders.

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

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

At the meeting of the Board of Directors of the Alaska Federation of Natives held last month in Juneau, the Board adopted a resolution directing its leaders and representatives to seek an amendment of the Committee bill increasing Native representation on the Commission from 2 of 5 members to 3 of 5 members.

JOHN BORBRIDGE, Jr.,
First Vice President, A.F.N.
E. HYSSON,
Executive Director, A.F.N.

Mr. HARRIS. Mr. President, I am pleased to yield now to the distinguished chairman of the committee.

Mr. JACKSON. Mr. President, I should like to make two points. One is that the first point has been made, but I should like to reemphasize it: That there are conflicts within Alaska so far as the Native groups are concerned but this is not the case in dealing with an Indian community. There are Indians plus Eskimos plus Aleuts in Alaska. I want to make that very clear.

The Commission, in the course of its operations, would have to make decisions that could impinge on the rights of any of the three Native groups. Therefore, a member of the Commission, who is a member of any one of those three Native groups, could find himself in conflict among one or more of the other Native groups. That is the very point——

Mr. HARRIS. May I respond to that? Does not the Senator think that those——

Mr. JACKSON. Bear in mind——

Mr. HARRIS. That the various factions within the Alaskan Natives themselves would have a better chance of all views being represented if there were three members rather than two?

Mr. JACKSON. They could have five, if the President wanted it, but I was interested in what the Senator was reading. I wonder whether he has any statement on the several thousand Natives—10,000, I believe—that do not even live in Alaska who, under the Senator's amendment, are not represented.

Mr. HARRIS. How would their views be better represented under the position of the distinguished chairman?

Mr. JACKSON. Under the bill as it is now before the Senate, the President would select a majority from anywhere in the United States so that there will be impartiality. They are not required to be residents of Alaska.

Mr. HARRIS. Does the Senator think that two members from outside Alaska or another place and those people for whom he speaks be less fair than allowing only two representatives for the Alaskan Natives?

Mr. JACKSON. I think, certainly, there should be representation if he is going to go that route from the thousands of Natives that do not even live in Alaska in making up the rolls. There is a definite conflict of interest if they decide to exclude Natives not living in Alaska.

Mr. HARRIS. Does not the Senator feel——

Mr. JACKSON. The effect would be to limit their participation in the bill——

Mr. HARRIS. Does not the Senator feel——

Mr. JACKSON. If that is not a conflict of interest, I do not know what is.

Mr. HARRIS. Does the Senator feel that decisions could be arbitrarily and capriciously made concerning nonresidents and their legal rights could be cut off without redress in the courts?

Mr. JACKSON. I am not arguing for one moment that anyone, whether Native or non-Native, would act in an arbitrary or capricious manner.

Mr. HARRIS. If they did—let us just get to that point—if they did, there would be resort to the courts, would there not?

Mr. JACKSON. We know that this is the extent of the language which we have in the bill. It is a condition precedent to going to court, and the court has to find that the Commission acted in an arbitrary and capricious manner. That is

hard to prove. It is difficult to prove, especially when it is on appeal from the findings of a board.

I want to point out that under the bill as brought to the Senate and now before the Senate, the President can appoint all five Natives. We have not insisted that each one be a Native and a resident of Alaska. This is what the Native groups up there would really like to have. There are those Natives that are not living in Alaska who are worried about what the Natives in Alaska might do so far as their property rights are concerned. I want to make sure that those Natives are protected. The whole purpose of this legislation is to provide compensation based on blood, rather than on the location where the Natives happen to be.

Mr. HARRIS. Would the Senator be satisfied, then, with joining with me in some kind of amendment which will assure what it seems to me is obviously the law, anyway: that anyone entitled to benefit from this bill, as a matter of blood, cannot be denied his rights, however the Commission is made up? Would that not be the law, anyway? Could this not be taken care of by such assurance in the law?

Mr. JACKSON. I just want to say to my good friend that I think that, having stipulated here, in the present bill, that not less than two shall be Natives and residents of Alaska, we have taken an unprecedented step. We still leave to the President, as we should, discretion as to the backgrounds of the other three.

It is important that there be the highest level of impartiality in the adjudication and administration of the program.

I cannot be too emphatic about the built-in conflicts within the State of Alaska itself. This is not the traditional Indian-type claim. We have never before had this kind of problem presented to us in which we deal with three separate, indigenous Native groups.

We worked on an agreement to take care of disagreements on the north slope. They disagreed with their own indigenous group, the Eskimos. We have conflict within conflict.

This is a difficult program to administer. I think that it is important that we leave some discretion here and not lay down arbitrary rules.

Mr. HARRIS. Mr. President, I recognize what the Senator says. It happens that I strongly disagree with it. First of all, I believe that it is clearly unsupported that there is a need to leave the bill as it is.

Is the fear that if three of the five members of the Commission are Natives somehow they will cut off the rights of any Natives who live outside of Alaska? If that is the fear, that can be answered by making our position more clear in the law. I am quite willing to do that. However, I do not really think that is necessary.

I think that any person could go into court and maintain his legal rights against any arbitrary or capricious action, which would clearly be the result of any decision to make eligibility a matter of location of a person's residence, rather than, as the law should require, the degree of blood. I do not think the Senator makes a proper argument.

Mr. President, I come back to what I said a while ago. There seems to be general agreement among those who oppose my amendment that it is not satisfactory to leave to the Secretary of the Interior alone the decision of these questions as to who will be eligible for benefits under the act.

It is felt that the Natives had a good case. It is said decisions to be made here are too momentous to be left to the Secretary of the Interior alone, despite the fact that appeals might be taken from his actions if they are arbitrary and capricious.

It is argued, here, that the bill does something better than that by having the President appoint a commission, only two of which are required to be Natives.

I do not think that that is any different.

Who appoints the Commission? The President of the United States. Who appoints the Secretary of the Interior? The President of the United States.

Who confirms the Commission? The Senate of the United States. Who confirms the Secretary of the Interior? The Senate of the United States.

In what way will we satisfy what I believe everyone agrees is a just complaint of the Natives, that they did not want this decision to be made by the Secretary alone? I think the way to do it is to recognize that the Natives are the most concerned with the decision. They are the most sensitive to the divisions about which the Senator from Washington has spoken.

I think it is well that we have other members of the Commission that the President may appoint who are not required to be Natives. I think that is up to the President. But we should recognize that what we are doing is not something out of the goodness of our hearts; we are not giving away something that the people involved are not entitled to.

If we recognize that we are trying to do justice and not just express our generosity, it seems to me that we ought to do the right thing and allow the basic decisions to be made by the people who primarily know the most about them.

That is the import of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HARRIS. Mr. President, if someone else desires to speak, I would be glad to yield the floor. Otherwise, I would like to say something further.

The PRESIDING OFFICER. The question is agreeing to the amendment.

Mr. HARRIS. Mr. President, I feel that this is the kind of decision that ought not to be made hastily. I think that this question is involved also with another amendment that I intend to offer that has to do with termination.

We spoke a while ago about the provisions in this bill that would terminate certain of the services of the Bureau of Indian Affairs for Alaskan Natives after the passage of a certain time.

Mr. MANSFIELD. Mr. President, will the Senator yield without losing his right to the floor?

Mr. HARRIS. I yield with that understanding.

Mr. MANSFIELD. Mr. President, I understand that someone desires the yeas and nays.

The yeas and nays were not ordered.

Mr. HARRIS. Mr. President, as I was just pointing out, there is another amendment which I intend to offer, that we discussed a little earlier, which has to do with the termination of services.

I had a colloquy a while ago with the chairman of the committee concerning a portion of the bill contained on page 49 of the bill, in subsection 4(b).

That subsection would provide for the phasing out of certain Bureau of Indian Affairs services and also a phasing out or termination of certain rights which the Natives of Alaska and other Indians are entitled to under the present law.

I think that these two matters are tied together. President Nixon, quite rightly, in his recent statement in regard to American Indians also tied them together. In his message, he particularly called attention to what in a subhead of the message is called, "Self-determination Without Termination."

Mr. BYRD of West Virginia. Mr. President, will the Senator yield so that we may get the yeas and nays?

Mr. HARRIS. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

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

Mr. HARRIS. I yield.

Mr. GRAVEL. Mr. President, will the Senator outline for me the services that will be done away with because the Bureau of Indian Affairs will cease activities after 5 years? Will the Senator tell me what services would be denied to the Natives of Alaska?

Mr. HARRIS. Mr. President, I trust that the Senator actually knows the answer. If he does not, I suggest that he look at the report of the committee. I will mention one factor. As I recall from a reading of the report and the bill a while ago, certain exceptions were made. I do not believe that an exception is made in regard to education funds, except as programs might be provided Natives, the same as to other citizens.

My own judgment is that Alaskan Natives and American Indians are entitled not just to ordinary attention, but to compensatory attention to their needs.

Mr. GRAVEL. Mr. President, I would like to correct one statement of the Senator. To my knowledge the Natives of Alaska would lose no education funds. As the situation presently exists, the State of Alaska has an agreement with the Bureau of Indian Affairs that annually the State takes over the operation of additional schools. If that plan continues, all of the schools in Alaska will be operated by the State and they will be funded by Federal moneys.

As far as I am concerned, the activities that have been performed by the Bureau of Indian Affairs will now be performed by the State and funded by the Federal Government.

Mr. HARRIS. Mr. President, that decision would be left to the State apparently.

Mr. GRAVEL. The decision has already been arrived at. Schools have been taken over every single year since 1962.

And the report clearly excludes the moneys under Johnson-O'Malley, moneys which, of course, fund the education program.

Mr. HARRIS. Well, of course——

Mr. GRAVEL. In impacted areas.

Mr. HARRIS. I did not refer to the Johnson-O'Malley funds, as the Senator from Alaska knows. I call attention to a statement by the first vice president of the Alaskan Federation of Natives and the executive director of the Alaskan Federation of Natives in which it is stated that the board of directors of the Alaskan Federation of Natives in Juneau instructed their leaders to seek an amendment striking the termination provision from the committee draft.

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

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

The Bd. of Directors of the Alaska Federation of Natives meeting in Juneau last month instructed their leaders and representatives to seek an amendment striking the termination provision from the Committee draft.

JOHN BORBRIDGE, Jr.,
First Vice President, Alaska Federation of Natives.

EBEN HOPSON,
Executive Director, Alaska Federation of Natives.

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

Mr. HARRIS. I yield for a question.

Mr. GRAVEL. If the Senator would go back to the point he originally made, we put the item aside. What other areas are going to be denied the Natives of Alaska if this plan is effected?

Mr. HARRIS. Why does the Senator want to make such a big fight of it and why do the Natives want to make such a big fight of it if it makes no difference? Why does the Senator not agree with what I think was a very reasonable statement by the President of the United States when he said:

This policy of forced termination is wrong, in my judgment, for a number of reasons.

Mr. GRAVEL. I would like to answer the Senator's question.

Mr. HARRIS. I believe I have the floor. I would like to finish my statement and then I shall yield to the Senator.

First, the President of the United States said:

This policy of forced termination is wrong, in my judgment, for a number of reasons. First, the premises on which it rests are wrong. Termination implies that the Federal government has taken on a trusteeship responsibility for Indian communities as an act of generosity toward a disadvantaged people and that it can therefore discontinue this responsibility on a unilateral basis whenever it sees fit. But the unique status of Indian tribes does not rest on any premise such as this. The special relationship between Indians and the Federal government is the result instead of solemn obligations which have been entered into by the United States Government.

We cannot come to the Senate as if we are somehow doing more than justice by this bill, that we have decided to be overly generous and give the Indians and the Alaskans relief that is not rightfully theirs and use this bill as a vehicle to terminate over a phased-in period the services of the Bureau of Indian Affairs, which we have not provided out of the goodness of our hearts——

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

Mr. HARRIS. But because they are due.

I would be glad to yield to the Senator from Alaska.

Mr. GRAVEL. I appreciate the Senator's generosity. It may warm the cockles of some hearts that my colleague takes the statement of the President of the United States as oracle on Indian affairs. I do not know of any distinguishing areas of his career that merit that. I would like to respond to the Senator.

Mr. HARRIS. Mr. President, I have the floor. I would like to respond.

Mr. GRAVEL. The Senator yielded to me. May I be recognized, or is the Senator taking back his yielding to me?

Mr. HARRIS. I did not yield for a long dissertation.

Mr. GRAVEL. Mr. President, I ask the Senator if he did not address himself——

Mr. HARRIS. Mr. President, I refuse to yield further.

The PRESIDING OFFICER. The Senator from Oklahoma yielded to the Senator from Alaska.

Mr. GRAVEL. I thank the Presiding Officer.

Mr. HARRIS. Mr. President, I believe I yielded for a question.

I would like to say this.

Mr. GRAVEL. I want to bring up this question. What is the next item?

Mr. HARRIS. Mr. President, I refuse to yield further.

The PRESIDING OFFICER. The Senator from Oklahoma refuses to yield further. The Senator from Oklahoma may continue.

Mr. HARRIS. Mr. President, I refuse to yield further. I wish to finish my statement and then I will yield so that the Senator from Alaska can say whatever he pleases.

Mr. GRAVEL. I thank the Senator.

Mr. HARRIS. Mr. President, it is not a question of whether President Nixon is a Republican or a Democrat. The Senator knows that I was formerly chairman of the Democratic National Committee and, therefore, there is no reason for me to praise President Nixon on what is a very good statement on Indian affairs. I have said it before the Subcommittee on Indian Affairs and I have said it publicly in my own State on the day the President issued the message. It is a good message and it is a sound message. We are involved here in exactly that kind of "bugaboo," the policy of termination, which the President rightly said should be repudiated once and for all.

Every time the Indians come up here for an improvement in what has been a miserable policy in regard to them——

Mr. GRAVEL. Mr. President, will the Senator yield on the point of termination?

Mr. HARRIS. It is said, "We will do these good things for you."

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

Mr. HARRIS. It is said, "We will terminate your services." That is a separate question; why bring it up in regard to this matter and why involve it in this bill?

I commend the President's statement where he referred to self-help without termination.

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

Mr. HARRIS. I yield for a question.

Mr. YARBOROUGH. As a prelude to the question, I wish to state that in the hearings I held in the State of Oregon and the State of Washington on Indian education, this matter came to our attention. We had testimony in the committee of termination 10 years later; that the educational level declined by several years per member of the tribe, drunkenness increased, suicide was rampant, crime was rampant, they were thrown out of schools where they did not fit, and the results were disastrous.

Is that the kind of fate the Senator is fearful of if there is a sudden termination?

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

Mr. HARRIS. I feel this way about it. I think that if we are going to try to do the fair thing after 100 or so years in regard to these Natives of Alaska, we should not be coming in here with termination at a time like this.

Mr. GRAVEL. Mr. President, will the Senator yield on the statement regarding our ability to be fair to the Natives?

Mr. HARRIS. If the Senator from Alaska and others could bring this matter up in connection with all matters pertaining to American Indians and not just in this instance, it would be a different story. It is greatly inconsistent to say, on the one hand, we want to turn all this over to the Indians as this bill would do in certain respects, and at the same time say, however, on momentous decisions such as who will be eligible to benefit under this bill, we should have only two, rather than three, of the five-member Commission appointed by the President required to be Natives.

I yield the floor.

Mr. GRAVEL. I thank my colleague. I move to table the Senator's amendment.

