SENATE—*Monday, August 3, 1970*

The Senate met at 11 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

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

Almighty God, in whom we live and move and have our being, we thank Thee for Thy providence which has brought us to the beginning of this new week.

As we give attention to the defense of the Nation's sovereignty and the keeping of the peace of the world, may we also renew the sinews of the spirit. May Thy spirit search our lives and examine our deepest motives. Make us wise and good in the use of power. Make us to know that "we wrestle not against flesh and blood, but against the rulers of the darkness of this world—against spiritual wickedness." So may the forces of light triumph over the forces of darkness.

Fortified against temptation, armed with the sword of the spirit, and shod with the preparation of the gospel of peace, may we pass our days in Thy service, and at length hear Thee say, "Well done, good and faithful servant."

In the name of the Prince of Peace. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk, Mr. Johnson read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 3, 1970.

To the Senate:

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

RICHARD B. RUSSELL,
President pro tempore.

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

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting a nomination was communicated to the Senate by Mr. Geisler, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Acting President pro tempore (Mr. ALLEN) laid before the Senate a message from the President of the United States submitting the nomination of Nicholas T. Thacher, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Kingdom of Saudi Arabia, which was referred to the Committee on Foreign Relations.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, July 31, 1970, be dispensed with.

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, with the consent of the distinguished Senator from New Hampshire (Mr. MCINTYRE), who is now to be recognized, I ask unanimous consent that I be recognized for not to exceed 5 minutes, with none of the time to be taken away from the Senator from New Hampshire.

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

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

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

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

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

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of unobjected-to bills on the calendar, beginning with No. 1049.

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

CAPT. MELVIN A. KAYE

The bill (H.R. 1453) for the relief of Capt. Melvin A. Kaye was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1044), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to pay Capt. Melvin A. Kaye, U.S. Air Force, $3,628.22 in full settlement of his claims against the United States arising out of the destruction of his household goods while being shipped at Government expense from Philadelphia, Pa., to Selfridge Air Force Base, Mich., in connection with his assignment to that base.

STATEMENT

In its favorable report on the bill, the House Judiciary Committee relates the facts in the case as follows:

The Department of the Air Force in its report to the committee on the bill indicated it would have no objection to the bill with the amendment recommended by the committee providing for a payment of $3,628.22.

Pursuant to permanent change of station orders, Captain Kaye's household goods and other personal and professional equipment, weighing 4,220 pounds, were inventoried, packed, and shipped via the Shamrock Van Lines, from Philadelphia, Pa., to Selfridge Air Force Base, Mich. On August 1, 1967 (the bill alleges August 1, 1968, an obvious error), most of this property was destroyed by fire in the carrier's truck. The fire occurred near Houghton Lake, Mich., while the goods were in transit.

On September 7, 1967, the Transport Insurance Co., Dallas, Tex., on behalf of the carrier, Shamrock Van Lines, paid $2,375 to Capt. Melvin A. Kaye and Bonnie G. Kaye, individually and as husband and wife.

On November 21, 1967, Captain Kaye presented a claim to the Air Force in the amount of $23,206.84. This represented the full amount of his original claim, and did not include depreciation or take into account the $2,375.00 already recovered. This claim was adjudicated under section 240–242 of title 31, United States Code, which provide that the claim be evaluated as to what is reasonable, useful, and proper under the circumstances, and that a reasonable depreciation be applied to items which deteriorate through use. In addition, maximum amounts are payable on certain prescribed categories of items such as silver, hobby equipment, and personal memorabilia. Also excluded are claims for items of professional dental equipment not required for military use. Based upon the limitations mentioned above, and taking into account the depreciated value, it was determined that the value of the property was $16,003.22 at the time of the loss. On May 20, 1968, the Air Force paid Captain Kaye $10,000, the maximum amount the Air Force could pay under sections 240–242 of title 31, United States Code. That amount, when added to the $2,375.00 recovered from Shamrock Van Lines, gave him a total recovery of $12,375.00. When his total recovery is substracted from the $16,003.22 which the Air Force has determined is reasonable, useful, and proper under the circumstances, his total unpaid claim—in excess of the amounts recovered thus far—is $3,628.22.

In its report to the committee, the Department of the Air Force pointed out that the unpaid balance of the loss which Captain Kaye suffered is $3,628,22 and but for the $10,000 limitation in the statute, he would have been paid that amount. This was a case where the Government had accepted responsibility for the transportation of Captain Kaye's household goods and personal effects. As noted by the Air Force, the legislative history of the Military Personnel and Civilian Employees Claims Act of 1964 included a recognition of the Government's responsibility for the payment of personal property losses suffered by military personnel and civilian employees incident to their employment. The committee agrees that it is unfair to impose this type of additional burden on a serviceman for personal losses of his property when it is suffered as the result of a man's service obligations in a move directed and controlled by the Government.

Over the years the committee on numerous occasions has considered bills of this type. Often in the course of these considerations the question of whether private insurance is available has been raised. The Air Force report makes a specific reference to this consideration when it is pointed out that it is Air Force policy to encourage the owners of household goods to insure their property through a commercial insurance company. When the Military Personnel and Civilian Employees Claims Act was amended in 1965, the recommending Senate report on the legislation [S. Rept. 655, 89th Cong., first sess.] stated:

"* * * that a requirement for the purchase of insurance has the practical effect of imposing additional costs and hardships on personnel incident to their repeated service-directed moves. It must also be recognized that the cheap 'trip transit' policies offer very little if any protection."

As has been noted in previous instances the contracts made by the Government for transportation of household effects provide for a limited liability on the part of the shipper. This arrangement is made to save money for the Government by providing for lesser charges for the moving. This, of course, means that the serviceman or employee is severely limited in any recovery he can make from the shipper who had control over his property at the time of loss. The committee has therefore concluded that legislative relief is appropriate in the reduced amount recommended by the Air Force, and it is recommended that the amended bill be considered favorably.

The committee, after review of the foregoing, concurs in the action taken by the House of Representatives and recommends favorable consideration of H.R. 1453.

JACK BROWN

The bill (H.R. 1697) for the relief of Jack Brown was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1045), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation, is to pay $751.50 to Jack Brown, former superintendent and special disbursing agent for the Sequoyah Orphan Training School of Tahlequah, Okla., in full settlement of his claims against the United States for the payment he was required to make on January 12, 1939, from his personal funds due to an exception taken by the General Acounting Office to the purchase of a water pipeline right-of-way in behalf of the United States.

STATEMENT

The Department of the Interior in its report to the House Judiciary Committee on the bill recommends that the bill be enacted.

The history of this matter dates back to June 2, 1932, when Mr. Jack Brown was authorized by the Bureau of Indian Affairs of the Department of the Interior to obtain the necessary right-of-way and material to provide a water supply for the Sequoyah Orphan Training School. At that time, it was considered an emergency move because the water supply for the school then obtained from wells had become polluted.

Prior to beginning construction of the water line, the light and water department of the city of Tahlequah procured easements from individual property owners involving 10 tracts of land. The city of Tahlequah paid for the easements with funds under its control with the understanding that it would be reimbursed by the Bureau of Indian Affairs. Before payment was made to the city, Mr. Brown submitted a voucher to the central office of the Bureau for preaudit. On March 20, 1933, the voucher was returned with approval for payment direct to the claimant from funds allocated for this project, and upon its receipt, $751.50 was paid to the city light and water department, Tahlequah, Okla. This is the $751.50 which is referred to in the bill.

The next development in connection with the efforts to secure the right-of-way occurred when by a radiogram, also dated March 20, 1933, the Commissioner of Indian Affairs instructed Mr. Brown to obtain and forward separate transfers of the easements from the city to the Sequoyah Orphan Training School and the United States of America, together with certificate of good title in the grantor.

By letter of April 12, 1933, Superintendent Brown submitted a resolution, signed by the mayor of the city of Tahlequah, Okla., authorizing and directing Mr. Dohe, superintendent of the city light and water department, to execute a conveyance of all right, title, and interest of the department in and to the easements to the United States of America. Also submitted was an assignment, signed by Mr. Dohe, in favor of Sequoyah Orphan Training School of the Department of the Interior, United States of America, with certificates of title from the Cherokee Capital Abstract Co. All of these documents were submitted to the Department of the Interior and were returned by memorandum of June 20, 1933, signed by the first assistant secretary, wherein certain objections to the documents were raised and the need for title curative instruments outlined.

Thereafter, extensive correspondence was exchanged between the Bureau and Superintendent Brown relating to the title curative work and the mounting difficulties experienced by the Superintendent, due to the numerous conveyances affecting titles to the various parcels crossed by the pipeline. Each transfer of title necessitated a change in the title curative documents. Although Mr. Brown had expended $677.50 to acquire title and $74 for expenses, or a total of $751.50 as authorized, the Comptroller General, in a notice of exception dated October 2, 1933, took exception to his accounts on the ground that the act of April 22, 1932 (47 Stat. 104), which authorized the purchase of necessary rights-of-way for a water supply, did not contemplate the purchase thereof except directly through the agencies of Government. In addition, Mr. Brown was required by the General Accounting Office to show evidence of receipt of payment by the persons receiving the money, together with evidence of transfer of the right-of-way to the Government and evidence that good title was then in the Government. In order to clear the Comptroller General's exception to his accounts, Mr. Brown deposited the sum of $751.50 from his own funds with the Treasury of the United States on January 12, 1939, as directed by General Accounting Office letter of December 30, 1938.

The record discloses that subsequent to making such deposit, Mr. Brown continued diligently to pursue the matter of obtaining the required title documents which would vest title in the United States. He obtained new easement deeds from the owners of eight parcels crossed by the right-of-way, together with supporting title data. Six of the deeds were approved by the Department. By letter of July 7, 1941, the Superintendent was informed that the other two deeds appeared to be in proper form and were returned for recordation with abstracts or certificates showing good title in the United States. In addition, he was authorized to negotiate with the owners of the remaining two tracts for new deeds.

Due to the fact that the original owners had moved from the State and the new owners, before agreeing to sign, demanded concessions not in the best interests of the school. Mr. Brown was unable to obtain new deeds covering these two remaining tracts.

The committee feels that the foregoing statement of facts demonstrates that justice and equity clearly require that Mr. Brown be paid the $751.50 authorized by this bill. The United States has continuously enjoyed the benefits of the use of the right-of-way in the intervening period and it is further clear that Mr. Brown did everything within his power to correct the situation as regards the defects in the conveyances which were the basis for the exception by the General Accounting Office. The committee agrees with the conclusions stated by the Department of the Interior in its report. That Department stated as follows:

The pipeline laid within the right-of-way in question has served the United States and the school for over 30 years without objection, controversy, or claim arising from the rights of the United States in and to this easement. Mr. Brown's diligence in complying with the shifting title requirements is spread on the record. He was authorized by his supervisors to spend the money he spent to acquire title to these lands, and the passage of time without incident is proof that his work was well done. It is our opinion that in view of the more than 30 years of trouble-free benefit enjoyed by the Government and the school, Mr. Brown deserves to have his funds reimbursed.

It is recommended that the bill be considered favorably.

CLAYTON COUNTY JOURNAL AND WILBER HARRIS

The bill (H.R. 1703) for the relief of Clayton County Journal and Wilber Harris was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1046), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to relieve the Clayton County Journal of Jonesboro, Ga., of all liability for repayment to the United States of the sum of $1,506.49, representing additional postage due on copies of the Journal mailed during the period from January through July 1967, as a result of the assessment of postage at incorrect rates by officials of the Post Office Department. The bill would further relieve Wilber Harris of Jonesboro, Ga., of liability for repayment to the United States of the same amount, representing the amount of that deficiency charged his account as postmaster of Jonesboro, Ga., for failure to collect the correct postage from the Clayton County Journal. The bill would authorize the refund of any amounts paid or withheld by reason of the indebtedness.

STATEMENT

The House of Representatives in its favorable report on H. 1703 relates the following:

The Post Office Department in its report to the committee on the bill has stated that it has no objection to its enactment.

The bill, H.R. 1703, was the subject of a subcommittee hearing on July 24, 1969. The testimony at that hearing and the facts outlined in the post office report have estab-

lished that the Clayton County Journal is a weekly publication, commenced in 1965, which has second-class mailing privileges at the Jonesboro, Ga., post office.

In 1967 the publisher mailed out sample copies of the Journal, pursuant to section 4359(a)(3) of title 39, United States Code, which authorizes pound rates of postage for sample copies "to the extent of 10 per centum of the weight of copies mailed to subscribers during the calendar year."

However, because sample copy mailings in this case exceeded the 10 percent allowance, the pound rates did not apply to the excess, and postage at the higher transient second-class rates (39 U.S.C. 4362) should have been paid for such excess weight. Due to the error a postage deficiency developed in the amount of $1,352.55. In addition, copies of the Journal which were sent to persons other than subscribers, pursuant to 39 U.S.C. 4362(3), were mailed at a bulk third-class rates when the second-class transient rate was for application. This resulted in a postage deficiency of $153.94, making the total deficiency $1,506.49, the amount stated in the bill.

With reference to the postage deficiency ascribable to the excess sample mailings, the file disloses that the postmaster misinterpreted applicable regulations, in that he applied the 10 percent rule, discussed above, in terms of numbers of copies rather than weight of copies. That is, the 10 percent was laid off against the total estimated number of copies to be mailed to subscribers during the calendar year (1967), when it should have applied to the total estimated weight of the copies. By the postmaster's method of computation the sample mailings were within the 10 percent limitation.

Regarding the remaining postage deficiency in the amount of $153.94, this relates to a mailing of copies of the Journal on May 17, 1967, to nonsubscribers. These copies were made up in slightly different format than the regular copies of the particular issue, and the weight of a copy was lighter than the weight of the regular copy sent out under second-class rates. As to this the postmaster stated in his letter of explanation at the time of his opinion the variation in weight reflected "a revamping of the paper enough to qualify it for the third-class rate. That was the opinion at the time of mailing, when the rate was applied." Actually, since the Journal held second-class mailing privileges these irregular copies fell under the second-class rate structure, and thus did not qualify as "printed matter" eligible for third-class postage rates (39 U.S.C. 1451(e)).

At the hearing on the bill, it was stated that the Clayton County Journal ceased circulation of the sample copies when it was informed by postal inspectors that the publication had exceeded its sampling allotment. The newspaper was held to believe that cessation of circulation of samples was all that would be required and that the matter would be considered closed. It was in October of 1967 that the Clayton County Journal was advised by a Post Office Department auditor that the newspaper would still be required to pay over $1,500 in back postage as the result of the error in determining postage by number rather than weight and the erroneous application of third-class rates for a special issue to nonsubscribers.

The committee has concluded that legislative relief is appropriate because the error occurred because of honest mistakes in computing the postage, and further because the newspaper publisher relied on the initial determination to its own ultimate detriment. The equities of the situation are well stated in the following quotation from the Post Office Department report:

The Department is satisfied that honest mistakes in computing postage were made in this case, and we therefore have no objection to the enactment of relief legislation for the postmaster, Wilbur Harris. With regard to the Clayton County Journal, there is no doubt that legally the publication is liable for the amount of the postage deficiency. On the other hand, it is also clear that the Journal relied in good faith on postage computations made by postal personnel, and that without fault on its part the publication is now liable in the amount of $1,506.49 because of errors made by others. In light of these circumstances, the Department would have no objection to the enactment of H.R. 14914.

The committee, after a review of all of the foregoing, concurs in the action taken by the House of Representatives and recommends that the bill, H.R. 1703 be considered favorably.

CAPT. NORMAN W. STANLEY

The bill (H.R. 1728) for the relief of Capt. Norman W. Stanley was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1047), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to relieve Capt. Norman W. Stanley of liability of $2,371.44 for overpayments of salary from September 18, 1961, through March 17, 1966, as the result of an administrative error in determining his entitlement to pay to be that of an officer with more than 4 years prior enlisted service.

STATEMENT

In its favorable report on the bill, the House Judiciary Committee set forth the facts of the case as follows:

The Air Force has advised the committee that it has no objection to relief as provided in the bill. The General Accounting Office in a report to the committee questions relief but stated that the decision as to whether relief should be extended by private bill was a matter for determination by the Congress.

Prior to being commissioned as an officer in the Air Force, Captain Stanley served as an enlisted man in the Army and then in the inactive Air Force Reserve. After training as a member of the Reserve Officers Training Corps, he was commissioned a 2d lieutenant in the Air Force Reserve on June 16, 1961. He was ordered to extended active duty on September 18, 1961, and has been on continuous active duty since that date. He is now detailed to the National Aeronautics and Space Administration in Houston, Tex.

The overpayments referred to in this bill were made to Captain Stanley as the result of erroneously computing his base pay on the special pay scale authorized by the act of May 20, 1958, which applies to officers in pay grades O–1, O–2, and O–3, who have had over 4 years active enlisted service. This pay scale generally authorizes a higher rate of pay than is authorized for officers who have not had active enlisted service.

When the officer reported for active duty in 1961, his statement of service showed that he had served 2 years and nearly 10 months as an enlisted member of the Army, and more than 5 years as an enlisted member in the inactive Air Force Reserve. It was erroneously concluded that since he had more than 8 years enlisted service, he was entitled to have his pay computed on the special scale authorized by the act of May 20, 1958.

This error was not discovered until February 1967. At that time Captain Stanley had completed 14 years of service and his pay account was reviewed in connection with his longevity pay increase. His pay account was maintained by the Kelly Air Force Base in Texas and its personnel verified that since he had only 2 years, 9 months and 25 days on active enlisted service, it was not sufficient to meet the requirements for the special pay schedule authorized by the act of May 20, 1958. An audit of his account showed that he had received erroneous payments totaling $2,371.44. As of October 1, 1969, $571.44 had been collected from his active duty pay by reason of this indebtedness.

The Air Force noted in testimony presented before a subcommittee at a hearing on the bill on October 30, 1969, that Public Law 90–616 permits the waiver of recovery of erroneous payments made to Federal civilian employees when collection is against equity and good conscience. Under the Comptroller General's regulations implementing this law this criteria is met by a finding that there is no indication of fraud, misrepresentation, fault or lack of good faith on the part of the employee or any other person having an interest in waiving the recovery of any erroneous payments. In the determination of whether relief is merited, consideration is also given to whether the employee knew or should have known that he was being overpaid. This law is in effect a statement of congressional policy. The Air Force has further advised the committee that in determining its position on this bill, it has followed the criteria of the implementing regulations of Public Law 90–616. In this connection, the Air Force noted at the hearing that while Captain Stanley was aware that he had served on active duty as an Army man for slightly less than 3 years, he also had served as an enlisted member of the inactive reserve for more than 5 years. The Air Force determined that it is logical to assume that he was advised that since he had more than 8 years enlisted service he was entitled to the rates prescribed in the special pay schedule.

The Air Force concluded that under the circumstances he or any officer in his position would not have been aware that he was only entitled to those special rates when he had served over 4 years active enlisted service. The Air Force summarized its position at the hearing as follows:

"Collection of the claim against Captain Stanley would be against equity and good conscience and not in the best interest of the United States under the criteria prescribed pursuant to Public Law 90–616 for waiving claim arising from erorneous payments made to Federal employees. Therefore, the Air Force would now interpose no objection to favorable consideration of H.R. 1728."

In view of the foregoing and the position taken by the Air Force on the matter at the hearing and in its report, the committee recommends that the bill, as amended, be considered favorably.

The committee after a review of the foregoing, concurs in the action taken by the House of Representatives and recommends favorable consideration of H..R. 1728, without amendment.

CARLO DEMARCO

The bill (H.R. 2209) for the relief of Carlo DeMarco was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1048), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to provide Mr. Carlo DeMarco, a Federal postal employee, a separate leave account of 200 hours of annual leave in settlement of his claim for the loss of such leave earned in the years 1963 through 1967 due to an admitted Federal postal administrative error to recognize prior Federal civilian and military service in computation of such leave.

STATEMENT

The proposed legislation passed the House of Representatives June 17, 1969. The facts of the case as stated in the accompanying House Report No. 91–294 are as follows:

The report of the Post Office Department in a report dated September 13, 1968, on a previous bill stated that it had no objection to favorable consideration of the bill provided it was amended to show a separate account of 200 hours of annual leave. The committee has recommended such an amendment to the bill, H.R. 2209. When Mr. DeMarco was appointed to a position in the Toms River Post Office he did not complete and file a Standard Form 144, Statement of Prior Federal Civilian and Military Service. The failure to file this form caused the Department to place Mr. DeMarco in a leave category which did not take into account his prior Federal service. Thus, his leave account was undercredited during the years 1963 through 1967 as follows:

Calendar year:	*Annual leave (hours)*
1963	8
1964	48
1965	48
1966	50
1967	46
Total	200

This lost leave cannot be restored to Mr. DeMarco administratively, because of the 30-day limitation respecting the accumulation of annual leave prescribed by 5 U.S.C. 6304(a).

In its report, the Post Office Department states that it does not object to the enactment of relief legislation for Mr. DeMarco. The report states that he was not made aware of the necessity of filing the necessary form, standard form 144, and notes that he certainly had nothing to gain by failing to do so. The Post Office Department further states that its files clearly establish the administrative error.

The amendment recommended by the committee is to provide that the amount of annual leave added in the separate leave account authorized by the bill would be limited to 200 hours. The remaining 38 hours of annual leave referred to in the bill as introduced were accumulated in 1968 and were properly credited to Mr. DeMarco's 1968 leave account. To this degree, it was possible to adjust the matter by administrative action. It should further be noted that the bill in section 2 requires that the leave in the special account will have to be taken as leave and cannot be settled by means of a cash payment should the employee be separated from Federal service by death or otherwise without using such leave. This is a standard provision which the committee has required in other similar cases.

In agreement with the views of the Post Office Department and the House of Representatives, the committee recommends that the bill be considered favorably.

JOHN T. ANDERSON

The bill (H.R. 2241) for the relief of John T. Anderson was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1049), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to pay John T. Anderson, of Morris Plains, N.J., $137.50 in settlement of his claim for the cost of shipping his automobile from Germany to the United States in connection with his separation from the Department of the Air Force and return to this country.

STATEMENT

The Department of the Air Force in its report to the House Judiciary Committee on the bill indicates that it has no objection to its enactment.

John T. Anderson was an employee of the U.S. Air Force at Lindsey Air Station, Wiesbaden, Germany, who was released from this assignment by orders dated February 15, 1962, and was authorized to travel to Washington, D.C., for further employment with the Department of Agriculture. In connection with this authorization, he was further authorized transportation of his 1961 Volkswagen automobile on Government facilities on a space-required nonreimbursable basis.

On March 7, 1962, Mr. Anderson presented his travel authorization to an officer of the U.S. Army Transportation Corps as evidence of his entitlement to transportation of his automobile to the United States. The Army Transportation Corps official erroneously determined that Mr. Anderson was not entitled to transportation of his automobile via a Government vessel and refused to accept it for shipment to the United States, citing paragraph 5802 of Air Force Manual 75–4, which prohibits the shipment via Government facilities of a foreign-made vehicle purchased overseas on or after March 7, 1961. The records show that the contract order for the vehicle was dated February 28, 1961, and that Mr. Anderson was entitled to shipment of the vehicle under the exception stated in subsection b(1) of paragraph 5802. That subsection provides that the restrictions of paragraph 5802a are not applicable when the title to the vehicle is transferred between eligible Department of Defense personnel and the chain of ownership immediately before and after March 6, 1961, includes only eligible personnel.

