

standing of black students' problems" which are said to present real problems, even in primary schools.

I include the following pertinent newsclippings in my remarks:

[From the Washington Post, Feb. 1, 1970]

BIAS UNIT TO PROBE SCHOOLS

The Maryland Human Relations Commission is initiating the first official statewide study of student unrest in high schools, with particular emphasis on schools in Prince Georges County and elsewhere that have had racial incidents.

Commission Chairman William H. Adkins II said yesterday that the study could even extend to the primary school level in certain instances. Adkins said he hoped the study could be completed by the end of the current school year, so that recommendations could be implemented by the start of the school term next fall.

Adkins said that commission staff members will interview teachers, administrators, students and parents in the study. He said the study would give priority to such Prince George's County high schools as Bladensburg and DuVal, which had racial difficulties this school year.

"We do feel that student unrest at high schools and perhaps at the primary school level is a real problem."

Adkins said that student unrest "is not just an urban or suburban problem." He pointed to a recent incident in Aberdeen High School in Harford County as an example of a similar problem in rural areas.

In that case, the commission said in a report last week, three black girls were expelled. The commission recommended they be reinstated. The commission reported that, based on interviews with students, it found, "There is a lack of adequate counseling, guidance or even understanding of black students' problems in this school."

[From the Washington Post, Jan. 30, 1970]
BLACKS RIOT IN FLORIDA SCHOOL TRANSITION

GAINESVILLE, FLA.—Several hundred black students ran screaming into the street from Lincoln High School today, stoning cars and attacking passersby in apparent frustration over the closing of their school. Police quelled them with tear gas.

At least two persons were reported injured in the outburst of violence at the school due to be closed after Friday under the Supreme Court's desegregation orders.

Several cars were damaged and school windows were smashed. One man, identified as Charles Tanner, was injured by a brick that smashed his windshield. A woman was reported dragged from her car and beaten.

After the crowd dispersed, police roped off the area and authorities cancelled Friday's classes.

Lincoln is part of a school district ordered by the Supreme Court to begin operating totally desegregated schools by Feb. 1. Under school board plans, Lincoln will be closed and its students integrated with those at Gainesville High.

The black students of Lincoln and their parents have bitterly protested the closing. In December, many of them boycotted the school to protest the closing and returned only after a judge threatened to cite them for truancy.

[From the Evening Star, Jan. 31, 1970]

BLACK STUDENTS BOYCOTT AT TWO D.C. HIGH SCHOOLS

Black students at the District's only two substantially integrated high schools—Western and Wilson—boycotted some regular activities yesterday to protest various school policies.

At Western, 35th Street and Reservoir Road NW, about 200 students attended an "unauthorized assembly" shortly after 9 a.m.

after breaking locks on auditorium doors, authorities reported. The assembly was followed by a sit-in in the cafeteria, which ended when large numbers of the students began leaving around noon.

Students said they planned the assembly Thursday after school officials refused to recognize a "Student Coalition Against Racism" as a chartered activity. During the meeting, black students also complained about the transfer of a teacher who has added the Black Student Union and about suspension policies.

Asst. Supt. George Rhodes said officials were reluctant to charter the group until they were certain it would not exclude white students.

The Western students later agreed at a meeting with Asst. Principal Harvey Broyn to present a list of grievances on Monday. About 60 percent of Western's 1,200 students are black.

At Wilson, about 60 black students walked out of a music assembly in the morning to protest what they termed the lack of black cultural programs at the school, at Nebraska Avenue and Chesapeake Street NW.

About 400 black students later returned to the auditorium to discuss grievances with school officials. Interim Principal Sherman Rees said the second assembly ended shortly before noon and students returned to classes.

Wilson, the only predominantly white high school in the District, has about 500 black students out of a school population of 1,500, Rees said.

Students said they walked out of the assembly because it featured only "European" composers and did not reflect the influence of black musicians.

At their meeting with school officials, students objected to programs at past cultural assemblies and demanded the inclusion of black studies in a wide range of courses. They also asked that black students be allowed to plan future assemblies, including one to mark the birthday of Malcolm X on May 19.

SENATE—Thursday, February 5, 1970

The Senate met at 12 o'clock meridian and was called to order by the President pro tempore (Mr. RUSSELL).

The PRESIDENT pro tempore. It is the pleasure of the Chair to present to the Senate as guest chaplain today the Reverend James P. Wesberry, D.D., pastor of the Morningside Baptist Church in Atlanta, Ga.

The Reverend James P. Wesberry, D.D., offered the following prayer:

Gladden our lives, O God, our Father, with the light of Thy redemptive purpose. Cleanse us, we pray, from all evil. Open our hearts to Thy love which satisfies our deepest need and to Thy strength which matches our heaviest burdens. Grant that we may move in the performance of our duties as the unhurried stars in the orbit of eternity, without haste or confusion, but always with shining steadfastness. When faced with obstacles bigger than we can handle, may we find within us a spiritual power that breaks through, and when worldwide responsibilities mount upon us, may we go forward with the sureness of the mighty river that runs its destined channel to the sea.

Through Jesus Christ our Lord. Amen.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting

nominations were communicated to the Senate by Mr. Geisler, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(For nominations received today, see the end of Senate proceedings.)

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, February 4, 1970, be dispensed with.

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

LIMITATION ON STATEMENTS DURING TRANSACTION OF MORNING BUSINESS

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

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

TEXTILE IMPORT CURBS

Mr. PASTORE. Mr. President, I note in the Journal of Commerce of Thursday, February 5, 1970, in New York, that the Honorable Maurice Stans, Secretary of Commerce, made a speech before foreign newsmen. He is quoted as having said:

It is not possible for the United States to make an adjustment necessary to absorb the flood of textile imports.

Mr. President, I find this statement both alarming and confirming the fears of the American textile industry, yet encouraging in the administration's awareness. We who come from textile States know what has been happening to the textile industry, specifically the tremendous decline in the industry at a time when we have experienced an astronomical boom in the gross national product. So we realize just what Secretary Stans' statement means.

My experience is this, Mr. President, that American production has been declining because of the tight-money policy and because there has been a general slowdown in the economy. Nevertheless, while our production in the textile industry was sliding downward, textile imports were moving upward.

My contention is that unless we do something rather quickly to slow down this influx of textile imports, we will

find that we will have a tremendous unemployment problem in the American textile industry. This would be a tragedy for our day.

Therefore, I want to congratulate Mr. Stans for having made his statement. I agree with him that unless the administration moves quickly to secure a voluntary agreement, Congress has every intention of moving in.

Mr. TALMADGE. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. I yield.

Mr. TALMADGE. I desire to compliment my distinguished friend, the senior Senator from Rhode Island (Mr. PASTORE), on the statement he has just made. I associate myself with it.

As the Senator from Rhode Island knows, I, along with many other Members of this body, have been working shoulder to shoulder with him for many, many years in trying to remedy this problem.

Mr. President, in the State of Georgia, there are 100,000 people working in textile mills. There are an additional 35,000 working in the garment industry. Thus, the textile and apparel industry is the largest employer within my State.

The largest mill within my State is the Bibb Manufacturing Co. Last year, its sales were \$120 million. It had \$120 million worth of sales, but, it lost \$2 million—not netted, but lost \$2 million.

What has been the result?

In my State, most of the small mills have gone out of business. Many people are unemployed or underemployed. Those that have not gone out of business found themselves associated with larger mills and have become members of a chain.

It is imperative that we take action in this regard. The Senate has acted twice on this matter by an overwhelming majority. Unfortunately, the Ways and Means Committee would not agree with us in conference. It has been encouraging, during the late recess, to read a statement from the distinguished chairman of the Ways and Means Committee that the time was at hand, and that unless we had an agreement on the importation of textiles, Congress would have to take appropriate action to impose quotas.

I, like the Senator from Rhode Island, was encouraged by the statement in the Journal of Commerce made by the Secretary of Commerce, wherein he said:

It is highly likely Congress will act in the matter of limiting textile imports, and possibly other products, if there aren't agreements in a relatively short time—and by short time I mean three months, the secretary said.

Mr. President, I am, therefore, associating myself with the statement just made by the Senator from Rhode Island. I am pleased with the statement of the Secretary of Commerce and I compliment him on it.

I hope that Japan and other nations will take heed because the favorable Japanese balance of trade with the United States is now running at \$1.5 billion a year.

Mr. PASTORE. And \$1 billion of that is in textiles.

Mr. TALMADGE. Yes; \$1 billion of that is in textiles, while our own trade balance is unfavorable. We have had a gold drain and we do not have enough gold to pay off one-third of the claims if our dollars were presented for payment today.

Once more I congratulate my good friend from Rhode Island on his statement.

The PRESIDENT pro tempore. The time of the Senator from Rhode Island has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Rhode Island may proceed for 10 additional minutes.

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

Mr. SCOTT. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. I am happy to yield to the Senator from Pennsylvania.

Mr. SCOTT. I commend the distinguished senior Senator from Rhode Island for the statement he has made and for his reference to the encouraging statement made by Secretary of Commerce Stans.

It has been well recognized in all of those States where the textile industry is important to their economies to maintain job levels and avoid further unemployment.

Therefore, I am pleased that this is the policy of the administration and I am sure it has bipartisan support in Congress.

Again I thank the Senator from Rhode Island.

Mr. HANSEN. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. I am happy to yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I thank my distinguished colleague from Rhode Island. I am delighted that he has taken this occasion to compliment the Secretary of Commerce, an exercise in which I also wish to participate.

I believe the administration is realistic in recognizing the impossibility of maintaining a high standard of living, which results from the wages that the textile industry pays its workers in income that flows from that activity to cotton and wool producers in this country and permits, at the same time, unlimited imports of textiles.

I think that what the distinguished Senator has so aptly called attention to applies with equal force and with equal veracity in the case of oil. Here is an industry that employs in this country 1,200,000 persons, who are very well paid.

This industry generates annually more than several billions of dollars that is added to our country's economy. We have had reports from the Department of Defense calling attention to the threat that is posed to our national security if we should do anything which would result in a diminution of domestic oil activity in this country and place greater reliance upon foreign sources of supply.

Certainly, no one knows that better than the President pro tempore of the Senate, presently presiding, having served for so many years as chairman of the Armed Services Committee. The Presiding Officer is fully aware, better than any man I know, of the relation-

ship between national security and the abundance of energy in our country.

In my State of Wyoming, 40 percent of the funds going into education come from oil revenues. We have a goodly share of the production of the 367,000 stripper wells that account for 15 percent of total U.S. production. These wells represent some 5.5 billion barrels of oil reserves.

It does not make any sense to me that a part of the Government should put anybody out of business.

We not only have to protect textiles, but other products as well, products which play such a vital role in keeping our people employed and adding to our economy.

I pay tribute to the distinguished senior Senator from Rhode Island and the distinguished junior Senator from Georgia for their observations.

Mr. PASTORE. Mr. President, I do not want to rehash the tragic story of our loss of textile jobs. I have gone all over this over and over again on the floor, and even in appeals in the Oval Room at the White House.

Since 1959 we have lost 33,000 jobs. And more than 1,200 mills have closed down. Those textile mills have disappeared in the last 10 years, at a time when other industries were experiencing the biggest boom in our history.

It strikes me that we are not trying to shut off the American market to favor manufacturers of textile goods. All we are asking them to do is what they have refused to do, is that those who would threaten the stability of American textile jobs should sit down and talk over the problems so that we can reach agreements that are sound and salutary in international trade.

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

Mr. PASTORE. I yield.

Mr. MANSFIELD. There is no greater champion of the textile industry in this Chamber than the distinguished senior Senator from Rhode Island. Year in and year out, he has been defending an industry which means so much to him and so much to his State.

Mr. President, I express my appreciation to the distinguished Senator from Wyoming (Mr. HANSEN), who is an expert on the status of wool and also on the situation confronting the domestic oil producers and, I might say, the domestic beef producers as well. This is all sort of a pattern.

I concur with the distinguished Senator from Wyoming whom I look upon as one of the distinguished experts on oil and wool in this body.

Mr. HANSEN. Mr. President, I thank the distinguished majority leader for his kind observations.

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

Mr. PASTORE. I yield.

Mr. HOLLINGS. Mr. President, let me say that I reiterate the high regard and compliments paid to the Senator from Rhode Island for his leadership. He is chairman of our Subcommittee on Textiles of the Commerce Committee and has acted in this capacity for some 14 years. He and I have worked hand in glove.

While there has been action and inaction, the action that has occurred has resulted under his leadership and under the leadership of the Senator from Georgia (Mr. TALMADGE) in his work on the Finance Committee and representing us in Geneva.

However, I differ somewhat in emphasizing the inactivity that has occurred. I would prefer, rather than to praise the Secretary of Commerce for his enlightened statement that we may act in Congress, requiring of him that he make a more enlightened statement that the administration may act.

That is the only way we have received action. There has not been a textile bill that has passed Congress in its history.

The Japanese know this. They know none is likely to pass. The Japanese are fairly well attuned to trade difficulties. They are in the game.

When we had the cotton amendment up for consideration in December, a month ago, they immediately had the National Grange taking votes away from us. They know how to work, not the U.S. Senate, but the administration and the House.

This threat that Congress may act is like water running off a duck's back.

When did they act? When President John F. Kennedy said:

If you don't get down to some realistic type of agreement, we are going to act unilaterally, employing the national security provision. If the administration really wants to act, there are many things that can be done by the administration.

We have tried our best and we get nowhere. And the Secretary of Commerce continues to use us as a bogeyman. Unfortunately, we are not too effective. We do our job in the Senate. But the Japanese each time thwart us at the White House and on the House side.

The Japanese know we not only want to protect textiles, but also oil, and we get into the beef products and things of that kind.

The Japanese know that nothing can really occur until we take in the entire spectrum and get, as the late beloved Senator Everett McKinley Dirksen said, a Christmas tree. And we know that Congress will not pass a Christmas tree bill.

Mr. President, the President of the United States should say that he is going to take action as President, and the Secretary of Commerce should say he will take action. We have been waiting a year and a half. I am tired of waiting.

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

THE C-5A CONTROVERSY— FACT AND FICTION

Mr. PROXMIRE. Mr. President, those of us who are in public life know that one of its byproducts is the deliberate or

unwitting attempt of one's opponents to spread false rumors, to quote one out of context, or to totally misrepresent what one has said or believes.

Such has been the repeated attempt on the part of some—and I repeat "some"—of the very powerful political and economic forces connected with the C-5A.

But as Al Smith said, "Let us look at the record." Let us examine the misstatements and misrepresentations and lay them side by side with the truth.

First and foremost it has been said of those of us who have criticized the C-5A that we have said—and particularly that I have said—that the C-5A would never fly.

Of course that is totally untrue.

What is true is this. In connection with our hearings last spring we were told that the C-5A did not meet the FAA requirements which had originally been established for the plane.

That turned out to be true.

We were told that there had been a whole series of changes in the performance specifications of the plane. That also turned out to be true. This was in fact thoroughly confirmed by the Whittaker report which in attachment 3, pages 46-48 lists about a dozen "significant specification changes."

We were told last July that the wing crack in the C-5A could be fixed with a relatively minor modification and that it would not affect production or delivery of the planes.

But the new wing crack that occurred on Friday, January 16, involved the same problem.

We have argued, right in my judgment, that the first three runs of the planes, that is 58 of them, were more than sufficient to meet the military requirements established for this plane.

That has now been confirmed by the Whittaker report which stated that 40 planes was the number needed to meet the specific purpose for which this plane was built, namely to carry the outsized equipment of an armored division during the first 10 days of emergency.

The truth is that I and the other critics have supported purchasing at least 40 of the planes—in fact we have supported buying 58 of them—but we have vigorously objected to buying the additional planes which are not needed for any military purpose and whose costs are at least double that of the 747 which is a comparable civilian plane in most aspects.

Not only has it been charged that I said the plane would never fly but now it has been alleged that I said they should be grounded forever.

Of course, that is poppycock. What is true is this: There is a serious technical defect in this plane which we asked about last summer but which was substantially denied by the Air Force. I believe that until that problem of the wing crack is solved by the Air Force, this plane is unsafe to fly.

Only about a dozen of the planes have been delivered, and eight of these were test planes. They are to be retrofitted by Lockheed. But, and this I find appalling, the Air Force has agreed to accept delivery on a total of 32 planes

before the wing crack problem is solved. In other words, about 24 planes, not yet delivered, are to be accepted by the Air Force with the wing problem still unresolved. These planes are not scheduled for delivery until September 1970. Yet, between now and September at the earliest, the Air Force plans to accept about 24 planes from Lockheed with the structural weakness still not fully corrected.

They plan to return those planes to the factory to be retrofitted.

I find that a deplorable and scandalous situation. For the Air Force both to accept and to fly defective planes is wrong.

Existing planes should be corrected before they are flown.

The Air Force should require Lockheed to deliver planes which are not defective.

It is inexcusable to accept delivery on another 24 planes before the company is required to right the structural defect in the C-5A wing during production.

I hope, therefore, that the substance of what I and other critics have said will be distinguished from the false rumors and false statements and misrepresentations which are now going the rounds.

The C-5A should be grounded until the wing crack is repaired.

The Air Force should refuse to accept any planes coming off the assembly line until the wing crack defects are solved.

And, in my judgment, since only 40 planes are needed to meet the military requirements established for the C-5A, it is unconscionable for the Government to go ahead with run B—planes 59 to 81—which are both unneeded and compound the fiscal fiasco.

(At this point, Mr. HOLLINGS assumed the chair.)

ADDRESS BY SENATOR HOLLAND AT ANNUAL CONVENTION OF AUDUBON SOCIETY AT COCOA BEACH, FLA.

Mr. HOLLAND. Mr. President, last Saturday night I had the privilege of speaking at Cocoa Beach at the annual convention of the leaders and other members of the Audubon Society from all portions of Florida.

I am quite proud of the progress already made in our State in advancing the cause of conservation of our natural resources and of the great interest and effort of many of our citizens, particularly those who are members of the Audubon Society, in conservation projects and objectives extending literally from one end of Florida to the other.

Many Senators are quite properly interested in the Everglades National Park in Florida and in other conservation projects in our State. I hope that some of the contents of my speech may be of interest to other Members of the Senate, particularly to those who are especially interested in conservation. I already have pending in the Senate a bill (S. 2565) whose objective is to complete the acquisition of the remaining private inholdings within the Everglades National Park, and I trust the Congress will enact that bill during this, my last year,

in the Senate. Other matters which will be considered by the Senate this year bear upon the Everglades National Park and other important conservation projects and conservation opportunities in Florida.

Since my speech dealt with many aspects of the conservation program in Florida, I ask unanimous consent that the speech be printed in the RECORD.

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

FLORIDA'S RESOURCE PROBLEMS

(Address of Senator SPESARD L. HOLLAND)

I was happy to accept last October the cordial invitation of Mr. Russell Mason to speak at this annual convention of the Florida Audubon Society and to receive later a cordial supplementary letter from Mr. Karl Elchhorn, Jr., President of the Indian River Audubon Society. I am glad to be here tonight and to speak on the subject suggested by Mr. Mason, which is "Florida's Resource Problems," limiting my remarks, of course, to the problems which affect the conservation of our wildlife, including birds, animals and fish, our natural vegetation and our rivers, lakes, beaches and underground waters. I hope you will allow me to speak as one who has been a witness to the developments on the Florida scene for sometime, since I was born in this state in 1892 and have always been a citizen of Florida.

In my boyhood and as a young man I noted the commercial cutting of most of our forests, including, particularly, the virgin pines, the age-old cypresses and much of our hardwood. There was a long period in which much of the state appeared greatly despoiled by reason of the loss of its forests. I have been glad to note in recent years that the pine forests are in the course of restoration by the following of sound reforestation practices in large portions of the state and the making of harvesting practices of the pine trees, whether planted or naturally restored, a scientific operation which has enabled Florida to regain, in great degree, the beautiful appearance of much of our formerly heavily forested pinelands. It has now become a pleasurable experience again to ride through much of the area of middle, north and west Florida which had appeared to be so barren following the cutting of the original stands of pine and the careless burning practices which were later permitted.

The hardwood plantings are coming back, also, though not in the course of such careful planned reforestation as is the case in many areas with pines. Cypress trees take so long to grow that it will be many years beyond the lives of present Floridians before our people will have the chance to know what a real cypress forest looks like unless we have the privilege of visiting the Corkscrew Swamp which has been preserved for posterity by the commendable action of the Audubon Society.

As to the conservation of our supply of water, whether in the lakes, the streams, or in the underground aquifers, much has been done, though much still remains to be done. The building of the Hoover Dike around Lake Okeechobee and the expansion of that work through the Central and Southern Florida Flood Control program has done much to conserve the rain water which falls in the lower part of the peninsula and to prevent in large measure its loss in the Atlantic Ocean or the Gulf of Mexico. Though not yet complete, that program has effectively prevented such heavy damage and loss of life as was sustained in 1926 and 1928 when approximately 2,500 persons lost their lives. It also protects against heavy property damage which was sustained as late as the fall of 1947 in an amount of approximately \$57

million and in smaller amounts in even later years. The program is also protecting against the serious loss of muck by fire which had occurred in periods of drought, and by its recharging of the aquifer has driven back the infiltration of salt water which was endangering the underground fresh water supply of the whole gold coast area. The program has also protected the large agricultural interests in that whole area against the recurring threats of flood and drought. I think it is also proceeding rapidly to solve the problem of water supply to the Everglades National Park which problem should be fully solved when the level of Lake Okeechobee can be further raised under the latest authorizations adopted by the Congress. On the Gulf side, the Central and Southern Florida program is also supplying the needed supply of water to the City of Fort Myers and surrounding areas.

Similar results, I think, will be accomplished for much of the middle and upper west coast as the structures in the Southwest Florida Flood Control District move toward completion. It is quite certain that there are further problems ahead of us in other parts of the state as our population and industries continue to grow. Suffice it to say at this time that the problems of water supply and water protection remain with us and I hope they will continue to have the active interest of the Audubon Society just as they have had in the past. The State Board of Conservation by its more recent actions has shown a keen awareness of the problem.

I cannot dwell long, in the course of these brief remarks, on the problem of water pollution, but this is a subject that has already engaged the interest and activity of the Audubon Society and I hope it will continue to do so. The principal problem of pollution control at present in our state is centered at Jacksonville and relates primarily to the very bad condition of the lower St. John's River. An extensive program there is underway supported both by federal and local governments.

On the general question of pollution due to the use of insecticides, both by agriculture and otherwise, suffice it to say that a huge program is already underway on the part of both federal and state governments to attempt to deal with that urgent problem. A subcommittee of the Appropriations Committee of the Senate, which I head, and which handles all agricultural appropriations, initiated in 1965 a long-time and expensive program in this field, involving the creation of 8 new experimental facilities located in various parts of our nation. One of these new facilities is the new experiment station at Gainesville called the Laboratory for Insect Attractants and Environmental Research on Stored Products Insects which is now complete and is beginning to function helpfully. These 8 stations will have the continued support of Congress and there are also programs underway in the state experiment stations, many of which are joint programs supported by both federal and state funds. I confidently expect we will make great progress in this field within the next few years.

Of course, you all know that the subject of water and air pollution has become a popular one, has been adopted by both of the great political parties, and is being supported actively both in the Congress and by the Executive Department. We in Washington have this problem called to our daily attention by the horrible condition of the Potomac River which was originally one of our finest national streams. In our own state, as elsewhere, these problems of pollution, whether by insecticides, industrial wastes, human wastes or otherwise, are long-range problems which deserve and will require long-time and dedicated attention of public agencies and of our people for many years ahead, if not always. It is my own belief that such solutions will never be permanent but will require constant attention and up-dating by our public and

private institutions, generation after generation, throughout the life of this nation.

Of course, many problems in connection with our wildlife have been solved and are being solved. I have already referred to the fact that our pine forests and hardwood forests are capable of restoration and in many areas are now being restored. I think we should be encouraged by the fact that the population of some of our game species is also much more abundant than it was a few years ago. I am thinking particularly of our population of deer and wild turkey which have certainly come back notably in these last twenty years. The same is true of some other varieties of resident game and fish, both of which are being handled by sensible fish and wildlife programs for conservation, propagation, and restocking. I wish that I could say the same about our migrant game species, but apparently we are having harder going on the preservation and restoration of the abundance of migrant wild fowl which we used to find in the winter season in our state. This is true in spite of the widespread efforts being made throughout our nation and in Canada, but more and more time, effort and money is being expended on that subject.

As to our exotic birds we all know that the Everglades National Park, and other smaller installations by the state and federal governments in the Keys, have resulted in the restoration of substantial numbers of roseate spoonbills, great white herons, and white crowned pigeons, to mention only three varieties. We have also been delighted to find that several importations of foreign varieties by natural or artificial means have become established, such as the spotted-breasted oriole, the scarlet ibis, the black whiskered bulbul and the African cattle egret. Other varieties, whether imported or native, such as the smooth billed ani, are becoming more widespread in our state.

On a personal basis, I think I have noted that some indigenous birds such as the wood duck, the native Florida mallard, and the pileated woodpecker have become more numerous in recent years.

Perhaps it would be useful at this time to list briefly the enormous expansion of the several efforts in the State of Florida to conserve our natural resources which has taken place since the first wildlife refuge in the nation was set up by President Theodore Roosevelt in 1903 on three acres of land at Pelican Island just a short distance south from this spot. I mention first the Everglades National Park since it is the largest of the installations, though by no means the oldest. It has a total area of over 1½ million acres. Much as I am interested in that great park, I shall not dwell on it at great length at this time except to say that I think it is a tremendous asset for our state and the nation and must be safeguarded in every way. I shall discuss it later in my remarks.

Next, there are three national forests in Florida beginning in age with the Ocala National Forest established in 1908 and followed by the Osceola National Forest and the Apalachicola National Forest. These three have a total area of over one million acres. While their program for wildlife preservation is not as complete as that in the national park system, they do have great value from the standpoint of preservation of both natural flora and fauna.

Next, we have six national monuments and memorials in Florida, some of which have an important bearing on the conservation of wildlife, particularly the last one authorized, Biscayne National Monument just below Miami and now in the process of development. I am glad to report as to Biscayne National Monument that the national government acquired last year about \$2½ million worth of property there consisting of

495 plus acres on the islands which comprise the land area of that monument. I have every confidence that we will be able to continue successfully with that project in spite of some strong local opposition. I hope the Audubon Society will continue its active support.

Next, there are 19 national wildlife refuges, including three in the Florida Keys and 16 others on the mainland of the state of which the best known are the St. Marks National Wildlife Refuge of 65,000 acres below Tallahassee, and the Merritt Island Wildlife Refuge, nearly 39,000 acres in the Kennedy Space Center holdings, and only a few miles from the spot of this present meeting. Others of great importance are the Loxahatchee Wildlife Refuge of over 145,000 acres which covers Conservation Area No. 1 of the Central and South Florida Flood Control District, the Chassahowitzka Refuge of over 18,000 acres along the Gulf coast between Brooksville and Crystal River, and the Ding Darling Refuge containing nearly 3,000 acres on Sanibel Island west of Fort Myers. I regard as particularly important the new refuge on St. Vincent Island in West Florida. Perhaps the most notable conservation contributions to date of these national wildlife refuges have been the survival and increased number of the little Key deer at the Key Deer Refuge and the establishment of the Everglades Kite Colony in the Loxahatchee Refuge.

Next, there are 75 state parks and memorials extending from Fort Pickens State Park near Pensacola to Fort Clinch State Park in Fernandina in the northeast corner of the state and southward to the John Pennekamp Coral Reef State Park of over 50,000 acres at Key Largo. I commend the Florida Board of Parks and Historic Memorials on this activity. The most visited State Park is Hugh Taylor Birch State Park at Fort Lauderdale. Among other state parks that are best known are the Myakka River State Park of nearly 29,000 acres near Sarasota, Highland Hammock State Park of nearly 3,800 acres near Sebring, Florida Caverns State Park near Marianna of over 1,000 acres, Anastasia State Park, over 1,000 acres on St. Augustine Beach, and Gold Head Branch State Park of 1,400 acres near Keystone Heights.

This Florida Audubon Society has also done a great work in establishing Audubon Sanctuaries in Florida which are now 65 in number and which can be found in nearly all parts of the state. Perhaps the two best known of these are Wakulla Springs National Sanctuary of 4,000 acres at Wakulla Springs, and the Corkscrew Swamp Sanctuary of over 7,000 acres between Naples and Immokalee. A partial story of these important Audubon refuges is well stated in the last issue of our Audubon Magazine and I warmly congratulate Mrs. Dorothy Beckwith, Chairman of the Florida Audubon Society Sanctuary Committee and other members of the Sanctuary Committee upon their successful efforts in this fertile field of conservation. I particularly call attention to the fact that they have been able to get so much cooperation from state and local agencies and from individual citizens. In my own part of the state I have noted in particular the large degree of cooperation which they have received from several of the phosphate companies and from many of the cattlemen, particularly in protecting the nesting areas of the bald eagle.

When it is remembered that there are a large number of county parks to add to those groups of units which I have already mentioned, I think it is clear that, while I do not have the exact figures, there must be more than three million acres of our state which are included in these various national, state, county, local and Audubon Society projects, all of which serve the cause of conservation. There are also many state and privately-owned reservations or preserves which are available for limited hunting privileges but

which have much wildlife conservation value as regards non-game species and likewise in the field of protecting vegetation.

While I am sure that the Audubon Society and none of its members regard their program as anything complete, I do want to call attention to this immense amount of progress in the field of conservation of our natural resources of wildlife and vegetation which has been accomplished in relatively recent years. The first dedication of any land of which I know for conservation purposes was the declaration of the three acre Pelican Island Refuge in 1903 so that all of the progress made to this date has occurred since that time. On this occasion, the 70th State Convention of the Florida Audubon Society, I feel that the fact that the Audubon Society has been one of the principal participants in this great program, should be a source of tremendous satisfaction to every Audubon member as well as to every other person who is interested in conservation.

Since there is much to be done which lies ahead, I shall discuss that in the rest of my remarks.

In the first place, the problem of the erosion of important beaches becomes more and more critical with the development of more beach residential and other properties and the construction of jetties in connection with the building and protection of harbors. A great deal of cooperatively financed work is already underway by the federal government and other agencies in this field, but I think it is one of the most critical matters that will continue to confront our state and I hope that the Audubon Society will continue and enlarge its interest in this field. I should say that I have been disturbed from time-to-time by the attitude of the Fish and Wildlife Service in imposing handicaps to this work by making rulings affecting the source of the sand to be used for nourishing the beaches. This hurtful attitude of the Fish and Wildlife Service has also disturbed me in connection with its withholding of permission or delaying and stretching out unduly the conditions which it insists upon before permits are granted by it for the bulkheading and filling in of some of the Florida Keys and some other Florida Islands and some other beach properties. I think it is well and proper that the Fish and Wildlife Service should be very careful in these matters, but I feel it has been in some instances quite unreasonable in its attitude. I am glad to note that in some cases the Audubon Society has specifically taken an opposite position in supporting the doing of work which was completely necessary when appropriate developmental or protective work was required to be done.

It is, perhaps, difficult on many occasions to determine exactly where the dividing line is between those projects which are necessary and those which would be destructive, but I shall continue to insist that the Fish and Wildlife Service be more practical and more reasonable in this regard. There are highly critical projects now demanding attention if important beaches are to be preserved and expensive and important developments are to be properly protected and I suggest that the Audubon Society might want to set up a special committee to keep a close eye on this type of public and private effort which does involve in many cases conservation values which need to be recognized and protected.

We come next to an item with which I suspect most of the members of the Audubon Society will disagree with me, but which I think should be at least carefully considered by this organization which is the construction and ultimate operation of the Cross Florida Barge Canal. Every person here knows, I am sure, that I have supported that project because I thought it

to be in the fundamental interest of our state and nation and it is impossible to ignore that when a large part of our waterborne commerce is now moving in barges in the great rivers of the Mississippi Basin and along the Gulf Coast Intracoastal Waterway as well as in the Atlantic Intracoastal Waterway which already extends at full dimensions from Trenton, New Jersey to Fort Pierce, Florida and at somewhat reduced dimensions from Fort Pierce to Miami. The connecting link across the upper part of the Florida peninsula has been eagerly desired by those engaged in water-borne commerce as well as in national security and defense back as far as Spanish days and with greater and greater concern since the time of the purchase of the Floridas from Spain. I shall not go into those details, but suffice it to say that here is a project, not just affecting Florida, but of deep concern to the entire Mississippi Basin and the Gulf coast area and also to many commercial and transportation interests along the Atlantic seaboard.

The purpose of my remarks on this subject, however, is not to go into those details but simply to remind the members of the Florida Audubon Society that that project is well underway and that the nation is committed to it and that I think it is time for the Audubon Society to look for opportunities by which you can realize your ever-present and highly important objectives in the field of conservation in connection with this barge canal. I remind you that we have found many opportunities to set up sanctuaries and other conservation projects along the Atlantic Intracoastal Waterway in Florida extending all the way from Fort Clinch in Fernandina to Miami. I note in the listing of the Audubon sanctuaries that some seven or more of them are listed along the Intracoastal Waterway through cooperation with the Florida Inland Navigation District mostly on made land that was created by the construction of the Atlantic Intracoastal Waterway.

Likewise, I note that several such Audubon sanctuaries are located along the west coast where an Intracoastal Waterway has already been constructed from the mouth of the Caloosahatchee River to Tarpon Springs and where several important sanctuaries are located in the vicinity of the Skyway Bridge across lower Tampa Bay through your cooperation with the commissioners of the affected counties and the highway officials. I am sure that there will be opportunities for just such worthwhile conservation operations along the Cross Florida Barge Canal. Years ago I fished most successfully and pleasurably in the so-called backwaters of the Withlacoochee River between Dunnellon and Yankee-town as they were impounded by a dam constructed by one of the power companies. Along the banks of that large artificial lake were various fishing camps and hunting lodges and I feel sure that opportunities for important conservation preserves existed at that time, though I know of none which were created. There will, I feel, be many opportunities for this kind of cooperative work which will be valuable to the cause of conservation that may be done along the several impounded pools or lakes of considerable size which are a necessary part of the Cross State Barge Canal to conserve the surface waters for the operation of the locks.

Years ago when I was handling appropriations for the Panama Canal and visiting there, I found that important conservation operations had been set up along that canal, particularly on a large island which was in the middle of Gatun Lake. I have noted that the Fish and Wildlife Service very wisely took advantage of the fact that the northernmost conservation area No. 1 which was an important part of the Central and Southern Florida Flood Control program—afforded a splendid opportunity for conservation work and established there

Loxahatchee Fish and Wildlife Reserve which I have already mentioned. I feel that we should always plan for the cooperation in public works with conservation groups, particularly with the Audubon Society, and in closing on this subject I suggest again that I think there is a fertile field for cooperation with the U.S. Corps of Engineers and the State Canal Authority in the area of the Florida Cross State Barge Canal. I do not expect everyone to agree with me on this, but I hope that some consideration of my suggestion may follow.

I would next like to go into some detail in what I think will be the toughest problem confronting us in the future which relates to the preservation and even improvement of the Everglades National Park. The solution of that problem concerns what shall be done with the privately-owned lands which lie north of the park. I hardly think it is necessary to say that I have spent many months of work and effort and even have done some fighting legislatively and in the Executive Department when I was Governor in connection with planning for and accomplishing the creation of the Everglades National Park and in legislating and attempting to further legislate for its completion and protection in the twenty-four years I have spent in the United States Senate. To me, this has been always a very dear objective and it will always continue to be such.

There is, however, the stark fact that excepting only some mileage along the north edge of the park that lies below Storage Area No. 3 of the Central and Southern Florida Flood Control Project, there is a very large area of privately-owned lands, some lying below the Tamiami Trail in the general area of the so-called Cheveller Road and a much larger area lying north of the Tamiami Trail from about forty miles out of Miami clear across to Everglades City and beyond. The problem of what shall be the future use of this land has been brought into sharp focus by the so-called Miami Jetport project which now seems to be in process of solution. I do not believe that the operation for several years of that jetport in substantially its present condition as a training facility will be harmful to the Everglades National Park under the reasonable conditions imposed by the federal government and agreed to by the local officials of Dade and Collier Counties. I believe that the present program to locate another adequate site for a jetport in that general area of Southwest Florida will be pursued successfully by all concerned and that a gigantic jetport will be constructed and operated without being hurtful to the park. The problem remains, however, as to what proper and legal use can be made of the vast acreage of privately-owned lands which I have already said lies north of the western portion of the park. Here is a problem that is going to produce headaches for the local officials of Dade, Monroe and Collier Counties for years to come, as well as to state officials and to the officials of the federal government, both those who represent Florida directly and others in the legislative and executive departments of the federal government.

I am not among those who feel that all portions of the park may be destroyed if this problem is not solved, because I think there are portions in and along the Florida Bay and in the southern, southeastern and southwestern and northwestern parts of the park which could not be destructively affected. But as to all of the great central and northeast area of the park, it is certainly true that an appropriate solution of the proper use of the private lands which I have already mentioned must be found and insisted upon if that great portion of the park is to be protected and preserved.

The time will soon be here when I will have no official duties in this regard, but

so long as I live I will be deeply interested in this problem and I do hope that the Audubon Society will not only continue to show vital interest in its solution, but will devote even more effort than heretofore to what I regard as the most important single problem now confronting those who are interested in conserving not only the beauty and the wild natural values in the park, but in preserving it as the principal, national park for winter use by countless millions of our American people in the future in seeking recreation, relaxation and the enjoyment of natural values and charms which may be found only there in abundance and which I hope will always remain there in the same abundance.

In closing, I cannot begin to tell you how pleased I am to be here and how grateful I am to your officers in affording me this opportunity to visit with you. I assume that all who are here are ardent friends of conservation of our natural resources and I doubt if any who are here are more ardent in that regard than am I. At the same time, I am sure that those of us who love nature and natural values and seek to preserve them are also mindful of the fact that there are many other legitimate interests and programs in Florida and the nation which have a distinct part in the development of our state, already the 9th in population among the 50 states, and already the goal of perhaps millions of other Americans who wish to come here. Those who represent you in Washington, including myself, have the task of representing all of these legitimate interests and frequently we are called upon to try to adjust or compromise the views of good citizens who are interested in different objectives which sometimes conflict with each other. Such a duty devolves on anyone who represents you in the United States Senate and I trust that I have fulfilled that duty in a reasonable way. It has always been my effort to do just that.

I well realize that I have not always been able to completely satisfy the desires of ardent conservationists, and I can tell you confidentially that there are at least two members of my own family who frequently make me realize that such is the case, and I assume will continue to be the case, so long as I am in the Senate.

In the meantime, however, I want you to know how thoroughly I appreciate the efforts of the Florida Audubon Society and how sincerely I compliment you upon your many great accomplishments in the field of conserving the natural resources of our state. I hope that your efforts and your attainments will continue to be as successful in the future as they have been in the past.

MINORITY SMALL BUSINESSES

Mr. JAVITS. Mr. President, I would like to report to the Senate on an interesting initiative in the field of small business in New York.

The New York City banks are going to join together in what I consider an auspicious program to assist small businesses, especially when minority entrepreneurship is involved.

On November 3, 1969, I called together representatives of the New York City banks and the Small Business Administration and asked them to explore ways in which they could work more closely together in assisting minority small businessmen. At that time a subcommittee drawn from the bankers was set up. This subcommittee met on almost a biweekly basis and conceived a fine operating program as well as some excellent suggestions relating to the future involvement

of the New York City banks in minority economic development. The report of the subcommittee was heard by the full group on February 2, 1970, and I am pleased to report to the Senate that it was adopted.

The key features of the report include an operating program and a policy program. The 10-point operating program is designed to speed up the SBA loan guaranty process in order that guaranties can be secured in 3 days, cut bureaucratic redtape, make SBA loan guaranty assistance available to more minority individuals, and to bring the banks and the SBA into a closer working relationship. The policy program provides for the bankers to establish an Urban Affairs Committee which will be a permanent body composed of one member appointed by the senior management of each bank. The Urban Affairs Committee is given the mandate to look into the establishment of two instrumentalities vital to minority economic development.

The first of these instrumentalities is a joint equity capital pool which may utilize either an existing organization or create a new one. Implicit in this vehicle will be the cooperative effort of all the city banks. The second instrumentality will be a joint venture for giving the benefit of management and technical assistance to minority business.

Several of the points of the 10-point operating program will require policy changes on the part of the SBA. I believe that these changes are reasonable and as the ranking minority member of the Select Committee on Small Business I have already asked the Deputy Administrator of the SBA to look into their immediate implementation. I expect the charges will be agreed to and that action will be taken as quickly as possible.

In addition, legislation is required to implement one of the points. It was the strong feeling of the banks that the limits on the Economic Opportunity loans be raised from \$25,000 to \$100,000. I am going to introduce legislation toward that end. If any Senators would like to join me in that movement, I would be most gratified.

I was especially pleased that the banks clearly expressed their intention to make minority loans; and even in these trying times of tight money and high interest rates, to make funds available for minority loans at extremely favorable rates.

It is my hope that what the banks are doing in New York City will serve as a model for the rest of the country. It shows what can be done when banks combine together in an intelligent way and in the public interest. Certainly the policy changes that I expect SBA to make will be available throughout the country so that all banks may make use of them. In addition I would hope that banks throughout the country will combine their efforts to produce equity capital pools and management and technical assistance organizations to assist minority business in their respective regions.

I urge all Senators to study the program, especially Senators who represent large cities with strong banking systems, with a view of trying to do the same or

something like it in order to solve some of the problems of minority small businesses.

Mr. President, I ask unanimous consent to have printed in the RECORD the report of the program by the New York City banks, a February 3 article from the American Banker discussing the program and a copy of my letter to the Deputy Administrator of SBA.

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

FEBRUARY 4, 1970.

HON. DONALD BREWER,
Deputy Administrator, Small Business Administration, Washington, D.C.

DEAR DEPUTY ADMINISTRATOR BREWER: I am pleased to forward to you the recommendations of the New York City banks. These recommendations grew out of the November 3, 1969 meeting that I called at my New York City office which you attended. Each has the very strong endorsement of all the major metropolitan New York City banks.

You will note that certain of the points proposed by the banks in their ten-point operating program will require a change in the policy of the SBA. I would hope that you would be able to give your approval to these changes in the shortest possible time.

I am in the process of introducing the necessary legislation to implement the recommendation the Economic Opportunity Loan limit be raised to \$100,000.

I believe that each of the New York City banks is prepared to enter into a new era of close cooperation with the SBA. I consider this a most healthy development. I hope that you will do everything in your power to encourage this cooperative spirit to continue and grow.

With best wishes.

Sincerely,

JACOB K. JAVITS.

NEW YORK BANKERS DISCLOSE BLUEPRINT FOR
MINORITY BUSINESS LENDING

(By William Zimmerman)

NEW YORK.—Local bankers' task force Monday revealed a blueprint for action the New York banking community and Small Business Administration might undertake to stimulate minority entrepreneurship.

A 25-member bankers group, at a meeting in the offices of Sen. Jacob Javits, R., N.Y., recommended that the city's banks jointly create an equity fund pool and vehicle to coordinate managerial and technical assistance for minority businessmen, and offered a series of suggestions—some involving policy changes, other legislative—by which the SBA could improve its guarantee loan program.

A temporary group formed last November at the suggestion of Sen. Javits to find ways to spur minority business ownership, the task force Monday recommended that the chief executives of New York commercial banks appoint a permanent urban affairs committee made up of senior management representatives. Its job will be to find ways to implement the recommendations for an equity fund pool and management assistance vehicle and find ways in which the banks jointly can attack urban problems.

Robert F. Longley, vice president, Morgan Guaranty Trust Co., said that the committee would be formed within a month. Mr. Javits while asserting he does not want to tie the banks to any commitment, observed, however, that he is confident the activities of the senior bank committee "will result in some form of equity capital pool," whether by expansion of an existing vehicle, or the creation of a new one, and "some entity to provide managerial and technical assistance."

On a more immediate basis, the bankers task force announced the banks and the re-

gional SBA office will adopt a program, similar to one undertaken last September in Chicago, in which loans up to \$100,000 made by banks with an SBA 90% guarantee will be approved or rejected by the Federal agency within a three-day period. If an institution has not received a negative response from the SBA on an application by the third day after it is submitted, the bank will assume it has been automatically guaranteed.

William Hudgins, president of the Harlem's \$34.3 million-deposit Freedom National Bank, the nation's largest minority-owned bank who served as head of the task force's subcommittee that made the recommendations, said "material improvements in the time in which a loan is granted is critically important," since this has been a major stumbling block to encouraging minority loans.

In numerous instances, Mr. Hudgins said, "many people are out of business before the actual closing of a loan." John B. Stalford, New York regional SBA bank officer, noted that while the SBA has aimed for loan approval by the end of a 10-day period, often this goal has not been made.

Under the new three-day approval procedure, an effort will be made to have the SBA loan officers work more closely with the banks when the institutions are preparing the applications, so that when the application finally reaches the SBA it will, in effect, have been largely pre-screened and can be processed more quickly.

The SBA's emphasis, under this approach, will not be on the credit aspects of a loan—for these will have been made jointly by the bank and the SBA lending officer while preparing the application. The SBA loan officers, Mr. Stalford said, recently have been assigned to work more closely with the city's banks.

By a more efficient guarantee approval procedure, it is the banks' and Mr. Javits' hope that minority loans will be made more rapidly and in greater number. NYSBA acting regional director Andrew J. Semon reported Monday that from July 1 to Dec. 31 last year, the SBA itself directly made 115 loans totaling \$1,598,000 to minority groups. During this period the agency, in participation with banks, made an additional 92 minority loans totaling \$2,551,000. The majority of these loans were made by the banks with the SBA's 90% guarantee, and the bank's portion was \$274,000.

Mr. Semon said he is hopeful that the banks will take more of an interest in participating in more of the loans which the SBA is making on its own on a direct basis.

Mr. Javits said "the banks emphasized to me that this type of loan (for minorities) has priority to them, notwithstanding tight money." Mr. Hudgins agreed "there is considerable more money available for the purpose of making loans to minorities than has been requested."

The senator, who is ranking minority member of the Senate Select Small Business Committee, returned to Washington Monday with a series of recommendations made by the bankers to the SBA to improve the flexibility of its loan guarantee program. Some require policy changes, while others may have to be proposed legislatively.

The bankers asked permission to be able to charge a "floating" interest rate on the SBA-guaranteed loans, which would move up or down, in correspondence with money market conditions, in relation to their own minimum commercial lending rate. Currently, the banks are limited to a fixed rate that they can charge, which generally has been up to two percentage points above the prime lending rate. This recommendation would require a policy change, Mr. Stalford said.

The bankers also urged that the amount of a loan which may be guaranteed up to 100% under the SBA's Economic Opportunity Loan program be increased to \$100,000 from the current \$25,000. Lawrence J. Toal, vice president and director of community economic development, Chase Manhattan Bank NA,

said the 100% guarantee on larger loans would be particularly helpful to smaller, inner-city and minority-owned banks that cannot afford to take much risk. This proposal is seen as requiring legislative change.

Another policy change proposed was to authorize the SBA to guarantee revolving credits and lines of credit to minority groups. Currently the SBA will guarantee only a fixed loan amount with a fixed repayment schedule. According to Mr. Toal, this prevents a bank from financing a businessman who needs working capital, say, six months after he gets a loan for seasonal purposes. Mr. Stalford said he is in favor of this recommendation.

Also recommended was permission for the banks to have increased flexibility in deferring payments for principal and interest on loans made to minorities. Currently, a bank can defer payments for 13 months, but the bank must state it will do so at the onset of making the loan. The banks, instead, would like to be able to defer principal and interest periods for a six-month period, with the additional stipulation that such deferral could be extended, at their option, for two additional periods of six months each.

In effect, this would extend the deferral period for up to 18 months, and help the banks overcome the almost impossible task of being able to initially project the amount of cash flow that will be coming into the business to amortize the loan, according to Mr. Toal, who is a member of the task force's subcommittee that made the recommendations.

Other recommendations were for the SBA to simplify reporting requirements on loans made in participation by the banks with the agency, and that in those cases where banks made a loan and the SBA is the guarantor only the SBA should eliminate the list of businesses which it presently excludes from consideration for SBA loans. Publishing businesses are an example.

No details have been developed for the recommended equity pool, except that it be jointly sponsored by the New York banks; it could take a variety of forms: a straight equity pool formed by contributions of the banks themselves, a minority enterprise small business investment company formed from a combination of bank and SBA funds, or individual use by the banks of their own SBICS to finance minority businesses.

In operation, with such a pool of equity funds, each participating bank would do the basic analysis of a minority individual's loan application and make a commitment for a loan that would be subject to his obtaining a certain amount of equity funds from the equity pool.

The need for equity funds by small businessmen is seen as imperative, for all too often an individual's financing is structured on an over-leveraged basis, and he starts suffocating from carrying high interest and debt-servicing costs without having any kind of financial cushion.

It is hoped that the permanent urban affairs committee also will be able to form a single coordinated managerial assistance effort. Many groups now are providing this assistance, but the total picture is splintered.

Mr. Toal regards the attempt by 18 New York banks to assume a united stance in attacking urban problems as quite significant. While many of the institutions have been doing a lot individually, he said, their efforts in the minority field now will have a "lot more thrust and push." The importance of this approach, he said, is seen just in the fact that already they have been able to come up with specific recommendations to improve SBA procedures.

NEW YORK BANKS-SBA SUB-COMMITTEE
REPORT
PURPOSE

This sub-committee was formed to explore the problem of economic development in the

disadvantaged areas of New York City and to recommend approaches for effective solution. The sub-committee considered three basic areas:

1. more efficient approval of guaranteed loans to minority businessmen by the Small Business Administration
2. means of strengthening the quality of managerial assistance, technical advice, and counsel
3. methods of increasing the flow of equity funds to minority-owned businesses.

I. APPROVAL OF GUARANTEED LOANS

Feeling strongly that its area of investigation should not be restricted in any way, the sub-committee explored both the present problems of banks and the Small Business Administration under the loan guarantee program as well as methods of improving that program. Therefore, some of the recommendations which follow may be implemented immediately, others will require procedural changes, and still others will require new legislation.

The sub-committee's recommendations regarding SBA approval of guaranteed loans are intended to accomplish two broad objectives:

1. to increase the flexibility of the loan guarantee program so that it is more functional for the banks and more responsive to the needs of the communities.
2. to improve cooperation and communications between the banks and SBA to permit speedier approval of loan applications and more efficient disbursement of funds.

The following recommendations are made:

1. That the Simplified Blanket Plan-Automatic be adopted by the banks in New York City (on terms similar to the existing commitment negotiated by each bank with the SBA for the Simplified Blanket Guarantee Plan), and that the existing Blanket Guarantee Plan be continued in full force.

(a) The SBA will inform the bank of its rejection of an application by telegram within three business days. This may be preceded by an informal telephone message or be succeeded by a confirming letter, at the discretion of SBA.

(b) A loan will be guaranteed after the three-day period has elapsed after formal submission even if the security check should turn up something unfavorable about the applicant. A written opinion of SBA's counsel covering this point should be given to all participating banks.

2. That the New York office of the Small Business Administration be sufficiently staffed to provide full consultation services to banks, upon request, from loan application to closing. This is designed to eliminate duplication of effort and should result in more timely disbursement of funds. If SBA does not avail itself of the invitation to consult with the banks on a particular loan, such absence of review in advance of formal submission to SBA will not prejudice SBA's approval of the loan application.

3. That the SBA keep banks fully advised of all lending policies, procedures and guidelines, including any changes thereto.

4. That the banks be permitted, at their option, to allow their rate of interest on a particular loan to move up or down in relation to their own minimum commercial lending rate.

5. That the list of businesses and other entities presently excluded from consideration for SBA loans be eliminated for those loans in which the SBA is guarantor only.

6. That the amount of a loan which may be guaranteed up to 100% under the EOL program be increased from \$25,000 to \$100,000 and that such EOL loans be eligible for guaranty under the Simplified Blanket Guarantee Plan and Simplified Blanket Guarantee Plan-Automatic.

7. That appropriate action be taken to authorize the SBA to guarantee revolving credits and lines of credit.

8. That, in lieu of the 13 month deferral on payments for principal and interest presently allowed by the SBA, the following plan be substituted—principal and interest may be deferred for a six month period with the additional stipulation that such deferral could be extended, at the option of the bank, for two additional periods of six months each.

9. That reporting requirements on loans made in participation with SBA be simplified.

10. That this sub-committee or a similar sub-committee be appointed to meet regularly to monitor, modify and refine the adopted program and to work toward constantly improving relations and communications of the banks with SBA.

II. MANAGERIAL ASSISTANCE AND TECHNICAL ADVICE

The sub-committee recognizes the inadequacy of managerial and technical assistance programs available to minority businessmen and the critical need for a more effective approach to this problem. Several possibilities were discussed, but the sub-committee felt constrained because of its composition and lack of sufficient facts to make specific recommendations at this time. It recommends establishment of a special task force operating under the permanent bank committee to develop an appropriate program.

III. INCREASE THE AVAILABILITY OF EQUITY FUNDS FOR MINORITY ENTERPRISES

1. The problem

Minority businesses have experienced serious problems due to a lack of sufficient amounts of subordinated money and/or equity funds to properly structure their businesses. Some independent organizations have been established as possible sources of these funds, but they have generally been inadequate and also involve considerable time delay.

Banks have attempted to fill this fund's void by making commercial loans despite the relatively small amounts of equity funds. The resulting under-capitalization of most minority-owned businesses places a serious additional burden of interest expense and debt service on these businesses.

2. The recommendation

Accordingly, the sub-committee recommends that a vehicle be established to provide equity funds and/or subordinated debt under the joint sponsorship of New York banks. Several alternatives among others are available: (see discussion of alternative—Exhibit A)

(a) a multi-bank sponsored Minority Enterprise Small Business Investment Corporation (MESBIC)

(b) equity pool directly supported by participating banks

(c) individual bank effort through existing SBIC or MESBIC jointly sponsored by bank and other non-banking entities.

IV. PERMANENT NEW YORK CITY BANK COMMITTEE

The sub-committee identified the need for better communications and cooperation among New York City banks to coordinate more effectively their efforts in attacking urban problems.

Therefore it recommends the formation of a permanent Urban Affairs Committee with one member to be appointed by the Chief Executive Officer of each New York City bank. It is envisioned that this committee have senior representation of the banks.

The function of this committee would be to plan and coordinate joint urban affairs efforts of the banks and to consider specific problems of common interest.

It is recommended that this committee initially set up task forces for study and development of specific proposals in various areas including Economic Development, Technical and Managerial Assistance, Housing and Urban Development and Contractor Financing.

EXHIBIT A—DISCUSSION OF ALTERNATIVES ON INCREASING THE AVAILABILITY OF FUNDS FOR MINORITY ENTERPRISES

A. MESBIC

Messrs. Toal, Willems, Alexander and Strong of the sub-committee met with A. H. Singer, Associate Administrator for Investment of the Small Business Administration and several other members of the SBA Washington staff on January 14, 1970. Mr. Singer is directly involved with MESBIC's and gave us the current feeling on this subject.

Essentially, "Project Enterprise", which encompasses the MESBIC concept, will be an important thrust of the Nixon Administration. This means it probably will have continued strong support and that necessary funding will be and will remain available.

Mr. Singer and his associates seemed to feel a combined bank MESBIC could work and could very well have significant implications as far as evidence of the participating banks making a meaningful joint effort in helping the minority businessman. Also, the ability of the banks to tap certain sources for various types of follow-up assistance is undeniable.

Additional background information on MESBIC is attached, but several other specific points are important in our appraisal of the proposal that a group of New York banks form a MESBIC.

1. Any bank that already owns an SBIC could not own more than 10% of another SBIC. This would include a holding company/bank situation and would apply to such banks as Chase, Morgan, FNCB, and Franklin. If fewer than ten banks were interested in participating in such a plan, this could necessitate unequal ownership.

2. It was the consensus of opinion that there would need to be a separate full time staff to administer the MESBIC.

3. There are certain reporting procedures to the SBA which include a fully certified audit at March 31st and an unaudited six month statement at September 30th, as well as a fairly detailed evaluation report on each small business concern.

4. The Government does not come in with its participation funding until 75% of the MESBIC's own capital has been used up or firmly committed.

5. Government money is in the form of debentures with interest tied to the Treasury cost of 10 year money (presently 7½%).

6. The forming of a MESBIC definitely implies a certain responsibility for follow-up assistance and requires the sponsors to subsidize some of the initial costs of operation until the MESBIC is self-reliant.

B. Equity pool under sole sponsorship on New York banks

To achieve the goal of establishing a source of equity or "sub-debt" money for small businesses and to obtain the strengths that can be derived from a coordinated joint bank effort, the banks could form their own pool of equity. The plus factors are that it could be fashioned exactly the way the banks wanted and would not have to conform to the various Federal SBIC regulations. It probably would not require the amount of overhead expense of a MESBIC. The most obvious disadvantages would be the lack of leverage available and the probable lack of some of the tax incentives of a formal MESBIC.

C. Individual bank effort through existing SBIC or MESBIC jointly sponsored by bank and other non-banking entities

The advantages and disadvantages of this alternative vary with each individual bank. It would, of necessity, result in a non-coordinated effort of banks in meeting the need for equity funds.

PRESS SUBPENAS

Mr. BYRD of Virginia. Mr. President, today's edition of the New York Times

contains an article indicating that the Justice Department has decided not to subpoena the raw files of newsmen who have been writing about certain radical groups.

I hope that the Times account is correct. It would be most unfortunate if the Government were to insist on obtaining newsmen's unedited notes.

Such a policy would be dangerous and could lead to a newsmen working with the Justice Department over his shoulder, so to speak.

It would undermine public confidence in the media.

It would impede the free flow of news. Worst of all, it would be a step in the direction of government regulation of the press.

The press is a bulwark of liberty. Anyone—inside or outside the Government—may question the judgment, the taste or the accuracy of individual press accounts; but it would be a sad day in this country if the press were to be held accountable to the Government.

The Justice Department's demand for newsmen's files was ill-advised. I hope that it will be dropped, and that there will be no further efforts of this kind.

I agree with Mr. H. Roger Tatarian, vice president of United Press International, who said unrestricted use of the subpoena power "would, in the long run, work only against the public interest."

It is the public interest that must be protected.

In speaking today, I might say that I am one of those who concurred in the views expressed in Des Moines by Vice President AGRW. I think he made some statements that needed to be said in regard to the news media. I feel the Vice President's making those remarks was helpful. But this endeavor of the Justice Department to subpoena the files of certain newsmen and newspapers and other news media seems to me ill advised and unjustified.

MOBILIZING NATIONAL OPINION ON BEHALF OF AMERICAN PRISONERS OF WAR—PROJECT BY U.S. JAYCEES

Mr. BYRD of Virginia. Mr. President, the U.S. Jaycees are launching a project to mobilize national opinion on behalf of Americans who are prisoners of war or missing in action in North Vietnam.

I am proud to say that this project was initiated by the Jaycees of Virginia Beach, Va. It already has become a stateside effort and soon will be national in scope. Later, the Jaycees hope to get the support of brother organizations in foreign countries.

This is a worthwhile and timely endeavor. We must not permit those Americans held captive by Hanoi to become the forgotten men of the war in Vietnam.

The demands for which the Jaycees seek to rally support are simple and entirely reasonable. They are asking only that North Vietnam adhere to the Geneva convention.

Specifically, they are calling for the immediate release of a list of prisoners, inspection of POW facilities by an im-

partial body, free flow of communications between the prisoners and their families, repatriation of the sick and wounded, and eventual release of all captives.

I know of nothing more inhumane than the cruel treatment which Hanoi has given to those Americans it holds prisoner—and to the families of these men who are not even permitted to know whether loved ones are alive or dead. Estimates indicate that 441 men are prisoners and 991 are missing. These are, however, only estimates and we cannot be sure of the fate of many now missing from their units.

I urge all Americans to unite in support of these men by taking an active part in the campaign which the Jaycees are beginning. It is the very least we can do for those who are suffering at the hands of the North Vietnamese.

Mr. HANSEN. Mr. President, I would like to associate myself with the remarks just made by the distinguished Senator from Virginia. I think the complimentary words he had to say about the Jaycees are certainly most deserved. We have a number of chapters of that fine organization in my State of Wyoming. They are delighted and privileged to join with those in the State of Virginia, and indeed in all the States, in trying to focus attention on an effort that I hope will result in an affirmative response from North Vietnam. Such a response would simply result in their doing the decent thing for prisoners of war. I am most pleased that the distinguished Senator from Virginia has taken this occasion to call attention to this project.

A NEW FISCAL COURSE

Mr. HANSEN. Mr. President, the President of the United States once again has seized the initiative and, once again, he has the people of this country with him.

He is to be commended for his excellent leadership and his honest assessment of what lies ahead for our country and what must be done to insure that we are doing the right kinds of things at the Federal level.

I speak of President Nixon's \$200 billion budget. In my opinion, it is a responsible budget.

It is also responsive to our needs without being profligate in its totals, although it marks the crossing of the \$200 billion frontier for the U.S. Government.

I am well aware, Mr. President, that the budget will now undergo months of intensive study and some adjustment. All of us can find specific areas where we would like to see more spending, and some of us can point out other categories which we think deserve less, but there is an important aspect to the overall thrust of the Federal Government's 1971 fiscal year undertaking. And that is that it is a balanced budget. It has provision for \$202 billion in income and has a projected surplus of \$1.3 billion.

This is all to the good, especially in this election year atmosphere which will markedly increase pressures for free spending in order to attempt to impress certain voting groups without assuming

the necessary responsibility for increasing revenue to match expenditures.

Too often, Mr. President, a candidate for reelection is likely to cast his vote for all spending measures and against all tax bills. This, perhaps, would win a few votes, but it is an unfortunate display of fiscal irresponsibility.

I agree that the President is showing the Nation the way toward easing Federal inflationary pressure by a courageous and tough-minded spending plan. The public and, in turn, the Congress will have to be every bit as tough minded if we are to get the job done in the fight against inflation.

It is vitally important that the U.S. Government make every possible effort to live within its income and that we take the necessary steps to insure that the 1971 anti-inflationary budget does, indeed, "begin the necessary process of re-ordering our national priorities."

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HANSEN. I ask unanimous consent that I may proceed for 5 additional minutes.

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

Mr. HANSEN. Mr. President, one of the most significant advances made by President Nixon's 1971 budget is that, for the first time in two full decades, the Federal Government will be able to spend more money on human resource programs than on national defense.

This is a tremendous advance and the President is to be commended for seeing that our priorities are modified in such a way as to allow for such an important change in focus.

Further, it is to the President's great credit that the new budget will reflect a basic commitment to the concept of "new federalism," and will—in the President's words—seek to "place greater reliance on private initiative and State and local government efforts in order more effectively to mobilize our total resources to achieve national purposes."

The 1971 budget will move ahead to:

Meet our international responsibilities by seeking an honorable peace in Vietnam and by maintaining sufficient military power to deter potential aggressors while at the same time negotiating possible limitations on strategic arms with the Soviet Union.

Help restore economic stability by holding down spending in order to provide another budget surplus and to relieve pressure on prices—and to achieve that surplus without income or excise tax increases.

Launch a major effort to improve environmental quality by attacking pollution, by providing more recreation opportunities, and by developing a better understanding of our environment.

Inaugurate the family assistance program, fundamentally reforming outmoded welfare programs, by encouraging family stability, and by providing incentives for work and training.

Provide major advances in programs to reduce crime.

Foster basic reforms in Government programs and processes by making entire program systems operate more effec-

tively, and by encouraging responsible decentralization of decisionmaking.

President Nixon has stated the issues clearly:

Difficult choices will have to be made if we are to fulfill these goals. In the past few years, too many hard choices were avoided. Inflation was permitted to impose its burdens on all Americans. The willingness to make hard choices is the driving force behind the 1971 budget proposals.

Now, Mr. President, it is up to the Congress to show the same kind of fiscal restraint and to support the President's drive for real economy and to make the Government more responsive to our country's real needs, to the shared purposes of the Nation.

As the President has noted, this budget imparts to our goals a sense of timing and commitment appropriate to a vigorous, free people seeking constantly to expand the Nation's potential and improve its performance.

Decisive action on the part of Congress to implement the President's budget will enhance that potential and that performance. It will build a better, stronger America.

INDIA

Mr. MILLER. Mr. President, in the New York Times for January 26 there appeared an editorial entitled "One-Sixth of Mankind," which commended the progress India has made during its 20 years as a federal union under a democratic constitution, adopted 2½ years after gaining her independence.

The Times refers to this as "one of the most remarkable political achievements of all time"—and this in the face of great handicaps of poverty and illiteracy, wars and famines.

Those in our own country, blessed as it has been with agricultural and industrial abundance, would do well to study the history of India in order to appreciate and be thankful for our own condition. Even better, it would be fruitful to visit India and see, with your own eyes, as I have, the dynamism which pervades a nation that is determined to build a better life for its people.

The United States can share, in a meaningful way, this 20th celebration of India as a democracy. Our people have provided a great amount of material and technical help to this young democracy. But even more important, many Americans—from successive Presidents and Ambassadors to dedicated missionaries and individuals from all walks of life—have given the people of India their moral support, encouragement, and understanding. I know most of the people of India have appreciated our support, and most of us here appreciate their progress and perseverance.

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:

ONE-SIXTH OF MANKIND

Five hundred and thirty million Indians—one-sixth of mankind—celebrate one of the most remarkable political achievements of all time today: Their completion of twenty years of federal union under the democratic

Constitution India adopted on Jan. 26, 1950, two and one-half years after gaining independence from Britain.

Both union and democracy are under increasing strain these days, with the future of both in doubt. Yet the wonder is that this giant among nations has managed to keep its Constitution and territory intact through two perilous decades—decades marked by wars and famines and tragic losses of leadership.

Larger and more diverse than Europe, India has forged and preserved a degree of economic and political unity that Europeans still only dream of. Handicapped by widespread poverty and illiteracy, India nevertheless has instituted and remained faithful to constitutional principles while others more favored have retreated to tyranny.

These exemplary political attainments have been sustained by intensive, though uneven, economic development and, in recent years, by a "green revolution" on the land that could make India self-sufficient in food by the middle of this decade.

Unfortunately, the pace of growth has not been fast enough to fulfill the rising expectations of India's desperately poor masses. As the fruits of development have enriched the lives of some Indians, they have only aggravated the frustrations of others. The result is what Dean John P. Lewis of Princeton's Woodrow Wilson School of Public and International Affairs calls "a confrontation of progress and despair"—a confrontation that has manifested itself in rising rural unrest, communal strife and political instability.

Dean Lewis, who was the United States aid mission director in New Delhi from 1964 to 1969, believes this mounting crisis for Indian democracy can be overcome if India boldly expands its development effort to provide labor-intensive constructive work for the rural unemployed and underemployed.

But India's strained resources today are not equal to this added burden. Dean Lewis has suggested that United States aid to India, which has declined sharply in recent years, should be restored and expanded for the next three or four years to help the Indian Republic over this crucial period.

It is difficult to see how Americans can hope to enjoy the generations of peace which President Nixon predicted in his State of the Union Message if one-sixth of mankind is driven by despair into division and anarchy. Yet Congress has butchered President Nixon's foreign-aid requests and the President hinted in last week's message that development assistance will be included in his new policy of lowering the American profile abroad.

India's Republic Day is an occasion for Americans as well as Indians to reflect on the democratic values enshrined in the Indian Constitution and on the common interests of the world's two largest democracies in preserving these values on the Subcontinent.

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.

ACCELERATION OF LEGISLATIVE PROCEDURES

Mr. MANSFIELD. Mr. President, on Thursday, January 29, the joint leadership reported to the Senate certain actions which had been taken to consider ways by which legislative procedures of

the Senate and Congress as a whole might be speeded up. It was reported that the joint leadership of the Senate, to include the President pro tempore and the ranking Republican member of the Committee on Appropriations, had met with our counterparts in the House of Representatives to discuss certain proposals. From that meeting, an agreement was reached on methods of scheduling legislation during this session.

The goals as outlined by the bipartisan leadership of both House and Senate were clearly defined. First was an early submission of the President's budget to the Congress. This goal has now been achieved. Next, there was to be an immediate identification from the budget of those new authorizations which must be enacted prior to appropriations action. This has now been done, and I ask unanimous consent that there be printed at this point in the RECORD a tabulation of these recommended amounts.

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

1971 budget

Recommended 1971 amounts requiring additional authorizing legislation

(NOTE.—The amounts are recommended in the 1971 budget, not proposed for separate transmittal following enactment of the authorizing legislation.)

[In thousands]

FUNDS APPROPRIATED TO THE PRESIDENT	
Military assistance: Foreign military credit sales.....	\$272, 500
Economic assistance: Supporting assistance.....	100, 000
Peace Corps.....	98, 800
Total, funds appropriated to the President.....	471, 300
AGRICULTURE	
Food and Nutrition Service:	
Child nutrition programs....	12, 500
Food stamp program.....	1, 080, 000
Foreign Assistance and Special Export Programs: Public Law 480.....	230, 000
Forest Service: Forest roads and trails (contract authority).....	100, 000
Total, Agriculture.....	1, 422, 500
COMMERCE	
Economic Development Administration:	
Development facilities.....	162, 800
Industrial development loans and guarantees.....	56, 400
Planning, technical assistance, and research.....	22, 200
U.S. Travel Service: Salaries and expenses.....	1, 800
National Bureau of Standards: Research and technical services.....	3, 379
MARITIME ADMINISTRATION	
Ship construction.....	199, 500
Ship operation subsidies.....	32, 992
Liquidation of contract authority.....	(160, 008)
Research and development.....	20, 700
Salaries and expenses.....	4, 675
Maritime training.....	6, 800
State marine schools.....	2, 325
Total, Commerce.....	513, 571

DEFENSE—MILITARY

Procurement of equipment and missiles, Army.....	\$1,655,500
Procurement of aircraft and missiles, Navy.....	3,427,700
Shipbuilding and conversion, Navy.....	2,578,900
Other procurement, Navy.....	2,789
Procurement, Marine Corps.....	78,900
Aircraft procurement, Air Force.....	3,314,900
Missile procurement, Air Force.....	1,530,600
Research, development, test, and evaluation:	
Army.....	1,717,900
Navy.....	2,197,300
Air Force.....	2,909,700
Defense agencies.....	470,700
Emergency fund, Defense.....	50,000
Military construction:	
Army.....	657,800
Navy.....	287,450
Air Force.....	261,455
Defense agencies.....	43,600
Family housing, Defense.....	718,500
Special foreign currency program.....	2,621
Total, Defense—military.....	21,906,315

HEALTH, EDUCATION, AND WELFARE

Consumer Protection and Environmental Health Services:	
Air pollution control.....	106,003
Environmental control.....	14,336
Health Service and Mental Health Administration:	
Mental health.....	76,000
Health services research and development.....	57,403
Comprehensive health planning and services.....	247,178
Regional medical services.....	96,502
Medical facilities construction.....	89,321
National Institutes of Health:	
Health manpower.....	22,549
National Library of Medicine.....	5,792
Office of Education:	
Elementary and secondary education.....	1,470,643
Education for the handicapped.....	84,500
Vocational and adult education.....	55,000
Education professions development.....	7,000
Social and Rehabilitation Service: Rehabilitation services and facilities.....	9,215
Total, Health, Education, and Welfare.....	2,341,442

HOUSING AND URBAN DEVELOPMENT

College housing (increase in limitation on debt service contract commitments).....	(9,300)
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INTERIOR

Bureau of Land Management: Public lands development roads and trails (contract authority).....	3,000
Office of Territories: Trust Territory of the Pacific Islands.....	10,000
Bureau of Commercial Fisheries: Anadromous and Great Lakes fisheries conservation.....	2,168
Bureau of Sport Fisheries and Wildlife: Anadromous and Great Lakes fisheries conservation.....	2,311
National Park Service: Preservation of historic properties.....	6,950

Bureau of Reclamation: Construction and rehabilitation.....	\$13,838
Office of Saline Water: Saline water conversion.....	29,373
Total, Interior.....	67,640

JUSTICE

Law enforcement assistance.....	480,000
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TRANSPORTATION

Coast Guard: Acquisition, construction, and improvements.....	100,000
Federal Highway Administration:	
Highway beautification:	
Appropriation.....	800
Contract authority.....	25,000
Traffic and highway safety—Forest highways (contract authority).....	33,024
Public lands highways (contract authority).....	33,000
Highway trust fund (contract authority).....	16,000
Federal Railroad Administration: High-speed ground transportation research and development.....	1,425,000
Federal Railroad Administration: High-speed ground transportation research and development.....	21,688
Total, Transportation.....	1,654,512

ATOMIC ENERGY COMMISSION

Operating expenses.....	2,010,900
Plant and capital equipment.....	259,600
Total, Atomic Energy Commission.....	2,270,500

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Total National Aeronautics and Space Administration.....	3,333,000
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OTHER INDEPENDENT AGENCIES

American Revolution Bicentennial Commission.....	375
Arms Control and Disarmament Agency.....	8,300
Commission on Civil Rights.....	550
Commission on Revision of the Criminal Laws of the District of Columbia.....	150
National Foundation on the Arts and the Humanities.....	35,000
National Science Foundation.....	513,000
Total, other independent agencies.....	557,375

Grand total: Budget authority.....	135,018,155
Grand total: Liquidation of contract authority.....	(160,008)

¹Includes \$1,602,000 thousand for contract authority recommended for provision in highway legislation.

Mr. MANSFIELD. The next step recommended was to urge early submission of messages and legislative proposals on these required authorization bills. I was pleased to note that in the budget message of the President he suggested that Congress could improve its contribution to better budgeting by enacting appropriations before the fiscal year begins, phasing the authorization and appropriations processes in a more orderly way. Further, he stated that—

The Executive Branch will speed its process wherever feasible to help make more timely action possible.

In view of this, I am confident the President will give proper guidance to all

departments. In addition, I am hopeful that once a legislative proposal has been transmitted to the Congress executive witnesses will be available to testify without delay.

Hearings should be scheduled by appropriate legislative committees in both Houses at an early date after receipt of the President's recommendations. As an aid to chairmen of legislative committees of the Senate, I have asked that each individual appropriation measure be delineated so as to reflect the committee having primary responsibility for authorization. I ask unanimous consent that this table be printed at this point in the RECORD.

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

LEGISLATIVE COMMITTEE RESPONSIBILITIES FOR ITEMS LISTED IN 1971 BUDGET REQUIRING ADDITIONAL AUTHORIZING LEGISLATION

AERONAUTICAL AND SPACE SCIENCES
National Aeronautics and Space Administration.