Mr. HARRIS. Mr. President, the Senator from Alaska——

The PRESIDING OFFICER (Mr. SAXBE). A motion to table is not debatable.

The question is on agreeing to the motion to table (putting the question).

Mr. HARRIS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas appear to have it.

Mr. HARRIS. Mr. President, I had asked for the yeas and nays. I personally asked for the yeas and nays before the Chair put the question on the motion to table.

Mr. JACKSON. Mr. President, let us have the yeas and nays.

The PRESIDING OFFICER. There is a sufficient second.

The question is on agreeing to the mo-

tion to table the amendment of the Senator from Oklahoma (Mr. HARRIS). On this question the yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Tennessee (Mr. GORE), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUYE), the Senator from North Carolina (Mr. JORDAN), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Colorado (Mr. DOMINICK) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) and the Senator from Maine (Mrs. SMITH) are absent because of illness.

If present and voting, the Senator from Oklahoma (Mr. BELLMON), the Senator from South Dakota (Mr. MUNDT), and the Senator from Maine (Mrs. SMITH) would each vote "yea."

The result was announced—yeas 64, nays 18, as follows:

[No. 240 Leg.]

YEAS—64

Allen	Goodell	Pastore
Allott	Gravel	Pearson
Anderson	Griffin	Percy
Baker	Gurney	Prouty
Bennett	Hansen	Ribicoff
Bible	Hartke	Saxbe
Boggs	Hatfield	Schweiker
Brooke	Holland	Scott
Burdick	Hollings	Smith, Ill.
Byrd, Va.	Hruska	Sparkman
Byrd, W. Va.	Jackson	Spong
Case	Jordan, Idaho	Stennis
Cook	Long	Stevens
Cooper	Magnuson	Symington
Cotton	Mathias	Talmadge
Curtis	McClellan	Thurmond
Dole	McGee	Tower
Ellender	McIntyre	Tydings
Ervin	Miller	Williams, Del.
Fannin	Murphy	Young, N. Dak.
Fong	Nelson	
Goldwater	Packwood	

NAYS—18

Aiken	Javits	Muskie
Cranston	Kennedy	Pell
Eagleton	Mansfield	Proxmire
Fulbright	McGovern	Williams, N.J.
Harris	Metcalf	Yarborough
Hart	Montoya	Young, Ohio

NOT VOTING—18

Bayh	Eastland	Mondale
Bellmon	Gore	Moss
Cannon	Hughes	Mundt
Church	Inouye	Randolph
Dodd	Jordan, N.C.	Russell
Dominick	McCarthy	Smith, Maine

So Mr. GRAVEL's motion to lay Mr. HARRIS' amendment on the table was agreed to.

Mr. HOLLAND. Mr. President, I customarily dislike voting for a motion to lay on the table. I did so in this case for three reasons, which I want to appear in the RECORD.

First, I have very great confidence in the committee and its actions. I think that the report made—which I have read very carefully, and then listened to very carefully also—by the chairman of the committee, the Senator from Washington (Mr. JACKSON), shows a very great desire to be fair to these people, and shows the results of a very careful study extending over a period of nearly 3 years.

Second, we have no precedent for this kind of thing in any other nation. This is the only nation where we take care of what, in effect, are conquered peoples—and that is what these people are. It seems to me this is an extremely fair way to take care of these three scattered aboriginal peoples, the Eskimos, the Aleuts, and the Indians.

I am impressed also with the fact that many of them have come to this country—meaning the contiguous States—and can hardly participate in any active way in what goes on there.

I think this is a good program, a good example of how a great democratic nation seeks to do fairly by underprivileged people whom it acquired so many years ago, and who are, in effect, a conquered people.

My third point is this, Mr. President: I had, just a short time ago, this experience. The Commission on Indian Land Claims—which, by the way, is all-American, meaning constituted entirely of people of typical American background and not of Indians, in the sense of distinguishing between Indians and Americans—those that fix the judgment in most such cases, recently came up with a judgment in the case of the Seminole Indians for a settlement of about $13 million, in addition to other settlements that had already been made by way of giving them certain reservations and certain other rights.

Mr. President, I am sorry to have to report that immediate dissension broke out among those Indians, most of whom are my own friends and who have, in effect, honored me in very significant ways which I shall not go into here.

The problem was further complicated by the fact that some of them live now in Florida and some of them live now in Oklahoma. I think this is a job that ought to be done, in the great majority, by the people of traditional, longtime American background from the standpoint of being American citizens for a long time, just as the Indian Land Commission is so constituted; and, while I have no objection to there being native Alaskans on this Commission, I suspect that it would have been a wiser thing to have five, just exactly as we have in the case of the Indian Lands Commission, coming from learned people of demonstrated fair, just, and fine character from our own body of people here in the old United States, meaning that part in existence before the acquisition of Alaska, to determine it.

But I certainly approve of the action of the committee. They undoubtedly had good reason for putting two of the Natives on this Commission. I think that this is a splendid demonstration of what a great and generous people are willing to do for unfortunate, underprivileged, uneducated tribes widely scattered over an area more than twice as big as Texas; and besides that, many of them have come to the older United States as well.

I hope this bill will pass speedily, and will give acclaim and approval to the action of the committee, which, by the way, included not only the present able chairman, but a former able chairman who sits beside me, the Senator from New Mexico (Mr. ANDERSON), and a former college professor from out in Montana (Mr. METCALF), which itself is Indian country, who, I understand, conducted a large part of the hearings himself, and who is in thorough accord with the fairness of this proceeding.

I hope that we may act quickly and do something which could not be done anywhere else on earth—show what America can do under this kind of situation.

Mr. President, I yield the floor.

Mr. JACKSON. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. Does the Senator ask that his amendments be considered en bloc?

Mr. JACKSON. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

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

Mr. JACKSON's amendments are as follows:

On page 114, delete lines 17 and 18 and substitute: "to in subsections (b)(1) and (2) hereof is so located that less than nine townships of public lands are available for withdrawal as therein provided,".

Delete line 3, page 115 and substitute "an acreage equivalent to nine townships of public lands for such Native Village."

Delete lines 7 and 8, page 115 and substitute "of making lands in the townships on which villages referred to in subsection (b)(3)(A) hereof are located, or in the contiguous and cornering townships, available for selection:".

Redesignate subsection 13(g), page 124, as 13(g)(1).

Change the designations "1, 2, 3, 4, and 5, pages 125–126, to "A, B, C, D and E" and add a new subsection 13(g)(2) reading as follows:

"(2) Land acreages equal to the difference between the maximum grants of land which the Commission may award pursuant to subsection (g)(1) and the actual amounts awarded to eligible Village Corporations, together with land in the amount of 1,500,000 acres, shall be granted by the Commission upon application, as follows:

"(a) to any Village Corporation which received the maximum grant the Commission may award, but which needs additional lands to maintain historic subsistence use patterns, but not to exceed the balance of the acreage withdrawn for that Village Corporation;

"(b) to any Village Corporation which demonstrates that the nature, amount and economic value (without respect to the mineral estate) of the lands granted pursuant to subsection (g)(1) do not result in comparable values with the lands granted to other Village Corporations, but not to exceed the balance of the acreage withdrawn for that Village Corporation; and

"(c) any remaining lands shall be granted to the Services Corporation."

Change the comma after the word "exhausted" in line 1, page 132 to a period and delete the balance of the subparagraph.

Redesignate subsection 14(e), page 132, as 14(f) and insert a new subsection 14(e) to read as follows:

"(e) Upon application of the Services Corporation, and upon certification thereof by the Commission, and after survey of the areas involved, the Secretary shall issue patents, without payment therefor, to the Services Corporation for lands to which it is entitled pursuant to subsection 13(g)(2)(c). The Services Corporation shall select such lands from among the lands withdrawn for Native Villages pursuant to section 13 which remains after Native Village selection rights are exercised as provided in this section. All such selections shall be contiguous and in reasonably compact tracts, except as separated by bodies of water or by lands which are unavailable for selection and shall be in whole sections and, wherever feasible, in units of not less than one thousand two hundred and eighty acres."

Revise the redesignated subsection 14(f):

(a) by inserting in line 10, page 132, the phrase "or by the Services Corporation" preceding the word "under"; and

(b) by substituting for the word "six" in line 11, page 132, the word "nine".

Insert "and to the Services Corporation" in subsection 15(a), line 23, page 132, after the word "Corporations."

Redesignate subsection 15(d), page 136, as 15(e), and redesignate all internal references to subsections (See note, below) and the subsequent subsections of section 15 accordingly, and insert a new subsection (d) reading as follows:

"(d) Upon completion of the survey of lands selected by the Services Corporation, as provided in subsection (a) hereof, the Secretary promptly shall issue a patent or patents to the Services Corporation to the land and all interests therein, subject to valid existing rights."

Change "(B)" and "(C)" and "(D)" on page 140, lines 10 and 11, and insert new (B) as follows:

(B) lands for the Services Corporation pursuant to subsection 13(g)(2)(C).

Insert the phrase "of the lands to which the Services Corporation acquires a patent under section 15(d) of this Act and of" on page 84, line 22, after the word "estate."

Delete the word "'two" in subsection 18(b)(1) on page 154, line 18, and substitute the word "one".

Delete the phrase "one million" in subsection 18(b)(2), on page 154, line 22, and substitute "five hundred thousand".

Delete "one million acre" in subsection 13(h)(2) on page 128, lines 4 and 5, and substitute "five hundred thousand".

(NOTE.—Change internal references in section 15 as follows: page 136, line 6, "(j)" becomes "(k)"; page 139, lines 17 and 18, "(d)" and "(e)" become "(e) and (f)"; page 139, line 22, "(g)" becomes "(h)"; page 140, line 3, "(g)" becomes "(h)"; page 141, line 19, "(d) through (h)" becomes "(e) through (i)".)

Mr. JACKSON. Mr. President, the amendment at the desk would change the land provisions of S. 1830 in three respects:

First, to insure that the Commission would award the total amount of village lands presently permitted by the bill;

Second, to require the Commission to distribute certain lands—including 15 million acres of land formerly designated for timber potential and individual hardship cases—so as to equalize the value of land received by different Native villages;

Third, to insure that nine townships would be withdrawn for each Native village eligible to receive land.

The first phase of the amendment is intended to guarantee that the Natives' expectation of 10 million acres of land become a reality. The present bill places no floor upon the amount of village lands that the Commission might award. The Commission could award up to approximately 5.9 million acres of village lands, but there is no guarantee of this. Congress should not take the chance that the Commission might dash the Natives' hopes. This amendment would insure that the Commission will in fact award the full amount of village lands.

The second phase of the amendment is intended to insure land of equal value to different Native villages insofar as that is possible. The Commission, after making its initial grants to villages, would distribute the land left over within the total of 5.9 million acres to Native villages that could show that they required more land for historic uses or in order to receive land equal in value to that awarded other Native villages. The Commission at this point would also distribute 1.5 million acres which the amendment would convert from land to be awarded for timber potential and hardship cases under section 18 to village lands to be awarded under section 13. This represents the Natives' desire to receive a greater amount of village lands under the equalization formula, in place of part of the timberland and part of the hardship land presently available in section 18 of the bill.

The third phase of the amendment solves a technical problem that would prevent the withdrawal of nine townships for land selection by Native villages surrounded by tentatively approved State land. It does so by minor changes in language that would allow the withdrawal of the nearest available public land for selection by these villages. In doing so, the amendment does no more than place these villages on an equal footing with other Native villages.

I hope that the amendment will be agreed to.

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

Mr. JACKSON. I yield to the ranking minority member of the committee, the distinguished Senator from Colorado.

Mr. ALLOTT. Mr. President, I have at hand the amendment, which I have just seen for the first time this afternoon. I am not particularly concerned about the first part of it, but I want to make some legislative record on the other parts.

The committee has set a 10-million-acre maximum. I have always surmised, knowing human beings and knowing commissions, that a commission would always find a way of granting the maximum and the maximum would in fact become a minimum, anyway. But, with the assurance that this amendment will not permit anything over the maximum of 10 million acres, I have no objection to it.

However, although I understand that this amendment was worked upon by both Senators from Alaska, I must say for the record that I am a little concerned about the change of the other acreages. Among the things that the committee provided was 2 million acres of forest lands for the Alaska Natives, to be set aside for the Alaska Natives. This was not arrived at easily. As a matter of fact, the committee had many, many sessions upon these land set-asides. It was my understanding that the 2 million acres set aside for forest lands was an absolute minimum, and we have nothing in the record that I know of to justify the reduction of that to 1 million. The 1 million is now placed over into redesignation of section 2 and raises that to 1,500,000 and, in addition, the 1 million acres of hardship land has been reduced to 500,000.

I just want to say this, particularly with respect to the hardship land: There was a great deal of testimony, and we did the best job we could on it. Nobody can be certain what is actually necessary for hardship land, but I do not think there is any testimony in the record, either, to justify the reduction of the 1 million acres of hardship land to the 500,000 figure, nor the shifting of those acreages over to other sections.

I just want to make this record. I do not oppose the amendment, because the chairman of the committee did work on it with the two Senators from Alaska; but I think this record should be made, so that when the House of Representatives looks at the bill, it will keep these two shifts in mind.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HARRIS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 49, beginning on line 19, delete subsection 4(b) in its entirety.

Mr. HARRIS. Mr. President, on page 49 of the bill, section 4(b) contains a provision as follows:

The Secretary—

Meaning the Secretary of the Interior—

is authorized and directed, together with other appropriate agencies of the United States Government, promptly to initiate a study and to develop programs for the orderly transition of educational, health, welfare, and other responsibilities for the Alaska Native people from the United States to the State of Alaska. Within five years from the date of enactment of this Act, the United States shall cease to provide services to any citizen of Alaska solely on the basis of his racial or ethnic background: *Provided*, That nothing in this subsection shall affect services furnished the Natives through the Department of Health, Education, and Welfare, or diminish the applicability of the Act of April 16, 1934,

Subsections 2 and 3 of the same subsection relate to the same general subject, providing for a report by the Sec-

retary of the Interior on transition of programs and exempting services and programs furnished to the Tsimshian Indians on the Annette Islands Reserve.

The amendment I have offered would strike subsection 4(b) from this act.

As I said earlier, Mr. President, this amendment is in line with the statement of the President of the United States putting his administration firmly on the side of self-determination for American Indians without the bugaboo of termination. I think this amendment is just and should be adopted, for several reasons.

First of all, I take it, the recommendation of the Committee on Interior and Insular Affairs is that the Senate do justice to the Natives of Alaska, but not that we are doing something other than justice, but that we are attempting only to do justice in regard to their Native claims to the Alaskan area. Therefore, since we are only suggesting that the Senate and the Congress and, therefore, the Government, do justice in regard to these Native claims, it is not proper, it seems to me, for us to couple with our offer to do justice a condition that with the other rights of these Natives under present law they will, in connection with this claim, be terminated.

Second, I think, as I have indicated earlier, that the President of the United States is right in indicating in his statement that the special services to which American Indians, Eskimos, and Aleuts are entitled, and particularly the services of the Bureau of Indian Affairs, are not theirs as a matter of generosity but as a matter of solemn obligation to them on the part of the United States of America.

Therefore, as President Nixon has, himself, recently said, since the services for the Alaskan Natives are theirs as a matter of right, under solemn obligation of the United States of America, the United States of America on its part, unilaterally, should not withdraw such services, except with the consent and approval of the Natives themselves.