Since the Army Transportation Corps refused to accept the automobile for shipment to the United States, Mr. Anderson employed a local freight forwarding firm in Bremerhaven to arrange for the shipment of his automobile to Baltimore at his own expense.

Mr. Anderson requested the General Accounting Office to review his claim for reimbursement of the cost incurred in shipping his automobile from Bremerhaven, Germany, to Baltimore, Md. The Assistant Comptroller General of the United States disallowed his claim in a letter dated January 14, 1965, and sustained the action in a letter dated November 7, 1966. In his letter dated November 7, 1966 (B–160229), the Assistant Comptroller General ruled as follows:

Our settlement of January 14, 1965, disallowed your claim for reimbursement for the reason that the shipment of your automobile from Bremerhaven to Baltimore was accomplished by means of a foreign-flag vessel in contravention of section 901 of the Merchant Marine Act of 1936, as amended, 46 U.S.C. 1241 (2), which provides: "Any officer or employee of the United States traveling on official business overseas or to or from any of the possessions of the United States shall travel and transport his personal effects on ships registered under the laws of the United States where such ships are available unless the necessity of his mission requires the use of a ship under a foreign flag: *Provided*, That the Comptroller General of the United States shall not credit any allowance for travel or shipping expenses incurred on a foreign ship in the absence of satisfactory proof of the necessity therefor."

The committee notes that Mr. Anderson's appeal to the General Accounting Office was rejected because of a determination that regardless of error on the part of military personnel the foregoing law would bar payment. As stated in the Air Force report, the Assistant Comptroller General phrases this position in this manner:

While the record does show that an error was committed by a representative of the Government in this case, such fact has no material bearing on the legal issue involved. The financial liability for use of a foreign-flag vessel by an employee in the absence of a need for such use is placed by law upon the employee, and even if the Government's representatives are shown to have acted erroneously in the matter, there exists no legal basis for granting relief to the employee.

Mr. Anderson has exhausted all administrative remedies and there is no legal authority to reimburse him for the costs incurred in shipping his automobile from Bremerhaven, Germany, to Baltimore, Md.

The Department of the Air Force has stated that it has no objection to enactment of H.R. 2241, based on evidence showing that Mr. Anderson had entitlement to transportation of his automobile to the United States. The vehicle was acquired before March 6, 1961, and was eligibile for shipment at Government expense. Further, the vehicle would have been shipped via Government facilities if the transportation officer had not acted erroneously in denying authorization of the shipment.

Clearly, Mr. Anderson was unfairly denied the shipment of his automobile and forced to expend the sum stated in this bill by reason of the actions and errors of Government personnel. Accordingly, it is recommended that the bill be considered favorably.

ELBERT C. MOORE

The bill (H.R. 2407) for the relief of Elbert C. Moore was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1050), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation, as amended, is to pay Elbert C. Moore, of Clearwater, Fla., $1,500 in full settlement of his claims against the United States for expenses arising from the salvage of an Air Force Ryan Firebee drone in the Gulf of Mexico on April 24, 1963.

STATEMENT

The facts of the case are found in the House report as follows:

The Department of the Air Force in its report to the committee on the bill indicated that it would have no objection to the bill provided it was amended as recommended by the committee. The target drone was launched at Tyndall Air Force Base, Fla., on February 6, 1963, but was lost over the Gulf of Mexico due to adverse weather, and after 2 days the search was abandoned and the drone was subsequently removed from accountable records of the Air Force. On April

24, 1963, the drone was discovered afloat about 80 miles southwest of Tarpon Springs by a commercial fisherman Mr. William Davenport, who was operating the *Laura C* under lease on a percentage-of-profit basis. Mr. Davenport, being unable to notify the Coast Guard, thereupon voluntarily interrupted his fishing trip and spent approximately 30 hours towing the drone to Tarpon Springs where it was subsequently returned to the Air Force custody. An examination of the drone at MacDill Air Force Base revealed that it did not carry explosives and that only the flight control box, valued on the stock list at $13,800, was salvageable. It is understood that this item was returned to serviceable stocks at Tyndall Air Force Base.

Shortly after returning the drone to the Air Force, Mr. Davenport, through an attorney, indicated a desire to make a salvage claim. A drone is an aircraft and, therefore, section 9802 of title 10, United States Code, which relates only to the salvage of an Air Force vessel, is inapplicable. Moreover, such a claim could not be considered on a contract basis as there was no prior publication of an offer of reward. Nevertheless, in view of the benefit received by the Air Force, the claim appeared meritorious if the amount of damages sustained or cost incurred could be substantiated.

On June 14, 1963, Mr. Davenport told the claims officer at MacDill Air Force Base that mechanical repairs to the vessel necessitated by the towing incident had been made by him at a total cost of $100 by using spare parts in his possession and used parts obtained at very little cost, and that he also suffered a $350 loss of fishing profits. There were only 900 pounds of fish aboard the vessel at the time of the salvage tow and the fishing trip normally would not have been terminated until 4,000 to 7,000 pounds of fish had been caught or until at least 10 days of fishing had elapsed.

On October 23, 1963, Mr. Davenport's attorney presented a claim for loss of profits, temporary repairs, and damage to the vessel in the amount of $7,500. The evidence presented by Mr. Davenport showed an estimate of $1,200 for repair of damage to the engine and transmission, $300 to repair of the starboard chines, plus the originally stated amount of $450 to cover the temporary repairs made and the loss of anticipated profits.

When an ex gratia settlement agreement of $1,950 was sent to Mr. Davenport, it was discovered that he was not the owner of the vessel as he had previously represented and therefore payment of the award was withheld (although he was eventually paid $450 in full satisfaction of his claim).

On January 20, 1965, the person named in H.R. 2407, Mr. Elbert C. Moore, the owner of the *Laura C*, presented, through his attorney a claim for $24,910, which was itemized essentially as follows:

(a) Initial damage to the vessel resulting from the salvage tow and deterioration due to the financial inability of the owner to have repairs made ($7,500).

(b) Loss of use of the fishing vessel for a period of 21 months at an estimated loss of $800 per month ($16,800).

(c) Storage of the vessel after the damage ($500).

(d) Expenses incurred for supplies and other materials in the salvage trip ($110).

The committee notes that the amounts claimed were not substantiated by business records, itemized bills or estimates of repair, or evidence of the nonavailability of a replacement vessel. One estimate, dated May 5, 1965, showed undescribed repair costs of $141.83, including the cost of some repainting. Mr. Frank Levinson, Jr., Clearwater Bay Marine Ways, Inc., stated that he submitted an estimate of $2,500 for the cost of repair of the vessel's chines when he inspected it in April 1963, but there is no record of such an estimate having been submitted to the Air Force. Mr. Levinson also stated that his inspection of the vessel on March 15, 1965, revealed that the hull, frame, and keel had deteriorated to such an extent that it was beyond economical repair.

Neither the operator (Mr. Davenport) nor the owner (Mr. Moore) of the *Laura C* requested a joint survey of the damage sustained in the April 24, 1963, salvage operation. However, a survey report made on December 23, 1961, in connection with the purchase of the vessel by Mr. Moore, noted that 12 active wormholes in the underwater hull required attention and indicated certain needed painting and other minor repairs. The survey showed that the engine was installed new in November 1959, and it appeared to be in excellent running condition. The value of the vessel on the date the survey was made was estimated to be between $5,500 and $6,000 with a replacement cost new of about $14,000. No evidence has been presented to show that the worms in the hull were killed, the holes were filled, and other repairs accomplished, as recommended.

This is a case where the claims of Mr. Davenport and Mr. Moore were not cognizable under any statute available to the Air Force for the administrative settlement of claims. Under the act of August 28, 1958, Public Law 85–804 (50 U.S.C. 1431 et seq.), as implemented by Air Force Regulation 67–5, where a reward has been offered for the recovery of lost Air Force property, there is authority to pay up to $500 for aircraft and missiles and lesser amounts for other items. There was, however, no offer of reward for the recovery of the drone in question and therefore this contract authority is not applicable in the present case. (Subsequent to Feb. 6, 1963, all drones launched at Tyndall Air Force Base have an offer stenciled on their sides.)

Although the Secretary of the Navy is specifically authorized to pay a reward of not more than $500 for information leading to the discovery of missing naval property or its recovery (10 U.S.C. 7209), there is no counterpart statutory provision applicable to the Army or Air Force. Consequently, any administrative payments of the award to the operator or owner of the salvage vessel could be made only on an "ex gratia" basis for the special funds otherwise available to the Secretary of the Air Force for emergencies and extraordinary expenses. Such payments were determined justified in view of the benefit to the Air Force from the recovery of the valuable flight control box for possible future use.

As stated, the Secretary of the Air Force had considered an award of $1,950 to Mr. Davenport (the operator) to be appropriate at the time Mr. Davenport was believed to be the owner. However, when it was determined that Mr. Moore was the owner of the vessel, it was determined that an award to Mr. Davenport in excess of $450 would not be proper. On May 12, 1966, Mr. Davenport was paid $450 in full satisfaction and final settlement of his claim against the United States.

In considering the claim of Mr. Moore (the owner), it was determined that there was no reasonable or legal basis for holding the Government responsible for the loss of use of the fishing vessel caused by his financial inability to repair the damage. The committee agrees that the Government's pecuniary liability, if any, should not exceed the cost of repairing whatever damage resulted directly from the towing incident and the cost of obtaining a substitute vessel for a reasonable period of time, while the repairs were being made. The Air Force noted that damage to the vessel in excess of $1,500 resulted from its continued neglect after the retrieval and the claims for other damages were not supported.

On the basis of all the evidence submitted, the Air Force concluded that it was appropriate to make Mr. Moore an "ex gratia" payment of $1,500 from the special funds of the Secretary of the Air Force to compensate him for the damage to his vessel as the result of the salvage tow. The Secretary's letter of April 6, 1966, to the owner's attorney offering the award, stated that the rights of the parties who have security interests in the vessel must also be considered. Therefore, the settlement agreement was prepared for the signature of the owner and also the representatives of the lien holders (the Caladesi National Bank, Dunedin, Fla.; John J. Spanolios; and the General Engine and Equipment Co.). The settlement offer was not accepted as Mr. Moore contended that he should receive the cost of replacing his vessel ($14,000) and be paid for loss of revenue for 3 years and the accumulated cost of storage.

Certain additional legal aspects of the Davenport and Moore claims should be considered. In the absence of conclusive evidence to the contrary, there is a presumption that the Government cannot abandon its property. The operator of the salvage vessel, therefore, did not acquire title to the drone or its contents at the time it was recovered from the Gulf of Mexico.

The Air Force further noted that there is no established rule on the allowance for salvage in admiralty cases. In admiralty courts, an allowance for salvage is necessarily largely a matter of discretion which cannot be determined with precision by application of exact rules. Mr. Moore's attorney contends that the use of a boat in salvage should carry a rate of 10 percent of the value of the salvaged product. In the present case, the drone was determined to be worthless except for the flight control box which had a stocklist value of $13,800. Thus, a salvage award of $1,380 would appear reasonable if the attorney's theory were correct.

At the time the Davenport and Moore claims were considered administratively, it was the view of the military departments that no admiralty statute was available for the settlement of claims for salvage services with respect to military property other than vessels (10 U.S.C. 4802, 7622, and 9802). A drone is an aircraft and not a vessel within the meaning of these admiralty statutes.

In discussing the law applicable to salvage claims, the Air Force noted that on October 12, 1966, however, the Acting Assistant Attorney General, in a letter to the Air Force, rendered an opinion to the effect that section 9 of the so-called Suits in Admiralty Act (46 U.S.C. 749) would permit the Secretary of the Air Force to settle administratively a salvage claim which related to aircraft cargo. As enacted in 1920, section 2 of the act (46 U.S.C. 742) waived sovereign immunity only in the cases of agencies possessing or operating merchant vessels in section 9 limited agency authority to settle claims to those cognizable under section 2. However, section 2 of the act was amended in 1960 by Public Law 86–770 (74 Stat. 912) to provide that causes of action would lie "if a private person or property were involved," thereby removing the previous limitation to merchant vessels. Thus, section 2 of the Suits in Admiralty Act which relates to libel in personam now grants a plenary waiver of immunity from suit on *all* maritime claims, including those for nonvessel salvage, and section 9 of that act, which inadvertently was not amended, still relates to any department of the Government "having control of the possession or operation of any merchant vessel * * *." The Attorney General's opinion states that a restrictive reading of section 9 is not in keeping with the congressional intent to liberalize the act as evidenced by the 1960 amendment of section 2 and it would clearly permit a suit for salvage services. There is, however, a considerable body of legal opinion to the contrary with respect to the authority of the Department of the Air Force to make such

a settlement in the absence of an amendment of the term "merchant vessel" in section 9 of the Suits in Admiralty Act. In addition, the term "department" refers only to an executive department and not a military department in the absence of specific evidence to the contrary.

Although the owner (Moore) presented his claim within the 2-year period authorized for claims under the Suits in Admiralty Act, the consideration of an administrative claim does not toll the statute of limitations for suit purposes (46 U.S.C. 745). The failure of this claimant to take timely action in pursuing his remedy in court under the Suits in Admiralty Act cannot be considered the fault of the United States. Although this fact is not contested, it is not the duty of an agency of the Government to advise prospective claimants of a statutory period of limitation. The Federal courts and the Comptroller General have held that ignorance of the law, or an administrative failure to give notice of a statute of limitations, will not extend, suspend, or postpone the running of such a statute (*Art Center School* v. *United States*, 142 F. Supp. 916; *Anderegg* v. *United States*, 171 F. 2d 127, cert. den. 69 Supp. Ct. 937; 15 Comp. Gen. 323).

The Department of the Air Force has stated that it is generally opposed to the enactment of legislation which, like H.R. 14788, would obviate the effect of the running of the statute of limitations on a claim and give preferential treatment to one claimant over others who are similarly situated.

In indicating that it had no objection to legislative relief provided it be limited to a payment of $1,500, the Air Force summarized its position as follows:

"In summary, the Air Force had abandoned its search for the drone and had not offered a reward for its return. It is recognized, however, that the salvage had some merit in that lost property was returned to Government control and that the amount of $450 paid to the operator of the vessel, Mr. William Davenport, was reasonable compensation for that voluntary act. The Department of the Air Force is not opposed to favorable consideration of the bill for relief for the owner of the vessel, Mr. Moore, provided that the amount of relief is reduced to $1,500. This would be reasonable compensation in view of all the circumstances of the case, including the well-recognized legal duty of a claimant to minimize his damages. The claim for loss of use and for storage obviously does not meet that duty. The claimant did not meet the legal duty of affording the Air Force the opportunity for a survey of claimed damage, nor did he substantiate his claimed loss of use of $800 per month. This proof would have involved showing the loss of profits that had been earned before the drone was salvaged, as well as demonstrating the nonavailability of a replacement vessel during the time his vessel could have been repaired, instead of being stored for 21 months while it rotted, sank, and became a total loss."

The committee agrees that under all the circumstances of the matter, a payment of $1,500 is an equitable settlement and would provide adequate compensation for the expenses and losses suffered under the circumstances. Accordingly, it is recommended that the bill, amended to provide for a payment of that amount, be considered favorably.

In agreement with the views of the House, the committee recommends the bill favorably.

FRANK J. ENRIGHT

The bill (H.R. 2458) for the relief of Frank J. Enright was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1051) explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to pay Frank J. Enright $100 in full settlement of his claim against the United States for payment of a $100 U.S. Postal money order held by him numbered 65041 and dated February 15, 1944.

STATEMENT

The House in its favorable report on H.R. 2458 relates the following:

"The postal money order which is referred to in the bill was purchased by Frank J. Enright on February 15, 1944, while he was serving in Italy as a private in the U.S. Army. The money order was made payable to his father, Tom Enright, and was enclosed in a letter sent by the soldier to his parents. The soldier sent this money home so that his father could place it in the bank for him. When he returned to the United States from his overseas service, his father advised him that the letter had not arrived. He attempted to trace the letter through the Army postal system in New York but they were unable to trace the letter. In 1968, some 6 years after Mr. Enright's father had passed away, the letter was found among the father's effects and it still contained the money order. Both the letter and the money order have been furnished to this committee. The envelope contains cancellation of the Army postal service dated February 19, 1944.

"The Post Office Department in its report to the committee on the bill stated that the Department is prohibited from paying this money because more than 20 years have passed since the last day of this month of original issue. That report outlines the policy behind this requirement in the law. The committee does not dispute the basic policy involved but feels that this is a matter which merits legislative relief as is provided in the bill. Mr. Enright was a soldier serving overseas under wartime conditions and sought to utilize the money order as a means for sending the money home so it could be placed in an account for use when he returned to civilian life. This expectation was defeated by factors beyond his control and when it finally developed that the money order had been, in fact, delivered and mislaid by his father, it was too late to do anything about it. The Post Office report makes it clear that it is too late to provide for payment under normal procedures. Under these particular circumstances, the only just and equitable way to settle the matter is by action by the Congress."

The committee after a review of all of the foregoing concurs in the action take by the House of Representatives and recommends that the bill, H.R. 2458, be considered favorably.

COMDR. JOHN W. McCORD

The bill (H.R. 2481) for the relief of Comdr. John W. McCord, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1052), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to relieve Comdr. John W. McCord of Santa Ynez, Calif., of all liability to the United States in the amount of $4,724.87, in the period from June 4, 1948, through August 26, 1966, as the result of administrative error in establishing his pay entry base date.

STATEMENT

The Department of the Navy in its report to the House Judiciary Committee on the bill states that it would interpose no objection to its enactment.

The Comptroller General in a report in behalf of the General Accounting Office stated that while its policy is to question relief extended to individuals, it would recognize that the question of whether relief should be granted in this case is a matter of determination by the Congress.

The overpayment which is the subject of this bill occurred because of an error in fixing the pay entry base date at the time the individual began active duty as an officer on June 4, 1948. The error was not discovered until more than 18 years had passed. Comdr. John W. McCord had previously served as an enlisted man in the Naval Reserve from September 16, 1942, to June 22, 1944, a period of 1 year, 9 months, and 7 days. He attended the U.S. Naval Academy from June 23, 1944, to June 3, 1948. When he entered active duty as an officer on June 4, 1948, Commander McCord's pay entry base date should have been established as August 27, 1946. However, through administrative error, his pay entry base date was erroneously established as January 11, 1945.

This error was not discovered until Commander McCord requested transfer to the retired list upon completion of 20 years' service. As a result of the error, Commander McCord had received overpayments of active duty compensation, amounting to $4,724.87.

Although the total overpayment in this case is a substantial sum, it is one which was built up over a period in excess of 18 years. The overpayment apparently was the result of administrative error and Commander McCord's mistaken belief that his pay entry base date had been correctly established upon his graduation from the U.S. Naval Academy and his entrance on active duty as a commissioned officer. Information available to the Department of the Navy affords no reason to believe other than that Commander McCord was acting in good faith in this belief and that the overpayments were without fault on his part. Further, he is supporting his family which includes eight children and repayment would be a hardship.

The committee has concluded that the facts outlined above and as stated in the departmental report justify legislative relief in this instance. The committee has reached this conclusion on the basis of the facts that this is not the type of error that would be apparent to an individual since the date itself does not refer to the date of a previous discharge or service but was fixed for the purpose of giving credit for prior service as if he had entered upon active duty on that particular date. The additional pay per day period would not have been sufficient to put the officer on notice that the error had occurred. These conclusions are borne out by the determination of the Department of the Navy that Commander McCord was acting in good faith in accepting the money and further that the overpayments were not the result of his own action or fault.

Commander McCord sought to obtain relief through appeal to the Board for the Correction of Military Records but that application was not successful. Accordingly his only recourse is to appeal to the Congress for relief as provided in the amended bill and the committee has determined that he is equitably entitled to such relief. Accordingly, it is

recommended that the bill be considered favorably.

EDWIN E. FULK

The bill (H.R. 2950) for the relief of Edwin E. Fulk, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1053), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to relieve Edwin E. Fulk, of Davis, Calif., of liability in the amount of $4,963.46 for overpayments of retired pay in the period from December 15, 1959, to March 31, 1968, by the Department of the Army as the result of an administrative error. The bill would authorize the refund of any amounts withheld or repaid by reason of that liability.

STATEMENT

The Department of the Army in its report to the House Judiciary committee indicated that it is not opposed to the bill.

Mr. Fulk, who was born on January 1, 1916, enlisted in the National Guard on April 13, 1935, performed no active duty, and was discharged on September 29, 1936. On October 1, 1936, Mr. Fulk enlisted in the Regular Army and served on continuous active duty, until discharged on February 28, 1958. While in an active status, Mr. Fulk served as a commissioned officer (May 11, 1949–June 13, 1953, and November 10, 1950–December 29, 1953), a warrant officer (February 25, 1943–May 10, 1949), and as an enlisted member. At the time of his final discharge from the Regular Army, Mr. Fulk held an appointment in the grade of chief warrant officer W–3, assigned to the Army Reserve.

On March 1, 1958, Mr. Fulk was retired in the grade of chief warrant officer W–3, with credit for more than 21 years of active Federal service under section 1293 of title 10, United States Code.

During March of 1958, Mr. Fulk applied for transfer, and effective April 1, 1958, was transferred from the Army Reserve to the Army National Guard of the United States in the grade of chief warrant officer W–3. From April 1, 1958, until December 14, 1959, he served a total of 29 days of active duty for training with the Army National Guard of the United States, and on December 14, 1959, Mr. Fulk was discharged. On December 15, 1959, Mr. Fulk was reappointed in the grade of captain, for service with the Army National Guard of the United States, and remained active, performing active duty for training and one period of active duty (October 15, 1961–April 5, 1962), until December 15, 1963, when he was transferred to the Retired Reserve. From March 1, 1958, until December 15, 1963, when not on active duty, and active duty for training, Mr. Fulk received retired pay as chief warrant officer W–3.

On September 24, 1959, the Comptroller General of the United States held that active duty for training and annual training duty performed by a service member after being placed on the retired list may be used in recomputing retired pay under title 10, United States Code, section 1402 (39 Comp. Gen. 217).

On July 11, 1960, referring to the decision of the Comptroller General, Mr. Fulk petitioned the Army Board for the Correction of Military Records for correction of his records to "show that he retired in the grade of captain by virtue of having served on active duty in this higher grade subsequent to retirement from active duty in grade CWO W–3". On January 10, 1961, the Army Board for the Correction of Military Records requested the comments of The Adjutant General on Mr. Fulk's request. On January 23, 1961, The Adjutant General advised that Mr. Fulk was not entitled to retire in the grade of captain, because he had not completed 10 years of active Federal service as a commissioned officer (10 U.S.C. 3411, ch. 1041, 70A Stat. 224, August 10, 1965). This advise was not returned directly to the Army Board for the Correction of Military Records, but was forwarded to the Chief of Finance for further processing.