AGRICULTURE AND FORESTRY
Food and Nutrition Service: Child nutrition programs, Food stamp program.
Forest highways (contract authority).
Foreign Assistance and Special Export Programs: P.L. 480.

ARMED SERVICES
Procurement of equipment and missiles, Army.
Procurement of aircraft and missiles, Navy.
Shipbuilding and conversion, Navy.
Other procurement, Navy.
Procurement, Marine Corps.
Aircraft procurement, Air Force.
Missile procurement, Air Force.
Research, development, test, and evaluation: Army; Navy; Air Force; Defense agencies; Emergency fund, Defense.
Military construction: Army; Navy; Air Force; Defense agencies.
Family housing, Defense.
Special foreign currency program.

BANKING AND CURRENCY
Housing and Urban Development: College housing (increase in limitation on debt service contract commitments).

COMMERCE
U.S. Travel Service: Salaries and expenses.
National Bureau of Standards: Research and technical services.

Maritime Administration: Ship construction; ship operation subsidies; (liquidation of contract authority); research and development; salaries and expenses; maritime training; State marine schools.

Bureau of Commercial Fisheries: Anadromous and Great Lakes fisheries conservation.
Bureau of Sport Fisheries and Wildlife: Anadromous and Great Lakes fisheries conservation.

Coast Guard: Acquisition, construction, and improvements.
High-speed ground transportation research and development.

DISTRICT OF COLUMBIA
Commission on Revision of the Criminal Laws of the District of Columbia.

FINANCE
Highway trust fund (contract authority).

FOREIGN RELATIONS
Military assistance: Foreign military credit sales.
Economic assistance: Supporting assistance.
Peace Corps.
Arms Control and Disarmament Agency.

INTERIOR AND INSULAR AFFAIRS

Environmental control (or Public Works Committee).

Bureau of Land Management: Public Lands development roads and trails (contract authority).

Office of Territories: Trust Territory of the Pacific Islands.

National Park Services: Preservation of historic properties.

Bureau of Reclamation: Construction and rehabilitation.

Office of Saline Water: Saline water conversion.

JUDICIARY

Justice: Law enforcement assistance.
American Revolution Bicentennial Commission.

Commission on Civil Rights.

LABOR AND PUBLIC WELFARE

Mental health.

Health services research and development.
Comprehensive health planning and services.

Regional medical services.

Medical facilities construction.

Health manpower.

National Library of Medicine.

Elementary and secondary education.

Education for the handicapped.

Vocational and adult education.

Education professions development.

Rehabilitation services and facilities.

National Foundation on the Arts and the Humanities.

National Science Foundation.

PUBLIC WORKS

Forest Service: Forest roads and trails (contract authority).

Economic Development Administration: Development facilities; industrial development loans and guarantees; planning, technical assistance, and research.

Air pollution control.

Environmental control (or Interior Committee).

Highway beautification: Appropriation, contract authority.

Traffic and highway safety.

Public lands highways (contract authority).

JOINT COMMITTEE ON ATOMIC ENERGY

Atomic Energy Commission: Operating expenses, plant and capital equipment.

Mr. MANSFIELD. Each committee chairman is urged to review the schedule of his committee hearings and provide a priority to those measures listed above. If this is done, appropriations bills will not be unduly held up pending passage of these necessary authorizations.

I am confident that if both Houses of the Congress and the executive branch cooperate in this effort, the legislative business will be completed this year in an orderly and timely manner. This should allow adjournment sine die at a reasonably early date.

I yield to the distinguished minority leader.

Mr. SCOTT. Mr. President, I congratulate the distinguished majority leader not only for the summation of what has been done, but also for the fact that he has taken the initiative to expedite the business of the Senate. Not in my recollection have we, during the past 11 years, approached the matter in quite this fashion. Not in my recollection have we had a situation in which Congress, in both bodies, and the executive branch, have agreed early in the session on ways and means for the kind of internal housekeeping which can only benefit the legislative process.

I have raised my voice many times in the last 11 years throughout sessions to complain, really, that we were not getting on with the business for one reason or another—not to criticize so much as to urge that somehow a way ought to be found to improve the legislative process.

This is a very good way to do it, in my opinion. We asked the legislative chairmen and the ranking members to cooperate, get their committees together, hold the hearings, get the Senators present, act as expeditiously as possible, get the authorizations out of the way, and then get the appropriations out of the way.

We also asked the President of the United States to tell us which items in his budget are going to require authorizations and which appropriations, and he has complied with that request.

It seems to me that we are off to a good start. This marks a new-broom approach, an excellent opportunity for us to adjourn on the 31st of July, as the law requires that we do.

We are the only body I know of that consistently makes a law and then is the first to break it. I do not think we ought to set an example for the country in law enforcement when we ignore the law which has been drafted by the Congressional Reorganization Act for our own guidance and our own obligation, indeed, to accord with it.

So, again, I congratulate the distinguished majority leader. This is an excellent thing to do. We will all have to cooperate. As the majority leader has said, we will have to work later; we will perhaps have to work more days. But there is a reward to the diligent in this world, and the reward here is an opportunity to return and visit our constituents, to rejoice in their companionship and camaraderie. And who shall say that this is not to the common benefit and for the common good?

Mr. MANSFIELD. And also to hope for the best.

May I say to the distinguished minority leader that without his cooperation and unfailing assistance, we would not have been able to bring this accommodation about or to have come as far as we have this year. I thank him, and I am indebted to him for his kindness, courtesy, and consideration.

Mr. SCOTT. I am most grateful to the distinguished majority leader.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. HOLLINGS in the chair). The Chair, on behalf of the Vice President, appoints the Senator from Kansas (Mr. DOLE) as a member of the Commission for the United Nations Educational, Scientific, and Cultural Organization for the term ending in 1972.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS

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

REPORT OF FEDERAL CONTRIBUTIONS PROGRAM EQUIPMENT AND FACILITIES, OFFICE OF CIVIL DEFENSE

A letter from the Director, Office of Civil Defense, reporting, pursuant to law, on the Federal Contributions Program Equipment and Facilities, for the quarter ended December 31, 1969; to the Committee on Armed Services.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the administration of the Federal employees' group life insurance program by the U.S. Civil Service Commission, dated February 3, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the administration of the leased housing program, Department of Housing and Urban Development, dated February 4, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on illegal expenditures of funds for construction of research facilities by the Air Force, dated February 4, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the cost and balance-of-payments advantages of replacing foreign-made buses with American-made buses abroad, Department of Defense, dated February 5, 1970 (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

A letter from the Chairman, Advisory Commission on Intergovernmental Relations, transmitting, pursuant to law, a report of the Commission dated January 31, 1970 (with an accompanying report); to the Committee on Government Operations.

PROPOSED LEGISLATION AUTHORIZING INCREASED APPROPRIATIONS FOR CONTINUING WORK IN THE MISSOURI RIVER BASIN

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to increase the authorization for appropriation for continuing work in the Missouri River Basin by the Secretary of the Interior (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION AUTHORIZING APPROPRIATIONS FOR THE SALINE WATER CONVERSION PROGRAM

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to authorize appropriations for the saline water conversion program for fiscal year 1971 (with an accompanying paper); to the Committee on Interior and Insular Affairs.

THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATIONS FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports relating to third preference and sixth preference classifications for certain aliens (with accompanying papers); to the Committee on the Judiciary.

TEMPORARY ADMISSION INTO THE UNITED STATES OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered granting temporary admission into the United States of certain

aliens (with accompanying papers); to the Committee on the Judiciary.

ADMISSION INTO THE UNITED STATES OF CERTAIN DEFECTOR ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered granting admission into the United States of certain defector aliens (with accompanying papers); to the Committee on the Judiciary.

REPORT OF THE PROCEEDINGS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES

A letter from the Chief Justice of the United States, transmitting, pursuant to law, a report of the proceedings of the Judicial Conference of the United States, October 31–November 1, 1969 (with an accompanying report); to the Committee on the Judiciary.

REPORT OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

A letter from the Chairman, Administrative Conference of the United States, transmitting, pursuant to law, a report of the Administrative Conference dated January 1970 (with an accompanying report); to the Committee on the Judiciary.

PROPOSED LEGISLATION TO CURTAIL MAILING OF CERTAIN ARTICLES WHICH PRESENT A HAZARD TO POSTAL EMPLOYEES OR MAIL PROCESSING MACHINES

A letter from the Postmaster General of the United States, transmitting a draft of proposed legislation to curtail the mailing of certain articles which present a hazard to postal employees or mail processing machines by imposing restrictions on certain advertising and promotional matter in the mails, and for other purposes (with an accompanying paper); to the Committee on Post Office and Civil Service.

PETITION

A petition was laid before the Senate, and referred as indicated:

By the PRESIDENT pro tempore:

A resolution of House of Representatives of the State of Washington; to the Committee on Appropriations:

"RESOLUTION 70-18"

"Whereas, The United States Bureau of the Budget has recently cut back one hundred eighty thousand dollars in appropriations from the Columbia River Fisheries program; and

"Whereas, That cutback has all but eliminated the research program on the salmon and steelhead runs; and

"Whereas, Research is of paramount importance to the preservation of our fish resources; and

"Whereas, Discontinuance of the research will do irreparable damage to our salmon and steelhead runs; and

"Whereas, The resulting loss of harvest will many times exceed the value of the cutbacks; and

"Whereas, Research of fish propagation requires more effort because of the increasing number of dams and other obstructions; and

"Whereas, Research alone can answer the questions raised by thermal discharge from nuclear power plants; and

"Whereas, the residents of the State of Washington are greatly concerned over the loss of research funds;

"Now, therefore, be it Resolved, That the House of Representatives requests the United States Bureau of the Budget to restore the funds which have been cut from the Columbia River Fisheries program so that needed and vital research can be continued.

"Be it further Resolved, That a copy of this Resolution be immediately transmitted

to the Honorable Richard M. Nixon, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

"Adopted January 28, 1970.

"MALCOLM McBEATH,

"Chief Clerk, House of Representatives."

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. DOMINICK, from the Committee on Armed Services, without amendment:

H.R. 12535. An act to authorize the Secretary of the Army to release certain restrictions on a tract of land heretofore conveyed to the State of Texas in order that such land may be used for the City of El Paso North-South Freeway (Rept. No. 91-656).

HOSPITAL AND MEDICAL FACILITIES CONSTRUCTION AND MODERNIZATION AMENDMENTS OF 1969—REPORT OF A COMMITTEE—INDIVIDUAL VIEWS (S. REPT. NO. 91-657)

Mr. YARBOROUGH. Mr. President, from the Committee on Labor and Public Welfare, I report favorably, with amendments, the bill (H.R. 11102) to amend the provisions of the Public Health Service Act relating to the construction and modernization of hospitals and other medical facilities by providing separate authorizations of appropriations for new construction and for modernization of facilities, authorizing Federal guarantees of loans for such construction and modernization and Federal payment of part of the interest thereon, authorizing grants for modernization of emergency rooms of general hospitals, and extending and making other improvements in the program authorized by these provisions, and I submit a report thereon. I ask unanimous consent that the report be printed, together with the individual views of the Senator from Colorado (Mr. DOMINICK).

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

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

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

Robert Cahn, of the District of Columbia, Gordon J. F. MacDonald, of California, and Russell E. Train, of the District of Columbia, to be members of the Council on Environmental Quality.

By Mr. EASTLAND, from the Committee on the Judiciary:

Kenneth M. Link, Sr., of Missouri, to be U.S. marshal for the eastern district of Missouri; and

John T. Pierpont, Jr., of Missouri, to be U.S. marshal for the western district of Missouri.

Mr. SYMINGTON. Mr. President, from the Committee on Armed Services I report favorably the nominations of

109 general officers in the Army, Air Force, and Marine Corps. I ask that these names be placed on the Executive Calendar.

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

The nominations, ordered to be placed on the Executive Calendar, are as follows:

Lt. Gen. William B. Kleffer (major general, Regular Air Force), U.S. Air Force, to be placed on the retired list in the grade of lieutenant general;

Maj. Gen. James C. Sherrill, Regular Air Force, Maj. Gen. Otto J. Glasser, Regular Air Force, Maj. Gen. Jay T. Robbins, Regular Air Force, and Maj. Gen. Russell E. Dougherty, Regular Air Force, to be assigned to positions of importance and responsibility designated by the President, in the grade of lieutenants general;

Col. Carlton L. Lee, Regular Air Force, and sundry other officers, for temporary appointment in the grade of brigadiers general, U.S. Air Force;

Maj. Gen. George Edward Pickett, Army of the United States (brigadier general, U.S. Army), and sundry other officers, for appointment in the grade of majors general, Regular Army of the United States;

John R. Blandford, for temporary appointment to the grade of major general, Marine Corps Reserve; and

Louis Conti, and Verne C. Kennedy, Jr., for temporary appointment to the grade of brigadier general, Marine Corps Reserve.

Mr. SYMINGTON. Mr. President, in addition, I report favorably 32 appointments in the Marine Corps in the grade of second lieutenant and 142 appointments in the Regular Army in the grade of captain and below. Since these names have already been printed in the CONGRESSIONAL RECORD, in order to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

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

The nominations, ordered to lie on the desk, are as follows:

Ivan M. Behel, and sundry other officers of the Naval Reserve Officers' Training Corps, for permanent appointment in the Marine Corps;

Joseph X. McCormac, Robert D. Schow, and David M. Thomas, Navy enlisted scientific education program, for permanent appointment in the Marine Corps;

Robert C. Anderson, and sundry other staff noncommissioned officers, for temporary appointment in the Marine Corps;

James F. Price, Peter A. Moore, and John H. Murrell, for appointment in the Regular Army;

Del R. Bergeson, and sundry other persons, for appointment in the Regular Army of the United States; and

John S. Chaffin, and sundry other distinguished military students, for appointment in the Regular Army of the United States.

BILLS INTRODUCED

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

By Mr. PROXMIRE (for himself and Mr. NELSON):

S. 3395. A bill to extend for 3 years the special milk programs for the Armed Forces and veterans hospitals; to the Committee on Agriculture and Forestry.

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

By Mr. MCGEE (by request):

S. 3396. A bill to make certain technical changes in provisions of law relating to the postal service; and

S. 3397. A bill to permit the acceptance of checks and nonpostal money orders in payment for postal charges and services; authorize the Postmaster General to relieve postmasters and accountable officers for losses incurred by postal personnel when accepting checks or nonpostal money orders in full compliance with postal regulations; and to provide penalties for presenting bad checks and bad nonpostal money orders in payment for postal charges and services; to the Committee on Post Office and Civil Service.

By Mr. ERVIN:

S. 3398. A bill for the relief of Mr. Oscar Enoc Soto Flores; to the Committee on the Judiciary.

By Mr. ANDERSON (for himself and Mr. AIKEN):

S. 3399. A bill to require the Secretary of Health, Education, and Welfare to keep certain records and make certain reports to Congress concerning amounts received by providers of medical and health care items and services to individuals entitled thereto under title XVIII of the Social Security Act or under any program or project under or established pursuant to titles V, XI, or XIX of such act; to the Committee on Finance.

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

S. 3395—INTRODUCTION OF A BILL EXTENDING AUTHORIZATION FOR USE OF COMMODITY CREDIT CORPORATION STOCKS OF DAIRY PRODUCTS BY THE ARMED FORCES AND VETERANS' ADMINISTRATION

Mr. PROXMIRE. Mr. President, I introduce, for appropriate reference, a bill to amend the Agriculture Act of 1949 as amended, to extend authorization for use of Community Credit Corporation stocks of dairy products by the Armed Forces and the Veterans' Administration to December 31, 1973.

Under present law, this authorization will expire on December 31, 1970.

Through this program, substantial volumes of highly nutritional dairy foods are made available from surplus stockpiles to the Armed Forces and the Veterans' Administration. For calendar year 1969, utilization by the Defense Department totaled about 30 million pounds of butter and 1.2 million pounds of cheese. For 1968, the Department of Defense utilized about 50 million pounds of butter and 3.6 million pounds of cheese. The Veterans' Administration utilized about 2.4 million pounds of butter in 1969; and 3.2 million pounds of butter in 1968. Since establishment of the program in 1954, donations have totaled 383 million pounds of butter, 26 million pounds of cheese and 1 million pounds of non-fat dry milk.

As revealed by these figures, this program represents good management and highly effective utilization of dairy products acquired by the Commodity Credit Corporation. Because of this, I believe that it is highly desirable to extend authorization for use of Commodity Credit

Corporation stocks of dairy products by the Armed Forces and the Veterans' Administration hospitals.

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

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

The bill (S. 3395) to extend for 3 years the special milk programs for the Armed Forces and veterans hospitals, introduced by Mr. PROXMIRE, for himself and Mr. NELSON, was received, read twice by its title, referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

S. 3395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202 of the Agricultural Act of 1949, as amended (7 U.S.C. 1446a), is amended by striking out in subsection (a) and (b) "December 31, 1970" and inserting in lieu thereof "December 31, 1973".

S. 3399—INTRODUCTION OF A BILL REQUIRING FINANCIAL INFORMATION FROM CERTAIN PROVIDERS OF MEDICAL AND HEALTH CARE SERVICES TO BE MADE PUBLIC, AND SPECIFYING METHODS OF REPORTING

Mr. ANDERSON. Mr. President, on behalf of myself and the Senator from Vermont (Mr. AIKEN), I am today introducing legislation which will assist the Congress and the executive branch in their surveillance and administration of the medicare and medicaid programs. The legislation is simple in nature, but it should be of substantial assistance to us in seeing that these essential programs work as well as they should.

My legislation simply requires that the Secretary of Health, Education, and Welfare provide annual reports to the Congress, listing the names and amounts paid to those professional providers who earn \$10,000 or more from these and related programs. The report would indicate the amount of payments under each of these programs and the number of individuals served. The \$10,000 figure is aggregate; that is, a doctor who received \$5,000 under the medicaid program and \$5,000 under the medicare program during a year would be listed on the report.

I propose, and the legislation as introduced requires, that the report cover each calendar year—beginning with the current one—and be submitted to the Congress not later than June 30 of the succeeding calendar year. This will give enough time, and should not work a hardship on the administrators involved, Mr. President. I should point out that the \$10,000 figure was chosen so that the Secretary would not be required to publish a mountainous document listing every professional provider in the Nation. This is a reasonable cutoff point, I believe.

The basic point is that these are public programs and so this should be public

information. There is ample precedent for doing so; in fact, I cannot think of a precedent for doing otherwise. Construction contractors who do business with the Government, farmers who participate in the farm program, other professionals who provide services to the Government—these and others have their names released to the public. This is as it should be. This legislation is not designed to impugn or embarrass any individual. It simply is needed for the wise discharge of public policy.

This legislation will enable those of us who survey public programs, who are concerned about their performance and their administration, to see how public funds are being allocated and distributed. For massive, widespread programs such as these, detailed information is a necessity, not only for the Congress but for administrators at the national and local levels.

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

The bill (S. 3399) to require the Secretary of Health, Education, and Welfare to keep certain records and make certain reports to Congress concerning amounts received by providers of medical and health care items and services to individuals entitled thereto under title XVIII of the Social Security Act or under any program or project under or established pursuant to titles V, XI, or XIX of such act, introduced by Mr. ANDERSON (for himself and Mr. AIKEN), was received, read twice by its title, and referred to the Committee on Finance.

ADDITIONAL COSPONSORS OF A BILL

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Oregon (Mr. HATFIELD), I ask unanimous consent that, at the next printing, the names of the Senator from Utah (Mr. BENNETT), the Senator from Delaware (Mr. WILLIAMS), and the Senators from Massachusetts (Mr. BROOKE and Mr. KENNEDY), be added as cosponsors of S. 3255, to amend the Federal Aviation Act of 1958 to require the Secretary of Transportation to prescribe regulations under which air carriers will be required to reserve a section of each passenger-carrying aircraft for passengers who desire to smoke.

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

SENATE CONCURRENT RESOLUTION 54—CONCURRENT RESOLUTION SUBMITTED RELATING TO THE MID-EAST SECURITY

Mr. GOODELL (for himself, Mr. BOGGS, Mr. CANNON, Mr. ERVIN, Mr. HARTKE, Mr. NELSON, Mr. MCCARTHY, Mr. PASTORE, Mr. PROXMIRE, Mr. RIBICOFF, and Mr. YOUNG of Ohio) submitted the following concurrent resolution (S. Con. Res. 54); which was referred to the Committee on Foreign Relations:

S. CON. RES. 54

Whereas, peace can be achieved in the Middle East, and the legitimate grievances

of Arab and Israeli peoples rectified, only if Arab states recognize Israel's right to exist as a nation and enter into direct negotiations with Israel concerning disputed borders and other outstanding differences pursuant to the Resolution of the United Nations Security Council dated November 22, 1967;

Whereas, the United States can most effectively contribute to such peace by encouraging such direct negotiations between Israel and the Arab states and by promoting agreement among the major powers for effective control of the traffic of arms into the Middle East;

Whereas, the United States, by proposing or attempting to impose any specific adjustment of such disputed borders or any specific settlement of such other outstanding differences between Israel and the Arab states prior to or outside the context of such direct negotiations, will clearly diminish the prospects of peace in the Middle East by reducing the incentive of the Arab states to enter into such direct negotiations;

Whereas, the current special four-power negotiations among the United States, the United Kingdom, France and the Soviet Union on the Middle East, as well as the special two-power negotiations between the United States and the Soviet Union on that subject, were initiated for the purpose of encouraging such direct negotiations between Israel and the Arab states and of promoting such arms control agreement;

Whereas, the Soviet Union has shown no interest whatsoever in encouraging such direct negotiations or in promoting such arms control agreement;

Whereas, the continuation of such special four-power and two-power negotiations in these circumstances is contrary to the interests of peace as it merely encourages the Arab states in the belief that a settlement favorable to them will be imposed by the major powers and that they have no reason to negotiate directly with Israel; and

Whereas, the United States can continue to undertake vigorous diplomatic efforts to secure such direct negotiations and such arms control agreement through regular diplomatic channels; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) any readjustment of disputed borders between Israel and Arab states, and any settlement of other outstanding differences between Israel and the Arab states (including but not limited to the status of Arab refugees, the status of the eastern sector of the City of Jerusalem and the rights of navigation in the area), take place only in the context of direct negotiations between Israel and the Arab states;

(2) the United States concentrate its diplomatic efforts upon encouraging such direct negotiations between Israel and the Arab states and upon promoting agreement among the major powers for effective control of the traffic of arms into the Middle East;

(3) the United States henceforth refrain from proposing or attempting to impose, prior to or outside the context of such direct negotiations, any specific readjustment of such disputed borders or any specific settlement of such other outstanding differences between Israel and the Arab states; and

(4) the United States, while continuing vigorous diplomatic efforts through regular diplomatic channels to encourage such direct negotiations and promote such arms control agreement, terminate the current special four-power negotiations among the United States, the United Kingdom, France and the Soviet Union on the Middle East, as well as the special two-power negotiations between the United States and the Soviet Union on that subject.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 313

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Oregon (Mr. PACKWOOD), I ask unanimous consent that, at the next printing, the names of the Senator from New Jersey (Mr. CASE) and the Senator from Hawaii (Mr. INOUE) be added as cosponsors of Senate Resolution 313, relating to the detoxification and destruction of chemical warfare weapons.

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

EXTENSION OF PROGRAMS OF ASSISTANCE FOR ELEMENTARY AND SECONDARY EDUCATION—AMENDMENT

AMENDMENT NO. 484

Mr. EAGLETON (for himself and Mr. YARBOROUGH) submitted an amendment, intended to be proposed by them, jointly, to the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes, which was ordered to lie on the table and to be printed.

NOTICE OF HEARINGS ON U.S. OPERATIONS IN VIETNAM

Mr. FULBRIGHT. Mr. President, I wish to announce that on February 16 the Committee on Foreign Relations will begin a series of public hearings on the U.S. assistance and advisory operations in Vietnam. The hearings will concentrate on the pacification program, the activities of U.S. military advisers, the economic aid program, and operations of the U.S. Information Agency. They will not deal with military combat operations.

Throughout the war in Vietnam public attention has naturally focused on U.S. military operations. As a consequence, too little is known about the multitude of other activities in which U.S. civilian and military personnel are involved in that country. The purpose of the hearings will be to enlighten the Committee and the public on the nature and extent of that involvement and what it means in terms of the prospects for U.S. disengagement. In order to obtain the best information available, arrangements are being made to bring back from Vietnam the personnel who administer and work directly in these programs.

During the week of February 16 the committee will consider the civil operations and revolutionary development support program—CORDS—beginning with testimony from Ambassador William Colby, the director of that program. The committee will also receive testimony from representative civilian advisers at the corps, province, and district level. Personnel working with the refugee, Chieu Hoi, and other CORDS programs are also being called to testify. By agreement with the State Department, testimony concerning some aspects of the Phoenix program and the CORDS mili-

tary advisory program will be heard in executive session and released to the public after deletion of sensitive material.

Beginning in early March additional hearings will be held to consider the economic aid program, USIA operations, and the overall military advisory effort.

COMMENDATION OF SENATOR SPARKMAN AND OTHER SENATORS ON PASSAGE OF H.R. 2

Mr. MANSFIELD. Mr. President, I wish to thank the senior Senator from Alabama (Mr. SPARKMAN) for steering H.R. 2, the proposal to establish a Credit Union agency, to its swift and successful completion yesterday. As always, he provided the same strong and effective legislative skill that has marked his many years of public service. Senator SPARKMAN deserves the highest commendation of the Senate.

Offering his characteristic cooperation on this measure and his own strong and sincere views as well as the ranking minority member of the Committee on Banking and Currency, the distinguished Senator from Utah (Mr. BENNETT). As always, his contribution to the measure was highly thoughtful, and we are indebted to him for his splendid assistance in helping to move the measure through to final disposition.

The senior Senator from Wisconsin (Mr. PROXMIRE) is also to be commended for the valuable contribution he made in supporting the measure yesterday. We are all aware of the great experience he brings to the Senate in discussions of this nature.

FOREIGN TRADE PROGRAM IN NEED OF REVISION

Mr. BYRD of West Virginia. Mr. President, as a cosponsor of proposed legislation to restrict imports of flat glass, glassware, steel, footwear, man-made fibers, and electronic products, I invite Senators to join in urging immediate action on the bill. I stand ready to support expansion of the list of commodities where there is severe economic loss or destructive impact on the Nation's balance of payments.

The industries cited herein represent some 30,000 jobs in West Virginia alone, and obviously the intrusion into domestic markets by competitive goods produced by low-cost labor abroad brings serious hardship into the affected communities of our State.

I am hopeful that Congress will act with expediency toward making necessary revisions in our foreign trade program so that American workers may be free of the cruelty of joblessness resulting from excessive imports. Because Senators from New England have taken arms against imports destructive of that region's industries, and because other areas are becoming equally distressed with foreign products that impinge upon local manufacturing and agriculture, we have common ground for insisting upon a more rational approach to international trade.

The advantages and disadvantages of import restrictions have been the subject of debate since the First Congress met in 1789, and through most of our history the philosophy of protecting domestic producers was an established national tenet.

Under the prevailing trade program, America has been entirely too generous in opening her markets to the outside world. Our own industry and labor have been left to suffer. With hundreds of thousands of our military men hopefully soon to return to civilian pursuits, we may discover to our sorrow that the very veterans who served in the four corners of the globe in the cause of peace are being deprived of employment opportunities because this Nation's normal productive capacity has degenerated in consequence of our import policy.

U.S. Industrial Outlook 1970, a recent report by the Department of Commerce, should be closely scrutinized by anyone who is not disturbed at the mounting shipments of goods of all sorts that are being unloaded at U.S. ports. While some items, such as glassware, are not included in the report, I cite these excerpts taken at random from the publication:

Textile Mill Products—The foreign share of the domestic textile and apparel market for cotton and wool textile products nearly quadrupled and tripled, respectively, between 1958-69. Imports' market share of man-made fiber textile products increased more than one and one-third times between 1964-69.

Imports of textile mill products increased 114 percent between 1958-68, while exports remained constant. Textile mill products imports during 1969 continued the upward trend. The estimated 1969 import balance was \$571 million compared with \$101 million in 1958. Capacity increase abroad indicate that both textile imports and the import balance can be expected to rise in 1970.

Man-Made Fibers—United States foreign trade in cellulosic man-made fibers did not follow a defined trend during the past decade but varied from year to year. Exports were \$31 million in 1960, compared with an estimated \$26 million in 1969. Imports are estimated at \$23 million in 1969, up from \$16 million in 1960.

Machine Tool Industry—In 1967, machine tool imports increased for the sixth straight year, reaching a record level of \$203.4 million—more than 4 times the \$45.7 million total in 1964. In 1968, however, imports declined 6 percent below the 1967 levels; the decline continued in 1969, with imports estimated at \$184 million. It is expected that imports will resume their growth trend in 1970, with the value approximating \$188 million.

Engines and Turbines—Rapidly rising imports of turbine-generators into the United States are creating concern among U.S. suppliers. Import shipments rose from \$4 million in 1960 to \$28 million in 1969 and are expected to reach \$80 million in 1970. Local government, Federal, and investor-owned utilities have been placing orders with foreign manufacturers for large capacity equipment used only in the United States. Foreign suppliers are thus developing production experience in the manufacture of equipment not yet in use in their own markets. U.S. producers now have an advantage only in overall production and site-erection experience.

Many other danger signs are contained in Outlook 1970, but I shall quote only one additional paragraph. In the chapter on Power and Industrial Elec-

trical Equipment, where "A dramatic penetration of the U.S. transformer market by foreign manufacturers has culminated in an unfavorable balance of trade in this area," this sentence is included:

Since electric utilities are largely government owned in the industrialized areas of Europe, restrictive government procurement policies limit U.S. sales.

In other words, the beneficiaries of our magnanimous trade policies are not reciprocating in kind, thus closing out any chance for American workers to compete in those countries.

Congress has an obligation to conduct a complete review of our trade program; and the sooner we get to it, the fewer number of servicemen and other members of our workforce will be left walking the streets in search of employment.

Meanwhile, whatever one's attitude on foreign trade, the administration must flatly and firmly reject the proposal to relax oil import quotas. Mandatory oil import controls are an essential component of the design for national security. With the United States actively involved in hostilities in Asia, clouds of uncertainty hovering much of South America, and the war cauldron near the boiling point in the Middle East, to abandon this phase of our defense program would have no more logic than to dismantle weapons production plants.

We look to the day when the Nation can return to a peace footing, but self-preservation requires maximum precaution in a world plagued by conflict and aggression.

Excessive imports of residual oil impede development of domestic petroleum and coal operations that would be needed to replace shipments cut off in an emergency. At the same time, they take jobs from miners and railroaders, the very men who must account for expanded fuel production and transportation during all military showdowns.

The importation of more foreign crude and residual oil at reduced price levels would strike a hard blow at West Virginia's coal industry. I fear that such imports would cause the industry to lose most, if not all, of its markets on the east coast.

The contention that some areas of the United States are in need of greater volumes of imported oil to ease fuel costs must remain academic so long as the national safety is involved.

So it is time that we are getting on with a revision of the national trade policy; but under no circumstances can we permit tinkering with the oil import control program, which is so vital to the security of the Nation.

REPORT ON ACTIVITIES OF THE MINORITY IN THE COMMITTEE ON LABOR AND PUBLIC WELFARE IN THE FIRST SESSION, 91ST CONGRESS, 1969

Mr. JAVITS. Mr. President, during the first session of the 91st Congress, the minority—Republican—members of the Committee on Labor and Public Welfare, of which I am the ranking minority

member, made a distinctive record of constructive contributions and effective legislative achievement. In a number of instances, the central concepts around which major legislation was built originated on the minority side. These contributions cover all areas of activity of the committee.

I ask unanimous consent that a report I have prepared be printed in the RECORD.

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

LABOR

(Public Law 91-4)

To Amend MDTA with Respect to Trust Territories of the Pacific Islands

This Administration bill was introduced by Senator Prouty.

(Public Law 91-54)

Construction Health and Safety Act

Minority amendments written into the law are as follows:

First, requiring standards to be promulgated in accordance with rulemaking provisions of the Administrative Procedures Act, after a hearing—Senators Javits and Prouty.
Second, judicial review of contract cancellation proceedings—Senator Prouty.

Third, power of the court to enter appropriate decrees in contract cancellation review proceedings—Senator Prouty.

(Public Law 91-86)

Joint Industry Funds for Scholarships and Child Care Centers

Establishment of joint trust funds should be voluntary rather than a mandatory subject of collective bargaining—Senator Prouty.

(Public Law 91-173)

Coal Mine Health and Safety Act of 1969

This Act was the product of extensive consideration by the Committee on nine bills, two of which were introduced by minority Senators. The first was S-1300, the Administration's bill, sponsored by Senators Javits, Schweiker, Cooper, Scott and Stevens. The second was S-2405, sponsored by Senator Javits and later endorsed by the Administration.

In its final form, the Act contained many of the provisions of S-2405 as well as amendments suggested by minority members. Of particular importance are the following:

First, requiring, after December 31, 1972, that adequate benefits be paid for death or total disability due to pneumoconiosis (black lung disease) under State workmen's compensation laws or, if state laws are inadequate, under Federal law—Senator Javits.

Second, judicial review of decisions issued by the Interim Compliance Panel—Senator Prouty.

Third, requiring very frequent inspections of especially hazardous, gassy mines—Senator Schweiker.

Fourth, establishing procedures, including jury trials, for the assessment and collection of civil penalties—Senator Javits.

Fifth, elimination of user tax upon coal production—Senator Prouty.

Sixth, requiring the establishment of noise standards—Senator Javits.

Seventh, imposing criminal penalties for smoking—Senator Javits.

In addition, many minor and technical amendments were authored by the minority.

POVERTY

Economic Opportunity Amendments of 1969
(Public Law 91-177)

A bill introduced by Senator Javits—S. 2367—at the request of the Administration, together with legislation introduced by the Chairman of the Subcommittee on Employment, Manpower and Poverty, Senator Nelson, provided the basis for this two-year ex-

tension of the Economic Opportunity Act of 1964.

Also included in the Act was a new section authored by Senator Dominick, establishing a drug rehabilitation program to deal with drug abuse and addiction among the poor, parallel to the section authored by Senator Hughes dealing with alcoholism.

SCIENCE

National Science Foundation Authorization Act, 1970 (Public Law 91-120)

The principal provisions of this Act were contained in the Administration bill, S. 1856, introduced by Senator Prouty.

EDUCATION

Amendment to National Center on Educational Media and Materials for the Handicapped (Public Law 91-61)

Authority for the Center to contract with profitmaking organizations for demonstration projects—Senate Schweiker.

Indian education

The final report of the Special Subcommittee on Indian Education, "Indian Education: A National Tragedy—a National Challenge", contained major recommendations, as follows:

First, that there be established a National Indian Board of Indian Education with authority to set standards and criteria for Federal schools—Senators Dominick and Murphy.

Second, that Indian boards of education be established at the local level for Federal Indian school districts—Senators Dominick and Murphy.

Third, that the Commissioner of Indian Affairs be upgraded to Assistant Secretary and that the Bureau of Indian Affairs be upgraded accordingly—Senators Dominick and Murphy.

Fourth, the presentation to Congress of a comprehensive Indian act to meet the special needs of Indian children both in Federal and public schools, and to replace the present structure of fragmented and inadequate education legislation—Senators Dominick and Murphy.

Fifth, full funding for the National Council on Indian opportunity—Senators Dominick and Murphy.

Sixth, that Johnson-O'Malley funding should not be conditioned by presence of tax-exempt land—Senators Murphy and Dominick.

Seventh, that the HEW Civil Rights Enforcement Office investigate discrimination against Indians in schools receiving Federal funds—Senators Dominick and Murphy.

Eighth, that Indian parental and community involvement be increased—Senators Dominick and Murphy.

Ninth, that the Departments of Interior and Health, Education, and Welfare, together with the National Council on Indian Opportunity, devise a joint plan of action to develop a quality education program for Indian children—Senators Dominick and Murphy.

Tenth, that BIA boarding school guidance and counseling programs be substantially expanded and improved—Senators Dominick and Murphy.

Eleventh, to strengthen Title III (developing institutions) of the Higher Education Act to include recently-created higher education institutions for Indians on or near reservations—Senators Dominick and Murphy.

Twelfth, to expand the Education Professions Development Act, the Higher Education Act, and the Vocational Education Act to include BIA schools and programs—Senators Dominick and Murphy.

Thirteenth, that State and local communities should encourage and facilitate increased Indian involvement in the development and operation of education programs

for Indian children—Senators Dominick and Murphy.

Fourteenth, to appoint Indians to U.S. Office of Education advisory groups—Senators Dominick and Murphy.

Fifteenth, that the BIA should have the same responsibility to the U.S. Office of Education for set-aside funds under Federal grant-in-aid education programs as do the States for similar programs.

In addition, the minority was also responsible for minor and technical contributions to the report.

COMMENDATION OF SENATORS ON PASSAGE OF H.R. 13300

Mr. MANSFIELD. Mr. President, H.R. 13300, the railroad retirement measure, passed the Senate yesterday. It was handled and guided through the Senate with great success by the distinguished chairman of the Railroad Retirement Subcommittee, the able junior Senator from Missouri (Mr. EAGLETON). We are indebted to Senator EAGLETON for the excellent manner in which he handled the bill. I simply wish to take this opportunity to congratulate him.

Contributing greatly to the discussion yesterday on this proposal was the able and distinguished Senator from Illinois (Mr. SMITH). We welcomed his comments and appreciated his thoughtful remarks.

I wish to thank the entire Committee on Labor and Public Welfare for its efforts in bringing the bill to the floor for expeditious Senate action. I wish also to commend the entire Senate for its efficient disposition of the matter.

THE NO-KNOCK PROVISION

Mr. COTTON. Mr. President, last week, by an 82-to-0 vote, the Senate passed the drug control bill that was sought by the administration and the Justice Department and followed 8 days of testimony by 28 witnesses before the Juvenile Delinquency Subcommittee. The bill gives some real clout to the Attorney General and other law enforcement people for the battle against traffic in narcotics. It comes at a time when there is great alarm in this country over the destruction of your young people's lives that is caused by this grave problem.

Now the bill has gone over to the other body. The House must decide its fate. Senators will recall during the 5 days the drug bill was discussed on the floor here that much of the debate was consumed by the so-called no-knock provision. I believe that to be an essential provision of our bill.

Today, once again, I wish to discuss this provision since it is still being attacked by the news media.

The no-knock provision merely provides that under certain circumstances an officer may open the door without knocking after a judge or magistrate has issued a warrant. Now to read the newspapers they would have you believe that this will lead to having every cop in the country suddenly traipsing about, banging down doors, and invading the privacy of every citizen of this land. But yet the record is quite the opposite.

The distinguished Senator from Connecticut (Mr. DODD), who along with his subcommittee did so much work in

drafting this bill, pointed out during the extended debate on this provision, and I believe I am quoting him correctly, that in New York State, which has a no-knock provision, it was used only 12 times in 1,847 narcotics cases involving the State police. I mention that point today because I believe it to be an excellent example of what we can expect with this provision in the Senate bill. No police state has been created in New York or in the 28 other States that have some form of no-knock statute.

Mr. President, I can understand why the constitutional purists might be apprehensive. They are opposed to giving an inch here, but let us more closely examine what the section in question says:

Any officer authorized to execute a search warrant relating to offenses involving controlled dangerous substances the penalty for which is imprisonment for more than one year may, without notice of his authority and purpose, break open an outer or inner door or window of a building, or any part of the building, or anything therein, if the judge or United States Magistrate issuing the warrant is satisfied that there is probable cause to believe that if such notice were to be given the property sought in the case will be easily and quickly destroyed or disposed of, or that danger to the life or limb of the officer or another may result, and has included in the warrant a direction that the officer executing it shall not be required to give such notice.

That section clearly defines that the officer must be in pursuit of "controlled dangerous substances." I could not subscribe to the argument that this would lead to an invasion of anyone's privacy or loss of anyone's liberty while the bill was being debated, and I cannot now. It seems to me that we have to face up to the realities of the situation. That the narcotics wholesaler can easily dispose of marijuana, heroin or hashish if he is provided with the knowledge that the law is on his heels. Without this provision, when the officer does get inside the evidence is gone. We know this to have been the history.

I believe that it is unfortunate that the press is sniping away at the no-knock provision. This bill is a great improvement in every way over anything we have had on the books to deal with narcotics traffic. I bring this matter to the attention of my colleagues today, hopefully to set the record straight and to give the American people the facts so that we can get about the business of stiffening narcotics penalties and cracking down on illicit drug traffic.

URGENT NATIONAL PROBLEMS—VIEWS OF FORMER GOVERNOR WALLACE, OF ALABAMA

Mr. ALLEN. Mr. President, George C. Wallace, former Governor of Alabama, appeared on the nationally televised "Face the Nation" program on Sunday, January 18, 1970. Governor Wallace outlined what he considered some of the most urgent problems facing the Nation today. We believe that his observations, conclusions, and judgment are interesting and instructive and deserving of careful consideration. I ask unanimous con-

sent that the transcript of the program be printed in the RECORD.

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

FACE THE NATION, JANUARY 18, 1970

Origination: Washington, D.C.

Guest: George C. Wallace, former Governor of Alabama.

Reporters: George Herman, CBS News; Robert Novak, Chicago Sun-Times Syndicate; John Hart, CBS News.

Producers: Prentiss Childs and Sylvia Westerman.

Mr. HERMAN. Governor Wallace, we are a bit of a way into 1970 by now and I think the people of the country and of your state would like to know, are you going to run for election as Governor of Alabama?

Mr. WALLACE. George, I am seriously considering this matter, but I will make that announcement pro or con a little bit later and, when I do make it, of course, I will make it in Alabama.

ANNOUNCER. From CBS Washington, in color, Face the Nation, a spontaneous and unrehearsed news interview with the former Governor of Alabama George Wallace who, in 1968, was a presidential candidate of the American Independent Party. Governor Wallace will be questioned by CBS News Correspondent John Hart, Robert Novak, Columnist for the Chicago Sun-Times Syndicate, and CBS News Correspondent George Herman.

Mr. HERMAN. Governor, these things change, as time goes on. You say you want to make your announcement about Governor in your own state; I can't blame you. Let me then press you as to a possible candidate in 1972 for President: Are you now leaning towards being a candidate in 1972?

Mr. WALLACE. As I have said many times, George, that will depend upon the actions of this present administration, whether or not they are able to solve the problems involved with our schools, the matter of taxes and inflation, the war in Vietnam, and the matter of law and order. Those were the prime issues that were raised by the American Party in 1968, and I hope this administration could cope with them successfully but, if they do not, in my judgment, the American people are going to turn toward a movement such as ours, instead of back to the liberal national Democrats.

Mr. NOVAK. Well, Governor, the Nixon administration has been faced with a series of court orders which are ordering integration. Is there anything that any President could do to cope with them, from your standpoint?

Mr. WALLACE. Well, yes, sir, there are many things that the Nixon administration can do. In the first place, Mr. Nixon, in running for the presidency, won only because he carried four southern states. Millions of people in the last moment changed to Mr. Nixon because he said identically what I said about the public school system. In fact, Mr. Nixon said to bus a child would destroy the child. Mr. Nixon's appointee, Mr. Finch, has been called upon by the federal courts to provide plans for schools under court orders, and Mr. Finch has provided plans that even go contrary to the 1964 Civil Rights Act, which calls for the transportation and busing of school children and the closing of schools to bring about so-called racial balance.

Mr. Nixon's administration brought about the defeat of the Whitten amendment, which was a so-called freedom of choice amendment. Mr. Mitchell, the Attorney General for Mr. Nixon, went into court and asked the Fifth Circuit Court of Appeals to destroy the freedom of choice plan which was the least disruptive plan that had been imposed by the federal bureaucracy and by the court. So I say that Mr. Nixon has done more in this administration to destroy the public school

system in one year than the last administration did in four. I might point out also that Mr. Nixon won the election by carrying these southern states by saying that he wasn't going to do this. And so what I would like to say here today is that we have lost the battle legally, you might say. The Burger court, in the Mississippi decision, has destroyed any legal approach that the people of the South have.

The next approach is political, and we feel that we are going to get legal relief through political action. And so beginning on February 8, at the Municipal Auditorium in Birmingham, Alabama, at 1:30, there is going to be a mass meeting of concerned parents, and I hope these meetings take place all over the South because they are really on our part of the country. And unless Mr. Nixon, in his January 22nd State of the Union Address addresses himself to the number one problem facing the people of our country, the destruction of the public school system, then we are going to start a political movement that is going to, in effect, say, through petitions and mass meetings, that "you are going to be a one-term President, that we are going to see that you are going to be defeated for the presidency in 1972 because you cannot win unless you carry the states of the South. So the southern strategy that you have adopted, we are going to adopt a counter-southern strategy which is going to be a strategy of defeat for any administration that destroys the security and safety of the children of our region and of every other region.

Mr. HART. Governor, that sounds like an announcement for the presidency in 1972 by you.

Mr. WALLACE. John, I didn't understand your question.

Mr. HART. That sounds like you are announcing for the presidency.

Mr. WALLACE. No, I am not announcing for the presidency, but I am saying to Mr. Nixon, as respectful as I know how, that this is a grave message to you, Mr. President, and I respect the presidency and I respect the man who occupies it, that the matter of our children and the safety of our children that has been written about in columns throughout the country, the destruction of the public school system through HEW and through the Executive and Congressional power in Washington, is one of the prime issues that face not only the people of the South but of the Nation, along with the matter of taxes. And this middle class and low-income man in Alabama and the Nation whose children have been taken away from him and whose security has been threatened, is also threatened with inflation and high taxes. So I can say there are two things that the President is going to have to do: He is going to have to equalize the tax structure. He is going to have to bring in some of his exempt rich to pay some of the taxes. He is going to have to have a tax program that gives some meaningful tax relief to the low and middle-income working man, businessman and farmer.

Mr. HERMAN. Let me keep you on schools for just a minute before you get off into this economics, which we will certainly get to in a moment. You call it a counter-southern strategy or at least an answer to the administration.

Mr. WALLACE. Yes, sir.

Mr. HERMAN. That implies that these meetings are going to be and this movement is going to be confined to the southern states. Is that what you meant to say?

Mr. WALLACE. No, sir, not exactly. I say that they have attacked our school system now, they are going to attack—

Mr. HERMAN. When you say "our school system," do you mean the southern school system?

Mr. WALLACE. Well, of course, the immediate problem is the attack upon the southern school system. You see, at the moment, they

have not attacked in many instances the school systems in the East and Midwest. And Senator Stennis had in mind not necessarily to jeopardize the security of a child in the Midwest or the East, but if they apply the same guidelines to those people as applied to us, there would be such a rising voice of indignation that the Congress would then step in and do something about it.

Mr. NOVAK. So you do favor the court-ordered or government-ordered immediate desegregation in the North?

Mr. WALLACE. The court—I am not asking that the court do anything about threatening the security of any child. I am not asking that. I don't want to see the child in Illinois threatened any more than I do the child in Alabama. But I think what Senator Stennis had in mind was that if you applied these guidelines to the Midwest and the East and the Far West, that there would be so much criticism and such a rising voice of indignation that the members of the Congress in those regions of the country would then step in and turn the school system back.

Mr. NOVAK. Do you favor applying those guidelines in the North?

Mr. WALLACE. I would favor not applying the guidelines to the people of the South. I am not asking that we do things in Illinois that threaten the safety and security of the children there.

Mr. HART. What is the platform of your movement?

Mr. WALLACE. You have written in your column lately about the breakdown of order in the public school systems of our country, the unsafety of teachers and students, involving even race. And I say that is a prime issue, and Mr. Nixon should take immediate action as the President, in recommendations to the Congress, through the submission of the amendment that would return the public school system back to the states. He could have supported the Whitten amendment in the Senate. That would have restored at least freedom of choice. You know, we had freedom of choice up until Mr. Mitchell went into the Fifth Circuit Court of Appeals, in which a child of any race could choose to go to any school. And, yet, they stepped in and said it didn't bring about what they wanted brought about. But it was hard to argue with the fairness of the plan, even though I believe in complete control of the school system resting in the hands of the state.

Mr. HERMAN. But for your own plans, you are going to organize these meetings at least at first or altogether in southern states?

Mr. WALLACE. George, I am not going to do the organizing. They are already being organized by concerned parents in every state. But I am going to speak in some of these states. I am going to be in the movement because our presidential campaign in '68 emphasized the return of control of the public school system back to the states.

Mr. HART. Governor, what advice will the movement give to these concerned people you talk about? Will it advise them—

Mr. WALLACE. My advice would be to write the President, to send him petitions, to have mass meetings, in an orderly—

Mr. HART. To obey the law?

Mr. WALLACE. Yes, the law—did you know, the 1964 Civil Rights Act says that no court is empowered to take any action to bring about the transportation of any child, to bring about so-called racial balance. That is the law. And every court that renders a decision otherwise, and every single guideline written by Mr. Finch that brings about the closing of a school or the transporting of a child, is violating the law. The law is on the side of the parents.

Mr. HART. But the law—

Mr. WALLACE. Even the judges are violating the law, and they are not beyond violating the law because they have done so constantly and, therefore, we have lost the legal

approach because they will not listen to the law. Now we are going to the political approach. We are going to see that the Republican Party or the Democratic Party or whatever party is in power, that destroys the safety and security of our children, turns out to be in office only one term.

Mr. HART. Governor, are you advising civil disobedience of recent court decisions?

Mr. WALLACE. No, sir, I am not advising civil disobedience. I am advising petitioning the government, through orderly meetings and speakings and petitions and letters and telegrams to the President of the United States. And the President had better heed this warning because inflation takes its toll, high taxes and the exemption of the tax-exempt rich that puts this average man in a position of having to send his child to a private school—and I support the private school movement, although we must continue to fight to save the public school movement, and yet Mr. Finch has advocated the removal of tax-exempt status for those who contribute to private schools, because—

Mr. HART. The courts have ordered that. What advice do you have to those private schools who have lost their tax-exempt status?

Mr. WALLACE. My advice is to continue efforts of private schools, and my advice to the President is that "you had better ask Mr. Finch to stop trying to have hot pursuit and search out and destroy every single legal step that people take to give quality education for their children."

Mr. NOVAK. Governor, are you—

Mr. WALLACE. That is the purpose of the private school movement, and I think that there should be tax educational credits on income tax in the states and there ought to be, in cases where a great proportion of the students wind up in private schools, tax relief at the state level—

Mr. HART. Is the country moving toward segregation, Governor?

Mr. WALLACE. For those who are forced to send their children to private schools.

Mr. HART. Is the country moving back toward segregation?

Mr. WALLACE. I didn't—

Mr. HART. Is the country moving back toward segregation?

Mr. WALLACE. In 1954, Mr. Hart, the Supreme Court said that you cannot assign a student to a public school because of race. Fifteen years later, the Court has done a 180-degree circle and says now you must assign students because of race. Now, we resent the fact that the Court goes from one extreme to the other and even violates the statutory law of the Congress of the United States which, in turn, destroys public education and which, in turn, threatens the security of—

Mr. HART. Well, the question simply is, Governor, you, as a person who has always been candid in preferring segregation in the schools of Alabama, is it in your judgment that the country is moving toward your segregationist point of view?

Mr. WALLACE. My belief is that the country is moving toward fair play and against force and coercion on the part of the government. You see, we had freedom of choice. You could choose to go to any school you wanted to go to. But the government said not enough people on this side of town chose to go on this side, and not enough on this side chose to go on this side.

Mr. NOVAK. Governor, I am a little puzzled by what you are proposing as your solution to this problem. You say that the legal fight has been lost and, yet, you say you still can save public schools along the lines you want them, but you also advocate private schools. Now, what are you suggesting in a black majority district in the South, where court ordered integration has been ordered immediately? Do you think the people there ought to set up a private school immediately?

Mr. WALLACE. In certain areas, that is absolutely necessary and is being done. When I said we had lost the legal battle, what I meant to say was that the Burger court has thrown aside all legal arguments and, in fact, in some cases in the Fifth Circuit have issued orders without parties, have issued orders without taking evidence, because they have predetermined in their minds that we are going to do such and such. The law is on the side of those who advocate freedom of choice, or the return completely to the control of the states. But what I am saying is that the President can go before the Congress and ask that the Whitten amendment be inserted in legislation and that the Scott amendment be taken out. He can recommend the constitutional amendment that turns control back to the states. He can stop Mr. Finch from writing plans that go beyond the law. And what I am saying is that when the people are aroused, they are the court of last resort and that, when the judges and the members of the Congress and the President see that the people who have the balance of power in the next presidential election are going to defeat them, then, in my judgment, we will get legal relief.

Mr. NOVAK. Just from the standpoint of fairness, Governor, isn't it true that the Treasury, Mr. Nixon's Treasury has supported tax exemptions for private segregated schools in the South and, in effect, they have been overruled by the courts, over which they have no control?

Mr. WALLACE. Well, Mr. Finch is the appointee of Mr. Nixon—

Mr. NOVAK. But the Treasury has control of that area.

Mr. WALLACE. And he has called upon the court to declare invalid the tax-exempt status for schools in Mississippi. So that is another instance of blowing hot and cold. On the one hand they are for something and, on the other hand, they are against it. In other words, Mr. Mitchell says one thing and Mr. Finch says another, and Mr. Agnew says another, and they both are talking out of different sides of their mouth. But the average citizen in our part of the country knows that the Nixon administration is destroying the public schools, and the President who destroys the public schools, is going to wind up being a one-term President.

Mr. HERMAN. Is it possible that some of your vehement attack on the Nixon administration for destroying the public schools is also motivated by the fact that the Nixon administration's southern strategy may be destroying a little of your political base?

Mr. WALLACE. Mr. Herman, if President Nixon would return local control of the public schools, if he would give tax relief to this mass of working people and middle-class people, and restore law and order in this country, and solve the Vietnam war, I would say hallelujah. I would not even be involved in 1972.

Mr. HERMAN. But if you wanted to run now, in 1972, wouldn't you find some of your political base in the South eroded by the Nixon administration's southern ploy?

Mr. WALLACE. Well, Mr. Nixon's southern ploy is all talk and no action. Now, if they acted as they talked, there would be no political base for me, and I would be pleased because our movement would have been successful. If our movement can bring about an orientation toward the middle and a relaxation of controls over local institutions and some tax relief for this working man and little farmer and little businessman, then I would be happy to say that I will not be a candidate for the presidency of the United States.

Mr. HERMAN. You feel you have lost no ground at all as a result of the southern strategy?

Mr. WALLACE. I haven't lost any ground because all of the so-called southern strategy has been talk. Mr. Agnew—

Mr. HERMAN. That has had no effect?

Mr. WALLACE. No, sir. Mr. Agnew says, "I am against bussing," but in the morning little black children are bussed 37 miles in one county to school, and 37 miles back, 74 miles a day. In one system, in Bessemer, Alabama, the court has ordered 1,400 children in a school that doesn't have any toilets completed and no heating and wiring or lights, because the school is not completed. But they say they must be there by February 1st.

Mr. HERMAN. The other aspect that you listed as one of the four key things was Vietnam. It seems to me, following your statements on Vietnam over the past few months, that you are in somewhat of a process of evolution in your feelings on our actions and our policy in Vietnam. What do you think now is the success of the Nixon policy in Vietnam?

Mr. WALLACE. Well, I hope the Nixon policy is successful, the Vietnamization of the war and the removal of combat troops, as the Vietnamese can take over. I still have my doubts as to the success in the final analysis unless we destroy the effectiveness of the North Vietnamese regulars that are based in Cambodia and Laos. But I sincerely hope and pray that his program is successful, and I think at the present time that the majority of the American people support the effort of the President in this regard. I feel the war is winable and I feel, in the final analysis, it will be won.

Mr. NOVAK. Governor, the last public statement you made on Vietnam, you talked about defeating the enemy on the battlefield. Now, as President, would you be prepared to send in the additional troops to reescalate the war through additional bombing?

Mr. WALLACE. No, sir, I would not. In fact, I believe there are enough American combat troops in Vietnam, with bombing and with the fire power that they possess, to have destroyed the North Vietnamese regulars. And I heard many people in Vietnam, who are knowledgeable in the military and in civilian government, say throughout Asia that had this been applied and had the bombings not ceased a year and a half ago, that the war would have been over by this time.

Mr. NOVAK. You would resume the bombings today if you were President?

Mr. WALLACE. If the North Vietnamese continued to violate the DMZ, if they continued to shell the cities, if they continued to infiltrate, if they continued to do as they are doing now, yes, I would resume the bombings.

Mr. HART. Governor, you visited what you call free China, Taiwan, during your recent tour, and visited with Chiang Kai-shek. What are your feelings about President Nixon's efforts to moderate our position toward Red China in such things as allowing American businesses whose subsidiaries are overseas trade—

Mr. WALLACE. Well, I believe that we should always be willing to talk with the Red Chinese or Soviet Russia, or any other nation, toward meaningful disarmament, always go to the conference table, but always keep in mind that when you do that the communists in the past do not keep agreements they make and have violated almost every agreement they have made with the United States.

Mr. HART. Do you agree with—

Mr. WALLACE. But that doesn't mean we shouldn't talk with them, because I hope that someday there can be meaningful disarmament discussions with the Soviet Union and Red China, as today, but I would always know that the free Chinese on Taiwan are the true friends of the United States and that they are a good deterrent to the Red Chinese on that particular flank.

Mr. HART. Do you agree with Secretary Rogers, that we are leaving the cold war period now?

Mr. WALLACE. Do I agree with him? I'm not sure whether I agree with him, but I hope

that we are leaving the cold war period and I hope this administration and every administration continues to try to impress those in the Communist Bloc that we should use our resources for our people instead of armament, but always keep in mind that we cannot exactly trust what the communists say.

Mr. NOVAK. Governor Wallace, in a recent interview you said that you hoped that the Nixon administration would be as tough in its policies in dealing with dissenters as it is in its words. What do you want them to do with dissenters, throw them in prison?

Mr. WALLACE. Well, I have noticed that we have federal statutes that require prosecution of those who cross state lines advocating riots.

Mr. NOVAK. There is a case like that in Chicago, a very publicized case, under that statute. What would you do beyond them?

Mr. WALLACE. Well, I would, in the first place, make Washington a model city of peace and quiet.

Mr. NOVAK. How?

Mr. WALLACE. I would ask the police department to enforce the law. I would not let the officials of this city hold back. There has been a tremendous increase in crime in the City of Washington.

Mr. HERMAN. How do you solve the problem of the shortage of police?

Mr. WALLACE. I am not a police officer and I am not a law enforcement expert. But if I were the President, I would tell the police officials and the government officials who control this city that I want crime reduced in Washington, "now you do whatever is necessary." As I said, in the campaign for the presidency, if it were necessary, I would use troops in this city to bring about a cessation of the crime and the crime rate. It is unsafe to walk any place in Washington, day or night.

Mr. HART. Governor, just one quick question, since time is moving on. There are reports today that the President is about to appoint Judge Harrold Carswell, of Florida, to the Supreme Court.

Mr. WALLACE. Judge who?

Mr. HART. Harrold Carswell, a judge who participated in the decision which granted the Nixon administration a delay in desegregating 33 schools in Mississippi. Is that judge acceptable to you as a Supreme Court Justice?

Mr. WALLACE. Let me say, Mr. HART, that I don't know much about the judge you are talking about, but granting of a delay before you destroy a school system is like giving a condemned man a reprieve: "We will give you 30 days but we are going to execute you in 30 days," and I don't know that I am satisfied with the appointment of any one particular individual to the Court. I am interested in action. I am interested in the salvation of the public school system and the security of our children, and I hope Mr. Nixon will take this warning, heed this warning in the respectful manner that I present it and that, on January 22nd, he will address himself to the destruction of the public school system in this country.

Mr. HERMAN. Governor, in the about one minute that we have left, how do you feel about appearing on a panel show and being questioned by a group of men whom you described during the campaign as "slick-haired, northern reporters, pointy-headed intellectuals who can't even park a bicycle straight"?

Mr. WALLACE. Well, it seems that, from the first time that I appeared on these programs and now, the panelists are a little more respectful of those of us from Alabama and the South, because I think they are beginning to realize that we are not against people because of color or race, but that we have been talking about philosophy of government. It is always good to be with you distinguished gentlemen, and I have a high regard for you personally.

Mr. NOVAK. Governor, you have described Governor Brewer, who you may run against, as a fine man.

Mr. WALLACE. Yes, sir.

Mr. NOVAK. If so, why do you want to run against him? Why do you even consider it?

Mr. WALLACE. I can say this, that I have a high personal regard for the Governor or anyone else who is running for Governor. But if I decide to run for Governor, the issues will transcend personalities.

Mr. HERMAN. And, on that point, I am afraid our time has run out. Thank you very much for being with us here today on Face the Nation. We will have a word about next week's special one-hour version of Face the Nation in a moment.

ANNOUNCER. Today, on Face the Nation, former Governor of Alabama, George Wallace, was interviewed by CBS News Correspondent John Hart, Robert Novak, Columnist for the Chicago Sun-Times Syndicate, and CBS News Correspondent George Herman. Can pollution of our air, water and soil be reversed and the destruction of our environment prevented? Next week, in a special one-hour Face the Nation interview, three leading officials of the Nixon administration will discuss the growing threat of pollution and what can be done about it. Robert Finch, Secretary of Health, Education, and Welfare; Walter Hinkel, Secretary of the Interior; and Daniel P. Moynihan, Counselor to the President, will Face the Nation. Consult your local listings for the time of this one-hour program. Today's Face the Nation originated, in color, from CBS Washington.

FIFTIETH ANNIVERSARY OF THE FEDERAL BAR ASSOCIATION

Mr. ERVIN. Mr. President, the year 1970 is the 50th anniversary of the Federal Bar Association. In fact, it was founded on January 5, 1920.

This association consists of some 14,000 lawyers who serve or have served in the legislative, executive, and judicial branches of the U.S. Government. The Federal Bar Association has chapters in every State, in the District of Columbia, in Puerto Rico, and in a number of foreign countries where there are U.S. Government installations. Indeed, one might almost say that the sun never sets on the Federal Bar Association.

A considerable number of Senators and Representatives belong to this fine organization, and I am one of them. Also, I should like to point out that many of the attorneys of the North Carolina bar are members of this association. It is also worthy of note that several members of Congress have been national presidents of the Federal Bar Association.

What does this organization do? One of its main goals is, in essence, to promote the principle that Government lawyers are primarily lawyers and only secondarily Government employees, and that they consequently have special responsibilities to the law and special obligations to the Government. I believe that this principle is vital to the continuation of constitutional government, particularly in the era in which we live, and that its furtherance by the Federal Bar Association is of great value.

Among the most meaningful activities of the FBA is the sponsorship of many programs, lectures, and seminars on legal topics of current interest. Also of importance is its publication of the Federal Bar Journal, which is devoted to

scholarly articles on important Federal legal questions.

Thus, I and the other members of the Senate deem it an honor to extend to the Federal Bar Association on its 50th anniversary our felicitations and our wishes for continued success in its vital mission.

THE CHALLENGE OF CONSUMERISM

Mr. MAGNUSON. Mr. President, it is my privilege to bring to the attention of the Senate a speech delivered by Mr. Aaron S. Yohalem, senior vice president of CPC International, Inc., and chairman of the Consumer Issues Committee of the U.S. Chamber of Commerce, reflecting a refreshing industry view of the consumer movement and insightful recognition of its implications for the business community.

The consumer movement—sometimes identified as "consumerism"—occupies a significant place in the public consciousness today. Frequently in the news, its popular spokesmen now receive cover-story treatment in major news magazines. Congress has many proposals under consideration for strengthening consumers' rights and protecting their interests. In October the President delivered what he believed to be "the most significant set of Presidential recommendations concerning consumer interests in our history" and has sent up several bills in the last month to redeem those promises.

To be sure, interest in consumers has been building for the major part of the decade just passed. President Kennedy enunciated basic rights of consumers in 1962 and we in Congress have been working to make those rights effective since then. Surprisingly, however, the business community—upon which our actions primarily impact—is just now awakening to the depth and significance of the consumer movement. Unfortunately, its earlier responses had been largely negative.

Mr. Yohalem, however, accurately perceives that consumerism is no fad, likely to fade away with the weariness of its few public spokesmen or to be bought off with glib phrases or slick marketing ploys. He sees that the consumer movement reflects deeply rooted needs of a large number of citizens and that its implications for business are profound. To his credit, he responds to these implications in the spirit that led American industry to its present level of output.

The essence of the consumer movement is not that business will be saddled with burdensome restrictions, reporting requirements, and regulation. It is, rather, new or altered relationships in the marketplace; new factors to be considered in design, productions, and distribution; and new responsibility for social consequences hitherto taken for granted. It means that business as an institution will have to accommodate itself to newly emerging forces and demands.

With Mr. Yohalem, I see these as opportunities, not threats—opportunities to produce new goods and provide new services. Someone must meet the needs

of consumers. The function is within the historical competence of the business community. But if business does not assume its role, someone else will. That is the challenge that Mr. Yohalem describes.

Can business meet the challenge? Mr. Yohalem makes the interesting point that business has too often appeared slow or even recalcitrant in responding to new needs, but that it is an adaptable institution once it has perceived those needs. That is my hope for the future. While we in Congress can determine the rules of the game—and we are presently engaged in that task—industry must carry on from that point.

With the clear and farsighted leadership of such persons as Mr. Yohalem, I am confident that industry will begin to perceive consumer needs and to undertake its proper role.

I ask unanimous consent that Mr. Yohalem's speech be printed in the RECORD.

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

CONSUMERISM'S ULTIMATE CHALLENGE: IS BUSINESS EQUAL TO THE TASK?

(Address by Aaron S. Yohalem, Senior Vice President, CPC International, Inc., before the American Management Association, Nov. 10, 1969, Waldorf-Astoria Hotel, New York, N.Y.)

In the brief time allotted us before our panel discussion, let's consider Consumerism's impact upon American business from a general, long-range point of view.

I'm taking my cue from our chairman who admonished me to be "brief—but provocative." So if I'm provocative, even a bit philosophical—all to the good, since it is hoped that we shall stimulate a lively give-and-take.

Now make no mistake: Consumerism is no passing fad. It is not a sometime whim of the marketplace. No amount of invective will make it go away. Nor can its basic demands be met through current marketing techniques.

Consumerism is a distinct socio-political development of our changing and troubled times—a collection of deep-rooted and volatile questions and challenges that go far beyond the ordinary concerns of the marketplace as we have traditionally known it.

Consumerism is a concomitant phenomenon of the great unrest of our cities; of the unprecedented revolt of our youth; of the extraordinary rise of inspired, militant and articulate minorities. It is a reflection of the thoughtful search for *excellence* by our great middle class.

Its aspects are many and contrasting; from the tumult of a mass protest before the national headquarters of a giant retail corporation to the quiet of a judicial chamber where basic law is being rewritten and wholly reinterpreted.

Already the changes it has wrought are far-reaching: We are now at a time when the historic adage—"let the buyer beware"—no longer obtains. It is being replaced with "let the seller beware." Consumerism, in short, embodies a profound upheaval in the ancient rules of the marketplace.

In nuclear physics there is a point at which sufficient fissionable material is present to support a violent explosion. It is called "critical mass"—and our consumer-oriented economy is at just such a point.

For there is no doubt in my mind that the period we are now going through—the end results of which cannot yet be foreseen—marks an historic change which will alter

permanently the very character of American business itself.

Some view Consumerism as something which business should fear. Some see it as a threat. But I view the entire historical sweep with equanimity—and, indeed keen anticipation.

I do so because—no matter what else is involved—Consumerism is a challenge to American business. Business, through its performance in meeting and even surpassing yesterday's consumer demands for better products and more choice of products, has aroused consumer expectations for newer, higher levels of satisfaction. And, like all challenges worthy of the name, it offers us a rich opportunity.

Reduced to its absolute essentials, Consumerism challenges business to do better.

And I do not mean "better" in merely a quantitative sense. For that matter, American business has always been the equal of any quantitative demand to produce more goods or services. Simply look at the major role business has played, in a quantitative sense, in fulfilling the consumer demands of the last 25 years.

No—I wish to imply in the words "to do better"—the *qualitative challenge of Consumerism* . . . to help make life itself better qualitatively.

We are used to talking of quality in the sense of the styling of an automobile or the texture of a cake or the feel of a synthetic textile . . . or of mechanical efficiency, or purity of ingredients or materials . . . questions of product *substance*. More recently we have recognized consumer demands for quality in the forms we use to promote and present our products and services . . . reflected in American industry's capacities to meet and resolve such issues as truth in lending, truth in packaging, or the reduction of package proliferation.

These questions of substance and form have encouraged a stimulating dialogue among all parties of Consumerism: the consumer herself—individually and collectively through consumerist groups—the Government, and the businessman.

More and more individual companies are forming their own consumer advisory panels and joining industry-wide consumer councils to receive, consider and act on consumer grievances of all kinds. Business is participating actively and enthusiastically in hammering out legislative and executive programs to provide better consumer protection and redress of grievances.

Business is on the move in this regard—and examples can be cited in programs of the Chamber of Commerce and the Better Business Bureau's vital consumer involvement such as its program in Harlem.

However, I am concerned about our ability to appreciate and, therefore, to respond fully to Consumerism's insistence upon qualitative change at a new, higher level.

This insistence is already upon us. Whether this striving for qualitative betterment is a trend, a movement, or even a revolution, its goals and purposes are increasingly clear. In a real sense—affecting their total lives—consumers want more value. They not only want things as such, but they want things that have healthful or nutritional or aesthetic or individual and formal relevance to the new, vital and wholly unprecedented life styles that we are creating in our society.

The forces that make up Consumerism are increasingly insisting that the corporation replenish the social capital which business has traditionally depended on to operate: ample, clean and healthful air, water and soil; to train and educate society's disadvantaged; and to restore and enhance the other community resources which in earlier days were assumed to be provided by the taxes that business quite simply paid for—and seemingly took for granted.

In our society, we have people with a great many views. The way America has grown and prospered has been through accommodation. Historically, as new forces arise, they insist upon broader responsibility and participation for themselves, while also insisting upon fuller accountability from business. Accommodations are insisted upon. And they usually are made. So that in the end, business activity becomes broader and includes more elements in the related processes of making a profit and serving more broadly the public welfare than had been the case before historic change.

Today the force called Consumerism is the keen cutting edge of this historic thrust of accommodation. But we must remember, it is also an independent force which—through its own machinery—is quite capable of generating change.

Customarily, forces for change have manifested themselves through voluntary, legislative, or regulatory machinery.

This is a quite proper direction.

But sometimes the demands of groups—such as consumers embued with a socio-political force—are so intense, so immediate and so pressing that they are not quickly or entirely digested by the normal machinery set up by our system to accommodate and bring about change.

The challenge we face, then, is to recognize and respond voluntarily to merited consumer demands, so we can assure that the thrust of Consumerism manifests itself through the normal machinery to the maximum feasible extent—so the merits can be examined carefully and thoughtfully and the issues resolved in orderly and rational legislative or regulatory change.

If this is not done, it is perfectly conceivable Consumerism ultimately could pose a serious challenge to the core of private enterprise: the profit system itself.

Unless we stay ahead of the challenges of Consumerism, unless as intelligent businessmen we either initiate change or make accommodation for it, what I can easily envisage—namely a challenge to the profit system itself—could very well receive its chief impetus from the solid, respectable citizens who constitute the mass base of Consumerism.

It is not at all inconceivable that well-educated, eloquent, and organized consumerists—composed of middle and upper-middle class housewives, professionals, church-goers, and wage earners—militantly inspired by what they view as uncontrolled inflation and an unresponsive business system, will organize nationally to a far greater extent than they already have. They would consolidate broad, large consumerist organizations. They would become major political forces.

And that is power.

It is also not inconceivable that some of the under-30 generation of executives and professionals who now make up our middle and entry-level management would insist upon—and achieve—such broad representations on corporate boards so as to revolutionize the entire concept of the board of directors in American management.

And that is impact.

The chorus of Consumerism's many voices today is building into something like a crescendo which, if the words could be clearly heard, might carry a message something like this:

"You, American business, shall not continue to make a private profit without full, public accountability and without taking a fuller share of responsibility for our lives and our environment: You shall help assure that the rivers and seas are clean; the air made pure; cities prosperous and safe; health facilities adequate; food healthful; and transport safe, swift and reliable—all in relevant, meaningful, *qualitative* abundance."

These expectations are not entirely new.

Any student of American history recognizes that, as corporations have grown in size, as communications have improved—indeed have become instantaneous—the economic process of making a profit necessarily has social consequences . . . and, further, that the profit-making process has such an impact upon man that full accountability to the individual citizen, for both social and economic consequences, is today a business necessity.

Today, with the new thrust of Consumerism, the pressures are more direct, the tone is more direct, the voices louder and tougher.

In short, Consumerism finally demands, business shall either voluntarily take its full share of responsibility for the common weal of the society it operates in and profits from; or, its ability to make profits will be seriously impaired—even called into question altogether.

This may then well be the "ultimate challenge of Consumerism." The trial that lies ahead will be a grave, trying one, demanding our fullest resourcefulness and dedication.

One of the interesting characteristics of American business is that it often appears to be teetering along the edge of disaster. It appears too often to be too slow—even recalcitrant—in responding to needs that are very obvious to others. The critics of business should not be deceived. The system is remarkably adaptable to the needs of the people, once these needs are perceived.

The challenge for American business today is to perceive the need for intensive, systematic attention—for business as well as social purposes—to areas that have up to now been viewed merely as concerns of "corporate conscience" or "goodwill." Today, survival itself is at stake.

Can industry contribute toward ending hunger and malnutrition . . . toward alleviating pollution of the air, water and soil . . . toward educating and training the disadvantaged . . . toward solving these and other problems of societal rather than strictly of an industrial nature? I believe so.

For these contributions are intimately involved in the profit process itself. Recognizing this, we will continue to serve the American people's welfare—and assure the prosperity and growth of American business.

That is the ultimate challenge of Consumerism.

Are we equal to the task?

DESTRUCTION OF VITAL RESOURCES BY POLLUTION

Mr. MONDALE. Mr. President, it is no longer necessary to talk about the time when the vital resources of the earth's environment will be destroyed by pollution to the point that life as we know it will no longer be possible. It is not necessary, because before the crisis becomes that acute, most living forms will already be extinct.

The earth's environment is feeling the impact of a world progressing rapidly but indifferently to the effect it is having on the vital air and water resources. Species of animals, fish, and birds are vanishing under the poisons we are pouring into the atmosphere, mixing into the soil and spilling into the waters.