I have applauded President Nixon for his statement repudiating the old policy of termination. For too long, over the past years, whenever a meeting has been convened to discuss Indian matters, a great deal of time seems always to have been taken up with the very real fear that Indian people have, that, if they ask for anything other than what they have had always at the hands of the Federal Government in the way of services or programs or whatever, they will be met with the threat of terminating services to which they have been entitled under present law. Every time a claim comes up in regard to lands, or any other wrongful taking of property rights from some Indians or certain tribes, there is always the fear on the part of the Indians involved—and rightly so—that if that just claim, as adjudicated by an arm of the Congress, is paid, or approved by the Congress, they will face the threat that, at the same time, or in connection with the payment of any claim, their rights to services performed for them by the Bureau of Indian Affairs, as Indians, will be terminated.

Mr. President, it is long past the time when we should repudiate that termination policy, initially laid down, I believe, by a resolution adopted in 1953, that we should allow the tribal leaders and the tribal members and the Bureau of Indian Affairs and relevant committees of Congress, and others interested in these matters, to quit wasting their time worrying about termination, and allow them to use that valuable time, that energy, and those concerns, in other ways to improve opportunities for American Indians, Eskimos, and Aleuts.

So, therefore, Mr. President, first of all, I suggest to the Senate that it give full consideration to the pending amendment because I believe that the old termination policy should be repudiated altogether.

Mr. STEVENS. Mr. President, will the Senator from Oklahoma yield?

Mr. HARRIS. I yield.

Mr. STEVENS. Mr. President, in the section that the Senator's amendment pertains to, on page 49 in subsection (b)(1), I call attention to the fact that the committee has already provided that a study will be made to initiate programs to provide for orderly transition. There is also a requirement that within 5 years assistance should no longer be based on ethnic distinction. That study will give us the basis to determine whether, in fact, the State can assume the role of providing services for the Native people of Alaska who cannot provide for themselves, after the passage of this act.

I am sure that my colleague will have some comments to make about this provision, but I would urge the Senator to take into account the fact that we have responded already to the request of the leaders of the Alaskan Federation of Natives in providing for the study. The committee did that and it was considered in the report of their views. I attended one of the meetings of the Alaska Native people in Anchorage, and they expressed concern about this.

I do not view this as an automatic termination. I would hope that the Senator from Oklahoma would view it that way, and that we would recognize there are many compromises that went into the bill. This is one of them. I am sure that the Senator has been a party to compromises in which he has agreed to support a bill that necessarily did not represent his total point of view but represented a collective point of view. That is the situation we are faced with on the floor today. We have modified the provision. It still reflects the desire of my colleague (Mr. GRAVEL), and, at the same time, reflects the necessity to study the proposition.

I think the length of time within which Congress directs the Secretary to present the report could be shortened. I am sure the chairman of the committee and my colleague from Alaska would accept an amendment which would say that the report would have to be presented within 3 years, which would then give us 2 years to study the program and still have the right to continue other services if it was deemed necessary. I do not think that the Senator from Oklahoma realizes the extent to which Alaska is already taking on the responsibilities provided by the Bureau of Indian Affairs in other places. I would call the Senator's attention to the fact that we may have the financial ability to provide a great many more services than other States in the future. I believe that the people of Alaska are more than willing to accept the responsibilities.

I would urge the Senator to consider my suggestion, before changing this, so that the study is required within 3 years, and make cessation of services contingent upon approval of the study, if the Senator desires. I leave that up to my colleague from Alaska because it is basically his amendment.

I will keep my commitment to support the bill as reported to the Senate, unless the chairman agrees to the amendment; but it seems to me that there is a way to accomplish this objective and, at the same time, accomplish the objective of my colleague from Alaska. I hope that the Senator would consider some way to do this, so that we can reach an accord here and move on with the rest of the bill.

Mr. HARRIS. I thank the Senator for his statement which, obviously, I cannot agree with. If this provision in the bill just called for a study, as the Senator starts out to say, that would be one thing, but this provision, as I have read it aloud to the Senate, and as the Senator knows very well, says, "terminates the service within 5 years." In regard to this bill's required study concerning how that should be done, I testified this very morning before the Senate Subcommittee on Indian Affairs in support of a bill which would repeal an old law in respect to the termination of the Choctaw Tribe. The necessity of that legislation, I think, indicates why it would not be good to go ahead and enact this provision, providing for the termination of certain services to these people, and then see how it turns out, so that we could extend or repeal it at the end of the time.

What we have done in regard to the Choctaw Tribe was to come here continually and ask the Senate and the House of Representatives to put off the effective date of an old termination act. Finally, we are coming in now and asking that that law be repealed altogether, as I think it should be.

So, while I would not have any objection to some kind of study, I do not think we ought to pass this rigid termination law in connection with this claim. There are two or three reasons why we ought not to do this at this time.

First, I do not believe it is right to terminate the services that this bill would end for these tribes. I call attention to a portion of President Nixon's message of July 8 on this matter. It reads in part:

> Because termination is morally and legally unacceptable, because it produces bad practical results, and because the mere threat of termination tends to discourage greater self-sufficiency among Indian groups, I am asking the Congress to pass a new concurrent resolution which would expressly renounce, repudiate, and repeal the termination policy as expressed in House Concurrent Resolution 108.

I support that recommendation of President Nixon.

Second, I do not believe that we ought to adopt any definite termination date in this bill. I do not believe it is right to tie this kind of condition to a bill which seeks to give what these people are themselves entitled to under justice.

If Congress wants to respect President Nixon's recommendation about repudiation of the old termination policy, that is a matter still within the control of Congress. But I do not believe we ought to do it piecemeal here in this one bill and, in effect, hold justice for these people hostage to this termination provision.

Mr. President, I would suggest that the chairman of the committee see if he can accept this amendment, because I think it really is a terribly important amendment insofar as the rights of these people are concerned. This provision ought not to be made a condition to the final passage of justice, at long last, for the people who are involved in the pending bill.

The PRESIDING OFFICER (Mr. EAGLETON). The Senator from Alaska is recognized.

Mr. GRAVEL. Mr. President, I think it is clearly an historical argument. I think it is fudamental at this time.

We might really go to the core of a problem that has plagued this country for over a hundred years. That problem must be solved—not the problem of termination, which is a hangup and nothing more than that, but the problem of determination as to how people act for themselves.

Three points have been made with reference to the argument that has been advanced here.

The first was that the bill would terminate services. I asked the Senator from Oklahoma what services would be terminated. In rebuttal all I got was a reference to some pontification by this administration as to what its policy should be toward the Indians. That pontification was given this year, was given by the last administration, and has been given ever since we have had the problem. All we have had has been a lot of pontification but no legislative action.

Mr. President, I was present in Utah at a luncheon with the tribal leaders. These tribal leaders were operating a ranch. At the top of the valley was a beautiful concrete building. That was the BIA building. At the bottom of the valley where the ranch was operated there were a couple of quonset huts.

We as officials did not go to the concrete building. We went to the quonset huts. We did not want to talk with the BIA officials. We wanted to talk with the Indians.

I was sitting next to the chief of the tribe.

I said, "You have a nice ranch here. You have cattle and are making money."

I asked him, "Who runs the ranch?"

He said, "We do."

I asked, "Do you deal with the BIA?"

He said, "No, we do not deal with them. We run our own ranch."

I asked, "Why do you have the BIA?"

He said, "Because they are there."

I asked, "Why don't we do away with them?"

He said, "Because it might not be a good idea."

I asked, "Why would it not be a good idea?"

He said, "Because they are there."

That was the sum and substance of that argument, that they are there.

What we are doing in this bill is providing for solving this situation in one particular case—Alaska. There are three functions of the BIA. They are education, welfare, and economic development.

Education under the 1962 act is being taken over by the State of Alaska and funded by the Federal Government.

We are not decreasing our efforts. We are trying to say, "Joe Uglapuk's kid is just like MIKE GRAVEL's kid. He receives the same kind of education. There is no social distinction."

It is said that more money is needed because it costs more money to educate the children. The pending bill provides for that and increases it considerably.

The second function of BIA is welfare. Welfare in Harlem is handled through the State of New York with Federal funds. There is no reason why welfare in Alaska cannot be handled through Alaska and by Federal funds.

Why should we make an ethnic distinction?

The third function of BIA concerns economic welfare.

Mr. President, we have reindeer herds. There are some caribou in Alaska. One herd was brought to a little valley outside of Nome, Alaska. I flew out there in a BIA aircraft and landed on the tundra with a BIA official. We talked with the Eskimos who were doing the herding. The BIA officials were not doing it. It was not the BIA that was doing the accounting. It was the Eskimos.

My approach is very simple. All we have to do is to provide the money to permit them to do that. We do not need the Federal Government to spoon feed the people. The people can be like any other people from Harlem, Watts, or any other community. If they are equal, the way to prove they are equal is to treat them equally.

If that is actually the problem, we ought to address ourselves to the economic issues and not to the racial issues. We should provide sufficient funds to provide economic aid to the Natives. They will do it for themselves.

Education will be provided by the State. Welfare will be provided by the State, where it properly belongs. Economic development will be provided by the Indians themselves. There is nothing left. Why should we have a bureaucracy that is organized and exists to soak up the money and push the problems aside? That is what we are doing. We say that we want a plan for 5 years and that after a study it will be submitted to Congress. We say that we have to do away with that system and this may create more equality.

What happens, to the contrary, is that we get a bureaucracy that feeds upon itself and that panders to them.

This is a chance that exists in Alaska today that has nothing to do with termination.

It has nothing to do with that hangup. These are people with a just claim; we are satisfying that just claim so they can walk down the street like anybody else, whether white, black, green or yellow. That is all this does.

We should not get hung up about chopping off services. I ask anyone making that argument to honestly stand on the floor of the Senate and tell us what is being chopped off. I think there is confusion here.

Mr. President, I yield the floor.

Mr. HARRIS. Mr. President, American Indians are entitled to something other than just the plain treatment that other American citizens receive, for several reasons, and this goes to the heart of the argument of the distinguished Senator from Alaska, and I know he has made his argument with all sincerity.

First of all, American Indians, Eskimos and Aleuts are different from other American citizens in that they are the only people in the United States who were conquered by the U.S. Government.

Mr. GRAVEL. Mr. President, will the Senator yield on that point?

Mr. HARRIS. And they are the only people toward whom the policies of this Government have consciously——

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

Mr. HARRIS. I yield.

Mr. STEVENS. Mr. President, we would like to clear the RECORD on this matter. The Alaskan Natives were never conquered. I want the Senator to understand that these people were never conquered in the Indian wars. The United States bought Alaska from Russia and when we bought Alaska from Russia we promised the Alaskan Native people they would receive justice, or compensation, or be fairly treated. We are trying to treat them fairly now. But I did not want the RECORD to show that Alaskan Natives ever lost any wars. They are sincere about this and I hope the Senator agrees so we can clear up the RECORD. Sovereignty over them was acquired by the United States in a way that obligates us today to fulfill the obligation under the treaty of purchase.

But let us not have the Indian war problem creep in on Alaskan Natives because they never had that problem and do not want it.

Mr. HARRIS. The Senator has made a too narrow interpretation of the word "conquer." Perhaps I should have said that the Eskimos and Aleuts are the only people who were conquered or bought. They passed from Russian jurisdiction to that of the United States. But, that is not so much the question here.

The question is the present situation. The Indians, Eskimos, and Aleuts are the only people in our history toward whom the policy of the U.S. Government has been, either consciously or unconsciously, and, mostly, consciously—to destroy their own culture, heritage, language, and pride in group. That has been the long history of this country and it still is, however, well intentioned we may be or may have been.

Chilocco Indian School is an Indian school in my State. It is a long way from Alaska and, yet, the majority of

students in that school, up until this year have been, overwhelmingly, students brought all those hundreds of miles away from family, away from tribe, and away from their own native areas, down to that Indian boarding school.

It seems to me, however well intentioned that is, it is not the kind of policy which will instill rightful pride in self, pride in history, pride in culture, and pride in group. That is the first thing different about the Government policy in the past in regard to the American Indian, Eskimo, and Aleut from other Americans. It is a different policy, unique for that group of our fellow American citizens.

The second difference in regard to these types of Americans is that ours has been a policy of effective dependency for American Indians, Eskimos, and Aleuts. It has been a feeling that American Indians, Eskimos, and Aleuts are not able fully to decide a great many vital things about their own lives and the lives of their children which other people in our society can decide.

We have begun to make some changes and I am pleased that that is so, as, for example, in the action by Congress last year requiring that Indian school boards be established so that Indian parents will have the same right to control schools and to participate in decisions about their schools that other citizens in our society have.

I daresay a great many people were quite surprised to find, after all these years, that that was not the case anyway; and the Government has been dilatory in carrying out that clear directive of Congress last year. I have spoken about that on the floor of the Senate in the past.

I think we have to recognize the right of these Americans to make vital decisions about their own lives. That is what the amendment was about awhile ago. I offered an amendment which would have provided that three of the five members of the Commission to be established under the bill to make such vital decisions as the decision concerning eligibility for benefits under this bill, would be Natives. That amendment was tabled. I think that was a mistake both in procedure and in substance.

I am sorry that was so, and I hope, somehow, along the way, that may yet be corrected in conference or elsewhere. I believe that we have not considered fully the implications of the judgment the Senate made that the Natives themselves should not have a majority in those very sensitive and serious decisions involved here.

So, once again, the Senate acted by an overwhelming majority, and I think without having understood fully the issue. That is why it seems to me it was not a good thing to cut off debate by a motion to table. As I have said, I think the Senate has made a decision on an important question about which Senators were not fully informed. However, that has now been done. But just as mistaken is our age-old policy that would deny the American Indian, Eskimo, and Aleut control over their lives.

The third difference is that as we began to move ahead on a broad range of social questions, such as improved health, improved housing, and improved education in this country for most citizens, but we did not give the same kind of attention, in my opinion, to those social concerns as they applied to the American Indian, Eskimo, and Aleut. Rather, there has been a feeling in some places in the country that American Indians are not truly American citizens. There has been a feeling they are not entitled, in addition to the services rendered to them by the Bureau of Indian Affairs, to all other services furnished to all of the citizens of our country.

So, in too many instances where an American Indian goes into a city or county health clinic, for example, as an American citizen entitled to those services, it has been said to him, "Why don't you go to an Indian hospital, where you are supposed to go?" rather than recognizing that that citizen is entitled to those services, just as any other citizen.

So, for too long, for too many Native Americans—Aleuts, Eskimos, and Indians—it has been too true with respect to Federal services. We have said services for housing, education, health, and so forth, should be primarily furnished by the Bureau of Indian Affairs. Nevertheless, we have not put sufficient money into those programs so that that could be done. Therefore, we have not, I think, provided the same kind of equal treatment in the past with regard to those programs.

All this adds up, it seems to me, to some things that need to be done. The action required follows from the three statements I have made about the differences in the way we have treated this group of Americans.

No. 1, instead of helping to tear down pride in culture, in heritage, in language and in difference, we ought to be helping to emphasize such things. America is not a "melting pot" in the sense that every person must be just like everybody else in order to be a true American. To be a true American, one does not have to look like every other American, or speak like them, or have the same cultural heritage or pride in history. What America is about is the right to be different—I repeat, the right to be different, not as a matter of tolerance, but as a matter of pride. We ought, most of all, to exemplify that people can be different in many ways, in culture, in religion, in history, in language, in color, and still be entitled to the full promise of America.