On February 13, 1961, the Department of the Army erroneously recomputed Mr. Fulk's retired pay, effective December 15, 1959. This recomputation was based on the pay of a captain with over 21 years of service, but should have been on the basis of a chief warrant officer W–3 with over 21 years of service. Mr. Fulk was paid the amount due him as the result of this erroneous adjustment.

In 1968, it was discovered that the adjustment was erroneous, and on March 13, 1968, Mr. Fulk's retired pay was reduced to that of a chief warrant officer W–3. He was given credit for all service earned by active duty and active duty for training performed after his retirement.

The committee has carefully considered the foregoing facts and secured additional information concerning the matter. Under the particular circumstances the committee has concluded that this is a proper subject for legislative relief in view of the fact that Mr. Fulk was advised by Army authorities that he was entitled to retired pay as a captain. The report of the Department of the Army has stated that the Army recomputed Mr. Fulk's retired pay based on the pay of a captain effective December 15, 1959. The Department of the Army has informally advised the committee that he was advised of this recomputation by letter by the Army which, among other things stated affirmatively that he was entitled to pay based on the rank of captain.

Further the committee has concluded that the imposition of this amount of indebtedness upon a retired warrant officer has imposed a hardship upon him which is inequitable in view of the circumstances of that payment. Accordingly, it is recommended that the bill be considered favorably.

THOMAS A. SMITH

The bill (H.R. 3558) for the relief of Thomas A. Smith, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1054), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to pay Thomas A. Smith of Newark, N.J., $2,500 in settlement of his claims for the displacement of his business on July 6, 1966, from 45 Clinton Street, Newark, N.J., as a result of real estate project numbered N.J. R–58.

STATEMENT

The House Judiciary Committee in its favorable report on the bill, set forth the facts of the case as follows:

The Department of Housing and Urban Development in its report to the committee on the bill stated that it would not object to its enactment.

Mr. Smith was the owner of a real estate and insurance business in Newark, N.J. On October 1, 1965, he was informed by the Housing Authority of the City of Newark that he would be displaced by an urban renewal project. He was subsequently informed by the authority that if gross receipts from the business were at least $1,500 per year, he would be eligible for the small business displacment payment. On April 15, 1966, HUD issued new regulations regarding eligibility for the payment. The new regulations required that for displacements occurring on or after June 15, 1966, the displacee must, in addition to having had $1,500 in average annual gross receipts or sales, have had average annual net earnings in excess of $500, or average annual gross receipts or sales in excess of $2,500. Mr. Smith met the old test but not the new.

After the new regulations were issued Mr. Smith continued to have contacts with the housing authority. He wrote to the authority on May 1 confirming his intention to vacate the premises on July 1, 1966, and requested information on the procedure for obtaining relocation payments. The housing authority did not inform him of the changed regulations which would make him ineligible if he moved subsequent to June 14.

Mr. Smith did in fact vacate the premises on July 6, 1966. He was informed by the housing authority on July 18, 1966, that he was ineligible for the small business displacement payment by virtue of the new regulations.

The committee has carefully considered the circumstances of this case and the comments of the Department of Housing and Urban Development and has concluded that this case is a proper subject for private relief. It is apparent that Mr. Smith relied on the information supplied to him by the housing authority that he was eligible for the small business displacement payment. He remained in contact with the housing authority and made his plans to vacate the premises on July 6, 1966. Had he taken the same action prior to June 14, he would have been eligible for the payment. He was not advised that this short delay deprived him of eligibility.

The Department stated in view of the particular circumstances, it would not object to the relief provided in this bill which, in effect, would authorize the payment of the amount Mr. Smith would have received had he moved from his place of business on June 14, 1966, rather than July 6, 1966.

In view of the departmental position and the facts of the case, this committee recommends that the bill be considered favorably.

The committee, after a review of the foregoing, concurs in the action taken by the House of Representatives and recommends favorable consideration of H.R. 3558, without amendment.

ROBERT G. SMITH

The bill (H.R. 3723) for the relief of Robert G. Smith was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1055), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to pay Robert G. Smith of Annandale, Va., $1,440 in full settlement of his claims against the United States for compensation for work he performed for the Office of Economic Op-

portunity from June 7, 1965, through July 16, 1965.

STATEMENT

In its favorable report on the bill, the House Judiciary Committee relates the facts of the case as follows:

The Office of Economic Opportunity in a report to the committee on the bill states that it would not impose an objection to the enactment of the bill. The report of the Office of Economic Opportunity states that Mr. Smith was offered employment by OEO on Friday, June 4, 1965, and was requested to commence work in the Job Corps program on the following Monday, June 7, 1965. This occurred during the early days of OEO's operations and at a time when several conservation centers were being opened almost simultaneously. Under these circumstances, it was imperative that various directives governing their operations be prepared immediately and be put into effect. In order that Mr. Smith's services could be utilized in this task, he was requested to report for duty on the short notice mentioned above, with the understanding that his papers were being processed. Mr. Smith reported for work on June 7 and began his employment. Unfortunately, because of an administrative delay for which he was not at fault, he was not placed on the payroll until July 18, 1965.

The Office of Economic Opportunity has determined that Mr. Smith was apparently given no assurance that he would receive compensation for the period in which he worked prior to his official appointment. While the Director of OEO under the Economic Opportunity Act has the authority to accept voluntary uncompensated services there is no indication that Mr. Smith intended to serve as an unpaid volunteer for the period covered by this bill. In fact the OEO report states that the situation is apparently one in which Job Corps officials were concerned with the urgent necessities involved in getting a new program underway and this was their prime consideration in dealing with Mr. Smith rather than complying with the procedures and requirements of personnel administration in his case. The report also expressly notes that Mr. Smith, being more accustomed to the less formal hiring procedures of private industry, apparently relied on the fact that "a worker is worthy of his hire" and assumed that in some way he would be compensated for services he was rendering the Government. While, of course, the failure to comply with personnel procedures concerning official appointment to a position in the Government bar a determination that Mr. Smith is entitled to payment under the law, this does not bar recognition of a moral obligation by the Congress. This is recognized in the report of OEO which states that should the facts of this case be determined by the Congress to justify legislative relief, it would not interpose an objection to the enactment of the bill. This committee feels that the Government obviously has had the benefit of Mr. Smith's services and it is inequitable to deny him payment therefor. Accordingly it is recommended that the bill be considered favorably.

The committee, after a review of the foregoing, concurs in the action taken by the House of Representatives and recommends favorable consideration of H.R. 3723.

ALBERT E. JAMESON, JR.

The bill (H.R. 5337) for the relief of the late Albert E. Jameson, Jr., was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1056), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to entitle Albert E. Jameson, Jr. to disability insurance benefits under section 223 of the Social Security Act (and to a period of disability under section 216(i) of such act), the said Albert E. Jameson shall be deemed to have filed application for such benefits as required by section 223(a)(1)(C) of such act (and for the establishment of a period of disability as required by section 216(i)(2)(B) of such act) immediately before his death on November 1, 1964.

STATEMENT

The proposed legislation passed the House of Representatives June 17, 1969. The Department of Health, Education, and Welfare, the administrative agency most directly affected, is in favor of enactment of this legislation. The facts of the case as stated in the accompanying House Report No. 91–299 are as follows:

The Department of Health, Education, and Welfare, in a report dated August 19, 1968 on a previous bill, stated that it did not oppose enactment of the bill. The report of the Department of Health, Education, and Welfare states that the enactment of the bill would permit the consideration of the claim which involves the right of the widow of Mr. Jameson to receive 4 months' retroactive benefits on the basis of the disability of her deceased husband. The problem in this case is that an application for disability benefits was not actually filed before Mr. Jameson's death. The bill would have the effect of waiving this requirement. The memorandum accompanying the report of the Department of Health, Education, and Welfare states:

"Before the death of Albert E. Jameson, Jr. (which occurred on November 1, 1964) Mrs. Jameson telephoned the Roxbury, Mass., Social Security district office about the possibility of claiming disability insurance benefits for him. The specific date of the telephone inquiry cannot be established, but it occurred during October 1964. Mrs. Johnson apparently could not go on to the Social Security office to file an application on behalf of her husband. Under the Social Security Administration procedures effective at that time, in such situations a representative of the Social Security office would go to the disabled worker as soon as practicable to obtain the required application. In this instance, there was some delay in making a visit to the disabled worker's home, and the application for disability insurance benefits was not obtained before Mr. Jameson's death. (Social Security regulations in effect since November 10, 1964, permit the filing of a prescribed application form on behalf of a deceased individual provided that the deceased individual or a proper person on his behalf filed with the Social Security Administration prior to his death, a signed written statement indicating an intent to claim benefits.)"

Mrs. Jameson attempted to assert a claim to the disability benefits by filing an application on January 11, 1966; however, since that application was not filed while the disabled worker was alive, the claim for benefits had to be denied. This action was reconsidered and the denial was affirmed on May 19, 1966. As has been noted, the bill, H.R. 5337, would remedy this defect with the result that disability insurance benefits could be paid on Mr. Jameson's behalf to his widow. If it is acknowledged that Mr. Jameson met the definition of disability contained in the social security law from December 8, 1963, which is the date he stopped work, as stated by Mrs. Jameson, until his death, 4 months of benefits would be payable to Mr. Jameson. The memorandum of the Department states that, under applicable law, benefits payable to a disabled insured worker cannot begin until the worker has been disabled throughout a waiting period of 6 full calendar months; therefore, the first month's benefit is paid for the seventh full calendar month of disability. As a result, the 4 months for which benefits could be paid would be July through October of 1964.

The memorandum accompanying the departmental report also points out that, assuming that the duration of the disability is as stated by Mrs. Jameson, the bill would permit the establishment of a "disability freeze" with respect to Mr. Jameson's social security earnings record. Under the disability freeze, the period of time during which Mr. Jameson met the social security definition of disability would be excluded in computing his average monthly earnings on which the amount of any survivor's benefits might be payable later would be based. The Department noted that in view of the relatively short duration of the period of disability, a disability freeze would have no signficant effect in this instance.

The report of the Department of Health, Education, and Welfare states that as a general proposition, special legislation involving the application of social security law as in this instance is viewed as undersirable and ordinarily the Department would recommend against enactment of a private bill. In this connection the committee would note that the rules of Subcommittee No. 2, the Claims Subcommittee, bar the consideration of such bills unless adequate basis is shown for a waiver of the rule. It has been concluded in this instance that the facts outlined in the departmental report justify the consideration of this matter and, in this connection, the departmental report stated facts which show that actual notice was given to the Social Security Administration of the existence of disability prior to Mr. Jameson's death. The committee feels that the following quotation from the departmental report outlines the basis for legislative relief in this instance and reflects the equities which justify an exception in this case:

"However, it is clear that the Social Security Administration was informally notified by Mrs. Jameson, prior to her husband's death, of an intention to file the required application and that extremely unusual circumstances in this case prevented the timely filing of the application. In addition, social security regulations in effect since November 10, 1964, permit the filing of a valid application on behalf of a deceased individual provided that the deceased person or a proper person on his behalf has filed with the Social Security Administration prior to his death a signed, written statement requesting benefits. If this regulation had been in effect in October 1964, prior to Mr. Jameson's death on November 1, 1964, it is reasonable to assume that Mrs. Jameson would have filed the written statement and that the benefits payable under H.R. 10450 would have been paid."

In agreement with the views of both the House of Representatives and the Department of Health, Education, and Welfare, the committee recommends the proposed legislation favorably.

AMALIA P. MONTERO

The bill (H.R. 6375) for the relief of Amalia P. Montero was considered, ordered to a third reading, read the third time, and passed.

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

RECORD an excerpt from the report (No. 91–1057), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation, as amended, is to relieve Amalia P. Montero, employed by the Joint U.S. Military Group—Military Assistance Advisory Group, Spain, of liability to the United States in the amount of $1,395.84, representing the total amount of living quarters allowance paid to her by the Department of the Air Force during the period of October 13, 1963, through April 9, 1965, as a result of erroneous payment without fault on her part. The bill would authorize the refund of any amount paid or withheld by reason of this indebtedness.

STATEMENT

In its favorable report on the bill, the House Judiciary Committee relates the facts of the case as follows:

The Department of the Army in its report to the committee on the bill stated that it did not oppose it.

Mrs. Montero, is an employee of the U.S. Army in Spain. In 1954, Mrs. Montero, a domiciliary of New York, went to Spain as a tourist to marry a Uruguayan national. She was married shortly after her arrival there and between July 1955 and September 1960 was hired by a U.S. Defense contractor as a clerk. When released during a phaseout of that operation, she remained in Spain to accompany her husband as a tourist and was supported by him and her savings until hired by the U.S. Army in June 1961. She was given a GS–4 rating, was placed under the pay jurisdiction of the U.S. Air Force, Torrejon, Spain, and was declared ineligible for a living quarters allowance. Section 030 of the basic regulations governing this allowance (State Department Standardized Regulations) was revised effective October 13, 1963. The revised section does not contain the former restriction (relating to determining the dependency of husband upon the wife employee) that the husband be physically or mentally incapable of self-support. Following the revision of section 030 of the regulations, Mrs. Montero, upon invitation of the servicing civilian personnel office, applied for and received the quarters allowance effective October 13, 1963.

A review of the eligibility of persons receiving the quarters allowance was conducted and apparently this gave rise to the problem dealt with in this bill. Mrs. Montero was notified by letter dated April 1, 1965, from the civilian personnel officer, that she did not meet the requirements contained in section 031.12 (a subsection of sec. 030) of the State Department Standardized Regulations and that she would have to reimburse the Government in the sum of $1,395.84, the amount of the allowance she had been paid. It was determined that she did not qualify for the allowance as "she was not recruited in the United States, Puerto Rico, the Canal Zone, or a possession of the United States, was not required to move to the area as a condition of her employment, nor was her reason for being in the area for travel or study." The committee notes that this objection is quite a different reason than that originally raised prior to the liberalization of the regulations. A technical review of this case, at the request of the employee, confirmed this ruling on September 10, 1965. The Department of the Air Force reviewed the circumstances and submitted their finding of ineligibility to the Department of Defense for a determination and waiver, if possible, of any repayment of funds received for living quarters allowance. The recommendation for waiver was based upon hardship which this refund would impose on Mrs. Montero. The Department of Defense confirmed the determination of ineligibility and advised that, based on a decision of the Comptroller General dated June 6, 1966 (B–159212), there was no authority to waive recovery of the overpayment. The total amount of overpayment is $1,395.84 and collection action at the rate of $20 per pay period began in October 1966.

In indicating it had no objection to the bill the Army stated:

"The payment of quarters allowance to Mrs. Montero resulted from an erroneous determination by the servicing civilian personnel office and through no fault of Mrs. Montero. She did not know she was being paid erroneously and the payments were received by her in good faith. In view of these equitable considerations, the Department of the Army is not opposed to the bill."

In view of the unique equities of this case and the statement by the Army that it does not oppose relief in this instance, the committee has concluded that this matter is the proper subject for legislative relief. The Government's determination under liberalized regulations was relied upon by Mrs. Montero in good faith, and, in the light of subsequent events, to her detriment. It is felt that any equitable solution of the matter can be made through extending the relief provided in the bill. Therefore, it is recommended that it be considered favorably.

After a review of all of the foregoing, the committee concurs in the action taken by the House of Representatives and recommends favorable consideration of H.R. 6375.

LT. COL. EARL SPOFFORD BROWN, U.S. ARMY (RETIRED)

The bill (H.R. 6377) for the relief of Lt. Col. Earl Spofford Brown, U.S. Army Reserve (retired) was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1058), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to relieve Earl Spofford Brown, a retired Army Reserve lieutenant colonel, of liability in the amount of $3,522.81 for overpayments of longevity pay in the period from June 1, 1942, through May 31, 1961, based on erroneous credit for service as a cadet in the Merchant Marine Reserve of the U.S. Naval Reserve.

STATEMENT

In its favorable report on the bill, the House Judiciary Committee set forth the facts of the case as follows:

The Department of the Army in its report to the committee on a similar bill in a previous Congress stated that it had no objection to the legislation. The Comptroller General in his report on the same bill questioned relief but stated that whether it should be granted in this case is a matter for final determination by the Congress.

The history of this matter dates back to May 8, 1941, when Colonel Brown began his service as a warrant officer in the Army Mine Planter Service. He continued on active duty through June 30, 1961, and reached the grade of lieutenant colonel, Army of the United States, and retired on that date with over 20 years' active Federal service. The credit for merchant marine service, which was subsequently questioned and forms the basis of the overpayment referred to in the bill, dates back to June 1, 1942, from which date Colonel Brown was credited for longevity pay purposes with 2 years and 7 days as prior military service, which is based on the period from May 1, 1939, to May 7, 1941, when he held the status of a cadet in the Merchant Marine Reserve. It was subsequently determined just 3 days before he retired on July 1, 1961, that he had been erroneously paid longevity for this service. The result was that his final pay, allotments, and accrued leave entitlements totaling $2,736.02 were withheld by the Army at the time of his retirement. A final audit of his records established a total overpayment of $3,522.81 which is the amount stated in the present bill.

The committee concluded that relief is appropriate in this case in light of the explanation in the Army report. In this connection, the Army report stated:

"* * * there were apparently no specific guidelines available to those officers with a status such as that held by Lieutenant Colonel Brown until May 1959, when the Comptroller General responded to a request by the Secretary of Defense for guidance in like cases. Moreover, Lieutenant Colonel Brown in February of 1949 requested a statement of service from the Navy Department for the purpose of substantiating his total service in the Army Register. That Department advised him that he 'entered naval service as cadet, Merchant Marine Reserve, U.S. Naval Reserve, on May 1, 1939, and honorably discharged effective December 21, 1942.' The Adjutant General on June 28, 1957, verified this same service as a part of his total service creditable for longevity pay. Under these conditions it is clearly apparent that Lieutenant Colonel Brown received the longevity overpayment in good faith as he could certainly be expected to rely upon an administrative determination by the appropriate agency of the Army as to his creditable service. It has further been established that repayment imposes a hardship upon Lieutenant Colonel Brown whose responsibility to his family includes support for his wife and five children, two of which are in college. It accords, therefore, with principles of equity and good conscience to relieve him of liability to repay the United States money paid him over 20 years in small amounts through administrative error, and received by him in good faith, repayment of which results in financial hardship. The Department of the Army has no objection to the bill."

The committee after a review of the foregoing concurs in the action taken by the House of Representatives and recommends favorable consideration of H.R. 6377, without amendment.

MAJ. CLYDE NICHOLS (RETIRED)

The bill (H.R. 6850) for the relief of Major Clyde Nichols (retired), was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1059), explaining the purposes of the measure.

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

PURPOSE

The purpose of H.R. 6850 is to relieve Maj. Clyde C. Nichols (retired) of liability to the United States in the amount of $3,836.09, representing overpayments of base pay made to him from December 18, 1954, through December 31, 1962, through administrative error which included his Naval Reserve midshipman service as creditable for pay purposes. It allows for credit in the amounts of any certifying or disbursing officer for amounts for which liability is relieved. It

would also authorize the Secretary of the Treasury to pay to Major Nichols the amount received or withheld from him because of the overpayments.

STATEMENT

In its favorable report on the proposed legislation, the House Judiciary Committee set forth the facts of the case as follows:

The Department of the Air Force in its report to the committee indicated that it had no objection to the bill in view of the special circumstances of the case. The Comptroller General questions relief but takes the view that the determination of whether legislative relief should be extended in this particular case is a matter to be determined by Congress.

Major Nichols enlisted in the Air Force on April 1, 1953, as an aviation cadet. He was discharged from this enlistment on December 17, 1954, upon completion of this training. The next day he accepted a commission in the Air Force Reserve and remained on continuous active duty until placed on temporary disability retirement on October 14, 1967. He receives retirement pay at the rate of $611.93 a month.

When Major Nichols was commissioned in the Air Force Reserve, an incorrect pay date was established for him. This included time spent in the Naval Reserve Officers Training Corps (NROTC) which he had included as enlisted Navy Reserve service in his pay date application. This error went undetected and a pay date of January 9, 1950, was established for him. Upon his transfer to the Regular Air Force in 1959, this pay date was listed in the Air Force Register. In 1961 his pay date was adjusted to November 18, 1949, by Seymour Johnson Air Force Base, to give him credit for an additional month and 21 days in the Naval Reserve.

The Air Force Accounting and Finance Center (AFAFC) reviewed the military pay record on which this adjustment was made in November 1962. Major Nichols was asked to complete a statement of service to assure that proper pay adjustment would be made him. He completed this on January 16, 1963, listing enlisted service in the "Navy Reserve (ROTC) from September 3, 1949, to January 15, 1953"; as contrasted to the "enlisted Naval Reserve service from September 27, 1949, to December 18, 1952" which he had claimed when commissioned in the Air Force Reserve. He also listed his pay date as November 18, 1949. An adjustment of $138.93 was paid to him on February 13, 1963.

The committee notes that this correction was made by Major Nichols and serves to emphasize the finding by the Air Force that he acted in good faith in this connection.

Early in 1963, a military records review, independent of that conducted by AFAFC, disclosed that Major Nicholas' midshipman service while in ROTC was not creditable for pay purposes under section 205, title 37, United States Code. Determination was made that the pay dates of January 9, 1950, and November 18, 1949, were both in error. A pay date of April 1, 1953, was established for him through the deletion of credit for the time he served as a midshipman in the NROTC. Effective the pay period beginning January 1, 1963, his basic pay and flight pay entitlements were adjusted to the April 1, 1953, pay date.

A complete audit of Major Nicholas' pay records was made and the April 1, 1953, pay date confirmed. Major Nichols was informed that during the period December 18, 1954, through December 31, 1962, he had been overpaid basic pay and flight pay to the amount of $3,836.09. He appealed this indebtedness on June 11, 1963, and the validity of the indebtedness and the requirement for repayment were confirmed. Deductions from his active duty pay were initiated on July 1, 1963, at the rate of $53.27 a month. At this rate, collection would have been completed in 6 years.

Major Nichols was assigned to duty in Vietnam in June 1967. Shortly after his arrival he received wounds which necessitated his removal to Wilford Hall Hospital, Lackland Air Base, Tex. On October 14, 1967, he was placed on the temporary disability retired list. Initially he indicated that he would elect to waive retirement pay in favor of benefits provided under laws administered by the Veterans' Administration. His remaining indebtedness to the Air Force of $1,119.32 was, therefore, collected from the final pay and allowances due him which included a lumpsum leave payment. He did not exercise this option and is presently receiving retirement pay of $611.93 a month.

The Department of the Air Force states that the overpayments made to Major Nichols were the result of administrative error, and as noted above has stated that he has repaid in full the overpayments made to him.