In his editorial published in the Medical Tribune, the Senator from Wisconsin (Mr. NELSON), one of the leading voices for preserving and restoring the world environment, points out that doctors are beginning to associate air pollution, for example, with respiratory diseases like lung cancer, emphysema, chronic bronchitis, and asthma.

Senator NELSON, one of the Senate's

most militant conservationists, makes a significant point when he writes:

Each year, man watches the list (of endangered species) grow and the animals disappear and, nevertheless, deludes himself into believing that his species will survive.

Senator NELSON leaves little argument that pollution will destroy us if we do not do something about it quickly. His editorial makes a clear warning that disaster is imminent unless something is done. This is an important article; I ask unanimous consent that it be printed in the RECORD.

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

[From the Medical Tribune, Jan. 8, 1970]

TO IMPROVE THE QUALITY OF LIFE

(By GAYLORD NELSON, U.S. Senator from Wisconsin)

Because smog is an increasing health hazard which may seriously affect the lungs of young people, the Committee on Environmental Health of the Los Angeles County Medical Association "strongly recommends that when the forecast concentration of ozone (oxidants) in the atmosphere reaches 0.35 ppm, Los Angeles County students through high school, in any identified air monitoring zone, should be excused from strenuous indoor and outdoor activity. . . ."

It seems almost unbelievable that the air pollution conditions of a city, any city, could reach such a point that "red alerts" would be necessary to warn parents and school authorities that it had become too dangerous for children to play.

It is no longer humorous to joke about the Los Angeles resident walking the streets wearing a gas mask. It is not funny because, since Los Angeles set up its smog-warning system in 1955, first-stage emergency alerts have been called 71 times. First-stage alerts are called when the ozone amounts to 0.50 ppm in the air.

What is more frightening, however, is that the Los Angeles air pollution problems are far from unique, and scientists and doctors are beginning to associate air pollution with respiratory diseases like lung cancer, emphysema, chronic bronchitis, and asthma.

The environmental crisis of the world is the most serious crisis facing mankind. It is becoming so serious that it literally threatens the survival of all living species, including mankind.

Never in the history of the human race has man been so close to extinction as he is today. Each year, new species of animals are added to the list of disappearing animals known as "endangered species." Each year, man watches the list grow and the animals disappear and, nevertheless, deludes himself into believing that his species will survive.

But the reality of the pollution of the planet's thin envelope of air and the destruction of the world's lifeblood rivers, lakes, and streams is a crisis that can no longer be ignored.

It is an uncomfortable irony that the older among us can look back to fond childhood memories of a time when there was a quality to life—when the majority of rivers and lakes were clear and clean and filled with fish and wildlife. The children of today have no such memory.

Barry Commoner, a biologist and chairman of the St. Louis Committee for Environmental Information, described the deadly legacy we are leaving for our children when he said: "We don't really know what the long-term effects of various types of environmental deterioration will be, and the kids are the guinea pigs."

Because youth has the most to lose, the only real hope for saving the environment

will depend on the energy, idealism, and drive of the coming generation to demand that the national priorities are not billions for war machines or space adventure, but billions to make the earth a livable place.

To help formulate a youth effort, I have proposed a National Teach-In on the Crisis of the Environment that will have students, scientists, medical men, politicians, community leaders, and citizens meet on April 22 for a massive educational effort.

Hopefully the teach-in will mark the beginning of a change in national priorities when the national goal will be a quality of life. Each community will probably find that it can best share in the teach-in by holding an environmental inventory of the pollution problems of the community and find out if there is any way to deal with the problems politically or by community action.

As campuses across the nation discuss the problems, the medical schools will obviously be taking a special interest. In addition to the air pollution-related diseases, many public health authorities, for example, already attribute thousands of cases of diarrhea, nausea, vomiting, and gastric cramps to polluted water.

C. C. Johnson, administrator, Consumer Protection and Environmental Health Service, recently reported that in the past five years outbreaks of water-borne disease have averaged one a month, with many more unreported. Two of the outbreaks involved 20,500 cases of salmonellosis, and several cases of hepatitis were attributed to contaminated water supplies.

It is the subtler, less dramatic, effects of pollution that steadily and slowly destroy animal and plant life. Too often the outrage of the public is directed at a widely known event when atmospheric conditions cause smog to hang over a city or when a pesticide accident kills thousands of fish or birds.

Dr. Paul B. Cornely, in delivering his address as incoming president of the American Public Health Association, recognized the sinister, quiet threat when he warned: "If the fish are dying, the people are not far behind."

The scientists and members of the medical research community have an important role in filling the great deficiencies in our knowledge about environmental pollution-related diseases and the safe tolerance levels that cannot be exceeded.

There is a real urgency that action be taken now. It will be too late when another incident occurs like the four-day air pollution inversion that hit London in 1952, when 4,000 persons died.

Internists and surgeons knew for years that cigarettes were harmful but could not prove it. If the antipollution efforts must wait for legal or scientific cause-effect proof to catch up with the growing clinical evidence, the health of many Americans could be seriously affected.

It is as one expert told a Senate committee, "The man in the street simply cannot hold his breath until the experts determine to the 10th decimal place" the precise relationship between environment, pollution, and human health.

HOW FAR HAVE WE COME IN DEVELOPING INTERNATIONAL LAW OF HUMAN RIGHTS?

Mr. PROXMIRE. Mr. President, the Universal Declaration of Human Rights was the starting point for a significant attempt to develop a law of human rights to which countries could pledge themselves. As a result it was thought mankind would benefit and governments would be deterred from despotic tendencies. The ultimate hope was that the individual countries would develop stable, democratic governments which would be

mutually respecting, and inclined to deal with international problems in a manner reflecting their internal lawful nature.

How far then have we come in developing this international law of human rights? Over 20 major human rights conventions have been adopted by the United Nations, the International Labor Organization, and UNESCO. A few of them are in force among the parties which have acceded to them. Unfortunately, the United States is a party to only two of these: the Supplementary Convention on the Abolition of Slavery in 1967 and the convention concerned with the protocol relating to the status of refugees in 1968. Other conventions which have been submitted to the Senate for approval are: the Convention on the Prevention and Punishment of the Crime of Genocide, Convention Concerning Freedom of Association and Protection of the Rights To Organize—both submitted in 1949 by President Truman; Convention on the Political Rights of Women and Convention Concerning the Abolition of Forced Labor—both submitted in 1963 by President Kennedy; and finally the Convention Concerning Discrimination in Respect of Employment and Occupation submitted by President Johnson.

Having ratified only two conventions, the United States ranks very low among the 126 member nations of the United Nations. Numerous interested citizens and civic organizations are pressing for Senate ratification of the human rights conventions.

These words of Mrs. Eleanor Roosevelt so simply yet effectively remind us of the real meaning of "human rights":

Where, after all, do universal human rights begin? In small places, close to home—so close and so small that they cannot be seen on any map of the world. Yet they are the world of the individual person; the neighborhood he lives in; the school or college he attends; the factory, farm or office where he works. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere.

CONTROLLED DANGEROUS SUBSTANCES ACT

Mr. HRUSKA. Mr. President, I have noted in reading over the Judiciary Committee's report on S. 3246, the Controlled Dangerous Substances Act, that two minor references should be corrected and clarified.

First, at page 7 of the report, the last sentence under the discussion of title IV reads as follows:

In effect, the Attorney General must seek out a balance between safeguarding against diversion and allowing for sufficient competition among manufacturers to insure for reasonable prices for consumer protection.

Second, the phrase "reasonable prices" is again used on page 18 of the report, in explaining section 303.

The use of the phrase "reasonable prices" is unfortunate because similar language is not included in the bill which the committee reported or which the Senate approved. In fact, this phrase was included in an earlier draft of this legis-

lation. However, it was replaced by the phrase "adequately competitive conditions" in order to avoid any connotation of price control.

Mr. President, it is important to note that the Judiciary Committee, as indicated in the report as a whole, regards the avoidance of diversion of dangerous substances as being of primary concern, while prices charged for substances are only of secondary and inferior concern. The avoidance of diversion has always been the cornerstone of our narcotics control laws, international as well as domestic, and the committee strongly endorses its continued top priority consideration.

Mr. President, my comments are directed at clarifying the language of the report only, and do not relate to the bill which the Senate so overwhelmingly approved. The language of the bill is clear on this subject. I ask unanimous consent that sections 303(a) and 401(a) be printed in the RECORD.

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

REGISTRATION

SEC. 303. (a) The Attorney General shall register an applicant to manufacture controlled dangerous substances included in schedule I or II of title II of this Act if he determines that such registration is consistent with the public interest and with treaty or other international obligation of the United States. In determining the public interest, the following factors shall be considered:

(1) maintenance of effective controls against diversion of particular controlled dangerous substances and any schedule I or II substance compounded therefrom into other than legitimate medical, scientific, or industrial channels, by limiting the importation and bulk manufacture of such controlled dangerous substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, and industrial purposes;

(2) compliance with applicable State and local law;

(3) promotion of technical advances in the art of manufacturing these substances and the development of new substances;

(4) prior conviction record of applicant under Federal and State laws relating to the manufacture, distribution or dispensing of such substances;

(5) past experience in the manufacture of controlled dangerous substances, and the existence in the establishment of effective controls against diversion; and,

(6) such other factors as may be relevant to and consistent with the public health and safety.

TITLE IV—IMPORTATION AND EXPORTATION

IMPORTATION OF CONTROLLED DANGEROUS SUBSTANCES—PROHIBITING CRUDE OPIUM FOR THE MANUFACTURE OF HEROIN

SEC. 401. (a) It shall be unlawful to import or bring into the United States any controlled dangerous substance listed in schedules I or II of title II of this Act, or any narcotic drug listed in schedules III or IV of title II of this Act, except that—

(1) such amounts of crude opium and coca leaves as the Attorney General finds to be necessary to provide for medical, scientific, or other legitimate purposes, or

(2) such amounts of any schedule I or II substance or any narcotic drug that the Attorney General finds to be necessary to pro-

vide for the medical, scientific, or other legitimate needs of the United States (A) during an emergency in which domestic supplies of such substances are found by the Attorney General to be inadequate or (B) if the Attorney General finds that competition among domestic manufacturers of the drug is inadequate and will not be rendered adequate by the registration of additional manufacturers under section 303 hereof,

may be imported under such regulations as the Attorney General shall prescribe. No crude opium may be imported or brought into the United States for the purpose of manufacturing heroin or smoking opium.

THE "NO-KNOCK" PROVISION

Mr. DODD. Mr. President, the Bridgeport Post on January 30, 1970, published an editorial on the "no-knock" provision of the Controlled Dangerous Substances Act approved by the Senate on January 28, 1970.

The editorial throws a very reasonable light on this controversial issue, and it pays tribute to the considerable skill of the distinguished Senator from Michigan (Mr. GRIFFIN) for his role in working out the dispute that had developed over this provision.

I believe these comments should interest every Senator, so I ask unanimous consent that the article be printed in the RECORD.

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

"NO-KNOCK" RAIDS BACKED

The conscientious effort on the part of Senator Thomas J. Dodd to do something about the illegal sale and use of narcotics ran into some trouble in the Senate this week, but fortunately for the vast majority of Americans—the people who are decent human beings and obey the law—a Republican joined forces with Senator Dodd to save the day.

At issue was the question of whether federal agents should be obliged to knock on the door and identify themselves before entering a location where they believe narcotics are being used or are being kept.

Senator Dodd stood strong on the side of law enforcement, insisting that advance warning could lead to the destruction of the narcotics before the agents could gain command of the situation.

Ridiculous arguments were made against Senator Dodd's position, especially by Senator Sam J. Ervin Jr., of North Carolina. At one point Senator Ervin claimed, "Necessity is the plea for every infringement of human liberty."

The opponents of Senator Dodd's "no-knock" raids tried every conceivable means to distort the whole idea. Senator Dodd and the other senators who share his thinking harbor no dreams of seeing federal agents going about the country battering down doors without good reason. Specifically spelled out in the proposal is the requirement for federal agents to first obtain a search warrant, which means that the agents must present an awfully strong argument to court officials before going out after their suspects and the evidence.

Not until Senator Robert P. Griffin, of Michigan, came forward with an amendment with a little stricter language covering the issuing of the warrants did the Senate accept this means of cracking down on those unscrupulous men and women who are involved in the ugly and destructive business of preying on the youth of America.

Senator Griffin actually proved himself to

be a skilled politician. The amendment he offered was identical to a section of the crime bill for the District of Columbia which the Senate approved last month. In effect, Senator Griffin said to his colleagues, if you think it is right to use this method in the nation's Capital why not in every other city and town of the country?

The loss of rights granted by the Constitution is one thing and the enforcement of the law another. No one will lose anything because of the legislation which Senator Dodd developed. We think that if the House and the President go along with "no-knock" raids that at long last our federal agents will be able to go after the pushers without having their hands tied.

U.S. POLICY IN VIETNAM—STATEMENT OF SENATOR DOLE

Mr. BAKER. Mr. President, the Committee on Foreign Relations continued this morning public hearings on various bills and resolutions pending before it and relating to the policy of the United States in Vietnam. Among those pieces of proposed legislation is Senate Resolution 271, introduced by the distinguished junior Senator from Kansas (Mr. DOLE) and cosponsored by 36 other Senators, including myself.

At this morning's session, Senator DOLE testified in support of Senate Resolution 271, the chief purport of which is to indicate recognition by the Senate that the war in Vietnam is an adversary proceeding in which parties other than the United States and the Republic of Vietnam are engaged. The resolution takes cognizance of the fact, frequently overlooked, that the Democratic Republic of Vietnam and the National Liberation Front also have troops in the field. It further expresses the hope that Hanoi and the Vietcong might at some point see fit to participate in a negotiated political settlement of this chronic conflict whose costs for all concerned in terms of human suffering and diverted resources are unspeakably tragic.

I ask unanimous consent that Senator DOLE's statement be printed in the RECORD.

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

STATEMENT OF SENATOR BOB DOLE BEFORE SENATE COMMITTEE ON FOREIGN RELATIONS IN SUPPORT OF SENATE RESOLUTION 271, FEBRUARY 5, 1970

Mr. Chairman and members of the committee, I appreciate the opportunity to appear before you in support of S. Res. 271.

Last fall I reviewed the then existing legislative proposals directed at bringing the Vietnam war to an end. I noticed the common thread running through them was a call for change of U.S. and South Vietnamese policy. It was apparent the conduct of North Vietnam and the National Liberation Front at the Paris peace talks and in international law had been overlooked or ignored. I concluded that a meaningful contribution toward obtaining a just and lasting peace would be to stimulate somehow the North Vietnamese and Viet Cong toward negotiating seriously in Paris.

Senate Resolution 271 urges the Government of North Vietnam and the National Liberation Front to take the following steps:

1. Acknowledge that a just and mutually-agreed settlement is the best hope for lasting peace;

2. Show at the Paris peace talks the same flexibility and desire for compromise which the allies have clearly demonstrated over the past year;

3. Agree to direct negotiations between representatives of the NLF and of the Government of the Republic of Vietnam, as proposed by the latter;

4. Withdraw their insistence on allied surrender through their demand for the overthrow of the Government of the Republic of Vietnam, as proposed by the latter; and

5. Provide information on the status of U.S. prisoners of war held in North Vietnam and by the National Liberation Front, and give evidence that these prisoners are being treated humanely in accordance with the provisions of the Geneva Convention.

Mr. Chairman, I appear in support of S. Res. 271 as its author and speak on behalf of the 36 other Senators who joined in its sponsorship.

PURPOSE

Mr. Chairman, the sponsors of Senate Resolution 271 believe it correctly states that the United States' fundamental goal is to assure peace with self-determination for the South Vietnamese people and clearly places on the North Vietnamese and Viet Cong the burden for coming forward in good faith to achieve a negotiated peace.

The sponsors of this resolution believe North Vietnam and the National Liberation Front remain inflexible toward a negotiated peace in the mistaken belief that domestic pressures in this country will force us to forsake our fundamental goal and commitments. We believe this resolution, if endorsed by the Senate, will contribute significantly to an early and honorable settlement by highlighting to North Vietnam and the National Liberation Front the firm support of the Senate and the majority of Americans for our government's efforts to reach an honorable, negotiated solution to the war.

THE PARIS PEACE NEGOTIATIONS

Mr. Chairman, since January, 1969 the United States Government has used the Paris Peace Talks on Vietnam to pursue an extensive program for peace. This program provides for a mutual withdrawal of all non-South Vietnamese forces; an internationally supervised ceasefire; free, internationally supervised elections where all of South Vietnam's political parties would be fairly represented; and early release of prisoners on both sides.

Our Government's quest for peace in Vietnam has placed heavy emphasis on meaningful negotiation and compromise in Paris, but President Nixon emphasized on May 14, 1969:

"In pursuing our limited objective, we insist on no rigid diplomatic formula. Peace could be achieved by a formal negotiated settlement. Peace could be achieved by an informal understanding, provided that the understanding is clear, and that there were adequate assurances that it would be observed. Peace on paper is not as important as peace in fact."

Peace in fact is, indeed, our national goal; and the program of Vietnamization underscores our resolve to explore all avenues and alternative courses. S. Res. 271, however, addresses itself to the Paris negotiations, because its sponsors have abiding faith in the sincerity of our President and dedication of his negotiators and because we are convinced of the long-range desirability of a formal settlement between the parties.

I shall not catalog the extensive initiatives the U.S. has taken in Paris and throughout the world to stimulate negotiations. The President and others have established a clear record in this regard. Let us, rather, turn our attention to the activities, statements and attitudes of the North Vietnamese government and the National Liberation Front in light of the specific points raised in S. Res. 271.

1. A mutual settlement for the best hope for peace

Hanoi and the Viet Cong have displayed an unwavering negative attitude toward achieving any negotiated settlement, or even the desirability of such an understanding to assure lasting peace.

A June 6, 1969, statement in the Communist Party of North Vietnam's theoretical journal, *Hoc Tap*, gave an accurate portrayal of their attitude toward negotiations with the United States and the Republic of Vietnam:

The "total solution" [to negotiations] of the NLF expresses the iron-like determination of our people to fight on [militarily] until the United States gets out, the puppets [Saigon Government] collapse, and South Vietnam is completely liberated."

A further illustration of Hanoi's intentions comes from a captured directive, recently declassified, defining the present goals of North Vietnamese and Viet Cong forces in South Vietnam. I would point out that this document was issued by the Central Office South Vietnam (COSVN), which is Hanoi's headquarters office for directing and coordinating National Liberation Front operations in South Vietnam.

The document, COSVN Resolution No. 9 reads:

"Our immediate mission is: To motivate the entire party, army and people to make outstanding efforts in developing the success already gained; . . . to vigorously push forward the General Offensive and Uprising with the three-pronged attack to the highest point in coordination with the diplomatic offensive; . . . to defeat the enemy's clear-and-hold strategy, pacification policy and other defense set-ups; and defeat his scheme to de-Americanize the war. We should fight to force the Americans to withdraw troops, cause the collapse of the puppets and gain the decisive victory . . ."

These examples provide sufficient justification to assert the insincerity of the North Vietnamese and Viet Cong in seeking a mutual agreement for settlement of the conflict.

S. Resolution 271 calls for a reversal of this attitude; a simple acknowledgement of the value of a jointly-reached settlement.

2. Demonstration of flexibility and desire for compromise

The North Vietnamese and Viet Cong have been adamant in insisting on their unilateral, non-negotiable demands. They refuse to discuss U.S. and South Vietnamese proposals; out of hand rejection is the rule.

For the record, Mr. Chairman, at this point I wish to call attention to the five-point and ten-point "solutions" proposed by the National Liberation Front in October 1968 and May 1969.

With reference to these two documents, I quote from the opening statement of Xuan Thuy, Chief of the North Vietnamese Delegation, at the 41st session of the Paris negotiations on November 6, 1969:

"The United States must stop its aggression, totally withdraw from South Vietnam U.S. troops and those of the other foreign countries in the U.S. camp, without posing any condition—the question of Vietnamese armed forces in South Vietnam shall be settled by the Vietnamese parties among themselves. It must also set up a provisional coalition government in South Vietnam, and let this government organize genuinely free and democratic elections in South Vietnam."

We know the bitter experience of "coalition governments" in Hungary and other Eastern European countries after World War II and the fate of the 1946 "lien hiep" (coalition) experiment in Vietnam itself. The total inflexibility of the North Vietnamese and Viet Cong exemplifies the complete absence of any intent to achieve a compromise between their demands and our proposals. In

contrast I would point out that the United States, through the President and our negotiators, has repeatedly emphasized that, as far as we are concerned, everything is negotiable except the South Vietnamese people's right to self-determination.

S. Resolution 271 only asks that our gestures be returned in kind. No special concessions are sought or expected.

3. Negotiations between the NLF and South Vietnam

A continuing impediment to any progress in negotiations has been the National Liberation Front's refusal to negotiate with the government of South Vietnam on any substantive basis whatsoever.

The NLF refuses even to accept items for the agenda in Paris and refers to the South Vietnamese government only as "puppets" and "the Thieu-Ky clique," and pursue the systematic liquidation of South Vietnamese National Party members in satisfaction of so-called Blood Debts.

There can be no hope for agreement on even the smallest details when one party claims sole legitimacy and is completely unwilling to engage in viable political processes.

S. Resolution 271 does not call for surrender of the Viet Cong's principles or other stipulations. It asks simply that they talk to the South Vietnamese government as a political entity.

4. The Saigon government's existence and the holding of elections

The North Vietnamese and Viet Cong have continued to hold out the overthrow of the South Vietnamese government as a condition precedent to conducting free elections. This demand is accompanied by insistence that a "provisional coalition government" be established to rule South Vietnam until elections can be conducted.

There is neither necessity nor reason that the Saigon government be destroyed before the people of both Vietnams are allowed to make their choice of governments. The government of South Vietnam has repeatedly made public its willingness to work for the participation of all orderly, democratic parties and to abide by the results of free and internationally supervised elections. President Thieu has been most explicit on this subject.

The United States does not seek to impose its ideas of what the government of South Vietnam should be, nor will we permit the North Vietnamese or Viet Cong to dictate a "coalition" or any other form of government. It is for the South Vietnamese people alone, and in free exercise of democratic processes, to decide the forms of their institutions. S. Resolution 271 calls for reasonable recognition of these facts by North Vietnam and the Viet Cong.

5. Prisoners of war—Their status and treatment

As a broader and perhaps more telling indication of Hanoi's and the Viet Cong's intentions and predispositions, I would cite their treatment of American prisoners of war. Both North Vietnam and the NLF have persistently and callously violated the 1949 Geneva Convention Relative to the Treatment of Prisoners of War. These conventions were ratified by North Vietnam June 28, 1957. Notwithstanding ratification and the clear language of the Conventions, Hanoi and the Viet Cong engaged in the following calculated violations:

Refusal to provide proper nourishment and humane treatment for all American prisoners of war, information on their detention camps and access by neutral observers;

Refusal to identify all American prisoners of war;

Denial to American prisoners of war the right to communicate regularly by mail with their families; and

Continued detention of the seriously ill and wounded.

These barbarous violations of the fundamental law of nations have not gone unnoticed by the body chiefly concerned with the application of the Geneva Conventions. In a letter dated June 11, 1965, the Vice President of the International Committee of the Red Cross, Jacques Freymond, told Secretary of State Dean Rusk:

"All parties to the conflict, the Republic of Viet Nam, the Democratic Republic of Viet Nam and the United States of America are bound by the four Geneva Conventions of August 12, 1949, for the protection of victims of war, having ratified them and having adhered thereto. The National Liberation Front too is bound by the undertakings signed by Vietnam."

On September 13, 1969, the XXI International Conference of the Red Cross clearly delineated the responsibilities of nations in their treatment of prisoners of war. The resolution unanimously adopted at the Istanbul Conference reads in pertinent part:

"Even apart from the Convention, the International community has consistently demanded humane treatment for prisoners of war, including identification and accounting for all prisoners, provisions of an adequate diet and medical care, that prisoners be permitted to communicate with each other and with the exterior, that seriously sick and wounded prisoners be promptly repatriated, and that at all times prisoners be protected from physical and mental torture, abuse and reprisals."

Senate Resolution 271 puts the North Vietnamese and Viet Cong on notice that their unlawful treatment of American prisoners is fully recognized and that we call upon them before the community of nations to comply with the obligations solemnly undertaken by them and imposed upon them by international law.

CONCLUSION

Mr. Chairman, I hope my remarks have provided some insight into the broad significance of S. Resolution 271. It strikes at the heart of Hanoi's calculated negativism at Paris and in the world community. All of the articles related directly to the strategy Hanoi and the NLF are utilizing to forestall a negotiated settlement at Paris and to evade their international responsibilities.

It is clear at the present time that Hanoi and the NLF totally lack resolve to approach a negotiated settlement of the war. This Resolution seeks to provide the incentive for them to develop a constructive approach to the Paris negotiations.

The sponsors of S. Resolution 271 sincerely hope a just and lasting peace can be achieved through a formal negotiated agreement. We believe the time is long overdue for Hanoi and the Viet Cong to bargain in earnest and cease pressing to impose their philosophy and form of government through military subjugation of South Vietnam.

We further believe passage of this resolution would rebut a serious illusion in Hanoi by showing that the majority of Americans and their representatives in Washington do support our government's efforts to end the war through negotiation.

Senate Resolution 271 is a positive statement to Hanoi and the Viet Cong that peace and self-determination are American goals for all of Vietnam, both North and South.

HEALTH PREMIUMS TO DOUBLE

Mr. RIBICOFF. Mr. President, every Senator is aware of the crisis in health care costs.

But an article in yesterday morning's Washington Post suggests that the situation will become far worse in the near

future unless we begin to bring the problem under control.

Post writer David Vienna reported that health insurance premiums will double by 1975 because of rising medical service costs and an apparent lack of controls on health care costs.

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 Post, Feb. 4, 1970]
COSTS EXPECTED TO DOUBLE ON HEALTH PLANS
(By David Vienna)

Health insurance premiums will double by 1975 because of rising medical service costs and an apparent lack of controls on health care costs, a report to the Civil Service Commission says.

The report, submitted to the commission more than a year ago but not previously publicized, is on health plans of federal employees.

Insurance industry officials say, however, that nongovernment employees will experience similar increases in their own premiums because the federal plan is the industry's bellwether.

Of the many insurance programs available to government employees, Blue Cross-Blue Shield is the most popular, providing coverage to about 60 per cent of the 8 million people, including employees and their families, insured through government plans.

For those families covered by the most comprehensive Blue Cross-Blue Shield plan available to them, premiums will climb to an annual \$907 in 1975, a sharp rise from the present \$460.

The government's contribution toward its employees' health insurance premiums will remain at the present legal maximum of \$106.56 a year unless pending legislation is passed to provide increased aid.

Congress is considering legislation to cover up to 50 per cent of federal employees' health insurance costs.

The increase to \$907 by 1975 reflects the 25 per cent biannual increases based on the \$423 premium paid by government workers in 1969 when the report was made.

The report said:

"Premiums for both the governmentwide service plan (Blue Cross-Blue Shield) and the governmentwide indemnity plan (Aetna Life & Casualty) can be expected to increase between 10 and 35 per cent every two years between now and 1976, probably averaging between 20 per cent and 25 per cent."

The report predicted that "significantly higher payments for doctors' services are yet to come, as well as higher hospital costs. . . ."

The report said there was an apparent lack of controls on health care costs. It said, for example, that higher costs for doctors' service could be expected because the plans pay physicians' "usual and customary" fees.

Instead of set fee schedules in which doctors would be paid a specified amount of money for specified procedures and services, the plans pay, in effect, whatever fee is usual and customary.

Thus gradually increasing fees are paid because it has become customary over the past several years for the cost of physicians' services to rise.

The payments by plans of usual and customary fees, therefore, "is particularly subject to inflation," the report says.

The cost of health care has risen more sharply than any commodity or service in the country, the Bureau of Labor Statistics said. The cost of health care has risen almost 73 per cent since the late 1950s, while most consumer goods and services have risen 31 per cent.

The report was prepared by Milliman & Robertson, Inc., regarded by the insurance

industry as one of the nation's top consultants in the field. It was submitted to the Civil Service Commission Jan. 24, 1969, but was not widely distributed.

A government official said yesterday, "We never considered it (the report) to be the best report possible," but he said it was the best available.

Joseph E. Harvey, vice president of the Blue Cross Association and the Association of Blue Shield Plans, Inc., said he was aware of the report.

He said Blue Cross and Blue Shield plans across the country "turn to the figures from the federal employees plan when we try to determine rates" for nongovernment groups insured by the plans.

"Information from the federal employee program is the best pool of data we have," said Theodore Cron, president of the American Patients Association.

"If this is what this control population shows, the situation must be far, far worse in nongovernment plans from which we get no data at all. This is a very disturbing report," he said.

Cron said increasing health care insurance premiums will either force the government to raise salaries or increase its contributions to federal employee health benefits.

The Senate Post Office and Civil Service Committee has on its agenda for early action a bill to increase the government contribution to its employees' health insurance costs. The bill, which is opposed by the Nixon administration for economy reasons, would cover up to half of an employee's health insurance costs.

THE EVERETT MCKINLEY DIRKSEN BUILDINGS IN CHICAGO

Mr. SCOTT. Mr. President, I wish to express my thanks and personal feelings of appreciation to the Senate for its action in approving the renaming of the Federal installations in Chicago after our colleague and friend, the late Senator Everett McKinley Dirksen. I know Ev Dirksen would be proud to have his name associated with two great buildings in Chicago, the hub of the State he loved so dearly.

The action by the Senate is a fitting tribute to a man who gave so much of himself to Chicago, to Illinois, and to the Nation. I am delighted that the President saw fit to include the Everett McKinley Dirksen Building West in his budget, and that this Chamber acted with such dispatch in providing a living and vibrant memorial to a great man.

SENATOR GOODELL OPPOSES CARSWELL NOMINATION

Mr. GOODELL. Mr. President, the Judiciary Committee has completed its hearings on the nomination of Judge G. Harrold Carswell to be an Associate Justice of the U.S. Supreme Court.

If the committee reports the nomination, each of us in the Senate will face a sensitive and difficult choice on his confirmation.

Mr. President, I have made my own decision on the nomination, and have made a statement this morning explaining the reasons for my decision. For the information of Senators, I ask unanimous consent that my statement be printed in the RECORD.

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

IN OPPOSITION TO THE NOMINATION OF JUDGE CARSWELL

(By Senator CHARLES E. GOODELL)

I will vote against the nomination of Judge G. Harrold Carswell to be an Associate Justice of the United States Supreme Court.

I believe him to be a man of high character and personal integrity. I do not oppose him because he comes from the South, or because he may be considered to be a strict constructionist of the Constitution. I enthusiastically supported the nomination of Chief Justice Burger, who also was characterized by the President as a "strict constructionist". I voted for his confirmation because in my judgment he was eminently qualified for the Court.

The President has the right to appoint to the Supreme Court the man of his own choice—a man of any judicial philosophy, from any region of the country. The Senate in such a case has its own duty under the Constitution.

Each member of the Senate must exercise his individual judgment, and base his decision upon the most careful scrutiny of the qualifications of the nominee, and a searching inquiry as to whether the best interests of the nation will be served by confirmation.

The issue of "consent" in the case of a Supreme Court nominee is clearly distinguishable from the question of the confirmation of other Presidential nominees.

The function of a Cabinet officer, for example, is to carry out and administer the President's policy. His term of office expires with that of the President.

The Supreme Court, on the other hand, has a constitutional function which is clearly separate and distinct from those of its co-equal branches of government. Also, appointment to the Court is for life.

The President should be given great latitude in obtaining confirmation of his choices for positions in the Executive Branch. But because of the unique institutional role which the Supreme Court plays in American life, every Senator has a special duty in casting his vote on a confirmation issue.

What is my obligation as an individual United States Senator on an issue such as this?

It is not my function to demand that a Supreme Court nominee agree with me on all the issues, and in all the cases he may have decided in the past.

But there are certain issues that are so basic to our country—that its very survival is tied to them. One of these is civil rights.

I oppose Judge Carswell because as a member of the federal judiciary, he has failed to heed and to promote the civil rights revolution of the past decade. He has demonstrated a basic insensitivity to fundamental civil liberties issues, which are essential to our survival as one, indivisible nation.

In my view, any man proposed for a place on the Supreme Court must understand the meaning and the dimensions of that revolution. No matter what his other qualifications and virtues, if he fails to comprehend its meaning, he should not be confirmed. My opposition to Judge Haynsworth was predicated upon the same grounds.

In 1964, in the case of *Due v. Tallahassee Theatres, Inc.*, Judge Carswell summarily dismissed a complaint against theatre owners, city officials and a county sheriff alleging a conspiracy to enforce a policy of segregated operation of theatres. The United States Court of Appeals reversed Judge Carswell stating that he was clearly in error. The Court said, it appears, in fact to be a classical allegation of a civil rights cause of action. The Court could find no basis for entering a summary judgement in favor of the county sheriff.

In 1966, in the case of *Singleton v. Board of Commissions of State Institutions*, Judge Carswell dismissed on a technicality, a suit

to desegregate Florida State reform schools. The Court of Appeals again reversed him.

In 1967, in the case of *Steele v. Board of Public Instruction of Leon County, Florida*, Judge Carswell denied an application to hasten school desegregation. Once again, the Court of Appeals reversed him.

Twenty-two years ago, Judge Carswell made a speech in which he stated that he believed in the principle of "white supremacy". I will not summarily condemn him for that statement. The essential question is whether there has been a change in this view reflected in his actions. I see little change, indeed.

When Thomas Jefferson wrote that "all men are created equal", it is a matter of historical record, that those colonial gentlemen who endorsed that explosive proposition didn't mean it quite as we mean it today. A half century later, Lincoln was not absolutely sure that the nation could accept in practice the concept of black-white equality. His Act of Emancipation, which ennobled the history of that age, was thus in some degree an act of faith.

We are still redeeming Lincoln's act of faith. And we are doing it at the conclusion of one of the most tumultuous decades in our nation's history—a decade which saw the civil rights revolution explode in our national consciousness. And as a people—North as well as South—we are still learning by experience and by suffering to live the truth of racial equality.

In determining whether Judge Carswell should be confirmed, I think it is necessary to consider our responsibility toward achieving the promise of American life for all our citizens.

We have had a great deal of talk in the last three hundred years in this country about equality. In the past ten years, we have had some action. More deeds, not talk are what is needed. We must continue to gather our strength, and our determination to act boldly to lift from all of our citizens the hypocritical burdens of intolerance, bigotry and discrimination.

Our law and our courts must continue to play a crucial role in this effort. I therefore, in conscience, cannot vote to confirm Judge Carswell for the highest judicial office in the nation.

STATEMENT BY SENATOR MATHIAS, IN SUPPORT OF HIS RESOLUTION SENATE JOINT RESOLUTION 166

Mr. COOPER. Mr. President, the Committee on Foreign Relations began hearings on February 3 on a series of resolutions pending before the committee dealing with the Vietnam war and other foreign policy considerations. Today the committee was privileged to hear the distinguished Senator from Maryland (Mr. MATHIAS) give testimony in support of the resolution he introduced, Senate Joint Resolution 166, and cosponsored by the Senator from Montana (Mr. MANSFIELD). In addition to the testimony of Senator MATHIAS, the committee was privileged to hear Senator MANSFIELD's comments on behalf of the joint resolution.

The joint resolution proposed by Senator MATHIAS is, in my view, forthright, thoughtful, and deserving of the close attention and study of the members of the Foreign Relations Committee. His proposal has merit, and I commend him for his initiative.

Mr. President, I ask unanimous consent that the statement given by Senator MATHIAS before the Foreign Relations

Committee this morning be printed in the RECORD.

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

REMARKS OF SENATOR CHARLES MCC. MATHIAS, JR., REPUBLICAN, OF MARYLAND, BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE, FEBRUARY 5, 1970

(Topic: Senate Joint Resolution 166: A joint resolution to repeal certain cold war foreign policy resolutions, reconsider the Korean national emergency proclamation, and set the stage for new policies for the seventies)

First, I want to thank the Committee and its distinguished chairman for the opportunity to testify. These hearings promise both to illuminate the problems of extrication from Vietnam and to follow up the splendid work which produced the National Commitments Resolution (S. Res. 85). The first section of my resolution, in fact, is directly complementary to that earlier enactment and becomes more meaningful in conjunction with it. S. Res. 85 defines a national commitment as the foreign use, or contingent promise of foreign use, of U.S. armed forces and declares that specific Congressional approval is essential to a national commitment.

My resolution would rescind previous legislation which seemingly authorizes such commitments on the basis of contingencies long past and without further Congressional approval.

Clearing the Congressional ledger of the debris of briefly considered and broadly permissive cold war postures, my proposal would prepare the Congress to face the demands and opportunities of the new decade. In the words of Abraham Lincoln, delivered during an earlier period of national crisis, "We must disenthral ourselves." And in disenthraling ourselves, we can set the stage for more contemporary foreign policy enactments—to be worked out cooperatively between the President and Congress, fulfilling their own respective constitutional responsibilities—and our nation's responsibilities in a changing world.

The resolution (S.J. 166) contains five sections. Section 1 would repeal four foreign policy support resolutions, relating to use of U.S. military forces respectively in Formosa, the Middle East, Cuba and Southeast Asia. All are joint resolutions, enacted by Congress since 1955, signed by the President, and repealable through joint resolution of Congress. All are technically still in effect and have been interpreted as affording the President broad powers to intervene with American military forces in the specified areas. Of the four resolutions, only the Middle East Resolution, adopted in 1957, was subjected to extended debate and only it specified that military action be in keeping with the treaty and constitutional obligations of the United States. In apparently providing for use of American troops abroad without further Congressional action, the other resolutions differ from treaty commitments that permit intervention only in accord with constitutional processes.

The resolutions to be repealed are the following, listed chronologically. I submit copies of each at this point for the record.

1. P.L. 84-4 (69 Stat. 7) *Protecting the Security of Formosa, the Pescadores and Related Positions and Territories of that area.* The resolution declares that retention of Formosa and the Pescadores in the hands of "friendly government" is "essential to the vital interests of the United States and all friendly nations" in the Pacific. The President is authorized to "employ the armed forces of the United States as he deems necessary" for protection of these islands against armed attack. The resolution was introduced in both Houses on January 24, 1955, in response to a Presidential request

on that day, and was enacted within the next four days. It was approved by President Eisenhower on January 29, 1955, and is terminable either by joint resolution or by Presidential declaration that the peace and security of the area is reasonably assured.

2. Section 2 of P.L. 85-7 (71 Stat. 5) *Promoting Peace and Stability in the Middle East.* Considered the legislative embodiment of the "Eisenhower Doctrine," this resolution provides for extension of military and economic aid to Mideastern countries. Section 2 declares that "if the President determines the necessity" the United States "is prepared to use armed forces to assist" any Mideast nation requesting aid against armed aggression from a "country controlled by international communism." The resolution stipulated that armed assistance be in keeping with the treaty obligations and Constitution of the United States and that it be granted only for self-defense and not for aggression. The President was directed to report to Congress twice yearly on his actions under the enactment. This resolution was passed by the House on January 30, 1957, five days after it was introduced, but the Senate subjected it to extensive hearings and debate before passage on March 7. President Eisenhower signed it on March 9. It is terminable either by concurrent resolution or by Presidential declaration.

3. P.L. 87-733 (76 Stat. 697) *Expressing the Determination of the United States with Respect to the Situation in Cuba.* Specifically the resolution declares U.S. determination to use armed force to prevent "Marxist-Leninist" Cuba from extending its aggressive or subversive activities into the rest of the hemisphere. It also asserts the U.S. resolve forcibly to prevent establishment in Cuba of an externally supported military capability endangering the United States.

This resolution was not requested by President Kennedy, who believed his "inherent power" would suffice to authorize any needed military action against Cuba. But it was prompted by his statement of September 13, 1962, expressing a similar national determination. The resolution was introduced on September 19 and approved by the President on October 3. Nonetheless, a month later, when the President announced the discovery of Soviet offensive missile emplacements in Cuba, he did not refer to the resolution as authority for his action establishing a naval quarantine.

The resolution on Cuba is the only one of the four resolutions included in the repealer that lacks explicit provision for termination, either by Congress or the President.

4. P.L. 88-408 (78 Stat. 384) *Promoting the Maintenance of International Peace and Security in Southeast Asia.* Known as the Gulf of Tonkin Resolution, this enactment asserts that North Vietnamese naval units "deliberately and repeatedly attacked United States naval vessels lawfully present in international waters." It "approves and supports the determination of the President, as Commander-in-Chief, to take all necessary measures . . . to prevent further aggression." And, it states that the United States is prepared, "as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom."

This resolution was requested by President Johnson on August 5, 1964. It was introduced in both Houses on the same day and subjected to hearings the next day in executive sessions of the relevant committees. A day later it was enacted after limited debate. It was approved by the President on August 10. It expires either by Presidential declaration or by concurrent resolution.

Later investigation by this Committee has cast grave doubt on the stated premises of

this resolution. It transpired in hearings that the allegedly "deliberate and repeated attacks" on U.S. vessels "lawfully present in international waters" in fact were haphazard or even non-existent attacks. The U.S. vessels, moreover, were apparently engaged in provocative military missions within what North Vietnam regards as its 12-mile limit.

Unlike the other resolutions included in the repealer, the Tonkin Gulf enactment has been repeatedly cited as authority for intensive and far-reaching military action, involving air, sea, and land forces; and it was later represented by former Under Secretary of State Nicholas Katzenbach to be "the statutory equivalent to a declaration of war."

Each of these resolutions served a purpose, to demonstrate Congressional support for Presidential firmness and perhaps to authorize use of American military forces in a specific international crisis. And the Tonkin Gulf Resolution served its purpose all too well. Now these resolutions should be repealed by this Congress, which takes seriously its continuing role in shaping American foreign policy in a changing world.

For the resolutions do not take into consideration the substantial changes that have occurred in each of the applicable areas. And they seem to embody a misinterpretation of the constitutional role of Congress in international affairs.

Repeal of these enactments, it should be understood, would in no way affect existing treaty commitments or prejudice American policy for the future.

I would expect that the President might wish for more contemporary expressions of Congressional determination in some of these areas. Any proposed new resolutions, responsive to current conditions in the Middle East and elsewhere, can be considered rationally in the time before the repealer takes effect at the end of the 91st Congress.

The repealer, however, would symbolically remove the mortmain of the past from the present posture of the Congress. And, I would hope, it would signal a new determination by Congress to exercise fully its powers on the vital questions of war and peace. For the resolutions to some extent reflect a lapse of Congressional powers in this realm.

In the future American troops should not be used abroad without specific Congressional authorization. This principle is inherent in the constitutional reservation to Congress of the authority to declare wars and to raise armies and establish rules for their use. This principle is explicit in the National Commitments Resolution. But it is gravely compromised in the resolutions which S.J. 166 would repeal.

Although they have been interpreted as authorizing the use of American troops without further Congressional action—and though previous Presidents have cited them as such authority—in fact the four resolutions do not specifically authorize military intervention. Rather they affirm that the United States "is prepared" or "is determined" to intervene under certain circumstances. In anticipating military action without specifically authorizing it, the resolutions seem to be based on a constitutional misinterpretation. They appear to concede, incorrectly, that the President has inherent power to prosecute military campaigns without specific Congressional consent.

Thus these resolutions implicitly would contravene the crucial constitutional principle reaffirmed in the National Commitments Resolution. In repealing them we reassert the constitutional doctrine that without specific Congressional authority, the President can use American forces only to repel attack on the United States or on a country with which the United States has a treaty requiring immediate military response.

In these circumstances the President may act if necessary before seeking Congressional

authority. But even then, in accord with the "constitutional processes" cited in our treaty enactments, the President must seek Congressional consent. It should be made clear that the President cannot legitimately conduct extended military operations under any circumstances without specific Congressional action and Congress cannot legitimately delegate its powers to the President except for specific and limited contingencies. This crucial constitutional principle, vitiated in these resolutions, will be reaffirmed by repealing them.

Section 2 of S.J. Res. 166 relates to another area of nebulously accumulated Executive powers deriving from the crises of the cold war and, in this case, even earlier contingencies. On March 9, 1933, at the urgent request of President Roosevelt, Congress passed the Emergency Banking Act ratifying the President's Bank Holiday proclamation and amending the Trading with the Enemy Act of 1917. The 1933 amendment to the 1917 act permitted the President, by declaring a state of national emergency, to invoke in peacetime his extraordinary "war" powers as Commander-in-Chief under Section 5(b).

Since that day in 1933, the country has gone through several vicissitudes of war and peace but executive powers have continually been at "war." Not once since the peacetime emergency concept was established has the executive allowed his full range of emergency powers to lapse. And that one emergency law of 1933 has since been joined by more than 200 others technically in effect today as a result of President Truman's Korean emergency proclamation of December 16, 1950.

The most important recent invocation of these Korean Emergency powers occurred on January 1, 1968, in response to the continuing deficit in the U.S. balance of payments. Under President Johnson's Executive Order 11387 "Governing Certain Transfers Abroad," the Department of Commerce issued Foreign Direct Investment Regulations (FDIR). These regulations restricted the amounts of capital American investors could transfer to or accumulate in foreign affiliates and compelled repatriation of short term liquid balances such as foreign bank deposits. Directly encroaching on Congressional prerogatives, this far-reaching order could not have been made without invocation of emergency powers entirely unrelated to the balance of payments crisis at hand. In effect for a year, it strikingly illustrates the dangers of allowing a state of emergency to become a permanent state of affairs.

Among the more than 200 other emergency laws, let me mention a few representative examples: in an emergency he alone proclaims, the President may sell stock of strategic materials . . . revoke leases on real and personal property . . . suspend rule and regulations applicable to radio stations . . . detain enlisted troops beyond the term of their enlistments . . . detail military men to the governments of other countries . . . regulate transactions in foreign exchange . . . and exercise control over consumer credit. Among hundreds of local properties, the President also may take over parts of Howard University, and in my own State of Maryland, he may close Fort McHenry—the birthplace of "The Star Spangled Banner"—and "use it for such period thereafter as the public needs may require."

Some of these special powers probably should be granted to the President as a matter of policy; some have been effectively abrogated through conflicting legislation. All should be reviewed; and the entire concept of national emergencies declarable by the President in peacetime without termination dates should be reappraised and clarified. Emergency powers should be available only for brief periods when Congress is unable to act and for purposes directly related to the emergency at hand.

To that end, Section 2 of S.J. 166 would

create a special joint committee comprising six members of each body of Congress including three each from the Senate Foreign Relations and House Foreign Affairs Committees. The special committee would confer and consult with the President on the matter of termination of the state of emergency proclamation and it would determine which "emergency" powers actually are justified by current foreign policy exigencies and should be legislatively authorized. The Committee would report back to the Congress before the end of the 91st Congress. I recognize that this section of the resolution does not entirely fall within the jurisdiction of the Foreign Relations Committee and might have to be referred to another panel. I invite your recommendations on this approach, however.

The last three sections of S.J. 166 are designed to replace the open-ended authorization contained in the Tonkin Gulf Resolution with a new Congressional enactment for Southeast Asian policy.

Section 3 would declare support for the President's determination to pursue a political rather than a military solution in Vietnam and would endorse his plan for the withdrawal of all American forces from South Vietnam as soon as possible.

This section also urges the President to seek creation of an international peace-keeping force under United Nations or other appropriate international auspices. I have urged creation of such a force since 1962. It is needed now to prevent reprisals against any of the South Vietnamese people after the departure of American troops. It is said that without the aid of U.S. forces the Thieu-Ky government could not prevent massacres from occurring.

Section 4 is designed to promote the development of a political order embracing all groups in South Vietnam and capable of surviving and keeping order after the departure of American troops. Under the resolution, Congress would urge leaders from all political, religious, and ethnic groups in South Vietnam to initiate serious discussions designed eventually to produce a new broadly based government. Needless to say, in order for meaningful political discussions to occur, the Thieu-Ky regime would have to release from prison those leading political figures incarcerated essentially for advocating or attempting such discussion. This process is not to be considered as an alternative to elections but as a contribution to the conditions of minimal consensus necessary for a meaningful balloting.

Section 5 is designed in part to provide additional incentives for the success of the Paris negotiations, and in part to fulfill the humanitarian mandate of the American world role. This section would urge the President to invite other nations to participate with the United States in the formulation of a multilateral plan for the reconstruction of war-ravaged areas in Southeast Asia. It also asks the President to submit to Congress as soon as possible any legislation needed to carry out the plan.

It is not the intent of the resolution to place unjustified constraints on Presidential leadership in foreign affairs. It is rather to re-establish for the Legislative Branch our joint responsibility for the ways in which foreign policy is carried out, and to provide the President with a clear sense of Congressional thinking. Indeed, by clearing outdated and open-ended commitments from the record and enacting more relevant legislation, we may even help the President in his efforts to control the Executive Branch and those tendencies in our massive bureaucracy that helped produce our piecemeal involvements in Vietnam and elsewhere.

If the United States is to develop foreign policies suitable for the seventies, worthy of the support of those who have been estranged from our policies in the sixties, we must clear

away the legislative and conceptual debris of the fifties. And if this process of modernizing our policies is to be durable and democratic, immune to sudden reversal in a crisis under the pressure of an aroused and uninformed public opinion, the Congress must play a key role in preparing itself and its constituencies. Congress must share with the President the educational leadership burdens in foreign affairs.

The fundamental question involved in my resolution can be bluntly stated: Is Congress, is the Senate—with its constitutional responsibilities in this realm—either obsolete or optional in the making of American foreign and defense policies? The question may seem impertinent, particularly at a time when the Senate is moving to play a larger role in this field. But despite the recent assertions of Congressional authority on national commitments and other matters, an influential school of academic and governmental opinion continues to believe that international relations are too technical, complicated, and machiavellian to be understood or responsibly managed by nonprofessionals.

Many of our international activities, it is said, must actually be conducted in secret, and sometimes no elected official, not even the President himself, is apprised in detail. In the nuclear age, this argument goes, foreign and defense policies are matters of neurosurgical delicacy—affecting the very survival of mankind; they must be managed by specialists, insulated as much as possible from the buffeting of public sentiment. The axiom that politics ends at the waters edge is interpreted as gravely limiting Congressional scrutiny and debate on our activities overseas.

This attitude, which I have only slightly caricatured, has been buttressed by the long period of Congressional inaction, just now ending, in these areas of policy. I need not reiterate here the details of years of Congressional deference in foreign and defense matters, or of the effective usurpation of war powers by the President. In the decisions launching the United States into its last two major conflicts, Congress played no significant role. Our entry into Korea was essentially a Presidential initiative; and in relation to Vietnam, Congress acted only to abdicate.

Congressional powers were continuously exercised during this period, particularly in appropriations. But the presumptions and priorities of the Congress were often in disarray and on the most important questions, Congress tended to accept technocratic predominance in foreign policy. The foreign aid bill was exhaustively scrutinized, while the defense budget until this year was relatively unexplored and the major dimensions of our foreign policies were determined by the executive. The practical effect of Congressional review was often to lend inert momentum to executive policy.

Until the country must be mobilized for war, our defense and diplomacy thus have been shrouded in a mystique of statesmanship and technocracy. When war erupts, our policies have been suffused by a melodrama of emergency. It has been only rarely in the years since World War II that Congress asserted itself to assume a responsible, deliberate role in deciding the life-and-death issues of the international realm.

It will not surprise you that I oppose this attitude toward the role of Congress and especially the Senate. My resolution is based on the proposition that American foreign policy does not—and should not—begin beyond the three mile limit. I believe, in fact, that our foreign policy in recent years has tended too much to remain at sea with the executive. I do not accept the theory that either the invention of nuclear weapons or the intrigue of counter-insurgency has rendered Congress obsolete or optional in international affairs.

The basic problem with the elitist and technocratic notion of foreign policy is that

it is ultimately unacceptable to the American people. Foreign policy can be made for long periods without Congressional scrutiny or participation. But when a setback occurs—or some major and controversial change is made—Congress is politically impelled to respond. The issue then becomes not whether but how Congressional power will be exercised.

There is no doubt that its power is legitimate. Although the executive is constitutionally authorized to conduct our foreign relations—and serve as Commander-in-Chief of our armed forces—Congress was assigned an equally important role by the framers of our Constitution. In fact, I might contend that the constitutional responsibilities of the Congress in foreign policy are ultimately greater than those of the President. Congress holds unique powers in taxation, appropriation, foreign commerce, conscription, regulation of the military, and declaration of war that embrace the whole range of our foreign relations. The Senate has special powers—and a long tradition—relating to treaties, appointments, and general consultation. I think that it is more important than ever for Congress to exercise its powers today.

Alexis de Tocqueville once said, "The most important time in the life of a country is the coming out of a war." The final stages of the Korean War were marked by bitterness and recriminations. I believe that today we are emerging from the Vietnam War into a new world—a world very different from the one in which we were brought up, very different even from the one in which our Vietnam engagement began.

Nationalism is increasing in clamor, while world economic and technological forces—organized in great multinational corporations—treat national boundaries as irrelevant. The cold war is ending in Europe, won by the new capitalists, and the communist states look wistfully west for new markets, new products, and old economic ideas. The North-South division of the world—the realm of affluence and the realm of underdevelopment—arises as the crucial arena of ideological conflict and a key arena for new Congressional policy. In this arena the President's proposal for trade preferences for the products of underdeveloped countries—a new incentive for private enterprise in them—is likely to be incomparably more important as an ideological initiative than anything we could achieve with our military in Vietnam.

And this is just a beginning. In the next few years we are going to need a complete reordering of our approaches toward the Southern Hemisphere—indeed toward the whole world economy. This year we created a new international money, unglamorously designated Special Drawing Rights. We are now considering how to channel this new money into the underdeveloped world through the international development authority of the World Bank. Soon we will have to develop a new currency of ideas to capture the imaginations, stimulate the economies, and expand the trade of the less developed countries—let them transcend their own exclusionist nationalisms and participate in the growth of the North.

The United States remains the world's most developing country, partly because it is continental in scope and open to the products and ideas of the world. The Nixon Administration I believe is also to a great extent open to these new forces and movements in the world. So are a great many members of Congress, particularly in the Senate. But I am afraid that unless the Congress as a body, both Houses, prepare now to deal with these and other new issues—unless it engages the future confidently and responsibly now—the period of transition as we move from Vietnam may be marked with bitterness. I fear that, as in the period after

World War I and after Korea, the executive may encounter dangerous obstruction from a Legislative Branch suddenly burdened with the urgent business untended during a period of conflict. And I believe that post-war readjustment—so imperative for the avoidance of future wars and for the establishment of a lasting peace—may be impossible to accomplish smoothly unless it is undertaken now. It is in this spirit that I introduced my resolution, that I present it to the Committee today and that I seek the help of the Committee in its consideration, refinement, improvement and submission to the Senate.

Until now I have dealt in terms of history, constitutional law and Congressional tradition. Even in matters of high politics, however, the political quotient must be considered. In conclusion, therefore, it is not unbecoming to make a few remarks placing my resolution in its current political context.

I said at the outset that this resolution is a natural extension and complement of the National Commitments Resolution. But because they assert Congressional authority, no one should assume that these resolutions necessarily conflict with executive policy. In fact, President Eisenhower insisted on the primacy of Congress in these matters, while it was Congress—conditioned by the different attitudes of his predecessors—which was skeptical of its powers and refused to assert them fully.

Now President Nixon has an opportunity to reassert the position of President Eisenhower, demonstrate his own statesmanlike recognition of constitutional proprieties, and at the same time secure explicit Congressional support for the stated aims of Administration foreign policy. President Nixon himself in Guam and Manila affirmed that future American policy in Asia would be designed to "exclude the kind of support which would involve a commitment of manpower." President Nixon himself has eschewed pursuit of a military solution in Vietnam and has asserted a determination to remove all American troops.

My resolution, in fact, can be considered as a legislative combination of the Nixon plan for total withdrawal of American forces from Vietnam with the Nixon doctrine to limit American military commitments abroad. By supporting it, the President would reassure the country and the Congress of the depth of his commitment to these goals and dissipate some of the anxieties and misconceptions prevailing in the land.

So in making this proposal to the Congress—and in offering this testimony—I also issue an invitation to the President to participate with us in an historic undertaking. And in bringing these two branches of government together to reappraise American foreign policy for the seventies, I hope we can make a significant step toward bringing the American people together in the pursuit of peace.

THE STORY OF TRAN NGOC CHAU

Mr. FULBRIGHT. Mr. President, in this morning's Washington Post, Joseph Kraft tells us the story of Tran Ngoc Chau. It is a story that does not reflect credit on the United States or on the South Vietnamese regime of President Nguyen Van Thieu. I have known about the story for several months, and I know that the facts that Mr. Kraft recites are accurate. There are, of course, many other facts that have not been reported in the press.

To set the story in context, as Mr. Kraft writes, Chau is an old friend of President Thieu and once shared quarters with him when both were junior

officers. From 1960 to 1966 he was province chief in Kien Hoa and mayor of Danang. In both positions, he had an outstanding record. In 1966 he was nominated by CIA to be head of the cadre training program at the Vungtau Training Center where he obviously worked closely with the CIA as that agency had the responsibility for the center. In the 1967 National Assembly elections, he was elected a deputy from Kien Hoa with the second highest plurality in the country. He then became head of the opposition bloc and was elected Secretary General of the Assembly.

In 1965, Chau was contacted by his brother, Tran Ngoc Hien, a North Vietnamese intelligence agent. By Chau's own admission, he did not report these contacts to the South Vietnamese Government. Kraft says that whether he reported these contacts to the CIA is in dispute. Chau says that he did, as Keyes Beech reported in the Washington Evening Star on February 2. I know for a fact, from private sources, that he did report his contacts with his brother to a number of U.S. officials in Vietnam, including CIA officers with whom he had daily contact. I should add that I also know for a fact that he had, and still has, many close friends in the American official community.

At any rate, to return to the story told by Mr. Kraft, Chau began last year to advocate a cease-fire and direct negotiations between the South Vietnamese Government and the NLF. He also began to attack Nguyen Cao Thang, a rich Saigon pharmacist and member of President Thieu's inner clique, who is described by Kraft as President Thieu's "political bag man."

Chau's brother was arrested in April and interrogated in July. No charges were lodged against Chau at the time of his brother's arrest and interrogation. I am told, in fact, that relations between Chau and Thieu were not broken until some weeks or months thereafter. It appears that Thieu's open attacks on Chau began only after Chau denounced the pharmacist Thang.

Thus it appears that the real reason for Thieu's attack on Chau was not his contact with the Communists but rather Chau's growing power as an opposition figure and as a critic of Thieu's attempts to pressure and corrupt the Assembly as evidenced by the activities of Thang.

Thieu began his campaign against Chau by denouncing him publicly on a number of occasions. According to the Saigon press, in a speech on December 10 at the Vungtau Training Center, Thieu said that if the Assembly would not see justice done to Chau, and to two other accused deputies, "the people in the armed forces will cut off the heads of these deputies" and he added: "Our duty is to beat such dogs to death." Thieu organized demonstrations, including a march on Parliament, in connection with his efforts to lift Chau's parliamentary immunity. Failing to secure the votes of three-quarters of the members of the Assembly necessary to lift Chau's immunity, Thieu resorted to the legally questionable tactic of having a petition

lifting Chau's immunity circulated among Assembly members. According to a report in this morning's Washington Post by Robert Kaiser from Saigon, the 102 necessary signatures on the petition have now been obtained, and President Thieu is free to prosecute Chau.

I know that the U.S. mission in Saigon did not expect Thieu to obtain the necessary number of votes to lift Chau's immunity. But they obviously underestimated Thieu's determination and his ability to obtain the result he desires through threats and bribery. I have very persuasive evidence on this point. Mr. Kraft tells us that Ambassador Bunker was directed to intervene with President Thieu on Chau's behalf but that "the Embassy has not bestirred itself." Given the attitude of certain high mission officials toward Chau, and their unwillingness to incur President Thieu's displeasure, I am not surprised. Nor am I surprised that Chau is disenchanted with Americans because of their refusal to intervene, as Keyes Beech reported after his interview with Chau.

Chau is now in hiding. I hope for his sake that he will be able to escape Thieu's persecution. But even if he does, the story of Tran Ngoc Chau will not have a happy ending. The South Vietnamese Assembly has been intimidated, while the U.S. Government has shrugged its shoulders. And those in Vietnam who favor negotiation and compromise, or who dispute President Thieu, will speak at their peril from now on. Perhaps the story of Tran Ngoc Chau will prove to be the last chapter in the history of representative government in Vietnam.

EARTH DAY, APRIL 22

Mr. NELSON. Mr. President, a few short months ago, I suggested in a speech at Seattle that American students take a major initiative by holding environmental teach-ins on every campus in the country on the same day this spring. Shortly afterward, Representative PAUL McCLOSKEY, Jr., a California Republican and an environmentalist, joined me in sponsoring what we saw as a nonpartisan, educational effort to draw the issues, stimulate plans for action, and demonstrate the strength of American concern for a livable world. A nine-member teach-in committee was formed, and the date of April 22 was suggested for the teach-ins.

From the very beginning, the response from around the country has been one of overwhelming support, not only from students, but from persons and organizations of all ages and political persuasions.

Since early December, a national environmental teach-in office has been established in Washington to provide coordination, communications, and service for the April 22 effort—and they report that already, at least 350 campuses are planning teach-ins, and from the continuing new contacts by mail and phone each day, it appears thousands of campuses, and high schools and communities as well, will be participating on April 22.

Though it is proving a focus for student concern on the environment at this

point, the April 22 teach-in effort is only one facet of this broad-ranging new insistence of the new generation on halting the environmental destruction and establishing quality on a par with quantity as an aim of American life.

Furthermore, this is only one more in a whole series of issues that have concerned youth in the past decade and I am sure, will continue to concern them in the future.

The CF letter, an excellent monthly report by the Conservation Foundation on environmental issues, has devoted its entire January issue to a report and analysis of the vast and growing student environmental concern. Thorough, well-written, informative reports such as these are a real public service in giving all Americans a much understanding of what young people are really trying to say and accomplish. I ask unanimous consent that the January CF letter be printed in the RECORD.

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

[From the CF Letter, January 1970]
STUDENTS RALLY TO HALT POLLUTION, RAISE QUALITY OF MAN'S ENVIRONMENT

They marched through the city handing out toy drums and balloons, carrying picket signs and wearing surgical masks. At the offices of the electric power company, they stopped and awarded the utility a blue ribbon citation for being a prime polluter of the air.

They formed a consulting service to do feasibility studies on alternatives to environmentally damaging projects.

They sat in the mud at a construction site for a new building to protest encroachment on open space.

They went out on an icy winter day and collected tons of refuse and junk from a nearby creek.

They held a mock funeral for the air-polluting internal combustion engine and celebrated a "Smog-Free Locomotion Day" by riding bikes, roller skates, stilts, wagons and pogo sticks.

They developed an award-winning urban design for a poverty area in a small southern city.

They staged an elaborate cross-country race between two electric cars, to call attention to the potential for reducing air pollution. They plan another race for all types of vehicles which caused less pollution.

They formed a corporation and filed a complaint to compel a bus company to stop polluting the air with diesel fumes.

They filed 58 complaints against a university for polluting a creek.

Who are they? They are the students and young people of the nation, rallying to the fight for a more liveable environment. They are dissatisfied, exasperated students, and they are throwing themselves into the fight with their customary fervor.

Said San Francisco State College student Pennfield Jensen recently: "The naivete, enthusiasm and idealism of young people is not a thing to be scorned, for it is the raw material of constructive growth. We will stop the destruction of this planet even at the cost of our futures, careers and blood."

There is every indication that, far from being scorned, the students are helping to spread a contagious concern for the environment throughout society—somewhat as they did with civil rights and the Vietnam war. They are sending letters and petitions, demonstrating, printing pamphlets, conducting research, holding mass meetings, giving testimony, picketing, showing films, writing songs.

And they are just warming up. Much of the current focus is upon April 22—Earth Day—when a nationwide "environmental teach-in" is planned for hundreds of campuses—and communities. Students hope that the teach-in will help catalyze the public's growing concern for the environment; will be a clear manifestation of student involvement and determination; and will serve notice on the older generation that young people do not intend to put up with continued mistreatment of the environment.

A GUT ISSUE

It was natural that students should turn their attention to environmental degradation. They are aware of the world around them. And pollution is an all too obvious part of that world. Students also expect to be around long enough to reap the harvest of past mistakes.

Senator Gaylord Nelson of Wisconsin, who with Congressman Paul McCloskey of California played a major role in launching the teach-in, recently put it this way: "The real loser in man's greedy drive is the youth of this country and the world. Because of the stupidity of their elders, the children of today face an ugly world in the near future, with dangerously and deadly polluted air and water; overcrowded development; festering mounds of debris; and an insufficient amount of open space to get away from it all. Since youth is again the great loser, perhaps the only hope for saving the environment and putting quality back into life may well depend on our being able to tap the energy, idealism and drive of the oncoming generation. . . . One of the most dramatic developments of this decade has been the insistence of youth that in the last third of the 20th century, the quality of life must have a much higher priority than the greed of past generations has permitted."

Harvard University biology professor George Wald, speaking essentially about war and the population explosion, offers this explanation: "Unless we can be surer than we now are that this generation has a future, nothing else matters. It's not good enough to give it tender, loving care, to supply it with breakfast foods, to buy it expensive educations. Those things don't mean anything unless this generation has a future. And we're not sure that it does."

Some observers have viewed the new student preoccupation with environmental issues as a welcome change from anti-war dissent. But while many students clearly believe the ecological threat is more urgent and important than anything else, some are quick to disabuse anyone of the idea that they are turning their energies away from the war—or from other campus issues, including educational reform, race, and poverty.

Denis Hayes, a student who directs a national office providing clearinghouse services for teach-ins, sought to dispel several "widespread myths" that have sprung up about student concern with environmental issues. At a press conference in Washington, D.C., Hayes said one of these myths is the theory that involvement with the environment will be a "quieting force—stilling troubled campuses and healing the wounds of a divided nation.

"That is wishful thinking," he declared. "There are fundamental value conflicts between those who seek a better world, and those who care only for size, speed, and profit." In a challenge to President Nixon and Congress, Hayes added that "an even greater division will occur in this country if those now piously calling for environmental change later try to shortchange the necessary programs."

Hayes said another myth is that the environment movement will "co-op people from other pressing social concerns to march on pollution. It won't. For ecology is concerned with the total system—not just the way it

disposes of its garbage. Our goal is not to clean the air while leaving slums and ghettos, nor is it to provide a healthy world for racial oppression and war. We wish to make the probability of life greater, and the quality of life higher. Those who share these goals cannot be 'co-opted'; they are our allies—not our competitors."

Hayes said another myth is that the environmental issue will "defuse" the anti-war movement. "It won't," he said. "Students and other Americans are fully able to be concerned about more than one issue at the same time."

One important characteristic of the student environmental movement is that it knows no ideological boundaries. It is attracting young people of all persuasions. It is bringing together, side by side, the bearded and bedraggled with the meticulously buttoned-down, the conservative young Republican and the militant SDS'er. There may be fragmentation and animosity later—but right now, everybody is breathing the same air, everybody is feeling the same malaise.

Concurrently, the fact that environmental problems involve so many fields of study and expertise—biology, chemistry, geology, planning, resource management, business, engineering, medicine, the law, art, architecture, etc.—brings a wide range of students together.

"NEW ETHICAL ORIENTATION"

What do the young people have to offer? What are they like and what is the nature of their involvement?

Generally, they are not hindered by affiliations, responsibilities and other adult hang-ups (such as, in some cases, making a living). Says Noam Chomsky, professor at M.I.T.: "The students have the freedom to think about what the world is like and the intelligence to draw the conclusions. Others don't have the freedom or are too bound by ideological constraints."

Thus, the young can challenge prevalent concepts, systems, values, and priorities. "What they want is, in some way, to begin all over again," says sociologist Margaret Mead. "They are ready to make way for something new by a kind of social bulldozing . . ."

As Hayes puts it: "The next stage in the environmental movement in this country must concern itself with widening the base of educated support . . . We hope to involve an entire society in a rethinking of many of its basic assumptions."

Says another young man: "Most of our environmental problems won't be solved until people's attitudes change—until their personal habits and patterns of life reflect an understanding of their relationships to each other and to the environment." Similarly, a California student said: "What we need is a whole new framework—a rethinking of the principles of private property, of whether land should, in fact, be owned at all, concepts that our society has been built on . . . nothing short of a complete re-examination of our basic values and beliefs will allow people to once again assert some control over their lives."

Just by framing such challenges, young people often penetrate to the nitty-gritty of an environmental problem. These basic challenges are related to the students' deep and abiding skepticism, their dislike of inconsistency and hypocrisy, their overriding humanitarianism, and their strong ethical stance.

Erik H. Erikson, a Harvard University professor writing in the winter 1970 issue of *Daedalus*, speaks of a "new generation of young adults who, with exhortation by song or slogan, by dramatic action or quiet resistance, have in recent years introduced a new ethical orientation into American life—an orientation already well visible in the concerns of a new generation of students."

"Hypocrisy is what drives young people up

the walls," says Eugene P. Odum of the University of Georgia. "When legislators block bills that would protect Georgia's coastal wetlands and beaches on the basis that such protection interferes with private property rights, and then when the same legislators turn right around and introduce so-called 'recreation authority' bills that give the state power to confiscate large areas of private property so that it can be sold to the highest bidder for commercial development—then that is hypocrisy in the eyes of students."

There are other characteristics of the student environmental movement. The students want action—not research or rhetoric. And they want their action now. Furthermore many refuse to accept pat answers and platitudes. They subject any and all to unrelenting challenge and cross-examination.

A businessman who says he can't afford to install pollution control equipment is likely to be asked if profits are more important than people's health. A congressman with an otherwise unimpeachable conservation record is likely to be asked why he voted for the SST.

And, of course, students evidently have a knack for public relations, for techniques and gimmicks to draw attention to problems, capture the public imagination, and galvanize support for their causes.

THE GATHERING STORM

Although student activities on behalf of a better environment will probably reach something of a peak with the environmental teach-ins on April 22, there has already been considerable ferment. In addition to the "happenings" already cited, consider these recent actions:

A Boston University group staged an elaborate two-day program designed to alert and educate the public to environmental misdeeds. Twenty-six University of Texas students were arrested when they tried to stop the cutting of trees on campus. University of Illinois students picketed a dinner honoring a congressman because he favored a dam project they opposed. At the University of Washington, a large band of students planted several hundred saplings in a marshy trash dump near their campus.

Students at the University of Maryland formed the North American Habitat Preservation Society. Its members have distributed thousands of bumper stickers saying "Pounce on Polluters." They have monitored the frequency of osprey eggs rendered infertile because of DDT in the Chesapeake Bay area. And they have joined a court suit against the state of Maryland to prevent destruction of wetlands.

Students were so forceful and persuasive at the annual conference of the U.S. National Commission for UNESCO in San Francisco last November that they took over a good part of the two-day meeting. They induced hundreds of adult experts on hand to approve a resolution asking that the United Nations and President Nixon declare a "state of international environmental emergency."

Other activist student groups have campaigned against industrial pollution, gathered technical data, filed complaints against polluters, searched for new legal techniques to fight them, started an environmental newsletter, made films to protest environmental destruction, composed songs, prepared research reports on local ecological problems, and held educational seminars and mass meetings.

Students have already fought against the Everglades Jetport; a Corps of Engineers dam threatening Allerton Park near Decatur, Illinois; pollution from copper smelting plants in Tucson, Arizona; filling of San Francisco Bay; cutting of California redwoods; Project Sanguine, the Navy's controversial communications system planned for northern

Wisconsin; the Three Sisters Bridge across the Potomac River in Washington, D.C. And so on, and on.

The Stanford Conservation Group sponsored a two-day statewide Student Environmental Congress at Stanford University in November. It was attended by some 200 students from 40 colleges and universities throughout California and included a dozen workshops. The students voted to create a statewide Student Environmental Confederation to act as a center for student action and information clearinghouse. They drew up a constitution for ratification by campus organizations. They adopted an Environmental Bill of Rights and discussed various legislative proposals. They resolved to push legislation, pressure candidates, write letters, and engage in economic boycotts.

They adopted a legislative program which includes a proposal for a state commission to regulate ocean shoreline use. They called for "immediate population control measures." They proposed "the substitution of two years of environmental research or action for military conscription." And they proposed that California's announced general fund surplus of \$300-\$500 million be used to create an Environmental Quality Fund to deal with inadequately funded projects and research on "basic land, air, water and urban problems."

Another conference on environmental problems was held last October in Warrenton, Virginia for some 100 graduate students in the professions, principally from the field of medicine. It was sponsored by the Institute for the Study of Health and Society, of Decatur, Georgia, and conducted by the Student American Medical Association. Among the speakers were a U.S. Senator known for his conservation efforts, an expert on pesticides, an oil industry executive, the head of a federal health agency, a TV and film star, a theoretical ecologist, an author, and a prominent sociologist.

The conference was funded by the Consumer Protection and Environmental Health Service in HEW. But it was run by students. Another government agency, the Federal Water Pollution Control Administration in the Interior Department held a series of nine regional water pollution seminars for students last December, but ran the seminars themselves. For this and other reasons, the FWPCA sessions were not regarded as highly successful, and at some there was considerable student hostility to FWPCA and its officials.

One purpose of the FWPCA seminars was to form SCOPE (for Student Council on Pollution and Environment), with one student representative from each region and a 10th member to be appointed by Interior Secretary Walter J. Hickel. The expressed purpose of SCOPE is to act as an adviser to Hickel and to discuss water pollution control ideas with him. In addition, each of the FWPCA regions will have its own council to advise the regional director.

The most advanced planning for any of the teach-ins has taken place at the University of Michigan in Ann Arbor. Four days of events will begin there March 11, sponsored by a group called ENACT—Environmental Action for Survival. Broad support for the Michigan teach-in was generated by a "mass meeting" on the campus last October. The Ann Arbor program will include:

Workshops, technical seminars, films, exhibits, large meetings with major speakers, rallies, entertainment and conferences on local environmental problems.

Community action projects, including the construction of a vest-pocket park in an Ann Arbor ghetto.

Sponsorship of environmental and teach-in activities at local high schools and with community groups.

An examination by various university departments of environmental problems most closely related to their expertise.

Presentation to public and industry officials of an environmental inventory, along with a call for action.

San Jose State College students plan a week of activity, including burial of a 1970 automobile. Cleveland's Mayor Carl Stokes has said he will declare April 22 an official day of environmental concern. And students in northern California plan a 30-day "spring march" to arrive in Los Angeles on April 22.