That is why I and other Senators have stood on the floor of the Senate seeking to change the Indian education program of the country, both in the public schools and in the Federal Indian schools, by providing additional money for special materials and textbooks and teaching aids, so that a little Indian child in this country will not continue to be humiliated, as is often now the case, by imperfect and often terribly discriminatory materials and teaching aids in our public schools and Federal Indian schools.

I have stood on this floor advocating the increase of funds available for special training for teachers in public schools where there are high numbers of Indian young people and in the Federal Indian schools, so that a teacher is not suddenly thrown into this kind of situation of special background and special needs of students with whom she or he is not familiar, as is, over and over and over again, the case today.

Second, the problem in regard to the patronizing kind of dependency which has been involved here in the past. We must have Indian school boards and Indian hospital boards. I think American Indians must be allowed to control their own destiny more.

Third, the statement I made in regard to bringing Indians up to the starting line, on an equal basis, is what is involved in this amendment—and that is, they must have compensatory attention, not just equal attention, as was stated a while ago, but compensatory attention, to bring them up to the starting line on an even basis; and nothing else will do.

That is why we, the Senate of the United States, ought not to unilaterally, against the wishes of the Alaskan Natives, play God once more, making vital decisions about other people's lives, deciding that certain of their services ought to be terminated, which, as I understand it involve education—despite what was said a while ago—Indian schools, technical assistance in a great many important areas that the Bureau of Indian Affairs now furnishes these Americans—not out of the goodness of our hearts, but because of our solemn obligation to do so.

So I hope this amendment will be adopted.

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

Mr. HOLLAND. Mr. President, will the Senator withhold that?

Mr. GRAVEL. Mr. President, will the Senator withhold that?

Mr. HARRIS. Yes, I withhold it. I shall be glad to yield for a question.

Mr. GRAVEL. Not for a question. I would like to debate the issue.

Mr. HARRIS. I was being urged to conclude my remarks so we can have a quorum call, but if this should be debated, I will have something more to say.

Mr. President, I ask unanimous consent that I may yield to the Senator from Florida (Mr. HOLLAND) without losing my right to the floor.

Mr. MANSFIELD. Mr. President, before the Senator yields to the Senator from Florida, would the Senator consider the possibility of a time limitation on the pending amendment so Senators can be aware of when there may be a vote, if there is to be a vote, this evening?

Mr. HARRIS. I would rather not right now, until perhaps we could talk about the amendment, agree. Perhaps there is some way to work it out.

Mr. JACKSON. Mr. President, will the Senator yield briefly?

Mr. HARRIS. I yield.

Mr. JACKSON. I may say to the majority leader that, as soon as the Senator from Alaska has had an opportunity to respond, if we could have a quorum call, there is a possibility that we may work out a compromise and try to get a settlement of this matter.

Mr. HARRIS. Mr. President, I ask

unanimous consent that I may yield to the distinguished Senator from Florida without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HOLLAND. Mr. President, my interest in Alaska goes a long way back. I had read about Baranov, the Russian captain and governor who settled Alaska and sent a great wealth of sea otter furs and other products of that kind and who believed so greatly in the future of Alaska and of the great northwest and western coasts of this Nation that he came down as far as San Francisco Bay to establish a settlement there and that he was heartbroken when recalled because his effort had been so expensive.

It was because of that interest and knowledge I had of Baranov that I referred to some of the tribes there as conquered tribes. If one reads the story of Baranov, he will read that some of the tribes were conquered and some of them almost destroyed back in the old Baranov-Russian days. We, of course, acquired them when we purchased Alaska.

My own feeling is that the Alaskan Natives—Indians, Aleuts, and Eskimos—are in no different situation from other American Indians. Some of our American Indian tribes were not conquered in the sense that they were conquered in battle, because they had been our friends. All we did was to take their land away from them and move them to a more remote location which they did not like so well. That is what has happened to some of the tribes in Alaska, but some of them were truly conquered and some were almost destroyed.

My feeling is that this is a fine settlement for this country to make.

I close by saying only this one additional thing, if I may to the Senator from Oklahoma, whose interest in Indian welfare I so thoroughly respect: I think for us to get ahead with the complete development of Alaska itself, it is necessary for this settlement to be made and speedily worked out, because with the award to Alaska of that tremendous amount of acreage which it is permitted to have under the statehood bill—which I was privileged to support, and I believe I was the first Senator from my section of the country who did support that bill—before that total acreage can be claimed, many of the claims by local tribes have to be definitized as to how much area they cover and exactly what area they cover.

I think this is a very definite step in the permanent development of Alaska, which now we are beginning to realize is going to be a very great State, not only because of what we knew was there before—its mineral resources, its fishery resources, and its great timber resources—but now because of the discovery of immense quantities of oil up there.

I think this is an additional step towards the true and full development of Alaska, and that the taking of this step will greatly speed that development, because one of the things that has been most wrong in Alaska up to now is the fact that so much of the land has been publicly owned by the United States, either in the Department of the Interior or in the Department of Agriculture, as national forests, and because it has been impossible to have full selection of that very large area which will go to Alaska under statehood, under the terms of the statehood bill.

I think this is but one of the very definite steps that leads to that conclusion.

Mr. JACKSON. Mr. President, I ask unanimous consent that the Senator from Florida may yield briefly to me so that I may respond.

Mr. HARRIS. Mr. President, I have no objection.

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

Mr. JACKSON. Mr. President, I just wanted to take this opportunity to say that the senior Senator from Florida has been most generous, that he contributed greatly to statehood for Alaska and Hawaii as well, and I commend him for his most effective work in connection with those two statehood bills.

I also wish to express to him my appreciation for his understanding comments about what we are trying to do in settling these long outstanding claims that really have been and continue to be a serious problem in Alaska and for our Government as a whole. I think his comments here have been most helpful.

Mr. HOLLAND. I thank my distinguished friend. I, as always, am interested in the development of Alaska, including the Natives there, because I think it is going to be a very great star in the firmament of our own country.

Mr. HARRIS. Mr. President, I return to the statement that I made earlier in regard to the fact that there are three major differences which I have spoken of in the way we have treated this group of Americans, as compared with all other Americans, and how those differences, themselves, suggest the directions in which we must now go.

I last spoke, Mr. President, about the need for compensatory attention to the needs of this group of Americans, not just equal attention. That brings us, Mr. President, then, finally, to this question of termination. What we want is self-determination without termination.

Mr. President, I ask the question: If this is such a good deal for the Alaskan Natives, and if they are not going to lose anything by this provision, why does their association, then, oppose this provision in the bill?

That, it seems to me, is a very important question. Furthermore, it is a very important question in regard to self-determination. Will we, Mr. President, make the decision about what is good for this group of Americans, or will they have some participation in that decisionmaking process?

It has been stated here that this termination of certain services to these people—services to which, under the present law, without this part of the bill, they will continue to be entitled—will not occur until 5 years from now. I take it that it is admitted that one reason why that will be so is that we are not now able to say to the Senate what the effect of that termination will be; because in this amendment we require detailed studies for carrying out this provision, and we require detailed reports by the Secretary of the Interior on how it will be done, and on transition plans. Manifestly, Mr. President, such plans do not now exist.

I simply say to the Senate: why not wait until such plans do exist, and then, decide whether or not we want to make these decisions?

Furthermore, Mr. President, I say that no such plans should come into existence without full participation in the making of such plans by the people who are most directly involved. I think that they ought not to give up concerning any of these matters, under the law, unless they are directly involved in making the decision.

That is not the situation here. I have already put in the RECORD the association's statement in regard to this termination provision.

Mr. President, I call to the attention of Senators a matter of which they may not be completely aware.

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

Mr. HARRIS. May I just say this? Then I shall be happy to yield.

That is, that American Indians, Eskimos, and Aleuts do not necessarily stay in their traditional areas. As is true of other American citizens, many of them have left their traditional areas, rural and otherwise, and have gone into the cities. About half, we think, of all American Indians, Eskimos, and Aleuts now live in urban areas.

Under the present law, Mr. President, despite the fact that such a person does not continue to live in the traditional area, he is not thereby automatically cut off from the services he is entitled to as an American Indian, Eskimo, or Aleut, whereas, under this bill with this provision in it, the U.S. Government would cease to provide services to any citizen of Alaska solely on the basis of his racial or ethnic background.

What if he is in Oklahoma, working? He would then no longer, I take it, be entitled to Indian services? Or, if he is down there, as many Alaskan children are, in Chilocco Indian School, would he be entitled to all of his present rights?

We have made provision here in regard to health and other things. I think we ought to put all of this off until there can be full consultation with the people involved, and they can be involved in the planning itself, before we take final action.

I am glad to yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I think the Senator from Oklahoma is making a contribution to the bill by raising this problem, but I would urge him to consider this: We are providing, under the bill, for a means for the Alaskan Native people to take over for themselves a tremendous part of the services heretofore provided by the Federal Government. We are also providing for the State to take over rapidly the educational function and the welfare function.

I would suggest to the Senator from Oklahoma that his point could be met if we would add to this provision—and I

would hope that my colleague from Alaska would listen to this—a statement that the Federal Government would cease providing the services if they are provided by the State of Alaska, by a Native corporation created under this bill, or by a Native village.

The items the Senator has mentioned, of an Alaskan Native being in Oklahoma and needing services, would be covered by that, because he obviously would not be getting services from the State of Alaska, a village, or a corporation.

I think the Senator has raised a very good point, one that we probably overlooked.

Mr. HARRIS. Mr. President, I appreciate what the Senator has said. Now, American Indians are entitled to have, as they should have, some compensatory attention to their needs. I think that is only fitting. I do not think there is enough compensatory attention.

I give the Senator this example: President Nixon has recommended, I think rightly, that we should have additional Indian urban centers around the country——

Mr. STEVENS. Two are set up by this bill.

Mr. HARRIS. I think we ought to have more. In my own State, for example, in Oklahoma City and Tulsa, a private, non-Federal agency, with OEO funding, has set up referral centers in regard to getting American Indian people directed into programs for training, getting them jobs, and so forth, to assist them as they come into an urban situation.

That has proved to be a highly useful, highly needed service; and I trust that the Federal Government, under the President's recommendation, is going to move more and more into that. That is not a service which is excluded from those that would be terminated to people purely upon the basis of the fact that they are Indians. I take it, therefore, that if Alaskan Natives go into a city away from their traditional area and they have not been members of the groups that are treated by this bill, they would be terminated. Is that true or not?

Mr. STEVENS. I am suggesting to the Senator that we change this provision so that it would say that these services would cease if they are provided by the State or by a village corporation or by an Alaskan Native corporation. In other words, any of the services that are today provided would continue, but we would not have a redundant service situation. If the village takes over the service of providing sewers for its village, then health service would not come in and build a sewer. If the State takes over the BIA school, obviously the BIA would not come in and build a school.

What I am trying to work out is a compromise which says that any service that is needed which is not provided by the State or by the village itself or by an Alaskan Native corporation—two are created under this bill and there is authorization to create more—those services would continue to be provided by the Federal Government on an ethnic or racial background. But if the services are provided by the State or by a corporation or by the village, they would cease. There would not be redundant services. I think that would meet the objective of my colleague from Alaska and of the Senator from Oklahoma. The Senator from Oklahoma will agree with me, I assume, that we should not have redundant services.

Mr. HARRIS. No, I would not. That is the point.

Mr. STEVENS. The Senator believes that the Federal Government should provide welfare service even if the State is providing an adequate one? Does the Senator know that ours is much better than that of the Federal Government?

Mr. HARRIS. That is exactly what I said earlier. I think American Indians are entitled to compensatory attention. For example, in the urban centers that exist around the country, it is precisely because the American Indians involved, who move into these cities, and the services otherwise provided citizens, are not getting together and special attention to their employment and training and other needs is required, that those programs exist.

Mr. STEVENS. My suggestion is that we leave those services available.

Mr. HARRIS. I would not think that what the Senator suggests would be adequate, for two reasons. First, it would leave open the question of whether the services are being provided by some other agency or State or local government. That is the question that is not answered by the amendment, and I do not know who would make that decision.

Second, what this amendment would do—and that is what I object to so strongly—is to say that if a person moves to some other area or to some other State, except in regard to the health and so forth that are mentioned here, he is no longer an American Indian under the law and entitled to the services of the Government.

Mr. STEVENS. I do not think the Senator has understood my suggestion.

Mr. HARRIS. That has been a mistaken idea in the past. I think American Indians are American Indians, whether they live in urban areas or rural areas. Often, they have extra problems, in moving into urban areas, than other rural-to-urban migrants have because of the differences which apply to them, that I have otherwise discussed.

So I would suggest this: I do not know whether we can agree on this, and I do not know that it is the thing to do, exactly. But we might, for example, replace the present section 4(b) with this language:

> The Secretary is authorized and directed, together with other appropriate agencies of the United States Government, promptly to initiate a study and to develop programs for the orderly transition of educational, health, welfare, and other responsibilities for the Alaska Native people from the United States to the State of Alaska. Within five years from the date of enactment of this Act, the Secretary shall present to Congress a report of this study, and Congress may consider at that time the feasibility and desirability of ceasing to provide some or all services at that time provided to Natives of Alaska on the basis of racial or ethnic background.

Those are words that I am willing to consider. I am not willing to agree to them as yet, because I would want to be sure that we all understood what that language means, that it would not cut off the rights of those who migrated elsewhere to all the rights of American citizens, wherever they live. I would want to be sure that we would not have decided in advance this matter in connection with this bill, which I think would be wrong, and I would want to be sure that any plan we come up with would be consistent with the idea of self-determination—that is, the people themselves asking to take on more responsibility, that I think they are more and more willing to do.

Mr. JACKSON. Mr. President, I suggest that after the able Senator from Alaska (Mr. GRAVEL) has had an opportunity to respond briefly, we adjourn at 6 p.m. or shortly thereafter. This will give us an opportunity to get the staffs together and see whether we can work out a satisfactory amendment which can be brought up tomorrow, when the Senate convenes at 10 a.m.

I have one major amendment that I should like to offer. There are a couple of minor amendments, and then I think we can be in a position to complete the bill, unless there are other amendments.

The chairman of the committee makes that suggestion to the able Senator from Oklahoma, in a desire, of course, to try to see whether we can come to a proper resolution of the problem. I think that possibly overnight something can be worked out.

Mr. HARRIS. Mr. President, I appreciate that very much, as I also appreciate the cooperative attitude that the distinguished Senator from Washington and the Senators from Alaska have shown in an effort to work out this matter.

It may be that we are just hopelessly in conflict in this matter. I feel rather strongly about it, as do some others. On the other hand, it may be that we can work out something that is consistent with self-determination without termination—and those, I think, are rather magic words of art.

I would be willing to adjourn relatively soon. I want to respond to what is said later tonight, before we adjourn, so that my views will be in the RECORD for tomorrow.

I yield the floor.

AMENDMENT TO AUTHORIZE COMPETITIVE LEASING OF MINERALS ON PUBLIC LANDS IN ALASKA

Mr. JACKSON. Mr. President, I shall offer an amendment tomorrow to S. 1830, the Alaska Native Claims Settlement Act of 1970, to authorize the Secretary of the Interior to dispose of oil and gas and other leasable minerals on the public lands in Alaska by competitive bid where there is competitive interest in the lands to be leased. This amendment is proposed in connection with S. 1830 rather than as general legislation because section 13 of S. 1830 terminates Public Land Order No. 4582, the existing land withdrawal order covering public lands in Alaska and, therefore, has the effect of opening all unreserved public lands in Alaska to noncompetitive mineral lease offers.