Inasmuch as there are no administrative provisions under which repayment may be made to Major Nichols, and that he acted in good faith in making repayment of the overpayments made to him, the committee agrees, in view of the special circumstances of this case, that favorable consideration should be given to this measure. Accordingly, the committee recommends that the amended bill be favorably considered.

The committee after a review of the foregoing, concurs in the action taken by the House of Representatives and recommends favorable consideration of H.R. 6850, without amendment.

THOMAS J. CONDON

The bill (H.R. 9092) for the relief of Thomas J. Condon, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1060), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to authorize the payment to Thomas J. Condon of East Weymouth, Mass., the amount of additional compensation he would have been paid in the period from October 1, 1946, to January 1, 1948, had he been placed in the appropriate salary grade and received the correct compensation authorized in the act of July 31, 1946, as amended. The amended bill would authorize an appropriate deduction from the amount so ascertained for civil service retirement.

STATEMENT

In its report to the House Judiciary Committee, the Post Office Department stated it favored enactment of the bill, and in its report, the U.S. Civil Service Commission stated that it too favored the bill. The Comptroller General questioned relief on the ground that it would in effect require the waiver of a statute of limitations.

Mr. Thomas J. Condon, a veteran of World War II, was appointed a temporary substitute carrier, grade 1, on December 31, 1945. In that position he was authorized compensation at 84 cents an hour; with enactment of Public Law 577, aproved July 31, 1946, his salary was adjusted to grade 3, $1.14 per hour; with the enactment of Public Law 492, approved April 29, 1950, which retroactively increased the benefits previously provided by the 1946 law for certain employees who, by reason of their military service, lost opportunity for probational appointment, Mr. Condon's salary should have been adjusted to grade 8, $1.39 per hour, retroactive to October 1, 1946; through administrative error this was not done.

Between the enactment of Public Law 477 in 1946 the enactment of Public Law 492 in 1950, Mr. Condon was made a regular employee and given a salary adjustment of four grades, but without the retroactive feature which would have given him the benefits to which he was entitled under the 1946 law.

The error in placement and pay was not recognized by the Department until after the 10-year period (31 U.S.C. 71a) for administrative adjustment had expired.

An investigation by the Department later revealed that Mr. Condon, on many occasions, did informally seek adjustment of his salary within the period prescribed by the statute and that a formal claim was filed after the statute of limitations had run. Accordingly, the Department is without authority to correct the error by paying the amount of backpay due carrier Condon.

In its report to the House Judiciary Committee, the Post Office Department concluded that Mr. Condon was entitled to relief and stated:

In our view, Condon should not be denied the benefits to which he is entitled merely because of the lapse of time in the formal filing of his claim. It is solely by administrative error that he is being denied benefits which have already been made to other similarly entitled employees. For this reason, we recommend approval of the legislation.

As has been noted, the Comptroller General in his report to the House committee has questioned relief on the ground that payment of the amount claimed by Mr. Condon is presently barred by a 10-year statute of limitations. The committee has carefully considered this objection and has concluded that both the report of the Post Office Department and the Civil Service Commission provide the basis for legislative waiver in this instance. Both the Post Office Department and the Civil Service Commission note that Mr. Condon made repeated efforts to clarify and correct the situation but apparently without success. However, in the opinion of this committee, these efforts show that Mr. Condon was diligent in his efforts to assert his claim within the period of limitation and that it would be inequitable to deny relief solely on this ground. In this connection, the U.S. Civil Service Commission stated that while it constantly has opposed the preferential waiving of the statute of limitations, it had found that in this particular instance, an exception is in order. The error lay in the fact that a claim was never forwarded to the General Accounting Office. The statute of limitations provides that a claim will be barred unless it is presented to the General Accounting Office within the 10-year period. The assertion of a claim with the employing agency does not have the effect of tolling the statute. On these facts the committee has concluded that legislative relief is in order and therefore recommends the favorable consideration of H.R. 9092, without amendment.

ELGIE L. TABOR

The bill (H.R. 9591) for the relief of Elgie L. Tabor was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1061), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to relieve Elgie L. Tabor of liability in the

amount of $2,499.22, representing overpayments of active duty pay as a member of the Army and Air Force in the period from January 20, 1943, through January 9, 1960, which resulted from an administrative error in crediting him with service in the Texas National Guard. The bill further provides for a refund of any amounts repaid or withheld by reason of the indebtedness.

STATEMENT

In its favorable report on the bill, the House Judiciary Committee set forth the facts of the case as follows:

The Department of the Air Force in a report on similar bills in the 90th Congress indicated that it would interpose no objection to the bills provided they were amended to provide for the relief as is now provided in H.R. 9591, as amended. The General Accounting Office indicated that it had no information justifying the finding of special equity in this case but stated that relief in this instance was a matter for determination by the Congress.

The history of Lt. Col. Elgie L. Tabor's service is outlined in the report of the Department of the Air Force.

Lieutenant Colonel Tabor enlisted in the U.S. Army July 21, 1942. He was discharged from this enlistment January 19, 1943, and the next day was commissioned a second lieutenant in the Army. He remained on extended active duty with the Army until his transfer to the inactive Air Reserve March 11, 1946. He was recalled to extended active duty until his retirement May 31, 1967. He is entitled to retired pay at the rate of $643.20 a month.

Prior to his enlistment in the Army, Lieutenant Colonel Tabor was a member of the Texas National Guard. A statement of service issued by that organization October 10, 1944, showed he enlisted in the Field Artillery, Texas National Guard, January 6, 1931, and was discharged January 5, 1934. Based on this information, his pay date was established as July 21, 1939. His basic pay was computed on this pay date by the Air Force beginning the date he was recalled to extended active duty late in 1950. In 1955, the Air Force issued a statement of service for him showing he had enlisted service from January 6, 1931, through January 5, 1934, and from July 21, 1942, through January 19, 1943.

Late in 1966, in connection with his pending retirement, Lieutenant Colonel Tabor's military records were reviewed. During this review, the Texas National Guard informed the Air Force he had been discharged from that organization July 16, 1931. The Air Force requested further verification of this information in view of the October 10, 1944, statement of service which showed he had been discharged January 5, 1934. The Texas National Guard stated a search of its records verified that he had been discharged July 16, 1931, by Special Orders 181 of the Texas Adjutant General's Office. Further, a search of the records of the 131st Field Artillery revealed no record of service by Lieutenant Colonel Tabor during that organization's encampment the last of July and the first part of August 1931, or during any subsequent period. Based on this information, the Air Force established his correct pay date as January 10, 1942.

Lieutenant Colonel Tabor was advised of the change in his pay date and given an opportunity to provide information to substantiate service in the Texas National Guard after July 16, 1931. He was unable to provide such information and his application to have his records corrected to show he was discharged from the Texas National Guard January 5, 1934, was denied. On February 21, 1967, he was informed that from November 24, 1950, through January 9, 1960, he had received overpayments of basic pay totaling $2,246.28 because of the incorrect pay date. An audit by the Army of payments made to him prior to this transfer to the inactive Air Reserve showed that from January 20, 1943, through March 11, 1946, he received overpayments totaling $252.94. This increased the total overpayments received by him to $2,499.22. Prior to his retirement May 31, 1967, he repaid $746.28 leaving a balance of $1,752.94.

The Department of the Air Force in its report to the committee indicated that in view of the particular circumstances of this case, it would have no objection to enactment of a bill granting Lieutenant Colonel Tabor relief from the liability for the indebtedness created in the manner outlined above. In this connection, the Department of the Air Force report stated:

"The erroneous statement of service issued by the Texas National Guard in October 1944 resulted in Lieutenant Colonel Tabor's pay date being established as July 21, 1939, instead of a correct pay date of January 10, 1942. The resulting overpayments appear to have been made and received in good faith, and they remained undetected for many years. There are no further administrative procedures under which Lieutenant Colonel Tabor may be relieved of his liability. Based upon the circumstances involved, the Department of the Air Force interposes no objection to enactment of H.R. 12501 or H.R. 16964."

The committee agrees that the circumstances of this case are such that legislative relief is merited. It is further clear that the only recourse open to this retired officer is to appeal to the Congress for relief. In view of the fact that the error occurred because of an erroneous certification by Texas National Guard authorities and that the error was undetected for many years, and the payments were received in good faith by the individual, the committee feels that it is inequitable to impose the requirement of repayment upon this retired officer. Accordingly, it is recommended that the bill be amended to include the correction suggested by the Air Force and that the amended bill be considered favorably.

The committee after a review of the foregoing, concurs in the action taken by the House of Representatives and recommends favorable consideration of H.R. 9591, without amendment.

WALTER L. PARKER

The bill (H.R. 10662) for the relief of Walter L. Parker, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1062), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to relieve Walter L. Parker of Trenton, N.J., of liability in the amount of $279.05 for overpayments of salary paid to him from January 20, 1966, through October 31, 1967, during his active service as a member of the U.S. Marine Corps.

STATEMENT

The Department of the Navy supports enactment of the bill.

In its favorable report on the bill the Committee on the Judiciary of the House of Representatives said:

Walter L. Parker, while serving as a corporal in the Marine Corps, was seriously wounded in action in Vietnam in March of 1967. The wounds he suffered resulted in a physical disability which was rated at 50-percent disabling and, therefore, he was retired from the Marine Corps on November 1, 1967. In connection with his disability retirement, disbursing personnel in settling his final account made an error which resulted in an overpayment to him of $279.05. As is noted in the departmental report, this single erroneous overpayment was based on a number of erroneous credits to Corporal Parker's account during his active service in the period mentioned in the bill. The error was later discovered during the course of a post-separation audit conducted in September 1968.

In its report to the committee, the Department of the Navy stated that its normal position is to oppose legislation relieving an individual of liability unless the indebtedness was occasioned through no fault of the service member and unless the overpayment was neither detectable nor could reasonably have been expected to have been detectable. The Navy found on the basis of its investigation that there is no indication in this case that the overpayment was the result of any fault or negligence on Corporal Parker's part. As is usual in cases of this kind, a number of balancings and adjustments were required in ascertaining the final payment due him at the time of his transfer to the retired list. Under these circumstances, the committee agrees with the Navy that it is understandable that Corporal Parker believed he was being accurately paid upon retirement. The Department of the Navy has further noted that a 90th Congress bill [Public Law 90–616] provides authority to the heads of executive agencies or the Comptroller General to waive payment of claims against Federal civilian employees who have been overpaid where the claim would be against equity and good conscience and not in the best interest of the United States. The Navy found that Corporal Parker's case would have been an apt subject for relief under that law were he a civilian employee rather than a serviceman.

The committee further observes that a wounded and disabled serviceman deserves additional consideration in view of his sacrifices in behalf of his country. It is recommended that the bill be considered favorably.

The committee believes the bill is meritorious and recommends it favorably.

T. SGT. PETER ELIAS GIANUTSOS, USAF (RETIRED)

The bill (H.R. 11890) for the relief of T. Sgt. Peter Elias Gianutsos, U.S. Air Force (retired), was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1063), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to relieve T. Sgt. Peter Elias Gianutsos, U.S. Air Force (retired) of liability to the United States in the amount of $390.65, representing overpayments of active duty pay and leave allowances as a member of the Air Force from 1951 through 1964.

STATEMENT

The House of Representatives in its favorable report on H.R. 11890 relates the following:

The Air Force in its report to the committee on the bill indicated that it would have

no objection to enactment of the bill if the bill were amended to provide for relief in the amount of $390.65. The General Accounting Office in its report questioned relief in this instance and indicated its opposition to the bill.

Sergeant Gianutsos served as an enlisted member in the Army from June 15, 1942, through October 7, 1948. He enlisted in the Air Force October 24, 1951, and served on continuous active duty until his retirement April 30, 1966. On retirement he had 20 years, 2 months, and 24 days of creditable service for pay purposes. He is currently entitled to retired pay at the rate of $194.75 a month.

Early in 1965 Sergeant Gianutsos volunteered for duty in South Vietnam. During this tour of duty, on October 23, 1965, he extended his enlistment for 6 months. At that time, records available at his duty station indicated he had taken more leave than he had earned during the October 1961 to October 1965 enlistment. However, since the records were incomplete, collection for the excess leave was not effected.

Sergeant Gianutsos was retired from the Air Force at Travis Air Force Base, Calif. Immediately prior to his retirement, he applied at Travis Air Force Base for pay and allowances due him for April 1966. Records available at Travis Air Force Base also showed he had taken more leave than he had earned during his October 1961 to October 1965 enlistment. Sergeant Gianutsos did not agree with this determination and because Travis Air Force Base did not have sufficient information to resolve the matter, no payments were made before his retirement. Travis Air Force Base referred Sergeant Granutsos' case to the Air Force Accounting and Finance Center (AF-AFC), Denver, Colo., for resolution.

The AFAFC made a complete audit of Sergeant Gianutsos' pay account and leave record. This audit showed that—

(a) From the date of his enlistment in the Air Force, Sergeant Gianutsos' creditable service for pay purposes had erroneously included 216 days "lost time" during his Army service which is not creditable for pay. As a result, from October 24, 1951, through February 6, 1964, he received overpayments of basic pay and allowances totaling $441.45.

(b) During his October 1961 to October 1965 enlistment, he accrued a maximum of 119 days leave and used 138 days leave. Since he used 19 days more leave than he earned, he owed the United States $308.20 for excess leave.

(c) Pay and allowances due the member on date of retirement for a portion of the month of April 1966 totaled $538.82.

(d) Indebtedness of $749.65 resulted from overpayments of basic pay and allowances and payments for excess leave. The indebtedness was reduced to $210.83, after applying the amount due Sergeant Gianutsos on date of retirement ($538.82).

AFAFC provided Sergeant Gianutsos a full explanation of the results of the audit of his pay account. He was also advised that if he did not voluntarily make restitution of the indebtedness, it would be collected by monthly deduction from his retired pay. Sergeant Gianutsos protested the determination that his creditable service for pay had been erroneously computed although he did not deny that he had 216 days lost time in the Army. He stated that he had used only 5 days more leave than he had earned. He contended he should be paid the entire amount due him on date of retirement less an amount equal to 5 days of leave. At his request, copies of his statement of service, pay records, and vouchers signed by him verifying he had used the leave as shown by the audit, were furnished to him. Collection had been suspended at the request of the sponsor of the bill pending consideration of the legislation.

The Department of the Air Force in its report to the committee on the bill specifically noted that the overpayments made to Sergeant Gianutsos were the result of administrative error. The Air Force also stated that there is no evidence of a lack of good faith on his part or on the part of administrative officials in connection with the overpayments which are referred to in the bill. The overpayments which results from erroneous computation by pay date based on prior Army service remained undeducted for a period of 14 years. The Air Force further noted that had he applied for remission prior to retirement under authority provided the service by law, it is probable that remission of that portion of the overpayment which occurred more than 6 years prior to the date the indebtedness was established would have been recommended.

In Sergeant Gianutsos' case, the amount that could have been remitted in this manner is $390.65. The Air Force therefore stated that it would interpose no objection to the enactment of the bill if the amount of proposed relief were adjusted to be $390.65. This amount represents the overpayment of active duty pay and allowances made to Sergeant Gianutsos in the period October 24, 1951, through June 24, 1960. The committee agrees that waiver in this instance should be limited to this figure and recommends that the amendment suggested by the Air Force be made to the bill and that the amended bill be considered favorably.

The committee after a review of all of the foregoing concurs in the action taken by the House of Representatives and recommends that the bill, H.R. 11890, be considered favorably.

BLY D. DICKSON, JR.

The bill (H.R. 12176) for the relief of Bly D. Dickson, Jr., was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1064), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation, is to pay Bly D. Dickson, Jr., of Seattle, Wash., $1,034.50 in full settlement of his claims against the United States for reimbursement of expenses incident to the sale of his residence in Billings, Mont., at the time of his transfer from Billings, Mont., to Seattle, Wash., as an employee of the Post Office Department.

STATEMENT

The Post Office Department in its report to the House Judiciary Committee on the bill indicated it would not object to its enactment provided the amount was reduced to that permitted under applicable regulations. Mr. Dickson is a former railway mail clerk from Billings, Mont., who was transferred to the Seattle Post Office when his mail run was discontinued. He reported for duty there on October 7, 1967. Thereafter he sold his home in Billings. Final settlement or closing occurred on November 19, 1968. Pursuant to the authority of Public Law 89–516, Mr. Dickson submitted an application for reimbursement of expenses he incurred in selling his residence at his former duty station. However, since the closing took place more than 1 year after Mr. Dickson reported for duty at his new official duty station, his claim for reimbursement had to be turned down. The 1-year limitation was prescribed by regulations of the Bureau of the Budget implementing Public Law 89–516. (Bureau of the Budget Circular A–56 revised, dated October 12, 1966, sec. 4.1d). The purpose of H.R. 12176 is to grant Mr. Dickson reimbursement for his expenses arising in connection with the sale of his residence, expenses which could not be administratively paid for the reason that the closing occurred too late.

At the time of his transfer, Mr. Dickson requested annual leave time before departing for his new duty station at Seattle, for the purpose of painting and improving his home in preparation for selling it. However, the personnel director at the Billings Post Office told him that the Department was anxious to place surplus employees as soon as possible; and advised Mr. Dickson that he had 2 years to submit his relocation expenses for reimbursement. The advice given Mr. Dickson was correct as to time allowed for moving household goods and personal effects, but apparently the personnel director thought the 2-year limitation also applied to all relocation expenses. This was in error.

In correspondence furnished the House Judiciary Committee Mr. Dickson stated that he had a buyer for the house on September 6, 1968, under a Veterans' Administration loan arrangement. The buyer's loan application was approved by the VA, but not until October 18, 1968.

The Post Office Department in its report to the House committee on the bill indicated that in its opinion this was a proper case for relief. The Department pointed out that Mr. Dickson acted in good faith and relied on the erroneous advice. In this connection, the Department stated:

The Department believes that relief should be granted in this case. Mr. Dickson certainly acted in good faith throughout. His reliance on the personnel director's advice discussed above was justifiably placed.

The House committee in recommending favorable action on the bill recommended an amendment which would reduce the amount stated so as to authorize the payment of the amount which would have been paid to Mr. Dickson under applicable regulations had the real estate closing occurred within the 1 year period. The amount originally stated in the bill was $2,231.75. Of this amount $900 was paid by Mr. Dickson for "mortgage discount points" and this amount could not be allowed as a reimbursable expense. The Post Office Department interpreted an additional $297.25 as costs usually paid by a buyer and therefore reduced the amount to be paid to $1,034.50. The initial report received by the House committee from the Comptroller General pointed out that the $900 figure should have been eliminated but apparently differed with the Post Office Department on the interpretation as to the $297.25. After reviewing the matter further, the General Accounting Office stated it agreed with the recommendation of the Post Office Department and recommended a payment of $1,034.50 and this is the amount recommended by the House committee.

The committee is in agreement with the conclusions reached by the House Judiciary Committee and, accordingly, recommends favorable consideration of H.R. 12176, without amendment.

RUSSELL L. CHANDLER

The bill (H.R. 12622) for the relief of Russell L. Chandler, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1065), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to pay the amount authorized by current regulations but not to exceed $724.65, to Russell L. Chandler, an employee of the National Aeronautical and Space Administration, formerly of Huntsville, Ala., who was ordered to report for duty at his new duty station in Washington, D.C., on September 18, 1966, for relocation allowances authorized by the Administrative Expenses Act of 1946 (60 Stat. 806), in accordance with the provisions of the regulations of the Bureau of the Budget contained in Circular No. A–56, revised, October 12, 1966, except that the time limits contained in section 4.1d of the circular will not be applied to expenses incurred in connection with the said relocation prior to the enactment of the bill.

STATEMENT

The National Aeronautics and Space Administration in reporting to the House Judiciary Committee stated it had no objection to enactment of the bill provided that it be amended so that the time limitation will not be applied to expenses incurred in connection with his relocation prior to the enactment of this bill. The House Judiciary Committee amended the bill accordingly.

The payment authorized in the amended bill would reimburse Mr. Russell L. Chandler for expenses he advised NASA he incurred in connection with the purchase of a new dwelling in Washington, D.C., after having been transferred there from Huntsville, Ala. The bill would authorize this payment subject to applicable regulations but with a waiver of time limitations as to expenses incurred prior to the bill's enactment into law.

The time limitation which would be waived by the bill is found in section 4.1d of the Bureau of the Budget circular. In relevant part, section 4.1d of BOB Circular A–56, revised, which implements 5 U.S.C. 5724a (a)(4), provides:

* * * The Government will reimburse an employee for expenses required to be paid by him in connection with the * * * purchase of one dwelling at his now official station * * * *provided that:*

* * * * *

d. The settlement dates for the purchase * * * for which reimbursement is requested are not later than one year after the date on which the employee reported for duty at the new official station, except that an appropriate extension of time may be authorized by the head of the department or his designee when settlement is necessarily delayed because of litigation.

From conversations with Mr. Chandler, NASA understands that settlement was scheduled within the year specified in Bureau of the Budget Circular A–56; however, because the contractor constructed the wrong type of wall in the new residence, the Veterans' Administration would not approve a VA loan until this was corrected. According to Mr. Chandler, the condition was corrected and settlement was finally made on February 21, 1968.

Since more than 1 year elapsed from the date Mr. Chandler reported to duty in Washington, D.C. (September 18, 1966), to the date of settlement for the purchase of a new dwelling in Washington, D.C. (February 21, 1968), Mr. Chandler could not meet the time limit in section 4.1d of Bureau of the Budget Circular No. A–56, revised. This is the problem which H.R. 12622 seeks to overcome.

NASA pointed out that since H.R. 12622 cannot be enacted within 6 months of the February 1968 date when Mr. Chandler incurred the settlement expenses—the bill would have had to be enacted by August 21, 1968—it will not succeed in giving to Mr. Chandler the relief he requests. This is so, because, by the original terms of the bill, the time limit contained in section 4.1d of the circular is only waived for expenses incurred within 6 months of the date of enactment of the bill. In view of this, NASA suggested that the bill as amended by revising all that follows the word "except" on page 2 to read "except that the time limits contained in section 4.1d of the circular will not be applied to expenses incurred in connection with said relocation prior to the enactment of this Act." In substance, the House committee has recommended this amendment. The House committee also recommended that a limit be fixed in the bill equal to the amount claimed, $724.65, be stated in the bill.

The committee is in agreement with the action taken by the House of Representatives and accordingly recommends favorable consideration of H.R. 12622, without amendment.

JOHN A. AVDEEF

The bill (H.R. 12887) for the relief of John A. Avdeef, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1066), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to pay John A. Avdeef of Mineral Wells, Tex., $76.32 in full settlement of his claims against the United States for storage of his household furniture while assigned by the U.S. Army to active duty at Fort Wolters, Tex., and Fort Rucker, Ala., in the period November 1964 to August 1965.

STATEMENT

In its favorable report on the proposed legislation, the House Judiciary Committee set forth the facts in the case as follows:

The Department of the Army in its report to the committee on the bill stated that it was not opposed to the bill.