Hundreds of colleges and universities are busy drawing up plans for Earth Day. In order to encourage and help them, a national office has been set up in Washington, D.C. It is staffed by seven students and directed by Denis Hayes, a former student body president at Stanford and now a graduate student at Harvard. The effort has been incorporated as Environmental Teach-In, Inc., and is located at 2000 P Street, N.W., Washington, D.C. 20036 (phone: 202 293-6960).

The tax-exempt organization is in the process of seeking financial support from individuals and foundations. A national committee was formed to sponsor, support and advise the student effort. It is made up of Senator Nelson; Congressman McCloskey; Sydney Howe, president of The Conservation Foundation; Dr. Paul Ehrlich, biology professor at Stanford; Harold Jordahl, associate professor at the University of Wisconsin; Daniel Lufkin of the firm of Donaldson, Lufkin & Jenrette, Inc., New York investment brokers; and three students—Charles Creasey of Federal City College, Glen L. Paulson of Rockefeller University, and Douglas Scott of the University of Michigan.

IDEAS AND PLANS FOR EARTH DAY

A letter distributed in December by the teach-in headquarters to newspapers, presidents and environmental departments on campuses explained the idea behind the Earth Day effort. It noted that students across the country were being encouraged to take the initiative in organizing environmental teach-ins on the same day in April. "We are urging all campuses in America to participate in this broad-based, student-led effort which should involve all individuals and groups who share this concern."

The teach-in envisions a mobilization for environmental quality which involves not just the students themselves, but any and all off-campus individuals and organizations. The letter added that "successful teach-ins on all campuses on the same day will have a dramatic impact on the environmental conscience of the nation. They will be immensely effective as a constructive educational effort in arousing public opinion concerning necessary steps to protect our environment."

The national office staff in Washington is serving as a catalyst, a communications clearinghouse, and a service center. It is furnishing ideas and materials for organizations and programs, and it is answering questions galore.

The national office has recommended that student groups: (1) Open an office as soon as possible. (2) Raise necessary funds. (3) Coordinate among local groups (the national office has four regional coordinators, and joint planning conferences have already been held in some areas.) (4) Set up a public information program (many groups are starting their own newsletters and are establishing contacts with local media and local affiliates of national media.)

In addition, student groups have been strongly urged to prepare for the teach-in by making comprehensive inventories of environmental problems on their campuses, in their communities, and in their regions. These inventories would identify problems and targets for action, and serve as valuable bases for further projects during the teach-in and afterwards.

Russell E. Train, then CF president and now Under Secretary of Interior, suggested such an inventory in a speech to a national youth conference in 1966. "Logically and

methodically, investigate your own environment," he suggested.

Train urged the young people "to protest crimes against the environment, to protest against the injustice of an environment that blights human health, that stunts human aspiration." He said "demonstrations that youth cares about environmental contamination will make politicians and product-makers sit up and take notice."

Train concluded his address—entitled "Challenge To Youth"—with an appeal to the young to "tackle the big problems, both at home and across the nation. Many in your generation have not feared the big issues of our day, such as 'Freedom Now, In Our Time.' I give you another challenge—Environmental Quality Now, In Our Time."

Students across the nation have obviously accepted that challenge. They are devoting an impressive amount of work and enthusiasm to environmental events and teach-ins across the land. Each day brings more involvement, more ideas, more potential. Earth Day, April 22, 1970 may well be a day to remember. And it may be a day with an impact well beyond that of any single happening. As Denis Hayes says: "We're not aiming for just a single target date. Hopefully, by April 22 people will have put enough sweat and energy into investigation and education that they will have a vested interest in the environment and change."

With their "sweat and energy," students mobilizing on the environmental theme do indeed bring new vigor and drama to the quest for quality. But there are many questions about the meaning of their involvement. Some observers wonder if the young will move from protesting against pollution to positive, productive action. Will students join with concerned citizens of all ages who become involved in public hearings for strong air and water quality standards, for instance? Will they get into the complexities of pollution control? Of planning and zoning decisions? Will they pursue environmental quality through the often dull and tedious administrative procedures which shape many resource management decisions?

In brief, will student concern with the environment be a flash in the pan—or is it, as an Environmental Teach-In, Inc. advertisement recently proclaimed, "a commitment . . . to provide real rather than rhetorical solutions"?

The young themselves will answer those questions, in a variety of ways, of course. While we await their answers, we might keep these thoughts in mind:

Cicero said "the desires of youth show the future virtues of the man."

La Rochefoucauld noted that "youth is a continual intoxication; it is the fever of reason."

George Bernard Shaw commented, "It's all that the young can do for the old, to shock them and keep them up to date."

Lord Chesterfield wrote that "the young leading the young is like the blind leading the blind."

But Benjamin Disraeli observed that "almost everything that is great has been done by youth."

TEACH-IN PROSPECTS

What actually will happen on campus on April 22? And what next, after the environmental teach-in? Basically, whatever each local organizing group decides. Many are planning or conducting environmental inventories as a preteach-in activity. In addition to those mentioned elsewhere in this CF Letter, herewith some examples of activities already under way, suggested or planned by students:

For local environmental inventories— Sources and control of air and water pollution. Environmental impact of electric power generating plants and transmission lines. Methods of solid waste handling, disposal,

recovery of useful resources. Family planning programs. Availability of recreation, open space, wilderness and park resources. Environmental effects of highways, airports, and other public works projects. Sources and control of noise pollution. Status of local and regional planning, zoning and development, in relation to the environment. Management of public lands, natural resources, and fish and wildlife resources. Use and control of pesticides.

For teach-in and follow-up activities— Hold seminars, lectures, debates. Obtain faculty and other expert speakers to address groups on and off campus. Establish an information center for local groups which need factual and research support. Develop relations and coordinate with local conservation groups, labor unions, health organizations, high schools, and women's, civic and service groups.

Appear on local radio and television interview and talk shows, and sponsor environmental "spots" on radio and TV. Organize an "Environmental Sunday" just prior to April 22, so that all religions can focus their services on the implications of a deteriorating environment. Distribute buttons, bumper stickers and posters. Present exhibits showing local problems: electric power lines, dead fish, smoke, billboards, abandoned cars and other unsightly, wasteful, or dangerous aspects of the environment. Or hold an environmental fair. Conduct independent studies and research. Mobilize business schools to prepare cost-benefit analyses of development projects. Encourage law schools to study environmental law to discover laws on the books, new laws needed and the status of enforcement. Encourage resource and science departments to measure pollution and study its effects.

Investigate the university's role in environmental control, and urge the establishment or expansion, if necessary, of departments and courses relating to environmental problems. Encourage or join in litigation designed to improve environmental quality. Generate a show of force, and give testimony, at public hearings on environmental issues or regulations. Apply pressure to officials and politicians to act in the interests of environmental quality—through picketing, letter writing, rallies and other campaign techniques. Hold environmental marches and rallies at pollution sites. Develop a "dishonor roll" of special awards for polluters, with public readings and presentations.

ACADEMIA AND ENVIRONMENTAL EDUCATION

Item: The federal government should help colleges and universities form "schools of the human environment," said the Office of Science and Technology November 5 in a report to the President's Environmental Quality Council. The report noted that little "open discussion of our future environmental alternatives seems to take place" at colleges and universities and that there is a "national shortage of broadly trained professionals to deal with environmental problems." (Entitled *The Universities and Environmental Quality*, the report is available from Government Printing Office, Washington, D.C. 20402. Price: 70 cents.)

Item: Legislation giving the U.S. Office of Education authority to undertake environmental quality education programs has been introduced in Congress (S. 3151 and H.R. 14753).

Item: Even without new legislation, U.S. Commissioner of Education James E. Allen announced January 23 that "environmental education" will be a major activity of his office during the 1970's. In a speech to the American Council of Learned Societies, Allen said he would create a special staff to coordinate existing environmental studies programs and plan new ones; would convene a conference in June on environmental and ecological education; and would support "ap-

appropriate legislation for federal initiatives" in environmental education.

SURVEY SHOWS POLLUTION CONTROL TOP ISSUE AMONG FRESHMEN

College freshmen believe the federal government should do more to:

- Control environmental pollution—90%.
- Prevent crime—88%.
- Eliminate poverty—78%.
- Protect consumers—72%.
- Provide compensatory education for the disadvantaged—70%.
- Desegregate schools—54%.
- Provide compensatory financial aid for the disadvantaged—51%.

Those are the highlights of a student opinion survey conducted by the American Council on Education last fall. The findings are based on the views of 169,190 freshmen who entered 270 schools. Included were students at two-year and four-year colleges and universities, public and private. Other findings:

The federal government should do more to control firearms, 49%. To control student activists, 47%. To control cigarette advertising, 41%. For special benefits to veterans, 36%. To use tax incentives to control the birth rate, 32%. To eliminate violence from television, 23%.

76% of the freshmen agreed "strongly" or "somewhat" that "under some conditions abortions should be legalized." Only one of 17 specific issues brought greater agreement—90% agreed that "students should have a major role in specifying the college curriculum." The statement which elicited the least agreement was that "college officials have the right to regulate students behavior off campus." Only 20% agreed.

The 92-page report—*National Norms for Entering College Freshmen, Fall 1969*—is available from Publications Division, American Council on Education, 1 DuPont Circle, Washington, D.C. 20036. Price \$3.

AMENDMENT OF THE 1966 BAIL REFORM ACT

Mr. TYDINGS. Mr. President, I wish to invite the attention of the Senate to an illuminating article recently written by a Georgetown University lecturer in law, assistant U.S. attorney Warren L. Miller, of the District of Columbia. The article, entitled "The Bail Reform Act of 1966: Need for Reform in 1969," appeared in the fall, 1969, issue of the *Catholic University of America Law Review*—volume 19, at page 24—and expresses the personal but well-informed views of the author.

I ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

The subject of pretrial detention in lieu of bail in the District of Columbia continues to be a live one; indeed, it grows to be more so with every passing day. It is with a due sense of urgency, then, that I recommend the article.

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

THE BAIL REFORM ACT OF 1966: NEED FOR REFORM IN 1969

(By Warren L. Miller)*

Enactment of the Bail Reform Act of 1966¹ signified a departure from the traditional eligibility standards utilized for the pretrial release of defendants in noncapital cases.² Two fundamental premises were established by the Act: (1) that a person's financial status should not be a reason for denying

pretrial release; and (2) that danger of non-appearance at trial should be the only criterion considered when bail is assessed.³

Although only federal courts apply the Bail Reform Act, their experiences have influenced and will continue to affect decisions at state and local levels on similar issues.⁴ Furthermore, the questions posed and issues examined in this analysis are not at all unique to federal forums, for neither crime nor the practice of bail is unique to federal jurisdictions.

By way of explanation, it should be noted that nearly all the statistics and opinions referred to in this analysis deal with the District of Columbia. This is attributable to the fact that although the Act applies to federal courts throughout the country, it has had a far greater impact in the nation's capital than in any other federal jurisdiction.⁵ While criminal jurisdiction in other district courts is limited to crimes set forth in the United States Code,⁶ the District Court for the District of Columbia has complete felony jurisdiction under both the United States Code⁷ and the District of Columbia Code.⁸ Moreover, the Act applies to the District of Columbia Court of General Sessions in which all misdemeanors are tried and in which judges sit as committing magistrates in felony cases for the district court.⁹ In 1967, the Court of General Sessions set bail in more than 40 percent of all the cases covered by the Bail Reform Act.¹⁰ It is therefore necessary and desirable to assess the Act's effectiveness in light of its implications and administration in the District of Columbia.

This analysis outlines the bail system as it existed prior to implementation of bail reform, with the intrinsic abuses and deficiencies of that system enumerated. The dispositive provisions of the Bail Reform Act are discussed briefly, followed by an extensive analysis of the problems that have arisen under the Act. Although no detailed legislative proposals are proffered, there are certain general guidelines advanced in respect to future legislative action. The purpose of this analysis is not to promulgate specific remedial legislation, but rather to correct certain misconceptions¹¹ that have arisen and to achieve a proper focus on how the inherent weaknesses of the Bail Reform Act can be eliminated.

THE BAIL SYSTEM PRIOR TO REFORM

The administration of bail in the District of Columbia, as well as throughout the federal system, had long been predicated upon the use of financial bond to secure the appearance of an accused at the various stages of the criminal process.¹² Under this system, a person charged with a criminal offense would appear initially before a committing magistrate who would determine the conditions of his pretrial release.¹³ Although release on personal recognizance was technically possible,¹⁴ this procedure was rarely used.¹⁵ Rather, a money bond was set, thereby confronting the accused with the alternative of either making bond or suffering incarceration until trial.¹⁶

One of the most frequently voiced criticisms of the financial bond system that existed before reform and which continues to exist in many nonfederal jurisdictions is that it discriminates against and punishes the poor.¹⁷ The financially well-established can easily afford to and do purchase their freedom, while the victims of the financial bail system, the poor, are jailed because they cannot raise the money for a bond. In effect, the ability to pay often becomes the sole criterion for deciding who goes free and who languishes in jail.¹⁸ The inherent unfairness of this practice raises the question of whether or not financial bail is constitutional¹⁹ in the light of the eighth amendment's express declaration that "[e]xcessive bail shall not be required."²⁰ The Supreme Court has held that since the purpose of bail is to ensure an accused's presence at trial, the fixing of financial bail "must be based upon standards

relevant to the purpose of assuring the presence of that defendant."²¹ Financial bail is constitutional; its imposition violates the eighth amendment only if it is in excess of that which is necessary to assure court appearance.²² The Court, however, has not addressed the problem of "excessive bail" in light of the fourteenth amendment's guarantee of equal protection under the law.²³ It can be argued that to a wealthy defendant a \$30,000 bond may be fair, reasonable and necessary to ensure his presence at trial; whereas to an indigent accused a \$300 bond may be unfair and excessive. Notwithstanding the undecided validity of such a constitutional argument, the situation unquestionably punishes the economically unfortunate.

The economics of the financial bail system are even more complicated than the choice between raising \$300 and sitting in jail suggests. When a defendant cannot make bail and is incarcerated until trial, he sustains a loss of earnings and may lose his job due to his absence. In some cases the accused's family may be forced to solicit public funds to replace the loss of earnings. In addition, the Government must bear the cost of maintaining pretrial detention facilities and feeding the accused. Consequently, the financial bail system is economically self-defeating both for society and for the accused individual.²⁴

A second criticism of the financial bail system which forces indigents to accept pretrial detention is that such detention hinders the preparation of an adequate defense by the accused and his counsel. As stated by the Attorney General's Committee on Poverty and the Administration of Criminal Justice, "[t]here is persuasive evidence that a person held in custody in the interval between arrest and trial may thereby be deprived of the opportunity to make adequate defense to the charges against him."²⁵ The proposition that a defendant's ability to prepare an adequate defense is hampered by incarceration is supported further by the report of the Junior Bar Section of the District of Columbia Bar Association which concluded that the defendant's availability for office interviews and his help in locating witnesses undoubtedly would relax the burden placed upon his court-appointed counsel and lead to more effective preparation of his defense.²⁶ Moreover, the prospect of detention for several weeks pending trial may cause a defendant to plead guilty or waive his right to a jury.²⁷ Pretrial detention, therefore, not only affects pretrial liberty, but, in fact, may affect the very outcome of the trial itself.²⁸

A third criticism of the system is that pretrial detention, in effect, constitutes pretrial punishment. Socially, the wife and family of the accused may be ostracized by neighbors and friends because the husband is a "criminal in jail." The resultant humiliation may occur solely because of the inability to raise the necessary funds for the bail bond. Further, the psychological effects of incarceration have a destructive effect on human character and may embitter the prisoner against the society which has "unjustly" jailed him.²⁹ These effects were amply documented by a congressional investigation which examined conditions existing in federal and state penal institutions.³⁰ The prevalence of forced homosexual abuses, racial tension, and indiscriminate beatings by fellow prisoners are realities in almost all penal systems, and the defendant who is unable to make a money bond must cope with such treatment notwithstanding the fact that he has not yet been adjudged guilty of any offense.

The financial bond system has also been attacked for placing too much reliance upon the use of professional bondsmen—businessmen whose public image leaves much to be desired.³¹ In many places the bonding business has been infiltrated by racketeers

Footnotes at end of article.

and other criminal elements. The "quick money" aspect of the business, combined with common contacts with the "grapevine" and among prospective clients makes ball-bonding a natural business for such persons.³² Furthermore, the nature of the ball-bond business invites corruption by way of "fee-splitting" referrals between bondsmen and lawyers and by "kick-back" arrangements with police, jailers, and court personnel. But the most objectionable aspect of using professional bondsmen is the considerable power which comes to reside in these individuals.³³ A bondsman is invested with sole discretion as to whether he will write even the smallest bond, and his decision is not reviewable by a court of law.³⁴ The bondsman's discretionary power not to act as surety for an accused is, in effect, a veto power over both the defendant's ability to obtain bail and the court's determination that an accused is qualified for release. Yet this discretion is not the only example of the bondsman's unwelcome usurpation of functions that in the past have been exclusively governmental. A bondsman also has certain quasi-police powers of arrest and extradition over defendants released under his bond who have fled the jurisdiction.³⁵ In many respects the bondsman can act as a de facto state officer, exercising virtually the same powers as can police authorities.³⁶

The possession of these powers by bondsmen becomes shocking when it is considered that they are free to exercise such powers arbitrarily, unrestrained by the constitutional safeguards that ordinarily regulate such conduct.³⁷ Bondsmen often arrest and return defendants without regard to extradition procedures. The defendant may also be subjected to physical abuse and overbearing conduct by a bondsman who, in order to deter flight by other clients, must maintain a reputation for "bringing back his man." Finally, although a bondsman can relieve himself of all obligations by surrendering a defendant to court authorities,³⁸ he is still entitled to retain his bond premium. Hence, the bondsman has greater powers and is subjected to fewer controls than his police counterpart. It is fair to conclude that while the indigent accused is the victim of the financial bail system, the bondsman is its beneficiary.³⁹

THE BAIL REFORM ACT OF 1966

Enacted by a nearly unanimous Congress,⁴⁰ the Bail Reform Act of 1966 became effective on September 20, 1966. It signified the first major overhaul of federal bail law since 1789 when, by passage of the Judiciary Act,⁴¹ the first Congress made bail a matter of right in noncapital cases.

By its terms, the Bail Reform Act fosters release of defendants, both before trial and pending appeal, on terms other than financial bond. It does not, however, eliminate a judge's right to require a money bond.⁴² Under Section 3146, the judicial officer is authorized to impose whatever "conditions of release" he deems appropriate to insure the accused's appearance at trial. The factors that are considered when conditions of release are set include: community and family ties, employment, length of residence in the community, prior convictions, financial resources, the nature and circumstances of the offense charged, the weight of the evidence against the accused, and the defendant's record of appearance at previous court proceedings, including any prior flight to avoid prosecution.⁴³

The clear import of the Bail Reform Act is to make release without posting a money bond the norm, not the exception. "[T]he system's emphasis shifts from release of specially qualified defendants on personal bond to release of all defendants on conditions suited to their individual risks."⁴⁴

Moreover, a defendant who, as a result of his inability to meet the conditions of release, remains detained for over 24 hours is entitled, upon application, to have the conditions reviewed by the judicial officer who imposed them.⁴⁵ If the judicial officer refuses to amend the original order, he is required to "set forth in writing the reasons for requiring the conditions imposed."⁴⁶ The defendant can then challenge the order in an appellate court having proper jurisdiction.⁴⁷

A provision of the Act that could be of considerable significance is Section 3150 which provides penalties for those who willfully fail to appear.⁴⁸ While this section calls for stringent penalties, in practice courts and prosecutors have not routinely enforced the provision.⁴⁹ The difficult burden of proving that a defendant "willfully failed to appear" has made the Government reluctant to initiate proceedings under Section 3150. Prosecutors recognize that a defendant can easily create reasonable doubt in a jury's mind merely by giving a plausible explanation for his nonappearance.⁵⁰ Thus, the difficulty of proving willful nonappearance, coupled with the enormous backlog of cases on court calendars, has made enforcement of Section 3150 impractical and ineffective.

Mention should also be made of Section 3148 which concerns "release in capital cases or after conviction."⁵¹ Pursuant to this section, a person accused of an offense punishable by death or a person who has been convicted of any offense and is appealing the conviction or awaiting sentence "shall be treated in accordance with section 3146 [release in noncapital cases]."⁵² However, the judge is expressly authorized to consider "danger to any other person or to the community" as a proper element in setting bail in such cases. This provision recognizes the constitutional distinction between pretrial and posttrial bail and entrusts the judge with greater discretion in dealing with the convicted criminal who seeks bail pending appeal than in dealing with an accused who has not yet been tried.

The aforementioned sections constitute the major substantive provisions of the Bail Reform Act. Although in principle the Act is progressive and provides badly needed reforms, in practice serious problems have evolved from its implementation and administration. It is to these problems and the implications of the Act that analysis must now be directed, for it is impossible to advance remedial suggestions without first identifying the causes and evaluating the problems involved.

EXPERIENCE WITH BAIL REFORM—PROBLEMS AND PROPOSALS

Recidivism on bail

When the bail system was reformed to permit the pretrial release of most defendants, only limited consideration was given to the protection of society from crimes which might be perpetrated by persons released under the Act; in fact, Congress specifically postponed consideration of those issues relating to crimes committed by persons released pending trial.⁵³ Ironically, however, the problem of recidivism during pretrial release has proved to be one of the most acute problems that has arisen with respect to administration of the Bail Reform Act.

The importance of the problem is such that it cannot be ignored. A recent report related that during one six week period in 1966, three separate homicides and a related suicide in the District of Columbia were attributable to persons released on bond.⁵⁴ Other statistics demonstrating the seriousness of the bail-recidivism problem were suggested by the Judicial Council's Committee to Study the Operation of the Bail Reform Act in the District of Columbia—the Hart Committee.⁵⁵ Although this committee found only a nine percent recidivism rate

during pretrial bail in the District of Columbia for 1967 and a rate of seven percent for 1968,⁵⁶ these rates were based solely upon the number of persons *actually indicted for a felony* allegedly committed while on bail.⁵⁷ The statistics fail to reflect many intangible but relevant factors that affect the recidivism rate. First, many crimes go undetected or are not brought to the attention of the police authorities.⁵⁸ Second, many crimes remain unsolved and never result in an arrest, much less an indictment.⁵⁹ Third, a significant number of felonies are "broken down" to misdemeanors by the prosecution to help ease the backlog of pending felony cases on the court calendar.⁶⁰ Finally, in accordance with the familiar practice of plea bargaining, quite often a felony charge is dropped if the defendant pleads guilty to a lesser offense; similarly, multiple charges are frequently dropped in exchange for a guilty plea on one count.⁶¹ Consequently, the recidivism figures published by the Hart Committee must be considered minimal rates at best. Present estimates of crime committed by persons on bail in the District of Columbia go as high as 70 percent,⁶² and, as the Committee concluded, "[c]rime charged against persons released on bail continues at a significant level in the District of Columbia."⁶³

Further analysis of the recidivism problem reveals that robbery is the most frequent offense for which persons on bail are reindicted⁶⁴ and that narcotics offenders are the most frequent perpetrators of crime while on bail.⁶⁵ One report has indicated that 34.6 percent of all persons originally indicted for robbery in the District of Columbia between July 1, 1966 and June 30, 1967 were reindicted for at least one additional felony committed while free on bail.⁶⁶ According to another study, 70 percent of 345 persons who had been indicted in the District of Court for the District of Columbia in 1968 for robbery offenses and who later were released on bond were arrested at least once more during the year for an additional offense.⁶⁷

Other statistical data, although based on studies conducted before the Bail Reform Act went into effect, reveal that persons who commit additional crimes while on bail tend to commit offenses of the same type as the one originally charged.⁶⁸ Also, a high incidence of prior arrests and convictions exists among defendants rearrested while on bond. According to the same report, 88 percent of those who allegedly committed offenses while on bail had prior criminal records.⁶⁹

Coping with recidivism—Preventive detention

Several proposals have been advanced to deal with the problem of recidivism on bail.⁷⁰ The most frequently advocated of these calls for amending the Bail Reform Act to allow both consideration of "danger to the community" in the setting of bail⁷¹ and preventive detention⁷² of those defendants who do not qualify for release under this new criterion. Although the objection is voiced that a judge is unable to predict future criminal conduct, such objection seems untenable when considered in context with the other difficult decisions a judge must make in setting bail. The present criteria upon which the decision to set bail is based require a judicial officer to assess the likelihood of flight by an accused. A judge or committing magistrate is just as competent, if not better able, to predict danger to the community as he is to predict flight.⁷³

Also to be considered is the fact that the security and safety of witnesses essential to the Government's case may be imperiled if a dangerous defendant is released. The prospect of having a defendant who is charged with the commission of a serious or violent crime returning to the same neighborhood where the crime was committed creates an ideal milieu for intimidation and duress of the victims and witnesses of the original offense.

Contrasted with the broad support for allowing "danger to the community" as an element to be considered in setting bail, the proposal to preventively detain certain defendants before trial is a source of widespread concern and intense disagreement. Opponents of preventive detention argue that to consider any factor other than danger of flight is unconstitutional; that preventive detention violates the presumed innocence of the defendant; that it is punishment before conviction; that it is impossible to predict future criminal activity; that it violates the defendant's right to due process of law; and that bail is a constitutional right afforded by implication through the eighth amendment.⁷⁴ Each of these contentions, however, is rebuttable.

As already stated, a judicial officer setting bond is as competent to determine whether a defendant poses a danger to society as he is to predict whether a defendant is likely to flee the jurisdiction. A defendant's prior criminal record, coupled with a showing of strong incriminating evidence on the pending charge affords sufficient criteria from which a judge can predict whether the accused is likely to commit an additional offense if released.⁷⁵

The claim that preventive detention offends the traditional presumption of innocence can be rebutted by recognizing that the presumption is merely a procedural rule of evidence, operative only at trial.⁷⁶ It never was intended to require that all defendants be treated as if innocent until found guilty at trial. A defendant can be denied pretrial liberty when there is a finding of probable cause by a judicial officer that he committed an offense and where there are strong reasons for temporarily detaining him. This determination in no way impairs his presumption of innocence at trial; nor should it be construed as a determination of guilt in advance. Rather, the defendant is detained for what he may do in the future, which is necessary because of what there is probable cause to believe he has done in the past.⁷⁷

The proposition that pretrial detention amounts to pretrial punishment is probably the most difficult argument to reconcile. Perhaps the only realistic reply to such an assertion is that a utilitarian approach is a necessary evil of our system of justice in which immediate trials are not possible. As in other areas of constitutional law, societal interests must be balanced. In this case, society's interest in protecting itself from the danger posed by persons released pending trial must be balanced against society's interest in the freedom of its citizens in the absence of proof by trial of violations of the law. Since the vast majority of those prosecuted are ultimately adjudged guilty,⁷⁸ and since most defendants are released on some type of bail, the possibility of the rights of any one individual being violated is minimal. It also should be noted that the Bail Reform Act expressly provides that a defendant shall be given credit toward service of his sentence for any time spent in custody while awaiting trial for that offense.⁷⁹

Whether preventive detention infringes upon the constitutional right of "due process" depends upon the facts of the particular case in question. The judicial determination that a defendant poses a danger to the community, and thus should be detained, must be based on the weight of the evidence, the seriousness of the alleged crime, the defendant's record, and other information pertinent to the particular case. As long as the ruling to detain is not arbitrary and the defendant is afforded a hearing, a right to appeal the ruling, and a right to a speedy trial, then the fifth amendment's guarantee of due process has not been violated.⁸⁰ The due process clause is not an absolute bar to governmental restraint of

individuals prior to trial and final adjudication of conviction.⁸¹ So long as the restraints imposed on the liberty of the accused are reasonable in light of society's acknowledged interest in protecting its citizens and preventing the commission of additional crimes, then the requirements of due process are satisfied.

Finally, opponents of preventive detention argue that it violates a defendant's constitutional right to bail. The eighth amendment, however, states only that "[e]xcessive bail shall not be required;" it does not establish a right to bail.⁸² The law respecting bail in noncapital cases is a statutory right, not a constitutional right. It was established by Congress in 1789 at the same time that the eighth amendment was enacted.⁸³ It is important to note, however, that at that time nearly all of the more serious crimes carried the death penalty.⁸⁴ Consequently the original bail law, providing that all crimes not punishable by death should be subject to bail, was very narrow in its applicability. It was not until 1882 that the number of capital offenses in the laws of the United States was substantially reduced.⁸⁵ Yet when Congress, in response to public sentiment demanding more humane punishment and treatment of criminals,⁸⁶ reduced the penalties of many of the most serious crimes from death to imprisonment,⁸⁷ there was no corresponding change made in the law with respect to bail. By this action, however, Congress did not establish an unqualified right to bail for such offenses;⁸⁸ nor did it foreclose itself from subsequently amending the bail act if it deemed such action necessary. Regardless of the reasons for which Congress chose not to alter the bail statute in 1882, it is certainly free to amend the statute today if it should so desire.⁸⁹

The arguments advanced in support of preventive detention, combined with the spiraling crime rate,⁹⁰ suggest that adoption of some type of discretionary preventive detention is necessary; but such a procedure must be carefully circumscribed in order to minimize the possible invasion of individual liberty. Every defendant is entitled to and must be afforded the legal safeguards constituting due process. Such safeguards should include the following:

1. Authority to detain without bail should be restricted to cases involving crimes of violence;⁹¹ especially when such offenses involve the use of a dangerous weapon;⁹² cases in which the defendant is a narcotic addict; cases in which the defendant is accused of committing a serious offense involving "moral turpitude"⁹³ while released pending trial on a prior felony charge; cases in which evidence shows a dangerous psychic disturbance or psychic motivation in the defendant's conduct (*e.g.*, sexual psychopaths); or cases in which the accused is likely to flee the jurisdiction if released.

2. A judicial officer's determination to detain a defendant must be based upon evidence adduced at a special hearing requested for such purpose by the prosecution. At such a hearing, the Government would have the burden of establishing that the defendant is within the purview of the statute and particularly that his release would endanger the community or occasion likelihood of flight. Further, all testimony and evidence adduced at the hearing would be inadmissible at trial.⁹⁴

3. Periods of detention should be for a maximum of 30 days, after which, if trial has not begun, a defendant must be released on his own recognizance. The 30 day period may be extended, however, if the defendant consents or causes a trial delay or upon request and a showing by the Government of good cause for delaying the trial. In no event, however, would the Government be entitled to more than one 30 day extension. All defendants who are detained without bond would be placed upon an expedited

trial calendar to ensure that a trial of the case was begun within the designated time limit.

4. Appeal to the appropriate appellate court should be a matter of right for any defendant held without bail under the provisions of such a statute. Appellate review of such detention must be exercised and a ruling on the matter rendered within 48 hours after an appeal is filed.⁹⁵ This right of appeal should exist as to both initial and extended detention orders.

This proposal presupposes that an expedited trial would be set, thereby preventing a defendant from being held involuntarily for several months while awaiting trial. If defense counsel felt that he had not been afforded a reasonable time in which to prepare the case for trial, however, he would be entitled to a continuance.

Critics of preventive detention will argue that an up-to-date court calendar would obviate the need for preventive detention. But the prospect of having speedy trials in the District of Columbia is not a reality at present, and will not be so for several years.⁹⁶ Even if dangerous defendants could be tried within 30 or 45 days after arrest, there will still be certain ones who should not be released even for that length of time.⁹⁷

The harsh consequences occasioned by the use of preventive detention are far more palatable, and indeed preferable to the setting of high money bonds to reach the same result. Whereas preventive detention is supportable both legally and morally on its own merits, setting high money bond for the same purpose is repugnant to the eighth amendment's prohibition against excessive bail and repulsive to the concept of "equal justice under law." The law should be above such subterfuge. If a judicial officer feels compelled to detain a dangerous defendant, he should not have to conceal his purpose by manipulating the amount of a money bail beyond a defendant's ability to pay.

Bail during civil disorders

Directly related to the issue of preventive detention is the question of suspending the Bail Reform Act during civil disorders. The fact that avowed opponents of pretrial preventive detention would allow detention of certain persons arrested during the course of a riot evidences the support for such a proposal.⁹⁸ The Hart Committee expressly recommended that judicial officers be given "additional authority to deny release entirely for persons charged with certain riot connected offenses for the duration of an officially declared emergency."⁹⁹ Proponents of such a suspension, however, are unable to agree on which offenses should be subject to such a measure.¹⁰⁰ Additional disagreement has been encountered with regard to the types of emergencies that would require suspension and the duration of the suspension once invoked. Neither of these problems can be solved by application of definite and permanent criteria. Rather, flexible criteria are needed—criteria that are capable of adapting to the exigencies of the moment, while still affording the defendant adequate procedural safeguards.

One possible solution would be to limit the length of time that courts are empowered to suspend the Bail Reform Act. Detention for 24 to 72 hours would be both practical and realistic since most major civil disturbances are well under control within this time.¹⁰¹ An added precaution, however, could be built into such legislation by a provision allowing for additional detention if the crisis persisted. Furthermore, because of the increased dangers of mistaken identity during a civil disturbance, the arresting officer's presence should be mandatory at a bail hearing if detention of the offender is sought. Finally, as to which offenses should be included under such a statute, it is untenable to contend that looters and individuals charged with inciting to riot¹⁰² should be released to en-

Footnotes at end of article.

gage in new riot-connected activities. Although it has been alleged that looters are merely "swept up on the temptations of the moment" and do not constitute a danger if released immediately, justifiable concern exists that once released, looters might return to the scene of the disorders and be "swept up" again. A person charged with "inciting to riot likewise presents a danger to the community, and temporary detention of such offenders is warranted.

Bail reform and the narcotic addict

Another significant problem arising from the application of the Bail Reform Act concerns release of a defendant who is either a narcotic addict or user. According to Senator Joseph Tydings, Chairman of the Senate District of Columbia Committee, as much as three-fourths of the crime in the Nation's capital is attributable to narcotic addicts.¹⁰⁴ As a practical matter, the narcotic addict is forced to commit additional crimes while on bail in order to support his addiction. Many addicts will admit to a \$40 or \$50 per day habit which is supported entirely by stealing. Release of such a defendant almost assures theft in excess of several hundred dollars per week. Consequently, addicts are released by courts with the knowledge that they will continue to prey on the innocent members of society in order to pay for their addiction.¹⁰⁵ The obvious approach would be to demand that the addict be detained pending an expedited trial. Yet the conclusion that narcotic addicts are usually recidivists cannot be considered under the present Bail Reform Act. Ironically, the fact that an addict cannot usually leave his source is relevant, since danger of flight is therefore minimal. Thus, they are considered good risks and the Bail Reform Act dictates they be released, notwithstanding the danger posed to the community in terms of future larcenies, burglaries, robberies, and tampering offenses.¹⁰⁶

Hence, a conflict between what is right in theory and what is known in practice confronts the judicial officer setting bail. To adhere to the terms explicitly prescribed by the Bail Reform Act will work an injustice upon the interests of the community, yet refusal to set reasonable conditions of release according to Section 3146 of the Act seems manifestly unfair to the defendant, regardless of the collateral fact that he is an addict.

This dilemma can be solved by amending the Bail Reform Act to permit discretionary preventive detention of narcotic addicts. Such a provision would have to be consistent with the proposals already promulgated for dealing with recidivism on bail.¹⁰⁷ Further, where a defendant-narcotic addict would be held without bail, he could be committed to a hospital for treatment of his addiction during the pretrial period.¹⁰⁸

The problem with such an amendment is how to ascertain which defendants are habitual drug users. This subject was touched upon by the Hart Committee's recommendation that an appropriate condition of release could be submission to regular checks for use of narcotics.¹⁰⁹ That recommendation would work ideally for the non-habitual user, but would be ineffective in respect to the defendant with a heroin habit. The addict with a bad habit might of necessity be forced to commit crime to pay for his addiction, then be unable to appear for his "narcotic check" in view of the fact that the results would be incriminating.¹¹⁰ Consequently, a bench warrant must be issued, served, and the defendant made to reappear in court to have his bail revoked.¹¹¹ The net result would be a waste of time, money and manpower, all of which was predictable at the initial bail hearing.

A far more reasonable proposal is the one advanced by Senator Joseph Tydings, which calls for administration of a narcot-

ics test to all defendants as a precondition to their release on bail.¹¹² According to the Tydings proposal, individuals charged with crimes against persons or property would be required to undergo urine tests to determine if they are addicted to narcotics. Those found to be addicted would be detained and given immediate treatment while awaiting trial.¹¹³ In essence, the Tydings proposal would permit pretrial detention of defendants who, if released, would of necessity be forced to resort to crime to support their narcotic habit. It would insure protection of the community and at the same time enable the addicted defendant to receive immediate medical treatment.

Although the basic premise of the Tydings proposal is sound, in practical terms it is unrealistic unless made more restrictive in scope. The prospect of having urine samples taken of most defendants who appear in courts would require a huge staff of supporting personnel to process the specimens and present its findings to the court.¹¹⁴ Such a procedure would present problems of inadequate facilities, lack of staff, prohibitive cost, and the danger of mislabeling due to the large number of specimens that would have to be processed daily. But even more troublesome is the time which such tests would require. At present, the court and the Bail Agency are hard pressed to get through the calendar each day. It is not uncommon for Assignment Court, where conditions of release are initially set, not to be adjourned until very late in the afternoon. To add the variable of time-consuming narcotic tests would make the situation both intolerable and unworkable. The only feasible way these tests could be administered would be to detain defendants overnight, thereby inundating the jails with individuals awaiting test results. Rather than making progress with the present backlog of cases, the net effect of such a procedure would be to further slow down the judicial process.

But by far the most objectionable feature of the Tydings proposal is that it would constitute an oppressive invasion of the rights of those defendants who are not narcotic addicts. Unless probable cause exists that a defendant is an addict, subjection to a urine test derogates a defendant's right to due process.¹¹⁵

A more realistic approach would be to limit the administration of such tests to defendants who have narcotics histories or to defendants who have exhibited visible signs of addiction, *i.e.*, needle marks, withdrawal symptoms, or obviously being under the influence of drugs. Such a procedure would be restrictive enough in scope to satisfy both due process and administrative considerations, yet still be able to render the desirable results that would emanate from such tests. If there is any substance whatsoever to Senator Tydings' estimate that narcotic addicts are responsible for nearly 75 percent of the crime in the District of Columbia,¹¹⁶ then implementing such a procedure would greatly reduce the rate of recidivism on bail. Congress cannot afford to ignore these factors if the spiraling crime rate is to be abated.

Conditions of release and their enforcement

Three years after implementation of the Bail Reform Act, administrative problems have clearly emerged, *e.g.*, enforcement of conditions of release and failure of defendants to appear in court when required. Each of these problems must be analyzed in respect to its cause, implications and solubility.

The Bail Reform Act expressly authorizes a wide range of restrictive conditions of release which a judicial officer may set in lieu of, or in addition to, the defendant's personal recognizance.¹¹⁷ These conditions include restrictions on travel, association, residence, and "any other conditions deemed reasonably necessary to assure appearance as required."¹¹⁸ It is this broad authoriza-

tion for setting conditions of release which has enabled judges to impose conditions which are unrealistic and unenforceable. Although imaginative and innovative when set, many conditions of release prove impractical and impossible to enforce.¹¹⁹ Unless conditions of release can be readily supervised, they should not be imposed. When irrelevant and unenforceable conditions are set, the defendant becomes quickly aware of the lack of supervision and is needlessly tempted to violate such conditions. In addition, a defendant's violation of unenforceable conditions is likely to precipitate a general lack of respect for the seriousness of his obligation to obey court orders.

Even if reasonable and enforceable conditions of release are set, they are meaningless if there is not constant supervision by authorities.¹²⁰ At present the D.C. Bail Agency is unable to fully carry out those functions set out by statute.¹²¹ If the Bail Agency is to be "in fact the bondsman" for all defendants released under the Bail Reform Act. It should be given the tools with which to do its job effectively.¹²² These tools are money, trained personnel, and time to properly prepare reports and recommendations. Congress must realize that before effective supervision and enforcement is possible, the necessary commitment of resources must be made.

It should be recognized, however, that an efficient and expanded bail agency will not by itself achieve the desired results. Judges must be willing to take action against defendants who violate conditions of release. Presently, of the 21 judges on the District of Columbia Court of General Sessions, only one regularly holds hearings on bail violation.¹²³ Most judges set conditions but do not enforce them. This is particularly disconcerting when considered in light of Bail Agency records which reflect that over 50 percent of all defendants released weekly violate one or more conditions of their release.¹²⁴ Although Bail Agency statistics do not differentiate mere technical violations from serious deviations, the fact remains that fewer than ten percent of those who violate conditions are ever called to task by anybody.¹²⁵

Yet judicial concern for enforcement of conditions of release will in all likelihood continue to be lax until the penalty provisions of the Bail Reform Act are expanded to include violation of conditions of release. At present, only failure to appear in court is punishable under Section 3150 of the Act.¹²⁶ Prosecution for contempt of court is available,¹²⁷ but ineffective as either a sanction or a deterrent against defendants who flagrantly violate the terms of their release. If the use of conditions of release is ever to be effective, significant penalties must exist for defendants who ignore their obligations.

Toward this end, the Bail Reform Act should provide for revocation of bail in cases where defendants violate their conditions of release. Furthermore, threats against witnesses or jurors or disruptive conduct during trial would also justify revocation of bail and preventive detention.¹²⁸ Revocation could be authorized by issuance of a court order upon receipt of an affidavit sworn to by an appropriate person, setting forth evidence of substantial noncompliance by the defendant.¹²⁹ Requiring a special hearing would be too time-consuming and afford merely another opportunity for appeal by the defendant. Instead, upon revocation of bail being ordered, the defendant would be detained pending trial, with the same guarantee of speedy trial offered him as would be afforded other defendants held without bail.¹³⁰

The requirement of an affidavit under oath that sets forth substantial evidence of non-compliance would provide protection against revocation for minor violations or occasional inadvertence by a defendant. Yet such a provision would be sufficiently coercive in na-

ture that defendants would adhere substantially to the condition of their release.

The proposal which advocates that defendants who violate conditions of release be charged with a separate criminal offense and given severe sentences upon conviction, is both impractical and unrealistic. The courts are unable to effectively cope with the criminal calendar as it exists, much less attempt to enforce supervision of bailed defendants through criminal prosecutions. Such a proposal would constitute another hollow threat, whereas revocation of release coupled with pretrial detention is realistic, practical, and amenable to effective enforcement. When a defendant knows that such a severe sanction can and will be levied against him for failing to abide by the conditions imposed, compliance can be expected.

A second major problem emanating from the administration of the Bail Reform Act concerns the failure of defendants to appear in court when scheduled. Although existence of the problem is not disputed, its seriousness and significance is a matter of controversy. Indicative of the divergent views which exist are the unexplained disparities among figures kept on the number of bail jumpers.

According to statistics furnished by the D.C. Bail Agency, during the period from November 1, 1966 to May 31, 1967, only 62 of the 2,174, or 2.8 percent of the defendants released on nonfinancial pretrial bail failed to appear in court when due.¹²³ The Agency further reports that during the period June 1, 1967 to May 31, 1968, only 243 of 3,800, or 6.3 percent of defendants released on nonfinancial pretrial bail failed to appear in court.¹²⁴

At variance with these figures are those contained in a District of Columbia Court of General Sessions memorandum.¹²⁵ The memorandum categorically breaks down the number of attachments still outstanding for defendants who failed to appear in court when required. According to the figures therein, during 1967 attachments were issued for 355 defendants released on personal recognizance who failed to appear, and in 1968, attachments were issued for 641 similar defendants.¹²⁴ It is important to note that these figures do not include those attachments issued and successfully served on defaulting defendants, not those attachments issued but subsequently quashed upon the voluntary appearance by a defendant. Consequently, the number of persons who actually defaulted while on personal bond is probably considerably higher than the figures in the memorandum reflect.¹²⁵ In this regard, it is important to note that the statistics enumerated in the memorandum refer only to the D.C. Court of General Sessions, and are exclusive of attachments issued by the U.S. District Court.¹²⁶ Yet the Bail Agency figures reflect the combined total of both courts.¹²⁷

Whether either of these reports accurately reveals just how many persons have failed to appear is doubtful. Of the two reports, the figures in the court memorandum seem to be far more realistic. Moreover, those figures are consistent with the opinions of many judges who have had actual experience with the problem of nonappearance.¹²⁸ Estimates as to the number of persons who default on conditions of release vary considerably,¹²⁹ but the experience of several informed individuals places the figure at around 25 percent.¹³⁰ In other words, one out of every four defendants freed on nonfinancial conditions of release fails to appear at trial.

There is a definite and acute problem of nonappearance by defendants. Although the problem is very real, it is not insoluble. Several recommendations aimed at alleviating this problem were advanced by the Hart Committee.¹⁴¹ The most meaningful of these proposals included: (1) giving high priority to the prompt service of warrants in default cases;¹⁴² (2) enactment of legislation to per-

mit nationwide service of process against bail jumpers;¹⁴³ (3) referral of unserved warrants to the FBI for execution;¹⁴⁴ (4) imposition by courts of consecutive rather than concurrent sentences for convictions under Section 3150 of the Act;¹⁴⁵ (5) facilitation by the courts of the prosecution of bail jumpers by creating an inference that the failure of a defendant to appear in court as required after appropriate warning and notice is willful within the meaning of Section 3150 of the Act.¹⁴⁶

At present, the criminal element is well aware that prosecution of bail jumpers is minimal. Even if convicted, a concurrent sentence is the norm, not the exception. Judges argue that they cannot force the prosecution of bail jumpers since the decision to prosecute lies solely within the discretion of the United States Attorney. Yet limited prosecutions under Section 3150 are not surprising in light of the requirement that the Government prove that a defendant willfully failed to appear.

Before a strong prosecutive policy can be expected there must be enactment of legislation which creates a rebuttable presumption of willfulness upon the failure of a defendant to appear in court. The Hart Committee's recommendation seeks the right result, but through questionable means. It is doubtful that courts have the power to create an inference in Section 3150 of the Act that never was intended by Congress.¹⁴⁷ Congress made the law without any inference, and Congress must rectify its lack of foresight. Judicial legislation must be avoided, especially in cases of criminal statutes where the rule of strict construction is applicable.

In addition to inclusion of the proposals of the Hart Committee, the Bail Reform Act should be amended so that revocation of bail and preventive detention are permissible in the case of bail jumpers. This would eliminate the subterfuge of high monetary bonds being set to achieve the same result. However, in the event that there were extenuating circumstances, a defendant might be permitted to remain on the original or amended conditions of release. This would be a matter of judicial discretion. But the important factor is that a judge would have the power to detain defaulters.

CONCLUSION

Whether the Bail Reform Act has been a primary cause of the spiraling crime rate is questionable, but that it has been a contributing factor is certain. Legislative action is necessary to allow for preventive detention of the problem of recidivism on bail is to be solved. Speedy trials are a desirable goal, but as a practical matter, an up-to-date court calendar will not solve the problem. It is a well known fact that speedy trials do not depend entirely upon adequate court facilities. Many defense lawyers indulge in dilatory tactics and delay trials as a matter of course. This is particularly true where a defendant is on bail. Rather than being desirous of a speedy trial, it is often to a defendant's benefit to stall as long as possible.¹⁴⁸ Further, even if speedy trials became a reality, there would still exist certain types of defendants who pose such grave danger to the safety of the community that they should not be released for even a minimal period of time. The Bail Reform Act must be amended to provide for pretrial preventive detention of certain obviously dangerous offenders, including narcotic addicts and certain categories of defendants during periods of riot or civil disturbance.

Moreover, the Act must be amended to allow for effective administration and meaningful enforcement of conditions of release. Along with stringent supervision of defendants on conditions of release, if there is expeditious apprehension and prosecution of bail jumpers coupled with the imposition

of severe sentences, then renewed respect for the provisions of the Bail Reform Act can be anticipated.

FOOTNOTES

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¹ 18 U.S.C. §§ 3146-52 (Supp. IV, 1969).

² Traditionally, bail has been conditioned on "the financial ability of the defendant." FED. R. CRIM. P. 46(c). See generally McCarthy & Wahl, *The District of Columbia Bail Project: An Illustration of Experimentation and a Brief for Change*, 53 GEO. L.J. 675 (1965); *Proceedings of the Conference on Bail and Indigency*, 1965 U. ILL. L.F. 1 [hereinafter cited as *Bail & Indigency*].

³ 18 U.S.C. § 3146(a) (Supp. IV, 1969).

⁴ The passage of the Bail Reform Act has had a liberalizing impact on the states. Since 1966, several states have adopted the principle of release on personal recognizance. See e.g., CONN. GEN. STAT. ANN. § 54-63c (1968); PA. R. CRIM. P. 4001-14.

⁵ In the District of Columbia, cases involving crimes against the person constitute over half of the criminal caseload. By contrast, the incidence of these crimes in the other circuits is only about eight percent. Vinson, Preface to Note, *The United States Court of Appeals for the District of Columbia Circuit: 1967-1968 Term*, 57 GEO. L.J. 308, 311 (1968).

⁶ 18 U.S.C. § 3231 (1964).

⁷ *Id.* See Arnstein v. United States, 296 F. 946 (D.C. Cir.), cert. denied, 264 U.S. 595 (1924).

⁸ D.C. Code § 11-521 (1967). The District of Columbia Code functions as both a municipal code and state-type statute for the District of Columbia.

⁹ D.C. Code § 11-963(c) (1967).

¹⁰ *Hearings on Amendments to the Bail Reform Act of 1966 Before the Subcomm. on Constitutional Rights of the Senate Comm. on the Judiciary*, 91st Cong., 1st Sess. 32 (1969) (statement of Chief Judge Harold H. Greene) [hereinafter cited as *Amendment Hearings*].

¹¹ Common misconceptions include notions that: bail is a constitutional right; that preventive detention violates an accused's right to be presumed innocent until proven guilty; and that preventive detention is per se unconstitutional.

¹² "[T]he modern practice of requiring a bail bond or the deposit of a sum of money subject to forfeiture serves as additional assurance of the presence of an accused." Stack v. Boyle, 342 U.S. 1, 5 (1951); accord, *Forest v. United States*, 203 F. 2d 83 (8th Cir. 1953).

There is a distinction to be drawn between the words "bail" and "bond" as used in this context. When a defendant is admitted to bail, his reappearance is secured by any number of conditions which are within the judge's discretion to impose, including the defendant's personal recognizance, a periodic check with a court officer, work release, or the posting of a sum of money. Bond, on the other hand, is more narrow, referring only to the posting of money to secure the defendant's appearance.

¹³ 18 U.S.C. § 3041 (1964).

¹⁴ Statutory authority for personal recognizance was available only by implication. See 18 U.S.C. § 3731 (1964). But Mr. Justice Douglas provided judicial authority by holding that, in proper cases, no security is required for release of a defendant on his own recognizance where there is no substantial risk that the defendant will not comply with the

conditions of his release. To deny an indigent defendant release merely because he lacks sufficient property to pledge for his freedom is a denial of his constitutional right of equal protection. *Bandy v. United States*, 81 S. Ct. 197 (Douglas, Circuit Justice, 1960). See also Attorney General's Comm. on Poverty & the Administration of Federal Criminal Justice Rep. 58 (1963) [hereinafter cited as *Att'y Gen. Rep.*]; Ervin, *The Legislative Role in Bail Reform*, 35 Geo. Wash. L. Rev. 429, 433 (1967); McCarthy & Wahl, *supra* note 2 at 681-703.

¹⁵ The rate of pretrial releases on personal recognizance in federal courts prior to March 1963 averaged only about six percent. *Att'y Gen. Rep.* 58. See also Ervin, *supra* note 14 at 430-38.

¹⁶ See D.C. Bail Project, Final Report: Bail Reform in the Nation's Capital 3 (1966) [hereinafter cited as D.C. Bail Project].

¹⁷ See Ares & Sturtz, *Bail and the Indigent Accused*, 8 Crime & Delinquency 12 (1962); *Bail & Indigency, passim*.

¹⁸ See R. Goldfarb, Ransom—A Critique of the American Bail System 32 (1965) [hereinafter cited as Goldfarb].

¹⁹ For a discussion of the constitutional right to bail see notes 82-89 *infra* and accompanying text.

²⁰ U.S. Const. amend. VIII.

²¹ *Stack v. Boyle*, 342 U.S. 1, 5 (1951).

²² *Id.*

²³ U.S. Const. amend. XIV. Though the fourteenth amendment only protects against state action, similar protection is afforded against federal action through the fifth amendment's due process clause which has been held to protect against arbitrary and invidious discrimination. *Shapiro v. Thompson*, 394 U.S. 618 (1969); *Schneider v. Rusk*, 377 U.S. 163 (1964); *Bolling v. Sharpe*, 347 U.S. 497 (1954).

²⁴ See Goldfarb 32.

²⁵ *Att'y Gen. Rep.* 58.

²⁶ Comm. on the Administration of Bail of the Junior Bar Section of the Bar Ass'n of the District of Columbia, Report: The Bail System of the District of Columbia 5 (1963) [hereinafter cited as Junior Bar Section Rep.].

²⁷ See McCarthy & Wahl, *supra*, note 2 at 686-93.

²⁸ Junior Bar Section Rep. 5; see President's Comm'n on Crime in the District of Columbia Rep. 523 (1966) [hereinafter cited as D.C. Crime Comm'n Rep.].

²⁹ "The typical jail is dirty and overcrowded. The food is deplorable. Supervision is scant. . . . The typical jail has little to inspire the prisoner and much to demoralize him. The result is that he must spend his time there vegetating and degenerating. And worse." *Hearings on Federal Bail Procedures Before the Subcomm. on Constitutional Rights of the Senate Comm. on the Judiciary*, 88th Cong., 2d Sess. 46 (1964) (statement of James V. Bennett, Director of the United States Bureau of Prisons).

³⁰ *Hearings Before the Subcomm. on Juvenile Delinquency of the Senate Comm. on the Judiciary*, 91st Cong., 1st Sess. (1969).

³¹ See Goldfarb 102. See generally D.C. Bail Project 11-18; *Bail & Indigency, passim*.

³² See Goldfarb 102.

³³ The judges are aware of the odious power the bondsman has concerning who remains in jail and who goes free: "The effect of such a system is that the professional bondsmen hold the keys to the jail in their pockets. They determine for whom they will act as surety—who in their judgment is a good risk. The bad risks, in the bondsmen's judgment, and the ones who are unable to pay the bondsmen's fees, remain in jail. The court and the commissioner are relegated to the relatively unimportant chore of fixing the amount of bail." *Pannell v. United States*, 320 F.2d 698, 699 (D.C. Cir. 1963) (Wright, J., concurring).

³⁴ As a practical matter, many bondsmen

refuse to write bonds for small amounts which yield only a minimal fee. Consequently, a defendant might find that a bondsman is far more willing to write a higher bond than a lower one, and the indigent defendant accused of committing a minor offense for which a small money bond is set is perhaps more likely to remain incarcerated than a defendant charged with a serious offense for which a higher bond is set. See D.C. Bail Project 11-12.

Although the courts in the District of Columbia have been given wide discretion to regulate professional bondsmen, D.C. Code § 23-608 (1967), they have not required that bondsmen write bonds in all amounts. See D.C. Ct. Gen. Sess. (Crim.) R. 5; D.C. Ct. Gen. Sess. (Juv.) R. 22.

³⁵ 18 U.S.C. § 3142 (1964); see Goldfarb 116-17.

³⁶ These powers rest on the premise that the principal is in the custody of his sureties, and that the original imprisonment has not been discontinued. Therefore, the bondsman may seize his principal at any time, imprison him at will, have him reincarcerated, pursue him across state lines and break into his house. "The seizure is not made by . . . new process. None is needed. It is likened to the rearrest by the sheriff of an escaping prisoner." *Taylor v. Taintor*, 83 U.S. (16 Wall.) 366, 371 (1872).

³⁷ Goldfarb 115-18.

³⁸ 18 U.S.C. § 3142 (Supp. IV, 1969).

³⁹ Goldfarb 115-18.

⁴⁰ See 112 Cong. Rec. 12488-505 (1966).

⁴¹ Judiciary Act of 1789, ch. XX, § 33, 1 Stat. 73, 91; see Wald & Freed, *The Bail Reform Act of 1966: A Practitioner's Primer*, 52 A.B.A.J. 940 (1966).

⁴² 18 U.S.C. § 3146(a) (Supp. IV, 1969). The committing magistrate may require the execution of a secured appearance bond or a "bail bond with sufficient solvent sureties, or the deposit of cash in lieu thereof . . ." 18 U.S.C. §§ 3146(a)(3), (4) (Supp. IV, 1969).

⁴³ 18 U.S.C. § 3146(b) (Supp. IV, 1969).

⁴⁴ Wald & Freed, *supra* note 41 at 941.

⁴⁵ 18 U.S.C. § 3146(d) (Supp. IV, 1969).

⁴⁶ *Id.*

⁴⁷ *Id.* § 3147(b).

⁴⁸ This section provides that a defendant who willfully fails to appear in court shall incur a forfeiture of any security which was given for his release, and be subject to a fine of \$5,000 or five years' imprisonment, or both, if he had been released in connection with a felony charge, or be subject to a fine of \$1,000 or one year imprisonment, or both, if his release had been in connection with a misdemeanor. 18 U.S.C. § 3150 (Supp. IV, 1969).

⁴⁹ Chronic manpower shortages have precluded full implementation of service of warrants by the United States Marshal. The FBI is reluctant to serve warrants for bail jumping because of other work pressures. Report of the Judicial Council Comm. to Study the Operation of the Bail Reform Act in the District of Columbia 11 (1969) (The Judicial Council issued its initial report in 1968, but has continued to oversee the implementation of its recommendations. The 1969 report is its progress report.) [Hereinafter cited as Hart Comm. Rep. 1969].

⁵⁰ Among the more commonly used excuses are confusion of dates, lack of notice to appear, illness, death in the family, and inability to pay for transportation back to the jurisdiction.

⁵¹ 18 U.S.C. § 3148 (Supp. IV, 1969).

⁵² *Id.*

⁵³ See H.R. Rep. No. 1541, 89th Cong., 2d Sess. 6 (1966).

⁵⁴ D.C. Crime Comm'n Rep. 513.

⁵⁵ Hart Comm. Rep. 1969 at 18-26.

⁵⁶ *Id.* at 19.

⁵⁷ These statistics could be misleading because they exclude incidents not leading to indictment and include cases which resulted in acquittal and reversal. *Id.* at 19-20.

⁵⁸ FBI, Uniform Crime Reports: Crime in the United States—1968 at 4.

⁵⁹ See *id.* at 30-32.

⁶⁰ D.C. Crime Comm'n Rep. 233.

⁶¹ *Id.* at 234.

⁶² Hart Comm. Rep. 1969 at 18.

⁶³ *Id.*

⁶⁴ *Id.* at 24.

⁶⁵ Address by Will Wilson, Assistant United States Attorney General, American Bar Association Annual Meeting, Aug. 12, 1969. For a study of the relationship between drug abuse and crime, see D.C. Crime Comm'n Rep. 562-73.

⁶⁶ *Amendment Hearings 76* (statement of Senator Joseph Tydings).

⁶⁷ Hart Comm. Rep. 1969 at 24-25.

⁶⁸ D.C. Crime Comm'n Rep. 518. Furthermore, more than 80 percent of the crimes committed while on bail were as or more serious than the original offense. *Id.*

⁶⁹ *Id.* These statistics are further supported by the Hart Committee which revealed that 57.8 percent of bail offenders (persons indicted while on bail pending disposition of a prior felony case) had one or more prior felony convictions within the preceding ten years. Hart Comm. Rep. 1969 at 25.

⁷⁰ Evidence of the increasing concern over recidivism are these bills, all introduced during the first session of the ninety-first Congress: S. 288 (additional standard for bail of danger to others or to the community); S. 289 (allowing denial of bail to persons charged with crimes of violence and who have been previously convicted of a crime of violence); S. 546 (detention of persons charged with a felony); S. 547 (detention of capital defendants and anyone convicted); S. 2600 (consideration of danger to the community and providing for pretrial detention of dangerous persons); H.R. 323 (pretrial detention of persons determined to be a danger to the community); H.R. 325 (investigative detention and search of suspects); H.R. 335 (standard of danger to community); H.R. 1033 (standard of danger to community); H.R. 2781 (pretrial detention based on additional standard of danger to community).

⁷¹ This proposal has met only minimal opposition. It has been supported by the Hart Committee, the D.C. Crime Commission, and by all the judges of the Court of General Sessions. *Amendment Hearings 33* (statement of Chief Judge Harold H. Greene), 534-35 (the Hart Committee), 607 (the D.C. Crime Commission).

⁷² It is important to recognize that the terms "preventive detention" and "pretrial detention" are not synonymous. Preventive detention is detention for the purposes of preventing flight, insuring the safety of witnesses, or protecting the public from additional crimes by the accused. Pretrial detention is detention before trial solely because the individual has been charged with a crime. See American Bar Association Project on Minimum Standards for Criminal Justice, Standards Relating to Pretrial Release 83 (1968).

⁷³ Danger to the community is not a novel criterion in determining whether a release should be allowed. The Bail Reform Act itself permits such a factor to be considered when deciding if release should be granted pending appeal. See text accompanying note 52 *supra*. Danger to the community is also a common criterion for release from a mental institution in which one has been involuntarily confined. See, e.g., D.C. Code § 21-546 (1967).

⁷⁴ See D.C. Crime Comm'n Rep. 520-24.

⁷⁵ Likelihood of recidivism can be estimated by considering many of the same factors which are considered to predict flight. In addition, the underlying causes of certain crimes, when shown by competent evidence to exist in the accused, can result in a high degree of accuracy in these predictions. For example, it has been shown that narcotic addiction leads to the commission of crime to support the habit. It must also be remem-

bered that the prediction of flight is hardly an exact science.

⁷⁶ Note, *Preventive Detention Before Trial*, 79 Harv. L. Rev. 1489, 1501 (1966). But see D.C. Crime Comm'n Rep. 520.

⁷⁷ Amendment Hearings 399-400 (statement of Judge James A. Belson).

⁷⁸ The overall felony conviction rate by plea or trial is consistently over 75 percent. D.C. Crime Comm'n Rep. 240.

⁷⁹ 18 U.S.C. § 3568 (Supp. IV, 1969).

⁸⁰ See Note, *Preventive Detention Before Trial*, *supra* note 76 at 1500-05.

⁸¹ "[T]he fact that a liberty cannot be inhibited without due process of law does not mean that it can under no circumstances be inhibited.

"The requirements of due process are a function not only of the extent of the governmental restriction imposed, but also of the extent of the necessity for the restriction." *Zemel v. Rusk*, 381 U.S. 1, 14 (1965).

⁸² See H.R. Rep. No. 1541, 89th Cong., 2d Sess. 8 (1966): "Thus, there is no specifically granted right to bail." Also, the eighth amendment prohibition against excessive bail has been judicially construed as not establishing, per se, a right to bail. *Mastrian v. Redman*, 326 F.2d 708, 710-11 (8th Cir.), cert. denied, 376 U.S. 965 (1964). See Note, *Preventive Detention Before Trial*, *supra* note 76 at 1498.

⁸³ Judiciary Act of 1789, ch. XX, § 33, 1 Stat. 91.

⁸⁴ See Crimes Act of 1791, ch. IX, 1 Stat. 112.

⁸⁵ Act of July 1, 1882, ch. 258, § 7, 22 Stat. 127.

⁸⁶ See G. Williams, *Salmond on Jurisprudence* 115-24 (11th ed. 1957); Note *Preventive Detention Before Trial*, *supra* note 76, at 1500.

⁸⁷ Act of July 1, 1882, ch. 258, § 7, 22 Stat. 127.

⁸⁸ See *Allen v. United States*, 386 F.2d 634 (D.C. Cir. 1967); Note, *Preventive Detention*, 36 Geo. Wash. L. Rev. 178, 182 (1967). See also *Stack v. Boyle*, 342 U.S. 1, 4-5 (1951); *Ervin, The Legislative Role in Bail Reform*, 35 Geo. Wash. L. Rev. 429, 433 (1967).

⁸⁹ See Note, *Preventive Detention Before Trial*, *supra* note 76 at 1499, 1501-03. See also *Carlson v. Landon*, 342 U.S. 524 (1952). "The bail clause was lifted with slight changes from the English Bill of Rights Act. In England that clause has never been thought to accord a right to bail in all cases. . . . The Eighth Amendment has not prevented Congress from defining the classes of cases in which bail shall be allowed in this country. . . . Indeed, the very language of the Amendment fails to say all arrests must be bailable." *Id.* at 545-46.

⁹⁰ See FBI, Uniform Crime Reports: Crime in the United States—1967 2, 3 where statistical data reveals that from 1960-67 there was an 89 percent increase in the number of criminal offenses; that while the population increased 10 percent, the crime rate (number of offenses per 100,000 population) increased 71 percent. According to the Uniform Crime Reports (1968 Preliminary Annual Release), during calendar year 1968 crime increased nationally 17 percent over 1967 with violent crimes rising 19 percent and robbery 29 percent. Also, the Uniform Crime Report for Jan.-Mar. 1969 shows a 10 percent, nation-wide increase in crime over the same period in 1968, with robbery rising 22 percent.

Statistics for Washington, D.C. reveal a sharp increase in crime, with an increase in robbery offenses from 5,759 in 1967 to 8,622 in 1968, and for the period Jan.-Mar. robberies have increased from 1,777 in 1968 to 2,788 in 1969.

⁹¹ D.C. Code § 22-3201, as amended, (Supp. II, 1969): "'Crime of violence' . . . means any of the following crimes, or an attempt to commit any of the same, namely: Murder, manslaughter, rape, mayhem, mall-

ciously disfiguring another, abduction, kidnapping, burglary, robbery, housebreaking, larceny, any assault with intent to kill, commit rape, or robbery, assault with a dangerous weapon, or assault with intent to commit any offense punishable by imprisonment in the penitentiary."

⁹² A dangerous weapon is one likely to produce death or great bodily injury. *Scott v. United States*, 243 A.2d 54 (D.C. Ct. App. 1968). More specifically, any instrument designed or used for offense becomes a dangerous weapon. *Tatum v. United States*, 110 F.2d 555 (D.C. Cir. 1940); accord, *Patten v. United States*, 42 App. D.C. 239 (1914).

⁹³ Whether an offense is one of "moral turpitude" would be a question within judicial discretion. Generally, however, crimes malum in se would be included whereas offenses malum prohibitum would not.

⁹⁴ Procedurally, it would be no problem to hold such hearings on the same day on which a defendant is arraigned or appears for presentment on a felony charge. The Government would be required to give the court and defense counsel notice of its intention to request that a defendant be detained without bond, and a hearing set for the same afternoon. All such hearings would be before one judge specially assigned to handle these proceedings, thereby minimizing any adverse effects that such hearings might have on the backlog of pending cases. As to the inadmissibility of the proceedings at trial *cf.* *Simmons v. United States*, 390 U.S. 377 (1968).

⁹⁵ The appellate court would summarily review the detention order to determine if there was abuse of judicial discretion or if the defendant did not come within the purview of the statute. Upon such a finding by the appellate court an order would be issued directing the lower court to immediately set a financial bond or other conditions of release.

⁹⁶ Hart Comm. Rep. 1969 at 29, 33; see President's Comm'n on Law Enforcement and the Administration of Justice, Report—The Challenge of Crime in a Free Society 154-56 (1967) (delay prevalent in courts across the nation).

⁹⁷ See Hart Comm. Rep. 1969 at 33 (recidivists, narcotic addicts, and those charged with crimes posing danger to the community during riots should not be released).

⁹⁸ See generally Amendment Hearings 398-99 (statement of Edward L. Barrett, Jr.).

⁹⁹ Hart Comm. Rep. 1968 at 30.

¹⁰⁰ Within the Hart Committee alone there have been three separate formulations of offenses which would warrant suspension of bail: (1) arson, possession or use of firearms, and possession of explosives; (2) inciting to riot, burglary, and assault with a dangerous weapon; and (3) anyone who would pose "a grave danger to the community" if released. Hart Comm. Rep. 1968 at 29, 30. See also Hart Comm. Rep. 1969 at 32.

¹⁰¹ National Advisory Comm'n on Civil Disorders, Report 359-407 (1968). Although several of the disorders, notably Detroit and Newark, have lasted longer than three days, the Kerner Commission Report indicated that a person arrested at the first peak of the disorder and detained for 72 hours would be released after some order had been restored to the riot area. *Id.*

¹⁰² D.C. Code § 22-1122 (Supp. II, 1969).

¹⁰³ Amendment Hearings 143 (statement of Patricia M. Wald).

¹⁰⁴ Office of Senator Joseph D. Tydings, Press Release (March 2, 1969).

¹⁰⁵ Amendment Hearings 220 (statement of Judge Tim Murphy).

¹⁰⁶ *Id.*

¹⁰⁷ See 37-39 *supra*.

¹⁰⁸ Hart Comm. Rep. 1969 at 5-6. There is some question whether such a proposal would violate the defendant's fifth amendment right not to be "compelled . . . to be a witness against himself" or if it would be

considered only nontestimonial evidence. See *Schmerber* 1. California, 384 U.S. 757, 760-61 (1966).

¹⁰⁹ This might avoid the problem that punishment (detention) for addiction alone is violative of the eighth amendment's restriction against cruel and unusual punishment. See *Robinson v. California*, 370 U.S. 660 (1962).

¹¹⁰ Hart Comm. Rep. 1969 at 5-6. See also Amendment Hearings 122 (statement of Judge Charles W. Halleck).

¹¹¹ See Hart Comm. Rep. 1969 at 11.

¹¹² Statement of Senator Joseph D. Tydings, news conference, Washington, D.C., Feb. 11, 1969.

¹¹³ Press Release, *supra* note 104 at 2.

¹¹⁴ See generally Uniform Crime Rep., *supra* note 58 at 89; Amendment Hearings 692-93.

¹¹⁵ See *Schmerber v. California*, 384 U.S. 757, 767-71 (1966) (need for probable cause that defendant is intoxicated); *cf.* *Breithaupt v. Abram*, 352 U.S. 432 (1957) (state statutes allowing invasion of the body require probable cause); *Rochin v. California*, 342 U.S. 165 (1952) (invasion of the body's integrity without probable cause shocks the conscience).

¹¹⁶ See note 104, *supra* and accompanying text.

¹¹⁷ 18 U.S.C. § 3146(a) (Supp. IV, 1969).

¹¹⁸ *Id.* § 3146(a) (5).

¹¹⁹ Examples of such conditions are (1) requiring defendants to be home by a specified time, (2) prohibiting a defendant from going west of a certain street or into a certain neighborhood, (3) admonishing a narcotic addict to stop using narcotics, and (4) prohibiting a defendant from leaving the jurisdiction. See Amendment Hearings 102. Such conditions require many more bail agency and law enforcement officers than the District now has because of the constant supervision and coordination which each of these conditions requires. See D.C. Crime Comm'n Rep. 225-27, 407-09, 414-16. See also *Ball v. United States*, 402 F.2d 206 (D.C. Cir. 1968) (the defendant has since filed the jurisdiction and never been tried).

¹²⁰ Amendment Hearings 33 (statement of Chief Judge Harold H. Greene): "Release conditions are only as effective as the ability to enforce them. . . . [B]ecause no agency . . . has ever had the capability of enforcing conditions, . . . many judges have felt it to be an exercise in futility to impose strict requirements or conditions. . . . [I]t is essential that . . . some . . . public department be given the responsibility and the personnel necessary for meaningful supervision, investigation, and inspection . . . to verify that the court's conditions are actually being complied with."

¹²¹ Statutorily, the District of Columbia Bail Agency was established to gather data on an arrested person that was pertinent to his bail status under the Bail Reform Act. This data was to be drafted into a written report and submitted to the appropriate court. D.C. Code §§ 23-901 to 23-903 (1967). To do this work the Agency was given an annual budget of \$130,000. *Id.* § 23-908.

Additionally, the courts have given the Agency the task of supervising all nonfinancial ballees, including notifying them of court appearances. At present the Agency is not sufficiently staffed to properly fulfill its statutory obligations much less this added burden. Interview with Bruce D. Beaudin, Director, D.C. Bail Agency, in Washington, D.C., April 2, 1969. See also Amendment Hearings 30, 33, 99-107, 511-14, 529; Hart Comm. Rep. 1969 at 1-4, 6, 14; D.C. Bail Agency, Second Annual Rep. 1, 2, 4 (1968).

¹²² Amendment Hearings 339 (statement of Chief Judge Edward M. Curran).

¹²³ Interview with Bruce D. Beaudin, *supra* note 121. Even this effort has become increasingly futile in light of the Bail Agency's inability to properly supervise ballees and to report violations to the court.

¹²⁴ *Id.* See generally Hart Comm. Rep. 1968 at 17-21.

¹²⁵ Interview with Bruce D. Beaudin, *supra* note 121.

¹²⁶ See notes 48-50 *supra* and accompanying text.

¹²⁷ See 18 U.S.C. § 402 (1964); D.C. Code § 11-982 (1967).

¹²⁸ *Carbo v. United States*, 82 S. Ct. 662, 668 (Douglas, Circuit Justice, 1962); *Fernandez v. United States*, 81 S. Ct. 642 (Harlan, Circuit Justice, 1961). See also *Bitter v. United States*, 389 U.S. 15, 16 (1967) (per curiam).

¹²⁹ Although "substantial noncompliance" is a subjective test and would depend upon the circumstances of a particular case, such a provision is restrictive enough in scope to prevent revocation of bail for a mere technical violation.

¹³⁰ See pp. 38-39 *supra*.

¹³¹ D.C. Bail Agency, First Annual Rep. 6 (1967).

¹³² D.C. Bail Agency, Second Annual Rep. 6 (1968).

¹³³ Interoffice memo from F. B. Beane, Jr., Chief Deputy Clerk, Criminal Division, D.C. Court of General Sessions to J. M. Burton, Clerk of D.C. Court of General Sessions, Jan. 8, 1969.

¹³⁴ *Id.*

¹³⁵ Interview with F. B. Beane, Jr., Chief Deputy Clerk, Criminal Division, D.C. Court of General Sessions, Washington, D.C., April 8, 1969.

¹³⁶ Interoffice memo, *supra* note 133.

¹³⁷ See D.C. Bail Agency Repts., *supra* notes 131-32.