If this amendment is not adopted, the minerals of the Nation's richest oil and gas area may be given away to speculators at a tiny fraction of their commercial value or true market value.

The provisions of the Mineral Leasing Act of 1920 do provide for a very limited form of competitive leasing. If the geological survey determines that the public lands in question are on a known geological structure the lands are leased competitively on a cash bonus bid basis. This term—"known geological structure"—is not defined in the act, but has been administratively defined to mean that there must be a producing well on a known geological structure, and the structure must extend to the public lands in question. As a result of this restriction on the use of competitive leasing procedures the great bulk of Federal mineral leases are issued noncompetitively to the first applicant.

The Mineral Leasing Act authorizes the issuance of noncompetitive leases on public lands for a mere $10 filing fee and a 50-cent-an-acre rental payment. In my view, it is not in the public interest to allow these lands, which are owned by all of the people, to be leased noncompetitively at a fraction of their fair market value, when there are willing buyers anxious to bid on the leases.

The amendment I have proposed would apply only to public lands in the State of Alaska and would adopt language which was recommended to the Congress by the Federal Field Committee for Development Planning in Alaska, by the Department of the Interior with the endorsement of the Bureau of the Budget, and by the Comptroller General of the United States. In addition, the Public Land Law Review Commission in its recent report to the President and the Congress recommended that the Mineral Leasing Act be amended in the manner which I have proposed for Alaska.

In my view a strong and convincing case can be made for extending the amendment I have proposed to all public lands. Hearings on this have not, however, been held and I have therefore limited the amendment's application to the public lands in the State of Alaska.

There are several reasons for urgency with respect to writing a competitive leasing provision into the present bill. The first, of course, is the enormous value of the resources in question and the enormous pressures within the oil and gas industry to obtain oil leases in Alaska. There may be hundreds of millions, or even billions, of dollars at stake in the manner by which these minerals are leased. Congress provided in the Mineral Leasing Act of 1920 for noncompetitive leasing of oil and gas except in the immediate vicinity of a producing well. At that time the intention was to allow independent operators to prospect for leasable minerals with a minimum of redtape and expense on raw wildcat lands on which there was little competition for leases. The interest of the Government as landowner was protected by collecting a royalty on production wherever a commercial discovery was actually made.

The situation in Alaska today, however, is very different from the one Congress had in mind in 1920. Drilling is still the final test whether or not oil and gas deposits are actually present, but modern geology and geophysical techniques provide powerful evidence about the probability of their occurrence before any exploratory drilling takes place. For this reason, exploration rights on some undrilled tracts in Alaska have had a market value of thousands and tens of thousands of dollars per acre.

The right to explore 179 tracts offered by the State of Alaska in September 1969, for example, brought in over $900 million. If the same acreage had been open to leasing under Federal laws in the spring of 1968, this acreage would have passed to speculators for a $10 filing fee—and an annual rental of only 50 cents per acre. On the basis of a November 1969 field rules hearing, the State division of oil and gas defined three formations in the Prudhoe Bay field, the Sadlerochit, the Kuparik, and the Lisburne. These formations are roughly analogous to the U.S. Geological Survey's narrow definition of "the known geological structure of a producing well" and contained 43 of the 179 tracts offered in September. These 43 tracts received total high bids of $470.3 million.

Accordingly, if the area offered by the State in its competitive sale had been available for leasing under Federal laws, the $900 million in bonuses actually received would have been diminished by $429.7 million.

There is no reason whatever to convey such valuable rights in the public domain except at their fair market value as determined in a competitive sale.

The second reason this amendment should be incorporated into S. 1830 is related to the purposes of the Native claims settlement bill. Alaska Natives have a substantial, though unlitigated claim against much of the public lands of Alaska, including lands which hold rich deposits of oil and gas. A principal objective of this legislation is to extinquish these claims by purchase, by adopting the legislative settlement proposed by S. 1830. This has the effect of clearing title to those lands and their minerals, in part by an appropriation from the Federal Treasury, and in part by the commercial revenues received from oil and gas production on the lands claimed by the Natives. The logic and the financing of this settlement both assume that the potential mineral revenues from the public lands of Alaska will not be dissipated by the disposal of mineral rights at a fraction of their true value. A fair price for the disposition of these resources cannot be assured without allowing competitive leasing wherever there is competitive interest in the lands to be leased.

The GAO report referred to earlier notes that in one small oilfield, the Bell Creek Field discovery in Montana, 2½ million acres of Federal lands were leased noncompetitively. The GAO estimates that these leases resulted in $24 million less revenue than their fair market value. This estimate represented the difference between the average price per acre for leases on these Federal lands and the average price per acre for competitively awarded leases on State lands in the same area. The disproportion in value on the rich mineral lands in Alaska could be much greater than this if provision is not made to lease public lands pursuant to competitive procedures where there is a competitive interest.

A third reason for this amendment flows from the interests of the State of Alaska. The combined provisions of the Mineral Leasing Act and the Statehood Act grant Alaska 90 percent of the revenues from mineral leasing on public lands within its boundaries. The State of Alaska, therefore, has a big stake in the Federal Government's choice of leasing practices. The State does, however, have a line of defense against the dissipation of potential mineral revenues by noncompetitive leasing: the State can select the lands in question under the provision of the Statehood Act which allows Alaska to select over 100 million acres from the unreserved public domain. The State is, therefore, impelled to select lands immediately which it might not otherwise want, only to prevent their leasing under the noncompetitive provisions of Federal law. Representatives of the Governor of Alaska have told the Public Law Review Commission that the State intended to station agents in each of the Federal land offices in Alaska, in order that the State could select each tract on which someone was about to file a noncompetitive lease offer. Certainly this procedure does not lead to a sound pattern of land ownership or land management. Its necessity can be eliminated by authorizing the Secretary of the Interior to lease minerals on the same competitive basis as does the State of Alaska and almost all other States.

A final reason for this amendment is to eliminate a powerful source of confusion and possible corruption with regard to certain outstanding lease offers on Federal lands in Alaska. In 1966 the Department of the Interior began suspending the processing of mineral lease offers on lands where there was a Native protest. This so-called land freeze was superseded in January 1969 by the Secretary's public land order withdrawing all public lands in Alaska from mineral leasing in order to preserve the status quo for a congressional settlement of the Native claims. Meanwhile, however, various individuals tried to file offers to lease valuable oil and gas properties in the State under the noncompetitive provisions of the Mineral Leasing Act. These offers to lease lands which were not available for leasing cost the applicants only a $10 filing fee, and imposed no legal obligation on the Government to grant a lease. Yet some of these offers, or interests in them, were sold by the applicants to other individuals and even to substantial oil companies for many thousands of dollars. There is still reputed to be an active market for such lease offers in Fairbanks.

The State of Alaska has filed a selection of the most valuable of these lands and the State commissioner of natural resources has ruled that under Alaska law they must be leased competitively.

His ruling led the lease applicants to place great pressure on the Alaska Legislature to compel the State to grant leases to them. The legislation to this end, dubbed the "Dirty Oil Bill" by the Alaska newspapers never came to a vote in either house of the legislature, but it led to bitter charges of corruption and malfeasance within the State. A group of Canadian oil companies and others who bought some of the lease offers on lands subject to the "land freeze" have made an effort to get oil and gas rights granted to them as part of S. 1830. The amendment proposed here will end any confusion about the status of the lease offers made during the Alaska land freeze, and should put an end to the trade in lease offers.

It should be made clear that this amendment will not end all noncompetitive leasing in Alaska, nor will it frustrate the intentions of the Mineral Leasing Act in providing for noncompetitive leasing. If there are indeed independent operators in Alaska who want to explore raw wildcat lands in which the major oil companies are not interested, there will surely be acreage which can be obtained either competitively or noncompetitively without the payment of huge bonuses. It is instructive that Tom Miklautsch, the Fairbanks druggist who became a millionaire from a small investment in a Prudhoe Bay oil lease, obtained his exploration rights in a competitive lease sale.

There is no justice, and no justification whatever, for the transfer of obviously valuable rights in the public domain to one party for a small filing fee, when there is another party who is willing to pay fair market value. The oil independent who actually explores apparently unpromising lands should not be used to justify the sacrifice of public revenues to middlemen who have no intention to drill and who would get windfall fortunes by peddling their cheaply obtained leases competitively to the big oil companies.

The detailed study of "Federal Land Laws and Policies in Alaska" which the University of Wisconsin School of Natural Resources made for the Public Land Law Review Commission summarized its views on noncompetitive leasing as follows:

"NON-COMPETITIVE LEASING

"Under the Mineral Leasing Act, leasing for gas and oil is not competitive until a 'known geological structure' is defined. *This procedure results in many persons taking noncompetitive leases who have no competence or financial capacity to explore and develop oil but only intend to sell their lease rights to an operating oil company. Under a competitive leasing system, such as is employed on the outer continental shelf, the amounts now paid by the oil companies to the lease speculators would be paid to the public treasury.* Thus the non-competitive leasing system is a distribution of public funds to those speculators who are sufficiently familiar with the law to play this lottery. *The only reasonable alternative is to make all oil and gas leasing competitive, as is now the policy under the more modern law which applies to offshore leasing.*" (Emphasis added.)

Mr. President, I strongly urge the Senate's adoption of this amendment.

I ask unanimous consent to have printed in the RECORD the amendment I intend to offer tomorrow.

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

On page 145, after line 5, insert a new section 17 as follows and renumber as appropriate the following sections:

"MINERAL LEASING ACT

"SEC. 17. Disposition of all minerals included under the Federal Mineral Leasing Laws including but not limited to deposits of coal, phosphate, sodium, potassium, oil, oil shale, gas, or sulfur located in public lands in Alaska and of all deposits of any other minerals located in such lands, which the Congress may hereafter authorize to be disposed of by sale or lease, after the effective date of this Act may, where there is competitive interest shown in a particular tract of land, be under such competitive bidding procedures, as the Secretary may prescribe by regulation. The provisions of the Mineral Leasing Act of February 25, 1920, as amended and supplemented (41 Stat. 437, 30 U.S.C. 181 and following), and the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 and following) shall apply to the extent that such provisions are not inconsistent with this Act. Where such competitive interest has not been displayed the provisions of the Mineral Leasing Act of February 25, 1920, as amended and supplemented (41 Stat. 437, 30 U.S.C. 181 and following), and the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 and following) shall apply."

Mr. ALLOTT. Mr. President, I should like to inquire whether the amendment of the Senator has been printed.

Mr. JACKSON. I say to the able Senator from Colorado that the amendment has been printed, and it is amendment No. 773.

Mr. ALLOTT. It has not been modified?

Mr. JACKSON. It has not been modified.

Mr. President, I ask unanimous consent that in connection with the amendment that is at the desk, No. 773, the name of the senior Senator from Delaware be added as a cosponsor.

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

Mr. JACKSON. Mr. President, I ask unanimous consent that extracts from various reports urging that the Mineral Leasing Act be amended to require wider use of competitive leasing be printed at this point in the RECORD.

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

GAO REPORT

On March 17, 1970, following a review of Federal law and policy concerning the award of mineral leases the Comptroller General of the United States formally recommended in a report transmitted to the Congress:

(1) "That the Department of the Interior, in leasing Federal lands for the development of oil and gas resources, should use competitive bidding to a greater extent to ensure that the lands are leased at prices that more nearly approximate their fair market value."

(2) "That the Mineral Leasing Act of 1920 be amended to (1) require that oil and gas leases of all Federal lands be awarded competitively unless otherwise justified . . ."

The GAO report also noted in its findings and conclusions that:

"Many oil and gas leases of Federal lands outside a known geologic structure of a producing oil or gas field were awarded noncompetitively at prices that appeared to have been less than fair market value." (See p. 6).

"For example, GAO estimates that 2.5 million acres of Federal lands in the general vicinity of the Bell Creek Field discovery in Montana were leased noncompetitively for about $24 million less than their indicated fair market value. This estimate represents the difference between the average price per acre for leases on these Federal lands and the average price per acre for competitively awarded leases on State lands in the same area." (See chap. 2 for this and other examples.)

"GAO believes that the substantial public interest in acquiring noncompetitive leases indicates that effective price competition could have been obtained if the leases had been awarded competitively. However, the leases could not have been awarded competitively because, under the governing statute the first qualified applicant is entitled to lease, without competitive bidding, lands of the United States that are not within any known geologic structure of a producing oil or gas field. Generally, the geologic data needed to determine whether lands offered for leasing are within such a structure are not available to the Department before leasing and drilling." (See p. 7).

"On the basis of its review, GAO believes that the Department, in leasing Federal lands for the development of oil and gas resources, should use competitive bidding to a greater extent to ensure that the lands are leased at prices that more nearly approximate their fair market value." (See p. 38).

"GAO believes, also, that the increased use of competitive bidding would tend to reduce or eliminate certain undesirable aspect of awarding leases to applicants on the basis of simultaneously filed lease applications, such as the multiple filing of applications to increase the chances of getting a lease, and the acquisition of leases for speculation rather than for the development of the resources."

PUBLIC LAND LAW REVIEW COMMISSION

One of the major recommendations of the Public Land Law Review Commission's report to Congress and to the President is to amend the present provisions of the Mineral Leasing Act of 1920 to enlarge the scope of the competitive leasing provisions.

The Commission noted with respect to the limited competitive sale requirements of present law: "We have concluded that these competitive sale requirements are too narrow in scope, particularly in the case of oil and gas." The Commission's recommendation number 49 provides that:

"Recommendation 49: Competitive sale of exploration permits or leases should be held whenever competitive interest can reasonably be expected. (p. 132, chapter 7, One Third of the Nation's Land)."

The contractor's study of "Federal Land Laws and Policies in Alaska" by the University of Wisconsin, School of Natural Resources stated as follows:

"NON-COMPETITIVE LEASING

"Under the Mineral Leasing Act, leasing for gas and oil is not competitive until a 'known geological structure' is defined. This procedure results in many persons taking noncompetitive leases who have no competence or financial capacity to explore and develop oil but only intend to sell their lease rights to an operating oil company. Under a competitive leasing system, such as is employed on the outer continental shelf, the amounts now paid by the oil companies to the lease speculators would be paid to the public treasury. Thus the non-competitive leasing system is a distribution of public funds to those speculators who are sufficiently familiar with the law to play this lottery. The only reasonable alternative is to make all oil and gas leasing competitive, as is now the policy under the more modern law which applies to offshore leasing."

The "Legal Study of the Federal Competitive and Noncompetitive Oil and Gas Leasing Systems" which was prepared for the Public Land Law Review Commission by The Rocky Mountain Mineral Law Foundation set forth a number of alternatives to the present noncompetitive leasing procedure of the Mineral Leasing Act of 1920. Alternative No. 11 of the contractor's study report is basically the same as the amendment proposed to S. 1830. The Foundation's discussion of the alternative is set out below:

"Alternative No. 11:

"Modify the existing leasing system to authorize the Secretary of the Interior to extend competitive bidding to lands designated as being subject to competitive interest."

"1. Problems to be solved."

"As a landowner it may be said that the United States does not receive a fair market value for leases issued under the simultaneous drawing system. A lucky winner is placed in the position of being able to receive this value. The administration of such a leasing system is a significant burden. If areas in which 'competitive interest' exits were to be designated as being subject to competitive bidding, the number of applicants would be reduced and limited more to persons with a greater interest in development. The United States would realize the fair market value of leases upon such lands."