On November 19, 1964, SP5 John A. Avdeef was a warrant officer candidate. He resided at Long Beach, Calif., and as a member of the Ready Reserve was ordered to active duty for training. He was ordered to report to the U.S. Army Helicopter School at Fort Wolters, Mineral Wells, Tex., no later than November 27, 1964, for a 44-day period of active duty for training. The purpose of the training was preflight warrant officer indoctrination. On December 15, 1964, his orders were amended to show that, as of November 27, 1964, he was further attached to the U.S. Army Aviation School at Fort Rucker, Ala., for additional training in Warrant Officer Rotary Wing Aviation courses. The period of active duty for training was changed from 44 to 296 days. The purpose of his active duty for training, as stated in his amended orders, was for preflight warrant officer indoctrination.

The Commandant of the U.S. Army Primary Helicopter School at Fort Wolters was authorized to determine the date of departure from Fort Wolters to Fort Rucker and to issue the necessary amendatory orders.

Neither the original nor the amended orders specifically authorized storage or transportation of household goods. During December 1964, Mr. Avdeef visited the transportation office at Fort MacArthur, San Pedro, Calif., and inquired about the storage, at Government expense, of his household effects then in Long Beach. This inquiry was prompted by his desire to take his family with him to Fort Rucker. Mr. Avdeef was advised that he was authorized nontemporary storage of his household goods for the duration of his active duty for training.

The committee feels that this a basic fact in this case for Mr. Avdeef relied on this advice and requested nontemporary storage of his household goods. They were stored, at Government expense, with the Beverly Hills Transfer & Storage Co., at Fullerton, Calif. On June 29, 1965, Mr. Avdeef was advised by the Fort MacArthur Transportation Officer that storage, at Government expense, of his household goods was not authorized because he was ordered "to active duty for training for less than 1 year." He was further advised that "we must collect from you all charges paid ($112.88 which pays the storage charges to Mar. 28, 1965) and have the storage company bill you for all storage charges from March 28, 1965". Mr. Avdeef completed his training and was released from active duty for training on August 30, 1965, but he did not return to California. He remained in Mineral Wells, Tex., where he had obtained civilian employment. There was further correspondence concerning the unauthorized storage of Mr. Avdeef's property and charges therefor. The matter was investigated by the Inspector General at Fort Wolters, who advised Mr. Avdeef to pay charges due and then seek reimbursement.

On March 11, 1966, Mr. Avdeef paid the Beverly Hills Transfer and Storage Co., $76.32 for furniture storage from March 1965, through August 30, 1965. He also reimbursed the transportation officer at Fort MacArthur $112.88 for storage charges paid by the Government.

In October of 1968, Mr. Avdeef filed a petition with the Army Board for the Correction of Military Records under the provisions of section 1552 of title 10, United States Code, for correction of his records to show remission of the indebtedness to the United States under section 4837(d) of title 10, United States Code. On December 13, 1968, the Under Secretary of the Army approved the recommendation of the Army Board for the Correction of Military Records that Mr. Avdeef's records be changed to show remission prior to discharge of all indebtedness to the United States. This was done and the $112.88 which he had paid the United States was returned to Mr. Avdeef. The remaining $76.32 in charges were assumed by Mr. Avdeef with the Beverly Hills Storage Co., in reliance upon the information furnished Mr. Avdeef by the transportation office at Fort MacArthur as set forth above.

The committee agrees that this is a proper subject for legislative relief. Such relief would be consistent with the relief granted Mr. Avdeef by the Army Board for the Correction of Military Records. Further, as has been noted, Mr. Avdeef relied on advice furnished him by Army authorities and thereby became obligated to pay the amount of the storage charges when the Army subsequently held to the contrary concerning his right to store his property at Government expense. The Army recognized the inequity of the situation when it granted relief by administrative action and subsequently indicated it would not oppose legislative relief as provided by this bill. Accordingly, it is recommended that the bill be considered favorably.

After a review of the foregoing, the committee concurs in the action taken by the House of Representatives and recommends favorable consideration of H.R. 12887, without amendment.

ANTHONY P. MILLER, INC.

The bill (H.R. 15354) for the relief of Anthony P. Miller, Inc., was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report

(No. 91–1067), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to authorize and direct the Comptroller General to settle and adjust the claim of Anthony P. Miller, Inc., for the installation of fire-resistant wallboard in the ceilings of 41 garages located in an Air Force Capehart housing project at Niagara Falls Municipal Airport, Niagara Falls, N.Y. The bill would authorize the Comptroller General to allow $2,135.28 in full and final installment of the claim.

STATEMENT

The bill, H.R. 15354, was introduced in accordance with the recommendations of the Comptroller General of the United States in a communication directed to the Speaker of the House of Representatives pursuant to the act of April 10, 1928 (45 Stat. 413; 31 U.S.C. 236). The recommendation was made in accordance with this law on the basis of a finding by the Comptroller General that the case contained such elements of equity that it is deserving of the consideration of Congress as a meritorious claim within the meaning of section 236 of title 31 of the United States Code.

The claim represents the cost of additional work performed by the claimant under a contract entered into with the Department of the Air Force dated August 5, 1958. This contract provided for the construction of a Capehart housing project of 290 family units located near the Niagara Falls Municipal Airport, Niagara Falls, N.Y. In accordance with the provisions of law providing for the so-called Capehart housing program, the successful bidder for a project is required to provide for financing the construction costs of the project and upon completion thereon is reimbursed from the proceeds of a mortgage placed thereon and insured by the Federal Housing Administration. This mortgage is paid off by the military departments over a period of not to exceed 30 years from appropriations made for quarters of allowances of military personnel. At the time this claim arose the applicable law, 12 U.S.C. 1748b(b)(3)(B), provided that the mortgage shall involve a principal obligation in a sum not in excess of an average of $16,500 per family unit.

During the course of construction, it was suggested that fire resistant wallboard should be installed in the ceilings of 41 garages. By letter of November 6, 1959, the contracting officer advised the claimant that its offer to install the wallboard for the price of $2,135.28—the amount of the present claim—was accepted and stated that while a change order would not be issued at that time, the amount involved would be used as a debit and credit change request which might be written at a later date.

Relative to any changes proposed to be made within the scope of the contract, there is for consideration the provisions of paragraph 9 of the general provisions of the contract which reads in part as follows:

(a) The Contracting Officer may, at any time, by a Construction Change Request, Form FHA 2437, and without notice to sureties, propose changes in the Drawings and/or Specifications of this Housing Contract and within the general scope thereof. Each such proposed construction change will be submitted to the eligible builder for his estimate of the increase or decrease in cost and time of performance, if any. After such action by the eligible builder, the proposed construction change will be returned to the Contracting Officer. Likewise, the eligible builder may, without notice to sureties, propose changes within the same scope, all such proposed changes to be in writing and to contain the eligible builder's estimate of the increase in cost and time of performance, if any, and to be submitted to the Contracting Officer. In all cases, the eligible builder will sign proposed construction changes for himself and as agent for the mortgagor-builder.

(b) All proposed construction changes, including those resulting in no increase or decrease of cost, will be submitted by the Contracting Officer to the Commissioner, with copy to the mortgagee. The determination of the Commissioner as to the increase or decrease in cost and time of performance shall be final with respect to all such changes to be paid or deducted from mortgage proceeds. If any such change is approved by the mortgagee and the Commissioner to be paid or deducted from mortgage proceeds, the amount of the maximum insurable mortgage as herein defined and this Housing Contract will be considered as modified by such approved change order, and the eligible builder shall proceed diligently to execute such approved change.

(c) No change of any character shall be made unless in pursuance of a written order approved as required in the preceding paragraphs, and no claim for adjustment of the contract sum shall be recognized unless the eligible builder, prior to the making of such claim for adjustment, is in receipt of an approved written order.

At the time this additional work was authorized by the contracting officer and performed by the claimant, funds were available for payment from the mortgage proceeds and there is nothing in the record to indicate that the Federal Housing Commissioner would not have approved the required change order had it been presented to him at that time. However, and over the protest of the claimant, all except $15 of such funds subsequently were used to pay the cost of additional inspection services performed by the architects under a separate contract with the Air Force.

Consequently, since all but $15 of the maximum amount of the insurable mortgage was obligated or expended, no change order covering the installation of the wallboard was approved or issued by the Federal Housing Commissioner as contemplated by paragraph 9 of the general provisions of the contract.

By letter of March 9, 1961, the Deputy Special Assistant Secretary for Installations, Department of the Air Force, requested our decision concerning the use of appropriated funds to pay certain claims arising under Capehart housing projects including certain claims by the instant claimant. In a Comptroller General decision of May 3, 1961 (40 Comp. Gen. 608), it was held that the limitation on the mortgage obligation per family housing unit constituted a maximum cost limitation per unit so that additional costs, such as costs due to change orders, delays beyond the contractor's control, etc., which would cause the statutory limitation to be exceeded could not be paid from appropriated funds.

Since such claims thus could not be paid administratively this particular claim was included as count VI in the claimant's suit in the Court of Claims entitled *Anthony P. Miller, Inc.* v. *The United States*, 172 Ct. Cl. 60, 348 F. 2d 475, decided July 16, 1965.

In that decision, the Court of Claims prescribed certain criteria and described certain circumstances where, in its view, appropriated funds properly could be used to pay such additional costs. However, the particular claim herein considered, did not qualify for payment under the prescribed criteria and circumstances and was disallowed by the court. The court felt it was not justified in allowing the claim for the reason that the claimant proceeded with the work without receiving the formal approval required by paragraph 9 of the general provisions of the contract.

Since the claim has been disallowed by the Court of Claims there is no legal liability on the part of the United States to pay it. However, in view of the facts and circumstances herein above set forth the General Accounting Office believes the claim is meritorious and we recommend that it be given favorable consideration by the Congress.

In summary, those facts and circumstances are that the work was done at the request of the contracting officer at the point in time when it could be most economically performed, at the time the work was authorized the cost thereof was agreed upon in writing and could have been paid from the proceeds of the mortgage without exceeding the statutory limitation, nothing in the record indicates that the Federal Housing Commissioner would not have approved the required change order had it been presented to him at the time the work was authorized, both the contracting officer and the claimant apparently acted in good faith, and the Government has received and retained the benefit of the work performed at the claimant's expense.

The committee has carefully reviewed the facts outlined above and in the communication of the Comptroller General and agrees that this is a proper matter for legislative relief. Accordingly, it is recommended that the bill be considered favorably.

CAPT. JACKIE D. BURGESS

The Senate proceeded to consider the bill (H.R. 8470) for the relief of Capt. Jackie D. Burgess, which had been reported from the Committee on the Judiciary with an amendment, on page 2, line 13, after the word "this," strike out "subscription" and insert "section".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1068), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation, as amended, is to relieve Capt. Jackie D. Burgess, U.S. Air Force, of liability to the United States in the amount of $620 as the result of administrative error, as a member of the U.S. Air Force for the period beginning September 24, 1963, and ending January 31, 1966. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for amounts for which liability is relieved by this section.

STATEMENT

Captain Burgess (F.R. 79667) enlisted in the Army on February 17, 1954. He was discharged on February 5, 1957, upon completing nearly 3 years of active duty. He served as an enlisted member of the Inactive Army Reserve and the Idaho National Guard from February 6, 1957, until February 23, 1962. On June 28, 1963, he enlisted in the Air Force. He was discharged from this enlistment to accept a commission as second lieutenant (pay grade 0–1) in the Air Force on September 24, 1963. He has been on continuous active duty since that date. He was promoted to captain on April 1, 1967.

Section 203 of title 37, United States Code, provides special pay rates for officers in pay grades 0–1, 0–2, and 0–3 who have had over 4 years' active service as an enlisted member.

These rates are greater than rates for officers in pay grades 0–1, 0–2, and 0–3 who have had over 4 years' active service as an enlisted member. These rates are greater than rates for officers who have had 4 years' or less active enlisted service. When he was commissioned, Captain Burgess' pay was computed on the special rates referred to above. Late in 1965, his entitlement to pay based on these rates was questioned. A review of his records showed that this service in the Army Reserve and the Idaho National Guard was not "active service." His only active service was in the Army from February 17, 1954, through February 5, 1957, and in the Air Force from June 28, 1963, through September 23, 1963. This active service totaled 3 years, 2 months and 15 days. This was not sufficient to entitle him to the special rates authorized for officers with over 4 years' active service as an enlisted member.

The Air Force made an audit of Captain Burgess' pay records from September 24, 1963, through January 31, 1966. This audit showed that his pay had been erroneously based on the special rates for officers with over 4 years' enlisted active service. As a result, he received overpayments totaling $1,085.78 from September 24, 1963, through January 31, 1966. His pay was adjusted to reflect the correct rate on February 1, 1966. Collection of the overpayments from his active duty pay was initiated on February 14, 1966, at the rate of $10 per month. As of March 15, 1969, $375.78 had been collected leaving a balance due the United States of $710.

The Department of the Air Force in its report to the House Judiciary Committee on the bill indicated that it would have no objection to legislative relief in Captain Burgess' case. Its investigation disclosed that Captain Burgess received the overpayments in good faith in reliance on determinations made by Air Force personnel and the Air Force concluded that Captain Burgess had no reason to be aware that his pay was based on a wrong rate. In this connection the Air Force stated:

The overpayments made to Captain Burgess were the result of administrative error which remained undetected for more than 2 years. There is nothing on file which indicates Captain Burgess could or should have been aware that his pay was based on the wrong rate. Air Force records show that he received the overpayments in good faith in reliance on the determination made by Air Force personnel that he was entitled to be paid at the rate prescribed for an officer with over 4 years' active enlisted service. Therefore, the Air Force interposes no objection to favorable consideration of H.R. 8470.

The House committee had considered this matter and determined that on the date that the subcommittee acted, the overpayment amounted to $620. It was determined that an equitable resolution of the matter would be to relieve him of the outstanding indebtedness as of that date. Accordingly, the House committee approved the bill in that form. This committee is in agreement with the action taken by the House of Representatives and, accordingly, recommends favorable consideration of H.R. 8470 without amendment.

OHIO NORTHERN UNIVERSITY COMMEMORATIVE MEDALS

The bill (H.R. 15118) to provide for the striking of medals in commemoration of the 100th anniversary of the founding of Ohio Northern University, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1042), explaining the purposes of the measure.

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

GENERAL STATEMENT

The bill authorizes the Secretary of the Treasury to strike not more than 16,000 national medals commemorating the 100th anniversary of the founding on August 15, 1871, of Ohio Northern University, located in Ada, Ohio. The medals may be produced only upon furnishing of security guaranteeing payments of all costs associated with the manufacture of the medals, including the estimated costs of labor, materials, dies, use of machinery, and overhead expenses. The medals may be produced only in quantities of 2,000 or more. The size or sizes of the medals, and their composition will be determined by the Secretary in consultation with the university; the emblems, devices, and inscriptions may be determined by the sponsor subject to the approval of the Secretary. No medals may be manufactured under the authority of this legislation after December 31, 1971.

LEGISLATIVE HISTORY

This bill was introduced by Congressman William M. McCulloch on June 20, 1970. It was reported by the House Banking and Currency Committee on June 29, 1970, and passed the House of Representatives on July 6, 1970.

STATEMENT BY REPRESENTATIVE WILLIAM M. M'CULLOCH

The following statement on H.R. 15118 was received by the committee from the sponsor, Representative William M. McCulloch:

Ohio Northern University, of Ada, Ohio, will observe its centennial year from August 14, 1970, through August 13, 1971. The university has 2,300 students enrolled in colleges of liberal arts, engineering, pharmacy, and law and one of the few institutions, in the country combining a liberal arts curriculum with colleges of engineering, pharmacy, and law.

Since it was founded in 1871 by Dr. Henry Solomon Lehr, Ohio Northern University has graduated more than 20,000 persons. Today there are more than 11,000 living alumni serving their communities and the Nation in all 50 States and in many foreign countries. The devoted alumni of the university include one-third of the pharmacists in Ohio, more than 1,100 attorneys serving in Ohio and neighboring States, in excess of 1,800 engineering graduates and many hundreds of teachers, business leaders, and housewives.

Four Ohio Northern University degree holders are currently serving in the U.S. House of Representatives from the State of Ohio. In addition to the sponsor of H.R. 15118, they include Representative Delbert L. Latta, Frank T. Bow, and Jackson E. Betts. At one time four Ohio Northern University graduates were concurrently U.S. Senators: Frank B. Willis, Simeon D. Fess, Arthur J. Robinson, and John M. Robsion.

This independent university has grown from a normal school serving northwest Ohio to one of the complex private universities in the State of Ohio. It has survived depressions, wars, and today's campus turmoil. The university seeks to graduate students accomplished in scholastic achievement, inspired with a desire to contribute to the good of mankind, and committed to a way of life that will result in a maximum of personal and social worth.

In recent years, the university has grown at an unprecedented rate in every way: academically, physically, and financially. In the decade of the 1960's more than $13 million of new buildings and equipment were added to the campus. Recently, the university's new liberal arts curriculum has gained widespread interest among educators.

BILL PASSED OVER

The bill, Senate Resolution 436, appointment of counsel to represent the Senate in amicus curiae capacity in appropriate judicial proceedings wherein constitutionality of the statute lowering the voting age to 18 is contested, and for other purposes, was announced as next in order.

Mr. MANSFIELD. Over, Mr. President.

The ACTING PRESIDENT pro tempore. The bill will be passed over.

INTERNATIONAL BIOLOGICAL PROGRAM

The Senate proceeded to consider the joint resolution (H.J. Res. 589) expressing the support of the Congress, and urging the support of Federal departments and agencies as well as other persons and organizations, both public and private, for the international biological program, which had been reported from the Committee on Labor and Public Welfare with an amendment, to strike out all after the enacting clause and insert:

That (a) the Congress hereby finds and declares that the international biological program, which was established under the auspices of the International Council of Scientific Unions and the International Union of Biological Sciences and is sponsored in the United States by the National Academy of Sciences and the National Academy of Engineering, deals with one of the most crucial situations to face this or any other civilization—the immediate or near potential of mankind to damage, possibly beyond repair, the earth's ecological system on which all life depends. The Congress further finds and declares that the international biological program provides an immediate and effective means available of meeting this situation, through its stated objectives of increased study and research related to biological productivity and human welfare in a changing world environment.

(b) The Congress therefore commends and endorses the international biological program and expresses its support of the United States National Committee and the Interagency Coordinating Committee, which together have the responsibility for planning, coordinating, and carrying out the program in the United States.

(c) In view of the urgency of the problem, the Congress finds and declares that the provision by the United States of adequate financial and other support for the international biological program is a matter of first priority.

SEC. 2. (a) The Congress calls upon all Federal departments and agencies and other persons and organizations, both public and private, to support and cooperate fully with the international biological program and the activities and goals of the United States National Committee and the Interagency Coordinating Committee.

(b) For this purpose, the Congress authorizes and requests all Federal departments and agencies having functions or objectives which coincide with or are related to those of the international biological program to obligate or make appropriate transfers of funds to the program from moneys available for such functions or objectives and provide such other support as may be appropriate.

The amendment was agreed to.

The amendment was ordered to be engrossed and the joint resolution to be read a third time.

The joint resolution was read the third time, and passed.

NEGOTIATIONS IN THE MIDDLE EAST

Mr. MANSFIELD. Mr. President, I am encouraged that at long last, more than 3 years after the end of the 6-Day War in 1967, that Israel, on the one hand, the U.A.R., Jordan and, I understand, Kuwait and Lebanon, also, have agreed to consider the possibility of negotiations based on the 1967 United Nations Security Council resolution. I am sorry that Iraq, Syria, and Algeria have refused to give their assent to this effort. In my opinion, the fact that there is agreement, if only in part as far as all of the countries involved generally are concerned, is a good start toward an opening of negotiations which may furnish an opportunity to achieve a settlement in this tinderbox area of the world. Certainly, it is far better than a continuation of the confrontation which has taken and is still taking place and, most certainly, it is a step away from a confrontation which might well involve the two so-called superpowers of the world—the U.S.S.R. and the United States.

Too much credit cannot be given to Secretary of State William Rogers for his patience, his tenacity, and his quiet determination that something must, should and would be done to try to dampen the flames in the Middle East. Credit should also be given to the Soviet Union because, while I have no definite information at my disposal, I assume that President Nasser's 19-day stay in Moscow had much to do in the way of Egypt's acquiescence to the Roger's proposal. By the same token, much credit should go to Mrs. Golda Meir, the Prime Minister of Israel, for her final acceptance of the proposal. I am sure it was not easy for either President Nasser nor Prime Minister Meir to assent to the Roger's proposal; I feel that they were both under a tremendous amount of pressure; but to their credit, in the cause of a possible settlement and a possible peace, they have both given their consent.

There is a good deal of emotion mixed up in the question of the Middle East which must be taken into consideration and recognized and, because of that factor, it is all the more reasonable that we accept the acceptances which have already been given. Let no one be under any illusion about the difficulties which will confront all parties directly and indirectly concerned once negotiations get underway but, at least, a breathing space may have been achieved and, hopefully, the 90-day cease fire contained in the Roger's proposal will be extended indefinitely.

It is my understanding that a meeting of the Big Four—the United States, Soviet Union, Britain, and France—will convene on Wednesday under the auspices of the countries' respective U.N. ambassadors and at that time will discuss the possibilities for progress and peace in the Middle East with Ambassador Gunnar Jarring. To Ambassador Jarring, also, goes much credit for his willingness to undertake renewed efforts to achieve a settlement in that part of the world.

Let us hope and pray that what will get underway shortly under the most difficult circumstances will meet with progress and results in the weeks and months ahead. Men of reason on both sides will be, I am sure, aware of the possible cataclysmic results which will follow if a settlement is not achieved. To all of them, I wish good luck and God-speed.

Mr. SCOTT. Mr. President, will the distinguished Senator from New Hampshire yield me 3 minutes?

Mr. McINTYRE. I yield 3 minutes to the distinguished minority leader.

Mr. SCOTT. Mr. President, I am very pleased that the distinguished majority leader has said what he did. I am in full accord with what he said. I must admit that when the two great power talks began, and then when the four great powers became involved, I was quite skeptical as to whether they would lead to any solution.

It is cause for a very considerable, yet guarded, optimism that the first essential step has been taken and a breakthrough has been had.

There is now more than a glimmer of hope for peace in the Middle East, an area which controls the fate and the destiny of three continents, the crossroads of the world, the vital lifeline that it is for the means of energy and defense of so many nations.

It is much to the credit, as the distinguished majority leader has said, of our really great Secretary of State, William Rogers, that he has so patiently and diligently pursued these efforts. It is to the credit of the great Russian colossus that it has shown a responsibility and equal desire for peace.

One great solid fact emerges from the decision for a 90-day ceasefire. That is that the contending parties have indicated by their action that they prefer peace to continued conflict.

This is the beginning of something that might bring about a massive collective sigh of relief on the part of all the peoples of the world.

Prime Minister Golda Meir has shown statesmanship on the part of Israel. The Arab Nations have indicated that it is clearly in their best interests not to continue to exacerbate a bad situation.

The action of President Nixon has clearly established him as a man who loves peace and seeks it, as indeed is the mark of all Presidents generally. They would certainly prefer peace to war.