¹³⁸ Judge Beard of D.C. Court of General Sessions estimates the extent of nonappearance to be about 30 percent; Judge Korman (D.C. Court of General Sessions) estimates the rate to be 40 percent; Judge Burka (D.C. Court of General Sessions) places the percentage at between 30 and 50 percent. Interview with Edward A. Beard, Judge, D.C. Court of General Sessions, in Washington, D.C., July 8, 1969; see *Amendment Hearings* 105 (statement of Judge Charles W. Halleck). See also Hart Comm Rep. 1969 at 5, 12, 44.

¹³⁹ *Amendment Hearings* 113-14 (statement of Judge Charles W. Halleck): "I have been consistently unable to obtain from any source any accurate figures showing just how many persons have failed to appear either in our court or in district court. My personal experience indicates to me that the number is astronomical."

¹⁴⁰ Interview with Judge William Pryor, D.C. Court of General Sessions, July 9, 1969. Interview with Frederick B. Beane, Jr., D.C. Court of General Sessions, April 8, 1969. Interview with Alonzo Christian, Clerk of U.S. Assignment Court, Criminal Division, D.C. Court of General Sessions, April 8, 1969.

¹⁴¹ See Hart Comm. Rep. 1968 at 17-24.

¹⁴² See Hart Comm. Rep. 1969 at 5-13.

¹⁴³ *Id.* at 11.

¹⁴⁴ *Id.*

¹⁴⁵ *Id.* at 12.

¹⁴⁶ *Id.*

¹⁴⁷ See notes 48-50 *supra* and accompanying text.

¹⁴⁸ Some of the more frequent problems which the Government encounters when there is a lengthy delay between the date of the offense and the date of trial are: death or inability of Government witnesses to testify, a loss of interest by complaining witnesses, and an increased chance of loss of memory or confusion in testimony at trial.

NATURAL GAS AND OIL IMPORT CONTROLS

Mr. PROXMIRE. Mr. President, there seems to be an enormous amount of confusion about the impact of the oil import control program on our natural gas reserves. I would like to set the record straight.

There is almost no relationship between the oil import control program and our natural gas reserves, or at least that appears to be the implication from a letter I received from the Chairman of the Federal Power Commission, the agency having the day-to-day jurisdiction over natural gas.

According to Chairman Nassikas, less than one-half of 1 percent of our natural gas comes from high cost stripper wells, the wells most likely to be affected by changes in the oil import control program.

As a matter of fact, liberalizing the oil import control program could help to meet the alleged future shortage of natural gas. If less expensive oil products were imported, the market mechanism would allow them to be substituted for the more expensive natural gas.

If there is an impending natural gas shortage, the FPC has the power right now to give the necessary added incentive to discover more natural gas reserves. All it has to do is to raise the price of natural gas. This has the great benefit of making the consumers of natural gas pay what it is worth. Consumers of other energy products should not have to subsidize the users of natural gas.

However, we do not really have any hard information about our natural gas reserves. No one in the Federal Government apparently felt the need to check the data from the industry. It seems rather an anomalous situation: the Government regulates an industry based on unverified statistics obtained from that industry. How solid a foundation is that?

If there is this fear of an impending natural gas shortage, the President should appoint a Cabinet level task force to study the situation similar to the one he appointed to study the oil import control program. It could develop the hard data the Government needs to act in a rational fashion.

In light of this lack of relationship between the oil import control program and our natural gas reserves, whatever they are, I certainly hope the President will not confuse the natural gas issues with those involved in changing the oil import control program. Necessary reforms cannot be postponed on this tenuous a ground.

Although I realize that it will take some time to develop the structure and rules of a new oil import control program, this is no reason why imports cannot be liberalized right now. The obvious implication from all the rumors of the recommended changes in the oil import control program by the Cabinet task force on oil import control is that our national security can stand greatly increased imports of inexpensive crude oil. If this is true, and I have seen no evidence to rebut it, the President ought immediately to increase the percentage of oil imports by granting additional amounts of oil to quota holders.

In addition, the President ought to provide for as short a transition period as possible in order to prevent confusion and minimize the irritations that could develop. The time spent studying the problem of oil imports was very expensive to the consumers. According to Platt's Oilgram, the value of an import

ticket when the study started, March 2, 1969, was \$1.25 a barrel; now it is between \$1.45 and \$1.50 a barrel, an intolerable level in view of the President's efforts to curb inflation. If the President is serious about his fight to curb inflation, he will take immediate action to lower oil prices.

I ask unanimous consent that Chairman Nassikas' letter to me be printed in the RECORD.

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

FEDERAL POWER COMMISSION,
Washington, D.C.

HON. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: This is in response to your letter of December 31, 1969, relating to (1) the amount of natural gas that comes from high cost and stripper wells, (2) the firmness of the estimates of our natural gas reserves, (3) whether any government agency has made an evaluation of the amount of natural gas reserves we possess and (4) whether any independent group outside of the natural gas companies made such an estimate and, if so, who?

(1) As to your question regarding the amount of gas that comes from high cost and stripper wells, we regret we do not have detailed gas production data of this type. Production data is not reported by well investment or operating cost. We can, however, provide information concerning the stripper wells and information concerning the total amount of associated-dissolved gas produced from all oil wells. There are currently about 550,000 producing oil wells in the United States. Approximately 10 percent are flowing oil while 90 percent are on artificial lift. Although flowing oil wells are only 10 percent of the national level total, they produce about 75 percent of all the oil. In 1968 the 367,205¹ stripper wells, (wells which average 10 barrels or less of oil a day) constituted about 67 percent of all oil wells but only accounted for 15 percent of total 1968 U.S. oil output. The following table lists the volumes of the associated-dissolved gas reserves and production as a percent of total gas reserves and production over a three-year period (excludes Alaska):²

Associated-Dissolved Gas Reserves and Production (All Volumes in Million Mcf at 14.73 Psia and 60° Fahrenheit).

Year	Reserves		Production	
	Volume	Percent of total reserves	Volume	Percent of total production
1966----	68,479	24.2	4,587	26.2
1967----	67,528	23.6	4,759	25.9
1968----	62,592	22.5	4,640	24.0

Considering the productivity of stripper wells as a source of natural gas, we tentatively estimate that probably less than 2 percent of the associated-dissolved gas annual production is from stripper oil wells.

(2) The only recognized natural gas reserve estimates for the entire United States that are published annually are included in a report entitled "Reserves of Crude Oil, Natural Gas Liquids and Natural Gas in the United States and Canada." This report is a joint effort of the American Gas Association (AGA), American Petroleum Institute and the Canadian Petroleum Association. The natural gas statistics for the United States are compiled and maintained by the Com-

¹ Source: Interstate Oil Compact Commission.

² Source: American Gas Association.

mittee on Natural Gas Reserves of the American Petroleum Institute. The Committee is composed of 14 members; a chairman, a vice Chairman, a secretary, a representative from the Bureau of Mines of the U.S. Department of the Interior and ten other members. The United States including Alaska is divided into ten districts. Each one of the ten other members is assigned a district as his area of responsibility. In carrying out this responsibility each member heads an Area Subcommittee composed of one hundred and thirteen (113) qualified geologists and engineers from all segments of the oil and gas industry. After the subcommittee compiles the data for their district, it is submitted for inclusion in the Annual Report, which has been published since 1946. Neither the basic reserve data, much of which is confidential, nor the method by which they are summarized for the AGA reports have been submitted to the Federal Power Commission. Natural gas production data on the other hand are public information.

The reliability of reserve estimates is, of course, critical to any conclusions derived from their use. We recognize this fully, particularly with regard to AGA's proven gas reserve estimates.³ However, we feel these national statistics are reasonably reliable.

Another valuable source of gas supply statistics is reported annually by the interstate pipeline companies to the Commission on FPC Form 15. This information in this report consists of estimates of reserves and production as prepared independently by individual pipeline companies. This report also contains projections of future requirements of the pipeline companies' existing customers. These reporting companies own or control, through contractual arrangements, approximately 70% of the national gas supply as reported by the American Gas Association. Our staff does have access to detailed work papers in support of these reported interstate supply statistics and examines such supporting data frequently, both on a routine basis and in investigations of the gas supply in support of specific pipeline proposals. Over the years these estimates as submitted by the pipeline companies have generally been considered by our staff to be reasonably accurate.

It has been found that when the supply and production data as estimated and reported annually by the interstate pipeline companies has been compiled, trended and projected, the trends and projections based on interstate statistics closely parallel trends and projections based on the national statistics as reported by AGA. Annual staff reports on the interstate portion of the gas supply statistics have been available to the public since 1966.

(3) & (4) To our knowledge no independent group outside of the American Gas Association and the American Petroleum Institute has made an evaluation of the amount of proved natural gas reserves we possess. To our knowledge no government agency has made an estimate of our presently proven gas reserves. I will ask Congress for the requisite authorization for an FPC National Gas Survey. I so testified before the Senate Subcommittee on Minerals, Materials and Fuels of the Committee on Interior and Insular Affairs on November 13, 1969. However, the United States Geological Survey of the Department of the Interior does periodically prepare estimates of its own of our total potential oil and gas resource base and has commented favorably upon the reliability of natural gas industry statistics and supply

estimates, a copy of which is enclosed (items 2 & 3, infra). The USGS estimates include all of the oil and gas reserves which have been found as of the date of the estimate plus the reserves yet to be discovered. Estimates of potential gas reserves are also published periodically by the Potential Gas Committee, a gas industry group. The oil and gas reserve estimates as published by the American Gas Association and the American Petroleum Institute are used as a base for the Potential Gas Committee's estimates.

As you know, no other issue has received as much of the Commission's attention in recent months as the adequacy of gas supply question. The Commission as a body, has met with each of the major industry groups (producer, pipelines and distributors) to receive their views. Ever, natural gas case coming before the Commission is carefully scrutinized for natural gas supply implications. For example, in AR69-1 (item 5) evidence will be taken on this problem, and all concerned will be encouraged to participate fully in the hearing.

The Senate Subcommittee on Minerals, Materials, and Fuels of the Committee on Interior and Insular Affairs held hearings on natural gas supply on November 13, 1969. In my testimony, before that subcommittee, (item 6), I discussed the adequacy of current and prospective natural gas supply, and explained on pp. 23-32 the various actions being taken by this Commission with respect to the gas supply situation. I am also enclosing a Commission staff report on this subject which was released in October, 1969 (item 1) and a report just issued on interstate pipeline gas supplies for 1968 (item 13) together with additional materials which I hope are helpful to you.

I appreciate the opportunity to respond to your inquiry. If any further information is desired, I shall be happy to supply it.

Sincerely,

JOHN N. NASSIKAS,
Chairman.

THE TRANSFER OF SCIENTIFIC KNOWLEDGE

Mr. PEARSON. Mr. President, the rate of growth of our Nation's economy and the level of the sophistication and the quality of our social and physical environment are affected to a very great degree by our ability to translate new scientific knowledge into usable technology and the extent to which this technology is actually applied.

The practical application of scientific knowledge has been a powerful force in changing American science of the past two decades. Yet experts knowledgeable in this area recognize that the gap between new scientific information and its useful application is widening. We are not doing nearly as good a job as we should be doing in advancing the use of the rapidly growing reservoir of science and technology.

Mr. President, in this connection, I invite the attention of Senators to two papers which I think are extremely worth while. The first, "The Use of Knowledge," is by Dr. Chris Barthel, the executive director of the Research Foundation of Kansas. He discusses the present state of scientific information transfer and the problems that need to be dealt with. He also has some particular comments about the Kansas situation.

The second paper, "Issues and Problems in Applying Science and Technology in Programs in Kansas," was presented by Dr. Mark Morris, president of the

Research Foundation and Dr. Chris Barthel before the Committee in Inter-governmental Science Relations of the Federal Council for Science and Technology, Executive Office of the President, on January 19, 1970. Although this paper concentrates on the Kansas situation I believe it has relevance to many other State situations. It also presents a list of recommended actions by the White House's Office of Science and Technology which I believe have a great deal of merit.

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

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

THE USE OF KNOWLEDGE

(By Christopher E. Barthel, Jr., executive director, Research Foundation of Kansas)

RESEARCH

During World War II, science and engineering were mobilized on a crisis basis by our Nation and other nations of the world to create and perfect fantastic new weapons. This was an impressive and successful large-scale attempt to use scientific and technological knowledge for military purposes.

Since World War II, and until two or three years ago, there was a rapid growth of research and development, particularly in the physical sciences and engineering, for many diverse purposes as well as defense. This growth, measured in funds for performance of research and development, is indicated in Table I. It was instrumental in the creation by the United States of an unprecedented capability for producing new knowledge through research and development efforts. The new knowledge was, and is still being absorbed in many sectors of our society, leading to gigantic advances in communications, transportation, data storage and retrieval, weather prediction, medicine, instrumentation, to mention a few areas. As shown in Table I, in 1965 the total expenditures of our Nation for the performance of research and development passed the \$20.0-billion figure, with the Federal Government providing about 75% of the funds.

CENTRALIZED INFORMATION SYSTEMS

The total expenditures of the Federal Government rapidly grew in parallel with the funds allocated for research and development during this period. It therefore became necessary to establish priorities for Federal activities. Congressional concern led to the establishment by the Congress of numerous bodies to evaluate the Nation's research and development efforts, and particularly those being carried out through the use of Federal funds. Among the more productive and influential bodies were the Select Committee on Government Research of the United States House of Representatives, referred to as the Elliott Committee, and the Subcommittee on Science, Research, and Development of the Committee on Science and Astronautics of the United States House of Representatives, still in operation and referred to as the Daddario Committee. The different evaluations pointed to a crucial national need for the proper handling of the vast and ever-increasing quantity of information created through the research and development efforts of our Nation.¹ Fed-

³ See p. 2 of attachment, "A Staff Report on National Gas Supply and Demand," published October 1, 1969, especially the following: "For purposes of this report we have accepted at face value all industry-furnished supply data. Our conclusions must therefore be weighed against the assumed accuracy of our data base."

¹ The President's Science Advisory Committee, *Science, Government, and Information: The Responsibilities of the Technical Community and the Government in the Transfer of Information*. Washington, D.C., U.S. Government Printing Office, January 10, 1963.

eral resources were applied to this need with the creation in the mid-1960's of a multitude of sophisticated centralized information systems covering specialized areas.²

TABLE I.—GROWTH OF RESEARCH AND DEVELOPMENT IN THE UNITED STATES
(In millions of dollars)

Year	Funds for performance of R. & D.				Total
	Government	Industry	Universities	Other	
1941	200	660	40	-----	900
1943	300	850	60	-----	1,210
1945	430	990	100	-----	1,520
1947	520	1,570	170	-----	2,260
1949	550	1,790	270	-----	2,610
1951	700	2,300	360	-----	3,360
1953	1,010	3,630	420	100	5,160
1957	1,280	7,730	650	150	9,810
1960	1,830	10,510	1,000	280	13,620
1963	2,400	12,690	1,700	450	17,240
1964	2,840	13,510	1,590	-----	19,180
1965	3,090	14,200	1,870	-----	20,470
1966	3,260	15,550	2,180	-----	22,370
1967	3,360	16,610	2,360	-----	23,800

¹ Department of Defense, Office of the Secretary.

² National Science Foundation.

³ National Science Foundation (from "Statistical Abstract of the United States, 1968").

Among major information systems now operating are the Clearinghouse for Federal Scientific and Technical Information, operating in the United States Department of Commerce; the National Referral Center for Science and Technology of the Library of Congress; the National Center for Health Statistics of the United States Public Health Service; the Science Information Exchange of the Smithsonian Institution; and a host of centers connected with specific areas such as the Office of Mineral Information of the United States Bureau of Mines, the National Center for Chronic Disease Control, the National Oceanographic Data Center of the Naval Oceanographic Office, etc.

DEFICIENCIES IN THE DELIVERY OF INFORMATION

By 1964, it had become clear that sophisticated centralized information systems alone were not adequate for delivering information to potential users. Entirely too few organizations and persons knew of the very existence of the centralized systems and had the capability of relating information to need, and many of those that did know of the existence and had proper capability did not know how to procure material from these valuable resources. As a result, innovative technology transfer activities were designed, two major programs being those developed and operated by the National Aeronautics and Space Administration and by the Atomic Energy Commission. On September 14, 1965, the State Technical Services Act was signed into law by President Johnson. This legislation was designed "to place the findings of science usefully in the hands of American enterprise." This Federal effort resulted in the creation of State Technical Services Programs in most of the states. These innovative and exploratory programs produced substantial contributions in many areas, but on a fragmented basis. The fragmentation primarily resulted from limitations placed upon the programs by their enabling legislation and by limited resources provided the programs.

During the past several months, there has been an evergrowing awareness that the information delivery services are, broadly and generally, not serving the basic purposes for

² National Referral Center for Science and Technology. *A Directory of Information Resources in the United States*;

Federal Government (June 1967);

Physical Sciences, Biological Sciences, Engineering (January 1965);

Social Sciences (October 1965); Washington, D.C., Library of Congress.

which they were designed—the use of knowledge for social and economic advancement, particularly at the State and local levels. The August 1969 issue of *Industrial Research* reported on a recent White House-sponsored conference on technical information. At this conference Representative Emilio Q. Daddario, Head of the important Congressional Subcommittee mentioned above, forcefully stated his disappointment in progress in the Nation's informational handling systems and techniques during the past decade. At the same meeting, Dr. Lee A. DuBridge, Science Advisor to the President, admitted that "We still don't know how to advance—or use—this science and technology." Dr. DuBridge's statement is, of course, a broad generality. We have numerous major successful examples of the effective use of knowledge in addition to the military applications in World War II—in our extended and highly successful agricultural extension services, in atomic energy developments, in our space exploration activities, in our giant corporations. In all of these instances, applications were undergirded by—

1. Recognized goals and resources dedicated to the realization of the goals.

2. Well-staffed and well-supported information activities to analyze, store, retrieve, and "repackage" information for specific potential uses and users.

3. Applied research and development capabilities to adapt information to possible specific uses.

In contrast to these examples of successful use of knowledge, thousands upon thousands of potential users—organizations and individuals—throughout our Nation have no mechanisms or capabilities for requesting, analyzing, storing, and retrieving information, and for adaptive research to mold the knowledge to meet specific needs.

NEED FOR COUPLING MECHANISM FOR INFORMATION TRANSFER

At present, we continue to create new knowledge at a fantastic rate. It is said that man's total body of knowledge created during the past decade is valued at more than \$150 billion and that it doubles in size in from five to ten years.

At present, primarily as a result of recent federal initiatives, we have sophisticated systems for the storage and retrieval of information. Many of the systems include analysis, selection, abstracting, and repackaging services.

At present, those organizations with defined goals and sufficient resources have the mechanisms and capabilities for identifying, collecting, and adapting information of potential use. The recent Apollo 11 mission is a superb example of successful application of science and technology.

But the great majority of organizations and individuals who might use knowledge existing in our diverse information storehouses do not have such resources. The NASA technology utilization program, the State Technical Services Program, and other technology-transfer activities have succeeded in creating some awareness that information does exist and has assisted some organizations in procuring specific information for their possible use. But these programs have had limited resources, and, as a result, limited audiences. Thus, vast quantities of knowledge, of some \$150 billion value, are in well-designed and effectively operating information systems of our Nation ready for pick-up and use for social and economic advancement. Unless the knowledge is used, the efforts and expenditures leading to it, creation and processing are little more than costly intellectual exercises. The stimulation of the effective use of knowledge for social and economic progress is a responsibility of society parallel to its responsibilities for education, research, information, and libraries.

Any broad and general program for stimulating the use of knowledge should be based

upon a full understanding of the processes leading to and including the use of the knowledge. Three distinct processes have been outlined schematically.³ Research to Information to Innovation.

These processes are closely interrelated units of a system and require entirely different types of specialists for effective performance.

To the present time, prime emphasis and major resources in information activities have been applied to the body of information itself. For a broader use of knowledge, upon the innovators. The great majority of the users are not in the proximity of the information systems. The great majority are not in Federal and State establishments, but at the local level; many of the great majority do not even know that information of potential value to them exists. If this great majority is to be served, a major requirement exists for a coupling mechanism between the local users and the existing information systems, which are principally at the national level. State institutions, properly supported, could provide this coupling mechanism. Such state institutions could be large enough to provide adequate resources and small enough to respond to individual local needs. The state coupling mechanism, to do its job, must—

1. Have thorough knowledge of the many national information systems and procedures for procuring information from these systems.

2. Have knowledge of individual organizations at the local level.

3. Have resources for procuring necessary materials and capabilities for analyzing, selecting, abstracting, and rewriting information in language understandable by possible users in different fields of endeavor at the local level.

4. Have resources for communication with the national information systems and the users at the local level, and for delivery of selected information to possible users.

5. Have resources to demonstrate possible use of selected information.

All of these things have been done but not on a broad and general scale. The coupling mechanism will require applications specialists who exist only in very limited numbers at the present time; most of such specialists must be identified and trained.

The above coupling mechanism could identify, deliver, and demonstrate given information for specific use by a given enterprise. At this point, the receiver understands the information and realizes its potential value. But this successful delivery still does not assure use of the knowledge. Adaptive research and development will likely be necessary to develop models for a specific application, as well as thorough appraisals of costs and potential markets for possible new products and services. *The user must be stimulated to make investments in such activities.* The coupling mechanism could provide many services to assist in decision-making leading to an innovation. Such services could include the provision of information on—

- General market potential;
- Costs;
- Patents, production methods, etc.; and
- Sources of adaptive research and development assistance.

Such a coupling mechanism between the national information systems and the local users could be a major motivation in ex-

³ Christopher E. Barthel, Jr. "Testimony on Proposed State Technical Services Act of 1965 (Senate Bill No. 949)." *State Technical Services Act*: Hearings before the Committee on Commerce, United States Senate, Eighty-Ninth Congress, First Session, on S. 949 and S. 2083, June 8, 9, and 10, 1965. (Serial 89-16), Pages 56-66. Washington, U.S. Government Printing Office, 1965.

panding existing industry and in the location of new industries in the state or regions served by the coupling mechanism.

The coupling mechanism will require substantial resources—for capable people in different fields of activity; for good communication with existing information systems and local potential users; for analysis, selection, rewriting, and redesign of material for possible specific applications; for field visits and demonstrations; for support of educational activities for potential local users.

Resources could be supplied in modest quantities on pilot projects, and expanded as the usefulness of the services was recognized and accepted.

The coupling mechanism should not be limited to industrial enterprises alone, but to state, county, and local governments; to school districts; to law enforcement activities; to judicial systems, and to other sectors of our structure. Evidence exists to show that these sectors need new knowledge but have neither the capability nor the resources for going after this knowledge.

IMPLEMENTATION OF A KANSAS REFERRAL SERVICE

There is a growing awareness at the Federal level that something must be added to present activities to deliver information to potential users. The fragmentation of present activities involved in the research-innovation system emphasizes limited audiences and limited areas of subject matter, but entirely inadequate provisions are provided for crossover into different audiences or into subject matter areas. The sheer number and great diversity of information activities stresses the need for generalist activities in this area—for the aforementioned coupling mechanism. There is also a growing awareness that an effective information delivery system must provide for face-to-face discussions between the delivery agents and the potential users. It is believed that a Statewide Kansas Referral Service⁴ could effectively deliver information to users at the State and local level, the Service to be of a coupling nature and diagramed somewhat as follows:

KANSAS REFERRAL SERVICE

Information System No. 1, Potential User No. 1.

Information System No. 2, Potential User No. 2.

Information System No. N, Potential User No. N.

Such a Service, if properly supported—

1. Would not duplicate costly information systems now in existence; rather it would assure the use of these systems.

2. Would not be a repository of reports, papers, and books.

3. Would give user orientation to information activities.

4. Would provide for selective dissemination of information and person-to-person discussion with specialized potential users.

5. Would encourage use of information.

The location of such a Kansas Referral Service in the State structure is not readily apparent. The Service is not a library function, but the functions of a library could be extended to provide the Service. It is an extension-type activity, but the audience is much broader than that handled by individual extension services of our universities in Kansas. It requires a large and broad body of expertise to assist in analyzing and interpreting information and identifying innovative uses. Thus, a university is a logical location for this Service. It is a service ac-

tivity, however, differing from teaching and research, and incentives must be provided university personnel to contribute to the services. It requires full-time "information salesman" for effective operation, and should be located in an organization in the university parallel to the teaching and research functions.

SUPPORT

It is believed that Federal support can be found to cover partial cost for the design of such a Kansas Referral Service, and for the operation of such a Service on a limited pilot scale.

CONCLUSION

It is apparent that this type of service is needed in the State of Kansas, and, through such a Service, Kansas could assume distinct leadership in the use of knowledge for social and economic progress.

ISSUES AND PROBLEMS IN APPLYING SCIENCE AND TECHNOLOGY IN PROGRAMS IN KANSAS BACKGROUND

The Research Foundation of Kansas was created by the 1963 Kansas Legislature to serve two basic purposes—

1. To overview, stimulate, and coordinate the research and development activities of the State of Kansas in "all areas of intellectual endeavor."

2. To encourage the application of research results for the advancement of the State of Kansas and its people.

The Research Foundation of Kansas had little precedent in our country, and, of necessity, the legislation creating it was very broad and general in language and scope. The development of the programs of the Research Foundation was, thus, an experimental activity—and an activity quite different from that involved in Federal service, with which we are both experienced. As the programs of the organization were developed and implemented, issues and problems were identified, and these issues and problems of Kansas have been assessed and reassessed.

We have been following the activities of the Intergovernmental Science Planning Program of the National Science Foundation almost from their inception. We are pleased and enthusiastic about the creation of this Committee on Intergovernmental Science Relations by the Federal Council for Science and Technology. We have studied most of the material which Dr. Frank Hersman has sent us, and must commend the Federal Council and the Committee on the statement of rationale and of objectives for the Committee. We can certainly detect in these statements, and in accompanying materials, a keen perception of the problems which face government at the state and local levels. We are sure that we speak for a number of persons like ourselves who are struggling at the state level in the complex task of integrating science and technology into public affairs when we wish the Committee outstanding progress and success—if for no other reason than that your work will reinforce and undergird our own efforts.

Thus, we are pleased to share our Kansas experiences with you this morning by discussing briefly "Issues and Problems in Applying Science and Technology in Programs in Kansas."

RESEARCH FOUNDATION OF KANSAS

The State of Kansas has a rich heritage in the field of agriculture and is blessed with a population of rugged individuals from a pioneer stock. Kansas has invested heavily in education; in 1967, 42.6% of the total general expenditures of State Government was allocated to education—supporting elementary, secondary, vocational education, and junior college education, as well as six state colleges and universities. In addition, private colleges and universities of the State number 18. (One a municipal university.) The State has been a major exporter of its

young people and has been struggling to increase its per capita income to the national average. (It was 96.9% of the national average in 1967.) These issues were investigated by a Governor's Economic Development Committee in the early 1960's. The investigations led to the establishment in 1963 of a Research Foundation of Kansas in parallel with a refurbished Kansas Department of Economic Development and a new Office of Economic Analysis to stimulate the social and economic advancement of the State. The initial thrust of the Research Foundation, as outlined in the broad terms of its enabling legislation, was to undergird and strengthen the research and development activities of the universities and to interpret and stimulate the flow of research results into programs of the State. The Board of Directors of the Research Foundation was appointed in mid-1963; an office for the organization was established in mid-1964. By the time of the establishment of the office, the State universities had received certain authorities and flexibilities to improve their operations. As a result, the Research Foundation maintained liaison with the universities of the State, but created and developed service programs to accomplish the basic purposes of the legislation. The programs which evolved to meet the needs established by the Board of Directors were:

1. An inventory of research and development activities of the State of Kansas.

2. A public awareness program directed to the general public and the leaders of the State.

3. Research information and referral services.

4. Research advisory services.

A basic concept of the Research Foundation was the restriction of its activities to overview, stimulation, and coordination functions, not the conduct of operational programs. Thus, in 1965, the Research Foundation assumed leadership for the design of a five-year plan for technical services in Kansas which led to the creation of a Kansas Industrial Extension Service under the Kansas State Board of Regents to operate a Kansas Technical Services Program; the Research Foundation was appointed Designated Agency for this Federal-State activity. An exception to the concept of restricting the role of the Research Foundation to overview, stimulation, and coordination was the creation and operation of a Kansas Vocational Education Research Coordinating Unit at the request of the Kansas State Board for Vocational Education.

We do not think it proper to go into detail at this time on the enabling legislation or the programs of the Research Foundation. Rather, we submit to this Committee a copy of the enabling legislation of the Research Foundation of Kansas (House Bill No. 183 of the 1963 Kansas Legislature) and the most recent Annual Report of the organization for the records of this meeting of your Committee. The Annual Report reports briefly on the history and progress of the Research Foundation.

NEEDS IN APPLYING SCIENCE AND TECHNOLOGY AT THE STATE AND LOCAL LEVELS

Based upon the five and one-half years of program experience of the Research Foundation, a number of observations can be made on the type of activities conducted by the organization and the success of the Research Foundation in carrying out such activities. Specific needs identified for applying science and technology at the State and local levels, together with the effectiveness of the Research Foundation in meeting the needs, follow:

1. A need exists in Kansas for a single recognized focal point at the State level for information on scientific and technological activities and for the coordination of such activities.

⁴The term "referral service" is used instead of "information service" to stress that the activity would not be a document-gathering function, would not duplicate existing costly information systems, and would be an action-oriented service to relate knowledge to potential users.

The Research Foundation has served in such a focal-point capacity in the creation of the Kansas Technical Services Program and the Kansas Vocational Education Research Coordinating Unit, and in agrribusiness and children and youth programs in the State, among others. Its focal-point role has been effective in communication with the Kansas Congressional Delegation, with Federal agencies, and with regional bodies. Additional resources would permit additional services in other areas.

2. A need exists in Kansas, and has existed from the very beginning, for a public information program to improve the awareness of those in State Government, as well as the average citizen, of the significance of research and development and science and technology to social and economic advancement.

An initial thrust of the Research Foundation was in this area, with the publication of a number of items¹ on the research resources of Kansas, and the conduct of specific conferences and symposia. Budget cuts have reduced this important activity to minimal levels. The Board of Directors still considers this a vital area of concern for the Research Foundation.

3. A need exists in Kansas for a continuing inventory of research and development and scientific and technological activities carried out in the State to serve as a resource for information and referral services.

The Research Foundation attempted to communicate with the performers of research and development in the State in 1965 and collected considerable data on the State's research and development and scientific and technological activities. This initial effort has been drastically reduced during the past two or three years because of personnel cuts and the pressure of other activities. The present inadequacy of the inventory program impairs the work of the Research Foundation in other areas of concern.

4. A need exists in Kansas for the establishment of specific research and development and scientific and technological goals, objectives, and actions at the State and local levels.

The Research Foundation has enjoyed limited success in stimulating organizational and program goals. It has written a formal program for such goals—establishment activities into its budget requests during the past several years, but the requests have not been approved by the State's fiscal apparatus.

5. A need exists in Kansas for a mechanism with authority to mobilize research and development and scientific and technological resources in the State to accomplish the purposes of State and local governments. The Research Foundation has been successful in such mobilization activities in connection with the State Technical Services Program, in the establishment of the Kansas Vocational Education Research Coordinating Unit, and in a few other areas. Its efforts in this area have been limited, however, by human and financial resources.

6. A need exists in Kansas for a linkage mechanism between the Federal information system and the users of scientific and technological information at the State and local levels. Generally speaking, the potential users of scientific and technological information at the local levels, and many at the State level, do not know of the existence of information resources and do not know how to procure information from such resources.

This is a crucial area of concern to the Board of Directors of the Research Foundation and to the State of Kansas, particularly since the announcement of the termi-

nation of the State Technical Services Program.

As a result of the concern of the Board, we have attempted to analyze, in a broad way, the problems involved in the delivery and use of information in a paper entitled "The Use of Knowledge," which was prepared for the Board of Directors of our Research Foundation. In the hope that the paper may be of some assistance to the Committee, we recommend that a copy be filed in the records of this meeting.

The Research Foundation has performed, in a limited way, service as a linkage mechanism between organizations and persons of Kansas seeking specific scientific and technological information and the information systems at the Federal level. Much more could be done in this area with additional resources. In particular, the Research Foundation could devote more attention to publicizing the availability of information in the Federal systems and to the selection, repackaging, and distribution of specific information to appropriate possible users. Resources have just not existed for a significant thrust in this area.

7. A need exists in Kansas for advisory services in organization, program, and project planning and design. Adequate competence does not exist at the local level, and in some State agencies, for development of plans and designs to compete favorably with the plans and designs of other states. The universities have competence to provide such advisory services, but their faculties are already over-burdened with responsibilities in teaching, basic research, committee and service activities, and other professional duties.

The Research Foundation has performed such services to a limited degree. Some of these services are listed on Pages 9-10 of the 1968 Annual Report of the organization. The limited recognition and resources of the Research Foundation have prevented more services of this type.

ISSUES AND PROBLEMS

The above listing of State needs in the application of science and technology and the assessment of success of the Research Foundation operations in meeting these needs indicate distinct accomplishment of the organization and its programs, but also stress the crucial need for additional resources in the Research Foundation, or elsewhere in the State structure, to improve the process of applying science and technology to the solution of State and local problems.

Principal issues and problems which have restricted the application of science and technology to programs in Kansas are—

(1) Severe financial problems of the State. This is the principal issue in the current (1970) session of the Kansas Legislature. Both the Governor and the Legislature are concerned about taxpayer rebellion. Many worthy programs are suffering cutbacks.

(2) Lack of specific, well-publicized science and technology goals for the State. The State's Planning Division, operating in the Kansas Department of Economic Development, is making progress in the development of State plans under the 701 Program. A basic need exists for the formulation of specific, well-defined objectives and the recommendation of priorities for consideration of the Governor and the Legislature.

(3) Inadequate understanding on the part of the general public and State and local leaders of the significance of science and technology to social and economic advancement and of modern scientific and technological methods that might be employed in Kansas to improve the gross State product and broaden the public tax base.

(4) A general disillusionment on the part of the general public and State and local leaders with research and development and

science and technology resulting from the soul-searching going on in these areas.

Principal issues and problems relating specifically to the Research Foundation of Kansas include the inadequacy of—

(a) Recognition of the Research Foundation and its role in the State.

(b) Staff to communicate more effectively with the scientific and technological resources of the State.

(c) Staff for the maintenance of a more effective inventory of scientific and technological resources.

(d) Resources and authorities to mobilize more effectively the scientific and technological resources of the State.

(e) Resources and authorities to develop a more effective information and referral activity for Kansas.

(f) Resources to provide prompt research advisory services as requested.

(g) Staff to communicate with leaders of Kansas at the State and local levels.

(h) Staff for the establishment and maintenance of a formalized science and technology goals program.

We must stress that the Research Foundation is sharing these issues and problems with most other agencies and organizations of the State of Kansas. We must also stress that in all of the issue and problem areas listed, the Research Foundation has enjoyed some progress. The magnitude of the effort has just not been adequate for the type of thrust in science and technology necessary for major contributions to the State and its people.

ESTABLISHMENT OF DEPARTMENT OF SCIENCE AND TECHNOLOGY IN KANSAS

The Board of Directors of the Research Foundation, the Governor's Office, and the Legislature recognize the issues and problems which have retarded the progress of the Research Foundation. In 1967 the Board of Directors passed the following resolution:

While the Board of Directors of the Research Foundation is proud of programs developed under its auspices to the present time, it recognizes the extremely broad area of concern of the organization and the limited funds available for support of programs. The Board is dedicated to the development of the best programs possible for the State consistent with the authorities of its enabling legislation. To this end, the Board of Directors, at its meeting of October 10, 1967, passed the following resolution for presentation to the Governor at this time:

In view of the experiences of the Research Foundation to date, the rapidly changing character of research and the economy of our nation, and the opportunity for evaluation of the economic development programs resulting from the recommendation of the Governor's Economic Development Committee, the Board of Directors of the Research Foundation recommends to the Governor that a Committee be appointed to make a study of the role of the Research Foundation in the overall programs of the State and the possibility of realigning the setting and activities of the Research Foundation in the interest of the more effective discharge of its responsibilities to the State of Kansas and its people. The Board further recommends that the Committee report its recommendations and findings in time for consideration by the 1969 Session of the Legislature.

In his message to the Legislature covering the 1969 budget, the Governor of Kansas said:

"I recommend that the Legislature make a review of the operation of the Research Foundation and determine whether it is in the best interest of the state to continue this operation. The Board of Directors of the Research Foundation has recommended that the Governor create a Committee to study

¹ Typical publications are provided for the records of the Committee on Intergovernmental Science Relations.

the role of the Research Foundation in the overall programs of this state. I think that this study could be done more appropriately by this Legislature."

The Legislature responded by sending one of its members to the Conference on "Science, Technology, and State Government" which was sponsored by the Southern Interstate Nuclear Board and held in Louisville, Kentucky in September 1968. This representative, Mr. Fred A. Linde, himself a chemical engineer practicing in industry, introduced into the 1969 Session of the Legislature House Bill No. 1340 to create a Department of Science and Technology for the State of Kansas to serve as a successor organization of the Research Foundation of Kansas. It is requested that a copy of this Bill be introduced into the records of this meeting.

The principal provisions of the proposed legislation follow:

1. A new name is provided for the organization responsible for the overview, stimulation, and coordination of scientific and technological activities. The Research Foundation of Kansas has been a misnomer from its very beginning. It has never served as a "foundation" in the usual sense of the word.

2. It defines more specifically the responsibilities and authorities of the new Department.

3. It specifically directs the Department to provide science and technology advisory services to the Governor and to the Legislature.

4. It reorganizes the administrative structure of the governing body to include scientific and technological leaders of Kansas instead of business leaders and permanent members of the Board of Directors by virtue of their State positions.

House Bill No. 1340 was referred to the Federal and State Affairs Committee of the Kansas House of Representatives in the 1969 Session. Hearings were held on the Bill on December 10, 1969, at which time numerous witnesses spoke in favor of the Bill. Members of the Committee, however, questioned the need for new legislation. It is difficult, or perhaps impossible, at this time to predict whether or not action will be taken in the 1970 Session on this proposed legislation in view of the several serious basic problems confronting State Government at the present time.

RECOMMENDATIONS

The issues and problems at both the State and local levels and in the Research Foundation itself prompt the following recommendations:

1. It is recommended that the Office of Science and Technology of the Executive Office of the President initiate the development of a science and technology public awareness program to feed information to the general public, to the Governor, and to the Legislature of the different states (a) on the significance of science and technology to problem-solving and to social and economic advancement; (b) on Federal programs that could undergird state programs; (c) on exemplary programs in the states that might be adaptable to other states.

2. It is recommended that an appropriate unit be established in the Office of Science and Technology of the Executive Office of the President to serve as a focal point for communication between the Federal Government and the states on scientific and technological matters.

3. It is recommended that legislation be prepared to provide for Federal block grants on an annual basis to each of the states for support of its science and technology unit or for establishment of such a unit.

4. It is recommended that the same legislation provide matching funds for Federal support of exemplary programs in the states in the application of science and technology in public programs.

5. It is recommended that the Federal Government support several pilot programs in selected states to stimulate a greater use of information at the state and local levels through the establishment of a state coupling mechanism between the state and local users of information and the Federal information systems.

6. It is recommended that the Office of Science and Technology of the Executive Office of the President reconsider the recommendations of the report entitled "Technological Innovation: Its Environment and Management," and initiate the implementation of those recommendations which will stimulate the application of science and technology at the state and local levels.

CONCLUSIONS

We are grateful for the opportunity to share our experiences with this Committee on Intergovernmental Science Relations, and enthusiastically look forward to a strong Federal-Kansas relationship dedicated to the effective application of science and technology to the solution of today's complex problems and in programs for social and economic advancement.

VICE PRESIDENT REPORTS ON HIS ASIAN TOUR

Mr. GRIFFIN. Mr. President, in a speech today before the California Newspaper Publishers Association in Los Angeles, Vice President AGNEW gave an excellent report on his Asian tour last month.

I ask unanimous consent that the text of his address be printed in the RECORD.

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

REMARKS BY THE VICE PRESIDENT BEFORE THE CALIFORNIA NEWSPAPER PUBLISHERS ASSOCIATION, LOS ANGELES, CALIF., FEBRUARY 5, 1970

I come before you today in the role of reporter, to relate to you my observations during my eleven-nation tour of Asia last month.

Before I'm through, I will switch to the role of editorial writer, to comment on the meaning of the Nixon Doctrine to our nation and to the world.

As I may have mentioned before, I'm a believer in separating fact from opinion.

First, let me touch on some of the lighter moments of the trip.

I spoke to Bob Hope when I got back, and he said he had heard I'd done fine, but he thought it was a bit much for me to wade ashore at Manila.

As you know, the State Department and Dr. Kissinger's office brief you rather carefully before making one of these trips.

Actually, it can be a little unnerving. One of my briefing papers pointed out that the national anthem in Afghanistan is in three movements and cautioned me not to relax or sit down at one of the pauses in the middle. Throughout the trip in case anybody wondered why I remained at attention long after every one of the national anthems was over, it was because I was asking myself: "Am I sure this isn't Afghanistan?"

The President, of course, has an even more detailed schedule on his own trips abroad. When he went to Paris last year—this is true—he was handed a scenario by the advance men that included a strange item in it: "After President Nixon speaks for ten minutes, his remarks will be translated into English." Sometimes we have trouble communicating, but I never thought it was that bad.

The press gave my tour complete coverage, both here and abroad, and I have no complaints. But there was one time, in Bang-

kok, when they went a little far. Coming out of one of the temples, I was putting my shoes back on and noticed a photographer down on the ground shooting a picture of me tying my shoelaces. That wasn't so bad, but then a radio newsmen bent down and held a microphone three inches from my shoe, as if he expected it to make a comment. Some reporters were waiting for me to put my foot in my mouth, but this one apparently thought I'd put my mouth in my foot.

In a serious vein, let me discuss with you some of the impressions gleaned from my visit to Vietnam and my talks with Asian leaders.

In South Vietnam the morale of the U.S. troops is high. Just as important, there is a genuine and growing spirit of cooperation between U.S. troops and the men of the South Vietnamese army.

I have learned that "Vietnamization" is not just a word; more and more, it has become a fact; and it has stimulated the self-respect and self-confidence so necessary to any army in the field.

After so many years of hopes that were raised and dashed, there can be expected to be a certain skepticism on the part of observers in South Vietnam. But even the most skeptical are becoming convinced that the process of shifting the burden of fighting is working, though much remains to be done.

We are bound to hear more from those here at home who wanted us to pull out immediately and whose voices became muted after the President's November 3 speech. They are being proved wrong, and they don't like it one bit; obviously, they will seize upon any temporary setback to justify their own ideas of "peace now, worry about the price later."

But the people, and the press, cannot be fooled about Vietnam in the Seventies. There is a new realism in policy, a new realism in news coverage, a new realism on the part of South Vietnam's leadership.

I could sense that realism in my conversations with President Thieu and with Ambassador Bunker. Because the "iffiness" is gone from American policy, because President Nixon has a plan to end this war, you can actually feel a steadiness of purpose in Vietnam that was never there before.

Importantly, the President's plan to end the war honorably is no isolated solution to a single difficult situation—it is a part of a total design, a strategy that is becoming known around the world as the Nixon Doctrine.

Part of my job on this Asian trip was to carry the message of this Nixon Doctrine to the capitals of our allies. I can report to you tonight that this message is being understood and it is being welcomed.

That doctrine was clearly spelled out in the President's State of the Union message:

"Neither the defense nor the development of other nations can be exclusively or primarily an American undertaking.

"The nations of each part of the world should assume the primary responsibility for their own well-being; and they themselves should determine the terms of that well-being.

"We shall be faithful to our treaty commitments, but we shall reduce our involvement and our presence in other nations' affairs."

Those words are reverberating in the faraway places with the strange-sounding names: in Kuala Lumpur, in Kathmandu, in Kabul. Whenever a great power sets a new course, other powers must reexamine their own policies.

The Asian leaders I met are in that process now, and it is a healthy new look that is resulting in an increased self-reliance.

But one leader told me of a concern of his. There is a lag in communication across the Pacific. The change of mood of the American people since November has not yet traveled across the ocean.

People in many Asian nations, he said, are still worried about a new isolationism on the

part of the American public. They saw the films of the protesters here, they read the headlines demanding immediate withdrawal, and they genuinely fear that this will be the wave of the future in the U.S.

In these days of instantaneous communication, when a change in officeholders can be flashed across the world in the flick of an eyelash, how do you communicate a change in mood?

The Asian leaders have been reassured by the way the American people have rallied behind the President's plan—but much of the Asian public remains unaware and worried.

This means that we must hold fast to our new sense of purpose, and rely on their media and ours to communicate that steadfast spirit. It will take time, but it is an essential step toward stability in the Far East.

The junketeers with old axes to grind, the observers who portray American public opinion as self-doubting and wavering, not only transmit a false picture—they undermine the foundation of peace and security that Asians and Americans together are beginning to build.

There is one element of concern and one element of confidence that pervade the conversations of every Asian leader.

The element of concern is this: the potentially aggressive intentions of Communist China. Some say that the Sino-Soviet split is not as serious as most Western observers believe; others say that the Chinese may be so frustrated in their dealings with the Soviets that they may act more aggressively in Southeast Asia. Whatever the possible Chinese motive, the fact is that Asian leaders show a lively concern about the potential threat of Red China.

On the other hand, the element of confidence is this: The leaders of Asia believe their area is going to make enormous progress in the generation ahead, and they are convinced they can guide their peoples to new heights in economic gains and new fairness in social affairs.

As we in America talk of welfare reform and draft reform, the leaders in Asia talk of land reform and reform of unrepresentative government. The "age of reform" is worldwide.

You can see this in the land reform programs in Vietnam, in Malaysia and on Taiwan; you can see it in the industrial development in Singapore, in the economic stabilization of Indonesia, in the success of miracle rice in the Philippines, in the action toward more representative government in Nepal and Afghanistan.

In each case, it is significant that the road to development is much more like the democratic way than the communist way. The peoples of Asia believe, and rightly so, that they can have their rice and their freedom as well.

There is one perspective I gained in Asia that I especially want to share with you.

In the long pull of history, 1969 may be remembered as the year in which America regained her balance and her self-confidence, and moved to a new awareness and a new role in world affairs.

But in Asian eyes, one event that went relatively unnoticed here may also grow in importance with the years. That was our return of Okinawa to Japan.

The world's greatest industrial nation turned over a powerful and strategic base to the world's third largest industrial nation. That says a lot about America to the Japanese and to all Asians.

This was done with no great outcry about a loss of American security; that says a lot about the leadership of a President, and the confidence of the American people in his judgment about our security needs.

Finally, this was done to lay the groundwork for close cooperation and friendship between two great Pacific powers—on which

so much of the future stability of Asia depends.

As I said, this went relatively unnoticed in the United States; on the contrary, it was very carefully noted in Asia.

Up to now, I have been reporting my observations of my talks with Asian leaders. It is remotely possible that I have slipped a little personal opinion into my report; objectivity doesn't come easy to Vice Presidents, either.

My conclusion, however, is a flat-out editorial:

It's hard to talk about Doctrines without sounding doctrinaire. But let me try.

The Monroe Doctrine said to Europe, "Stay out of this hemisphere." The Truman Doctrine said to the Soviet Union, "Stay out of countries that want to remain non-Communist." The Nixon Doctrine says, "We'll help our friends who are willing to help themselves."

Each of these doctrines was enunciated at a critical turning point in our history. The first two were right for their time; the Nixon Doctrine is right for our time.

It was Woodrow Wilson who said "Democracy is more than a form of government. It is a form of character."

The American character today is not the sort that sells out its friends, that runs away from its commitments, that tries to turn inward and lets the rest of the world go hang.

Nor is it a part of the American character to take on the jobs that others should be doing for themselves, to weaken the will of our friends by carrying their burdens for them.

The message I carried to Asia on behalf of the President was this: that America stands behind its friends, not in front of its friends, in their defense of their freedom.

And the message I brought back was this: As self-respect and self-reliance increase among the nations of Asia, respect for America will continue to rise.

TRAGEDY IN NIGERIA

Mr. CRANSTON. Mr. President, as I have commented in the past, I am deeply concerned over the tragic situation in Nigeria and have communicated this concern to Secretary of State Rogers and President Nixon. The situation demands our constant and consistent efforts to alleviate the horrifying conditions which exist in what was formerly Biafra.

It has recently come to my attention that a student organization, Students for Biafran Relief, has been organized and is operating from the University of Notre Dame. This organization has been established to work for the noble aim of assisting to save the millions of people who are still starving in Biafra.

Students for Biafran Relief seeks to enlist aid from students, laymen, political leaders and corporations to express their opinions on this situation, and I am pleased to lend my support to this fine effort.

Once again, the positive activism of today's youth is being demonstrated through such an effort and it is my hope that this effort will succeed in providing the necessary assistance to the thousands of people who are starving in Nigeria.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969

Mr. BYRD of West Virginia. 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 (H.R. 514) to extend programs of assistance for elementary and secondary education, 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.

The PRESIDING OFFICER. Pursuant to the unanimous-consent agreement, the Chair recognizes the Senator from Mississippi (Mr. STENNIS).

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against the time that has already been allotted to the distinguished Senator from Mississippi (Mr. STENNIS).

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

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. STENNIS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The amendment of the Senator from Maryland (Mr. TYDINGS).

Mr. STENNIS. Mr. President, my remarks will be addressed primarily to amendment No. 481 to the bill. My remarks will be entirely germane, I am sure, and therefore they will be in order, under the rules, for 3 hours. I make that statement for the information of the Chair.

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

Mr. STENNIS. I yield to the distinguished Senator from Florida. I understand that he must leave the Chamber to attend to an important matter.

Mr. HOLLAND. Mr. President, I want to express to the distinguished Senator from Mississippi my very great appreciation for the leadership he is taking in this matter. I am glad to be one of the cosponsors of the amendment he is about to discuss.

I am sorry that I am called from the floor, but the Governor of our State has requested a conference in 15 minutes at the other end of the Capitol, with the delegation from Florida, on this very subject.

I want the record to show that that is the reason for my absence and that I very strongly support the effort of the Senator from Mississippi and hope to join in it a little later.

Mr. STENNIS. I thank the Senator very much for his remarks as well as his sentiment. I look forward to his re-

turn to the Chamber. His support is encouragement to anyone, and I know of his interest in this subject.

Mr. President, I always want to yield to any Senator at his convenience and be courteous to him, but I should like to present some facts I have in this case, and proceed without interruption, unless it is of the briefest kind, and then, when I have concluded my remarks, I shall be glad in every way to yield for questions.

ADDITIONAL COSPONSOR

Mr. President, I ask unanimous consent that the name of the Senator from Virginia (Mr. BYRD) be added as a cosponsor of amendment No. 481.

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

Mr. STENNIS. Mr. President, I ask unanimous consent that the text of amendment No. 481 be printed in the RECORD at this point.

There being no objection, amendment No. 481 was ordered to be printed in the RECORD, as follows:

On page 45, between lines 4 and 5, insert the following new section:

DISCRIMINATION ON ACCOUNT OF RACE, CREED, COLOR, OR NATIONAL ORIGIN PROHIBITED

SEC. 2. (a) No person shall be refused admission into or be excluded from any public school in any State on account of race, creed, color, or national origin.

(b) Except with the express approval of a board of education legally constituted in any State or the District of Columbia and having jurisdiction, no student shall be assigned or compelled to attend any school on account of race, creed, color, or national origin, or for the purpose of achieving equality in attendance or increased attendance or reduced attendance, at any school, of persons of one or more particular races, creeds, colors, or national origins; and no school district, school zone, or attendance unit, by whatever name known, shall be established, reorganized, or maintained for any such purpose: *Provided*, That nothing contained in this Act or any other provision of Federal law shall prevent the assignment of a pupil in the manner requested or authorized by his parents or guardian.

Mr. STENNIS. Mr. President, I speak today in favor of amendment No. 481 for the sole purpose of trying to preserve the community and the neighborhood schools of each State in the United States.

I have already said that I refer to amendment No. 481 to H.R. 514. The following named Senators are cosponsors of that amendment: Mr. RUSSELL, Mr. HOLLINGS, Mr. TALMADGE, Mr. EASTLAND, Mr. ERVIN, Mr. HOLLAND, Mr. ELLENDER, Mr. JORDAN of North Carolina, Mr. THURMOND, Mr. ALLEN, Mr. TOWER, Mr. SPARKMAN, Mr. GURNEY, Mr. McCLELLAN, Mr. LONG and the Senator from Virginia (Mr. BYRD).

Mr. President, I want to preserve the neighborhood schools—and I am talking about public schools—to keep them for their primary purpose; namely, the education of our children.

I am sure that that motive and that desire are shared by every Member of this body. We might disagree as to the extent to which it is being impaired now, but we all agree that we must find a way

to keep our schools engaged in the primary work of education of children.

Mr. President, I am not speaking today against integration. I accept that as a starting point, that it is the law. It has already been applied in the schools in the State which I have the honor to represent.

Mr. BYRD of West Virginia. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I yield.

Mr. BYRD of West Virginia. Is the Senator saying that forced integration is the law?

Mr. STENNIS. No. I do not mean to imply forced integration is the law in all circumstances. I mean by integration here that there can be no disclaimer or refusal to recognize the right of a child to enter a school because of race, creed, color, or national origin, if that child is otherwise entitled to enter it. Then there is no discrimination against him.

The first part of the amendment reads as follows:

No person shall be refused admission into or be excluded from any public school in any State on account of race, creed, color, or national origin.

I start with that. I announced that that is my purpose.

Mr. BYRD of West Virginia. I simply want to say that I think I understand the Senator. He is saying that no child may be excluded from any school on the basis of race, creed, color, or national origin and that, therefore, State-enforced segregation is illegal; but I take it, and I hope that I understand him correctly, that he does not mean that forced integration, on the basis of race, creed, color, or national origin is the law of the land.

Mr. STENNIS. No. The Supreme Court has never gone that far, as I understand. It is a matter here of each child having the right, so far as race, creed, color, and national origin are concerned, to enter a school if that child is otherwise qualified.

Mr. BYRD of West Virginia. I thank the Senator.

Mr. STENNIS. I thank the Senator for his concern and his questions.

Mr. President, I shall not seek in any way to discredit or criticize the Supreme Court as a highly important branch of our Government, but I shall not hesitate fully to state the unhappy facts brought about from the application of certain Supreme Court decisions regarding the massive integration of certain schools in the South.

The Supreme Court, in these recent decisions, in demanding total and immediate integration in many schools, even in the middle of the school term, alerted the parents of children all over the Nation, beyond the South, to what can be in store for them if this policy, which is now applied to the South, is ever applied to other areas of the Nation.

I am confident that, in time, the great majority of the parents of schoolchildren in this Nation, as well as a great majority of other citizens, will line up behind the principles of this amendment.

In short, amendment 481 provides no discrimination against any individual student because of his race, creed, color, or national origin. It further provides a major measure of freedom of choice for parents in the selection of the school for their children and, in effect, precludes the busing of children away from the community school without the consent of their parents.

Since getting into these figures about segregation in States beyond the South, I have talked to a great many Senators and Members of the House. I have received mail from other parts of the Nation. There is growing concern and growing opposition, beyond all doubt, to the busing of children away from their homes and home schools just in order to create a so-called racial balance or racial percentage of students in some schools somewhere else—5 miles, 10 miles, or 20 miles away.

Mr. TALMADGE. Mr. President, will the Senator from Mississippi yield at that point?

Mr. STENNIS. I am happy to yield to the Senator from Georgia.

Mr. TALMADGE. I ask the Senator if it is not true that we have more integration in southern schools today than in any other section of the country where ever the two races live together?

Mr. STENNIS. Well, percentage-wise—there are some very interesting figures on that, but percentage-wise, of the total black and white students, I do not think the percentage would be higher.

Mr. TALMADGE. Is it not 40 percent in the South?

Mr. STENNIS. No; I do not think it is that high yet.

Mr. TALMADGE. What is the percentage in the South? My recollection was that HEW's own estimates showed it to be 40 percent where there was some integration in the schools affected.

Mr. STENNIS. I do not think it is that high.

I have the figures here somewhere, but I do not know that I can readily put my hands on them. I will refer to some figures later. In the five largest cities in the South, and in the five largest cities outside the South, there is a striking parallel. There is just as much integration in the South as there is in the North as to some of these cities.

Mr. TALMADGE. Does the Senator recall the percentage in Washington, D.C.?

Mr. STENNIS. In Washington, D.C., it is 95 percent—I think 94.7 percent—now of black students and the others are white, of course.

Mr. TALMADGE. Does the Senator recall the percentage in Chicago?

Mr. STENNIS. Well, there are over 100 schools in Chicago—I have that table here somewhere—but I really do not wish to go into that at this point—

Mr. TALMADGE. The Senator will be covering that in his speech. I shall not interrupt him further.

Mr. STENNIS. Yes; I will cover that. There are over 100 schools in Chicago which are totally 100 percent black. There are about 250, as I recall, that run from 94 percent to 100 percent totally black.

Mr. TALMADGE. They are not doing any busing there?

Mr. STENNIS. No.

Mr. TALMADGE. They are not assigning anyone anywhere else?

Mr. STENNIS. No. So far as the Civil Rights Act is concerned, they asked them to do something about that a few years ago, but it was all swept under the rug. They asked them to do something about integration among the teachers last May, and the teachers flatly refused to do so. They offered a \$1,000 bonus to switch them around in the schools but they turned that down, too, and there has been nothing done about it.

Mr. TALMADGE. Mr. President, what they have done has been exclusively in the South and nowhere else in the country.

Mr. STENNIS. With certain exceptions, and I will enumerate those. It has been a comparatively slight scratching of the surface. The men who work in HEW will really tell the Senator that the combined effect of all they are doing outside of the South is just a ripple. It does not mean anything. It is just a scratching of the surface.

The Senator is correct.

Mr. TALMADGE. Mr. President, I thank the Senator.

Mr. STENNIS. Mr. President, the amendment comes from good parentage. The people of the great State of New York, confronted as they were with the merging massive State plan—and this is a very significant thing—for the busing of the children in the State of New York to schools away from their own communities, in order to achieve racial balance—and this was a State plan under Mr. Allen, then Commissioner of Education of the State of New York—appealed to their lawmaking authorities, their State legislature for the passage of a law that would prevent the busing plan.

After the fullest debate, the assembly of the State of New York passed a bill to end the compulsory busing of school children for the purpose of integration by a vote in that assembly of 104 to 41.

That bill, in effect, prohibited the busing of children according to the plan proposed by Commissioner James E. Allen, Jr., then Commissioner of Education in the State of New York. Mr. Allen is now Commissioner of Education and Assistant Secretary of Health, Education, and Welfare here in the Federal Government.

Governor Rockefeller signed that bill on May 2, 1969. And it became effective, according to its own terms, on September 1, 1969. It is now chapter 342 of the laws of New York, 1969, regular session.

Later on, but not now, I shall ask unanimous consent that a copy of that law be printed in the Record at the conclusion of my remarks.

Mr. President, I base my argument on two major essential steps. We all know that this idea of massive integration, total integration, is not acceptable to the people in the South or the North.

Speaking for the Negro people of Mississippi, I know that a great number of them do not want such a plan carried out. I have observed this thing clearly.

I have seen what this massive demand does to the quality of education itself.

I am fully satisfied that, even though we try this for 10 or 20 years in the South, and then for 15 years in the North, we will finally come back to a plan substantially similar to what the amendment provides.

The children will not be bused away from their home communities, and the parents will have a choice in saying where they shall go, through their local school boards. It will come back to that. And I do not think it will take very long because of the growing realization of the people outside of the South that their time is close.

Mr. President, for the first time in the history of our Nation, the President of the United States has authorized the Vice President to say that the President is going to create a special commission, to be headed by the Vice President and at least two other Cabinet members and other Presidential advisers.

For what purpose is this? This is a very significant thing. It was for the purpose of applying the decree of the Supreme Court with the least disruption to the schools. Those are the words Mr. AGNEW used, the least disruption.

That is an admission that the President of the United States finds that there is disruption. It is saying that he thinks something ought to be done about it. He is not empowered to override the Supreme Court of the United States. But he nonetheless feels compelled to try to do something about it, and he is putting his first team to work on it.

Second, the Vice President said that we ought to, at the same time, preserve the quality of education. That is a recognition of the fact that quality of education is in peril. One can call it what he pleases—civil rights or the mousing of a southern Senator. Everyone knows—and I will prove it more and more by the record as I go along—that the quality of education is imperiled by this social scheme dumped in the laps of the schools.

That is what the Vice President said, that the President had authorized him to move with these others in that direction. And it is none too soon. It is none too soon.

I have been down there where this thing has happened. The people want their schools. They want to try to obey. They do not know what to do. The parents do not know what to do. The little children, white and black, are confused. The teachers and the principals are confused.

They came and talked with me about it. People that I have known all of their lives and most of mine tell me the truth. They pour out their hearts and souls. They do not know what to do.

The superintendent of schools said he does not know what to do. The lawyers representing the school districts, small and large, do not know what it means. The Court talks about a unitary system. They never defined a unitary system. The court of appeals does not know what to do about it, frankly.

Some of these decrees came down using the term "immediately." The district

courts and the court of appeals were not willing to render a decree contrary to their judgment. So they gave a little additional time. It bounced up here, and the Supreme Court threw it back, saying, "Now, now, everything now!"

So, there is a little glimmer of hope. The last order had four dissenting votes. Two of them partly dissented, and said they would at least allow 8 weeks. Two others said we ought to be given what the court of appeals had found as facts in its judgment. It was not unanimous. It was 4 to 4, really. That affords a glimmer of hope.

I know that it takes something to disturb the President and cause him to set up a commission of his first team to try to implement Supreme Court decisions without disrupting the schools any more than necessary. And he wants to preserve the quality of education.

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

Mr. STENNIS. Mr. President, I am glad to yield to the distinguished Senator from Arkansas.

Mr. McCLELLAN. Mr. President, I thank the distinguished Senator for yielding.

I compliment the Senator on his amendment. I believe that I am a co-sponsor.

Mr. STENNIS. The Senator is correct.

Mr. McCLELLAN. I hope the amendment will prevail, although that may be a forlorn hope.

The Senator points out that there was mention of a new commission being set up by the Vice President. The Senator said that the Vice President pointed out that this was an attempt to find some way—what was the exact quotation?

Mr. STENNIS. The Vice President used these words, "to apply the decree of the Supreme Court with the least disruption of schools and then preserve the quality of education."

Mr. McCLELLAN. I believe the Senator did say that obviously the President had found disruption prevailed to a degree.

Mr. STENNIS. Yes. The Senator is correct.

Mr. McCLELLAN. And that he felt it was his duty, and he felt the necessity, to appoint a special panel under the direction of the Vice President to try to find some way to alleviate the disruption.

Mr. STENNIS. That is correct.

Mr. McCLELLAN. Has the Senator heard of a situation that was revealed either last night or within the last 2 or 3 days? I did not hear where the incident took place. However, a parent was being questioned about forced busing in schools and she said she has five children, that they are to be bused to five different schools, and that none of the children is permitted to go to his home school. Is that an example of the disruption the President is trying to relieve?

Mr. STENNIS. That is a good example, and there are plenty of them in that category, where many families have been split up.

Mr. McCLELLAN. I assumed this was a rather flagrant example but the incident was revealed on a network program where local citizens were questioned about the school situation.

I wonder how anyone could contend that that sort of disruption improves the quality of education. Can anyone who favors this—the members of the Supreme Court or anyone else—give one reason or one supporting fact that would sustain the contention that such disruption improves the quality of education?

Mr. STENNIS. I do not see how they could, especially in view of what has happened. These things look good on paper to some people but when they get down to the grubbing and go to apply it, a different situation is encountered.

Mr. McCLELLAN. Mr. President, will the Senator yield for one further question?

Mr. STENNIS. I yield.

Mr. McCLELLAN. Suppose the panel finds this situation where five children in the same family are sent to five different schools and that they are not permitted to go to their home school. What power does the panel have to modify the impact of recent Supreme Court decisions? I am wondering if this is just another gesture, another screen put up, or whether there is concern today in this administration to try to do something about it.

Mr. STENNIS. I am going to answer the Senator very frankly. I do not think they have any direct power to alter the decree of the Supreme Court. They might have some power of persuasion with the people and make the people of the Nation outside the South know what this means. We already know. But in that way I think they can do some good. I am not expecting any favoritism from the Supreme Court but if the Supreme Court would reverse its position on all of these matters that come up from the circuit courts of appeals and would stop saying "now" that would help.

Mr. McCLELLAN. How could they discontinue reversing all these cases except that they reverse themselves? They would have to reverse themselves in order to stop reversing some of these cases.

Mr. STENNIS. There is always a difference in the facts in every case. If they would read the record, review the testimony, do their very best, and apply the rule of reason even within their overall policy, they could reverse many of these cases.

I say with all respect to them that I do not think they had the facts before them last October when they threw out all of these cases. Did they seek the facts? All they had to do to get them was to ask for them, but I cannot believe they had all the facts before them and all the material when all those men reached that unanimous decision.

Mr. McCLELLAN. Mr. President, will the Senator yield for another question?

Mr. STENNIS. I yield.

Mr. McCLELLAN. Does the Senator know anyone who contends today that the quality of education has been improved?

Mr. STENNIS. I do not know of anyone myself. I have documents I am going to have printed in the RECORD from people who, compared with the Senator from Arkansas and the Senator from Mississippi, are quite liberal; and they have said they have had enough, that things are going the other

way, and that the system is being destroyed.

Mr. McCLELLAN. Do we not see deterioration every day in the public schools of our Nation?

Mr. STENNIS. Of course, we do.

Mr. McCLELLAN. Repeatedly we see headlines in the press.

Mr. STENNIS. Where this doctrine is being enforced, yes.

Mr. McCLELLAN. I thank the Senator for yielding.

Mr. STENNIS. No one is any more grateful for what the city of Washington did for their children than Mrs. Stennis and I. They got a corking good education here in the public schools. I am a taxpayer here, not a big one but a modest one. I am glad to pay them. Everyone knows that the quality of education now in the District of Columbia is far, far below what it was. I do not discredit the schools but that is the situation.

Mr. McCLELLAN. Mr. President, will the Senator yield for one more question?

Mr. STENNIS. I yield.

Mr. McCLELLAN. Will making available more money solve that problem?

Mr. STENNIS. No, sir; not at all.

Mr. McCLELLAN. More and more money, is that going to solve the problem that has been created?

Mr. STENNIS. No, not at all, not with this extreme application; that is not the way at all. The figures show that is true. One can look at the people who have left town. That is what has happened. They have left town or they have gone to private schools.

Mr. McCLELLAN. Is that not true with respect to both races?

Mr. STENNIS. Yes, more and more.

Mr. McCLELLAN. It is not just whites leaving town.

Mr. STENNIS. More and more. I have a reference here that the black families that are able to are getting out and going to the suburbs.

Mr. President, going back to the New York law, the fact that the legislature of the State of New York thought it necessary to pass a law to preserve the neighborhood school is clear evidence that the officials of that State saw the danger of the neighborhood school policy being abolished; that is, a child going to school in his own neighborhood.

While the spotlight is now the Southern States, the danger of other States losing the right to operate neighborhood schools is great and imminent. Today the South is under attack. The time will not be far away when this policy will be under attack in every section of the United States.

I am deliberately trying to talk to the parents of this Nation, beyond the South. They are entitled to know the facts. I am trying to bring something to them to impress them.

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

Mr. STENNIS. I yield.

Mr. McCLELLAN. Is the rule being enforced, the court decisions, in New York today?

Mr. STENNIS. It is not.

Mr. McCLELLAN. New York, by its own statute, made itself immune from the law that is being enforced in Southern States.

Mr. STENNIS. That is correct.

Mr. McCLELLAN. Is the Department of Health, Education, and Welfare, or the Commissioner of Education, doing one thing about the law in New York, trying to circumvent it or override it, that the Senator is aware of?

Mr. STENNIS. No, not one bit. The State of New York, through Commissioner Allen, when he was the Commissioner there, did undertake a program of busing children, as I said, and the people rose up and said, "No." It was argued down here in committee in December that the law in New York is unconstitutional. It may be. There is no telling what will be decided; but it does represent the opinion, will, and governmental power of the State of New York. I do not believe it is unconstitutional.

Mr. McCLELLAN. If it is unconstitutional, that makes the situation much worse because they are yielding to and respecting an unconstitutional law. Is that correct?

Mr. STENNIS. That is correct. I made inquiry as late as the day before yesterday. There has been no action brought by anyone in the State of New York against this law. There has been no action by the Federal Government to declare it invalid. It has not been challenged—their own Governor signed it—by any official of the government; and I do not think it will be. It is the will of the people. That is why they do not challenge it.

Mr. McCLELLAN. Will the Senator answer why they respect the will of the people in New York, but not the will of the people in the South?

Mr. STENNIS. That is the problem I am addressing myself to. When this problem gets on the doorstep of other States, their people will be passing laws and helping change the doctrine that is killing our schools.

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

Mr. STENNIS. I yield.

Mr. ERVIN. Do I understand the Senator from Mississippi to inform the Senate, that Mr. Allen, formerly head of the education system in New York, and now the Commissioner of Education in the Department of Health, Education, and Welfare, had initiated or suggested a program for New York State whereby the children of New York would be bused from one school district to another, or one place to another, for the purpose of integrating their bodies rather than enlightening their minds, and as a result of the agitation that caused among the people of New York, the legislature of New York State passed that statute?

Mr. STENNIS. Well, the Senator always says it so much better than I can. I certainly agree with him heartily.

Mr. ERVIN. And was that statute signed into law by that great liberal in the civil rights field, Mr. Nelson Rockefeller, Governor of the Empire State?

Mr. STENNIS. That is correct. I had newspaper articles to the effect that while this bill was being debated he was not going to sign it; but he is not a foolish person, and when he saw it and read it, he signed it into law.

Mr. ERVIN. That was an effort to prevent in New York State the very same thing that the Senator from Mississippi

is deploring being carried out through the South. Is that correct?

Mr. STENNIS. Exactly. It is exactly on all fours. That is why I selected the New York law as a pattern for this amendment.

Mr. ERVIN. In other words, what is sauce for the New York gander is not sauce for the southern goose. Is that correct?

Mr. STENNIS. Yes. According to the present administration of the law, what is illegal in the South is legal in the North. There is a presumption of innocence in the North and a presumption of guilt in the South. That is the HEW slogan.

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

Mr. STENNIS. I yield.

Mr. GURNEY. I cannot speak for the people of New York, obviously, because I do not represent that State, but I can speak for the people of Florida. We have a lot of people in Florida who originally lived in New York, as we have people from the other 48 States who now live in Florida. Of course, we have the same problem in Florida that the Senator experienced in Mississippi as a result of the February 1 deadline promulgated and foisted on us by the Supreme Court of the United States. As I say, we have many former New Yorkers who now live in Florida. Hundreds of letters, telegrams, and communications have been received in my office on this question. In fact, my office is half tied up with this problem and has been for weeks. I have yet to hear one affirmative voice in favor of what the Supreme Court decided we ought to do on February 1.

I do want to say that, as far as the citizens of Florida are concerned, they are reasonable. They are decent people. They want to get on with the job of desegregation. That is not the point at issue here. The point at issue here is that they certainly do not want to get on with the job of desegregation and integration in a way that literally is destroying, before our very eyes, the public school system in the State of Florida. It is in an utter state of chaos. Some schools are closed. School boards, parents, students—none of them know what they want to do or what they should do or how to get out of the morass that has been foisted upon us.

Although I cannot speak for the people of the State of New York, I can certainly say that those former New Yorkers now living in Florida do not agree with the business going on now.

Mr. STENNIS. I thank the Senator.

Mr. ERVIN. Mr. President, if the Senator will yield for a question suggested by the very fine statement made by the Senator from Florida—

Mr. STENNIS. I yield.

Mr. ERVIN. Does not the Senator from Mississippi agree with the Senator from North Carolina that the fact that the representatives of the people of New York, speaking in the New York Legislature, passed the New York statute to which the Senator has alluded, prohibiting the doing of the exact things being done in the South over our protest, indicate that the people of New York do not believe in the herding of children

about like cattle, and shifting them about like pawns in a chess game, just to force the integration of schools?

Mr. STENNIS. The Senator is correct. He uses very colorful language. I would enjoy his questions if this situation were not so sad, because I have before me a very vivid picture of that very thing happening.

Mr. ERVIN. As I understand the Senator from Mississippi, and also the Senator from Florida, they are in favor of what the Senator from North Carolina is in favor of—that is, giving to all parents and to all children of all races the freedom to select the public schools that the children attend and to put an end to the coercion of little children by the Federal Government.

Mr. STENNIS. The Senator is correct. That is what the amendment proposes. Also, the amendment says that all children, regardless of race, creed, color, or national origin, shall have the same rights in the schools.

Mr. ERVIN. I am not going to impose further on the Senator's time except to make this inquiry: Does not freedom of choice give to all parents of all races and to all children of all races an equality of liberty?

Mr. STENNIS. Absolutely.

Mr. ERVIN. How can any person who professes to be an American possibly oppose giving equality of liberty to children of all races and parents of all races?

Mr. STENNIS. That is the only basis on which a school system can operate. A school is not a machine. It takes a certain art, skill, and compassion to be a teacher. We are just throwing on the public school system all the problems that go with social change.

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

Mr. STENNIS. I yield.

Mr. TALMADGE. Does the Senator know of any other place, other than a penitentiary, where people are assigned to a certain designated point against their will?

Mr. STENNIS. I do not. Of course, sometimes people have to be sent to institutions.

Mr. TALMADGE. Under our system at the present time, the only group of people who can be forced to go to a certain point of destination are children being assigned to a school and the inmates of a penitentiary. Is that right?

Mr. STENNIS. Yes. Of course, the Selective Service System takes up a man and sends him to war. The Senator is correct.

May I give an illustration or two here? I want to outline some of the turmoil.

Mr. GURNEY. Mr. President, will the Senator yield very briefly?

Mr. STENNIS. Very well.

Mr. GURNEY. The Senator from North Carolina mentioned the fact that all the Senator from Mississippi is trying to do here is to see that children of all races are protected. Just a few days ago, in the implementation of the Supreme Court decision in Florida, we had a very serious riot on our hands, involving the Negro high school at Gainesville, which is where the University of Florida is located. The reason for the riot was

that, under the implementation of the Supreme Court's decision, that particular school was going to be put out of business. The point of the matter, and why I am bringing it up, is that the Negro students of that school were extremely distressed because all the things they had going that they thought were good, such as the school athletic teams, the school band, school pride, and so forth, were being destroyed in one fell swoop. So they feel just as keenly about this, and so do their parents, as do the white parents and students.