"2. Key Features."

"Upon receipt of more than a stated number of applications the land office would post the lands as being subject to competitive bidding. The number of offers would have to be arbitrary. It could range from more than one offer to such number as is deemed to establish a competitive interest. Upon receipt of the requisite number of offers filed in the existing open filing system within a certain time period, the lands would be posted as available only for competitive bids. The bidding could be restricted to only those who had filed applications within the time period, or it could be open to any bidder. A deposit of a stated sum should be required of applicants which would be forfeited if the applicant failed to make a bid."

"3. Probable advantages."

"The United States would receive a higher return for lands made subject to competitive leasing. The prospect of having to engage in a bidding process to obtain a lease should discourage the submission of applications by complete strangers to the oil and gas industry in anticipation of striking it rich, and the simultaneous drawing could be eliminated. No significant change should occur in the total amount of acreage leased under this system in comparison to the present one. This alternative would not require the initiation of any new procedures for 'designation' of competitive lands as would be true under other suggested expansion of competitive bidding, thus saving the imposition of additional administrative burdens and costs. No change should occur in development and exploration rates as present day operators are forced to acquire lands from those who are the lucky winners in the lottery. If bidding were limited to those persons who had filed applications within a certain number of days (assume 10 days), they would have some reward for their initiative in taking steps to apply for the lands and they are not acting solely in response to an advertisement to try their luck in a lottery. If the bidding were made open to any persons, it might be that a higher bid might be secured, but presumably the competition has been indicated only by those who applied and it would appear consistent to restrict the bidding. However, all interested persons could still file applications and obtain the right to bid."

"4. Probable disadvantages."

"While some incentive would be returned to constant examination of BLM records to determine the expiration of leases, the suggested alternate should not produce the 'scrambles' and indications of inside information as to lease expirations that led to the simultaneous drawing. This should be offset by establishing a period of days during which competitive interest is ascertained. It is probable that some of the disadvantages noted with regard to an all competitive bidding alternative would arise, as would be true with any extension of competitive bidding to additional lands."

DEPARTMENT OF THE INTERIOR

In commenting on the provisions of S. 1830 in a report to the Committee of April 28, 1969 the Department of the Interior endorsed the principle that public lands in Alaska should be subject to competitive leasing. The Department stated that:

"Section 12(a)(1) provides that deposits of coal, phosphate, sodium, potassium, oil, oil shale, gas, or sulfur located in all public lands in Alaska shall be subject to disposition by the Secretary upon application therefor or upon his own motion under such competitive bidding procedures as he may prescribe by regulations.

"The Department believes that it is important for the Secretary to have specific authority to dispose of all minerals under the mineral leasing laws by competitive bidding. We are carefully reviewing this language to be sure that this objective will be adequately accomplished. We recommend, however, that the section be amended to insure that it covers all minerals included under the mineral leasing laws."

A similar recommendation was made by the Bureau of the Budget in its April 29 report on S. 1830:

"We note that Sec. 12 of S. 1830 provides for competitive leasing of enumerated minerals subject to the Mineral Leasing Act. Competitive leasing would be a major step forward in assuring that the Federal Government obtains a fair market value return when it disposes of minerals. It is particularly important that this authority be enacted before the present 'freeze' is ended since without this authority extremely valuable deposits will have to be disposed of noncompetitively unless they are determined to be in areas where competitive leasing is legally required."

Mr. JACKSON. Mr. President, I ask unanimous consent that editorials and newspaper articles from the Seattle Times and the Anchorage Daily News on competitive leasing be inserted at this point in the RECORD.

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

[From the Seattle (Wash.) Times, May 14, 1970]

THE 10-CENT MILLIONAIRES

One aspect of the many-sided federal-land issue in Alaska concerns proposed changes in leasing practices. The issue is approaching a showdown in Congress and could have wide application to federal land-leasing practices outside as well as inside the 49th state.

It is well that the highly controversial situation in oil-rich Alaska has brought the land-leasing issue to a head. A full-scale review of noncompetitive federal leasing practices is overdue.

Alaska long has been a land of colorful expressions, and one with considerable application to the present situation is "10-cent millionaire." A "10-cent millionaire" is a land-resource speculator who risks a small amount of capital on acreage that may contain vast oil or other mineral wealth.

Existing land-leasing practices have produced a bumper crop of speculators. Federal lands in Alaska and in much of the rest of the country usually are leased noncompetitively through drawings or to lone applicants. Leaseholders under the noncompetitive system pay annual rental charges of 50 cents an acre and any production royalties to the government are fixed at 12.5 per cent.

A proposal backed by Senator Jackson, chairman of the Senate Interior Committee, would allow the Interior Department to lease out more federal lands in Alaska on a competitive basis. The proposal could be a forerunner of similar changes nation-wide.

In Alaska it would lead to cancellation of pending applications for new mineral-exploitation leases covering more than 18 million acres of public lands. Some 6.9 million acres are already under lease.

It is not hard to see why intense economic pressures are building up on all sides of this complex issue. There even is considerable disagreement on it within the oil industry. Competitive leasing unquestionably would increase public revenues, including those to the Alaska native groups that are pressing for what they consider to be their fair share of the oil bananza.

The measure backed by Jackson represents a compromise between interests that want a continuation of present noncompetitive leasing practices and the administration, which wants all leasing on federal lands to be handled on a competitive basis. A Budget Bureau official, in a recent letter to Jackson, stated:

"Competitive leasing would be a major step forward in assuring that the federal government obtains a fair-market-value return when it disposes of minerals. It is particularly important that this authority be enacted before the present freeze is ended, since without this authority extremely valuable deposits will have to be disposed of noncompetitively . . ."

According to The National Journal, there is considerable opposition in the House of Representatives to competitive leasing.

As we say, though, it is well that land-leasing practices will be given a thorough airing in the coming weeks on Capitol Hill. We suspect that neither the interests of Alaska's poverty-stricken natives nor those of the general taxpayer are best advanced under existing leasing policies.

[From the Anchorage (Alaska) Daily News, June 5, 1970]

A SECRET IN CLAIMS BILL

(By A. Robert Smith)

WASHINGTON.—The Senate Interior Committee has made a slight change in its final version of the Alaska Native land claims bill—hardly worth mentioning to the public perhaps—but worth millions of dollars to a number of oil companies and individuals who hope to make their fortune in new Alaskan oil discoveries.

The change was made in secret, in a meeting of the committee May 13. No mention of this alteration was mentioned after the meeting or in newspaper reports that followed.

The change consisted of deleting Section 17, which would have authorized the Interior Department to issue oil leases on the basis of competitive bids throughout the public land area of Alaska wherever there might be competitive interests seeking leases.

Deletion of this section means that:

The Interior Department, under the old mineral leasing act of 1920, must continue to issue oil leases noncompetitively except in the immediate area of known geological field in which there is a producing well. There are only two such fields at present in Alaska—Prudhoe Bay and Kenai.

Those persons who file first for such leases will continue to be entitled to lease 2,560 acres by paying a $10 filing fee and 25 cents per acre rent per year to the federal government for the 10-year life of the lease. If they strike oil, they pay a production royalty of 12½ per cent to the federal government. The remaining 87½ per cent is all theirs.

The financial implications of this deletion of 20 lines from the 144-page bill can best be understood by this concise analysis: If the state's big Prudhoe Bay oil lease sale of last September had been handled in this manner, under the terms of the old mineral leasing act of 1920, the state could have demanded competitive bids on only a third of the acreage put up for sale—and its take would have been only $420 million in bonus bids.

The state of Alaska, however, did collect $900 million because it could demand competitive bids wherever there was a competitive interets in obtaining leases.

The Senate Interior Committee has seen to it that the federal government won't be able to make the same demands, much to the delight of certain companies and individual oil fortune hunters.

The Nixon administration is on record in favor of competitive federal oil leasing in Alaska. The Interior Department, in its report to the committee, said it considered it "important for the secretary to have specific authority to dispose of all minerals under the mineral leasing laws by competitive bidding."

The Federal Field Committee for Development Planning in Alaska, in the so-called Fitzgerald report of March, 1969, recommended competitive leasing by the federal government. The original legislation introduced by Sen. Henry M. Jackson, D-Wash., the committee chairman, provided for competitive leasing. And after a year of committee hearings and closed door discussion within the committee, tentative agreement reached by the committee in April provided for competitive leasing.

During the last week in April and the first week of May the committee and its individual members received a barrage of telegrams and letters objecting to this provision. The objections came from oil interests.

On May 13 the committee met once more. Sen. Clifford Hansen, R-Wyo., reportedly moved to delete Section 17. Chairman Jackson, who had dominated the long struggle to draft a generous, equitable land claims settlement bill, opposed Hansen's motion.

Hansen won by a vote of 10 to 7.

Sen. Ted Stevens, R-Alaska, voted for the Hansen motion to kill the competitive leasing section.

Sen. Mike Gravel, D-Alaska, voted with Jackson in the unsuccessful effort to retain it.

Stevens argues that noncompetitive leasing will result in more exploration and thereafter offers a greater prospect for more oil discoveries in other sections of the state. In the long run, he contends, this would be more beneficial to the government in production royalties.

Stevens defended the prevailing procedure whereby individuals obtain leases non-competitively, put together a large block and offer to sell them to oil companies at a later date.

"If we had all competitive leases, only the large monied interests would hold leases in Alaska," Stevens maintained.

[From the Anchorage (Alaska) Daily News, June 8, 1970]

A SECRET CHANGE IN THE CLAIMS BILL

(By A. Robert Smith)

(EDITOR'S NOTE.—Our Washington correspondent reported in the first article last Friday that the Senate Interior Committee made a slight change in its final version of the Alaska Native land claims bill worth millions of dollars to a number of oil companies. The change consisted of deleting a section of the bill which would have authorized Interior to issue oil leases on the basis of competitive bids on public land areas. If the North Slope lease sale had been handled that way, the state would have reaped only $420 million—not $920 million.)

WASHINGTON.—Ten Canadian oil companies have at least $3 million at stake in whether Congress permits widespread competitive oil leasing on federal oil lands in Alaska.

These companies have engaged a Washington attorney, Max Barash, to do his best to persuade Congress to delete any provision in the pending Alaska Native land claims settlement bill allowing competitive bidding for leases.

At the moment Barash and his clients—and countless other interests—are sitting pretty because on May 13 the Senate Interior Committee killed a competitive lease section, against the wishes of the Nixon administration and the chairman of the committee, Sen. Henry M. Jackson, D-Wash.

The situation confronting the Canadian oil interests help explain the issue of competitive vs. non-competitive leasing in Alaska.

No one has been able to secure oil leases on federal lands in Alaska since December, 1966, when then Secretary of the Interior Stewart Udall imposed a freeze on all public land transactions pending settlement of the Native land claims. The land freeze is still on under an agreement between Secretary of the Interior Walter J. Hickel and the Senate Interior Committee to give Congress until the end of this year's session to enact a bill to settle the land claims of Alaska's Eskimos, Indians and Aleuts.

During this uncertain period, numerous persons and oil companies made 12,000 oil lease offerings to the Bureau of Land Management covering 20 billion acres. From 13 to 15 million acres of this is on the North Slope. BLM accepted their $10 filing fees but was powerless to issue leases because of the freeze.

After the Prudhoe Bay oil discovery in 1968, these lease offerings became attractive to oil companies. That year Ranger Oil Co. of Calgary, Alberta, purchased an inteerst in about 46,000 acres of prior filings for "substantial consideration," according to J. M. Pierce, president of Ranger.

National Nickel Ltd. of Calgary was another company that "entered into commitments on federal lease applications at considerable expense," according to its president, S. M. Paulson. "We had no reason to doubt the security of our tenure."

Home Oil Co. of Calgary not only acquired lease offerings on the North Slope but "conducted an extensive seismic survey, drilled one deep test well costing over $5 million and is currently drilling a second deep test estimated to cost $5 million," reported P. W. Campbell, executive vice president of Home Oil.

These are but three of attorney Barash's clients The others are Husky, Scurry-Rainbow, Asamera, Banff, Sunlite oil companies and Ulster Petroleums and Western Decalta Petroleum, Ltd.

Together they own rights to about 750,000 acres for which leases were never issued because of the land freeze. About a third of it is on the North Slope, Barash estimates. Barash says his clients paid over $3 million for these lease offerings, for the most part acquired from individuals.

"None is in close proximity to Prudhoe Bay," Barash said in an interview. "The closest is may 30 to 40 miles south of Prudhoe Bay. It's all rank wildcat acreage."

These and other oil companies acquired lease offerings in the belief that once the land freeze is lifted they would obtain the leases and keep them for 10 years by simply paying 25 cents per acre annual rental while they explored for oil.

But Section 17, recently deleted from the Alaska Native land claims bill, would have authorized the Interior Department to offer these leases at competitive bids if others were interested in acquiring them. That would have inevitably jacked up the purchase price well beyond what they have already paid, even allowing others to outbid them.

Consequently, they consider the competitive leasing proposal "unfair discrimination," according to C. S. Lee, president of Western Decalta Petroleum.

Husky Oil Co. President Gene E. Roark said if a competitive lease sale is held for the acreage on which his company holds applications, "Husky most probably would not submit bids."

Among other opponents of competitive leasing are Seacrest Oil Co. of Calgary, Shenandoah Oil Corp. of Ft. Worth, Tex., Consolidated Oil and Gas Co. of Denver, and Marathon.

Defenders of the non-competitive lease system claim it gives the small companies a chance. These Canadian oil firms consider themselves to be small compared with the major oil companies.

"A number of these Canadian companies have subsidiaries operating in the United States," noted their attorney. "They have literally tens of thousands of American stockholders who would be affected."

If Congress enacts the Native land claims bill without a competitive leasing section, it might still be possible that some of this acreage, if not all of it, will be leased competitively. That could occur if the state of Alaska, after the federal land freeze is lifted, should select most of this likely looking acreage and turn around and offer to lease it to the highest bidder as it did last fall on the North Slope.

Defenders of competitive leasing say it would be better to do it on the federal level to avoid the risk of fraud or payoffs to state officials to induce them to skip over certain areas to the benefit of persons or companies holding federal lease offerings.

This issue could turn out to be one of the most controversial and politically sensitive when the Alaska Native land claims bill comes up for a vote in both Senate and House later this session.

Mr. GRAVEL. Mr. President, I should like to address myself to some of the points raised by my colleague and good friend the Senator from Oklahoma.

First, I should like to clear up the parliamentary procedure, the device I used in tabling his amendment. We are no longer discussing that amendment; we are discussing this amendment; and since that seemed to have exhausted itself, I felt that in the interest of time, we could move on. I hope that has not occasioned any ill will, because certainly none was meant. It was meant in the interest of time.

I think my colleague has gone to the heart of the matter, and I think his statement is very good. I only disagree slightly. When he talks about "compensatory attention," I think that is the whole issue. The Indians and the natives of this country have been wronged. They have been deprived, intentionally, circumstantially, and accidentally. So how do we rectify that wrong? My colleague feels that there should be compensatory attention. That is right. The only difference is, mark you, Mr. President, and this is really the nub of the argument, the only difference is that the basis of the compensatory attention is race, and mine is need. It makes no difference whether a person is black, or a native, if he is without food, if he is without education, we have a responsibility to help provide it.