Winston Churchill said:

Jaw, jaw is better than war, war.

And that sets the tone for what we all hope will be going on.

I would like to see the 90-day ceasefire extended indefinitely until the swords are beaten into plowshares. There is much need for food. There is much need for improvement of human conditions in all of those countries. There is much need for peace in the world. And as the President winds down the war in Vietnam, as he concludes the agreement with Spain for the continuance of certain Spanish bases, as he negotiates with Russia in the SALT talks—which are going very well so far—as all these things are done, the call for peace increases and may come to full bloom in these troubled sections.

If it does, no one would be more happy than I to see the Swedish Government and the Swedish officials proceed to call together the chief officials of the United States and Soviet Union in order to do what Theodore Roosevelt did with Russia and Japan. He followed after the ways that led to peace, as the Bible says.

If so, they will well deserve the Nobel peace award from a grateful world.

We hope that this will happen. At any rate, we are obviously advancing toward better days.

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

Mr. SCOTT. I yield.

Mr. MANSFIELD. Mr. President, I am of the opinion that the remarks made by the President of the United States at his press conference last Thursday may also add some influence in bringing about a meeting of the minds on the negotiating basis covering that particular area of the world.

Mr. SCOTT. Mr. President, I thank the distinguished majority leader. I do agree that when the President indicated he was pledging the United States toward the security of the State of Israel and, to a recognition that the defense of Israel was essential to the defense of the United States, he also strengthened the hands of the negotiators.

We would all say to Ambassador Jarring, "Go with peace and bring peace back from these negotiations so that the world may see its fears subside and may again return to a state and condition where less fear dominates the minds of the world's peoples."

I again thank the distinguished Senator from New Hampshire for yielding.

COMMITTEE MEETINGS DURING SENATE SESSION TODAY

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

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

At this time in accordance with the previous order, the Chair recognizes the Senator from New Hampshire.

TIME FOR A CONFRONTATION WITH BIG OIL'S SPECIAL PRIVILEGES

Mr. McINTRYE. Mr. President, one of the great difficulties in making responsible judgments about the issues confronting us these days is the exhaustion of our intellectual and emotional capacities by the very range of problems with which we must deal.

The major issues—often only in their broadest sense—monopolize our attention, leaving little time for the public or its representatives to understand the myriad proposals put forward as solutions. In the final analysis, in many areas, we are influenced—sometimes pushed—toward a particular solution by

those vested interests most directly affected by the given issue.

Such interests have the staying power and the expertise and—sometimes—the corporate clout to influence issues which affect them. Often this is of value to the legislative process. Frequently it insures a worthwhile result—but only if the special interests can be tempered by the strong advocacy of broader needs and public interests.

It is the role—indeed the duty—of elected officials to represent the public interest and to maintain a balance between the public good and private gain. But the capacities of elected officials are spread so thin over the range of problems and options that too often we wind up serving the special interests inadvertently. We do this—not because we choose to violate the public trust—but because we have lost the public's perspective.

One of the sorriest examples of this has been the creation and the continuance of the oil import program.

Now most Americans probably have never heard of the oil import program, Mr. President. And for that matter, I doubt that there are many Congressmen who know exactly how it works. I also doubt that there are many other countries were a government program costing the public billions of dollars could so escape attention. Perhaps this is a price we pay for being so busy and so affluent.

For 10 years the oil import program was an obscure item in the inventory of governmental programs. And more than likely it would have remained so had it not been for the fight the major oil companies put up to keep a maverick member of the industry from sharing in their pie.

The industry claimed it was unfair to allow one company to have the advantage of a special quota. But the "biggies" forgot that the entire program was so unfair to the American consumer that its survival depended upon public ignorance of its very existence.

To be sure, the "oil depletion allowance" was a perennial rallying cry against special oil interests, but little did the public know that the "depletion allowance" was but the very tip of the iceberg of oil industry special privilege.

A very big part of that iceberg—the oil import program—surfaced with the proposal to build an oil refinery in Machiasport, Maine, which would bring a more abundant supply of home heating oil and a measure of price relief to the consumers of New England. That original proposal would have required a special quota under the oil import program.

In order to understand that proposal—and the controversy that quickly exploded around it—people had to learn about the oil import program. And what they learned was that this program makes it possible for the oil industry to collect a windfall, maintain the high domestic price of oil, and pass the costs on to the consumer.

The Machiasport controversy prompted the appointment of a Cabinet-level Presidential task force to study the oil import program. After months of study, the task force concluded that the oil import program was costing the American public about $5 billion a year and that it should be phased out and replaced by a tariff system.

This was a strong recommendation and it was supported by the Chairman of the task force, George Shultz, the former Secretary of Labor and now the President's Director of the Office of Management and Budget; the Secretary of Defense, the Secretary of State, and the Attorney General.

One would certainly think that the recommendations of such a group would have a great deal of influence upon the President, who after all, initiated the study, and who, after all, has complete control over the oil import program.

But this naively overlooks the power and the influence of the beneficiaries of the program.

It will take more than public exposure to rid the American people of the oil import program. It will take the honesty and the courage of the people who were sent to Washington to represent the public interest.

There are not going to be any public demonstrations against the oil import program.

There are not going to be any students, or any housewives, or any lawyers coming to Washington to urge us to change the system and make it more equitable.

The issue is far too obsure and complicated to arouse mass indignation and the public outcry it deserves.

We in the Halls of Congress are going to have to do it all by ourselves.

The only pressure we will feel will come from the other side. We all know that. We all know that the power and the influence of big oil is no stranger to the Capital.

We had an abrupt reminder of this a few days ago when we opened the Washington Post. There, in a well-documented article, Bernard Nossiter detailed the oil interests of Robert Anderson at a time when he was Secretary of the Treasury and the architect of the oil import program.

In 1959, Robert Anderson had strong personal ties to the oil industry and a financial stake in the price of oil. He still has, for that matter. Yet in 1959, he saw no conflict between ties with oil and his role as an oil policy adviser to President Eisenhower. I am quite confident that in Mr. Anderson's mind the two positions were not incompatible.

What is truly incredible, however, is not that advocates of the oil industry's position, with personal and financial ties to the oil community, hold Government positions and are active in setting oil policy—but that the rest of us have accepted this situation and have bought their bill of goods for years when it was so obviously and so outrageously contrary to the public interest.

And even if we assume that we need a program to limit foreign oil imports, the fact is that we have allowed a program to be established, and continued for a decade, which costs the Nation billions, encourages gross inefficiencies in domestic oil production, and literally gives away millions of dollars a year to the oil companies.

In 1959, the Government, by Presidential proclamation, limited the right to import foreign oil and apportioned that right among oil refiners, initially, on the basis of their historical position in the market.

It allowed inland refiners, who do not use foreign crude oil, to, in effect, sell that right and pocket the difference between the price of foreign crude and the price of domestic crude—about $1.35 a barrel.

The value of this right, a direct subsidy to the oil industry, amounts to almost $1 million a day.

Now, Mr. President, no matter what the justification for limiting imports, it did not have to be done that way, done without any thought of the public costs involved. But we cloaked this program in the mantle of national security, and attacks on the oil import program have been quickly denounced as playing fast and loose with the Nation's defenses.

But those days are over, Mr. President. No longer is the American public ignorant of the import program. No longer can critics be quickly cowed.

We will no longer tolerate trading in publicly created economic rights for private economic gain; nor the inefficiencies it has fostered in oil production; nor the stifling of competition and the stunting of the growth of U.S. refinery capacity; nor the high costs the American consumer pays for petroleum products, from gasoline to plastics.

That is, Mr. President, some of us will no longer tolerate it.

Last week, the House Ways and Means Committee added language to this year's trade bill that would maintain the status quo in oil imports. This provision would deny the President the right to implement the tariff program recommended by his task force on oil imports.

Right now, of course, the President can change the oil import program any time he wishes. And he has the strong recommendation from his task force to do so.

But what is the President's position on oil imports?

He has warned that he may veto the trade bill. But he has not publicly objected to the provisions relating to the oil import program.

At a recent press conference, he said that he "has always been opposed to mandatory quota legislation as a general proposition." But does that "general proposition" include or exclude the oil industry?

If he does not speak against the import quotas the oil industry enjoys, he will surely give them encouragement.

His silence on the matter points up another inconsistency. He has warned the Congress that it is going over the budget ceiling, and he has vetoed a hospital bill that he said was too costly.

But what has he done about the costly oil import program—a program he could change with the stroke of a pen. Why has he not accepted his task force's recommendation and adopted a tariff system which would bring millions of dollars a year into the public treasury and aid him and the American people in the fight against inflation?

We all know the force and power of the oil industry. We know how high it reaches in the circle of Government—

and it matters not whether the Democrats or the Republicans control that Government. We know what it means in terms of campaign money and support. Big oil's power is so pervasive, so prevailing that a good many people expect nothing to change in oil policy, that the President will continue the present import program largely as it is.

The industry's power extends beyond financial influence. It embraces the social and business camaraderie which members of the industry share with people in Government positions. Simply put—high Government officials offend their friends in the industry when they recommend changes in the system—and they may be offending future business associates.

Such is the insidious nature of the influence of oil.

There is no doubt in my mind that former Treasury Secretary Anderson did not have a personal financial interest in the effect of the oil import program in order to make recommendations he made.

His close personal associations with oil men, and the fact that he would return to the business when he left Government, might well have been enough to nearly marry in his mind the special interests of oil with the general interests of the public.

Now, the public has no suitable defense against that kind of influence. It cannot make a collective phone call to the President and discuss its needs in regard to oil policy.

It cannot invite a Senator, or a Congressman, or an administration official to its game preserve for a weekend's hunting.

It cannot pass on business tips.

The public's needs and interests are an abstraction that can only be articulated—and championed—by its representatives in a public forum. And they must prevail by the sheer force and logic and fairness of their arguments.

And now we have reached the point of confrontation between a public program set up for private economic gain and the public's interest in a more equitable oil policy.

If the President does not change that program, or if the Congress allows it to be frozen into public policy, then once again the oil industry will have demonstrated that its private influence is strong enough to override the representatives of the public interest.

This is a very clear point of decision. If we want to limit oil imports, we can do it in such a way as to benefit the public, protect our legitimate security interests, and encourage efficient domestic production that will provide a generous return to the industry—or, we can continue the present program of lining the pockets of a privileged few giant oil companies at the expense of a great number of American consumers.

Anyone who has studied this program, anyone who has read the hearings of Senator HART's Subcommittee on Antitrust and Monopoly, anyone who has studied the report of the President's task force knows that the present import quota system is irrational, inequitable, unjustifiable, and indefensible. It is not a matter of debate; it is not a controversial point. The record is clear.

If the public fully understood the issue, we would not be able to withstand the winds of change that would blow through these Halls, nor the public accounting it would demand of us.

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

Mr. McINTYRE. I shall be concluding in a moment, and shall be glad to yield at that time.

Unfortunately, the public does not fully understand the issue. Nor does it realize exactly why it is suffering from high oil prices or how it could benefit from a change in the program. But we do. And that is what the people are paying us for, and what they expect of us.

In a short time the trade bill will come to the floor of the Senate. Today I am announcing my firm intention to offer an amendment to strike the language added by the House Ways and Means Committee freezing the present oil import program into law.

This amendment will permit the President to implement, if he chooses, the recommendations of his own Cabinet-level Task Force on Oil Imports.

Then, for the first time in the history of the oil import program, the Senate will have the opportunity to vote on it. We will be challenged to make a clear choice between a program which benefits private profit and a program which would better serve the public interest.

This vote will speak directly to the issue of how this Government works, and for whom it works.

I hope the administration takes a stand. I hope it makes its position unequivocally clear to the American people.

I hope the news media will inform the public as to exactly what is at stake in this vote, and I hope the public makes it its business to determine how each U.S. Senator casts his ballot.

I am now happy to yield to my distinguished friend from Oklahoma.

Mr. BELLMON. Mr. President, the Senator has just said that the public does not realize exactly why it is suffering from high oil prices. I wonder if the Senator has had an opportunity recently to compare the cost of oil from domestic sources as compared with the cost of oil from the Middle East.

Mr. McINTYRE. It is my understanding that, due to a temporary spot tanker market problem, there have been a few cases of closing of the gap between domestic prices and imported prices. The big oil corporations, with their large fleets of long-term chartered or owned tankers, are not affected. So the differential between the maintained domestic price and the world price is still a scandalous figure in my book.

Mr. BELLMON. It is my understanding that at the present time crude oil from the Middle East laid down in New York costs from $4.25 to $4.55 a barrel, whereas oil from domestic sources laid down at the same location can be bought for from $3 to $3.25 a barrel, indicating that oil from domestic sources is, roughly, a dollar lower in cost than oil from imported sources.

Does the Senator agree with those figures? If he does, I wonder where he gets the notion that the public is suffering from high prices on oil from domestic sources.

Mr. McINTYRE. First, let me inquire of my good friend from Oklahoma how much of the oil we use is affected by these spot prices.

Mr. BELLMON. Virtually all of the residual oil prices are affected. The reason is that historically residual oil has come from offshore sources. We do not have the refinery capacity for producing residual fuel oil. As a result, most of this oil that is imported has prices that are very high, and most of the sources for the generation of electricity comes from those sources.

The point I am trying to make is that if this country followed the suggestion made by the Senator from New Hampshire and we thought it was necessary to import more of that oil, then if we were caught in an unusual situation, this country would have to pay those higher prices of shipping oil into this country by tankers, and I doubt if the interests of the consumer would be well served.

Mr. McINTYRE. I think I should make myself very clear on the point that I am not advocating that protection for the oil industry be completely abandoned. We in New England understand the necessity for fuel oil, and that oil provides 75 percent of our energy needs. So we agree that the oil industry should be protected. What we are trying to say is that there are so many of these privileges that keep prices high and that it would be well and good if that were not so. We in New England are paying more than our share for national defense under the oil import program.

So do not put me in the group of those who say that the oil industry should not have any protection. I am aware of that point of view, but I am sick and tired of all the privileges and protections the oil industry has.

Mr. BELLMON. I would like to suggest to the Senator that the consumer is benefiting by this program. For instance, natural gas, which is the source of much of the energy utilized on the east coast, is selling at New York for about 30 cents per million cubic feet less than that same natural gas is selling for if it is brought in from the Middle East as liquefied natural gas, which costs about 60 cents per million cubic feet.

Therefore, if we did not have a domestic oil industry, we would be importing all our gas, and the cost to the consumers would be about $6 billion a year more than it is, since we can get gas from domestic sources.

So it is my contention that the Senator, who is concerned, as I am, about protecting the rights of consumers, perhaps would do them a great disservice if we were to force the domestic industry to reduce its operations and make the country depend for its energy upon foreign sources.

I agree with the Senator's position that we ought to make certain that the consumer is getting a fair deal; but it is my contention, after studying the pro-

grams, that the oil import program has been good for the consumer.

After all, the Senator has suggested that the oil companies need what he called a generous return to the industry. They have to have the capital resources to produce the energy our country needs. A program that makes it impossible for them to get such a return is certainly going to put the industry out of business at an early date.

I would like to ask the Senator what he would consider to be a generous return to the oil industry, what percentage on their investment.

Mr. McINTYRE. Something less than what they are getting now.

Mr. BELLMON. Does the Senator know what that is?

Mr. McINTYRE. I think I saw the corporate figures for the oil industry for 1969, which showed that after taxes, for the calendar year 1969, their profits exceeded $5 billion.

Mr. BELLMON. As income on capital investment, does the Senator know what this amounts to? I can tell him that the profit for the oil industry is less than average for industry. The oil industry is not an outstanding investment, because they are not too profitable.

If the Senator is interested in their getting a generous return, then we need to be doing more and not less to attract the funds into the industry that they need for exploration and production.

Mr. McINTYRE. Mr. President, I did not say that I was interested in a generous return. I am interested in a fair return. Yet, piggy-backed on top of all these programs that have been quietly put together for the benefit of the oil industry, we find the consumers of America are now picking up a great share of the tab. It happens that the consumers I represent are picking up more of the tab than they should.

The task force put together by the President of the United States said that the mandatory oil import program was no longer needed, and we should go to a tariff program. I would like to see the President's program implemented. Nothing has been done about it, except that General Lincoln has been appointed chairman of a committee to engage in a continuing study of the oil industry.

Mr. President, I am getting a little tired of all this. I am for a fair return, but I am more interested in seeing that the consumers of New England get a better break on the price we have to pay. With all due respect to the Senator from Oklahoma and the people of his area, we are really getting taken on this mandatory oil import program, and we want to see it changed.

Let me ask the Senator a question. Does he understand that at the present time the President of the United States has within his discretionary power the right to change, alter, or do away with the mandatory oil import quota program of 1959?

The crux of my remarks here today is that there will come to the Senate floor a trade bill, in which the House will undoubtedly deny the President the discretionary right that he has. Would the Senator from Oklahoma vote to freeze the quota system for the oil industry and lock it into the law, or does the Senator prefer to have the discretionary system as it is today?

Mr. BELLMON. Mr. President, I would reply to the Senator by saying that I introduced in the Senate some months ago legislation that would establish a commission to oversee the oil import program.

I feel, as the Senator does, that the way the program is presently handled is wrong, for the reason that it does not give the public an opportunity to know the facts behind the decisions made by the oil import administrator.

For all practical purposes, this program operates in the dark. The citizens have a right to know what the issues and the facts are before these decisions are made.

I would not, so far as I know at the present time, favor legislation that would freeze the present import program into law and make it impossible to change as conditions change. But I do favor a program that gets all the facts out in the open, so the public can understand what is being done.

I frankly feel that the oil import program has been well administered, but I feel very strongly that most of those who have not studied it do not understand it, and for that reason they feel there is something sinister about it. But I feel it has been operated in the best interests of the consumers.

So I answer the Senator's question by saying that, as I understand it now, I probably would not favor legislation to take this matter out of the hands of the President.

Mr. McINTYRE. Let me raise again a question that has surfaced in the last 3 or 4 weeks about the differential between world price and domestic price of oil.

I would like to know how much of United States consumption is affected by the increase in these tanker rates. Does the Senator know how much United States consumption is affected by this spot tanker development?

Mr. BELLMON. The United States presently gets roughly one-third of its oil from imported sources. But the important factor is not just the price of that oil, but that if Congress takes steps that have the effect of reducing the domestic production of oil, and makes this country depend on foreign sources for oil, we will be forced to pay these high prices for all our oil, and the consumers would pay much more under that kind of arrangement than they pay now.

As I understand the President's arithmetic, if we pay for all our oil at the price we now pay for Middle Eastern oil, the consumers would pay $5,301 million a year for oil than they are paying at the present time. In other words, the present program, rather than costing the consumers money, is actually saving them $5,300 million a year. That is on oil alone. If we were to depend on import sources for all our natural gas, it would increase the cost of that commodity by an additional $6 billion a year.

So the oil import program, in my opinion, is having the effect of saving the consumers about $11 billion a year over what they would be paying if we were importing our petroleum needs. To me, this is something extremely important to the consumers of this country, and something they should know about.

Mr. McINTYRE. Is that $11 billion based on the temporary tanker situation, if it were permanent?

Mr. BELLMON. I suggest that the situation would not be temporary. If we had to have this oil, those people would charge as much as they could get for the oil, and they would have every right to do that. It is not just the tanker rate; it is the fact that the Libyan oil foreign market has been cut back, the fact that the supply line has been cut in Libya. They can charge more, and so they are doing it.

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

Mr. McINTYRE. Mr. President, I ask unanimous consent to proceed for 2 more minutes.

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

Mr. McINTYRE. If I understand the Senator from Oklahoma correctly, his previous remarks indicated that this was a rather unusual situation that had occurred due to events in the Far East.

Mr. BELLMON. Mr. President, it is a situation that could occur regularly if we had to have this oil. The fact is that ordinarily we have in this country enough domestic oil so that we can keep the price down; but if we got in a situation where we were at the mercy of these other nations, they would increase the price of their oil. That is what they are doing now.

Mr. McINTYRE. Mr. President, I would like the RECORD to show that no one, least of all the Senator from New Hampshire, is suggesting that we get all of our oil from the Middle East. And I wish to add, as we close out this discussion—and I appreciate the Senator's being here, so that we could get this colloquy with reference to the question of the spot tanker rates, and the part which the differential between the world price and the domestic price plays—that I am under the impression that this rate increase amounts to less than 5 percent, and possibly less than 1 percent, of all the oil consumed by the United States. I am also under the firm impression that this is a temporary increase in rates, one which is to be expected from time to time in the volatile international spot market for tankers, and one which, in any case, has absolutely no effect at all on the overwhelming preponderance of foreign oil which comes here either under long term contracts or in hulls owned by the oil companies.

Finally, I might point out that, if the distinguished Senator and his colleagues on this issue would take a position permitting increased Canadian oil imports, the increase in spot tanker rates would have absolutely no effect at all on domestic prices.

Mr. PROXMIRE. Mr. President, the remarks by the distinguished Senator from New Hampshire are well taken. The oil import quotas have had an inflationary effect on the price of oil products. Currently there is an increasing short-

age of fuel oils, which is causing higher prices. An article in the Wall Street Journal details that problem. I ask unanimous consent to have that article printed in the RECORD.

Also, Mr. President, I ask unanimous consent to have inserted a letter I sent to Director George A. Lincoln of the Office of Emergency Preparedness on the problem of the limitation of oil imports from Canada.

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

SUPPLY OF INDUSTRIAL FUELS GROWS TIGHTER, ADDING TO FEAR OF ENERGY WOES THIS WINTER

A growing shortage of heavy industrial-grade fuel oils east of the Rockies has sent prices soaring to highs and could contribute to the possibility of energy problems in many parts of the nation this winter.

Power companies, factories, office buildings, hospitals, colleges and other users of the boiler fuel are encountering increasing difficulty securing sufficient supplies. In addition, they're paying prices as much as $1.50 a barrel higher than a year ago, or as much as double the year-earlier levels. Many oil companies are turning down prospective customers, and some are even allocating shipments to present customers.

The higher fuel costs in many cases will be passed on to consumers in the form of higher electric bills, under so-called "automatic fuel adjustment clauses" in utility rates, and the form of higher prices for manufactured products. Some factories were forced to close for short periods last winter due to fuel shortages, and the pinch is likely to be more severe this year.

The fuel oil shortage also is contributing to a tightening supply of asphalt, the nation's chief road-building material. Some road projects have been slowed this summer, and the combination of short supplies and rising prices could cut into next summer's state and Federal highway programs.

The causes of the fuel oil shortage are complex and include such diverse factors as new air pollution control laws, a worldwide tanker shortage resulting from events in the Arab world, new Federal coal mine safety rules, and a growing nation wide shortage of natural gas.

IMPACT OF SMOG CONTROLS

A major trigger for the shortage is the fact that many local air pollution control authorities are placing into effect much sooner than anticipated tight restrictions on the sulphur content of fuels. Burning of such fuels produces sulphur dioxide, a gas that when precipitated out on soot and dirt in the air and then breathed in can be damaging to the human bronchial tubes and lungs.