The Senator from North Carolina is eminently right when he says this cuts across both races and does damage to both races.

Mr. STENNIS. That has been my experience. Those who came to my office during the Christmas recess—Negro people, parents, officials in the schools—begged me, "Can't you do something about it? This is destroying our schools."

I want Senators to hear some illustrations I have. First I want to complete the listing, though, of the causes of this turmoil.

First, the very pattern of the civil rights movement is such that when one section of the country has been made to conform to civil rights objectives, the movement then shifts on over to other sections of the country. Our educational system is having to carry the load.

When that attack does come in other areas of the country, the turmoil, the uncertainty, the distress, and the damage to education will fall upon the areas outside the South as it has fallen upon the South. I do not believe the other areas fully realize yet that this thing can happen to them.

Every Senator should fully understand what it means to the State, to the community, to the parents, the teachers, and the pupils, when the neighborhood school policy is abolished, and the students are bused around to establish a racial balance.

It means that long established, well equipped school plants are in some cases closed down. Some school plants are filled to double their capacity, while other plants are empty or near empty.

I say to my fellow Senators, these terms were so harsh, and the application requirements so immediate, that there was not even time to shift the toilets, to provide just the elementals of sanitation to take care of these students.

Students bused tens of miles each day. Community spirit is broken and disrupted. Large numbers of teachers and pupils are dropping out of the public schools. State and local educational budgets are upset. Costs of reorganization, transportation, and replacement of lost human and material resources reduce the amount of money that can be spent for quality education. Education is made poorer, not better. The average pupil is hurt, not helped.

Do not overlook the teacher. Members of this truly great profession are treated like chattels. That is what I want to tell you a story about.

A lady in a school district that I know about, who spent all of her adult life in the school room, year after year—such a fine, effective teacher—when she was

reassigned, under one of these demands for immediate and total integration throughout the countywide district, told me that she prayed about it and she thought about it, but her final decision was that she could not make that change. She had a contract to teach a certain grade in a certain school, where she lived. She decided she could not carry on under those demands, so she lost her contract.

Her little girl—her little girl, now—was taken away from her home, and that school where she had been with her mother, and shipped over to the other side of the county. Why? Just so that they could have racial percentages in keeping with the student population of the school district. That is what the man from HEW said, that we are paying \$26,000 to \$28,000 a year for in these appropriation bills. He told the superintendent, when the superintendent begged him to help get a modification of the plan, "Put them where you please, as long as you keep the racial ratio in keeping with the student population of your school district."

Think of that. Talk about quality education. Why, it is an insult to the intelligence of any Senator to say that we are trying to have better schools, or trying to improve on these things, by shipping that little girl over to the other side of the county.

I know of another teacher, not in that same district. The same government that treated this first one as I have described reached over and drafted the only son of this other teacher into the Army. He is gone to Vietnam. For what purpose? So the people of South Vietnam could have self-determination. That is what we tell them. That is what we say.

What kind of a government is it that can have such a two-faced, double-talk policy as that? That is exactly what we have today. No wonder the people are getting enough of both those policies. It is just a downright shame.

Instead of seeing that, though all the press media of this country are running up to my office, or calling me up on the telephone, saying, "What kind of trouble did you have? What kind of opposition did you have? What kind of physical violence did you have down there when your State tried to integrate the schools?"

Why, just this morning, a man said to me, a very responsible man—it just shows how the people do not understand—"You had a lot of physical resistance down there, didn't you?"

I said, "No; not a bit. Not a bit. We had a whole lot of tears and regrets and frustrations, but we did not have any physical violence."

This is too serious to be fighting about. Representatives of many of the news media, though, came down there just looking for a little scrap of some kind of turbulence. They were awfully disappointed, those who were on that mission.

There is another matter I want to cover. I want to trace here for the Senate something about these school districts whose cases the Supreme Court reversed summarily last October 29, and

said, "Total integration now." As I say, I am not trying to discredit the Court.

Mr. McCLELLAN. Mr. President, will the Senator yield before he goes into that?

Mr. STENNIS. I am not making personal remarks about them, but there has been much publicity.

I yield to the Senator from Arkansas.

Mr. McCLELLAN. Before the Senator leaves the New York statute which he has been talking about, I think this question should be propounded and I think we should get the Senator's response to it:

Does the Senator agree with me that if we believe in equity under the law, and if in good faith and genuine sincerity this administration believes that what it is doing in the South is the right course of action and is in pursuance of court decisions that compel it, does not equity, under the law—or just common justice—dictate that the Department of Health, Education, and Welfare, the Department of Justice, and this administration proceed immediately to initiate action in the State of New York to counteract that statute, and to bring it to a legal test in the courts, as to whether it is constitutional or not?

Mr. STENNIS. I certainly think the Senator is correct, if there is to continue to be this bearing down policy to the utmost limit on us in the South.

Mr. McCLELLAN. That statute flies right in the face of everything this administration is saying they are trying to accomplish. It is an open flouting of stated administration policy by the State of New York, by its legislature, and by its Governor, who signed this act into law. If the administration proceeds against the South and forgets about New York, whether because of that statute or for some other reason, is that not flagrant discrimination on the part of those who profess to oppose it?

Mr. STENNIS. The Senator is correct. I think the New York law is valid and constitutional and should be obeyed by the people of New York.

Mr. McCLELLAN. I am not objecting to that.

Mr. STENNIS. I understand.

Mr. McCLELLAN. What I am saying is that there is a two-faced policy of enforcement. In certain sections of the country there is enforcement while in others an open flouting of the very law they say they want to enforce is ignored.

Mr. STENNIS. The Senator has described it properly.

I say again to the American people that something will have to be done about this matter. This issue has to be met.

The Senator from Pennsylvania is not in the Chamber at this time; he cannot be here. He said in debate in December that he favored stopping the busing, as I understood him, and he wanted to have a hearing on it. But I do not believe any movement will come out of any of the States that have a high percentage of black schools. I do not believe they are going to have any movement to change that and split them up and sort them out among the other groups. They may pass a law like New York's. They will take the other turn, and it is the natural turn.

The most influential element in it will be the mothers of these children, and the fathers will run second. They do not yet know that this thing is going to hit them.

Mr. McCLELLAN. In the meantime, the discriminatory imposition is directed to the South.

Mr. STENNIS. Altogether.

Mr. McCLELLAN. All the action is there. The State of New York can flout the administration, pass a law right in its face, have its Governor sign it in complete defiance, and yet no action is taken against that State.

Mr. STENNIS. Under a spurious legalism I will discuss later, which ignores the plain language of the Civil Rights Act.

I want to illustrate briefly the cases that were reversed last October. Those cases were pending in the courts down there, in the Fifth Circuit Court of Appeals. The panel of that court set a date for all of them to be heard with reference to a plan for integration beginning September 1969. This happened in July. They gave notice. They had to give them some time. They brought in a lot of HEW representatives who were supposed to have conferred with all these 33 districts. They did not have much time to do it. Some of the HEW representatives were very high type men—a few of them—and they went in a measure to these districts, some of them countywide districts, some with moderate sized cities, some totally rural. They said: "There isn't time to get up plans for these 33 districts."

They told our superintendents of schools that there was not time.

I know of one county into which they came and spent 2 hours. They raced around and looked at the buildings. They came back a week or 10 days later and stayed 30 minutes with the county superintendent of education—he is executive secretary of our school boards—and went on and came back about a week later and spent 2 hours with the county school board. But by then they already had a plan of their own written up which they proposed, and they were in a hurry. The board did not agree to it, certainly not in that short time.

The day to be heard on all these plans was coming, and Secretary Finch himself, looked into it; and he said there was not time to cover those 33 districts. Secretary Finch had witnesses attend court, and they so testified; and he filed a pleading, I think. I know that the Attorney General filed a pleading and said there was just not enough time. The Attorney General was the plaintiff in some of the cases. The court down there took that testimony. That was all the testimony there was. That is all that happened.

Justice Black refused to intervene alone—the Supreme Court was not in session then—but invited them to appeal. They appealed those cases, and in very rapid order, after very brief argument, and just a few days later, all of the cases were reversed, and the Supreme Court said, "Do it now." School had started October 29. They said "Do it now," and sent it back to the panel of the court of appeals.

They notified all 33 districts to come in on the same day—perhaps some one day and some the next—and in a very brief order the substance of what the court of appeals said was:

There is nothing we can do further. The Supreme Court has passed on this. You will have to do it, even though school has started.

They gave some of them until December 31. It was reversed on October 29.

This is the point I am making: When all this happened, not a single school or school official was in disobedience to the Court. Not a single one of them was charged with contempt. There was not a charge against any trustee, not a threat, or against any superintendent of schools. All those districts were obeying the law, obeying the edicts of the Court, the trial court, and the court of appeals. They were not deficient in any way. They were just jerked up by the nape of the neck and told, "Do it now," right in the middle of the school term.

They were given until December 31, and it was then November. They had to do something. They terminated the school term earlier. Some of them had to. I am told that in December, when the holidays came, the little children were telling each other goodby. They knew by that time where they were going to be sent. Here were these little girls who lived in the same community all their lives, one on one side of the highway and one on the other side, and one would be sent to the east part of the county and the other to the west. Little girls, 7, 8, 9, and 10 years old, were telling each other goodby at the beginning of the Christmas holidays. They would never again be in school together, so far as grammar school or high school are concerned, according to that order. Close friends were torn asunder. What about that? Do you think that helped them? Do you think it helped the teachers? It killed the year dead as Hector.

No benefit is going to come from these schools this year because of the way they were treated. They were not in contempt. They obeyed every law and every edict of the Court and everything else.

A great number of others, from all over the South, were brought up to the Supreme Court, and the same demand was made of them. Some were from Georgia, some from Florida, some from South Carolina. All over the country—"Do it now." I have not found a single one of them that had failed to obey every single edict of the Court.

Do not be fooled. They were not in disobedience. They had not violated the law. Do not be fooled into believing that this school year is going to be worth a continental to them so far as education is concerned. It is lost. It can never be recovered.

That is the kind of butchery—I call it educational butchery—to which we are subjected. And all these places in the East and the North—I have nothing against them—are sitting by with immunity. And during this debate they will demand not less but more in the South. Some of them already have passed a law in their own State on which this amendment is bottomed.

I like what Vice President AGNEW has said. As soon as this commission was announced, they said: "That's a part of your southern strategy."

He said: "I'm not ashamed to do what I think is right for the South or any other part of the country."

Senators, this shows how far this thing has gone. The civil rights movement will destroy the schools to a shambles if it is followed out. I think they will find a way out of it myself.

I do not believe that the candidate for President of any major party would come out with a platform and would go into States like Illinois, Ohio, Indiana, Pennsylvania, New York, or New Jersey, and say to the people there, "I am going to do to your schools what we did to the southern schools." They will not do that. Watch those platforms. They will not come out with that in them. No candidate for President would dare go in there and tell those people that. It would not make any difference who he would be. He would not be elected, if the people in those States are fed from the same spoon now being fed to the South.

"Oh," they say, "well, you have been guilty for over 100 years."

Mr. President, these little children have not been guilty of anything. We may argue about something that happened 40, 50, or 100 years ago, but these little children, whatever part of the country they live in, have been guilty of nothing and we should not try to take it out on them. We are, in effect, schoolwise, giving them a death sentence.

Mr. President, I tell you right now that the black children in the South are getting along all right. I do not claim any credit for anything, but they know that. They know that I have been interested in them since way back when I was a young man, and a young lawyer. Let me qualify that to say that I know something about these people and they are coming along all right. They are mighty happy.

Mr. McCLELLAN. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I yield.

Mr. McCLELLAN. My friend mentioned a minute ago that no candidate for President of any political party, or a President, would dare campaign on a platform, saying to the people, "I want to do to you what has been done to the South." Could not the Senator take that further down the ladder, and say that no candidate for any office would dare go into a State and say, "I want to go back to Congress to vote to do the same thing to you up here that we have done to the South." Would anyone do that, does the Senator think?

Mr. STENNIS. The Senator is right. I want to make clear that I was not referring to the President, or to any Senator, but that we are talking about political philosophy. No, they will not do it. No Member of this body, or of the other body, either. No candidate for President dare do it.

The mothers who live outside the South, incidentally, will be knowing a whole lot more about this in 1972 than they know now, about what this thing means, and the practical side of it. They

have been fed with a spoon as to what was going on—all on the other side about so-called injustice, and so forth. That is why, now, this will destroy their schools if it is applied to them.

Great damage will be caused by busing students into strange neighborhoods to achieve racial mix. The underlying principle of American Government is that we should not, as a nation, operate on the dual standard of one section of the Nation under one policy, while another policy applies elsewhere in the country.

We had separate schools in some of the States. I know that. That has all gone by the board. This amendment provides that every child shall have these basic rights.

Now the records of the Department of Health, Education, and Welfare show—and they are not contradicted—that segregation exists in the North as well as in the South.

HEW undertook to survey the racial composition of 90 percent of the school districts in the country, for the 1968 to 1969 school year. The results have already been put in the RECORD in the debates of last November.

Five out of 10 Negroes outside the South attend schools which are 95 to 100 percent Negro.

Let me repeat that: Five out of 10 Negroes outside the South attend schools which are 95 to 100 percent Negro, as opposed to seven out of 10 Negroes in 11 Southern States.

There are some more in the South, as the Senator from Georgia (Mr. TALMADGE) inquired about. But that is the relation. These are HEW figures.

Only 25 percent of Negroes outside the South attend majority white schools. Only 25 percent.

The so-called plans HEW has been getting up in some of the districts make every single school a Negro majority, from 2 to 1, 3 to 1, 4 to 1, and 4½ to 1. Only 25 percent of those outside of the South attend majority white schools.

A survey shows that 10 of the largest 22 school systems in the country have a majority of Negro enrollments. In 16 of those systems, 60 percent or more are Negroes going to schools 95 to 100 percent Negro.

Listen to this: 17 Florida school systems with two-thirds of the State's pupil population are currently under a Federal court order to desegregate.

Seventy-two percent of the Negro students in Florida attend schools in which Negroes constitute 95 percent to 100 percent of the enrollment.

Yet, 72 percent of Negro students in the State of Illinois, according to this survey, also attend schools with 95 percent to 100 percent Negro enrollment, but there is no court order there whatever compelling desegregation in Illinois.

There is your comparison, Mr. President. Those are identical percentages of Negro students in the 17 Florida school systems, all under a court order, yet 72 percent—the very same percentage—in Chicago, with 95 percent to 100 percent Negro enrollment, and not a single one of them compelled to desegregate.

How about that?

Four years ago, someone down in

HEW that thought they meant what they said when they said send out a notice, sent one to Chicago about desegregating, and Mayor Daley came in here on the next plane—maybe he sent a telegram—I do not know—but, anyway, it was all hushed up and the White House swept it under the rug and nothing has been done about it, yet. That was 3 or 4 years ago. I have news items on it here.

Last June, someone sent a notice to Chicago saying, "You have got to do something about integrating your teachers." The teachers held a meeting and said, "We are not going to do it." The teachers union said, "We are not going to let them do it." The board of education offered a \$1,000 bonus if the teachers would transfer, but they would not do it. They turned it down. Nothing has been done about it.

I repeat, 72 percent in Illinois and 72 percent in Florida—all of Florida's 17 districts under court order, but Illinois, none.

How about that?

Proportionately there are more Negroes in a majority of white schools in Florida, 23.2 percent, than in Illinois—13.6 percent.

What about that?

Proportionately there are more Negroes in a majority of white schools in Florida than in Illinois.

I am glad that the Senator from Florida is now in the Chamber as I know that he will be interested in these figures.

In New York City, where the language of this amendment is already the law and the neighborhood school policy is legal and mandatory, there are 119 schools which are 99- to 100-percent minority group segregated which have a Negro enrollment of 89,957, or 19 percent of the city's total Negro student enrollment.

There are 207 schools having a Negro student enrollment of 146,000—that is 43.7 percent of the total Negro enrollment—that are 95- to 100-percent minority group segregated.

There are 269 schools with an aggregate Negro enrollment of 173,000 students, which is half of the city's total enrollment. And they are found in schools that are 95- to 100-percent minority group segregated.

Stepping on up, 322 schools with a total Negro enrollment of 201,000, or 60 percent of the city's total Negro enrollment, where minority group enrollment is 80 to 100 percent.

There are only 18,800 white students, or 4 percent of the Negroes attending these schools that are 80- to 100-percent minority segregated.

And HEW has not said a word about that that I could find. The Department of Justice has not said a word about it.

The government of New York has not done anything. The legislature of the State of New York has not done anything. To the contrary, the State of New York passed a law perpetuating their practice so far as enrollment is concerned.

What are the 100 Members of the Senate going to do about these things?

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

Mr. STENNIS. I yield.

Mr. GURNEY. Mr. President, the facts and figures that the Senator has recited are extremely interesting and wonderfully illuminating.

Everyone knows what a fine job the Senator from Mississippi has done in putting these figures in the record not only as to the State of New York, but also as to other States.

I think one of the very interesting things about public school integration is occurring right here in Washington, D.C., where the percentage of enrollment is 95-percent black.

I will not attempt to go into the problems that are involved in the school system. That would take days. But I think one extremely interesting thing happening today was described in an article in the Washington Post of some time ago. That is that now the Negro middle-class parents in the District of Columbia are taking their children out of the public schools and putting them in private schools, the situation is so bad.

The Senator is doing a great service when he points out that the problem is even worse in the North and in the District of Columbia than it is in the South.

Mr. STENNIS. Mr. President, I thank the Senator for his comment very much.

The figures are taken from the HEW official enrollment. And I can verify that by the record. They have already been put in the record last December, most of them, and they have not been challenged. In fact, he testified that he thought they were correct.

If segregation is wrong in public schools in the South, it is wrong in the public schools in all other States. And if the neighborhood school can be operated as a matter of policy in the North, it should be operated as a matter of policy in the South also.

Before I conclude, I will refer to some provisions of the Civil Rights Act where Congress tried to cover part of this question. And those provisions have been ignored by the Supreme Court and gotten around by the HEW. I will cover that later. I mention it now to show that I am not overlooking it.

I want to take some testimony here for the benefit of those present and the record as to what other people in other areas than the South say about busing.

U.S. News & World Report on October 13, 1969, had an article entitled "Why Busing Is in Trouble."

I read from the article:

Among civil-rights leaders, educators, and Negroes themselves, doubts are growing about the value of busing either as a method of integration or as a method of improving education.

I entitle this part of my speech "Growing Doubts," and this is the evidence of it, further quoting:

Interest is growing in a different idea—that Negroes may benefit more from an improvement of schools in their own neighborhood than they do from being bused into white schools.

That is exactly what many people believe in the South. Those are my remarks.

I read further from the article:

You find this change in many cities. . . . In Baltimore, Associate Superintendent of

Schools William Tinderhughes told U.S. News & World Report:

"There has been a very definite change in thinking about busing for integration in recent years. A few years ago, there was demand for busing. But not now.

"Parents now are more concerned with the quality of the education that their children are getting. The same group that at one time was speaking for integration now is speaking about curriculum, about teachers and about the quality of the educational program."

In Chicago, Assistant School Superintendent David J. Heffernan said this:

"The integration battle now has taken a different turn. Busing, as such, is almost completely out of the picture. It has proved effective neither for integration nor for better education."

In Minneapolis, this comment came from Floyd Amundson, school-board consultant in community relations:

"The trend here is away from busing because it doesn't solve anything. The blacks themselves apparently would prefer to have their own schools improved rather than have their children bused to mostly white schools."

New York City, where the whole busing experiment started a dozen years ago, has had more turmoil than success.

That city has tried almost every integration device known—busing, school "pairing," "open enrollment," redrawing of school-attendance districts, even elimination of junior high schools, and substitution of new "intermediate" schools to draw youngsters from wider areas of the city at an earlier age.

Busing alone costs New York City some 3 million dollars a year.

After all this effort there is more segregation, not less. There are more all-black or nearly all-black schools in New York today than there were before. And tests have shown no clear academic gains among children who are bused.

Now, here is where my good friend, the Senator from New York—and I talked with him about this debate before it started—had something to say. I will quote him briefly and give the book and page number.

The Senator from New York, Senator JAVITS, very effectively made the point for the neighborhood school and freedom of choice during debate on the Civil Rights Bill, June 4, 1964—P. 12688 C.R.—when he said both Negroes and whites should have the opportunity "to enroll in a school where he belongs, in his own neighborhood, whether it is mixed, or whether it is only white or colored."

The President of the United States opposed busing as far back as October 26, 1968. He said then in a statement:

What I am against is using the threat of withdrawing Federal funds to force a local school board to balance its schools racially.

Mr. President, I will suspend. I will divide time with anyone who wishes it. I will suspend.

The PRESIDING OFFICER (Mr. GRAVEL in the chair). The Senate will be in order.

Mr. STENNIS. Mr. President, I will begin again. I was quoting the President of the United States in a statement made on October 26, 1968. He said:

What I am against is using the threat of withdrawing Federal funds to force a local school board to balance its schools racially by busing children all over the city.

That quotation was from the New Re-

public of the date I have already mentioned.

Someone comes in here and says that the President is against this amendment. I hope he will bring with him a quotation from the President and not just say that Mr. Finch is against it. Bring in the quotation. If he is against it he will not mind saying so. He may be but the record shows what he said. I do think he is against it myself. I am not trying to put him in issue and certainly I am not trying to embarrass him. He was elected the President of the United States by being frank and forthright with the people. That was one of the great contributing factors.

Mr. President, the point of my remarks that I am now making is that there is a growing realization and reassessment about the matter of busing and the quality of education being improved for the Negroes by merely having integration.

Mr. President, I refer now to a quotation from an article that was printed in the National Observer on January 26 of this year. I will not read it all. It is found on page 754 of the CONGRESSIONAL RECORD of January 28, 1970:

This fact is raising new doubts among many long-time integrationists about the wisdom of trying to enforce desegregation in the schools. Items:

Several years ago, the Cleveland Board of Education searched the city for a new high-school site that would permit optimum racial integration. They settled on a neighborhood of modest owner-occupied homes near the suburb of Shaker Heights that was 60 per cent white, 40 per cent black. But when John F. Kennedy High School opened in 1965, 95 per cent of its pupils were black. "There's no question the decision to open that school accelerated the departure of whites," says Mrs. Conella Coulter Brown, administrative assistant for the Cleveland schools.

Mr. President, I do not cite these matters to discredit any colored or black student. I have already expressed how I feel about it. I am trying to protect the quality of education in the neighborhood school and I think we all want to do that.

There is another item from the National Observer of January 26 which stated as follows:

Edmondson High School on the west side of Baltimore was 80 percent white when it opened in 1957. Today there are 25 whites out of its student population of 2,700. "This is a well-kept-up residential area," says assistant principal Margery W. Harris. "But once the school turned half-black, it turned rapidly almost 100 per cent black. The whites just moved out or took their children elsewhere."

That is not exactly a southern city and certainly Cleveland, Ohio, is not. Still, I noticed where in one of the school districts in Mississippi under this edict that had, I think, about 90 percent of their schoolchildren black, only 2 white children came to school the first day under this new plan. Walter Cronkite and all the other newsmen had pictures of those children on their news program that night. They could have gone to Chicago at much less expense or shown a picture of some of these 25 out of 2,700 students.

I continue to quote from the National Observer of January 26, 1970:

Heavy Negro migration gave the District of Columbia's schools a Negro majority as early

as 1950—four years before the Supreme Court's watershed desegregation decision. In 1970, with the schools 95 per cent nonwhite, middle-class Negroes are fleeing—just across the boundary to neighboring Prince George's County, Maryland. The interesting thing about Prince George's enrollments this year, however, is not that the number of new blacks is up but that the number of new whites is down. No one knows exactly why, but one administrator muses: "The whites are moving to other Washington suburbs rather than to Prince George's."

In city after city in the North, the story is the same: Schools once all or nearly all white are drawing nonwhites in increasing numbers. When they reach a "tipping point" of 30 to 50 per cent, the whites move out and the schools become rapidly almost entirely nonwhite.

Mr. President, I do not want to discredit the schools of Washington but human nature is the same everywhere. I referred to only two of those white children showing up. I venture the parents, like other parents, and like Senators who have schoolchildren, want to send their schoolchildren where they think they will get the best schooling. I do not know how many of the Members of the Senate have children in the Washington schools, but I am a parent who had children in school at one time and they went where I thought they would get the best schooling. I assume that is true of all parents and my fellow Senators. I have been asked in debate how may Senators have schoolchildren in the public schools in Washington. I do not know. I have not tried to find out. But I expect human nature is about the same everywhere.

Going back to the question of public opinion on busing, in a city-wide school board election in Denver, Colo., last year the voters voted 2 to 1 for the neighborhood school concept and against the busing of students. That was the issue in the election and the two candidates who ran against busing ran 2 to 1. The prediction was that they were going to run last. They ran first. The New York Times predicted they would run last before the election. They predicted that out of five candidates those two would run last. They ran first and they were elected in the first primary.

Before the New York school law was passed, the Mount Vernon Board of Education voted 8 to 1 to oppose by appeal a State order to bus students to correct racial imbalance. That same day the voters of Great Neck on Long Island in New York voted 3 to 1 against the plan to bus students between Queens and Great Neck in order to achieve racial mix.

I refer my colleagues to what I think is a very significant article by an eminent authority, a man who is well known in his field. He is with the Lincoln Filene Center for Citizenship and Public Affairs, Tufts University, Medford, Mass. He prepared an article entitled "Inter-group Relations in Education: A Force for Change," by John S. Gibson. This is an address delivered at the Lincoln Filene Center at Tufts at the Fifth Annual Joint Conference of the Massachusetts Association of School Committees, Inc., and the Massachusetts Association of School Superintendents on October 16, 1969.

In the copy I have before me, I turn to page 7, but first a word about his background: He was the consultant who was employed, I am told, by the State of Massachusetts to help draw a plan with reference to integration and with reference to busing of children. Here is what he said in 1969:

The 1965 law—

And that is the one he helped pass—

is largely concerned with the plight of black students in poor schools and makes the assumption that any school which has more than 50 per cent black students is inadequate, poor, and needs redressing through some magical infusion of white students. As we have noted above, it would appear that the black community today is less concerned with mechanisms for racial "balance" in the schools and more eager for improving the quality of education for black students wherever they live and work.

He goes on to say that this might be related to black themes which call for autonomy and identification before all of us advance toward an integrated society. Then he goes ahead and makes a second point, and I am referring to pages 7 and 8 of the article:

We have hard data which show that black students will get a better quality of education in better quality schools, and thus it may be that they can get a better quality education in quality schools in their own neighborhoods.

That is from this eminent authority, as I said, who was an adviser to the great State of Massachusetts, and Massachusetts passed a law partly on his advice in 1965. He comes back with a modification in 1969. I understand he is now adviser to the State of Rhode Island with reference to similar problems. Anyway, he is a very eminent person in this field, and certainly he should not be brushed aside.

Someone this morning called my attention to the fact that in the current issue of the New Republic there is an article by Mr. Alexander M. Bickel. I just got hold of this in a hurry. I do not personally know Mr. Bickel or his background, but he is very eminent in his field of public affairs and writing. The article is entitled "Desegregation—Where Do We Go From Here?" It is from the New Republic of February 7, 1970. I quote one paragraph:

The achievement is essentially Southern. The failure is nationwide. And the failure more than the achievement is coming to the fore in those districts in Mississippi and Louisiana where the Supreme Court and a reluctant Nixon Administration are now enforcing what they still call desegregation on very short deadlines. In brief, the failure is this: To dismantle the official structure of segregation, even with the cooperation in good faith of local authorities, is not to create integrated schools, anymore than integrated schools are produced by the absence of an official structure of school segregation in the North and West. The actual integration of schools on a significant scale is an enormously difficult undertaking, if a possible one at all. Certainly it creates as many problems as it purports to solve, and no one can be sure that even if accomplished, it would yield an educational return.

Mr. President, those are not my words. Those are his words.

Mr. President, I am afraid that I have

about exhausted my time. I do not want to run over.

There are other remarks in this article. I do not agree with all that he says, but considering the authority, the eminence, the man, his record, it is very significant that the people are beginning to realize that this method is not producing the results they thought it would, that they wanted it to, and that some other course should be considered.

Mr. EASTLAND. Mr. President, will my colleague yield?

Mr. STENNIS. Yes, I am glad to yield to my colleague.

Mr. EASTLAND. Mr. President, I want to compliment my colleague. He has made one of the great speeches in the history of the Senate. I know that southern people will be indebted to him for many years. It is an outrageous condition that they are trying to force on one section of the country and letting the other go scot-free.

Mr. STENNIS. I thank the Senator very much for his remarks. He certainly knows the subject matter and knows whereof he speaks. I know he is as concerned as I am, and I may say to my colleague that many beyond the geographical confines of our area are concerned. I believe that the light on this matter, as I said, is coming through.

Mr. President, going a little further on the change of sentiment:

In Charlotte, N.C., on July 26, 1969, Negro citizens issued a statement in opposition to a plan to bus black students into white neighborhoods.

When we walk up to some of our colleagues and say that black students want to keep their own schools, it is very evident that we are not always believed. So I brought along a published statement by these leaders, fine Negro citizens, in Charlotte, and this is what they say:

We will not under any circumstances accept the closing of black schools and the busing of black children. We cannot accept the lie that all black schools, children, teachers and principals are inferior.

In an opinion poll taken by the National Education Association and reported by that association in a special report of May 1968 it was said:

A heavy majority—74 percent—of the nation's school superintendents would not support busing as a desegregation measure, and don't think their communities would either.

I quote now from the NEA report:

Many respondents cited wasted time, excessive cost, and ineffective results as prime reasons for their objections. And their objections were often strong. Fumed one Michigan superintendent, "When a child must give up his hot lunch at home and spend time which could be used for educational purposes riding a bus instead, and then eat a cold lunch in unfamiliar surroundings, it's a shame."

"Busing," added a Massachusetts schoolman, "does not solve the basic problem of providing better school facilities and better social conditions in an area where the children reside. It only uses funds that could be utilized for more realistic improvements."

His contention that busing money should instead be spent on school improvement was echoed by a number of others. "I do not feel," remarked an Oklahoman, "that the busing of students from one school to another is any answer to problems that are

deep seated in the socioeconomic structure of the community. This money and additional funds should be used in strengthening the schools in depressed areas and in making these schools centers of all community life and activities."

Several respondents held no hope for busing, on the grounds of unworkability. Asserted a New Yorker: "It is impossible to integrate by busing or by integrating schools. Schools are *in* a community and communities should be the focal point of any integration program—not schools." A Minnesotan put it more simply: "Laws do not change hearts."

These quotations are not from southern sources:

A parallel Nation's Schools survey of school board members disclosed that busing for desegregation was even more unpopular among board members than among administrators: 88 per cent of the boardmen said that they would not personally support a busing program.

One possible reason: Half of the boardmen responding saw no educational advantage to busing.

Mr. President, I am not going to take unduly the further time of the Senate, but I want to say a word about the teachers of the South. They are not under any court order. I read an article the other day chastising the white teachers in the South for resigning their jobs. Well, they are not under any court order that they have to teach. They contracted, many of them, to teach the sixth grade or the eighth grade, or Latin or algebra, or something else in a certain school, under certain conditions, and probably where they lived.

That contract, in effect, is just torn up before their very eyes by the Court, as if it were a worthless piece of paper.

They have a choice. How can you make a teacher teach school? How do you make a man play the piano if he does not want to? This meat-ax method of "integrate now and forever totally" is just as reasonable as walking up to a piano and trying to play it with a pickax. Things do not come about that way.

I want to say a special word of commendation about the teachers in these affected schools, as well as the county superintendents of education and the superintendents of the municipal and consolidated school districts, and their school board members, attorneys, secretaries, and assistants. I believe that, outside the ministry, there is no profession or no group of people who have responded with the more devotion, dedication, and high-minded purpose. Teaching and education has been, for many of them, their profession, their life, their very being; and I tell you they deserve all kinds of tribute and credit.

That credit is equally due to a great majority of the black teachers in my State. I know many of them personally. I know how far they are willing to go in making sacrifices in order to have the satisfaction of having done their part in carrying on the education of their children. Many of them are very fine teachers.

As I illustrated here awhile ago, a teacher whom I know had her contract voided, and had her little girl sent over to the other side of the county, not to

improve opportunities, but the very opposite: For "racial balance."

You just cannot realize what these things mean to these people unless you see them and talk to them. As I mentioned earlier, I know of another teacher whose son was sent to Vietnam, so those people over there could have self-determination. That is what we said. But her contract was ignored.

I can tell you of Negro teachers coming to me, while I was at home at Christmas and thereafter, and saying, "Can't you do something? This is going to ruin our schools and scatter our children. Can't you do something?" And they do not understand why I could not stop it.

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

Mr. STENNIS. I am happy to yield to the Senator from Florida.

Mr. HOLLAND. First, I regret that I was called elsewhere, as I explained earlier during the remarks of the Senator from Mississippi. I wish to express my very strong support of the position he is taking, and I regret that I have not heard every word of his speech.

On the point the Senator has just made, I have four illustrations, if I may get them into the Record here, which I wish to state, showing that freedom of choice means something to people whose skin is black, at least in my State, just the same as it means something to people whose skin may be white or any other color.

In my own little town, Bartow, Fla., I happened to be chairman of the school trustees when we established the first permanent black schoolhouse, at a site approved by the Negro community at that time. In those days the law was that separate but equal facilities were required for the races.

They chose the site, and they strongly supported the bond issue, which covered not only the construction of that school, but of other schools in other sections of the town; and the school authorities have built, in the years since that time, two or three additional brick buildings around that original 14-room brick structure.

The colored people of my town, recognizing the fact that I had some interest, and always have had some interest, in their schools and in their full program for bettering their race, came to me to say how disturbed they are about the destruction of their identity as a group interested in schooling for their own children, at a school that is within easy reach of their children, because it is in the middle of their part of town, and expressing deep regret that they were to be cut off from the opportunity to do what they could for their own children through their own teachers; and they had teachers of their own color, from the principal right on down, of course.

I know how they feel. They feel very badly over the fact that, though busing is not in the picture there, because the distances are not so great, nevertheless those buildings, a mile or more from the buildings which were formerly the white schools of the town, have now been designated the schools where certain grades

for all the town must be taught, and that means that most of their children have to go through the white town, walking or in their own vehicles or on bicycles, to come to the school that was formerly a white school, let us say a mile away from the center of their community, and our children in the white part of town have to do the same thing.

One of those happens to be one of our granddaughters. We, of course, have no complaint except that which everyone has: We would like for her to go to the school that is much closer, and where she has established friendships up to this time. She is now 13 years old.

But the amount of transportation that is required by reason of the private hauling of children from our part of town to that, and from their part of town to ours, is enormous compared to what was earlier required when the buildings were in the neighborhoods where the children lived. And there is complete dissatisfaction, just as much on the part of the colored citizens as there is on the part of the white.

I am sure that Senators have read in the newspapers recently of what happened in Gainesville, Fla., which is a university town, now of about 70,000, I am told, where the Lincoln School, which is the school heretofore entirely for Negro high school students, was ordered to be combined with the other high school, which has been heretofore entirely for the white high school students.

Senators noted, of course, that they not only refused to go, but they raised considerable commotion, and I am sorry to say there was some violence involved. Without approving the violence, I cannot help but say that here is an illustration of the unwillingness of our black citizens to be cut off from their own identity, from their own kind, from their opportunity to advance their own cause.

Only this morning, may I say to my friend, I received a communication from the little town of Clewiston, Fla., which is a sugar-producing town and in which the Negro community is a mile—it may be more—south of the white part of town. Under the orders issued down there for integration, the Negro school must be abandoned. The Negro citizens at once, through their Negro chamber of commerce and through their leading Negro citizens, complained vigorously and bitterly of what was done to them; that their children had to go this long distance to the schools that were formerly white; that they were away from their own community; that they have lost their own identity as a colored school, with all colored teachers and principal, and they are very much upset about it.

I went through exactly the same situation with reference to the Negro school at Hastings, Fla., which is another agricultural town, very much like Clewiston.

A few years ago, we had a commission of important people in our State, important educators, appointed with reference to the State of the higher educational facilities. They came in with a

report that our Negro institution of higher learning, now known as the Florida Agricultural and Mechanical University at Tallahassee—which sits on one of the seven hills of Tallahassee, just as Florida State University sits on another, and you can look from one to the other very easily—should be disestablished and that those students, numbering between 3,000 to 4,000, should be scattered among the other institutions of higher learning. The alumni and many of the leading Negro citizens of our State joined at once in the demand that that school not be disestablished, not be discontinued; that its continuance with a Negro president, Negro deans, Negro teachers, and Negro doctors—they have a very fine hospital there—be maintained. And it still is being maintained.

I think that the point being made by the distinguished Senator from Mississippi, that freedom of choice should be maintained, is of immense importance. I hope that Senators from other States will realize that if that point is once destroyed, it will mean more harm, more hurt, more injury in their areas of the country than it will in our part of the country.

When I look upon the immense de facto segregation institutions that exist in most of our large cities of the North and the East and the West, I am forced to the conclusion that the destruction of freedom of choice or the destruction of neighborhood schools may mean vastly more in the way of hurtful effect to areas outside the South, in the long run, than it means to us in the South.

I thank my distinguished friend and congratulate him.

Mr. STENNIS. I thank the Senator.

Mr. President, I ask unanimous consent that my time may be extended for 10 minutes beyond 3 p.m.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

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

Mr. STENNIS. I yield to the Senator from Alabama. I have not yet concluded, but I am glad to yield.

Mr. SPARKMAN. I had to attend a very important meeting which made it impossible for me to be present during the earlier part of the Senator's presentation, but I know something about the amendment he is proposing, and I know something about the very fine presentation he has made on many opinions here.

In this connection, I think that the statistics the Senator has been placing in the RECORD is one of the finest things we have had presented to us, because it shows something of the picture that exists throughout the country.

The Senator from Florida mentioned freedom of choice—whether or not it would be destroyed. It seems that perhaps it is having a revival in some sections of the country. New York, for example, has passed a law providing for freedom of choice. Could the Senator throw a little light on that? Why is freedom of choice wrong in the South but all right in New York?

Mr. STENNIS. Well, it is not, of course, but they have been able to get by with it so far. Before I conclude, I am going to discuss the Civil Rights Act and show how they are getting around it.

I believe they get around these things in the North on the basis—they used to—that in the South it was de jure segregation; in the North, it is de facto.

Mr. SPARKMAN. Does the Senator know of a single State in the South that now has de jure segregation?

Mr. STENNIS. No.

Mr. SPARKMAN. They repealed the laws several years ago.

Mr. STENNIS. It was legal everywhere, of course, until the 1954 decision, which has been affirmed and reaffirmed by the Supreme Court. Chief Justice Taft was the last one to write an opinion—a unanimous decision—upholding the separate but equal doctrine in public education.

Mr. RUSSELL. Topeka, Kans., was the city involved—Brown against Topeka.

Mr. STENNIS. New York, by the way, has a background of separate schools. I have the law to show that. It was not repealed until 1938.

Mr. SPARKMAN. Of course, they had separate schools. In other words, at one time they had de jure segregation, just as we. Yet, they penalize us and let them run their school system any way they wish. They do not require them to transport the students across the city. It is not required in New York. Freedom of choice is the rule there. Yet, they say that in our area it will not work.

Does it not seem reasonable that all of us should believe that we ought to get the same treatment throughout the country?

Mr. STENNIS. I think so. That is what this amendment gives. It does not penalize anyone. It gives them freedom of choice. That is what most people want. But many people in office think the other way.

Mr. SPARKMAN. I commend the Senator for the very fine fight he has been making with respect to this discrimination and for the facts he has presented regarding the situation in the various States. I believe that if we could get uniformity of application, much of our problem would be solved everywhere.

I thank the Senator.

Mr. STENNIS. I thank the Senator for his contribution. He is always willing to help.

I think that the way the law is now interpreted, it is about the same as having a section in there that says we shall have this enforced integration and busing but it shall not apply outside the South.

Mr. SPARKMAN. May I ask the Senator one more question?

Mr. STENNIS. Yes.

Mr. SPARKMAN. Did we not write into the law a provision that busing should not be allowed?

Mr. STENNIS. Yes.

Mr. SPARKMAN. How do they get around it?

Mr. STENNIS. This is the way they flout that law. We said there should not be busing for the purpose of overcoming racial imbalance. They get by with it in a simple way. They say, "In the South

we are not doing it to overcome racial imbalance. We are doing it to overcome the dual system." And they get by with it. They ignore that section. But when they get up North, they say, "It is the law in the North. We cannot bus now to overcome racial imbalance."

Mr. SPARKMAN. So they apply one rule in the North and another in the South.

Mr. STENNIS. And this is what the Supreme Court says about it: They do not say anything. They ignore it. All their decisions are based, as they say, on the 14th amendment, period. They never refer to it, except that they just admitted in a footnote once there was such a law. They have ignored that, and they have ignored the definition of desegregation, too.

Mr. SPARKMAN. Did the Senator read the news reports of a speech delivered by an HEW lawyer at New Orleans recently, in which he pointed out, at least it seemed to me he was pointing out, that the Supreme Court was insisting that something be done at once, which apparently was impossible to be done. Then he said, in substance, why should the Supreme Court be so much in a hurry that it took 14 years to get to the decision in the Brown case and then it took another 15 years after that to come to its present decision. In other words, they have taken plenty of time, so why should the school districts be expected to do all this on a few days' notice?

Mr. STENNIS. I hope that the Senator from Alabama will get that statement for me. I would appreciate it.

Mr. HOLLINGS. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I am happy to yield to the Senator from South Carolina.

Mr. HOLLINGS. The Senator from Mississippi is rendering a magnificent service to us all this morning. In listening to the Senator's remarks, he has covered the plight of the little children and their mothers. He has covered, in his final remarks here, the details of how the people are voting.

I should like to ask about one key person in this particular picture, the school trustee, who is not paid, who is mostly elected, sometimes appointed; and as the Senator and I know, as Senators we get them over to HEW and try, in all sincerity, with deliberate speed, to comply and let them go back home and try to raise funds, and everything else; but what occurs, if the distinguished Senator from Mississippi could elaborate a little on that point, when they get a unitary school and they have discovered now that it is wanted "as of yesterday," what happens to the man who must do that; namely, the trustee? Can we get competent trustees who will really try to help give equal opportunity to everyone? Is it not a fact that the court is defeating its own purpose by this particular "integration now" decision?

Mr. STENNIS. The Senator is right. Down home, so far, we have been able to get competent and dedicated men to fill this office but they cannot continue on and on and on. These HEW so-called specialists, who are supposed to have drawn up this plan which I have

related, did not give as much consideration to the school board in some of those districts, according to my own personal knowledge, as would be given to the last assistant to the chief janitor of this building. I say that with all respect, because that is a humble job and it is an honorable one, if that last assistant does a good job. But those HEW specialists laughingly told one of my school superintendents, "Put the students wherever you want to, but just keep that ratio of three-to-one blacks."

Mr. TALMADGE. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I am happy to yield to the Senator from Georgia.

Mr. TALMADGE. Did not the Brown decision in 1954 hold that school systems must be colorblind, that they could no longer classify by race in assignments to public schools?

Mr. STENNIS. Yes. That is right. That was argued on this floor.

Mr. TALMADGE. Then the Court changed that philosophy and turned 180 degrees in the opposite direction. The Court has now said that we can no longer be colorblind but we must be color conscious and we must get a certain ratio of blacks to whites in assigning them to a given school.

Mr. STENNIS. That is undoubtedly true. If anyone denies that, they are telling a total falsehood. They openly said that.

Mr. TALMADGE. Is that not of itself violative of the 14th amendment?

Mr. STENNIS. Of course it is.

Mr. TALMADGE. A decision handed down before the Brown case.

Mr. STENNIS. That was an FEPC requirement. During debate, everyone made a solemn promise that they did not want any ratios and did not believe in them. That has all been repudiated.

Mr. President, I am ready to conclude my remarks, if no one else wishes to be heard right now.

Mr. President, I am not going to take up but a few minutes more of the time of the Senate, but I do have one or two more matters I wish to discuss.

One is on the provisions in the Civil Rights Act of 1964 where we undertook to write in some laws about busing. I want to show how they get by with it, so far. I want to develop, too, the thought that the "do it now" and "total integration" decisions of the Supreme Court, that there must be a unitary system, did not define a unitary system and did not give top, side, or bottom about it. The circuit court of appeals in our area of the country has not yet defined a unitary system.

As to the school boards, these patriotic people who serve on them are not even paid. They sit there, on their own time, and try to do something constructive. These people from up here in HEW and the Department of Justice say, "You must have a unitary system." But no one knows what a unitary system is. When is a school desegregated, and does it have to be both students and faculty? All these are unknowns.

Mr. President, I tell you that I believe, if the things which are happening to us in the South were happening to people in

the East and the North, Members of Congress from both House and Senate from that area of the country would rock this Capitol so that its dome would fall. They would do something to stop this thing; whereas, when we come in here with facts which cannot be contradicted, some say, "Oh, just another southerner."

One Senator said to me about this debate, "We will run on Saturday, yes, and you can say something big and get in the Sunday newspapers."

May God forgive him—I forgive him, in part—to think that all that is involved here is trying to get some headlines in the Sunday newspapers.

What is involved here is the happiness of little children. We are dealing with little children. We are dealing with folks.

I want to ask one question and let someone answer it: Here is a man and wife who are looking around to buy a home in a community in which they want to rear a family. They look not only at the homes for sale, but they look at the school and its closeness to the home they may wish to buy. They examine the school spirit and they inquire into the nature of the school board. They look at the churches, of course; and the playgrounds, the parks, and the public utilities. They decide to settle in a particular community. Then they are blessed with offspring, who go to the neighborhood school. But when they get along to being 7 or 8 years of age, and they are happy in their community school, and they are doing fine there, some merciless mandate of a court—any court, I do not care whose court or in what civilized country it may be—steps in and says, "We are going to take your little girl and send her over to the other side of the city into a community where she knows no one and no one knows her, in an altogether different climate—different everything, and we will put her in a school there."

The mother says, "We have got to integrate on a racial percentage basis?" And the answer comes "Right."

Mr. President, I ask you, do you believe that your government has any right to do that to little children or their parents? I do not believe you do, Mr. President. I do not believe that anyone does.

Somewhere the hand of government must stop. There are some systems of government that do not have to stop. But under our system, I believe the sacred thing of rearing a family and choosing where one wishes to live, and what kind of school he selects, is not only a God-given, natural right, but is the only sound law in our government that we can have under our system.

I believe it is worth fighting for. So, let us quit talking about wanting headlines in the Sunday newspapers.

Let us get down to fundamentals. Let us get down to where the people are.

I am not one to make threats, but there are some who take this matter lightly. I say, they are going to hear from "mama" and "papa." They will hear from "mama" especially. They will not permit their children to be boxed up and crated around all over the city like common animals, if they can help it. They will not allow it.

If anyone does not believe the grow-

ing sentiment in his part of the country against all this busing and invading homes and violating the rights of the people, he had better put his ear a little closer to the ground. I say that as a friend.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. STENNIS. I thank the Chair.

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

Mr. STENNIS. My time has expired. Mr. THURMOND. Mr. President, I should like to commend the distinguished Senator from Mississippi for the outstanding address he has just delivered. I only wish that a sizable number of Senators could have been present to hear this splendid address, instead of a handful, as I feel they would have been influenced by the truth and the facts brought out by the distinguished Senator from Mississippi.

It is my sincere hope that we can maintain quality of education in this country. I do not think it is so much now the question of racial prejudice. Indeed, in the past there must have been some racial prejudice in all sections of the country. But I am convinced that today the main subject, the main topic, that is worrying the parents of the students is quality of education. It is important that this quality of education be maintained. The Senator from Mississippi has brought out many facts that tend to substantiate that position. Again, I commend him for his excellent address.

Mr. RUSSELL. Mr. President, I certainly wish to add my congratulations to those that have already been expressed to the Senator from Mississippi for the very splendid speech he has given. Good speeches are made in the Senate quite often, but we very seldom hear one that is as full of meat and uncontroverted statistics as the one delivered by the Senator from Mississippi today. It speaks very clearly of the fact that one section of the country has been used as a political football in the handling of a situation which exists throughout our entire Nation.

Senators from other sections of the country live right by schools that are completely segregated; yet they get after the southerners because some of their schools are only about 20-percent black. But there are schools in their own areas which are 100-percent black or 100-percent white. They have not lifted their voices here to complain about the condition. A great deal of political hypocrisy has been involved in this whole issue. I am sure that if you examine the record of the debate on the so-called civil rights bills and make a comparison of the position Senators take today with that which they took in 1964, you will find that this matter has been pursued largely along political lines.

We in the South are making a good faith effort to effect a change that is most delicate and difficult, and the results have been remarkable.

I am very proud that in my State—and Georgia is one State that is heavily affected—the people have acted with restraint and we are making these changes at a rather remarkable rate of speed.

But of course, we cannot possibly satisfy those who expect to use the problem for political capital and in my opinion, more politics is mixed up in this particular issue than in any other one that I have seen in the 30-odd years I have served in the Senate.

The Senator from Mississippi has performed a real service, and he has performed a service in his own State in leading the way for peaceful transition.

I suppose that Mississippi as a State has a more difficult time than any other State of the Union and I believe I have an understanding of what confronts the people of Mississippi, since some 40 counties in my State have a majority of black citizens.

I am grateful to the Senator from Mississippi for the facts he has furnished here. I hope that all Members of the Senate will read these facts and relate them to the legislation.

The Senate of the United States is the greatest parliamentary body that has ever existed in history. I have great faith in the basic sense of fairness of the Members of this body if they take the time to inform themselves of the facts.

The Senator from Mississippi in his able address has furnished this material for our use. I hope that Senators will show an interest in the question involved and will study his speech, if they did not hear it.

Mr. STENNIS. Mr. President, I ask unanimous consent that I may be recognized for 5 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. STENNIS. I thank the Senator from Georgia for his remarks. He paved the way and started me off in a lot of the work I have done on this matter.

I know that 3 or 4 years ago he made an eloquent plea to the then Secretary of Health, Education, and Welfare to bring this problem around to where it became a national policy, rather than to take it out on the South. I remember the solemn promise that was made. The Senator from Alabama was there. I was there. That promise was not kept.

A year later, we had another conference at the instigation of the Senator from Georgia. The promise was made again and was not kept.

I think maybe the third time we agreed, but virtually nothing was done. Very little has been done up to now. I will go into that. I have the facts on what has been done. Not enough has been done to scratch the surface, and the people in other States do not believe that anything will be done at this time.

Mr. RUSSELL. Mr. President, the Senator will recall that when the former Senator from Oregon, Mr. Morse was handling the education bill on the floor of the Senate, he stood at the leader's chair and told the Senate that he had the assurances of the Department of Health, Education, and Welfare, that this law would be applied throughout the United States. The CONGRESSIONAL RECORD will bear out my statement.

I give him his eternal credit. He said he thought it should be applied throughout the United States. But when the

officials of the Department of Health, Education, and Welfare went into some of these other areas and sniffed the atmosphere, they came out without doing anything. They said, "Let's go down South where we can jump up and down on them without getting hurt." And they proceeded to do that.

Mr. STENNIS. Mr. President, the Senator is correct. The Senator from Oregon made those remarks.

Mr. RUSSELL. It came right out of his conscience.

Mr. STENNIS. Mr. President, I yield to the Senator from Virginia.

Mr. BYRD of Virginia. Mr. President, the Senator from Mississippi has made a powerful address to the Senate. He is appealing for justice. He is appealing for fairness.

The Senator from Mississippi is one of the most judicious men in the Congress of the United States.

His address was based on facts. He sought to bring to the attention of the Senate the fact that HEW applies two standards in this Nation. The Department of Health, Education, and Welfare has one standard for the South, and it has another standard for New York City and for the Eastern States and for the Northern States.

The Senator from Georgia has just recalled the statement made on the floor of the Senate several years ago by the senior Senator from Oregon in which he had the assurance and gave the assurance that the Department of Health, Education, and Welfare would apply this law fairly throughout the Nation. Yet, all of us know that HEW has done no such thing. In my judgment, that is one reason why the people of our country have lost confidence in the Department of Health, Education, and Welfare; and that is one reason why the Representatives of the people of the United States in the House of Representatives rallied behind the President when he vetoed the HEW appropriation bill—because the people have lost confidence in HEW.

The Senator from Mississippi, in appealing to the Senate today, is appealing only for justice, only for fairness on behalf of the mothers and fathers and the children who reside in the southern section of our Nation.

I hear a lot of condemnation of the South in the Congress. Many people are willing to condemn the South. I happen to live in the most northern part of the South. My hometown is north of Washington, D.C. Yet, I am proud of the South and I am going to stick with the people of the South to do what little I can to see that they are treated fairly; and they are not being treated fairly by the Department of Health, Education, and Welfare; they are not being treated fairly by the Federal courts.

The legislation presented by the Senator from Mississippi seeks to have the Senate apply the same standards to the rest of the country that it seeks to apply to the South. It seems to me he has made a very fair proposal. It would give every man, woman, and child in our Nation freedom of choice. It would give to white and black parents alike the same thing: freedom of choice.

Mr. President, I commend the Senator from Mississippi on his powerful argument.

Mr. STENNIS. Mr. President, the Senator from Florida wanted me to yield to him. I ask unanimous consent that I may proceed for 5 additional minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

Mr. GURNEY. Mr. President, I wish to add my congratulations for the very splendid presentation made by the Senator from Mississippi on one of the great social problems facing this Nation today, the problem of school desegregation.

I might say, as a Senator representing one of the largest States, not only in the South but now in the entire Nation, the State of Florida, that I and my staff have worked on these problems all last year and, of course, all this year. We have first-hand working knowledge of everything the Senator from Mississippi talked about. I wish to congratulate him on the very able presentation of solid factual matter about this problem. It has been long overdue and long needed here, emphasizing the double standard we have in this country as far as this problem is concerned.

I do think, perhaps, that the onus is more on the Supreme Court, at least now, than it is on the Department of Health, Education and Welfare. At least this is the problem we face at home in Florida.

I particularly want to congratulate the Senator from Mississippi on warning the Members of this body that as far as States outside of the ones that are directly involved now, those in the South, today's problems in school matters in the South are tomorrow's problems in the North, Midwest, and Far West. They are just around the corner. Those that serve and represent States other than States in the South are going to be faced with these problems almost at once.

There was one fact that I think the Senator brought out exceedingly well, and with this note I shall conclude. I refer to the important matter of changing attitudes all over the country in this matter. Oftentimes I think the court system and the political figures, although holding office, have not caught up with what is happening at home in connection with these changing attitudes.

An interesting story was published in the Washington Post this morning on this very subject, an article that should give warning to all of us. I refer to the article about the President and other officers of the Congress of Racial Equality, CORE, a very active black organization. These officers are now touring the country, and particularly the South, with a message to have complete resegregation of Negroes in the schools. They want completely black school districts. They want to turn the clock back completely, around 180 degrees; not what some of us want who are trying to work on this problem, and I refer to freedom of choice and reasoning in this matter.

I point this out as a warning and as an amplification of what the Senator from Mississippi said, that there are changing attitudes on this problem and unless

we in public office, especially the Senate, recognize this and take leadership to try to solve some of these problems, we are going to have a volcano on our hands that we cannot control.

Mr. STENNIS. I thank the Senator.

Mr. President, if Senators wish to debate this matter on the other side, there will be no effort on our side for a filibuster. We always have to make that assurance for otherwise the press will infer it. There are many things to be brought out yet. We are not trying to kill time.

Mr. President, one of the best and soundest statements I have heard or read on this subject was by the outstanding and able Representative from Oregon, Mrs. EDITH GREEN, in a speech she made on the floor of the House of Representatives on July 31, 1969. I ask unanimous consent that a copy of her splendid speech be printed in the RECORD immediately after the close of my remarks, and chapter 342 of the Laws of New York 1969 approved May 2, 1969, also an article entitled "Desegregation—Where Do We Go From Here?" by Alexander M. Bickel, published in the New Republic of February 7, 1970, and the article entitled "Doubts Grow About School Integration" which appeared in the January 26, 1970, issue of the National Observer.

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

FLOOR SPEECH OF HON. EDITH GREEN OF OREGON, JULY 31, 1969

Mrs. GREEN of Oregon. Mr. Chairman, 8 years ago one of my close friends came to Washington with the Kennedy administration. This gentleman was and is committed to an integrated society. He had always supported civil rights legislation at the State level as well as the national. This family—and I am going to discuss them in personal terms, but not use their name. I think he would not object. This family is a Catholic family. They are also committed to the public schools. This family, because of income, could probably have moved into almost any area they wanted to in the District of Columbia. This family chose, because of their commitment, to move into an integrated neighborhood. They have three daughters. They placed all three daughters in the public school system.

About 2 years ago or 3 years ago they started busing 90 youngsters from Anacostia—and I am extremely critical of the deplorable situation of the District of Columbia schools. That is why I am pleased when we voted more funds for vital education programs—funds for the District of Columbia—and all other school districts. I may have different priorities on the programs that we ought to support, and had I had my druthers—I would have increased vocational education funds more and impact aid less. But we must improve the quality of education, and equality of educational opportunity for all. But let me get back to this particular family and their series of problems.

Two years ago their youngest daughter became one out of three white children in an all-black classroom. Ninety youngsters were bused from Anacostia. It was not a "random sample" who were bused—and I do not blame any principal in Anacostia—already overburdened with problems—short of space in the classroom. But discipline problems emotionally disturbed youngsters, were the ones to be bused out. At 8:15 in the morning the small buses came and

picked up children of white families in this neighborhood, who had the money to send their children to private schools, and at a quarter to 9 the big buses came from Anacostia and put the black children in the schools to occupy the spaces that the white children had just vacated.

I agree with the gentleman who spoke—and I have forgotten who it was—a moment ago about the questionable benefits to be gained from busing. It is the disadvantaged home, the disadvantaged neighborhood which must be improved equally as much as the school. Will 30 or 35 hours in another school offset the others 120 or 130 hours a week spent in deprivation? Can we continue to ask miracles of a teacher during 5 hours a day in class? If we rely on busing to correct social ills, are we not obliged to ask what is at the end of that bus line? Emphasis on integration and busing unaccompanied by a demand for academic excellence is worthless. This is what we ought to be concerned about—the quality of the programs. But the busing from Anacostia continued and the quality deteriorated.

Last year, this youngster would have been the only white child in an all-black classroom. This family had to face the problem, "Is my first responsibility to provide the best education I can for my daughter, or is my responsibility to maintain my commitment to an integrated class?"

And they decided, as hundreds of thousands of parents across this land are deciding, "My first responsibility is to provide the best education I can for my own child."

So this year they took all three of their children out of the public schools. The oldest daughter had also encountered major problems and threats of physical safety. All three of the daughters were taken out of the public schools and placed in private schools. This friend said—and he laughed—embarrassed as he said it—

"Edith, for the first time in my life—and I am ashamed to admit it—I have a serious question whether I am going to support tax levies and bond issues. I'm now paying for tuition for all three daughters in private schools."

About a month ago this family, because the neighborhood was changing and because of the situation of their three daughters, this family sold their home in the integrated neighborhood and they moved out to Maryland.

Now, what are we accomplishing? What are we accomplishing in terms of improving education? I believe the situation I described has been duplicated thousands and thousands of times all across the Nation.

I want to say that what is happening in terms of national policy affects Oregon. We do not have the problems in Portland that we have in the District of Columbia, but in Oregon this year 126 tax levies for schools were defeated—an all-time high. More and more people become dissatisfied, they are going to refuse to support the public schools. You see it in every State of the Nation.

If this happens, we have another step in this vicious cycle and a further deterioration of the public school system. So I make the plea for the Members who are lawyers and who say the Civil Rights Act is working out as they intended, and that busing is not occurring, take another look, examine the results—really inquire as to whether it is being enforced the way it ought to be enforced, and let us not let the eager beavers in the enforcement division of HEW enforce it the way they want to enforce it regardless of the law—but require them—if they want to rewrite the Civil Rights Act, to present their proposals to the Congress; let us argue the issues on their merit, and write the laws and decide the issues by a majority vote.

It seems to me these are policies we must consider if we are really concerned about

quality education, and we must not continue to let people outside the Government or let those in the executive branch enforce their version of what they think a civil rights law should require.

CHAPTER 342 OF THE LAWS OF NEW YORK
(An act to amend the education law, in relation to prohibiting discrimination on account of race, creed, color or national origin in connection with the education of the children of the state)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section thirty-two hundred one of the education law is hereby amended to read as follows:

§ 3201. No exclusion Discrimination on account of race, creed, color or national origin prohibited

1. No person shall be refused admission into or be excluded from any public school in the state of New York on account of race, creed, color or national origin.

2. Except with the express approval of a board of education having jurisdiction, a majority of the members of such board having been elected, no student shall be assigned or compelled to attend any school on account of race, creed, color or national origin, or for the purpose of achieving equality in attendance or increased attendance or reduced attendance, at any school, of persons of one or more particular races, creeds, colors, or national origins; and no school district, school zone or attendance unit, by whatever name known, shall be established, reorganized or maintained for any such purpose, provided that nothing contained in this section shall prevent the assignment of a pupil in the manner requested or authorized by his parents or guardian, and further provided that nothing in this section shall be deemed to affect, in any way, the right of a religious or denominational educational institution to select its pupils exclusively or primarily from members of such religion or denomination or from giving preference to such selection to such members or to make such selection to its pupils as is calculated to promote the religious principle for which it is established.

§ 2. This act shall take effect on the first day of September next succeeding the date on which it shall have become a law.

[From the New Republic, Feb. 7, 1970]

DESEGREGATION—WHERE DO WE GO FROM HERE?

(By Alexander M. Bickel)

(NOTE.—Alexander M. Bickel, contributing editor to this journal since 1957, is Chancellor Kent professor of law and legal history at Yale. His book, "The Supreme Court and the Idea of Progress," is being published this month by Harper and Row.)

It will be sixteen years this May since the Supreme Court decreed in *Brown v. Board of Education* that the races may not be segregated by law in the public schools, and six years in July since the doctrine of the *Brown* case was adopted as federal legislative and executive policy in the Civil Rights Act of 1964. Yet here we are, apparently struggling still to desegregate schools in Mississippi, Louisiana and elsewhere in the deep South, and still meeting determined resistance, if no longer much violence or rioting.

The best figures available indicate that only some 23 percent of the nationwide total of more than six million Negro pupils go to integrated public schools. About half the total of more than six million Negro pupils are in the South, and there the percentage of Negroes in school with whites is only 18.

What has gone wrong? The answer is, both less and a great deal more than meets the eye; it is true both that the school desegregation effort has been a considerable success, and that it has not worked.

The measure of the success is simply taken. Sixteen years ago, local law, not only in the 11 Southern states but in border states, in parts of Kansas, in the District of Columbia, forbade the mixing of the races in the schools, and official practice had the same effect in some areas in the North, for example portions of Ohio and New Jersey. Ten years ago, Southern communities were up in arms, often to the point of rioting or closing the public schools altogether, over judicial decrees that ordered the introduction of a dozen or two carefully selected Negro children into a few previously all-white schools. There are counties in the deep South that still must be reckoned as exceptions, but on the whole, the principle of segregation has been effectively denied, those who held it have been made to repudiate it, and the rigid legal structure that embodied it has been destroyed. That is no mean achievement, even though it still needs to be perfected and completed, and it is the achievement of law, which has irresistible moral force, and was able to enlist political energies in its service.

The achievement is essentially Southern. The failure is nationwide. And the failure more than the achievement is coming to the fore in those districts in Mississippi and Louisiana where the Supreme Court and a reluctant Nixon Administration are now enforcing what they still call desegregation on very short deadlines. In brief, the failure is this: To dismantle the official structure of segregation, even with the cooperation in good faith of local authorities, is not to create integrated schools, anymore than integrated schools are produced by the absence of an official structure of school segregation in the North and West. The actual integration of schools on a significant scale is an enormously difficult undertaking, if a possible one at all. Certainly it creates as many problems as it purports to solve, and no one can be sure that even if accomplished, it would yield an educational return.

School desegregation, it will be recalled, began and for more than a decade was carried out under the so-called "deliberate speed" formula. The courts insisted that the principal of segregation and, gradually, all its manifestations in the system of law and administration be abandoned; and they required visible proof of the abandonment, namely, the presence of black children in school with whites. The expectation was that a school district which had been brought to give up the objective of segregation would gradually reorganize itself along other non-racial lines, and end by transforming itself from a dual into a unitary system.

All too often, that expectation was not met. The objective of segregation was not abandoned in good faith. School authorities would accept a limited Negro presence in white schools, and would desist from making overt moves to coerce the separation of the races, but would manage nevertheless to continue operating a dual system consisting of all black schools for the vast majority of Negro children, and of white and a handful of nearly white schools for all the white children. This was sham compliance—tokenism it was contemptuously called, and justly so—and in the past few years, the Supreme Court, and HEW acting under the Civil Rights Act of 1964, determined to tolerate it no longer.

HEW and some lower federal courts first raised the ante on tokenism, requiring stated percentages of black children in school with whites. Finally they demanded that no school in a given system be allowed to retain its previous character as a white or black school. Faculties and administrators had to be shuffled about so that an entirely or almost entirely black or white faculty would no longer characterize a school as black or white. If a formerly all-Negro school was badly substandard, it had to be closed. For the rest,

residential zoning, pairing of schools by grades, some busing and majority-to-minority transfers were employed to ensure distribution of both races through the school system. In areas where blacks were in a majority, whites were necessarily assigned to schools in which they would form a minority. All this has by no means happened in every school district in the South, but it constitutes the current practice of desegregation. Thus among the decrees recently enforced in Mississippi, the one applicable in Canton called for drawing an East-West attendance line through the city so that each school became about 70 percent black and 30 percent white. Elsewhere schools were paired to the same end.

It bears repeating that such measures were put into effect because the good faith of school authorities was in doubt, to say the least, and satisfactory evidence that the structure of legally enforced segregation had been eliminated was lacking. But whatever, and however legitimate, the reasons for imposing such requirements, the consequences have been perverse. Integration soon reaches a tipping point. If whites are sent to constitute a minority in a school that is largely black, or if blacks are sent to constitute something near half the population of a school that was formerly white or nearly all-white, the whites flee, and the school becomes all or nearly all-black; resegregation sets in, blacks simply changing places with whites. The whites move, within a city or out of it into suburbs, so that under a system of zoning they are in white schools because the schools reflect residential segregation; or else they flee the public school system altogether, into private and parochial schools.

It is not very fruitful to ask whether the whites behave as they do because they are racists, or because everybody seeks in the schools some sense of social, economic, cultural group identity. Whatever one's answer, the whites do flee, or try to, whether in a Black Belt county where desegregation has been resisted for 16 years in the worst of faith and for the most blatant of racist reasons, or in Atlanta, where in recent years, at any rate, desegregation has been implemented in the best of faith, or in border cities such as Louisville, St. Louis, Baltimore or Washington, D.C., where it was implemented in good faith 15 years ago, or in Northern cities where legal segregation has not existed in over half a century. It is feckless to ask whether this should happen. The questions to ask are whether there is any way to prevent the whites' fleeing, or whether there are gains sufficient to offset the flight of the whites in continuing to press the process of integration.

To start with the second question, a negative answer seems obvious. What is the use of a process of racial integration in the schools that very often produces, in absolute numbers, more black and white children attending segregated schools than before the process was put into motion? The credible disestablishment of a legally enforced system of segregation is essential, but it ought to be possible to achieve it without driving school systems past the tipping point of resegregation—and perhaps this, without coming right out and saying so, is what the Nixon Administration has been trying to tell us. Thus in Canton, Mississippi, a different zoning scheme would apparently have left some all-black and all-white schools, but still put about thirty-five percent of black pupils in schools with whites.

We live by principles, and the concrete expression in practice of the principles we live by is crucial. *Brown v. Board of Education* held out for us the principle that it is wrong and ultimately evil to classify people invidiously by race. We would have mocked that principle if we had allowed the South to wipe some laws formally off its books, and

then continue with segregation as usual, through inertia, custom, and the application of private force. But substantial, concrete changes vindicating the principle of the *Brown* case were attainable in the South without at the same time producing the absurd result of resegregation.

This argument assumes, however, that the first of the two questions posed above is also to be answered in the negative. Is there, in truth, no way to prevent resegregation from occurring? Approaching the problem as one of straight feasibility, with no normative implications, one has to take account of an important variable. It is relatively simple to make flight so difficult as to be just about impossible for relatively poor whites in rural areas in the South. There is little residential segregation in these areas, and there is no place to move to except private schools. State and local governments can be forbidden to aid such private schools with tuition grants paid to individual pupils, and the Supreme Court has so forbidden them. Private schools can also be deprived of federal tax exemption unless they are integrated, and a federal court in the District of Columbia has at least temporarily so deprived them. They can be deprived of state and local tax aid as well. Lacking any state support, however indirect, for private schools, all but well-to-do or Catholic whites in the rural and small-town South will be forced back into the public schools, although in the longer run, we may possibly find that what we have really done is to build in an incentive to residential segregation, and even perhaps to substantial population movement into cities.

On a normative level, is it right to require a small, rural and relatively poor segment of the national population to submit to a kind of schooling that is disagreeable to them (for whatever reasons, more or less unworthy), when we do not impose such schooling on people, in cities and in other regions, who would also dislike it (for not dissimilar reasons, more or less equally worthy or unworthy)?¹ This normative issue arises because the feasibility question takes on a very different aspect in the cities. Here movement to residentially segregated neighborhoods or suburbs is possible for all but the poorest whites, and is proceeding at a rapid pace. Pursuit of a policy of integration would require, therefore, pursuit of the whites with busloads of inner-city Negro children, or even perhaps with trainloads or helicopterloads, as distances lengthen. Very substantial resources would thus be needed. They have so far nowhere been committed, in any city.

One reason they have not is that no one knows whether the enterprise would be educationally useful or harmful to the children, black and white. Even aside from the politics of the matter, which is quite a problem in itself, there is a natural hesitancy, therefore, to gamble major resources on a chase after integration, when it is more than possible that the resources would in every sense be

¹ For instance a UPI dispatch from Oklahoma City dated January 20 as follows:

"Mrs. Yvonne York, mother of a 14-year-old boy taken into custody for defying a federal desegregation order, said today she will take the case to the Supreme Court. US District Judge Luther Bohanon last week ordered the Yorks to enroll their son Raymond at Harding Junior High in compliance with desegregation rulings. The boy had been enrolled at Taft Junior High a few blocks from his home. Harding is four miles from his home. Raymond was taken into custody yesterday by federal marshals when Mrs. York tried to enroll him at Taft. He was detained for a few hours." A city councilman is quoted as saying, "The people of Oklahoma are fed up with forced busing and federal court orders running our schools. We demand an end to this madness."

better spent in trying to teach children how to read in place. Moreover, and in the long view most importantly, large-scale efforts at integration would almost certainly be opposed by leading elements in urban Negro communities.

Polls asking abstract questions may show what they will about continued acceptance of the goal of integration, but the vanguard of black opinion, among intellectuals and political activists alike, is oriented more toward the achievement of group identity and some group autonomy than toward the use of public schools as assimilationist agencies. In part this trend of opinion is explained by the ineffectiveness, the sluggishness, the unresponsiveness, often the oppressiveness of large urban public school systems, and in part it bespeaks the feeling shared by so many whites that the schools should, after all, be an extension of the family, and that the family ought to have a sense of class and cultural identity with them. And so, while the courts and HEW are rezoning and pairing Southern schools in the effort to integrate them, Negro leaders in Northern cities are trying to decentralize them, accepting their racial character and attempting to bring them under community control. While the courts and HEW are reassigning faculties in Atlanta to reflect the racial composition of the schools and to bring white teachers to black pupils and black teachers to white ones, Negro leaders in the North are asking for black principals and black teachers for black schools.

Where we have arrived may be signaled by a distorted mirror image that was presented in the Ocean Hill-Brownsville decentralized experimental school district in New York during the teachers' strikes of the fall of 1968. A decade earlier, black children in Little Rock and elsewhere in the South were escorted by armed men through white mobs to be taught by white teachers. In Ocean Hill-Brownsville in 1968, white teachers had to be escorted by armed men through black mobs to teach black children.

Can we any longer fail to acknowledge that the federal government is attempting to create in the rural South conditions that cannot in the foreseeable future be attained in large or medium urban centers in the South or in the rest of the country? The government is thus seen as applying its law unequally and unjustly, and is, therefore, fueling the politics of George Wallace. At the same time, the government is also putting itself on a collision course with the aspirations of an articulate and vigorous segment of national Negro leadership. Even if we succeed at whatever cost, in forcing and maintaining massively integrated school systems in parts of the rural South, may we not find ourselves eventually dismantling them again at the behest of blacks seeking decentralized community control?

There must be a better way to employ the material and political resources of the federal government. The process of disestablishing segregation is not quite finished, and both HEW and the courts must drive it to completion, as they must also continually police the disestablishment. But nothing seems to be gained, and much is risked or lost, by driving the process to the tipping point of resegregation. A prudent judgment can distinguish between the requirements of disestablishment and plans that cannot work, or can work only, if at all, in special areas that inevitably feel victimized.

There are black schools all over the country. We don't really know what purpose would be served by trying to do away with them, and many blacks don't want them done away with. Energies and resources ought to go into their improvement and, where appropriate, replacement. Energies and resources ought to go into training teachers, and into all manner of experimental attempts to improve the quality of education.

The involvement of cohesive communities of parents with the schools is obviously desired by many leaders of Negro opinion. It may bear educational fruit, and is arguably an inalienable right of parenthood anyway. Even the growth of varieties of private schools, hardly integrated, but also not segregated, and enjoying state support through tuition grants for blacks and whites alike, should not be stifled, but encouraged in the spirit of an unlimited experimental search for more effective education. Massive school integration is not going to be attained in this country very soon, in good part because no one is certain that it is worth the cost. Let us, therefore, try to proceed with education.

[From the National Observer, Jan. 26, 1970]

DOUBTS GROW ABOUT SCHOOL INTEGRATION

WASHINGTON, D.C.—A new word has entered the debate over segregation and integration in the nation's public schools: resegregation.

In dozens of cities, schools, and school systems once almost entirely white are turning increasingly nonwhite. This trend, produced by the familiar exodus of whites to the suburbs and nonwhites to the inner cities, has been going on for more than 30 years.