But the Senator sets up racial barriers

for this responsibility and builds into the system a most diabolical consideration. That is exactly what my colleague is advocating.

Mr. President, let me give you some examples of how it works in practice.

We heard that there were three points of difference, the first being culture. That is true. There is a difference in culture. Neither this bill nor any other bill would destroy the Indian's native culture. The ability for them to retain their culture depends upon two things: one, personal desire, personal pride, that their culture means something to them and that they want to keep it, and the second is simply money. If they have the economic wherewithal to implement the cultural aspects and appurtances of their lives, they can do it. Thus, the bill does not touch that one iota.

The second point is the policy my colleague mentioned of effective dependency. Let me say to him that that is what we have had for over 100 years now. That is the way it is. The policy has been effective dependency. They have been spoon-fed by the Federal Government as to what they can and cannot do. That is what we are trying to strike down.

We talk about the Chilocco school. I went to that school and made an investigation myself. How would you like it, Mr. President, if you had a 13-year-old daughter who had to travel 3,000 miles away from her family, not be seen for a year hence?

I went to that school and interviewed the little children and asked them whether they liked the school and did they want to come back, and to a pupil they said that they wanted to come back. They had been there for 3 years and they liked the school. It was like going to a prep school. They liked their teachers.

Well, there is nothing wrong in that, of course. But the principle is wrong, to send Alaskan school children 3,000 or 4,000 miles away to go to a school in a foreign environment. We in Alaska have operated the public school system to try to educate children as close to their homes as possible, so that that same principle should apply to the Natives.

The Bureau of Indian Affairs could operate the schools. It is the Bureau of Indian Affairs policy. It is only the efforts of the State government to provide education for every child in Alaska that a program has been developed, signed by the Governor and agreed to wherein the State of Alaska takes over and operates the schools so that the schoolchildren, even though they like going to the Chilocco school, will now go to a high school in Barrow. We secured extra classrooms so that some of the students in Chilocco and elsewhere will now go to Barrow. I submit that they will be truly happier going to school closer to home.

The third point my colleague makes is moving ahead on social questions. That is totally irrelevant to the point, because there are other people in this country who have been deprived socially besides Indians. The Indians are conspicuous by their deprivations. When we talk about housing, let me give the Senate an example which is fantastically clear as to how diabolical the Bureau of Indian Affairs Federal paternalism works.

In the city of Sitka, a thriving Alaskan community, in the center, not its periphery, lives the Native community. This particular community does not have any sewers. The remainder of the community around the Native section all have sewers and running water. But this little island of poverty is under the control of the Bureau of Indian Affairs.

The Native community in Sitka cannot get any sewers. Mr. President, do you know why? Because their deed is restricted. Because of that restriction, they are not entitled to HUD funds. While the remainder of the city of Sitka can get funds from HUD for water and sewage, the Native community cannot, because its people are not qualified, because we cannot tax the land there, according to HUD, and that is why they cannot build sewers there. One has to go to the Bureau of Indian Affairs for that, which has a program for sewers. It gets money from Congress for that. But the thing is that the people in that Native community find their claims for water facilities low in program priorities because when Congress gets around to addressing itself to community sewer programs up there, it funds HUD programs, so that by the time money is available for it, 10 years have elapsed for Sitka to get its portion from the Bureau of Indians Affairs to meet their needs. They are taken care of by the Federal Government but in such a diabolical way that they cannot get a proper sewer system or drinking water that is unpolluted.

Mr. President, it takes a real mind to figure out these devious, concocted ways, so that the Federal Establishment can thwart what the people in the Native community of Sitka want to do.

Much has been said about the fact that the Native leadership in Alaska assembled in Juneau passed the resolution saying that they were for this amendment.

I am from Alaska, and many of my constituents are Natives. If it had not been for the Natives of Alaska, I would not have been elected to the Senate. The biggest campaign issue I had in Alaska was to dissolve the Bureau of Indian Affairs. I would stand on any stump, any place in Alaska, before any Native community there, and debate, as I am now, that the people of Alaska do not need to be spoon fed to be equal. What makes the people of Alaska equal is that they can stand up and have money jingling in their pockets.

When we talk about the ability to get programs for the Natives up there, and that is what this bill will be doing, at that same time it will be saying to them, this will be for their communities and this is one way to make them equal. If that is not enough and the bill does not do that, I hope that we will come back here and give them more. I have voted for every single program in education, and I will continue to do so.

If this bill does not help them, or bring them out of poverty, then we should have more programs to do so.

But, we should do it on the basis of need, not race—need, not race.

We should make that distinction, and that is what I think the amendment is being addressed to, when we talk about termination, we are talking about a racial situation when the situation is really one of need, not race.

Therefore, I would hope that this bill would be seen in that light, and realize that when we are talking about having school boards run by the Natives, we know how that happens. If we can elect school board members, then they can go run the school board. Like you and I running the school board, Mr. President, the ability to be free is inextricably tied to economic considerations.

When we say "compensatory attention," I agree with the Senator, but compensatory because the need is there as human beings not because they are Indians, or blacks, or whites, or for any other reason, but because of that need.

That is our moral obligation, to provide it.

Mr. HARRIS. Mr. President, the distinguished Senator from Alaska says that we should not make decisions on the basis of the fact that people are American Indians, Eskimos, and Aleuts but on the basis of need.

I very strongly disagree with that. The little Indian children sent from Alaska to Chilocco in Oklahoma were not sent there except for the reason that they were American Indians. That is why they were sent there. They have, thereby, not received the kind of attention they should have been given. They have not had the advantages of being in their own home country, despite the early decisions made concerning them and their future as to education in their own homeland, among their own people.

They have not had the full effect of learning about their own history or their own language and background. I think we should make up for that. There may not be any way to make up for it in regard to those particular little schoolchildren, but it seems to me that we have an obligation to try. I think that is the obligation we have to American Indians, Eskimos, and Aleuts because they are American Indians, Eskimos, and Aleuts.

Mr. President, this is not a matter that affects Alaska alone. Save, in the past, it is not just a matter, for example, of a certain State. If it applied to the children in Oklahoma and if Oklahoma did not have a very good education system for all of its citizens—not just talking about Indians—there were those who once said that that is the problem of Oklahoma, that it is not America's problem.

If Indiana does not want to provide a very good educational system for the children of Indiana, some have said that that is the problem of Indiana, that it is not America's problem.

We were wrong about that. We were always wrong. We were wrong morally because children are human beings. They are entitled to the right to a decent education wherever they live, whether in Oklahoma or Indiana.

Furthermore, we have learned that we were wrong for another reason. The little child who grows up in Oklahoma may not stay in Oklahoma. The little child who grows up in Indiana may not remain in Indiana. They have been moving to Los Angeles, Detroit, New York City, and to

other places. If they come to those places without the right kind of background, a decent education, and decent training, that is an obligation which we will wish we had fulfilled earlier, not only because we could thereby—and this is most basic—do a great deal more to fulfill our moral responsibility to those young people, but also because it will cost us more in the long run in other ways for not having done it to start with.

Mr. President, while this bill ostensibly deals only with Alaska, it deals with American citizens that may move to Seattle or to Los Angeles. A great many of them have done so. They may move to New York or Baltimore. Some of them have. Some of them may move to Oklahoma. Some of them are there now, perhaps not of their own free will, but because of the Indian school system.

Whether one is a Senator from Alaska or a Senator from Oklahoma, he has an obligation to the people. He has, first of all, a moral obligation to do what he thinks is right.

Some think differently—and quite sincerely.

Second, one has a right to do what he thinks is best from the standpoint of this country. Senators differ sincerely about that matter, as well.

I happen to believe that we ought not to make such a decision and thereby talk self-determination out of one side of our mouth and termination out of the other. We are talking about the destiny of people, and we are, then, making the decision for them.

I think this is not the place for such a provision in this bill. This is a matter that ought to be taken up later.

No man knows the effect of the provision yet. No man knows how it will affect the migrant Indians who moves from one area to another, as the Eskimos and Aleuts have done up to this time.

What does this mean? I think President Nixon was right when he said that we ought now to be willing, if we have not been willing to do so in the past, to allow our citizens to take on more of their own responsibilities and to contract for the services that have been performed by the BIA when they feel they can take on these additional responsibilities.

I believe we have not had the kind of support in the government for that kind of self-determination in the past that we should have had.

I hope that we are moving in that direction. But we will move in the wrong direction if we make a vital decision like this, in the Senate of the United States, over the objection of the Alaskan Federation of Natives, whose statement I have read into the RECORD.

I think we should study the matter. We should not hold justice for these people hostage to this kind of threat.

The provision is not to be effective for 5 years. We could have plenty of time to come back here. If this is a good thing, if the decision is to be made, the Alaskan Natives are smart enough and intelligent enough to know that. They will join in the decision and not have it forced upon them. That is the American way. It seems to me to be the very least we can do.

So, Mr. President, I will not have anything else to say tonight in regard to the amendment. But I hope Senators will study the RECORD. I hope that, somehow, we can work out this provision of the bill and move the bill along.

Mr. President, I do not have any desire to hold the bill up. However, I do not want the Senate, in haste, to do what it has done in the past, in regard to the Menominee and other tribes of Indians, and make decisions that we will later regret.

I do not want the roll to be called without having personally spoken out on this matter. I would not want to have people say to me years from now, "We wish you had not made that decision against our will."

Each Senator will do what he feels is right, and he will be quite sincere in doing so. Each Senator has his problems, and he must respond to his problems as he deems proper.

Mr. GRAVEL. Mr. President, man can err just as much by not doing as by doing.

I think we would be derelict in our duty if we chose not to act for fear of making an error.

I think that omission is a greater sin. We have an opportunity here to do something in Alaska that has not been done in any other State.

Perhaps some of our colleagues will stand up and say that we have failed with the Indians. We do not want to fail in Alaska. There is no question that what we do here will have an impact on all of the other States if we succeed.

If we infuse this much money into the Native economy of Alaska, money that is not to be used by the BIA, 10 years from now we can look back and see what we did in Alaska. We can ask, "What about Oklahoma, Idaho, and the other States? We did it in Alaska."

Mr. President, we have a great opportunity to do this in Alaska at this time.

Mr. HARRIS. May I say, first of all, by way of conclusion to tonight's debate on this amendment, Mr. President, that we no more need a Bureau of Indian Affairs than we need a Bureau of Italian Affairs or a Bureau of Irish Affairs, except for the special needs and special problems which we have caused for the American Indians, Eskimos, and Aleuts, as I have previously stated. Therefore, Mr. President, I feel quite strongly that at least until those wrongs have more nearly been righted, we certainly should not do away with the Bureau of Indian Affairs against the wishes of those whom it specially serves.

Now, Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRIS. Earlier today, a motion to lay on the table an amendment was agreed to. It is my understanding that no motion to reconsider that motion to lay on the table has yet been made.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARRIS. Would such a motion to reconsider that motion to lay on the table be in order tomorrow, as well as today?

The PRESIDING OFFICER. It would be in order to enter such a motion either now or tomorrow.

Mr. HARRIS. I thank the Chair.

Mr. GRAVEL. Mr. President, may I make just one point to my colleague, the Senator from Oklahoma?

I would not be averse to, and would even encourage, any parliamentary maneuver that might bring that issue back to a vote on the merits, and not on the tabling action.

My intent was not to cut out further debate on that issue. My impression was that we were talking about the Bureau of Indian Affairs. We had moved on from that issue.

I would certainly encourage my colleague, and walk with him in these tactics to bring that issue back up for a vote on the merits, up or down.

Mr. KENNEDY. Mr. President, I have just been listening to the debate. One of the points that I find very persuasive in the observations of the Senator from Oklahoma—and perhaps the Senator from Alaska might be able to address himself to it—is the feeling that he expressed that before Congress acts, it ought to have a very clear determination as to what the Native people themselves want.

The most extraordinary difficulty, I think, in all of these programs has been that we have always been deciding what is in the best interest of the Native Americans, the Indians, and the Eskimos.

As I remember, in the final markup session of our Indian Education Subcommittee, the final committee report had very strong bipartisan support.

We were attempting to wrestle with the ultimate determination whether we ought to abolish BIA control of Indian education by taking it out of the BIA and put it as a separate program in the Office of Education, or whether there should be established a special independent office that would concern itself with Indian education. This idea had been suggested by different Indian groups, by Indian leaders, and by non-Indian experts in the field of education.

But the one most persuasive fact that convinced all of us to hold off on conclusions was before we moved or made a recommendation or tried to propose any changes or alternatives, was that the Indian people within their organizations and communities should respond to this question themselves. I am aware there are as many different Indian views as there are tribes. But we should give them this challenge, and hopefully they would come to the Congress with an answer arrived at within their own tribal structure. In the final analysis, I do not think there is any fundamental difference between the Senator from Alaska and the Senator from Oklahoma in trying to insure quality education and adequate services to the Indian and other Native peoples.

But how is that done and what role are the Natives themselves to play? How great is their ability to influence those decisions on issues affecting them? These are the great questions with which we in Congress must concern ourselves.

I wonder if the Senator could review with us briefly what the views of the Natives that appeared before his committee were and how these views were solicited. If this information is contained in the hearings, I would welcome the references to it.

Mr. GRAVEL. Probably the way the Federal Government would make that determination as to whether or not the Natives of Alaska would want to retain the Bureau of Indian Affairs would be to ask the Bureau of Indian Affairs to hold an election. They would be dealing with a body that works with the Natives. But the Senator can see the basic fallacy, and that is that they would be asking the people to make a decision upon those who were guiding them in the decisionmaking process. Therefore, we have a chicken-egg situation. Where does it stop?

If I were from the State of Massachusetts, I would go to the people of Massachusetts and say, "I want to have a referendum. We are going to cut out aid to education, and food stamps. Let us have a referendum whether we are going to cut it out." No one would want to cut it out.

If I went to the village of Tuntutuliak to determine whether to cut out the Bureau of Indian Affairs, the first thing the teacher at the Bureau of Indian Affairs is going to say is, "Children, we are going to have an election on Tuesday. What it will do will be to take away education." The child goes home and says, "Mother, we will have no education if you vote against the BIA."

Therefore, there is a built-in paternalism that is in existence. I am sure the Senator recognizes what is involved. The Senator has performed yeoman service in connection with the problems facing Alaska and the people are grateful to the Senator for focusing attention on these problems.

But until we get to the period when a person can pay for his education, his determination of his education will always be clouded. I am saying that when I can pay my taxes and send my child to school and elect someone to the school board I will have the decision power, but until then, as long as someone is feeding money into the school system, the man feeding it in will have the determination over decisons.

We would funnel the money into the State and the State would implement the educational process. Every other State does this except when it comes to the Natives. If a decision to be made in a community of 400 people in Galena or Tuntutuliak, it takes a decision in Washington, D.C., if it involves several hundred dollars. It is unbelieveable. How far can we be excused?

How do we ask the Natives? I do not think the Senator was present when I gave the situation when I was sitting at a dinner in Utah. I asked the chief, "Do you need these BIA schools?" He said, "No." I said, "Why don't you do away with them?" He said, "We might need them."

I do not know the answer. If we had a truthful election, of course, they would vote "yes."

Mr. KENNEDY. I am very much aware of the problems that are suggested with the Bureau of Indian Affairs going out and holding any kind of election. That was not really my question. As we saw in the course of the Indian Education Subcommittee hearings, there were instances in the Midwest where the BIA actually discouraged the election of local school boards by harassing many of the Indians themselves from participating in the development of a local school board. We recorded those instances.