The laws are forcing many burners of coal, the lowest-cost boiler fuel for many parts of the country, to seek fuel oil as a substitute. Most boiler coal is high in sulphur content, and methods of removing it economically are still in the research stage. Pipeline-grade natural gas doesn't contain any sulphur but is nationally in short supply, and several major gas utilities also are rejecting new customers.

About two-thirds of the nation's heavy fuel oils are imported from Venezuela and Caribbean area refineries. At present these fuel oils, too, are high in sulphur, and most of the oil industry's new desulphurization plans in these areas, representing about a $500 million investment, haven't gone into production. What's more, the tanker crisis has as much as tripled oil transportation costs from the Caribbean and has resulted in uncertain delivery schedules at East Coast ports. The tanker shortage results from the prolonged closedown by Syria of a key Middle East oil pipeline and Libya's forced cutbacks in oil production there.

Domestic capacity to make heavy fuel oils has declined steadily because of rising imports and the previously low price of imported fuels in relation to high cost U.S. crude oil—such fuels frequently sold for less than half the cost of the crude from which they're made. This also discouraged the building of desulphurization plants in the U.S. Most new U.S. refineries have been designed without facilities to make heavy fuel oil in order to squeeze more gasoline and other higher-value products from each barrel of crude.

NEEDS GO UNFILLED

There are other factors contributing to the fuel oil shortage. A number of coal mines have been forced to close, at least temporarily, because they're unable to meet new Federal mine safety laws. Several electric power plants have been built to run on heavy fuel oil because of delays in getting approval and equipment for nuclear plants. Industrial plants that use so-called "interruptible" supplies of natural gas as their chief fuel, will need bigger stocks of alternate fuel oil this winter due to the greater likelihood that utilities will have to cut them off during periods of peak homeowner gas use.

Meanwhile the scramble for fuel oil is on. The University of Illinois Medical Center in Chicago is preparing to ask for bids for the fourth time in three months to secure a needed eight-million-gallon heavy fuel oil supply for this winter. The first three tries brought only one qualified bid, which will fill only half the center's fuel requirements.

William Graban, general manager of the municipally owned power plant in Taunton, Mass., says his invitations to 12 oil companies to bid on the plant's 700,000-barrel needs over the next year drew only one bid to supply 250,000 barrels. That bid, from Shell Oil Co., is at $2.90 a barrel for relatively high sulphur (2.5%) oil, compared with a year-earlier price of $1.98 from another supplier. The Taunton plant, about 25 miles south of Boston, serves about 18,000 electricity customers, and Mr. Graban says the town could be in a bad fix before long.

A marketing official of one of the largest international suppliers of heavy fuel oils says bluntly, "We are turning down prospective new customers, and from time to time have had to allocate deliveries in some areas to present customers, due to uncertain tanker schedules. We're even trying to buy fuel oil ourselves in the open market."

HEAVY DEMAND FOR LOW SULPHUR

The crunch is even more severe for heavy fuel oil with low sulphur content.

Public Service Electric & Gas Co., New Jersey's biggest utility, has converted about half of its electric generating capacity from coal to heavy fuel oil with a maximum of 1% sulphur to meet the state's present air pollution control rules. But in October, it must start using oil containing no more than 0.5% sulphur, which it estimates will cost about $1 a barrel more, and it anticipates this will be harder to buy, even though the company is close to two big low-sulphur fuel oil terminals. The utility burns about two million barrels of oil a month.

Virginia Electric & Power Co. says such fuel is "exorbitant (in price), and it's just not available." Philadelphia Electric Co., which switched entirely to low-sulphur fuel oil at its power plants last year to meet new air pollution control laws, estimates that the $6 million that the switch added to its first year's fuel bills will be doubled over the next year by recent price increases. Low-sulphur oil costs up to $3.50 a barrel in some markets.

Byron S. Weil, president of Oils Inc., a Chicago heavy fuel oil distributor, predicts that city's new air pollution control laws on sulphur dioxide will result in a severe fuel oil shortage for large institutions, hospitals and factories.

He asserts that greater access to foreign fuel oil in the Midwest is needed. Up to now about 90% of the nation's heavy fuel oil consumption has been on the East Coast, where there is almost unrestricted access to imported supplies. But imports of heavy fuel oil to the inland areas of the nation have been tightly restricted. Last March, the government granted the first import quota for this area, permitting Commonwealth Edison Co. of Chicago to bring in 4.5 million barrels of low-sulphur, heavy fuel oil. Oils Inc. then asked for a two-million-barrel quota but has been granted only 480,000 barrels.

But one oil marketer says, "Getting quotas may not help inland users much. You just can't find much heavy fuel oil available in the Caribbean right now, and when you can, it's almost impossible to charter a tanker to haul it for you."

MORE CLEAN-UP FACILITIES

Several major new desulphurization plants will be placed in operation in the Caribbean and Venezuela over the next six months, but oil marketers generally don't believe the facilities will solve the shortage.

For example, by the middle of August Standard Oil Co. of California and closely held New England Petroleum Corp. will begin shipments from a 250,000-barrel-a-day facility they share on a 35%-65% basis at Freeport in the Bahama Islands that can make 130,000 barrels of low-sulphur, heavy fuel oil daily. But, a spokesman says, "It's all sold under firm contracts."

In October Creole Petroleum Corp., 95%-owned by Standard Oil Co. (New Jersey), the largest supplier of heavy fuel oils to the U.S., will begin production at a facility at Amuay, Venezuela, capable of making 166,000 barrels of low-sulphur, heavy fuel oils daily, and Jersey Standard's wholly owned Lago Oil & Transport Ltd. will start up an 88,000-barrel-a-day unit on the island of Aruba about next Jan. 1. Yet a U.S. marketing official for the company predicts the short supply of heavy fuel oils could last as long as two years.

The Royal Dutch-Shell Group started a 50,000-barrel-a-day desulphurization unit at Cardon, Venezuela, this year, nearly tripling its low-sulphur, heavy fuel oil capacity in the Caribbean. Amerada Hess Corp. has about 86,000 barrels a day of low-sulphur fuel oil capacity at St. Croix in the Virgin Islands. Texaco Inc. has announced plans for a giant desulphurization unit on Trinidad.

The current high prices for heavy fuel oil even have some oil companies pondering a boost in domestic output. "But by the time desulphurization units could be built, the shortage may have ended or prices may have come back down, so it looks like a big gamble," says one oil executive.

DROPPING ASPHALT FOR OIL

An Arab-Israeli armistice also might bring an easing of the conditions causing the worldwide tanker crisis, but oilmen aren't counting on it.

A spokesman for the American Oil Co. division of Standard Oil Co. (Indiana) says some refineries are switching some asphalt production into making heavy fuel oil, and this is contributing to a growing shortage of asphalt.

The tanker shortage also is a big factor, since U.S. asphalt plants generally run on Venezuelan crude oil.

Frank O'Donnell, president of Trimount Bituminous Products Co., Everett, Mass., which mixes asphalt with other materials and supplies contractors, says he's been forced to ration deliveries to customers, delaying "completion of all sorts of jobs." The reason, he says, is that his asphalt supplier, Humble Oil & Refining Co., Jersey Standard's chief subsidiary, will sell him only 75% as much as he

bought last year. Some of Trimount's truck drivers are working only three days a week due to the shortage, Mr. O'Donnell says.

R. L. Peyton, assistant state highway director for the Kansas Highway Commission, says some projects in that state have been delayed by the need to seek bids on asphalt a second time. He says availability of asphalt has been "touch and go so far this year, and it may be worse next year."

Adolph Zulian, assistant chief engineer of the Colorado Highway Department, says prices of liquid asphalt have arisen 20% to 30% from a year ago, and he says that one of the state's major suppliers, Texaco, won't accept any new orders for this year.

Millard Stewart, executive director of the Asphalt Association of Western Pennsylvania, which represents the area's road materials producers, says, "We will probably make it through the year and get most of the jobs done, but it will be tight." He called the supply "critical" and predicted the present $24 a ton price, unchanged from a year ago, may soar to $29 a ton by next spring.

CONGRESS OF THE UNITED STATES,
JOINT ECONOMIC COMMITTEE,
Washington, D.C., July 20, 1970.

Hon. GEORGE A. LINCOLN,
Director, Office of Emergency Preparedness, Washington, D.C.

DEAR GENERAL LINCOLN: Last March 10th, exactly 11 years after the inception of the Mandatory Oil Import Control Program, President Nixon extended it to impose quotas on crude oil imports from Canada into the United States east of the Rockies. This action was taken based on your findings after consultation with the Oil Policy Committee.

I presume that your finding was based on national security, the only basis for limiting oil imports from Canada. However, the background review for your recommendations has not been released. Explanations referred to informal import levels being exceeded in early 1970, elements of the Shultz Committee Report, and remarks regarding the need for a common energy understanding with Canada. If there is a detailed evaluative report supporting your recommendations, I would like a copy of it. Another, related problem, is that no public record exists describing the scope of the energy agreements sought with Canada and their national security implications. Since there is no such information, the implication is that these controls are a bargaining tool in non-national security matters. In any event, I would like a full statement of our objectives as well as the negotiations related to them.

The material regarding Canada in the Shultz Committee Report was in the context of a basic revision of the program from a quota system to tariffs. Has the Oil Policy Committee examined any aspects of such a transition? Have the consultations to which the President's statement of February 20th referred taken place?

The proclamation provides no controls on Canadian imports beyond December 31, 1970. I assume then that the extention of such controls into 1971 will require further findings by you with the advice of the Oil Policy Committee. As part of the process for determining whether such an extension is needed, I strongly urge you to hold public hearings. That would go far to eliminating the doubts that have arisen about prior decisions.

Finally, in view of developments since Canadian oil import controls were instituted—the impending price rise in oil, the crude oil shortage and the energy crisis in the midwest—I urge as strongly as I can that controls on the importation of Canadian oil be suspended until it can be determined that they are now required in the interest of national security. I personally believe that such a review would reveal these controls to be adverse to our national security.

Thank you for your cooperation.

Sincerely,

WILLIAM PROXMIRE.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the transaction of routine morning business, with a limitation of 3 minutes on statements therein.

EDITORIALS IN PRAISE OF SENATOR PROXMIRE

Mr. NELSON. Mr. President, my colleague, the Senator from Wisconsin (Mr. PROXMIRE), has made a record for himself in various fields, including economy in defense spending and in the field of consumer protection. His efforts have not gone unrecognized.

Two recent newspaper editorials point up his record. One in the Wisconsin State Journal of Madison notes passage by the Senate of Senator PROXMIRE's bill to impose cost accounting procedures for defense contractors.

Another, Mr. President, in the Washington Star, supports the Senator's bill to relieve consumers of the burden of correcting mistakes made by computers used for billing.

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

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

NEW PROCEDURES PROXMIRE HELPS TO SAVE

Public officials are wont to talk about saving the taxpayers' money, but Wisconsin's Sen. William Proxmire may do just that to the tune of some $2 billion a year.

The Senate recently by a vote of 69 to 1 approved Proxmire's bill for stringent new cost accounting procedures for defense contractors. The bill now goes to the House.

The lopsided Senate vote represents a personal victory for the Wisconsin Democrat who has been battling for new accounting procedures. Two years ago Proxmire, in face of strong opposition, won a government study of contractors' accounting methods.

The bill approved by the Senate provides for establishment of uniform cost accounting standards by a new five member Cost Accounting Standards Board appointed by the comptroller general, who would serve as chairman of the board.

The new procedures would apply directly to the majority of defense contracts obtained through negotiations between contractors and the Pentagon rather than through competitive bidding.

Some authorities testified before a Senate committee that the change in procedures could save taxpayers more than $2 billion a year which is a sizeable sum even in Washington, D.C.

The Wisconsin senator is to be commended for his efforts to save some dollars for the taxpayer. The House would do well to complete the congressional approval of the bill.

RELIEF IN SIGHT

At last Congress has the opportunity to afford its citizens from one of the scourges of our time, the computer.

As most of us know from frustrating personal experience, computers, for all their circuitry, input and tapes, do make mistakes. This is excusable; after all, they are only subhuman.

But what happens after the mistake is made and discovered by the citizen against whom it is made shouldn't happen to an IBM card. The computer turns out to be deaf, dumb and blind to anything but its own immediate concerns. Like the mechanical water-carrier fashioned by the sorcerer's apprentice, the idiot computer keeps on billing and billing and billing, pausing only to add penalties and interest to the original mistaken sum.

It will not pay attention to reasoned protest or to duplicated documents demonstrating its error. It moves mechanically into the escalation of threats to sue, threats to blacken one's credit repute and threats to seize one's property. The recipient of these mindless communications soon feels he has been spindled, folded and mutilated.

The only known remedy is an insulting personal letter to the president of the department store or oil company or the Commissioner of Internal Revenue, who also employs the mechanical marvels.

Now Senator William Proxmire (D-Wis.) has introduced legislation that will compel an answer within ten days to the customer savaged by a computer and allow the collection of damages, even triple damages in some cases.

The proposal deserves unanimous support in both houses. It will provide a powerful incentive toward the too long delayed final perfection of the potentially very useful devices.

CONSERVATION, PESTICIDES, AND POLLUTION

Mr. NELSON. Mr. President, I ask unanimous consent that three excellent articles from the Wall Street Journal regarding environmental issues be printed in the RECORD at the conclusion of these remarks. The articles range from the plight of the Mustangs in the West to the ineffectiveness of Federal efforts to end the pesticide menace to the environment and to humans. The Journal is to be commended for its policy decision to run these in-depth, well-written, and hard-hitting environmental pieces.

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

[From the Wall Street Journal, June 25, 1970]

CONSERVATIONISTS TRY TO HALT THE SLAUGHTER OF MUSTANGS IN WEST—WILD HORSES DISAPPEARING FAST, BUT THEY ARE STILL KILLED AS PESTS, USED IN PET FOOD

(By P. F. Kluge)

CALIENTE, NEV.—The wild bay stallion panics as the strangers approach. Eyes rolling, he races desperately around the corral that is his prison, tripping over wires, crashing against the fence.

He had come down from the arid mountains near here and was drawn to a familiar salt lick that had been fenced, its gate left open. Entering, he tripped a wire and the gate slammed behind him. When the gate opened again it would lead to the back of a truck. There would be other corrals then, and, finally, the last stop at a pet-food plant.

Trapped and sold for six cents a pound on the hoof, shot and left to rot on the range, driven off cliffs, the mustang is a slowly vanishing symbol of the American West. Descended from stock brought to the New World by the Spanish conquistadors and the settlers who came after, mustangs once roamed the Great Plains by the hundreds of thousands. No more.

As barbed wire and the plow marched

across the grasslands, the mustang retreated farther and farther west. Exterminated as a pest by ranchers, driven into dry country where pasturage is hard to find, his numbers dwindled. Today about 17,000 mustangs are left in 11 Western states, about half of them live in Nevada, many in the arid moonscape of that state's southern region.

Conservationists—and some repentant "mustangers" who have slain many of the animals in the past—are now working to preserve those that are left. They will have to work fast; Stan Routson, Nevada state inspector of brands, expects the mustang to survive only about eight years more in his state.

"A NATIONAL MONUMENT"

"The mustangs are definitely going down the drain," says Tom Holland a retired Utah rancher who heads the National Mustang Association, which wants to set up a 68,000-acre preserve near here. "Horses helped build and conquer America, and the wild ones left on the range ought to be a national monument. Instead they're treated like garbage, like so many empty beer cans."

If the mustangs do disappear, it will be because of economics and the animal's lack of status as an endangered species. The Federal government doesn't recognize it as such because, strictly speaking the mustang is not a distinct species, just a horse of mixed parentage. Old mustang hunters, however, view him as a wild animal in the truest sense of the word; they have seen mustangs leap over cliffs rather than be caught or starve themselves to death when trapped in corrals rather than eat the food proffered by captors.

Mrs. Velma (Wild Horse Annie) Johnston, a Reno secretary who has been a strong champion of the mustang, says: "No one wants to be responsible for them. They're not an edible animal and they're not a trophy animal. They're in limbo."

Mrs. Johnston was instrumental in obtaining a 1959 Federal law that forbids the use of planes and motor vehicles in rounding up mustangs on Federal land (86% of Nevada is Federally owned). A bill introduced in Congress earlier this year would give the Secretary of the Interior authority to set up and maintain preserves for mustangs and burros, but the fate of that is uncertain and the 1959 law is the principal protection now available.

HOLES IN THE LAW

The 1959 law has ended the massive roundups of the past, when thousands of mustangs were driven over cliffs or rounded up and sold by teams of hunters in jeeps, trucks, and airplanes; about 100,000 of the wild horses were removed from Nevada in the four years after the end of World War II, for example. Still, the 1959 law is poorly enforced and has holes in it.

"You're not going to get the FBI out here to enforce it," says Mr. Routson, the Nevada brand inspector. "And the county commissioners are elected by ranchers, who want that land for cattle."

Many ranchers lease grazing rights from the U.S. Bureau of Land Management, paying a fee based on how many cattle the bureau estimates can be supported on a given tract. In the Nevada badlands, where cattlemen joke that a cow has to graze at 20 m.p.h. to get enough to stay alive, every tuft of green is precious—and the mustang is a wide-ranging rival for available pasturage.

So ranchers and others still trap and kill mustangs legally and illegally. The anti-motor vehicle provision of the 1959 law is evaded by mustang hunters who release their own branded horses into a mustang herd—and then chase and round up the whole lot using jeeps and trucks. If anyone gets curious, the hunter can argue that he was just after old dobbin.

There is some evidence, though, that as the mustang population has dwindled, the ranchers have softened. Says Walter Clutts, head of the Las Vegas chapter of the National Mustang Association: "Fellows who rode them off cliffs by the hundreds are starting to support our program. They look out the window and they don't see them anymore. Deep in their hearts they love them and they want to see some around; it's hard for a rancher not to have some feeling for horses."

Ellis (Cougar) Lefevre, a grizzled mustanger who says he was personally involved in the capture and extermination of some 10,000 of the animals, says he repented years ago when it struck him that his children might never see a mustang. Retired rancher Holland, the Mustang Association president, recalls a similar change of heart.

"Back in the fifties," he says, "there was one horse, a white mare. We chased her for three years. We got to calling her Native Dancer. The last year we chased her, she was with a colt. We finally caught her, but it took three relays of men and horses and an eight-mile run. Now, that horse was the goingest concern I ever come across, and it about broke my heart when we shipped her out for pet food."

[From the Wall Street Journal, June 26, 1970]

BEATING THE BANS: HAZARDOUS PESTICIDES ARE CONTINUING IN USE DESPITE FEDERAL CURBS—AGRICULTURE AGENCY'S APPEALS PROCESS BALKS CRACKDOWN—STORES STILL SELL PRODUCTS—USDA AIDES DEFEND RECORD

(By Burt Schorr)

WASHINGTON—The Government's heralded campaign against the perils of pesticides has produced a series of tough-sounding prohibitions. But these edicts are proving less hard-hitting than they first promised to be.

In February the Agriculture Department suspended a highly toxic mercury fungicide from use on grain seed. Three Alamogordo, N.M., children had suffered serious brain damage after eating meat from a hog accidentally fed seed treated with the chemical. Yet seed processors, by department agreement, are continuing to use their remaining stocks of the fungicide.

In April the weed-killer 2,4,5-T, suspected as a possible cause of birth defects, was banned for use around the home and its recall from retailers' shelves was requested. Yet an estimated six million spray cans and other small containers of the compound remain in the hands of local merchants, and surveys show that sales to the public are continuing.

Last November the Government authorization of DDT products for house, garden and certain other uses was canceled with considerable White House fanfare. Yet three companies—Carolina Chemicals Inc., Diamond Shamrock Corp. and Lebanon Chemical Corp.—still have the right to go on marketing the chemical labeled for these very uses, while their protests await action by the Agriculture Department's tortoise-paced appeals machinery.

A MEANINGLESS BAN?

These delays dismay many conservationists and consumer spokesmen. Harrison Wellford, an associate of Ralph Nader, complains that letting sales of these supposedly prohibited DDT products continue "in effect leaves no ban at all." He notes that the department has set no date for a public hearing on the companies' appeals and the Pesticides Act provides no deadline. "Here is the loophole in the act and the department apparently is taking full advantage of it," Mr. Wellford charges.

Despite the criticism, Secretary Clifford Hardin's lieutenants insist they're taking a tough stand on pesticides. They cite the initial actions taken against suspect pesticides as evidence that the department, long criticized for subordinating health and environmental considerations to the interests of pesticide makers and users, is cracking down. Moreover, current Government reappraisals of pesticide dangers indicate this trend will broaden in months ahead, threatening a sizeable cutback in pesticide producers' $2.5 billion annual sales.

"The general feeling around here used to be: Don't offend the pesticide industry," says one top official. "And when it came to human health, the department was willing to risk a degree of hazard. But now we're taking the position that there must be a big margin of safety for the public."

Matching such words with the fate of the mercury seed-treatment compound seems difficult, however. Initially, officials sent out a warning that the chemical was an "imminent hazard" to human beings and animals and that it was being recalled from seed processors. But when a major producer of the compound, Nor-Am Agricultural Products Inc. of Chicago, protested that this was too severe, officials abandoned the recall idea.

THE DISPOSAL PROBLEM

Apart from any department softness toward the industry, current reform efforts must also contend with a quagmire of technical problems and procedural delays.

Still to be agreed upon, for instance, is a method of disposing of pesticides once they've been banned—in particular, the approximately six million containers of 2,4,5-T. Companies have delayed recalling their products until safe handling procedures are decided. A state-Federal-industry conference on the subject will convene in Washington next week.

"The USDA has a bear by the tail on recalls, no doubt about that," comments James Dewey, chief of the pesticides program at Cornell University's college of agriculture and head of an informal panel developing disposal guidelines for New York state authorities. Incineration is considered the safest method of pesticide disposal, but the Cornell professor has discovered that no Empire State community now has an incinerator able to achieve the extra-high temperatures required or the equipment needed to clean emerging gases. Most communities in other states are also believed to lack such facilities.

CASES PILE UP

Another problem is the administrative jumble created by the mounting backlog of appeals filed by pesticide manufacturers. Nine pesticide-use issues now are awaiting judgment by Agriculture Department scientific panels (only two of the needed nine have been appointed to date). A company that loses at the scientific-panel stage still has the right to a public hearing, and 12 issues are lined up for hearings. The combined total of these pending cases—involving some 45 companies in all—has doubled since the start of this year. A court appeal following department hearings could delay a final decision for two or three years altogether.

While appeals are pending, manufacturers are free to continue marketing products whose authorization has been formally canceled. And the DDT producers are not the only ones currently enjoying this freedom.

Thus, four makers of lindane vaporizers, used for insect control and deemed unsafe around food preparation areas more than 14 months ago, can still sell their products for use in restaurant kitchens. The first step in their appeal, a scientific-panel opinion, is due by July 6.