Only now, however, is it becoming a matter of prime concern to Federal officials. A new Federal school survey shows that racial isolation exists in every section of the country and that its growth is most rapid in the big Northern cities. This fact is raising new doubts among many long-time integrationists about the wisdom of trying to enforce desegregation in the schools. Items:

Several years ago, the Cleveland Board of Education searched the city for a new high-school site that would permit optimum racial integration. They settled on a neighborhood of modest owner-occupied homes near the suburb of Shaker Heights that was 60 per cent white, 40 per cent black. But when John F. Kennedy High School opened in 1965, 95 per cent of its pupils were black. "There's no question the decision to open that school accelerated the departure of whites," says Mrs. Conella Coulter Brown, administrative assistant for the Cleveland schools.

Edmondson High School on the west side of Baltimore was 80 percent white when it opened in 1957. Today there are 25 whites out of its student population of 2,700. "This is a well-kept-up residential area," says assistant principal Margery W. Harris. "But once the school turned half-black, it turned rapidly almost 100 per cent black. The whites just moved out or took their children elsewhere.

Heavy Negro migration gave the District of Columbia's schools a Negro majority as early as 1950—four years before the Supreme Court's watershed desegregation decision. In 1970, with the schools 95 per cent nonwhite, middle-class Negroes are feeling—just across the boundary to neighboring Prince George's County, Maryland. The interesting thing about Prince Georges enrollment this year, however, is not that the number of new blacks is up but that the number of new whites is down. No one knows exactly why, but one administrator muses: "The whites are moving to other Washington suburbs rather than to Prince Georges."

In city after city in the North, the story is the same: Schools once all or nearly all white are drawing nonwhites in increasing numbers. When they reach a "tipping point" of 30 to 50 per cent, the whites move out and the schools become rapidly almost entirely nonwhite.

The extent of resegregation in the North has never been known with any certainty. But the Department of Health, Education, and Welfare (HEW) undertook a survey of the racial composition of 90 per cent of the school districts in the country during the 1968-1969 school years, and fed the returns into a high-speed computer. The results, re-

leased Jan. 4, portray a system of segregated education that knows no regional boundaries.

The survey shows, for example, that 5 out of 10 Negroes outside the South attend schools 95 to 100 per cent Negro, as opposed to 7 out of 10 Negroes in the 11 Southern states. Only 25 per cent of the Negroes outside the South attend majority-white schools, as contrasted with 18 per cent of the Negroes in Southern schools.

The survey shows too that 10 of the largest 20 city school systems in the country have majority Negro enrollments. In 16 of those systems, 60 per cent or more of the Negroes go to schools 95 to 100 per cent Negro—almost totally segregated.

A. STENNIS CHALLENGE

Federal officials say they are deeply troubled by the extent of segregation the survey has uncovered. Sen. John Stennis, Mississippi Democrat, first previewed the findings in a series of speeches in December, in which he challenged the Government to pursue desegregation in the North with the same vigor it is pursuing desegregation in the South. "If segregation is wrong in the public schools of the South," he argued, "it is wrong in the public schools of all other states."

Mr. Stennis made the point in arguing that the Government should ease up on its efforts to promote desegregation of schools. Leon E. Panetta, HEW's chief civil-rights officer, on the other hand, told Congress two months ago that the answer is not to make segregation legal in the South but to pass legislation making it illegal everywhere.

Last week, in a pensive mood, Mr. Panetta reflected on the emerging pattern of resegregation in America and said: "Nobody really is considering what the answers to this situation are, and whether there aren't new injustices resulting from rectifying gross past injustices."

Ever since the Supreme Court held in 1954 that state-supported racial segregation was a denial of equal educational opportunity, the courts have been trying to undo the vestiges of the South's dual school system. With the passage of the 1964 Civil Rights Act, the Justice Department and HEW joined the battle to force recalcitrant school districts to adopt plans of racial balance.

TURNING ATTENTION NORTH

In the past two years, both agencies have begun turning their attention to school discrimination outside the South, but only a handful of non-Southern districts have been cited for discrimination. This is because racial separation in Northern districts is generally regarded as *de facto* segregation, a result of housing patterns, rather than—as in the South—*de jure*, the result of official law or policy.

Last week, in the second of seven suits filed by the Justice Department in non-Southern districts, a Federal district court ordered the Pasadena, Calif., school board to put into effect by next September a desegregation plan that would give none of its schools a nonwhite majority. The district—30 per cent black, 58 per cent white, and 12 per cent other minorities—was accused of discriminating in the making of school district boundaries, teacher assignments and in other ways.

So far, few courts have held that the existence of *de facto* segregation itself is proof of discrimination, and the Supreme Court has not ruled on the issue. Yet the disparity continues between what is forbidden in the South and what is tolerated in the North, and the pattern of Northern separation begins to look more like its Southern counterpart.

For example, 17 Florida school systems, with two-thirds of the state's pupil population, are currently under Federal court orders to desegregate, two of them by Feb. 1

under a Supreme Court order. Seventy-two per cent of the Negro students in Florida attend schools in which Negroes constitute 95 to 100 per cent of the enrollment.

Yet 72 per cent of the Negro students in Illinois, according to the HEW survey, also attend schools with 95 to 100 per cent Negro enrollment, and there are no court orders compelling desegregation in Illinois. In fact, it can be argued there is more segregation in Illinois than in Florida. Theoretically it should be easier for Illinois, where Negroes make up 18 per cent of the student population, to place Negroes in majority-white schools than for Florida, where they make up 23.2 per cent. Yet there are proportionately more Negroes in majority-white schools in Florida (23.2 per cent) than in Illinois (13.6).

It seems likely that the courts will not for long be able to postpone consideration of such discrepancies in the application of national law. For a few Southern school districts, which have desegregated in accordance with the law, now find themselves victims of resegregation, ostensibly as a result of shifting housing patterns. One such district is Atlanta, where integration began eight years ago as the result of court suits initiated by the NAACP and other civil-rights groups.

TWO ESCAPE ROUTES

Since that time, 25 schools that were formerly all-white have turned predominantly black, as white parents have followed one of the two legal escape routes open to them: a private school or a home in the suburbs. Today, the school system, predominantly white before integration, is two-thirds black, but adjoining, suburban school systems are 80 to 95 per cent white.

If this appears to be *de facto* segregation Northern-style, Atlanta—because it had a dual school system until recently—is nonetheless still subject to a Supreme Court order of Jan. 14, requiring desegregation of schools in Georgia and four other Southern states by Feb. 1.

Southerners have long been grumbling about what they wryly refer to as "this dual system of justice" (one for the North, another for the South), and they are beginning to organize to combat it. Last week, Florida's Gov. Claude Kirk appealed to the U.S. Supreme Court to set national desegregation standards that would affect all 50 states. And the attorneys general of Louisiana, Mississippi, and Alabama announced a joint legal effort designed to ensure that "the same rules for administration of public schools" imposed by the Federal courts in the South apply to all other states.

The forces attempting to undermine enforced desegregation will get an unexpected assist next month with the publication of a book by Harper & Row, which challenges the Constitutional basis of court-ordered integration.

Entitled *The Supreme Court and the Idea of Progress*, and written by Yale University's Alexander M. Bickel, a Constitutional law authority of impeccable credentials among civil-rights advocates, the book is an expanded version of the Holmes Lectures, which Professor Bickel delivered at Harvard Law School in October.

In a chapter on the Supreme Court's desegregation rulings, Professor Bickel argues the Court, beginning with the history-making *Brown v. Board of Education* decision in 1954, should have contented itself with finding that legally enforced school segregation is unconstitutional.

DUBIOUS SOCIOLOGY?

In going beyond that principle to argue that separate educational facilities are inherently unequal, says Professor Bickel, the Court based its reasoning on dubious sociology and a parochial view of American education, which holds that education's main

duty is to promote assimilation. As a result, says Mr. Bickel:

"In most of the larger urban areas, demographic conditions are such that no policy that a court can order, and a school board, a city, or even a state has the capability to put into effect, will in fact result in the foreseeable future in racially balanced public schools."

Enforced desegregation, in other words, will merely force more whites into the suburbs or into private schools, leaving, Professor Bickel argues, only the poor—black and white—in the city schools.

It should be noted that there are many successful experiments in racial desegregation of schools. Several dozen Northern school districts, according to HEW estimates, have achieved full and voluntary integration by such techniques as altering attendance zones, busing and pairing of students to achieve racial balance. In White Plains, N.Y., for example, a quota system introduced in 1964 has not resulted in an exodus of whites. No school may have more than a 30 per cent or less than a 10 per cent enrollment of minority-group students.

But such plans, officials say, generally work in small or medium-size cities (White Plains' population: 65,000), where the population is stable and the blacks are in the minority. They often require, in addition, a rare degree of local leadership.

Central cities, on the other hand, experienced an increase of 2,400,000 in the Negro population between 1960 and 1968, and a decline of 2,100,000 in the white population, according to Census Bureau figures. While the figures are open to various interpretations, they nonetheless make it clear that great numbers of whites do not consider integration a primary social goal.

CHANGING NONWHITE ATTITUDE

Integration seems to be losing its attraction among nonwhites as well, at least as a short-run goal. Civil-rights leader James Farmer, now a high Nixon Administration official, said recently he has stopped trying to "sell Negro audiences on integration." The reason: "They don't agree on it any more."

In Philadelphia, where 60 per cent of the Negro school children attend schools that are 95 to 100 per cent Negro, officials report waning enthusiasm for busing black students to white schools to relieve overcrowding. "The people want to go to their neighborhood school," says school spokesman Robert S. Finarelli. "It's the state, not local people, pressing us for a desegregation plan."

The educational argument for integrated schools in based on the premise that minority-group children make their greatest achievement gains in an integrated environment. Numerous studies over the years, including the mammoth Coleman Report, issued by the U.S. Office of Education in 1966, have documented this thesis.

Conversely, there is relatively little information to indicate that spending more money in black schools in the slums does much good. "Most experiments in improving ghetto education have, quite frankly, been failures," says a U.S. Office of Education official.

That is why Government "integrationists" are so disturbed by the new findings of racial resegregation in the public schools. Leon Panetta, HEW's 31-year-old civil-rights chief, throws up his hands and shrugs. "We need a congressional examination of this whole question of the results of integration," he says. "In the meantime, we do what the law says we should do."

Mr. GURNEY. Mr. President, I wish to go on record in support of the amendment to the Elementary and Secondary Education Act offered by my colleague, the distinguished Senator from Mississippi (Mr. STENNIS).

The amendment, as the Senator from Mississippi (Mr. STENNIS) has pointed out, is patterned after a similar New York State statute, which has been on the books in that State for several years. The amendment, simply stated, would prohibit the assignment of pupils to any schools anywhere in the Nation without the express approval of the school board having jurisdiction in each case, on the basis of race, creed, color, or national origin; no child would be refused admission to any school on account of his race or origin.

It is significant, I think, that New York has taken the lead in this area. New York, viewing the problems of de facto segregation and the need to achieve quality integrated schooling, has taken the route of leaving with the local school boards the right and the duty to make pupil assignments, and leaving with the pupils and the parents the determination of where the children shall go to school. Frankly, I do not know why anyone would object to the idea of freedom of choice, except that the whole problem of desegregation is so full of emotionalism and high-pitched rhetoric that our national policy is becoming irrational.

The idea behind Brown against Board of Education was a good one: To give black children the benefit of the best education possible. The idea of separate schools for blacks, fixed by legislation, State or Federal, was found to be constitutionally repugnant. We have no quarrel with that general notion. But, once the State or Federal laws creating separate schools were struck down, the Federal Government embarked on the most ambitious social engineering project in its history. The results of that social engineering project, carried out by the Department of Health, Education, and Welfare, the Justice Department, and most especially by the Federal courts, I think we have to admit, has been universally disastrous. Again, we do not quarrel with the end—we can and we do protest the means employed by the Federal Government to achieve that end.

Let me suggest what the results of a 15-year program of federally imposed desegregation or integration has accomplished. Again, I must point out that I am talking about the nationwide problem, not a regional or local problem. The results, as I see them, are as follows:

First. Certain schools in certain areas have been successful and harmoniously integrated. These schools, I regret, to say, are a tiny minority of the schools of our country. Elsewhere, we have turned schools, particularly high schools, into tense, high volatile racial battlegrounds. This is true in New York, in Chicago, in Los Angeles, in Jacksonville, and in Portland, Maine. I had printed in the *RECORD* last month, an article by Joseph Alsop which pointed out that interracial violence in the public schools has reached a very dangerous level. Again, talking about a national problem not a local problem, Alsop said:

The fact is that something perilously close to race war has now begun in just about every integrated high school in the United States. This is not a southern problem. This

is a nationwide problem, with future political implications so grave that we dare not go on being ostriches about it.

Mr. Alsop is no racist, as we all know. He is a competent and thorough reporter who has tried to view this problem objectively. I have asked my staff to verify Mr. Alsop's report. We have looked into the situation. His appraisal is, sad to say, accurate and if anything, understated. I will not go into depth here about the drug problem, but it must be mentioned: It is a related problem and it is a very real and a very dangerous problem. Jackie Robinson spoke of this problem earlier in the week before the Maryland State Legislature. He spoke from the point of view of a parent who has his own son become addicted to heroin. We must deal with this problem: We are derelict in our duty if we fail to come to grips with it.

The second noteworthy effect of federally inspired efforts to integration has been the fact that white parents, faced with integration, have abandoned the inner city and fled to the suburbs. Alternatively, they have placed their children in private schools. As the taxpayers have fled, the revenues of the cities have declined. This sorry situation, I think is directly attributable to the integration-segregation efforts of the Federal Government. Here in Washington, D.C., the public schools are now 95 percent black. I will not talk about the problems we are encountering here, other than to say that the problems are staggering. One day last month, a boy was killed, another was wounded, and a third was shot at—all in a 6-hour school day. Police now patrol the schools in Washington on a regular basis. What kind of education could these children receive in the atmosphere of an armed camp? Another development here deserves to be mentioned: middle-class Negro parents are taking their children out of the public schools. This phenomenon was highlighted in a recent article in the *Washington Post*. It is a fear that I have long had and which has worried me a good deal: because of all the nonsense attendant to the federally inspired integration efforts, middle-class Americans—black and white—are losing their faith in public schools. This is a potentially disastrous development. This country owes much to its public schools. I implore Senators not to further divide our Nation, not to help destroy the public schools. Our purpose should be to revitalize and assist the public schools. That is the aim of the bill under discussion today. I think the amendment of the Senator from Mississippi (Mr. STENNIS) is a rational approach to this problem.

Let our children, black and white, have a chance for a quality education. Let them have an opportunity to make up their own minds as to where they will go to school; let us do without busing where we can—it is a great financial burden. That money could better be spent on teachers and valid educational tools.

I want to sound one warning: I implore my colleagues not to point an accusatory finger at the South. It is tempting to do so; I know in the past; I am

frank to admit there has been heel dragging on integration in the South. The facts show that there has been just as much heel dragging in the North. Again, I emphasize that this is a national problem. What we are experiencing in the South today will be visited on northern communities in the near future. More than 50 percent of black students are today attending schools which are 95 to 100 percent black. Senator STENNIS has graphically demonstrated this fact in this presentation to the Senate in December 1969. Do not, I implore my colleagues, do not treat the South as a band of rascals. The problems in the South are simply the problems of the North.

We are trying to deal with them, honestly and, I assure Senators, diligently. I am one southern Senator who has been working on these school problems ever since I came to the Senate, not to stop desegregation but to try to see that it comes without explosion and irreparable harm to the public school system in general and the students in particular. The Stennis Amendment will help the South and the North both deal with these problems.

New York has shown the Nation a rational approach to the problem. Let us use New York's approach nationally. The situation in our public schools throughout the country is inflammatory. Let us not wait until there is a blood-letting or an explosion before we act. Let us act now, adopt the Stennis amendment as a first meaningful step to restore local control and to reorder the situation. We have a chance now to calm the troubled waters. This is not a final solution and its adoption will not be the end of our trouble, but it is a step in the right direction. I most respectfully and sincerely urge my colleagues to agree to this amendment and to defuse the bomb that is ticking in the Nation's schools even as we talk here today.

Mr. PROUTY. Mr. President, I would like to comment upon H.R. 514, the bill now before us to extend authorizations under the Elementary and Secondary Education Act and to amend other related acts. Before I do so, however, I would like to commend my colleagues on the Labor and Public Welfare Committee for their long and laborious efforts in bringing this bill to the Senate. The able leadership of the new chairman of the Education Subcommittee, (Mr. PELL) helped to make this possible. I would like to thank the committee staff for their work and particularly their desire to accommodate various political philosophies in pursuance of bipartisan compromises in the bill and in the report.

The bill as we now have it is rather long and complex. While I realize that this will make it difficult to evaluate and expedite quickly, I am confident that our previous discussions within the committee and here on the Senate floor will lead to a most fruitful outcome. Many of the provisions now contained in this bill are those advocated by the administration and were in the original bill on this subject that I introduced to the Senate some months ago. With the consent of the members I was able to add several other provisions during the com-

mittee deliberations, some on behalf of the administration. I have summarized these provisions and ask unanimous consent that they be inserted in the Record at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. PROUTY. Mr. President, overall, this bill represents the intent of the committee to continuously evaluate and improve educational opportunities for the wide spectrum of students desirous to learn. We have started at one end of the continuum dealing with the disadvantaged and the handicapped and ended at the other by dealing for the first time with the gifted and the talented. When we looked at title I dealing with educationally disadvantaged students, we found many problems in the operation of the program that were due, not so much to inadequacies in the legislation, but rather to a lack of local planning and State supervision. As a result, the program is not meeting the objectives set out by Congress some 4 years ago to help these students overcome the handicaps of cultural and educational deprivation. It was the intent of Congress that these students be given supplemental programs such as remedial reading and cultural enrichment in addition to the services they would normally receive on a par with their more advantaged peers. However, we have found that funds allocated for this purpose have not reached the target children, for they have been dispersed to nontarget children and too often used to supplant, rather than supplement, State and local funds spent in these areas.

Thus, the disadvantaged child, even while getting his fair share of Federal funds, is not receiving the benefits intended, because in no way does he receive the added help needed to overcome his educational disadvantages. Thus, the committee has taken several steps that hopefully will improve the operation of this most vital program. New provisions call for a study of the title I allocation formula to see that it is appropriate to the need, greater concentration of funds in areas serving the most disadvantaged, better planning and reporting techniques, and increased coverage of certain categories of students such as migrants, neglected or delinquent, and handicapped. Of particular benefit, I believe, are the provisions that will improve participation at all levels through State plans, advisory councils, and parental groups. These elements are most important if title I programs are to operate efficiently at the State and local level in concert with the needs and circumstances of the indigenous population to be served. Without these elements of participation and cooperation, title I programs are doomed to mediocrity.

Another area of great importance to me is legislation dealing with the handicapped. Somewhat over 10 percent of the school age population suffers from some form of handicap, and it is most critical that we improve prospects for the happy and productive lives of these individuals by giving them the educational where-

withal to help themselves. In this bill, therefore, we have included a codification of all existing legislation pertaining to education of the handicapped. This should be of much benefit not only to those seeking the benefits of those provisions, but also to those who administer the programs. Additionally, a new category of the handicapped has been defined; namely, those with specific learning disabilities. Although some States have helped these students under existing law, we have added provisions that bring greater attention to this area without detracting from existing program resources. While these provisions will one day become part of the codification, it is important for the present that they remain separate in order to maximize the effectiveness of new program funds.

Other improvements to broad categories of students pertain to bilingual students, Indians on reservations, dropouts, refugees, adults seeking the equivalent of a secondary education instead of being limited to the eighth-grade level, and the gifted or talented. These latter programs are new and show the committee's increasing concern that the excellence of our schools can only be maintained if all students are challenged by materials directly related to their needs. Within the broad spectrum of concerns in the legislation now before us are several provisions that will be of help to the general student as well. There are changes in the loan forgiveness provisions relating to teachers, with greater incentives now given to teachers of the disadvantaged and the handicapped. Also new provisions of loan forgiveness for those serving in the Armed Forces will make it more equitable for those who enter service during or after their schooling to receiving benefits similar to those given under the GI bill. Finally, there are provisions benefiting children in nonpublic schools who are eligible to participate in programs for public school students, such as title III, supplementary programs and services.

Although the committee report contains no specific mention of this, it was our intent to make explicit the expectation that nonpublic school officials be consulted regarding programs in which nonpublic school children participate. Our belief that this is already implicit in law prevented us from adding any new provision, but I am glad that Senator PELL made mention of this fact so that the legislative history will be accurate on the subject.

Other than the wide spectrum of persons specifically aided by the provisions of this bill, there are many other features worth noting. One is the recognition that present education legislation is contradictory and/or redundant in its use of definitions and procedures. Therefore, we have remedied provisions within title IV by defining many of the legislative terms and concepts. Also, a most important step has been taken in the setting of standards, such as those concerning the operation and number of members on statutory advisory councils or other advisory councils. Within this same title are provisions that will improve the efficiency and operation of all

educational programs, such as the consolidation of State administrative funds and provisions pertaining to expiring appropriations authority, availability of appropriations and delegation authority.

Finally, in the recognition that allocation of dollars alone does not insure educational improvement, the committee has recommended that more emphasis be placed on evaluation and then dissemination. Two specific levels of evaluation are called for: One at the Federal level and the other at the State level.

At the Federal level, we have recommended up to 1 percent of all program funds be set aside for evaluation by the Commissioner of Education or the Secretary of Health, Education, and Welfare, whichever is most appropriate.

At a lower level, we have authorized a demonstration program in comprehensive planning and evaluation by States, localities, and metropolitan districts. These programs to be conducted in each State should do much to improve the development and use of State plans to hire personnel, to improve curriculums, and to evaluate program effectiveness.

However, planning and evaluation are not enough; for unless this analysis leads to needed change, it is worthless. In the past we have found that even when evaluations have been made, there has been an inadequate emphasis on dissemination so that others could benefit or make changes recommended. Therefore, we have placed a great stress on the need to disseminate analysis materials in a form that is usable to policymakers in the field as well as the educational researcher. This intent to strengthen the use of communications techniques is supported by several provisions relating to the collection and dissemination of information, the cataloging of education assistance programs, the use of modern measurement and reporting techniques and the furnishing of technical assistance to States upon request.

During the ensuing deliberations on this bill, there will be ample time to comment on many other provisions not specifically mentioned here. I thank my colleagues for their attention and trust that they will accept the recommendations of the committee in enacting this legislation.

EXHIBIT 1

PROVISIONS, OR PARTS THEREOF, ORIGINALLY CONTAINED IN S. 2451 INTRODUCED ON BEHALF OF THE ADMINISTRATION

1. Designation of responsibility for institutionalized, neglected or delinquent children. Allows the Bureau of Education for the Handicapped to provide allocations to states who delegate responsibility for special services to other agencies under contract since present law precludes this practice.
2. Grants for migratory children to be based on the number served. Changes formula that was inaccurate and based only on number of families in residence prorated for a standard number of children per family.
3. Use of most recent data under title I. Allows OE to substitute most recent data available so that new allocations can be formulated at an early date instead of waiting for all states to submit their data.
4. Minimum grant allowance to local educational agencies. Changes the minimum grant allowance un-

der Title I from \$2,500 to \$10,000, unless waived by the state, so that more meaningful and substantial impact can be derived from sums expended.

5. Content of state and local educational agency reports.

Requires that all Title I reports must include the results of program effectiveness evaluations and also requires that all performance data be related to specific criterion objectives.

6. Staggered terms for National Advisory Council on Education of Disadvantaged Children and increase in membership of Advisory Committee on the Education of Bilingual Children.

Within Title IV are sections standardizing the operation of advisory councils that incorporate several administration suggestions such as staggering the terms of members or increasing the number of members to be consistent with operation of all statutory advisory councils.

7. Provisions to assure participation by all eligible students in Title III programs.

Sets up a bypass of the state in administration of Title III programs so that where the state does not effectively assure participation by children in nonprofit private schools who are eligible to participate.

8. Involvement of private school officials in programs in which private school children participate.

Although not contained in the report, it has been stated by the Committee that within existing law it is implicit that private school officials should participate in planning of programs where private school children participate. For this reason, no specific provisions were added.

9. Provisions with respect to parental and community involvement.

Although not specifically contained in the section dealing with Title I, there are now provisions in Title IV that require parental and community participation in the planning, development, and operation of these programs.

10. One percent set-aside for evaluation of education programs.

Requires that one percent of all program funds be set aside for evaluations of those programs by the Commissioner or the Secretary of HEW, whichever is most appropriate.

11. Consolidation of special state grant programs.

As a compromise, this consolidates Title III of NDEA and Section 12 of National Foundation of the Arts and Humanities, since they are both state grant programs for instructional media. Originally, five programs were to be consolidated.

12. Application of bilingual programs to Indians on reservations.

Changes provisions so that children in schools operated by Indians and on Indian reservations can now apply directly to the Commissioner for grants rather than going through the Bureau of Indian Affairs.

13. Cancellation of student loans for service in the Armed Forces.

Provides for up to 50 percent loan forgiveness at the rate of 12½ percent per year for every year of service in the Armed Forces.

PROVISIONS ADDED DURING COMMITTEE DELIBERATIONS, SOME ON BEHALF OF ADMINISTRATION, SOME IN CONJUNCTION WITH OTHER COMMITTEE MEMBERS

14. Consolidation of handicapped legislation.

Consolidates all programs of education for the handicapped which are administered by the Commissioner of Education into a single statute to ease administration and operation of same.

15. Consolidation of State administration funds.

Allows the Commissioner to make a consolidated grant of administration funds for any two or more education programs to be

carried on by the state (with the exception of Title I and Title VI).

16. Contingent extension of expiring appropriations authority.

Provides that unless Congress has formerly passed or reviewed legislation extending the authorizations for appropriations during the year prior to expiration, it is automatically extended for one year at an ongoing level so that forward funding can be pursued.

17. Special grants to urban and rural schools serving the highest concentrations of disadvantaged.

Changes from four to five percent the amount of discretionary funds allocated to the Commissioner after 1970. Such funds could be used at the Commissioner's discretion where extenuating circumstances such as inaccessibility preclude proper use of funds even though the level of concentration is not as high as specified to be eligible for these grants.

18. Minimum State allocation for comprehensive planning and evaluation program.

Changes the allocation formula so that after 25 percent of the funds are reserved to the Commissioner, 40 percent are allocated to the states and 60 percent are distributed on the basis of population.

19. Handicapped children and neglected or delinquent children receiving education under contract with State institutions.

Allows payments to state or other local public educational agencies which provide special education services to neglected or delinquent children when local educational agencies are unwilling or unable to do so.

20. Study of Title I funds.

Includes within this study, the subject of difficulties of administering Title I programs in rural areas due to thin dispersion of students or inaccessibility.

21. Creation of advisory council on research and development.

Changes the ad hoc Advisory Council on Research and Development to a statutory council.

22. Date of all reports from commissioner.

Changes the date of all reports in education programs from the Commissioner to be due on a uniform date of March first.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 2) to amend the Federal Credit Union Act so as to provide for an independent Federal agency for the supervision of federally chartered credit unions, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PATMAN, Mr. BARRETT, Mrs. SULLIVAN, Mr. REUSS, Mr. WIDNALL, Mr. JOHNSON of Pennsylvania, and Mr. MIZE were appointed managers on the part of the House at the conference.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 13300) to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to provide for the extension of supplemental annuities and the mandatory retirement of employees, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. STAGGERS, Mr. FRIEDEL, Mr. DINGELL, Mr. SPRINGER, and Mr. DEVINE were appointed managers on the part of the House at the conference.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. (Mr. GRAVEL in the chair). The Chair, on behalf of the Vice President, appoints the Senator from Rhode Island (Mr. PAS-TORE), the Senator from Tennessee (Mr. GORE), the Senator from New Mexico (Mr. MONTOYA), the Senator from New Hampshire (Mr. COTTON), the Senator from Nebraska (Mr. CURTIS), and the Senator from Kentucky (Mr. COOPER) to attend the Conference of the Committee on Disarmament, to be held at Geneva, Switzerland, on February 17, 1970.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969

The Senate continued with the consideration of the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes.

Mr. PELL. Mr. President, what is the pending question?

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 459), of the Senator from Maryland.

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

Mr. THURMOND. Mr. President, will the Senator withdraw his request?

Mr. PELL. I withdraw the request.

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

Mr. THURMOND. I yield.

Mr. JAVITS. Could we have some idea how long the Senator intends to speak?

Mr. THURMOND. I imagine about 22 or 23 minutes.

Mr. JAVITS. I thank the Senator.

Mr. THURMOND. Mr. President, may we have order?

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate?

The Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. (Mr. HANSEN in the chair). Does the Senator yield?

Mr. THURMOND. I yield.

Mr. BYRD of West Virginia. Is the Senator speaking on the pending bill, the subject matter before the Senate?

Mr. THURMOND. Yes.

Mr. BYRD of West Virginia. I thank the Senator.

Mr. THURMOND. Mr. President, we have before us legislation designed to protect the public schools of our Nation from the capricious whims of those who would mold the lives of others to conform to a rigid and unrealistic social theory. Tyranny has taken many forms in the history of this world, but surely among the worst forms of tyranny is that which results from the desire of ideological zealots to order human beings into a pattern of living which is hostile to traditional mores and customs. Examples of such tyranny abound: The restructuring of Russian life by the Com-

munists and of German life by the Nazis are the two most recent and dramatic.

Lesser examples of the same type of crime are also available—the herding of American Indians onto reservations and the secularization of religious education of both Catholics and Jews in Eastern Europe.

Mr. President, I do not exaggerate when I say that education in this Nation is facing a threat of a similar magnitude. This threat does not exist equally in all parts of the country, nor even in all parts of the South. But make no mistake: The revolutionary changes being imposed upon southern school districts by the Federal judiciary, with the aid of the Department of Health, Education, and Welfare, are fanatical and extreme. Once this tyranny of the social reformers has been successfully imposed upon the South, those of you from other States will find you are next.

Mr. President, I realize that we are dealing with a topic which is placed under the category of so-called civil rights. For this reason many of my colleagues will be tempted to give this matter little thought and vote no—almost by reflex. I believe this matter requires serious thought by all of us. I should like to describe what is happening in my State, and I hope that each of you will consider the implications in your State.

In South Carolina two counties, Greenville and Darlington, are under court order to eliminate the dual school system this month—not in September at the beginning of a school year, but in the middle of an academic semester. This involves the transferring of thousands of students into new schools, with new classmates and new teachers. Students from a number of different schools with different teachers and textbooks with different rates of progress in the school year will suddenly be thrust into one classroom. This is educational insanity, but the fanaticism of the Supreme Court has led to a total lack of consideration for students of either race. Under such rulings, everyone suffers—black child and white child, confused and frustrated parents of both races, and teachers facing a classroom of students in the middle of a course—some at one point in the textbook, some at another, and having been using different textbooks at that.

Mr. President, 6 days after this court order was handed down, 95,000 citizens in Greenville County, representing 85 percent of the adult population, had signed petitions protesting the order. Reaction in Darlington County has been similar. The people are enraged, and they should be.

This pattern of extreme disruption of public education has not been confined to South Carolina. A large number of school districts in Mississippi and several large metropolitan districts in Florida face similar orders. We recently witnessed the spectacle of the reassignment of all of the teachers in the Atlanta School District by lottery to achieve a 57-percent black, 43-percent white faculty ratio in each school. Have we lost our minds? Is there an educator anywhere who would advocate such inane practices as educationally sound?

Those of us in this body are now faced with a responsibility to deal with this problem. The Supreme Court ruled in 1954 that public schools segregated by law are unconstitutional. The Federal judicial machinery has since wrestled with the problem of how to enforce this decision, and what constitutes compliance with it. The Congress has granted certain powers to the Departments of Justice and Health, Education, and Welfare to seek compliance with the decision. It is time we examined what is happening. Are the schools being desegregated in the manner we expected? Is the state of public education progressing or regressing under current policies? Are we for what is happening or do we want something else?

What is at issue is this: What policies can be followed in achieving a desegregated public school system? With regard to faculties, the Federal judiciary has decreed that each school in the district should have a ratio of black to white substantially the same as the racial ratio of all teachers in the district. One district in South Carolina has a heavily populated section in one corner of the district. This section is entirely white. The rest of the county is less densely populated and is 70 percent Negro. The Department of Health, Education, and Welfare has suggested a faculty desegregation plan which will result in practically no teacher being able to teach in the town of his or her residence, but will require driving 30 and 40 miles per day—just to maintain a racial quota system for faculties. School superintendents in the South are now finding that the recruiting of faculty has become extremely difficult. Most of our teachers are housewives who can choose not to teach if conditions are extremely unsatisfactory. Superintendents are also finding they cannot recruit teachers without careful consideration of whether the race of the applicant will upset the racial balance of the faculty in a given school.

With regard to desegregation of students, the Court has yet to establish a clear policy with regard to what constitutes a unitary school system. The Department of Health, Education, and Welfare has established certain requirements that school districts must meet in order to receive Federal aid. Some Federal judges have established their own criteria, but more generally, they have required school districts to devise a plan in conjunction with the Department of Health, Education, and Welfare. Many approaches are used. Busing of students to achieve racial balance—regardless of what it is called; “pairing” of schools, in which two high schools, grades 9 through 12, become a school for grades 9 and 10 and a school for grades 11 and 12; zoning, in which attendance areas are drawn in such a way to achieve total integration.

These plans, which are concerned only with the racial composition of the schools—not with sound educational policy—have resulted in serious disruption of public education.

Mr. ERVIN. Mr. President, will the Senator yield? I do not want to interfere with the Senator's train of thought, but

I would like to ask the Senator one or two questions.

Mr. THURMOND. I am glad to yield to the distinguished Senator from North Carolina.

Mr. ERVIN. I would like to ask the Senator from South Carolina if the only excuse given by the Federal courts for the tyrannies which the Senator has enumerated is found in the following provision of the 14th amendment; namely, the equal protection clause, which says no State shall “deny to any person within its jurisdiction the equal protection of the laws.” Is that not the only provision of the Constitution that is invoked to justify these unspeakable tyrannies?

Mr. THURMOND. Mr. President, in my opinion, the Senator is eminently correct.

Mr. ERVIN. I would like to ask the Senator from South Carolina if the provision that no State shall “deny to any person within its jurisdiction the equal protection of the laws” means this, and nothing else: Namely, that every State must treat every person in like circumstances in like manner. Is that not all it means?

Mr. THURMOND. That is the way that the Senator from South Carolina has construed it.

Mr. ERVIN. Is there a single syllable in that clause or anywhere else in the 14th amendment that gives to HEW or to the Federal courts the right to place any limitation whatever upon the freedom of any individual in this land?

Mr. THURMOND. In reply to the Senator from North Carolina, the Senator from South Carolina would say that in his opinion, they are destroying the freedom of the parents and the children of this country. They are requiring, not desegregation of the schools, which means opening any school to any child of any race, but forced integration, and this necessitates, to accomplish it, the busing of students, which brings about great disruption and hardship on the part of many students.

Mr. ERVIN. I construe the reply of the distinguished Senator from South Carolina to mean that he agrees with the Senator from North Carolina, when the Senator from North Carolina says that there is not a single syllable in the equal protection clause or in any other provision of the 14th amendment which authorizes either Congress, the Supreme Court, or the executive branch of the Government to deny any individual anywhere within the broad boundaries of the United States any freedom of any kind.

Mr. THURMOND. That is absolutely correct.

Mr. ERVIN. In other words, the equal protection clause operates only to forbid discrimination on the part of the States, which means the State making or applying the laws in different manners to persons similarly situated?

Mr. THURMOND. The 14th amendment, if I interpret it correctly, would prohibit any State from discriminating. But here the different branches of the Government have gone much farther than that. They have gone extremely far, as the distinguished Senator from North Carolina has indicated.

Mr. ERVIN. Well, some people think that usurpation of power by a court is sacrosanct; but if there is a usurpation of power that is more reprehensible than any other usurpation of power, it is usurpation of power by judges who hold office for life, and are beyond the reach of the people of this Nation; is that not so?

Mr. THURMOND. That is true; and there is practically no appeal from the actions of the Supreme Court. Congress could do it, if Congress were so constituted, by impeachment, or by limiting the appellate power of the Supreme Court in certain fields. I would like to see, for instance, the appellate power of the Supreme Court limited in the field of education, or see that field removed from the actions and jurisdiction of the Supreme Court.

Mr. ERVIN. Does not the Senator from South Carolina agree with the Senator from North Carolina that tyranny on the bench is just about as objectionable as tyranny on the throne?

Mr. THURMOND. I thoroughly agree with that; and in this land of so-called freedom, it is most obnoxious to see any individual in any position of power abusing the power of his office as the members of the Supreme Court have done in many instances on these matters.

Mr. ERVIN. Did not the Supreme Court hold, in Brown versus the Board of Education of Topeka, Kans., the school desegregation case, that the equal protection clause of the 14th amendment made it unconstitutional for any State to deny any child admission to a particular school on account of the child's race?

Mr. THURMOND. That is correct.

Mr. ERVIN. I ask the Senator from South Carolina if the Federal courts and HEW are not now engaged in wholesale violation of the equal protection clause of the 14th amendment, in that they deny children the right to attend their neighborhood schools on account of their race, because they have concluded that children of their race are needed somewhere else to integrate a school.

Mr. THURMOND. That is the information that has come to the Senator from South Carolina, and is substantiated from many sources.

Mr. ERVIN. When HEW or a Federal court says to a child, "You cannot attend your neighborhood school because there are too many of your race in that school," or "the mixture of the races does not suit us," or "we need a person of your race to integrate a school somewhere else," are they not denying a child the right to attend a school because of his race, and thus violating the interpretation placed upon the equal protection clause in the Brown case?

Mr. THURMOND. I think the Senator from North Carolina has put his finger right on the issue. I think he is absolutely correct; and in my judgment, some of these days some Supreme Court will reverse decisions now being made, because I believe they are going to realize that not only are the actions being taken now unconstitutional, but they are unwise, impractical, and despotic.

Mr. ERVIN. Did the Senator from South Carolina read a newspaper item, as did the Senator from North Carolina,

several days ago, reporting that a little child in the State of Oklahoma would not board the bus to go to some distant school to which he had been ordered by the court, because his parents had told him not to do so?

Mr. THURMOND. Yes, I did.

Mr. ERVIN. And did not the U.S. marshal take that little child into custody, and take him to the marshal's office and imprison him for the whole schoolday?

Mr. THURMOND. That was the information I understood appeared on the subject.

Mr. ERVIN. I ask the Senator if he did not read, a few days after that, that the court had sentenced the little boy's mother and father to jail for 10 days, because they took the position that they did not want that little child to be bused away from his neighborhood to a school at some distance?

Mr. THURMOND. That is what the newspapers reported.

Mr. ERVIN. I ask the Senator if that is not on a plane with thousands of tyrannies that have been practiced upon parents of schoolchildren of the Southern States.

Mr. THURMOND. I am sure that is correct.

Mr. ERVIN. I presume that the Senator from South Carolina, like the Senator from North Carolina, has received thousands of letters from his constituents pointing out situations of hardship, where either HEW or some decree of a Federal court compels a little child to be picked up, against his will and the will of his parents, and transported to a school far from his home.

Mr. THURMOND. There is no question about it. The Senator from North Carolina is absolutely correct.

Mr. YARBOROUGH. Mr. President, will the distinguished Senator from South Carolina yield to me?

Mr. THURMOND. Mr. President, I am happy to yield to the distinguished Senator from Texas on the understanding that his remarks will appear at the end of my address, and that I not lose my right to the floor.

Mr. BYRD of West Virginia. Mr. President, reserving the right to object, does the Senator from Texas intend to speak on the pending bill?

Mr. YARBOROUGH. No, sir.

Mr. BYRD of West Virginia. About what does the Senator intend to speak?

Mr. YARBOROUGH. It is a matter involving the submission of a report from the Committee on Labor and Public Welfare, together with individual views.

Mr. BYRD of West Virginia. Mr. President, I would have to object, because this is not a privileged matter.

The PRESIDING OFFICER. Objection is heard. The Senator from South Carolina may proceed.

Mr. THURMOND. Mr. President, schools designed as high schools must be converted overnight into grammar schools; "temporary classrooms" are added without supporting facilities such as restrooms, libraries, and cafeterias being sufficiently large to handle the increased enrollment. Parents with three or four children find their children each go to a different school under peculiar grade organizations at the schools. Par-

ents who have bought a home in order to be near certain schools find their children being bused to strange neighborhoods—neighborhoods which parents specifically avoided when buying a home.

Mr. President, we in the South are deeply frustrated over what is happening to our schools. It is not a frustration born of racial prejudice, but from a strongly held conviction that the education of our children is of such great importance—not merely for the present, but especially for the future. In recent years, desegregation has occurred with little or no friction through the use of freedom of choice. Parents could choose which school they wished their children to attend. In some areas freedom of choice resulted in substantial integration. Numerous black students attended formerly all-white schools. But the pace was regulated by the choices of the people involved. Some communities changed little, but in all communities, little or no friction resulted because all citizens—black and white—could choose, and no one was ordered into a radically different situation.

It is a natural desire for parents to wish the best for their own children. It is also natural for parents to wish their children to be brought up in an environment which creates standards similar to their own. Schools are not viewed as instruments of the State to force social changes. When the District of Columbia completely integrated its schools, mixing large numbers of disadvantaged children with middle class students, the middle class left Washington. The public schools of Washington and now—today—95 percent black, and recent surveys indicate that blacks who can afford it are now shifting to private schools. Let us not view Washingtonians who fled the city as bigots. One can have sympathy and understanding for the difficulties of the large number of black children whose environment is substandard without wishing to subject one's own children to the educational problems this background creates.

Mr. President, the amendment before us has been introduced by a southern Senator, and it is cosponsored by a number of southern Senators, including myself. But the problem it seeks to solve will soon be a national problem. Indeed, this amendment is an almost verbatim copy of a law passed by the New York Legislature. People everywhere want to be able to choose an educational environment for their children. They do not wish to see their own children used as pawns in an experiment to raise the standards of others—to the detriment of their own children. If this legislation, or something similar, is not enacted by this body, we will see the Federal judiciary and the Department of Health, Education, and Welfare become super school boards for the entire Nation. The racial composition of schools will have to be reviewed yearly, and student assignment will change constantly. It will become virtually impossible in many areas to choose an appropriate neighborhood with the assurance that the schools will be satisfactory. Cities, and perhaps rural counties, will become ghettos. In many areas, large numbers of citizens will resort to private schools.

Mr. President, even private educational facilities will come under attack. The court of appeals has already ruled that southern private schools which do not meet certain racial criteria are ineligible for tax-exempt status. Parochial schools, which carry a tremendous portion of the educational burden in many States, will become subject to this mania for racial balancing.

The measure before us is not extreme. If adopted, it would not result in a return to a segregated school system. This amendment would, however, prevent our schools from becoming the laboratories of fanatical social reformers and race-obsessed judges. Further, this is not a southern policy, but a policy for the Nation. This vote is important for all of us. Southerners are experiencing educational chaos unparalleled in our Nation's history. Your States will be next. And let me assure you, as you yourselves have avoided placing your children in schools with a large proportion of disadvantaged children, so will your constituents rebel when this is forced upon them.

Mr. President, a vote for this amendment is a vote for education—for quality education. It deserves the support of Senators from all over the Nation—not just the South, but the East, North, and West as well. I urge my colleagues to vote for this amendment.

Mr. President, the Sunday, January 18, 1970, edition of the State newspaper of Columbia, S.C., contained an excellent editorial concerning the forced integration of public schools. It clearly outlines the pending danger to both white and black in arbitrarily placing children in alien surroundings.

The State brings out that courts—impatient with the South's steady, but necessarily slow, desegregation procedures—are now hurting everyone by placing a minority of white children in mostly Negro schools:

When Negro students comprise the bulk of a school, the injection—forcible or otherwise—of a minority of white students provides no benefits to the Negroes and can cause serious learning problems for the whites.

Using for verification "Equality of Educational Opportunity," prepared under the direction of former U.S. Commissioner of Education Harold Howe II, it further states that such situations may be "even less favorable to Negroes than are all-black schools."

As the editorial also says, many presently desegregated schools are rapidly being segregated again when they become between 30- and 35-percent Negro. "And unless and until the Federal Government becomes so dictatorial as to control the physical movement of the citizenry, Americans will continue to 'vote with their feet' by moving from unacceptable conditions."

Thus it shows that courts are willfully "seeking to accomplish by judicial fiat a result which runs counter to human nature."

Mr. President, I ask unanimous consent that this article, entitled "Federal Judges Dictate Destruction of Educa-

tion," be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. THURMOND. Mr. President, the Members of this body should certainly be aware of the extremely difficult situation facing the public school system in South Carolina and elsewhere in the South as a result of recent Supreme Court decisions demanding immediate, forced integration. These decisions have been translated into an order of the fourth circuit which requires two of our counties, Greenville and Darlington, to disrupt their educational programs in the middle of the academic semester for the purposes of wholesale transfer of students to achieve forced integration.

People in Greenville County and Darlington County are greatly distressed at these unreasonable orders and their frame of mind is shared by the rest of the State. On January 27 the Columbia Record, Columbia, S.C., published an editorial entitled "Court Creates School Chaos." This editorial describes the Court as "educationally illiterate" and expresses sympathetic concern for the children and the parents of the children affected by this incredible decision.

Mr. President, I ask unanimous consent that the editorial entitled "Court Creates School Chaos," which appeared in the Columbia Record on Tuesday, January 27, 1970, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

EXHIBIT 1

FEDERAL JUDGES DICTATE DESTRUCTION OF EDUCATION

The Federal judiciary, in its obsession to force racial mixing upon the American people, is threatening utter destruction of the public school system not only in the South but elsewhere in the nation.

The tragic irony of the situation lies in the provable fact that the autocratic judges of the U.S. Supreme Court and the lesser federal courts are defeating, in many instances, the very goal they purport to serve—that is to say, improved education for Negro children.

In South Carolina and in most of the rest of the South, there has been a public acceptance—however grudging—of school desegregation to a far greater degree than is true of many areas of the North, the East, and the West. In district after district, through procedures ranging from freedom-of-choice selections to administrative assignments, Negroes have been admitted in ever-increasing numbers into formerly all-white schools.

But, not content with such obvious progress toward the elimination of legally imposed segregation, the courts now are wielding the awesome legal and financial strength of the federal government to force white children into school situations where they, not the Negroes, are in the minority. The result is not only an impairment of the educational process for the white students but a demonstrable failure to improve the learning of the Negroes.

Numerous public and private studies, including official reports of the U.S. Office of Education and of the Civil Rights Commission, confirm the educational premise that the performance of Negroes is improved, as a general rule, when they are placed among

a majority of white students. (The fact that this, in itself, is a slur upon the capacity of Negroes to advance within their own company seems not to concern anyone, least of all the rabid integrationists who deny the existence of racial distinctions.)

But the main point is this: when Negro students comprise the bulk of a school, the injection—forcible or otherwise—of a minority of white students provides no benefits to the Negroes and can cause serious learning problems for the whites. Indeed, some studies show that such situations are even less favorable to Negroes than are all-black schools. Consider this excerpt from Equality of Educational Opportunity, prepared under the direction of former U.S. Commissioner of Education Harold Howe II:

"The general pattern is an increase in average test performance as the proportion of white classmates increases, although in many cases the average for the Negro students in totally segregated classes is higher than the average for those in classes where half or less of the students were white."

To this finding should be appended the equally demonstrable fact that when a school becomes between 30 and 35 per cent Negro, there rapidly follows an exodus of white students, with the consequence that segregation in reverse replaces the original segregation. And, unless and until the federal government becomes so dictatorial as to control the physical movement of the citizenry, Americans will continue to "vote with their feet" by moving away from unacceptable conditions.

Yet, unseeing and unfeeling federal judges assuming unto themselves an educational omniscience which they obviously lack, act as though they constitute a super school board for all America. Disregarding both the public will and principles learning, this little band of willful men is imposing upon the country its arbitrary will, seeking to accomplish by judicial fiat a result which runs counter to human nature.

If unchecked, the courts will reduce the nation's public schools to a shambles, while earning for themselves and their bureaucratic sycophants in the Department of Health, Education, and Welfare a despised footnote in the history of a nation once described as "the home of the free."

EXHIBIT 2

COURT CREATES SCHOOL CHAOS

Pharisaical legalism of the U.S. Supreme Court has created considerable chaos in a number of Southern schools and the end results, although decidedly not momentarily healthy, are not discernible.

Ignoring a basic truism of the law as a social instrument, the Court imperiously and thoughtlessly ordered school desegregation throughout the South—"now." It seems so easy, so simple—that "now."

"Now" has been properly translated by district judges, in view of the higher court's definition of the term, into "immediate." Which means that school districts in South Carolina and elsewhere are being forced to disrupt the whole educational process in mid-academic year.

What, therefore, are some of the truths that all must face?

(1) The Supreme Court, as the highest judicial body in our country, has decreed that immediate integration must occur.

(2) Performing as they must, Federal judges are ordering school systems to become "unitary" (that is, indistinguishable by race) in students, facilities and faculty at mid-year.

(3) School boards and superintendents are, necessarily, following court dictates and trying to implement court orders for immediate integration.

(4) The entire educational process and the human beings involved—particular the

children—are suffering under the legalistic dictation. Irreparable damage is being done to children, parents and faculty; damage that will linger in memory throughout the lives of thousands.

(5) The Court's pharisaical judgment was simplistic and educationally insane.

(6) Distraught parents, both white and black, have descended on appointed and elected officials, seeking redress of grievances. They are blaming the wrong people when they confront Congressmen, governors, school board members and superintendents.

(7) Governors can invoke their legal authority and appeal to the Supreme Court, as did Governor Claude Kirk of Florida. There is nothing dishonorable or dishonest about an appeal to the Court for temporary relief, despite the Court's hostility.

(8) Congress has done all that is possible, without success. Just last week, Senator Richard Russell of Georgia—one of the nation's most respected legislators—told an aggrieved group of Georgians that he had exhausted all Federal legislative remedies. He told the Georgians that every weapon at his command had been used and that his arsenal was exhausted. Congress cannot provide relief, now.

(9) Barring unforeseen developments, many school districts in South Carolina will begin their agonies in September, the beginning of the next academic year—if they are fortunate. This time period will give the districts time to prepare for the vastly complex process of "now" integration.

(10) The degree of suffering on the part of both whites and Negroes—children and adults—will vary from district to district, usually in direct proportion to the percentages of minorities (whether white or black) in the districts.

(11) Some districts will adjust without any strain; others will integrate with minimal stress; others will make the transition with immense difficulty, but emerge with the school systems intact.

(12) Some districts, particularly near larger communities, will either immediately or in time become overwhelmingly of one race, whether white or black.

(13) Some districts will watch the establishment of private academies, generally but not always white, and public schools will become predominately, if not wholly, Negro.

(14) The Supreme Court will be forced, reluctantly, to eradicate the distinctions between de jure and de facto segregation; and that decision will be the most important one for South Carolina and the nation, when it comes.

In the interim, obedience to the law has been, is now, and will be the guiding principle of this newspaper. Within the law, and only within the law, should redress be sought.

The personal agonies of parents, teachers and children are very real, very genuine and very emotional. A simple pronouncement that "the South has had 16 years" and should have no disgruntlement over "now" integration is utterly foolish. The South, and South Carolina in particular, has adhered to the letter of the legislative, judicial and administrative law since the first real movements toward desegregation of the schools began.

Careful students of the Federal desegregation process are critically aware of the historical alterations of Federal demands (often equivocal) upon school districts. There have been many changes; many understandings; even more misunderstandings.

A critical juncture in education has been reached not only for South Carolina and the region, but for the nation. The crisis has been created by an educationally illiterate Court by a grievously legalistic dictum that ignored the social nature of the law.

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

The PRESIDING OFFICER (Mr. JORDAN of Idaho in the chair). 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.

AMENDMENT OF FEDERAL CREDIT UNION ACT

Mr. SPARKMAN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 2.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 2) to amend the Federal Credit Union Act so as to provide for an independent Federal agency for the supervision of federally chartered credit unions, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. SPARKMAN. I move that the Senate insist upon its amendment and 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 appointed Mr. SPARKMAN, Mr. PROXMIER, and Mr. BENNETT conferees on the part of the Senate.

ORDER FOR ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon tomorrow.

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

(Subsequently, the Senate modified this order to provide for an adjournment until 11 o'clock a.m., tomorrow.)

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969

The Senate resumed the consideration of the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes.

Mr. TYDINGS. Mr. President, I ask unanimous consent that my amendment No. 459 be made the pending business.

Mr. PELL. Let me say to the Senator from Maryland that it already is.

Mr. TYDINGS. I thank the Senator.

Mr. JAVITS. Mr. President, does the Senator wish the floor?

Mr. TYDINGS. I yield the floor.

Mr. JAVITS. Mr. President, it is my understanding that the Bureau of the Budget has objections to this particular provision and, hence, that the Department of Health, Education, and Welfare must express objection to it.

I have given this matter consideration myself and it seems to me it is one of those situations in which we in the Sen-

ate have to judge whether the objections on the part of one of the Government departments are justified.

I have not heard enough for myself on this matter to substantiate the objection. I point out that the amendment offered by the Senator from Maryland (Mr. TYDINGS) does, to some extent, at least—perhaps totally—represent a problem which the Senator from Virginia (Mr. SPONG) is trying to reach.

My own inclination, subject to the views of the Senator from Colorado (Mr. DOMINICK) if the Senator from Maryland (Mr. TYDINGS) is willing, is to accept the concept which he has, with the understanding that as we amalgamate the ideas with respect to the bill, we will do our best to retain what ideas we can in conference. But I would not wish to be inflexibly committed in conference to the precise amendment to the bill, but that we would accept the idea. There is a lot in the idea. We will do our utmost, in the context of weaving in the ideas together in settlement with the House, to go as far with it as we can. Sometimes, Members insist that we be absolutely tied to an amendment adopted, and staying with it in the conference, come what may. I could not make that agreement with respect to this amendment. I respect it. It seeks to serve a desirable end. I would be willing to take this as, again, an element in whatever plan on this particular subject we work out with the House.

Mr. DOMINICK. I want to say that I subscribe to what the Senator from New York has just said. I say to the Senator from Maryland that one of the problems which has been brought up with his amendment is the possibility that some of the districts might take some of the money which has been appropriated, hold it, and then pyramid it in an effort to do something with the funds which was not within the original intent of their use.

I do not think that would be the widespread practice, but it is one of the things which has been brought up as an objection to the Senator's idea. I do not think, at the moment, that point is serious enough to warrant any kind of extended discussion, but I do think that we should remain flexible in conference.

Mr. TYDINGS. I should like to continue the discussion for a few minutes with the Senator from Colorado and the Senator from New York.

The original amendment which I had offered had no time factor in it. It was just an open-ended authorization. At the suggestion of the subcommittee's chairman, the Senator from Rhode Island (Mr. PELL), we limited it to a period of actually 2 fiscal years. We did not even try to tie it into 1970.

Mr. President, I do not wish to press the amendment to a rollcall vote, but I would be interested in the thoughts of the Senator from Colorado (Mr. DOMINICK) as to just whether he will actually try and come up—in the final version of the bill, after it comes out of conference—with something that will at once protect the school districts from this really almost impossible thing of trying to spend money they have not planned for and if they do not spend it, there remains the

threat of having it taken back by Uncle Sam, which produces confusion and waste in valuable programs.

Mr. DOMINICK. I completely subscribe to what the Senator has said about this being a problem. He is absolutely right. I have had the same discussions with my own school people at home. The question is would the money be used for programs which the Congress intended or would school districts hold it over in order to use it in another form, in another pattern. I do not really think this is serious enough to warrant even arguing about. Insofar as the Senator is concerned, I assure the Senator that I will do what I can to try to alleviate the problem.

Mr. TYDINGS. Mr. President, under the assurances of the Senator from Colorado and the Senator from New York, I shall not press for a ye-and-nay vote on the amendment. I will take their assurances.

Mr. President, I move that the Senate adopt the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland.

The amendment was agreed to.

Mr. JAVITS. 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. PELL. Mr. President, ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 482

Mr. DOMINICK. Mr. President, I call up my amendment No. 482 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

On page 111 strike out the caption on line 19 and all that follows through line 15 page 115.

The language sought to be stricken is as follows:

INCLUSION OF CHILDREN RESIDING IN LOW-RENT PUBLIC HOUSING AS FEDERALLY CONNECTED CHILDREN

SEC. 203. (a) (1) The second sentence of section 15(1) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by striking out "and (B)" and inserting in lieu thereof "(B) any low-rent housing (whether or not owned by the United States) which is part of a low-rent housing project assisted under the United States Housing Act of 1937, and (C)".

(2) The fourth sentence of such section 15(1) is amended (A) by striking out the comma before "(B)" and inserting in lieu thereof "and", and (B) by striking out all that follows "postal services" and inserting in lieu thereof a period.

(3) Section 5(c) of such Act is amended by striking out all that follows the word "agency" and inserting in lieu thereof a period and by inserting at the end thereof the following new sentence: "In determining the eligibility of a local educational agency under this subsection and in determining the number of federally connected children who are in the average daily membership of the schools of such agency during a base year and in estimating the increase

since the base year in the number of such children under subsection (a), children residing on any housing property (whether or not owned by the United States), which is part of a low-rent housing project assisted under the United States Housing Act of 1937, shall not be considered as having been federally connected during the base year if such housing project was begun after the base year 1964-1965."

(b) (1) The second sentence of section 303(1) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by striking out "and (C)" and inserting in lieu thereof "(C) any low-rent housing (whether or not owned by the United States) which is part of a low-rent housing project assisted under the United States Housing Act of 1937, section 516 of the Housing Act of 1949, or part B of title III of the Economic Opportunity Act of 1964, and (D)".

(2) The fourth sentence of such section 303(1) is amended by striking out "(A) any real property used for a labor supply center, labor home or labor camp for migratory workers, (B)" and by striking out all that follows "postal services" and inserting in lieu thereof a period.

(c) (1) The amendments made by subsections (a) and (b) shall be effective after June 30, 1970.

(2) For the purposes of section 5 of such Act of September 23, 1950, the number of children in the membership of a local educational agency residing in a low-rent housing project assisted under the United States Housing Act of 1937 during the years of the base period preceding the effective date provided in paragraph (1) shall be determined by the Commissioner on the basis of estimates.

(3) Notwithstanding any other provision of law to the contrary, unless enacted after the enactment of this Act specifically in limitation of the provision of this paragraph, if the sums appropriated for any fiscal year ending after June 30, 1970, and prior to July 1, 1972, for payments to local educational agencies under sections 2, 3, and 4(a) of title I of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), are not sufficient to pay in full the total maximum amounts which the Commissioner estimates for which all local educational agencies are eligible to receive under such sections 2, 3, and 4(a) for that fiscal year, the Commissioner shall allocate such sums under subparagraphs (A) and (B) as follows:

(A) He shall first allocate such sums appropriated for any such fiscal year among such sections 2, 3, and 4(a) in the proportion that he estimates to be required under each such section bears to the total amount estimated to be required under all such sections, except that—

(i) for the purpose of estimating the amount to be required under such section 3, he shall not take into consideration any portion of the amount for which a local educational agency is eligible which is attributable to determinations of children residing in low-rent housing which is part of a low-rent housing project assisted under the United States Housing Act of 1937, section 516 of the Housing Act of 1949, or part B of title IV of the Economic Opportunity Act of 1964; and

(ii) no local educational agency shall receive a payment under this subparagraph (A) which is in excess of the payment it received under such sections 2, 3, and 4(a) for sums appropriated for payments under such sections for the fiscal year ending June 30, 1970.

(B) He shall then allocate any remaining part of such sums appropriated for any such fiscal year among such sections 2, 3, and 4(a) for payments to local educational agencies which are eligible for payments in excess of the amounts they receive under the allocation provided in subparagraph (A), in the

proportion that such remaining part of such sums bears to the amount he estimates to be sufficient to pay local educational agencies the total maximum amount for which they are eligible under all such sections.

Mr. DOMINICK. Mr. President, I am using this amendment as a means to alert the Senate and the members of the public to the major change this bill would make in the impacted aid program.

As Senators know, the impacted aid program is now based on Federal activity which causes more children to move into the school district. For this the Federal Government puts money into the school district.

The pending bill would add a provision to include the funding of children from public housing units. By adding public housing children for the first time, the bill would increase the impacted aid program on July 1 of this year by 36 percent. This is the same program four Presidents have attempted to reduce, that has not been fully funded for the past 2 years, and is now one of the focal points in the compromise being developed since the veto of the Labor-HEW appropriations bill.

I recognize there are serious financial problems in getting an adequate education for children in public housing. They obviously are from low-income families or they would not be in public housing. More often than not, they are probably educationally disadvantaged. I do not think there is any doubt the cost to educate these children is or should be higher per pupil than for the average child because of their special educational needs. The impacted aid program, however, is not the approach to use in meeting those needs.

The weakness of the arguments advanced for adding public housing to the impacted aid program are perhaps best illustrated by the fact that in the 443-page committee report on this bill only one-half page is devoted to explaining the public housing addition. Yet, the inclusion of public housing in this program is estimated to cost \$236 million the first year.

Of particular importance to the debate on public housing is the Battelle Institute report released on January 9, 1970. The record should show, in all fairness to our committee, that the Battelle study was not available to us when we ordered the bill reported to the floor at a meeting of the full committee last December. In short, the Battelle Institute report came out after our committee concluded action on the bill but before our committee report was filed on January 21.

The Battelle Institute study was provided for by Congress in Public Law 90-557 to conduct an evaluation of the programs of school assistance in federally affected areas. The cost of this study to the American taxpayer was \$179,480.

The report is critical of the existing impacted aid program. Colorado, of course, is one of the beneficiaries of the present program. Let me emphasize, however, that I am certainly willing to participate in Senate hearings on the merits of the entire impacted aid program. No doubt, there are inequities and abuses under the present formula, and I understand new legislation partially

based on the Battelle report is now being drafted by the administration.

The debate last Wednesday was devoid of comment about the Battelle Institute findings on public housing problems. I think this is important since this portion of the Battelle report states that its purpose was "to consider the characteristics of public housing as they relate to the purposes of the impact aid program." I will comment on the Battelle Institute report in more detail in a moment, but first let me read the conclusion as respects public housing.

There would appear to be no satisfactory reason for broadening the Impact Areas Program to encompass children occupying public housing units. If Congress and the Administration are concerned with problems of large city education, they will find that the most appropriate vehicles for implementing that concern are outside the scope of a reasonable impacted area program.

In other words, consideration of some form of Federal financial assistance is in order, but public housing should not be added to the impacted areas program. The report did mention two other alternatives: Title I of the Elementary and Secondary Education Act which already has a distribution formula targeted toward disadvantaged children, and which Battelle rates as a "clearly superior" approach to using impact aid; and some formula utilizing Federal housing funds.

I would respectfully suggest to my colleagues that the real question before us today is not whether any Senator is for or against children who live in public housing. The real question is what approach should be taken to alleviate the financial problems of school districts containing public housing units, and whether the U.S. Senate is going to ignore a \$179,480 study which it requested which recommends against the approach used in the committee bill.

I would like to turn now to several issues which need clarification.

**PUBLIC HOUSING IS NOT IMPOSED BY THE
FEDERAL GOVERNMENT**

In the debate on Wednesday, proponents of the measure, including public housing in impacted aid, repeatedly referred to public housing as "Federal housing," and various decisions made by the Federal Government in relation to this housing. I gather the rationale of such assertions is to attempt to show any burden on the school district is caused by Federal activity.

In fact, however, public housing units are normally owned by local housing authorities, not the Federal Government. It is not the Federal Government which is removing land from the tax rolls.

Notably, the Battelle Institute report says:

The fact that the public housing units are not owned by the Federal Government means that public housing differs considerably from the housing which normally gives rise to entitlements under the Impact Aid Program.

It is true public housing units are exempt from taxation. Who made the decision to build and take the land off the tax roll? Local government. Again, let me refer to the Battelle Institute report:

Another factor worthy of consideration is that public housing projects have been constructed in response to local government decisions to build such projects under ground rules that were known in advance to them. In this sense, the public housing impact has not been imposed upon the local area in quite the same way that the Federal Government can buy land and build a new military base without the consent of local government.

Another argument advanced by the proponents is that public housing draws children into a school district with the resulting increase in cost for the district. Obviously, a public housing unit tends to concentrate in one location within a school district children of low income families. Recognition of this is given under the title I formula which is totally separate and apart from the impacted aid formula. Whether a public housing unit also draws children across school district boundary lines is another matter. Listen to the language of the Battelle Institute report:

Public housing clearly does not have the impact of drawing significant numbers of additional students into a school district. Because of long public housing waiting lists in many communities and the need to be a community resident to get on the waiting list, public housing cannot draw persons to a community who would not otherwise be there. Recent migrants may ultimately be housed in public housing after having been drawn to a community by higher welfare payments or presumed greater job opportunities, but in that case the welfare payments or the presumed job opportunities, not the public housing, are the force attracting the new students. . . .

Thus, we conclude that the construction of public housing units does not normally have a significant effect upon the costs of providing education in individual school systems.

That situation is in marked contrast to the obvious shifts of children between school districts under present law where the Federal Government will pay the added costs of a military dependent who has moved to a school district because the added costs of educating that dependent would not have occurred except for the action taken by the Federal Government.

The only Federal connection with public housing is that financial assistance in the form of loan guarantees and similar items is provided to local housing authorities.

LOSS OF TAX BASE

Another argument made by proponents of the measure to include public housing in the impacted aid program—again in an effort to make some analogy to the theory of impacted aid—is that there has been a substantial revenue loss to the school districts since the land is tax exempt. Battelle considered this both from the point of the public housing site, and the former residence.

One problem with the theory with respect to the public housing site is that considerable public housing was constructed on land already owned by the local government and already tax exempt.

Considering the former residence, some have argued that the way to measure the revenue impact on a school system is to take the average residential tax

base per pupil in the district and multiply it times the number of pupils who move from private to public housing. Such a theory is based on the assumption that the Federal Government is responsible for the fact that public housing families do not contribute average residential taxes. According to Battelle, this theory would provide a revenue loss to a community on the order of \$150 to \$400 per public housing pupil. Battelle then points out:

The assumption is, of course, false. Public housing families are not average. Eligibility criteria for public housing require that these families be substantially below average incomes in the community. Families do not move out of 4-bedroom 2-bath newer homes and into public housing. These families tend to move out of quite poor housing—poor in terms of housing quality and poor in terms of taxes that can be levied on it.

On the basis of a most generous analysis of the possible loss of tax revenues involved in a move from private to public housing, Battelle found a figure of under \$100 per pupil—a special study in New York City produced a figure of \$70—compared to a payment of over \$200 which would be produced under this provision.

Thus, the average payments under the committee bill for public housing would be over twice the average loss of tax revenues involved in a move—if there is such a move—from private to public housing. Frankly, adjustments in discrepancies now found between the payments made in lieu of taxes by local public housing authorities and real costs could better be adjusted through housing funds than through education funds.

**EXTRAORDINARY DISPARITIES IN PUBLIC HOUSING
BENEFITS**

Another factor which should be brought to the attention of the Senate is the extremely erratic pattern in the payment of benefits which the public housing provision in the committee bill would bring about.

First, let us look at it on a State-by-State basis and then city-by-city.

Not only would the provisions widen the differences between rural and urban areas, and between agricultural and industrial States, it is even erratic between States with similar disadvantaged populations.

Nevada, New Hampshire, and Vermont have an almost identical low-income population. However, Nevada would receive approximately six times more funds than Vermont, while New Hampshire would receive eight times more than Vermont.

Virginia and Colorado have almost identical numbers of low-income children, but Colorado would receive \$1.6 million if this is fully funded and Virginia \$4.5 million.

It is not enough to answer that obviously public housing is concentrated in the cities. Let me again quote from the Battelle Institute report:

If inclusion of public housing is considered as a way to assist the big cities with educational problems, it provides extreme disparities in assistance. It is difficult to find a rationale that would indicate that big city problems in Boston are so much worse than those in Los Angeles that Boston should

receive 11 times as much per pupil as Los Angeles. Likewise it is difficult to imagine that Nashville differs from Louisville so much as to justify payment some 9 times as much per disadvantaged pupil residing in Nashville as in Louisville. These perverse distributions result from the fact that the incidence of children in public housing is only remotely related either to the total educational problem of large city systems or to the disadvantaged children in various systems.

In short, if the problem to be solved is big city education or education of the disadvantaged it will always be both more equitable and more efficient to address those problems directly rather than trying to address them through public housing allocations under impact aid.

DILUTION OF EXISTING IMPACT AID

As I mentioned previously, inclusion of public housing pupils within the impacted aid program will increase the present program by 36 percent. Under the bill as reported by the committee, public housing students would be mixed into the present group of children known as section "B" students.

Impact aid funds have not been fully appropriated for the last 2 years. Each year the number of students within the present impact aid program increases with a resultant need for increased funding. Consequently, the fact that the committee bill provides a so-called grandfather clause assuring that public housing will draw upon only those funds in the future which are an increase over the fiscal year 1970 funds is of little comfort to many school districts.

In the future, those States whose public housing entitlements are less than 36 percent of their regular entitlement will obviously receive a proportionately smaller share of Federal assistance unless the program receives full funding.

With the recent bouts we have had concerning the funding of the impact aid program, my guess would be that full funding is an uphill battle and inclusion of public housing will necessarily dilute the existing impact aid program.

CONCLUSION

To conclude, Mr. President, I want to again emphasize I am not against consideration of some form of financial relief to school districts which contain public housing. I think the record is clear that the impact aid program is not the way to do it.

Other Senators know the concern I have expressed in the past with the equities involved in the existing Federal aid program for educationally disadvantaged students from low-income families—title I of ESEA. Nevertheless, I am inclined to feel that the Battelle Institute referral of our attention to that program as one possibility for meeting the needs in public housing has considerable merit.

To be perfectly truthful, since they are low-income housed people, they will be included in the school district in determining the amount for that district so that the district should get a proportionately higher share of title I funds.

I think it would be worth exploring how many children now in public housing are already eligible to be counted by the local educational agency in getting Federal funds under title I. It is my information that as long ago as 1960, approxi-

mately 30 percent of public housing non-elderly families received under \$2,000 annual income and approximately 59 percent were under \$3,000 annual income. These are, of course, the low-income figures utilized in title I eligibility.

Another point. I think it would be worth exploring how many children in public housing are members of families which are receiving AFDC payments under the welfare program, which would also make them eligible to be counted in calculating title I benefits. It is my understanding that on December 31, 1968, approximately 30 percent of the nonelderly families in public housing were receiving relief and the bulk of this relief involved AFDC payments.

I noticed that the Senator from Missouri (Mr. EAGLETON), who is present in the Chamber now, mentioned on Wednesday that perhaps the real problem with public housing lies in the way we finance our schools, particularly with respect to local property taxes. I would again take this opportunity to point out for the RECORD the amendment offered by myself and Senator MONDALE requiring some concentrated Federal research under the Cooperate Research Act on the problems of elementary and secondary school finance, and creating a National Commission on School Finance.

Our school finance amendment certainly will take into consideration the implications of public housing on school finance.

I reiterate, however, that we just spent \$179,480 to study the impacted aid program and make recommendations to the Congress. It does not make sense to me to reject the recommendations made by that study when they have not only been released within the past few weeks and were not before the committee when the present bill was reported to the Senate.

Mr. President, I ask unanimous consent that there be placed in the RECORD at this point a memorandum from the administration pointing out the fallacies of including public housing within impact aid. I also ask unanimous consent that chapter 9 of the Battelle Institute report dealing with public housing—be printed in the RECORD.

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

REASONS FOR OPPOSING THE PUBLIC HOUSING AMENDMENT TO PUBLIC LAW 874

1. *Public housing cannot be considered a federally imposed burden.*

Public housing authorities are State or locally controlled units. The Federal Government simply provides a substantial portion of the money needed to carry out a policy desired by local authorities.

2. *There is no real "impact" on a local school district created by public housing.*

No evidence exists to show that public housing attracts poverty families to an area or causes an influx of poverty children into a school district where they did not already reside.

3. *If this amendment is considered a correction to present in-lieu of taxes payments by local housing authorities it substantially overcompensates on the basis of even the most liberal projections of a fair in-lieu payment.*

The payments under this amendment would be over twice the possible loss of tax revenues

involved in a move from private to public housing.

4. *There would be an extremely erratic pattern in the payment of benefits under this amendment.*

Because of the optional nature of public housing, certain areas have participated in the program much more extensively than others. In addition to the benefits under the public housing program already received, the heavy user areas would now receive an additional windfall. The payments to different areas would have no real relation to either school enrollments or level of poverty.

5. *This amendment could have a distorting effect upon public housing policies.*

The bonus which would be paid under the amendment might well encourage more public housing units rather than upgrading private housing and could also result in maximizing the number of children housed in such units. Local priorities could be easily distorted by the promise of more money.

6. *No benefits are assured the children for which the payment would be made, or for any of the children in the district.*

As a part of P.L. 874 the funds would go into the general school district treasury. In most programs for the disadvantaged it is considered important to direct the payments or programs to such groups to assure service or concentration of efforts on their behalf. These funds could simply provide tax relief and no additional programs for the district.

7. *The Public Housing amendment would ultimately have a distorting effect on existing impacted districts if the impact program is less than fully funded—a pattern of the last few years.*

The added eligibility would distort the authorization base and alter the relative relationships among districts under any pro-rata reduction of funds.

8. *Substantial numbers of the children in public housing are already counted for purposes of Title I of ESEA under either the family income or AFDC factor.*

In 1960 some 29 percent of public housing non-elderly families received under \$2,000 annual income while approximately 59 percent were under \$3,000 annual income. On December 31, 1968, approximately 30 percent of the non-elderly families in public housing were receiving relief and the bulk of this relief involved AFDC payments.

CHAPTER 9: THE ISSUE OF PUBLIC HOUSING STUDENTS BACKGROUND

For some 30 years, the federal government has assisted local governments in building public housing units. Besides encouraging the construction of these units the federal government also administers a variety of programs such as rent supplement and low-interest-rate loans designed to expand the supply of safe, decent, and sanitary housing for persons with low and moderate incomes. Under all of these programs, the owner of the housing is normally not the federal government. In the case of public housing units, the owners are local housing authorities that finance the construction of the units through federal guarantees of payment of the debt service on bonds issued by the local authority. Operating costs of the units are usually covered by the rent paid on them, although many local housing authorities are beginning to find that their rents are insufficient to cover operating costs.