I am aware of the enormous complexity of the challenge that is involved. I am fully convinced, however, that we should challenge the Natives themselves to evaluate the basic question: Do they want the abolition of the Bureau of Indian Affairs? If they do, we can hope that they would make recommendations regarding the type of organization to bring Federal services to them. An issue might be whether a special department in the Office of Education should be responsible for bringing educational services to the tribes, and so on. I would hope that these issues could be resolved without the prejudice to their relationship with the Bureau of Indian Affairs. I do not believe, however, that American Indians and Alaska Natives feel that is possible today.

I am in sympathy with the observations of the Senator from Alaska, but I do not think this bill reflects what is recognized by the Senator from Alaska and the Senator from Oklahoma and all of those who have given thought and study to this whole question of the dilemma of the American Indian. The worst aspect is not the programs directed toward native Americans, but the paternalistic attitude forced on them by the Federal Government today and in the past.

There is a real question that comes to my mind about altering and changing the relationship between Alaska Natives and the BIA as dramatically as this bill would do. I know the Senator from Alaska has given this matter the greatest concern and study and has probably a greater knowledge of it than other Members of the Senate. But while we are trying to say to the Natives that we want them to decide their destiny and future, actually what we are doing in the Senate is to change this important relationship and, once again, to change it without the kind of thoughtful, deliberate, and careful consideration of the views of these groups who are going to be most dramatically affected by it.

Mr. GRAVEL. We have a right to vote on that. We make decisions all the time that affect them. If the Senator is saying we should give the Natives self-determination, then let us tell them, "Go do your thing." That is not what is happening. What is happening is we are making a decision here of what will be their legacy. We feel we are justified to make it. We can turn around and say, "You do not need any preferential treatment based on race." That is what this says. It says that at the end of 5 years there will be no Federal effort in Alaska based on race. That is all it says.

Mr. KENNEDY. I think the Senator has put it correctly when he says we are deciding their future rather than having them decide their future themselves. I know this concept lends itself to the kind of expression which the Senator from Alaska has made: Why not just say they have to run all the programs by themselves? At least a partial response to that suggestion would be that on most occasions we are talking about special Federal obligations to native Americans. We are not going to be able to arrive at a simple, magical formula providing immediate and total self-determination.

What I found most persuasive about the argument of the Senator from Oklahoma is that at a time when everyone in the country—and certainly everyone in the Senate—is aware that the worst indictment of our attitude toward the American Indians is our paternalistic attitude in always deciding what is best for them, we are suddenly altering the whole relationship which exists between the Alaskan Natives and the resources through which, hopefully, they can really develop. And with this we are changing, unilaterally, the relationship between the Natives and the Government.

I am not arguing that termination of BIA services is under all circumstances inherently wrong; I am merely saying that the consent of the affected people is in every case necessary. And here we really do not have any clear indication of what the Alaska Natives feel the timing should be. All we have is an Alaska Federation of Natives proposed amendment to delete the termination provision of the bill.

Mr. GRAVEL. What I cannot understand is that we all talk against paternalism, but the major point I am making is that I have a way to do away with paternalism. What the Senator from Massachusetts is saying is, "Let us hang onto it. We are not sure. We need more study." Study is an excuse for inaction. I have laid down a program for 5 years. We have had a chance to study, and now let us implement it.

The difference between the suggestion of the Senator from Oklahoma and mine is that he says, "Let us not put any triggering mechanism in; let us just study it."

What happens is that if we do not force this issue, it will never happen. It is not the nature of people to do it. It is not the nature of government to recede unless you calculatingly say, "This is right and this is wrong." What I calculatingly say is, The attitude of the policy of paternalism expressed by the Bureau of Indian Affairs—I am not talking about other agencies of Government; the BIA is what the Senator is defending—is wrong. The BIA is not in

HEW, where it should be. The answer is in our resources and in our Natives. That is where we do it best, not in the Department of the Interior, where this function used to be, not in the War Department, where that jurisdiction used to be. I am suggesting we do away with the BIA and implement programs for these people with money, as we do for everybody else.

Mr. KENNEDY. I agree with the Senator that we do not need any further study. What I feel strongly about is that we ought to have expression by the various Native groups and villages as to how they want these resources and programs to reach them, and that ought to be given the highest degree of priority.

Mr. GRAVEL. Mr. President, will the Senator yield on that point?

Mr. KENNEDY. Just this final thought: There are a number of different alternatives which this matter presents. One suggestion is to transport the Human Resources Department of the BIA into the Department of Health, Education, and Welfare. This idea includes moving the education programs to the Department of Education. Another suggestion is to establish a special agency or national corporation in which the Natives can participate directly. Four or five major alternatives have been suggested.

I am interested in the Senator's addressing himself to the question of whether or not the best way would be to pose the different alternatives to the Native people who are going to be affected by this matter. This would be a challenge to them to work out a way in which they want to organize and be able to express themselves and return with an answer. Their answer would suggest how they are going to organize the resources that are going to be made available through the Congress. This method is an alternative to our saying that the BIA has not worked—which I do not think it has and I find little sympathy for what it has basically been doing—and, therefore, we are going to abolish it.

Mr. GRAVEL. What I am proposing, first, is to say it is going to be abolished. Then, obviously, the Native population will have an input in that matter, so they will necessarily participate in everything.

When one talks about participating in Alaska, I am reminded that when I was elected to the State legislature the first president of the Senate was a Native. He participated in the Native community as well as the larger Alaskan community.

I submit that the only difference between doing it and postponing it is that when we postpone it we do nothing.

I do not think the situation in Alaska is any different from what it is in Oklahoma. I am sure that if they had had the wherewithal, they would have had the answer to the problem. I think the Indians in Idaho would have. They have been given a great deal of money. They have had their claims satisfied. It has not brought about a diminution of Federal paternalism.

When we talk about trust funds, I think that is how we infuse money from the State to the local governments handling education problems. How would the local government handle problems of education? Obviously, Natives in a community made up of 98 percent Natives are going to be elected to the school boards. The money would not come from the Federal Government, so we do not need a bureaucracy foisted upon them to pack the money down to them. All we have to do is set up a trust fund and let them govern the money as everybody else does. Why should we have a bureaucracy to spoon feed them?

The school board in Anchorage, which is 98 percent white, gets 90 percent of its money from the Federal Government. Yet, they make their own determination. Why do we insist on involving the Bureau of Indian Affairs in the Native community? I say participate. They will do it if we give them the tools to do it with. The 5-year period will give the community time to get the resources and wealth and move toward economic well-being. As it does, the Bureau of Indian Affairs will begin to pull out totally.

There are three duties of the Bureau of Indian Affairs in Alaska: Education, which has been taken over by the State; welfare, which is performed by the State; and economic development, which will now be done by the Natives themselves with their own money, not on handouts. If we take those duties away from the Bureau of Indian Affairs, the BIA will have lost their raison d'être. The bureaucracy will have no reason for being there. Why should it be there? If we ask the people in that bureaucracy if we want the people to do their job, they will say, "no," and they will use their position to impose their views on other people.

ORDER FOR RECOGNITION OF SENATOR JAVITS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on tomorrow, upon the completion of the remarks of the able Senator from Ohio (Mr. YOUNG), the distinguished Senator from New York (Mr. JAVITS) be recognized for not to exceed 20 minutes.

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

AUTHORIZATION TO FILE REPORT

Mr. BYRD of West Virginia. Mr. President, at the request of my colleague (Mr. RANDOLPH), I ask unanimous consent that the Committee on Public Works have until midnight, July 17, to file its report on Senate Joint Resolution 207 and the companion joint resolution, House Joint Resolution 1117.

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

ALASKA NATIVE CLAIMS SETTLEMENT ACT OF 1970

The Senate continued with the consideration of the bill (S. 1830) to provide for the settlement of certain land claims of Alaska Natives, and for other purposes.

Mr. HANSEN. Mr. President, the amendment proposed by Senator JACKSON to S. 1830, the Alaska Native claims bill, would impose a system of competitive bidding for oil and gas leases on public lands throughout Alaska.

This would have a decidedly detrimental effect on oil and gas exploration and it is my hope that the Senate will vote to oppose this effort.

Existing law allows for noncompetitive bidding on all oil and gas leases outside a known geologic structure. A known geologic structure is generally identified as a geologic formation in which there is an existing producing oil or gas well.

Adopting competitive leasing would have a decided adverse effect on mineral development in Alaska because:

First. There is no justification for adopting a separate mineral leasing law for Alaska. Any revision which is to take place in the Mineral Leasing Act should apply on a nationwide basis. Sixty-two percent of all the Federal lands in the United States are presently located in Alaska.

Second. By restricting oil leasing in Alaska to competitive bidding, there are many small oil and exploration companies that will be discouraged from taking part in discovery operations in Alaska. Small, independent companies simply do not have the means to bid against the economic resources of the larger oil companies.

Ecological and environmental conditions in Alaska make it extremely difficult for the small independents to operate without having to compete with the larger oil companies in order to acquire their leases.

An onshore wildcat well in the Cook Inlet Basin or the Copper River Basin in southern Alaska could cost from $500,000 to $1.5 million. Geologic field parties will average $35,000 to $40,000 per month. Seismic crews on the Arctic Slope will cost approximately $25,000 to $300,000 per month.

Wells on the Alaska Peninsula cost an average $18,000 per day. Mobilization and demobilization costs can run as high as $750,000 per well.

Third. In all likelihood, competitive bidding would hamper the development of oil and gas resources in Alaska.

Historically, the small independent has been responsible for 75 to 80 percent of the oil and gas discoveries.

Under the noncompetitive leasing system, the small oil company has been able to amass sufficient land so that it could get financial backing to make basic seismic and geologic checks which have resulted in many of the major oil and gas discoveries.

Competitive leasing discourages the aggressive, creative explorationist by removing those incentives which have led the independent to take great risks.

As promising as Prudhoe Bay is, it would likely never have been discovered had not the industry been able to go upon the Artic slope and to control large blocks

of land so as to engage in the most expensive exploratory effort in one of the most inhospitable areas in the world.

The public fails to realize that 131 of the 174 parcels offered for bid at the September 1969 sale were previously offered at sales in 1964 and 1965 and received no bids at all. A majority of the lands that were acquired by Mobil-Phillips in the 1964 and 1965 sales were acquired for $1.55 per acre as compared with the high of $28,233.25 per acre at the September sale in Alaska.

Prudhoe Bay represents but a very small part of Alaska and is largely State-owned land. Past experience indicates it is going to be the small, independent oilman who will develop the remainder of Alaska.

Increased expropriation of U.S. investment, power plays reflecting alien influences inimical to stable channels of commerce, along with our diminishing domestic energy reserves, underscore the need for greater, not less, exploration and developmental activity in the United States.

Enactment of competitive leasing provisions in Alaska at this time is not in the public interest.

DISTRICT OF COLUMBIA COOPERATIVE ASSOCIATION ACT

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Missouri (Mr. EAGLETON), I ask unanimous consent that the Chair lay before the Senate a message from the House on H.R. 17711.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 17711) to amend the District of Columbia Cooperative Association Act.

Mr. GRIFFIN. Mr. President, I move that the Senate insist upon its amendments, agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. EAGLETON) appointed Mr. EAGLETON, Mr. MATHIAS, Mr. SPONG, and Mr. TYDINGS conferees on the part of the Senate.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 1971—CONFERENCE REPORT

Mr. KENNEDY. Mr. President, I submit a conference report on H.R. 16595, the National Science Foundation Authorization Act of 1971, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. EAGLETON). The report will be read for the information of the Senate.

The bill clerk read the report, as follows:

CONFERENCE REPORT (H. REPT. NO. 91-1298)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 16595) to authorize appropriations for activities of the National Science Foundation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"That there is hereby authorized to be appropriated to the National Science Foundation for the fiscal year ending June 30, 1971, to enable it to carry out its powers and duties under the National Science Foundation Act of 1950, as amended, and under title IX of the National Defense Education Act of 1958, out of any money in the Treasury not otherwise appropriated, $537,730,000.

"SEC. 2. Appropriations made pursuant to authority provided in section 1 shall remain available for obligation, for expenditure, or for obligation and expenditure, for such period or periods as may be specified in Acts making such appropriations.

"SEC. 3. Appropriations made pursuant to this Act may be used, but not to exceed $2,500 for official reception and representation expenses upon the approval or authority of the Director of the National Science Foundation, and his determination shall be final and conclusive upon the accounting officers of the Government.

"SEC. 4. In addition to such sums as are authorized by section 1 hereof, not to exceed $2,000,000 is authorized to be appropriated for expenses of the National Science Foundation incurred outside the United States to be paid for in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States.

"SEC. 5. (a) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has been convicted by any court of record of any crime which was committed after the date of enactment of this Act and which involved the use of (or assistance to others in the use of) force, disruption, or the seizure of property under control of any institution of higher education to prevent officials or students in such institution from engaging in their duties or pursuing their studies, and that such crime was of a serious nature and contributed to a substantial disruption of the administration of the institution with respect to which such crime was committed, then the institution which such individual attends, or is employed by, shall deny for a period of two years any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c). If an institution denies an individual assistance under the authority of the preceding sentence of this subsection, then any institution which such individual subsequently attends shall deny for the remainder of the two-year period any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c).

"(b) If an institution of higher education determines, after affording notice and opportunity for hearing to an individual attending, or employed by, such institution, that such individual has willfully refused to obey a lawful regulation or order of such institution after the date of enactment of this Act, and that such refusal was of a serious nature and contributed to a substantial disruption of the administration of such institution, then such institution shall deny, for a period of two years, any further payment to, or for the direct benefit of, such individual under any of the programs specified in subsection (c).

"(c) The programs referred to in subsections (a) and (b) are as follows:

"(1) The programs authorized by the National Science Foundation Act of 1950; and

"(2) The programs authorized under title IX of the National Defense Education Act of 1958 relating to establishing the Science Information Service.

"(d)(1) Nothing in this Act, or any Act amended by this Act, shall be construed to prohibit any institution of higher education from refusing to award, continue, or extend any financial assistance under any such Act to any individual because of any misconduct which in its judgment bears adversely on his fitness for such assistance.

"(2) Nothing in this section shall be construed as limiting or prejudicing the rights and prerogatives of any institution of higher education to institute and carry out an independent, disciplinary proceeding pursuant to existing authority, practice, and law.

"(3) Nothing in this section shall be construed to limit the freedom of any student to verbal expression of individual views or opinions.

"SEC. 6. This Act may be cited as the 'National Science Foundation Authorization Act of 1971'."

And the Senate agrees to the same.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
THOMAS F. EAGLETON,
WINSTON L. PROUTY,
PETER H. DOMINICK,
Managers on the Part of the Senate.

GEORGE P. MILLER,
EMILIO Q. DADDARIO,
JOHN W. DAVIS,
JAMES G. FULTON,
CHARLES A. MOSHER,
Managers on the Part of the House.

The PRESIDING OFFICER. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. KENNEDY. Mr. President, I urge that the conference report be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. KENNEDY. 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 10 a.m. tomorrow.

The motion was agreed to; and (at 6 o'clock and 51 minutes p.m.) the Senate adjourned until tomorrow, Wednesday, July 15, 1970, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate July 14, 1970:

INTERSTATE COMMERCE COMMISSION

W. Donald Brewer, of Colorado, to be an Interstate Commerce Commissioner for the term of 7 years expiring December 31, 1976.