The fact that the public housing units are not owned by the federal government means that public housing differs considerably from the housing which normally gives rise to entitlements under the impact aid program. The government housing that gives rise to impact aid entitlements is government housing created for reasons ancillary to the performance of another function. Ex-

amples are housing for rangers in national parks and housing for military personnel on military bases. For this reason, and because the federal government did not own properties directly, public housing has never been counted as a part of the federal property used for purposes of calculating P.L. 874 entitlements.

This situation has been under attack, primarily by representatives of large-city school districts. The case which these representatives make can be roughly summarized as follows:

"In many cities, public housing units reflect a substantial portion of the homes of pupils. These public housing units are by law exempt from taxation. The payments in lieu of taxes made by local housing authorities are first divided among school authorities and other taxing authorities, and second are available only in quantities which are clearly below the cost of educating pupils who come from these properties."

This logic, plus the obvious financial significance of including public housing in impact aid entitlement calculations produced considerable interest among large-city school leaders in including public housing in the impact aid program.

One approach to the desirability of including public housing in the impact aid program would be to ask simply whether or not the districts which would receive such revenues need them, and if the finding is "yes" to conclude that any program (of which impact aid may be one) that increases federal payments to them would be desirable. The purpose of this study is not, however, to pass judgment on these questions of overall policy, but rather to consider the characteristics of public housing as they relate to the purposes of the impact aid program. This, in turn, requires analysis of the economic impact of public housing on the revenues and costs of school systems.

ANALYSIS OF BURDEN

From Chapter 2 it will be recalled that one approach to the measurement of the burden of federal activities looks directly at the added costs that the activity imposes upon a school system and subtracts any added revenues stimulated by the activity to calculate the appropriate entitlement. This approach we have called the *service burden* concept. In applying this concept to public housing, it is important to focus carefully upon the specification of the federal activity involved.

There can be little question but that the costs of educating the children who live in public housing units are (or should be) higher than educating other pupils in a school district. One impact of public housing is to concentrate in one area a large number of school-age children, frequently the children of mothers who are recipients of AFDC (welfare) payments. These children have educational problems which are generally conceived to be more serious than the problems confronted with residents of privately owned housing. These children, who are normally referred to as the "disadvantaged", tend to have a higher incidence of health, emotional, and mental problems than those in other income and socioeconomic groups. In addition, the school's task in the areas of both health and education are magnified by the fact that somewhat less work is done with these children in the home than is the case for the average school child. Under these circumstances there is no doubt that the public housing students represent a problem for a school district.

Under the service burden concept of impact aid, however, these added costs of educating public housing pupils are only relevant if they are caused by the federal activity upon which payments are to be based. The federal government pays the added costs of a military dependent moved to a school dis-

trict in Texas because the added costs of educating that dependent would not have occurred in that Texas district except for the action taken by the federal government.

Unless one assumes that the federal government is responsible for all disadvantaged children¹ then the relevant question becomes: Does the federal public housing program cause all or some of these children to be residing in a particular school district rather than some other school district? The answer is that public housing clearly does not have the impact of drawing significant numbers of additional students into a school district. Because of long public housing waiting lists in many communities and the need to be a community resident to get on the waiting list, public housing cannot draw persons to a community who would not otherwise be there. Recent migrants may ultimately be housed in public housing after having been drawn to a community by higher welfare payments or presumed greater job opportunities, but in that case the welfare payments or the presumed job opportunities, not the public housing, are the force attracting the new students.

A very limited exception to these conclusions may arise where public housing is made available to residents of a particular metropolitan area in a school district different from the district in which they have been living. This situation would arise, for example, if a suburban community were to begin to construct new public housing units to provide for low income persons formerly living in the central city. Predictably, suburban communities have been reluctant to organize housing authorities for this purpose.

Even if public housing did not directly cause new students to move into a school system, it could be argued that new students were an indirect effect of the public housing. If, for example, there were a low income housing "shortage" and major public housing expenditures tended to make privately owned units (out of which the public housing occupants might have moved) more readily available, perhaps families would be drawn to the community by the availability of this housing. However, in any given time period the pace of public housing construction in most cities is sufficiently small so that it is difficult to imagine this effect upon the community's total housing stock. Equally important, it is doubtful that a slight reduction in housing costs in major cities would leave a situation where a family could reduce its housing costs by migrating out of such low housing cost areas as Appalachia and the rural South.

Thus, we conclude that the construction of public housing units does not normally have a significant effect upon the costs of providing education in individual school systems.

Public housing may have one relatively minor impact in that it shares with any large-scale residential construction activity the impact of changing the location of personnel to be served by schools. Frequently, the location decisions made by public housing authorities will not relate to the past planning and school construction situation of the school district in which public housing is to be located.² Under this circumstance it is possible that expenditures may be required for the construction of new schools to serve public housing students. On the

¹In which case the ESEA Title I formula should be expanded to include all costs of educating such children, as expanding impact aid fails to cover disadvantaged students not living in public housing.

²Of the 513 districts responding to Battelle's questionnaire and having public housing projects in their community, only 47 reported that they had participated in any phase of planning of new low rent public housing projects in the past 3 years.

other hand, new public housing projects may redistribute school age children away from crowded schools in the district and toward schools that otherwise would not be filled. In any case, this impact is relatively minor as school districts have already made adjustments to housing units constructed in the past and current housing policy calls for more scattered sites rather than the large public housing projects of the past.

Based upon the fact that construction of public housing does not normally cause students to move into a school district, the impact aid principles would indicate that the federal government should not bear the costs of educating public housing students except to the extent that such payments may be required to offset tax losses.

IMPACT ON REVENUES

The Public Housing Site. When public housing is constructed, land is occupied that otherwise could be used for some other purpose. It is possible to compare the taxation on the land before the housing was constructed with the payments in lieu of taxes paid on the public housing to determine whether a school system has been made better or worse off by the new use of the land. Various comparisons of this type have been made in the past. Partly because considerable public housing was constructed on land previously owned by local government (and thus tax exempt) these tended to show that the public housing payments compared favorably with taxes paid on the land before it was used for public housing.

Of course, this before and after comparison is not necessarily the relevant one. The real problem is to compare the payments made in lieu of taxes on the site in a particular year to what those payments would have been if there had been no public housing. This question then raises the speculation of whether, had the site not been occupied by public housing, a site might have been used for high value industrial property. However, even this speculative comparison does not exhaust the economic issues involved. For example, a site might be used for public housing and thus, preclude its use for industrial purposes. However, it is entirely possible that the potential industrial user simply located somewhere else in the same community, in which case the community still reaps the taxes from the industry, despite the preemption of the site by public housing.

The Former Residence. Assuming the most serious possible impact on tax base, suppose that when a family moves from a tax paying piece of property to public housing, the entire value of the previous residence disappears entirely from the tax rolls and thus that tax on that property is no longer available to support the schools. Given this assumption, it has been argued that the revenue impact on the school system is to lose the average residential tax base per pupil in the district for every pupil who moves to public housing. If calculations are made on this basis it can be shown that the revenue losses from having pupils move into public housing is substantial—on the order of \$150-\$400 per pupil. Some arguments for basing impact aid entitlements on public housing have proceeded on this basis, in effect indicating that the federal government is responsible for the fact that public housing pupils do not contribute average residential taxes.

The assumption is, of course, false. Public housing families are not average. Eligibility criteria for public housing require that these families be substantially below average incomes in the community. Families do not move out of four bedroom-two bath newer homes and into public housing. These families tend to move out of quite poor housing—poor in terms of housing quality and poor in terms of the taxes that can be levied on it.

A reasonable illustration can be easily constructed. In a Northern city a family moving

into public housing may well have come from one "apartment" in a single house that has been broken up to serve three separate families. Typically such a dwelling may have a real value (in market terms) of, say, \$15,000. Its assessed value would be some lower amount, reflecting standard practice of assessing at less than true value. With an assessment ratio of 40 percent (as in Cleveland, Ohio) the assessed value would be only \$6,000. At a comparatively high tax rate of 40 mills for school purposes this would indicate school taxes of \$240 on the entire property, or some \$80 per year for each of the three families. Assuming two children in the family to move to public housing, the loss of tax would be on the order of \$40 per child—a figure closer to the payments in lieu of taxes on public housing than to the \$200–\$350 per pupil that would be paid if students were counted as being part of the impacted areas program.

To check these calculations, Battelle did a special study of residential taxation in New York City. With the cooperation of New York housing authorities a residential area (co-terminous with an elementary school attendance area) was chosen for study because it represented the prior address of a number of New York public housing tenants. The number of public school students living in the area—all of which is privately owned housing—was calculated and divided into the total school property taxes paid by all residential property in the area. The results indicated that these property tax payments (including properties occupied by families without any children in public schools) amounted to about \$70 per pupil.

In the real world of assessment practices, it is unrealistic to assume that the movement of a family toward public housing will remove the former dwelling from the tax rolls. Even in the extreme case where the private housing is torn down, the land remains on the tax rolls. Where the dwelling remains standing, even if unoccupied, the assessment will not change for many years.

In-lieu payments. Respondents to Battelle's questionnaire (that was transmitted only to those districts that now receive P.L. 874 funds) indicated their payments in lieu of taxes from public housing and the number of students in public housing when they knew them. Based upon those respondents (accounting for some 922,044 students) the average per pupil payment in lieu of taxes was \$10.33 annually.

CONCLUSION

The above analysis would tend to indicate that the payments in lieu of taxes made by public housing authorities do tend to understate the probable tax loss associated with public housing projects by an amount that is likely to be somewhat less than \$100 per pupil. It is probable that these in lieu payments also understate the probable tax loss to taxing jurisdictions other than schools such as county and city governments. This problem, to the extent that it exists, is therefore a problem involving the interaction of public housing policies and local taxing jurisdictions of all types.

Whether these in-lieu payments should be increased is a question that cannot appropriately be addressed by this report. In part the question involves whether increased in-lieu payments would be a more appropriate use of federal housing funds than other possible uses. In part, the question involves a series of indirect transfers within the federal budget. If in-lieu payments were increased either local housing authorities would have to increase rent (which should over time cause welfare payments to rise to meet the added costs for the large percentage of public housing residents that rely upon such payments) or the federal subsidy to the authorities would have to be increased.

The implication of this analysis for impact aid payments is that it would be inappro-

priate to blanket public housing pupils into the present impact aid program. The cities in which public housing is concentrated tend to have local contribution rates in the neighborhood of \$400 per pupil, which would indicate a federal payment of \$200 per pupil for each public housing child, assuming that unemployed parents were presumed not to be working on the federal property. Such a payment would be excessive in terms of net burden concepts.

The payment of a smaller amount, e.g., something less than \$100 a pupil, would be possible, but it would be more appropriate to make that payment through housing appropriations than education appropriations. The impact aid local contribution rate is geared primarily to estimating the additional costs of educating pupils, while the justification for public housing payments would have to be some kind of a tax loss concept.

Another factor worthy of consideration is that the public housing projects have been constructed in response to local government decisions to build such projects under ground rules that were known in advance to them. In this sense, the public housing impact has not been imposed upon the local area in quite the same way that the federal government can buy land and build a new military base without the consent of local governments.

On the whole it would seem that if public housing is to be considered as a federal impact, the payments should not be made under the same formula as regular impact aid and probably should not be made with federal education funds rather than federal housing funds. This conclusion is fortified by the analysis in the following section.

OTHER REASONS TO INCLUDE PUBLIC HOUSING

The question of whether impact aid funds should be provided on the basis of children in public housing is really a much broader question than whether public housing provides certain burdens of the type that impact aid programs are designed to meet. The Congress, has, in the past, shown considerable willingness to accept additional recipients in the impact aid program even when the relationship between the additional aid provided and net burden concepts has not always been clear.

Under these circumstances it is certainly legitimate to consider the overall question of public policy of whether it would be a good idea for the federal government to spend roughly an additional \$250,000,000³ (the amount required treat public housing students as 3(b) children) to enhance the operating revenues of the school districts which receive pupils from public housing. That is, should an entitlement of federal assistance to schools concentrate heavily in those areas where public housing is found? For a variety of reasons it can be argued that it should.

AIDING DISADVANTAGED CHILDREN

A very strong case can be made that disadvantaged children (defined loosely as children tending to have a greater than normal concentration of broken homes, low incomes, poor medical care, and lack of educational opportunity and stimulation in the home environment) need and deserve greater educational efforts than those made by school systems on behalf of children who are not disadvantaged. A strong case can also be made that the admission criteria for public housing tend to guarantee that a large percentage of the children living in public housing are disadvantaged.

³ This is a rough estimate based upon multiplying the number of non-elderly public housing units by 1965, which appears from Battelle's data to be a reasonable approximation of students per unit, and multiplying the result by half of a presumed average, costs of \$400 for the districts with public housing entitlements.

The difficulty with this approach is that public housing inclusion in impact aid is clearly an inferior alternative to other mandates of providing educational assistance to disadvantaged pupils . . .

If the objective is really to improve the educational opportunities of disadvantaged children through federal aid, an obvious alternative to impact aid is a program that has a distribution formula targeted toward disadvantaged children, rather than children living in public housing. Such an obvious alternative would also require that the funds be spent on behalf of the disadvantaged children and that the funds supplement local efforts. In fact, Title I of the Elementary and Secondary Education Act is designed in just this fashion, and would appear to be clearly superior to impact aid as a vehicle for targeting assistance toward children.

AIDING LARGE CITIES

Many of the nation's most significant educational problems are to be found in our major central cities. These problems arise only in part because of the educational difficulties encountered in these cities. A significant part of the problem has fiscal roots related to (1) heavy demands upon available taxes for municipal services, (2) an increasing percentage of tax exempt property, (3) the failure of industry and commerce to locate new installations in central cities—in part related to high tax rates in these cities, and (4) a declining ability to provide local taxes for schools resulting from relatively low personal income of many residents and increasing (and legitimate) fears of driving industry and commerce out of the cities entirely. To many Americans (including the senior author of this report) these problems cry for a combination of federal and state actions. However, in the current context the question is not whether these problems exist or whether action should be taken, but merely whether impact aid provides a reasonable vehicle for dealing with them. We conclude that it does not.

One major difficulty in using public housing entitlements as a method of aiding large cities is that a substantial percentage of the federal funds expended will miss the intended target: Public Housing is by no means a uniquely central city phenomenon. Public housing is found in many rural communities in that south and in a number of smaller northern communities that by no stretch of the imaginative share the basic problems of the nation's great cities. These districts would receive public housing payments on the same basis as the central cities. This fact alone means that public housing entitlements are a less efficient way of aiding central cities than identifying the cities to be aided and targeting a program solely for them would be.

A second major difficulty is that the prevalence of children in public housing is not a good proxy for existence of central city problems. Over the past three decades different cities have made radically different decisions about public housing. Some have as a matter of policy avoided major public housing commitments on the theory of avoiding federal action in what they may have considered to be a local matter. Others have seized upon public housing as the cornerstone of local policies for dealing with housing and community development. These decisions in the housing field are not related to either the educational problems of the city nor to the financial crisis (or lack thereof) that the city might be facing.

As a result, the concentration of public housing varies substantially among cities in the United States. When public housing children are related to total public, disadvantaged pupils, or even to total population or tax capacity of a city, it can be demonstrated that public housing children are a poor indicator of anything that might be a proxy for educational need in the cities. This

impact can vividly be seen from the data shown on Table 9.1. This table was constructed from some of the responses to the Battelle questionnaire from cities that were able to provide an estimate of the number of children who reside in public housing. The estimates of entitlements are based upon this data and the 1967-68 local contribution rate for each district included in the table. First, entitlements under the proposed inclusion of public housing were calculated. Second, these entitlements attributable to public housing were totaled for the districts covered. This total was divided by the total number of pupils in the systems to indicate what payment per pupil could be made if the funds were used to make such per pupil payments, rather than basing payments upon public housing. A similar calculation was made on the assumption that the funds would be distributed on the basis of the number of disadvantaged pupils (using pupil counts provided by the Office of Education) in each district.

TABLE 9.1.—EQUAL-COST ALTERNATIVE PROGRAMS FOR LARGE CITIES

(Amount of entitlement in millions of dollars)

City	Include public housing in Public Law 874	Pay \$10.87 per pupil	Pay \$51.03 per disadvantaged pupil
Los Angeles.....	2.8	17.0	4.9
Detroit.....	1.5	3.2	16.4
New Orleans.....	12.4	1.2	1.3
Boston.....	13.9	1.0	1.1
Louisville.....	.3	.5	1.7
Long Beach.....	.5	1.8	.5
Birmingham.....	11.5	.7	.7
Norfolk.....	11.8	.6	.7
El Paso.....	.3	1.7	.3
Akron.....	.4	1.6	.2
Nashville.....	11.9	1.0	.5
Total.....	17.3	17.3	17.3

¹ Denotes highest entitlement available to city under the 3 formulas.

Source: See text.

Table 9.1 shows clearly that the public housing distribution does not correspond at all well with the distributions that would result from targeting assistance on the basis of total pupils in large city systems or from targeting assistance toward disadvantaged pupils in large cities. The striking disparities that result from using public housing as an allocator of assistance can be seen from Table 9.2 below. This table is based upon the data used to construct Table 9.1.

TABLE 9.2.—Extremes in allocation effects of aid including public housing

Public housing payment per student (payment+ADA):	
Los Angeles.....	\$4
Boston.....	44
Public housing payment per low-income ADA:	
Detroit.....	12
Louisville.....	23
Boston.....	185
Nashville.....	190

Source: See text.

If inclusion of public housing is considered as a way to assist the big cities with educational problems, it provides extreme disparities in assistance. It is difficult to find a rationale that would indicate that big city problems in Boston are so much worse than those in Los Angeles that Boston should receive 11 times as much per pupil as Los Angeles. Likewise it is difficult to imagine that Nashville differs from Louisville so much as to justify payment some 9 times as much per disadvantaged pupil residing in Nashville as in Louisville. These perverse distributions result from the fact that the incidence of children in public housing is only remotely related either to the total educational problem of large city systems or

to the disadvantaged children in various systems.

In short, if the problem to be solved is big city education or education of the disadvantaged it will always be both more equitable and more efficient to address those problems directly rather than trying to address them through public housing allocations under impact aid.

EFFECT ON IMPACTED DISTRICTS

As noted in Chapter 5 it is a strong recommendation of this report that a program of assistance to impacted districts be developed that, by solving the current problems of P.L. 874, will command Congressional and Administration assent to full funding as part of a cost of doing business for the federal government. Such a program should be funded almost automatically, much like payments of interest on the national debt. A general program of assistance to large cities through impact aid would convert it to being in a competitive relationship with funds for the heavily impacted districts under circumstances that might cause less than full funding for those districts. This impact would be even stronger if public housing were added to the current very imperfect P.L. 874 and P.L. 815 programs.

EFFECT ON HOUSING POLICIES

Inclusion of public housing in P.L. 874 would also have significant effects upon the administration of public housing programs. The effect of inclusion of public housing in 3(b) entitlements would be radically to alter the balance sheet facing any community in deciding whether to adopt public housing. Viewed in the abstract from the standpoint of the school district or a city in which the school district is dependent the situation might be roughly this: A family is currently occupying one portion of a slum dwelling, with respect to which taxes are paid out of that family's rent on the order of perhaps \$50 to \$150 per a three-child family or less than \$50 a child. If the community could convert that family from its currently privately owned unit to public housing where impact aid entitlements were available, it would find several phenomena would result. First, the community would receive payment in lieu of taxes on the rental payments made for the public housing unit. Second, the school district would receive a payment on the order of \$200 per pupil which in the example would mean \$600 in added revenues resulting from building the new housing unit.

Furthermore, in deciding which families to admit to existing public housing units, there would be strong pressure upon local housing authorities to maximize the number of children housed in such units.

Whether these housing policy impacts are desirable or not is somewhat beyond the scope of this study—not because Battelle does not feel competent to judge those impacts, but because those impacts are most properly considered in relation to the various alternatives available in the expenditure of federal housing funds. It may be that, for reasons of housing policy, payments in lieu of taxes should be increased, or special side payments for school costs should be made to induce suburban districts to accept new public housing units. However, if these payments are to be undertaken to further national housing policies, they are most appropriately included in national housing budgets.

SUMMARY

For the reasons outlined in detail above, there would appear to be no satisfactory reason for broadening the impacted areas program to encompass children occupying public housing units. If Congress and the Administration are concerned with problems of large city education, they will find that the most appropriate vehicles are implementing that concern are outside the scope of a reasonable impacted area program.

Mr. DOMINICK. Mr. President, in summary, it seems to me that this is not the time to include children from public housing within the impacted area program. We do not have the Federal impact we had in mind when the original impacted aid program was formulated. The Federal Government does not choose where public housing is going to be. Local governments are, in fact, the ones who make this decision. We do not have a series of nonschool district residents coming into a school district creating an impact. These people have to be residents already in order to be eligible for public housing.

For all these reasons, plus the fact that it is going to cost another \$236 million if fully funded—which it never will be—it seems to me this is the wrong time, in the wrong place, to offer this amendment to revise the impacted area program, to the detriment of at least 26 States in this country.

Mr. PROUTY. Mr. President, I am very happy to support the amendment offered by the distinguished junior Senator from Colorado (Mr. DOMINICK).

The subject of impact aid has become increasingly more important and visible in recent months. While I applaud the benefits that have been achieved as a result of payments under this program, I think we have an obligation to look at this question very carefully before we tamper with a formula that has seriously been brought into question.

Impact aid payments were originally developed to help provide educational services in school districts where, because of Federal impaction, income to the locality was insufficient to maintain a meaningful level of services. However, there is a major inequity in the formula which assumes that all Federal impaction causes a hardship to the school district in terms of a reduced tax base and that the children will suffer accordingly.

This is patently untrue, and we all know that Montgomery County, Md., is an excellent example of this. Each of the last several administrations has called attention to this fact, and I am hopeful that this administration will at last be able to change the formula and build in safeguards that are more equitable and of benefit to the Nation. Our education resources are too limited to spend them in areas where they will do relatively little good. What we must work for instead are programs that concentrate our funds on those that need them most, thereby minimizing the discrepancies in opportunities that already exist.

For good reason, the committee has deferred action to change the impact aid program while it has awaited new data and evaluations to make this possible. The report has recently been submitted, and I am hopeful that some progress will be made this coming year.

Nevertheless, I do believe we have taken inappropriate action in including a new category of children in the program.

The arguments against including public housing children in formulas for impact aid payments have been enumerated many times before. In the first place, no assurance is given that funds awarded on the basis of children resid-

ing in low-rent public housing will be spent to improve the educational opportunities of those children. In fact, these funds can be, and have been, used in the very schools where they are needed least.

Such a practice only increases the disparities that already exist between schools serving the more fortunate and schools serving the disadvantaged. The problem is very similar to that concerning the title I program, where funds are not concentrated in schools where they can do the most good. While the committee has done much to improve the title I program in this regard, it must be cognizant that the same problem exists under impact aid and should do nothing further to compound this problem.

Second, the formula itself is inequitable in several ways. It assumes that a standard number of children, 2.6, reside in each public housing unit, and then bases payments on this estimated figure. In my own State, we have some 230 public housing units, but most of them are inhabited by elderly citizens. Nevertheless, we would be given payments on the basis that there are an average of 2.6 children living in each public housing unit, and supposedly these payments would go to the local district to help these nonexistent children. This is truly unfair; and although it would bring additional moneys to my State, I cannot endorse the inequitable way in which this would be done.

In looking to this same issue, the Battelle study, just completed, found that public housing does not always bring additional numbers of students to a school district and, I quote:

There would appear to be no satisfactory reason for broadening the impacted areas program to encompass children occupying public housing units.

In fact, to do so would only serve to widen the differences that exist between urban and rural areas and between industrial and agricultural States. What we would be doing is rewarding those States that have mastered the arts of grantsmanship and capital financing which enable them to get the Federal Government to subsidize low-rent public housing. Once having done so, these States can then turn to the Federal Government and blame it for adding to Federal impaction and receive additional moneys not necessarily needed.

I would not mind this double turn of events if I could be assured that there truly was a need in each area and that those students needing help most receive the benefit of such funds. Until this is assured, however, I cannot support the broadening of this program in the manner put forth by the committee.

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

Mr. PROUTY. I yield.

Mr. DOMINICK. I thank the Senator for his support of the amendment. As I pointed out in the process of my speech, Nevada, New Hampshire, and Vermont have an almost identical low-income population. Nevada, however, would receive approximately six times more than would Vermont. New Hampshire would receive eight times more than Vermont under the formula in the committee bill.

It does not seem to me that this makes much sense. Obviously, that would be as a result of the inclusion of public housing units.

Mr. PROUTY. Mr. President, I do not begrudge Nevada or New Hampshire getting all of the money that is available to them, but it does suggest an inequity in this formula, which some people feel so desirable at this time.

I hope the amendment will prevail.

Mr. JAVITS. Mr. President, I joined with the Senator from Missouri (Mr. EAGLETON) in this provision found in title II of the bill. It was adopted by the committee, and I think it is the right thing to do. I do not believe anything which has been said so far negates it. The Battelle report, which has been referred to, not only makes statements about this provision for public housing, but it also calls for a shakeup of the whole impacted aid program.

Obviously, if you want to be fair about it, then the hide would go with the hair, as the late Senator Everett Dirksen used to say. If we are going to legislate the Battelle report, fine, let us legislate it and that will cut impacted aid very materially.

The point is that impacted aid has been going on for years since 1950. It has been subject to considerable opposition from time to time, precisely because it is discriminatory. It makes an arbitrary selection. If a parent either works or lives on Federal property, then his child becomes what is called a B child, and is entitled to impacted area aid whether it is needed or not, even if the tax roll for that particular district goes way up because of new people moving into the area.

Mr. President, we felt that had gone on long enough, and that these districts with public housing were suffering just as much, indeed much more, as the figures given to the committee showed, from the impaction which resulted from Federal housing projects, than they were from military camps and stations and other Federal installations.

So we made our bid, too. It was high time that we did. We had waited too long to do it.

I think the best answer to the proposition is, "All right, if you want to go ahead with the Battelle report, and that is to be the Bible, let us go the whole way, and not just pick out public housing because that happens to be before us today."

Mr. President, I point out that the Senator from Missouri (Mr. EAGLETON) and I, notwithstanding our deep feeling on this subject, understand history, and understand voting patterns in Congress, and hence we are accepting the rather important limitation upon the ability of the program, which this amendment seeks to strike out, in respect of getting money appropriated for it and guaranteed in the language of the bill, that the present impacted aid program would be fully funded, as it was in 1970, before this participation of children from Federal public housing projects could be accommodated.

There is pending an amendment—it has already been put in the RECORD by the Senator from Texas (Mr. YARBOR-

OUGH)—which represents a sort of amalgam of views; again, we are not very happy with it, but it is a compromise—which will provide for a separate budget line item, so that the Appropriations Committee can determine about this matter of impacted aid just as it has been for so long determining about impacted aid in general.

I point out, in respect to what the Senator from Colorado (Mr. DOMINICK) said about the money involved, that the impacted area aid runs to more than \$600 million; so \$236 million entitlement for public housing children does not sound so big when compared to the over \$600 million in the appropriations bill for districts which do not need it at all, where it is just gilding the lily or laying whipped cream on the mountain which already exists.

So, Mr. President, I would hope very much, since we know that the Yarbrough amendment is coming along, which will further assure the impacted area people that they are not going to suffer by virtue of some element of equalization with the public housing children, that the Senate will see fit to reject the amendment of the Senator from Colorado.

Mr. PELL. Mr. President, I should also like to comment on the amendment of the Senator from Colorado.

The committee recognized that the impacted aid program is under attack, and that it may not be the most effective or efficient way of helping the communities affected by the Federal impact; but it has worked pretty well over the years, and we were reluctant to change it too much at this time.

In the committee, we considered the idea of a 4-year grandfather clause, which would have provided that no present 874 district would receive less money than they are now receiving, even taking into consideration the new entitlements emanating from the public housing amendment. The committee also considered making the public housing entitlements a separate line item; however, this was not accepted and the bill was reported in its present form with a compromise 2-year grandfather clause.

There is a great deal of equity in what the Senator from New York and the Senator from Missouri have sought to do, because the impact, in a community, of a public housing unit is substantial, and its contribution to the tax rolls is negligible.

I think the compromise that the Senator from Texas has sought to work out and has worked out with the Senator from Colorado is also equitable, because it provides for the camel to get a very large nose under the tent when it comes to accepting the concept of children from public housing units being counted, with children from other Federal installations.

For that reason, I, too, hope that the Senator from Colorado will not press for his amendment, but will consider accepting the amendment of the Senator from Texas.

Mr. EAGLETON. Mr. President, I, too, wish to address myself briefly to the amendment offered by the Senator from Colorado (Mr. DOMINICK).

I spoke on the floor of the Senate yesterday, Mr. President, about the concept of impacted aid and the inclusion therein of public housing students under a more broadly based definition.

I, like the Senator from New York and the Senator from Rhode Island, would very much prefer not to see the amendment as offered by the Senator from Colorado prevail. It is anticipated, as has been pointed out, that the Senator from Texas (Mr. YARBOROUGH) will offer an amendment in the nature of a compromise to the language that currently exists in section 203 of the Senate bill. My personal preference is for the language as it exists in the committee version of the bill. However, dealing in the realm of the practical rather than the realm of the Utopian, I realize that about the best that can now be accomplished, insofar as the goal that both the Senator from New York and I desire to achieve, is that which is reflected by the YARBOROUGH amendment.

Quite to the contrary of what has been stated by the Senator from Colorado and also by the Senator from Vermont; namely, that this confuses the picture with respect to impacted aid, or muddies already troubled waters, it is my opinion that the YARBOROUGH proposal enhances the acceptability, the quality, and the viability of the impacted aid program.

We all know that this program is very much under fire.

The reason impacted aid is under fire is that it is not geared to need. It is not geared to identifiable and urgently pressing problems that exist in the various school districts, but rather is given out on a per capita basis without any showing of need. Under the present program we sometimes see the bizarre result that those school districts that are deemed to be the most affluent are the largest beneficiaries or recipients of Federal impacted aid.

On the other hand, by including public housing students in the definition of impacted aid, we would be introducing a need factor into the impacted aid concept. I think everyone would agree that students who reside in public housing projects are those in the lower socioeconomic scale in our country. Even a cursory examination of the problems of public housing projects in this country will reveal that it is in such public housing projects that there is the most desperate educational need. Therefore, I contend that rather than burdening an already troubled program, the passage of section 203 would enhance its public acceptability, its political acceptability, and its pragmatic acceptability by broadening the base of eligible recipients so as to include those in pressing need. That is why the Senator from New York (Mr. JAVITS) and I felt so strongly in committee, and likewise feel so strongly here today, that students residing in public housing should come under the basic umbrella of the impacted aid program.

I realize that we may not be able to achieve for the moment the full objectives as they are contained in section 203. I realize that the compromise as suggested by the Senator from Texas is

perhaps the most immediately attainable.

In conclusion, I express the hope, as has been expressed by the Senator from New York and the Senator from Rhode Island, that the Senator from Colorado (Mr. DOMINICK) will see fit to withdraw his amendment, which would strike entirely from the bill any reference to public housing in the concept of impacted aid, and that the Senate could agree on the compromise proposal of the Senator from Texas.

Mr. President, I yield the floor.

ORDER OF BUSINESS

Mr. YARBOROUGH, Mr. President, I ask that the pending measure be temporarily laid aside, and that the Chair lay before the Senate a message from the House of Representatives on H.R. 14733.

Mr. JAVITS, Mr. President, reserving the right to object, may we know what this is all about?

Mr. YARBOROUGH, It is to request the appointment of conferees on a bill.

Mr. JAVITS, I have no objection.

Mr. YARBOROUGH, I ask unanimous consent that the pending measure be laid aside for not more than 1 minute.

The PRESIDING OFFICER, It is a privileged matter, and does not require unanimous consent.

AMENDMENT OF PUBLIC HEALTH SERVICE ACT

Mr. YARBOROUGH, Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 14733.

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. 14733) to amend the Public Health Service Act to extend the program of assistance for health services for domestic migrant agricultural workers, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. YARBOROUGH, I move that the Senate insist upon its amendments and 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 appointed Mr. YARBOROUGH, Mr. WILLIAMS of New Jersey, Mr. KENNEDY, Mr. NELSON, Mr. EAGLETON, Mr. CRANSTON, Mr. HUGHES, Mr. DOMINICK, Mr. JAVITS, Mr. MURPHY, Mr. PROUTY, and Mr. SAXBE conferees on the part of the Senate.

AMENDMENT OF RAILROAD RETIREMENT ACT OF 1937 AND RAILROAD RETIREMENT TAX ACT

Mr. EAGLETON, Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 13300.

The Presiding Officer laid before the Senate a message from the House of Representatives announcing its disagreement

to the amendment of the Senate to the bill (H.R. 13300) to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to provide for the extension of supplemental annuities and the mandatory retirement of employees, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. EAGLETON, I move that the Senate insist upon its amendment and 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 appointed Mr. EAGLETON, Mr. PELL, Mr. NELSON, Mr. HUGHES, Mr. SMITH of Illinois, Mr. SCHWEIKER, and Mr. SAXBE conferees on the part of the Senate.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969

The Senate resumed the consideration of the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes.

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

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

AMENDMENT NO. 348

Mr. YARBOROUGH, Mr. President, the pending business being amendment No. 482, offered by the distinguished Senator from Colorado (Mr. DOMINICK), I offer my amendment No. 483 as a perfecting amendment to amendment No. 482. I ask that the clerk report amendment No. 483, which I offer as a perfecting amendment.

The PRESIDING OFFICER, The amendment will be stated.

The bill clerk proceeded to read the amendment.

Mr. YARBOROUGH, Mr. President, 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:

On page 113, strike out all that appears on line 21 and all that follows down through line 15 on page 115 and insert in lieu thereof the following:

"(3) Section 3 of such Act of September 23, 1950 is further amended by inserting at the end thereof the following new sentence: 'Such order of priority shall provide that applications for payments based upon increases in the number of children residing on, or residing with a parent employed on, property which is part of a low rent housing project assisted under the United States Housing Act of 1937 shall not be approved for any fiscal year until all other applications under paragraphs (2) and (3) of subsection (a) of section 5 have been approved for that fiscal year.'

"(4) Subsection (c) of section 5 of such

Act of September 30, 1950 is amended to read as follows:

“ADJUSTMENTS WHERE NECESSITATED BY
APPROPRIATIONS

“(c) (1) If the funds appropriated for any fiscal year for making payments under this title are not sufficient to pay in full the total amounts which the Commissioner estimates all local educational agencies will be entitled to receive under this title for such year, the Commissioner (A) shall determine the part of the entitlement of each such local educational agency which is attributable to determinations under subsections (a) and (b) of section 3 of the number of children who resided on, or resided with a parent employed on, property which is part of a low-rent housing project assisted under the United States Housing Act of 1937, section 516 of the Housing Act of 1949, or part B of title III of the Economic Opportunity Act of 1964, and (B) except as otherwise provided in paragraph (3), shall allocate such funds, other than so much thereof as he estimates may be required for carrying out the provisions of section 6, among sections 2, 3, and 4(a) in the proportion that the amount he estimates to be required under each such section bears to the total estimated to be required under all such sections, except that he shall not take into consideration any part of any entitlement determined under clause (A). The amount so allocated to any such section shall be available for payment of a percentage of the amount to which each local educational agency is entitled under such section. Such percentage shall be equal to the percentage which the amount allocated to a section under the second sentence of this paragraph is of the amount to which all such agencies are entitled under such section. For the purposes of this paragraph, in determining the amount to which each local educational agency is entitled under section 3 he shall include any increases under paragraph (4) of subsection (c) thereof; but he shall exclude any part of any entitlement determined under clause (A) of this paragraph.

“(2) If the funds available for allocation under paragraph (1) for any fiscal year exceed the amount necessary to fully satisfy entitlements for which allocations will be made under such paragraph, that excess shall be available for payment of a percentage of that part of the entitlement of each local educational agency determined under clause (A) of paragraph (1). Such percentage shall be equal to the percentage which the amount of such excess is of the total amount to which all such agencies are so entitled.

“(3) All funds appropriated for making payments under this title for any fiscal year shall be allocated in the manner specified in paragraphs (1) and (2), unless an Act making appropriations for making payments under this title for any fiscal year specifically makes funds available for payments on the basis of entitlements determined under clause (A) of paragraph (1), apart from other payments under this title, in which case, if the funds so appropriated are not sufficient to pay in full the total amount to which all local educational agencies are so entitled, such funds shall be available for making payments in the manner specified in paragraph (2) respecting allocations of any excess appropriations.

“(4) In case the amount allocated to a section under paragraph (1) for a fiscal year exceeds the total to which all local educational agencies are entitled under such section for such year or, in case additional funds become available for making payments under this title, the excess or such additional funds, as the case may be, shall be allocated among sections for which previous allocations are inadequate, on the same basis as is provided in paragraphs (1), (2), and (3) for the initial allocation.”

Mr. YARBOROUGH. Mr. President, the amendment I offer as a perfecting amendment to amendment No. 482, offered by the distinguished Senator from Colorado, grows out of long efforts to reach a compromise in this matter. In the vote in the full committee, the Senator from Colorado and I voted the same way against the language that his amendment would strike out. We had an agreed position, and if my perfecting amendment is not adopted, I will not have any change of position.

We have worked long and diligently to reach a compromise. This compromise provides that the status of children residing in Federal housing will be delimited in a separate line item in the bill so that it will not be commingled with impacted aid, class A impacted aid and class B impacted aid, per se.

As the language is now in the bill, we feel that the status of children in Federal housing would be a part of impacted aid, per se, would be inseparable from it. It is apparent that there are three different categories of aid: The impacted aid as such, as class A category, and the class B category. It is not necessary to discuss this at length. It has been discussed all over the country and was mentioned in the President's state of the Union message.

This brings in another category of Federal aid to schools, and that is in those situations of low income public housing, tax exempt, where many children are brought in and there is less property to tax and more children to educate. It would entitle Congress to appropriate Federal moneys to those districts to make up for the added burden where, because of the burden of tax exempt property and more children, they lack funds for proper education. It is another category.

The amendment I offer will provide separate funding for the section of H.R. 514 that counts children in public housing units among children in federally impacted districts.

The committee amendment grows out of a reasonable concern. Every State has experienced local resistance to low-income public housing which stems from the increased cost to the community of educating those children. Testimony to the committee indicated that entire new schools often have to be built to accommodate these children. The parents are rarely on the tax rolls, certainly not as property owners. Nor does the property in which they reside pay taxes equivalent to those a private housing development would pay.

The “in lieu of taxes” payment from public housing covers only about \$11 per child, while the cost of educating the children runs between \$700 and \$1,200 each.

I agree with the committee in its view that there should be a much larger payment for the education cost of children in public housing, because it is not fair for the Federal Government to remove the property from the tax rolls and at the same time, bring large numbers of additional pupils into the school district.

My objection to the committee language goes to the lumping of this group with those now in the federally impacted program. Public housing children are a

separate case from children whose parents work for the Federal Government. Compensation to the local school district for their education should not come out of the same appropriation that is made for the traditional federally impacted districts.

The amendment I am offering will set up two line items in appropriations acts making funds available for payment under Public Law 874.

One line item would be for payment of entitlements on the basis of A and B children as we understand them in the present law.

The other line item would be for payment of entitlements created by children living in low-rent public housing units.

The amendment further provides that, if a single-line appropriation is large enough to cover the full entitlements for A and B children with money left over, then the remainder may be used for low-rent housing children.

It is quite possible that in the future we will find it justified to make Federal payments for children whose presence in a district is dictated by many federally financed activities, other than direct Federal activities and installations. The committee bill makes this payment available for housing units financed under the Housing Act of 1937, the Housing Act of 1949, and the Economic Opportunity Act of 1964.

These units are not necessarily federally owned. They are only federally assisted in their financing.

As we move in the direction of examining the impact of federally assisted activities, we should do so on the basis of paying entitlements out of their own appropriations. Otherwise, both these children and the existing Public Law 874 children will be penalized.

Under the bill vetoed by the President, the amount for aid to impacted areas was \$600 million. Under the budget, it was approximately \$200,000,000. Under the compromise offered by the President now, it is approximately \$400 million.

It is often thought that that is the biggest aid to school districts, but it is not. One and a half billion dollars goes to school districts under the Elementary and Secondary Education Act for children from poverty families. Even Westchester County, N.Y., gets money under that, because of children in the poverty brackets, so that there would be widespread distribution of Federal money to school districts in America under the poverty bracket. This is another category made, even under that bracket, for places like Westchester County, N.Y., but this amendment being offered is to try to help the districts who are poor because of their tax base. My objection was that it impinged on the impacted aid to help the children of military personnel on a base. I offered a compromise on behalf of the Senator from Colorado and myself. The Senator from Missouri (Mr. EAGLETON) was a principal sponsor in putting this Federal housing under impacted aid, as well as the Senator from Rhode Island (Mr. PELL), chairman of the subcommittee, and the Senator from Vermont (Mr. PROUTY), a knowledgeable and active member of the Education Subcommittee who has been for years one of its active workers.

Mr. President, I do not desire to debate this matter at length, because it has been discussed in full in the Educational Subcommittee, discussed at length in the full committee, and in this amendment I am offering. I do not think that the Senator from Colorado is entirely satisfied with it. We do not think it is perfect, but it is an attempt to reach a consensus so that some relief can be granted without zeroing in on the impacted aid as such.

Mr. DOMINICK. For the record, I want to say that my recollection in committee discussion was that we first tried to knock out the public housing amendment completely, and when that did not work, I offered a separate line item amendment. It was defeated on a rollcall vote. My understanding now is that the Senator is offering a line item amendment in somewhat different form from the one I did. It is not so heartwarming to my soul as it would be to knock out the whole of the public housing. I find it difficult to object to it, in view of the fact that the Senator is offering an amendment similar to the one I offered in committee, and I am, of course, a cosponsor.

Mr. YARBOROUGH. I voted with the Senator in committee on the separate line item. This does not go quite that far. This is a compromise between two sharp points of view that were discussed and debated strenuously in the subcommittee and the full committee. We spent many hours on this subject, over a period of many days. We discussed it thoroughly. I do not desire to take the time of the Senate in extended discussion now.

Mr. President, I am ready to yield the floor and ask for a vote at this time.

The PRESIDING OFFICER. The question is on agreeing to the perfecting amendment of the Senator from Texas.

The amendment was agreed to.

The PRESIDING OFFICER. Now the question recurs on agreeing to amendment No. 482 of the Senator from Colorado (Mr. DOMINICK).

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

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

The question is on agreeing to the amendment of the Senator from Colorado. [Putting the question.] As many as favor the amendment will say "Aye." Opposed "No."

Mr. BYRD of West Virginia. Mr. President, I call for a division.

The PRESIDING OFFICER. A division is called for.

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Colorado will state it.

Mr. DOMINICK. Do I correctly understand that we are voting on my original amendment, or are we voting on my amendment as amended?

The PRESIDING OFFICER. The ques-

tion is on agreeing to the amendment of the Senator from Colorado to strike. The Senator's amendment was not amended. The amendment of the Senator from Texas perfected the language the Senator proposes to strike.

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

Mr. JAVITS. Mr. President, a point of order. Can we do that in the middle of a vote?

The PRESIDING OFFICER. Prior to the announcement of the result of a division vote on an amendment, a quorum call is in order.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FANNIN. 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. LONG. Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FANNIN. 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. FANNIN. Mr. President, a little more than a year ago, I introduced a bill, cosponsored by Senator GOLDWATER, which would amend title VII of the Elementary and Secondary Education Act of 1965 to enable nonprofit, private schools operated on Indian reservations to qualify as a "local educational agency" and thereby entitle such schools to receive bilingual education funds under this act.

Last fall, while this bill was pending before the Education Subcommittee, Senator GOLDWATER offered an amendment which I cosponsored, to the Elementary and Secondary Education Act which was intended to accomplish the same purpose. I am pleased that this amendment has been adopted by the Labor and Public Welfare Committee and is now part of section 152 of the bill which is pending before us.

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

Mr. FANNIN. I yield.

Mr. GORE. Was the amendment adopted by the Labor and Public Welfare Committee?

Mr. FANNIN. It was adopted by the Labor and Public Welfare Committee.

Mr. GORE. To which bill?

Mr. FANNIN. To section 152 of the pending bill, according to my information.

Mr. GORE. I thank the Senator.

Mr. FANNIN. Mr. President, as I have said so many times in the past, the greatest obstacle to education for Indian children is not so much poverty as it is language. More than 95 percent of the children who begin at the Rough Rock Demonstration School which is a school which will benefit from this amendment speak only Navajo. The need for bilingual programs is, therefore, essential.

I am also pleased that the committee acted favorably on Senator GOLDWATER's amendment because it can go a long way in insuring the success of the initiative taken by Indians themselves in forming schools such as the Rough Rock Demonstration School in Arizona. The acceptance of this amendment gives a small measure of substance to our promise that the Indian people have a say in the policies which govern them. We must see to it that our Federal programs encourage, not defeat, innovation.

My colleague, Senator GOLDWATER, has worked tirelessly to secure the adoption of this amendment. Unfortunately, he is unable to be here today, but he had earlier prepared some remarks. And I ask unanimous consent that they be printed in the RECORD at this point.

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

STATEMENT BY SENATOR GOLDWATER
PROVIDING BILINGUAL EDUCATIONAL AID TO INDIAN CHILDREN ON RESERVATIONS

Mr. GOLDWATER. Mr. President, it is my purpose at this time to call the attention of the Senate to section 152 of the pending bill. This provision amends title VII of the Elementary and Secondary Education law in order to provide bilingual education funds for children attending schools on Indian reservations.

Specifically, the amendment will override the discriminatory limitations of the present law which bar Indian controlled schools from participation in the bilingual education program. Strangely enough, Indian schools operated by Indians themselves are not now eligible to apply for Federal bilingual assistance.

The amendment provided by section 152 will correct this unjust and unwise restriction by explicitly allowing Indian-operated schools on reservations to apply directly to the Commissioner of Education for payments under Title VII.

Mr. President, the amendment is identical to Amendment numbered 155, which I offered for myself and my colleague, the senior Senator from Arizona (Mr. FANNIN), on September 12th of last year. Speaking for us both, we are delighted that the Education Subcommittee and the full Labor and Public Welfare Committee have seen fit to report our amendment favorably to the Senate Floor.

We are very pleased that the bipartisan response the proposal has attracted and particularly wish to extend our gratitude to the distinguished Senator from Minnesota (Mr. MONDALE) who sponsored and called up the provision in committee.

Mr. President, at this moment our amendment will likely benefit only the all-Navajo Indian operated school located at Rough Rock in Arizona. This is because I believe that Rough Rock is the only Indian controlled school in the United States.

By now I am certain that nearly all of my colleagues have heard of the distinctive educational project which the Navajo Indian Tribe is operating at Rough Rock in the heart of the vast Navajo Reservation. The school is an extremely promising venture which was launched in 1966. Its unique quality is that it is operated by an all-Navajo school board elected by the Navajo people.

Rough Rock is run by the Navajos themselves because they decided that they wanted their children to receive the best education for both Navajo and Anglo life. It is an inspiring and courageous undertaking which reflects many of the aspirations of a very proud and great segment of our national people.

Not only is Rough Rock totally controlled

by Indian parents, but the school has been successful in recruiting almost 90 percent of its faculty from among the Navajo population. Also, the chief administrative officer and the heads of several departments are Navajo.

Thus, local control has not only put policy making into the hands of the Navajo people, but it has placed much of the daily operation of the school under the supervision of tribal members.

Although the school is entirely run by Navajo parents, it is important to note that the Navajos have chosen to offer a bilingual, bicultural education. The school provides subjects found in any school of excellence, with the added feature of subjects especially created for Navajos. English reading and writing is taught together with oral English. Science, mathematics, social studies, health, home economics, industrial arts, and all the regular parts of a well-designed curriculum are taught. In addition the school has courses in Navajo reading and writing, oral Navajo, Navajo culture and history, and Navajo arts and crafts. Indeed Rough Rock may be the only school with Indian children where the history of the American Indian is taught.

Mr. President, in my opinion Rough Rock has made a fine beginning and stands as a constructive effort by the Navajo people to determine their own destinies. To my mind, Rough Rock points the way to a future in which all Navajos can learn about, and be proud of, their own heritage while at the same time they can successfully cope with the surrounding world.

The project is rightly described as a demonstration school. It is demonstrating the validity of new approaches to Indian education. It is demonstrating that Indian schools can produce excellent results when they are locally controlled.

It is proving that the self-reliance of Indian Americans can be boosted and encouraged by Tribal involvement in their own educational system. Eighty-three percent of the parents interviewed at Rough Rock said they believed that they can improve their lot themselves.

A deeper aspect of the Rough Rock experiments is that the school is educating the whole community. Of the approximately 1000 Navajos being served by the school, 600 are children and 400 are adults.

Thus the school has become a focal point of the community it serves. The local administrator and the local school board are thinking in terms of the total community. Community education is what the Navajo people desire and are working to get. This might appear to be an ideal elsewhere, but at Rough Rock it is being achieved.

However, Mr. President, it must be understood that the Navajo Tribe cannot, and should not be expected to, meet this heavy financial obligation by itself. It should be remembered that the Tribe is continuing to provide for the Navajo Reservation to the same extent that our local and State governments handle many varied responsibilities.

It is for this reason that I have introduced, and now speak in support of, the pending section which will allow the Navajo Tribe to participate in the bilingual program fully as much as if it were an Anglo community.

The all-Navajo school board of Rough Rock clearly performs for members of the Tribe the same functions as the educational agencies of town or city governments do for citizens of their communities. The Navajo board is the true local educational agency of the Navajo people and it may legitimately expect to be considered as being eligible for the same benefits that are available to municipal school authorities. Anything short of this would surely be considered by members of the Tribe as rank discrimination against the American Indian.

Our amendment is not complicated. It is narrowly drawn and will not open the door

to the payment of Federal bilingual assistance to privately run, non-Indian operated schools on Indian reservations. The Navajo experiment is unique and the amendment is worded accordingly.

First, the amendment applies only to schools located on Indian reservations for Indian children.

Second, the schools must be operated under the control of an agency of the Indian Tribe concerned.

Third, the agency operating the school must be a nonprofit organization.

Mr. President, while our proposal will apply only to Rough Rock at the present time, I wish to point out that it is intentionally worded broadly enough so that it will benefit other Indian governed schools as they come into existence.

The amendment is expressly designed to foster and encourage increased Indian participation in and control over their own bilingual programs. It is our hope that this greater freedom will help to promote significant innovations in the bilingual program and will produce the stirring of interest by teachers, parents, and students that will best serve the persons who attend Indian community schools.

Mr. President, in closing, I urge the Senate to approve the passage of our amendment. I strongly believe that the enactment of this provision will be an important step in demonstrating by deed that this nation understands and is willing to respond to the needs of the American Indian.

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

Mr. LONG. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. Mr. President, I ask unanimous consent that further proceedings under the quorum call be rescinded.

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

Mr. PELL. Mr. President, I ask unanimous consent that we temporarily lay aside the amendment of the Senator from Colorado and proceed to the consideration of the amendment of the junior Senator from New York (Mr. GOODELL).

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

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

Mr. PELL. I yield.

Mr. LONG. Mr. President, could we have an understanding that we will not vote on the amendment this evening, but that we will vote on it sometime tomorrow?

Mr. JAVITS. Mr. President, I think that is inherent in the situation. It was left a little up in the air with other Senators as to whether there would be any record votes tonight. And I know that the Senator, in common with the rest of us, does not like to embarrass other Members of the Senate who had reason to think that there would not be any further votes tonight.

We can deal with this situation tomorrow. I did not want to give consent for precisely the reason that there may be Senators who wish to speak, and I do not want to cut them off.

Mr. LONG. Mr. President, I am perfectly willing to go along with the procedure suggested by the manager of the bill, with the understanding that we will not vote on the amendment tonight.

Mr. PELL. Mr. President, we may vote on the Goodell amendment tonight, but not on the Dominick amendment.

Mr. GOODELL. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to state the amendment.

Mr. GOODELL. Mr. President, 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, ordered to be printed in the RECORD, is as follows:

On page 217, insert after section 808 the following section:

"TEACHER CORPS CORRECTIONS EDUCATION PROJECTS

"Sec. 809. (a) Section 511(a) of such Act (as amended by section 804(b) of this Act) is further amended by deleting the word "and" at the end of paragraph (2), by deleting the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and the word "and", and by inserting after paragraph (3) the following new paragraph:

"(4) attracting and training educational personnel to provide relevant remedial, basic, and secondary educational training, including literacy and communications skills, for juvenile delinquents, youth offenders, and adult criminal offenders."

"(c) Section 513(a) of such Act is further amended by redesignating paragraphs (6), (7), and (8) (as redesignated by section 804(d) of this Act), and all references thereto, as paragraphs (7), (8), and (9), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) enter into arrangements, through grants or contracts, with State and local educational agencies, and with institutions of higher education, and such other agencies or institutions approved by the Commissioner according to criteria which shall be established by him to carry out the purposes of this paragraph, under which provisions (including payment of the cost of such arrangements) will be made to furnish to such agencies members of the Teacher Corps to carry out projects designed to meet the special educational needs of juvenile delinquents, youth offenders, and adult criminal offenders, and persons who have been determined by a State or local educational agency, court of law, law enforcement agency, or any other State or local public agency to be predelinquent juveniles, but not in excess of 90 percentum of the cost of compensation for Teacher Corps members serving in such project may be paid from Federal funds;"

"(d) Section 514(a) of such Act is further amended by inserting before 'shall provide' the following: 'or an arrangement with any agency pursuant to paragraph (6) of section 513(a)'."

"(e) Title VIII of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new section:

"RESEARCH AND DEMONSTRATION PROJECTS IN CORRECTIONS EDUCATION SERVICES

"Sec. 809. (a) The Commissioner is authorized to make grants to State and local educational agencies, institutions of higher education, and other public and private non-

profit research agencies and organizations for research or demonstration projects, relating to the academic and vocational education of antisocial, aggressive, or delinquent persons, including juvenile delinquents, youth offenders, and adult criminal offenders, including the development of criteria for the identification for specialized educational instruction of such persons from the general elementary and secondary school age population and special curriculums, and guidance and counseling programs. All projects shall include an evaluation component.

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

Mr. GOODELL. Mr. President, I would briefly like to make some remarks on my amendment for the benefit of my colleagues in the Chamber. On January 27 of this year I discussed the purpose of its provisions in some detail. There is now a change in the amendment, which I will discuss today.

The purpose of this amendment is to improve corrections education services in prisons and juvenile detention facilities throughout the country. It is designed to accomplish this in two ways. First, to make an innovative corrections education program, initiated last year on a pilot basis by the Teacher Corps, a permanent part of the Teacher Corps program.

In 1968, the Teacher Corps undertook four corrections education programs in the States of New York, Illinois, Connecticut, and Georgia. The objective of these efforts was to encourage local school systems to establish and expand specialized programs of teacher training to assist in the rehabilitation of juvenile delinquents and youth offenders in penal institutions and community-based correctional facilities.

The results of these pilot efforts successfully demonstrated the Teacher Corps ability to initiate effective reforms in an area crucially and clearly related to our national well-being.

The first corrections education program began at Rikers Island, N.Y., in August 1968. In September 1969, the highly respected VERA Institute of Justice prepared an evaluation of the project.

It reported that—in terms of the educational accomplishments of the program, an indication of success is provided by the number of juvenile and youth offenders who took and passed the high school equivalency examination—for the year, 31 of 72 who took the examination passed.

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

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

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

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

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

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

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

The second aspect of my amendment would authorize the Commissioner of Education to make grants for research relating to the academic and vocational education of antisocial, aggressive, or delinquent persons, including juvenile delinquents, youth offenders, and adult criminal offenders. There is far too little work being done in these areas presently.

In my original amendment I specifically provided for a 3-year \$24 million authorization to develop the Teacher Corps program, and a 4-year \$18 million authorization for the research grants. It is my opinion that in order to have an effective nationwide program of this kind, these funding levels are necessary and desirable.

Legislative authority exists for the funding of this Teacher Corps corrections education program. For example, the budget request for the Teachers Corps for fiscal year 1971 is \$30,800,000, well below the existing authorization of \$56 million. It is my hope that the Appropriations Committees of the Senate and the House would appropriate the necessary funds to carry out the purposes of this amendment. It is not my

intention to have funds made available from existing Teacher Corps programs for this program.

The research grant program is a totally new authorization in the Office of Education. The funding of it should be accomplished at the highest level possible, particularly in view of the fact that the Institute for Criminal Justice of the Law Enforcement Assistance Administration spends such a small amount in this area.

I strongly feel that with the passage of this amendment the Senate will be taking an important step in responding to one of the most appalling problems facing America today—our virtual total inability to rehabilitate those who have run afoul of the law. Corrections education can play a significant role in contributing to the solution of this enormously complicated and costly problem.

Mr. President, I am joined in the amendment by Senators NELSON, BAYH, BROOKE, CASE, HARTKE, JAVITS, MONDALE, RANDOLPH, SCHWEIKER, and PROUTY.

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

Mr. GOODELL. I yield.

Mr. DOMINICK. Is my understanding correct that the Senator has modified his amendment No. 460 by striking out subsection (b), page 2 and 3, and by striking out subsection (c) on page 4?

Mr. GOODELL. The Senator is correct?

Mr. DOMINICK. And the remainder of it would stay the same.

Mr. GOODELL. The Senator is correct. I have stricken the authorization of specific money for this purpose because I believe the authorizations are sufficient in the bill as it stands.

Mr. DOMINICK. Mr. President, will the Senator yield further?

Mr. GOODELL. I yield.

Mr. DOMINICK. I do not mean to be facetious, but I was intrigued with the wording on line 14 where the Senator refers to "predelinquent juvenile." Would someone determine who is a predelinquent juvenile? Where does that terminology come from?

Mr. GOODELL. This term has become a fairly well accepted term among people who work in this field. Many youngsters have not been adjudicated delinquents nor have they been before a court, and yet they are what might be termed disruptive troublemakers or potential delinquents. They are very close to the category of having committed offenses or charged with criminal offenses.

I might say to the Senator that dealing with this type youngster is even more promising, as the programs have been thus far on a pilot basis. When you get to them early in predelinquency the potential for success is much greater. It is critical that they be included.

Mr. DOMINICK. I am concerned. As the Senator knows, recently a number of people have maintained that children with, for instance, a triple Y chromosome are more likely to be criminals when they grow up than children with a double Y chromosome. There have been experiments to try to determine whether children tested cannot be followed through life to see what happens to them.

I, being a defense lawyer by nature,

look at this somewhat askance for prejudging that someone is going to be guilty before an event happens. I wonder if we might be getting into a similar problem where someone in an educational system might say, "I do not like young Johnny, down there. He is raising Cain. I think he is a pre-delinquent and needs special instruction." This is part of the problem and I did want the Senator's comment.

Mr. GOODELL. I assure the Senator I do not intend to get into the question of chromosomes by the amendment. I think there are ample overt signs of pre-delinquency that can be used and have been used to identify those who would be helped by this program.

Mr. PROUTY. Mr. President, I am pleased to add my support to the amendment introduced by the Senator from New York (Mr. GOODELL) to permit the Office of Education to expand its Teacher Corps program into areas that will help meet the special educational needs of juvenile delinquents, youth offenders, and adult criminal offenders. As has already been noted, approximately 1.2 million persons are in correctional institutions at any one time, most of whom receive little or no educational help in overcoming the circumstances that led to their incarceration. The need to adopt new educational programs for these people is well known. More importantly, four pilot projects run by the Teacher Corps have proven very useful and I am pleased to see an amendment introduced that would authorize the Office of Education to develop more of these programs. While this authority has been more or less implicit to date, I am hopeful that by making this authority more explicit, we will increase the visibility given to this subject and at the same time encourage expansion of the initial pilot efforts into a more meaningful attack on the problem.

I should like to emphasize two important aspects of the amendment. The first is emphasis placed on the need for more personnel in the field of corrections education. The amendment seeks to encourage interested persons by expanding the opportunities for better training and more meaningful careers. Second, it stresses the need for better educational services for the incarcerated that can only become a reality through more research and increasing coordination at the Federal, State, and local levels.

Just how effective such an expansion of Teacher Corps activities can be in achieving these goals was demonstrated in the four projects already conducted. Most significant was the improvement in attitude of those who participated, many of whom learned for the first time how exciting and fulfilling an educational experience can be. Another important feature gained from the research aspects was knowledge about teaching the disadvantaged and the antisocial person. I am hopeful that much of what has been learned through these programs will be useful in other programs aimed at the disadvantaged. A third important by-product of the program was the practical experience gained by the Teacher Corps interns, who, when they did get their certification, had already established a

background of experience necessary to effective teaching careers.

I believe the expansion of these Teacher Corps programs can be most effective in changing our penal institutions into effective vehicles for rehabilitation from the training ground for more criminal activities they now are. The incidence of crime in this country has reached terrifying proportions and this is just one constructive step we can take to reduce it.

Mr. JAVITS. Mr. President, I am a cosponsor of the amendment. This amendment originates from a provision which the late Senator Robert Kennedy and I had included in the Education Professions Development Act of 1967 that was reported by the Senate Subcommittee on Education. We had quite a problem with the House of Representatives at that time which would accept no amendments at all and, hence, it was stricken without prejudice in the full Senate Committee on Labor and Public Welfare.

I think this is a very sound idea and very essential, especially, in the field of correction of young offenders.

I hope the Senator from Rhode Island will see fit to accept the amendment, especially as the junior Senator from New York has now taken out of the amendment the special funding so that it is fundable under the general provisions of the Teacher Corps Act. I hope very much this amendment may be accepted with that change.

Mr. PELL. Mr. President, I understand that the amendment offered by the junior Senator from New York has been reviewed by the majority and minority Senators on the committee and that there is no objection to the amendment. As chairman of the Subcommittee on Education and manager of the bill, I have had reservations about accepting the amendment since we have not had an opportunity to hold hearings on the subject of education problems in correctional institutions. Moreover, the language of the amendment as originally drawn raised a number of serious questions. However, I understand that the amendment has been redrafted to deal with those questions, especially with respect to the eligible grantees.

I understand that it is intended that institutions of higher education will have the primary responsibility for supervision of Teacher Corps members in correctional institutions and that other organizations will be used only when there is no institution of higher education able or willing to conduct the project. With that understanding, I am willing to recommend acceptance of the amendment for the purposes of taking it to conference for further review.

The PRESIDING OFFICER (Mr. EAGLETON in the chair). The question is on agreeing to the amendment of the junior Senator from New York (Mr. GOODELL).

The amendment was agreed to.

ORDER FOR ADJOURNMENT TO 11 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 11 o'clock tomorrow morning.

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

ORDER FOR RECOGNITION OF SENATORS JAVITS AND HANSEN TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow morning, immediately following the prayer and disposition of the reading of the Journal, the able senior Senator from New York (Mr. JAVITS) be recognized for not to exceed 30 minutes.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, immediately upon the conclusion of the speech by the Senator from New York tomorrow morning, the able junior Senator from Wyoming (Mr. HANSEN) be recognized for not to exceed 30 minutes.

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

REVISED ORDER FOR RECOGNITION OF SENATORS TOMORROW MORNING

Mr. BYRD of West Virginia subsequently said: Mr. President, I ask unanimous consent to reverse the order of their appearance on tomorrow that was obtained under the previous consent order so that the Senator from Wyoming (Mr. HANSEN) will be recognized immediately following the prayer and the disposition of the reading of the Journal, for not to exceed 30 minutes, and that he then be followed by the Senator from New York (Mr. JAVITS) for not to exceed 30 minutes.

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

ORDER TO PRINT S. 3246

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from Connecticut (Mr. DOBB), I ask unanimous consent to have printed the usual number of S. 3246, the Controlled Dangerous Substances Act, as passed by the Senate.

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

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969

The Senate continued with the consideration of the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Colorado.

Mr. JAVITS. Mr. President, it is my understanding that there is no desire on the part of the Senate to vote on the Dominick amendment tonight. Therefore, I suggest the absence of a quorum, unless Senators have other business, I would be happy to leave the entire mat-

ter to the Senator from West Virginia (Mr. BYRD).

Mr. BYRD of West Virginia. Mr. President, if the Senator will withdraw his request I will be glad to accede.

Mr. JAVITS. Mr. President, I withdraw my request.

SUZANNE K. PALMER

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 646, Senate Resolution 353.

The PRESIDING OFFICER. The resolution will be stated.

The ASSISTANT LEGISLATIVE CLERK. A resolution (S. Res. 353) to pay a gratuity to Suzanne K. Palmer.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. BYRD of West Virginia. Mr. President, in explanation of the resolution, I wish to say that the matter has been cleared on both sides.

There being no objection, the resolution (S. Res. 353) was considered and agreed to, as follows:

S. RES. 353

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Suzanne K. Palmer, widow of James E. Palmer, Junior, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

PLANNING, PROGRAMING, BUDGETING

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 647, Senate Concurrent Resolution 52.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A concurrent resolution (S. Con. Res. 52) authorizing the printing of a compilation of the hearings, reports, and committee prints of the Senate Subcommittee on National Security and International Operations entitled "Planning, Programing, Budgeting."

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. BYRD of West Virginia. Mr. President, it is my understanding that this matter has been cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 52) was agreed to, as follows:

S. CON. RES. 52

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on Government Operations three thousand copies of a compilation of the hearings, reports, and committee prints of its Subcommittee on National Security and International Operations entitled "Planning-

Programming-Budgeting," issued during the Ninetieth Congress and the first session of the Ninety-first Congress.

LIMITATION ON STATEMENTS DURING TRANSACTION OF MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow, at the conclusion of the speech by the Senator from New York (Mr. JAVITS) there be a period for the transaction of routine morning business with statements therein to be limited to 3 minutes.

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

ADJOURNMENT TO 11 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 32 minutes p.m.) the Senate adjourned until tomorrow, Friday, February 6, 1970, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate February 5, 1970:

IN THE AIR FORCE

The following-named officers for appointment in the Regular Air Force to the grades indicated, under the provisions of chapter 835, title 10 of the United States Code:

To be major general

Maj. Gen. Robert L. Pettit, [redacted] FR (brigadier general, Regular Air Force), U.S. Air Force.

Maj. Gen. William W. Berg, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Henry B. Kucheman, Jr., [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. John R. Murphy, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Louis T. Seith, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Sherman F. Martin, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. William V. McBride, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Gerald W. Johnson, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Kenneth W. Schultz, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. George J. Eade, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. William F. Pitts, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Edward A. McGough III, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Winton W. Marshall, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Robert J. Dixon, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

Maj. Gen. Donavon F. Smith, [redacted] FR (brigadier general, Regular Air Force) U.S. Air Force.

To be brigadier general

Brig. Gen. Jones E. Bolt, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Rexford H. Dettre, Jr., [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Edmund B. Edwards, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Jessup D. Lowe, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Donald A. Gaylord, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. William A. Jack, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Vernon R. Turner, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. John B. Hudson, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. George W. McLaughlin, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. James O. Frankosky, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Wendell L. Bevan, Jr., [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Roger K. Rhodarmer, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Richard C. Catledge, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. James H. Watkins, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Charles W. Carson, Jr., [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Jonas L. Blank, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Clare T. Ireland, Jr., [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Clifford W. Hargrove, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Woodrow A. Abbott, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Woodard E. Davis, Jr., [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Jack K. Gamble, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. James L. Price, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Robert P. Lukeman, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. John O. Moench, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Warren D. Johnson, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Paul C. Watson, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Sanford K. Moats, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Homer K. Hansen, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Charles I. Bennett, Jr., [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. James A. Bailey, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. John W. Roberts, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Ray M. Cole, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Maurice R. Reilly, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.

Brig. Gen. Robert E. Halls, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
 Brig. Gen. Geoffrey Cheadle, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
 Brig. Gen. Foster L. Smith, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
 Brig. Gen. Charles E. Yeager, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
 Brig. Gen. Alfred L. Esposito, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
 Brig. Gen. Donald H. Ross, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
 Brig. Gen. James A. Hill, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
 Brig. Gen. Jimmy J. Jumper, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
 Brig. Gen. Robert W. Maloy, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
 Brig. Gen. Devol Brett, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
 Brig. Gen. Robert E. Huyser, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
 Brig. Gen. Alton D. Slay, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
 Brig. Gen. Fred A. Helmstra, [redacted] FR (colonel, Regular Air Force, Medical) U.S. Air Force.

The following-named officers for temporary appointment in the U.S. Air Force under the provisions of chapter 839, title 10 of the United States Code:

To be major general

Brig. Gen. Maurice F. Casey, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
 Brig. Gen. Henry L. Hogan, III, [redacted] FR, Regular Air Force.
 Brig. Gen. Charles W. Carson, Jr., [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
 Brig. Gen. Robert A. Patterson, [redacted] FR, Regular Air Force, Medical.
 Brig. Gen. Dudley E. Faver, [redacted] FR, Regular Air Force.

Brig. Gen. Richard R. Stewart, [redacted] FR, Regular Air Force.
 Brig. Gen. Harold C. Teubner, [redacted] FR, Regular Air Force.
 Brig. Gen. Paul N. Bacalis, [redacted] FR, Regular Air Force.
 Brig. Gen. David V. Miller, [redacted] FR, Regular Air Force.
 Brig. Gen. Allison C. Brooks, [redacted] FR, Regular Air Force.
 Brig. Gen. William S. Chairsell, [redacted] FR, Regular Air Force.
 Brig. Gen. Jones E. Bolt, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
 Brig. Gen. Frank M. Madsen, Jr., [redacted] FR, Regular Air Force.
 Brig. Gen. William R. MacDonald, [redacted] FR, Regular Air Force.
 Brig. Gen. Albert R. Shely, Jr., [redacted] FR, Regular Air Force.
 Brig. Gen. James M. Keck, [redacted] FR, Regular Air Force.
 Brig. Gen. Ernest T. Cragg, [redacted] FR, Regular Air Force.
 Brig. Gen. John R. Kullman, [redacted] FR, Regular Air Force.
 Brig. Gen. John B. Hudson, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
 Brig. Gen. John H. Buckner, [redacted] FR, Regular Air Force.
 Brig. Gen. William E. Bryan, Jr., [redacted] FR, Regular Air Force.
 Brig. Gen. Earl L. Johnson, [redacted] FR, Regular Air Force.
 Brig. Gen. John B. Kidd, [redacted] FR, Regular Air Force.
 Brig. Gen. Joseph G. Wilson, [redacted] FR, Regular Air Force.
 Brig. Gen. Rexford H. Dettre, Jr., [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
 Brig. Gen. George W. McLaughlin, [redacted]

[redacted] FR (colonel, Regular Air Force) U.S. Air Force.
 Brig. Gen. Roger K. Rhodarmer, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
 Brig. Gen. Richard M. Hoban, [redacted] FR, Regular Air Force.
 Brig. Gen. John O. Moench, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
 Brig. Gen. Sanford K. Moats, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
 Brig. Gen. Robert E. Halls, [redacted] FR (colonel, Regular Air Force) U.S. Air Force.
 Brig. Gen. John C. Girardo, [redacted] FR, Regular Air Force.
 Brig. Gen. Jimmy J. Jumper, [redacted] FR (colonel, Regular Air Force).
 Brig. Gen. Robert W. Maloy, [redacted] FR (colonel, Regular Air Force).

IN THE NAVY

Vice Adm. Lawson P. Ramage, U.S. Navy, for appointment to the grade of vice admiral, when retired, in accordance with the provisions of title 10, United States Code, section 5233.

IN THE MARINE CORPS

Having designated, in accordance with the provisions of title 10, United States Code, section 5232, Maj. Gen. Keith B. McCutcheon, U.S. Marine Corps, for commands and other duties determined by the President to be within the contemplation of said section, I nominate him for appointment to the grade of lieutenant general while so serving.

The following U.S. Marine Corps general officers for appointment to the grade of lieutenant general on the retired list in accordance with the provisions of title 10, United States Code, section 5233, effective from the date of their respective retirements.

Lt. Gen. Henry W. Buse, Jr.
 Lt. Gen. Lewis J. Fields.
 Lt. Gen. Frank C. Tharin.

HOUSE OF REPRESENTATIVES—Thursday, February 5, 1970

The House met at 12 o'clock noon.

Rev. Andrew W. Tampling, the First Baptist Church, Sylacauga, Ala., offered the following prayer:

Holy Father, we acknowledge Thee as our God. Grant that these Thy children, possessing powers to govern that have been ordained of Thee, may meet their duties and responsibilities with a constant remembrance of the great traditions wherein they stand and of the brilliant cloud of witnesses at all times surrounding them.

We pray that a sense of the eternal may color the thoughts and endeavors of all who serve here in this citadel of American life.

We bless Thee in advance for the gift of a realization of Thy presence forming our decisions and permeating our will's most inward being.

In our silence and speech and deliberate actions may Thy will be done. In Thy holy name we pray. Amen.

THE JOURNAL

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that

the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 2. An act to amend the Federal Credit Union Act so as to provide for an independent Federal agency for the supervision of federally chartered credit unions, and for other purposes; and

H.R. 13300. An act to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to provide for the extension of supplemental annuities and the mandatory retirement of employees, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3253. An act to provide that the Federal office building and U.S. courthouse in Chicago, Ill., shall be named the "Everett McKinley Dirksen Building East" and that the Federal office building to be constructed in Chicago, Ill., shall be named the "Everett McKinley Dirksen Building West" in memory of the late Everett McKinley Dirksen, a Member of Congress of the United States from the State of Illinois from 1933 to 1969.

THE GOLDEN EAGLE AND INFLATION

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

remarks and to include extraneous matter.)

Mr. EDMONDSON. Mr. Speaker, the Nixon-Agnew administration talks a great game of fighting inflation, but when you look at the record, it does not look so good.

The latest instance of inconsistency on the part of this administration is their backing for a proposal to extend the so-called Golden Eagle for entrance to Federal recreation areas, which Congress had voted out of existence on March 31 of this year, and not only to extend it but to raise it from \$7 to \$10 which is an increase of pretty close to 43 percent.

If this is holding the line on prices, and if that is helping the average American citizen, and if it is helping to make outdoor recreation available to all people, it is a strange way to do the job.

It seems to me the Congress during the last session made a wise decision in regard to ending this pewter buzzard in March of this year—and found at that time that the extension of it is not in the national interest.

Mr. Speaker, I have today introduced a bill to make quite certain that all American citizens can enjoy access to the national parks and Federal recreation areas which belong to the American people—a bill to prohibit the charging of entrance or admission fees for access