To plug some of the existing gaps in pesticide regulation, the Nixon Administration soon will offer a number of amendments to strengthen present law. Samples: Pesticide inspectors would be empowered to enter a producer's plant and take samples for chemical analysis to assure that products are effective and don't contain harmful adulterants. In the case of a product suspected of

being dangerous, the Agriculture Secretary would be authorized to halt all sales for 90 days while the department weighs the scientific evidence and decides what final steps to take.

But even if Congress approves such changes (and industry lobbyists already are trying to blunt the planned Administration thrust), questions about the resolve of pesticide regulators will remain, according to skeptics.

Consider the Alamogordo case. State and Federal investigators quickly discovered that a hog slaughtered by the father of the poisoned children to feed his family had been fattened on a diet that included sweepings of waste seed treated with methylmercuri, a preventive for root rot and other soil-borne diseases. They also learned that some three months before the children's illness 12 other pigs owned by the family had died after being stricken with blindness and paralysis.

A MANUFACTURER BALKS

Agriculture Department pesticide regulators say the incident was their first clue that methylmercuri formulations caused brain damage. (There had been warnings of possible danger by Food and Drug Administration officials, though.) The department promptly classified such products as a health hazard and suspended their authorization for use in seed treatment.

Actually halting the use of methylmercuri formulations proved another matter.

At first, the department decided that the mixtures were sufficiently dangerous that the four companies marketing them should be requested to recall them from "all product locations." Nor-Am Agricultural Products, which makes nearly all of the compound used in seed treatment, immediately halted shipments from its Illinois plant to some 50 distributors. But it balked in calling in stocks already in the hands of distributors and seed processors, then at peak operation in preparation for spring planting demand.

In late February Nor-Am representatives met with Agriculture Department officials in Washington to argue that recall "was not economically or technically feasible," says Lionel Hart, Nor-Am vice president. To meet safety requirements for shipment of poisonous materials would entail costly repackaging at possibly hundreds of locations, the company contended. Once assembled, moreover, the stocks would present Nor-Am itself with the problem how to get rid of them without causing dangerous air or water pollution.

ABOUT-FACE AT AGRICULTURE

The safest alternative, company executives maintained, would be to continue coating the compound on seed until field supplies were exhausted.

Nor-Am's argument proved convincing. An Agriculture Department memo commented that "the hazard to the public would probably be greater from the returning of existing stocks to the manufacturer than from (their use) in accordance with presently accepted directions."

But Nor-Am still wanted permission to sell stocks on hand in company warehouses. When the department refused, Nor-Am filed suit in Federal court in Chicago to overturn the suspension (alleging in part that the Government hadn't linked the Alamogordo poisonings with its products). In April the court enjoined the department's action, and Nor-Am resumed shipments until the Government obtained an appeals court stay of the injunction. The higher court hasn't yet handed down its final opinion.

Despite this legal clash with Nor-Am, the department has long been accused of willingness to accommodate the pesticide industry. The house Government Operations Committee last year charged that the regulators "consistently failed to take action to remove potentially hazardous products from marketing channels"; failed to cancel authorizations of ineffective or potentially hazardous materials as quickly as they should have, and approved "numerous" pesticide products over the objections of the Health, Education and Welfare Department.

In partial defense, Agriculture officials say pesticide regulation has been hampered by lack of sufficient men and money. As recently as 1964, the pesticides agency had only 11 inspectors across the country to check on an estimated 45,000 registered products. Since then, the inspection force has more than tripled. But Gus Conroy, newly promoted to enforcement chief, says he's still a long way from his goal of sampling each registered product for chemical analysis at least once every five years.

HARDIN STATEMENT

Perhaps a more fundamental handicap is the persistent belief that the Agriculture Department's first duty is to agriculture. But department science director Ned Bayley, a Johnson Administration holdover, began to challenge this premise in a serious way following last year's House investigation. One consequence was a restatement of pesticide policy by Secretary Hardin. Henceforth, he said, the department would encourage "those means of effective pest control which provide the least potential hazard to man, his animals, wildlife and other components of the natural environment."

Mr. Hardin's most significant act to date may have been to formally delegate to the HEW Department the full responsibility for deciding pesticide health questions.

On this basis, the Agriculture Department moved in April against all home, aquatic and food-crop uses of 2,4,5-T even though officials deemed the evidence supplied by HEW—that heavy injections of 2,4,5-T caused birth defects in mice—to be rather thin. In a letter to Mr. Hardin, then HEW Secretary Robert Finch contended that "a prudent course of action" should reflect the possibility that the weed-killer "may present an imminent health hazard to women of child-bearing age."

But this move hasn't satisfied the more militant environmentalists. A group headed by Mr. Wellford is petitioning the department for a total ban on 2,4,5-T products. This would affect use of the herbicide for rural weed control. This is the principal application for the chemical, and it was not covered by the April action.

There's dissatisfaction, too, about the effectiveness of the department's earlier orders. At a Senate hearing the other day, Mr. Wellford testified that a survey by the Nader organization of 15 hardware and garden stores in the Washington area turned up five still selling 2,4,5-T products, even though pesticide companies supposedly have sent out letters warning retailers to stop such sales. A check by Senate staffers of 10 such stores in the Baltimore area turned up seven still offering customers 2,4, 5-T products.

[From the Wall Street Journal, June 25, 1970]

RAISING A STINK: POLLUTION BY PULP MILLS STIRS MORE LOCALITIES TO PRESS FOR CURBS—STATES TIGHTEN REGULATIONS—INDUSTRY SETS BIG OUTLAYS TO MAKE FACILITIES CLEANER—CLIMBING UP A SMOKESTACK

(By Stanford N. Sesser)

It was a full-page ad in Time magazine, and it was beautiful. There was the clear, majestic river flowing through the untouched forests. "It cost us a bundle," the caption read, "but the Clearwater River still runs clear." The ad went on to explain that Potlatch Forests Inc., which operates a pulp and paper mill on the Clearwater at Lewiston, Idaho, had spent millions of dollars to control pollution.

There was only one thing wrong. The photograph of the Clearwater was taken more that 50 miles *upstream* from the Potlatch plant.

"I can't defend it very well," says Benton R. Cancell, president of Potlatch. But he has an explanation. "We got trapped by a cliche. In Lewiston, there aren't any trees, and our theme is to run things against a forest background." Critics of the company suggest that perhaps another reason the picture was taken upstream is that downstream the Clearwater isn't so clear. At least a dozen times a year, it churns with a foul-smelling white foam that sometimes spurts high into the air, just a few yards from the intake for Lewiston's water supply. Fishermen say the foam and the smell, both products of the Potlatch plant, are sometimes evident 60 miles downstream.

SKUNKS AND ROTTEN EGGS

If the Potlatch plant doesn't do much for Lewiston's water, neither does it do much for the air. Last year the Potlatch smokestacks spewed forth 2.5 million pounds of sulphur gases, 1.8 million pounds of particulate matter and 5.5 billion pounds of water vapor. Workers at the plant must drive their cars through a spray device every day to wash off the flakes of sodium sulphate that will otherwise eat away the paint. The hydrogen sulphide the plant gives off often makes Lewiston, which is in a valley downwind from the plant, smell like rotten eggs. Another pollutant is composed of the same chemicals that skunks emit.

The befouled air and water have afflicted Lewiston ever since the Potlatch plant was built there in 1950. Until recently, nearly everyone quietly accepted the pollution as a fact of Lewiston life, or, as the company once put it, "the smell of money." (The plant is Lewiston's main industry.) But now times have changed. After the ad appeared, scores of Lewiston residents started organizing to express their concern about pollution from the plant. At a town meeting this spring, 150 angry residents confronted two Potlatch executives and accused them of everything from deception (the ad) to genocide (the pollution).

It's the same in almost every city where there's a pulp or paper mill. Aroused citizens—and some state officials—are questioning and confronting the corporate owners. Citizens in one state have barred a company from building a mill in their town, an almost unheard of resistance to what would have been an economic boon. As a result, the pulp and paper companies are planning heavy expenditures to try to reduce their pollution—though not nearly as heavy as many citizens and officials are demanding.

TWELVE FEET OF GUCK

The pulp and paper companies are being singled out by pollution officials and townspeople because they are among the worst polluters. The chemical "cooking" process that turns wood into pulp (which is then turned into paper) can ruin both air and streams. For instance, the Ticonderoga, N.Y., mill of International Paper Co., which is soon to be replaced by a new facility, has over several decades dumped so much waste into Lake Champlain that 300 acres of lake bottom are coated with the guck in depths of up to 12 feet.

Also, the pulp and paper makers are more visible targets for pollution fighters because the plants are usually in otherwise scenic areas where there are ready supplies of timber and water.

Officials of pulp and paper makers admit that pollution is a national problem. "Certainly there's a problem," says Mr. Cancell of Potlatch. "Let's not discount that." But some executives say the peril has been blown out of proportion by students and others who have taken up the environment as a cause. Referring to the controversy over pollution of Lake Erie, Bernard W. Recknagel, executive vice president of St. Regis Paper

Co., says: "The idea that Americans have a cesspool for a lake gripes the hell out of me. A fish would have a delightful time in 75% of Lake Erie today."

A BOOST IN OUTLAYS

Executives at nearly every company emphasize that they are planning millions of dollars in outlays to curb pollution. International Paper, whose pollution abatement spending will jump to $15 million this year from $4.5 million last year, recently announced that it will spend $101 million to fight pollution over the next four years. (Among other things, the higher outlays by the industry probably will lead to increased prices, some executives say.)

The future plans do little to assuage many residents of mill towns, however. "Potlatch keeps telling us about how much money they have spent on pollution controls," says David Hadley, a college student who organized the campaign against Potlatch in Lewiston. "Well, of course they've done something. If they were operating with no controls at all, we'd be dead."

Mr. Hadley has a point. The pollution from pulp mills is a proven health hazard. Dr. Benjamin Ferris, a professor at Harvard's school of public health, compared the town of Berlin, N.H., which has a pulp mill, to a similar-sized town in British Columbia with no major air pollution. Dr. Ferris found that Berlin residents had twice the rate of severe chronic bronchitis and emphysema.

Industry officials say they are aware of the health hazard, and they insist they would eliminate it if they knew how. Their newer plants have the most modern equipment available, many executives contend.

There is evidence to refute this, however. The most effective pollution-control system for pulp and paper mills was developed about 25 years ago in Sweden and was in widespread use in Europe by the early 1950s. Yet only one new U.S. mill—owned by American Can Co., an industry "outsider"—employs this process, which eliminates the rotten egg smell. (Another mill, an older renovated facility of Crown Zellerbach Corp., has converted to the Swedish process.)

The American Can mill, at Halsey, Ore., emits relatively few pollutants. One company official claims he actually climbed to the top of a smokestack at the mill and stuck his head in the plume—a suicidal act in a conventional mill. Now officials of many companies are talking enthusiastically about the "new" process and planning more mills using it. They say they didn't try the method years ago because it is slightly more expensive.

One reason the executives now are seriously considering the Swedish process is because they are suddenly getting a lot of pressure from state regulators. The states of Washington and Oregon have recently issued strict new controls for pulp and paper mills, for instance. And the state of New Mexico recently turned down a company's request to build a mill in the little town of Algodones.

"A BIG POLITICAL ISSUE"

"We're one of the few areas left in the country that has the option of retaining a quality environment," says Larry J. Gordon, state director of health and social services. "The public recognized this and became aroused." In addition, Mr. Gordon says that "the company could not guarantee it could meet our air pollution regulations, even though it was amazing to note how their technology increased week by week as we held the line on our requirement."

The company, Parsons & Whittemore Inc., then decided to locate the mill in Colorado, but it is running into similar problems there. "At this time, we're not all that interested in trying to fight the battle," says George Boylan, a company vice president.

A politician in Washington state says that people there, too, "are up in arms." Pollution in Washington "has become a big political issue, and there are many political careers revolving around it now," he says. Many residents of the state charge their scenic land is being ruined by the pulp and paper mills, but Robert Stockman, director of the state office of air quality control, is satisfied with the cooperation he is receiving from the industry. He declines to disclose statistics on the amount of pollutants emitted by mills in his state, saying, "As far as I am concerned we are very pleased with the attitude of the industry. I don't intend to irritate them" by releasing the figures.

Floyd Oles, city manager of Tacoma, also speaks our for the industry. "I'm primarily interested in the payrolls and not in the smell," he says. He asserts the agitation against pollution is led by people with "long hair and straggly beards." He doesn't question their motives but he thinks they are playing into the hands of subversives. "The Communists are ready to take over anything in the way of a disruptive effort," he says.

A WORSENING PROBLEM

The people across the country who are more interested in the smells than the payrolls say the smells and other pollution from mills are getting worse instead of better. In many instances, they appear to be right. The pollution-control equipment on mills generally works most efficiently when mills are operating at an average rate. But for the past couple of years, with demand for paper and pulp strong, the mills have been operating at such a high rate that the control equipment has become much less efficient.

In Lewiston, for instance, the Potlatch mill's daily output rose 6% between 1967 and 1969. In the same period, however, the emission of sulphur-based gases increased 2.7 times.

This, too, upsets some resident of Lewiston, and they are speaking out. "There was a time when people were afraid to protest pulp mill pollution," says Shirlee Hennigan, a Lewiston teacher. "Potlatch would say, 'If you don't like it, we'll take our plant elsewhere.' Now people aren't afraid anymore. They know there aren't any more places the pulp mill can go."

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON PROPOSED TRANSPORT AND OCEAN DISPOSAL OF CHEMICAL MUNITIONS

A letter from the Acting Secretary of State, reporting, pursuant to law, on the proposed transport and ocean disposal by the Department of Defense of chemical munitions; to the Committee on Armed Services.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on questionable waivers of preaward audits of contractors' noncompetitive price proposals, Department of Defense, dated August 3, 1970 (with an accompanying report); to the Committee on Government Operations.

SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

Two letters from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation of certain aliens, together with a statement of the facts and pertinent provisions of law pertaining to each alien and the reasons for ordering such suspension (with accompanying papers); to the Committee on the Judiciary.

REPORT ON REFUGEE STATISTICS

A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, reporting, pursuant to law, the refugee statistics for the 6-month period ended June 30, 1970; to the Committee on the Judiciary.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

A resolution adopted by the Montana Legislative Highway Interim Committee, praying for the enactment of legislation extending the expiration date of the Federal Highway Trust Fund; to the Committee on Finance.

A resolution adopted by the Council of the County of Maui, Wailuku, Hawaii, praying for the enactment of legislation providing for equal rights for women; referred to the Committee on the Judiciary.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. HUGHES, from the Committee on Labor and Public Welfare, with an amendment:

S. 3835. A bill to provide a comprehensive Federal program for the prevention and treatment of alcohol abuse and alcoholism (Rep. No. 91–1069).

BILLS AND A JOINT RESOLUTION INTRODUCED

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

By Mr. SCOTT:

S. 4161. A bill for the relief of 1st Lt. Kenneth A. Myers, U.S. Air Force Reserve; to the Committee on the Judiciary.

By Mr. JORDAN of North Carolina:

S. 4162. A bill to amend the Agricultural Adjustment Act of 1938 to authorize the sale of tobacco acreage allotments under certain conditions; to the Committee on Agriculture and Forestry.

By Mr. JACKSON (for himself, Mr. ALLOTT, and Mr. STEVENS) (by request):

S. 4163. A bill to retain coverage under the laws providing employee benefits, such as compensation for injury, retirement, life insurance, and health benefits for employees of the Government of the United States who transfer to Indian tribal organizations to perform services in connection with governmental or other activities which are or have been performed by Government employees in or for Indian communities and for other purposes;

S. 4164. A bill to provide for the assumption of the control and operation by Indian tribes and communities of certain programs and services provided for them by the Federal Government, and for other purposes;

S. 4165. A bill to provide for the creation of the Indian Trust Counsel Authority, and for other purposes; and

S. 4166. A bill to amend acts entitled "An act authorizing the Secretary of the Interior to arrange with States or Territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes," and "To transfer the maintenance and operation of hospital and health facilities for Indians to the Public Health Service, and for other purposes"; to the Committee on Interior and Insular Affairs.

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

By Mr. SPONG:

S. 4167. A bill to enforce the guarantees of the 14th amendment with respect to the desegregation of public elementary and secondary schools; to the Committee on Labor and Public Welfare.

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

By Mr. SMITH of Illinois:

S.J. Res. 225. Joint resolution authorizing the President to proclaim the period October 25 through 31, 1970, as Law Officers Appreciation Week; to the Committee on the Judiciary.

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

S. 4163, S. 4164, S. 4165, AND S. 4166—INTRODUCTION OF BILLS TO FULLY IMPLEMENT THE PRESIDENT'S NEW INDIAN POLICY

Mr. JACKSON. Mr. President, I introduce for appropriate reference four proposed bills submitted by the Secretary of the Interior in furtherance of President Nixon's message of July 8 on American Indian affairs.

Other Senators may wish to join in the sponsorship of these measures, and I will be happy to include their names if they will so advise me.

Mr. President, I ask unanimous consent that the letter from the Secretary of the Interior asking that these bills be introduced, together with the bills and accompanying explanatory material, be printed in the RECORD following my remarks.

The PRESIDING OFFICER (Mr. DOLE). The bills will be received and appropriately referred; and, without objection, the bills, letter, and material will be printed in the RECORD.

The bills (S. 4163) to retain coverage under the laws providing employee benefits, such as compensation for injury, retirement, life insurance, and health benefits for employees of the Government of the United States who transfer to Indian tribal organizations to perform services in connection with governmental or other activities which are or have been performed by Government employees in or for Indian communities and for other purposes; (S. 4164) to provide for the assumption of the control and operation by Indian tribes and communities of certain programs and services provided for them by the Federal Government, and for other purposes; (S. 4165) to provide for the creation of the Indian Trust Counsel Authority, and for other purposes; and (S. 4166) to amend Acts entitled "An Act authorizing the Secretary of the Interior to arrange with States or Territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes", and "To transfer the maintenance and operation of hospital and health facilities for Indians to the Public Health Service, and for other purposes", and for other purposes, introduced by Mr. JACKSON, for himself and other Senators, were received, read twice by their titles, referred to the Committee on Interior and Insular Affairs and ordered to be printed in the RECORD, as follows:

S. 4163

A bill to retain coverage under the laws providing employee benefits, such as compensation for injury, retirement, life insurance, and health benefits for employees of the Government of the United States who transfer to Indian tribal organizations to perform services in connection with governmental or other activities which are or have been performed by Government employees in or for Indian communities, and for other purposes

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

SECTION 1. This Act may be cited as the "Federal Employees Indian Tribal Organization Transfer Act".

SEC. (2). (a) Notwithstanding other statutes, Executive orders, or regulations, an employee serving under an appointment not limited to one year or less who transfers on or before December 31, 1980, to an Indian tribal organization in connection with governmental or other activities which are or have been performed by employees in or for Indian communities is entitled, if he and the Indian tribal organization so elect, to the following:

(1) To retain coverage, rights, and benefits under subchapter I of chapter 81 ("Compensation for Work Injuries") of title 5, United States Code, and for this purpose his employment with the Indian tribal organization is deemed employment by the United States. However, if an injured employee, or his dependents in case of his death, receives from the Indian tribal organization any payment (including an allowance, gratuity, payment under an insurance policy for which the premium is wholly paid by the Indian tribal organization, or other benefit of any kind) on account of the same injury or death, the amount of that payment shall be credited against any benefits payable under subchapter I of chapter 81 of title 5, United States Code, as follows:

(A) payments on account of injury or disability shall be credited against disability compensation payable to the injured employee; and

(B) payments on account of death shall be credited against death compensation payable to dependents of the deceased employees.

(2) To retain coverage, rights, and benefits under chapter 83 ("Retirement") of title 5, United States Code, if necessary employee deductions and agency contributions in payment for coverage, rights, and benefits for the period of employment with the Indian tribal organization are currently deposited in the Civil Service Retirement and Disability Fund (section 8348 of title 5, United States Code); and the period during which coverage, rights, and benefits are retained under this paragraph is deemed creditable service under section 8332 of title 5, United States Code. Days of unused sick leave to the credit of an employee under a formal leave system at the time he transfers to an Indian tribal organization remain to his credit for retirement purposes during covered service with the Indian tribal organization.

(3) To retain coverage, rights, and benefits under chapter 87 ("Life Insurance") of title 5, United States Code, if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with the Indian tribal organization are currently deposited in the Employees' Life Insurance Fund (section 8714 of title 5, United States Code); and the period during which coverage, rights, and benefits are retained under this paragraph is deemed service as an employee under chapter 87 of title 5, United States Code.

(4) To retain coverage, rights, and benefits under chapter 89 ("Health Insurance") of title 5, United States Code, if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with the Indian tribal organization are currently deposited in the Employees' Health Benefits Fund (section 8909 of title 5, United States Code); and the period during which coverage, rights, and benefits are retained under this paragraph is deemed service as an employee under chapter 89 of title 5, United States Code.

(5) To be reemployed within 30 days of his application for reemployment in his former position or a position of like seniority, status, and pay in the agency from which he transferred, if he transferred at the time such an activity was transferred to the Indian tribal organization or within 90 calendar days after such a transfer of activities and (A) he makes application for reemployment not later than 5 years after the date of his transfer to the Indian tribal organization, or (B) the activity is transferred back to the Government of the United States. On reemployment, he is entitled to the rate of basic pay to which he would be entitled had he remained in the agency from which he transferred. On reemployment, the agency shall restore his sick leave account, by credit or charge, to its status at the time of transfer. If, at the time of transfer to the Indian tribal organization the employee received a lump-sum payment for annual leave and he is reemployed under this paragraph within one year from the date of transfer, he shall refund to the agency from which he transferred the amount of the lump-sum payment, and the leave covered by the said lump-sum payment shall be restored to his account. If an employee is reemployed under this paragraph, the period of his service with an Indian tribal organization and the period necessary to effect his reemployment are deemed creditable service for all appropriate civil service employment purposes.

(b) During a transferred employee's period of service with an Indian tribal organization, that organization shall deposit currently in the appropriate funds the employee deductions and agency contributions required by paragraphs (2), (3), and (4) of subsection (a) of this section.

SEC. 3. An employee who transfers to an Indian tribal organization under section 2 of this Act and the Indian tribal organization to which he transfers shall make the election to retain the coverages, rights, and benefits in paragraphs (1), (2), (3), and (4) of subsection (a) of section 2 of this Act before the date of his transfer to the Indian tribal organization. An employee who transfers to an Indian tribal organization under section 2 of this Act shall continue to be entitled to the benefits of section 2 of this Act if he transfers to the employment of another Indian tribal organization to perform service in activities of the type described in section 2 of this Act.

SEC. 4. For the purposes of this Act—

(a) "employee" means an employee as defined in section 2105 of title 5, United States Code;

(b) "Indian tribal" includes, but is not limited to, Alaska Native; and

(c) "Indian tribal organization" includes, but is not limited to, Indian tribal governing bodies, their agencies and instrumentalities, and corporations and other organizations which are controlled by (1) one or more of the described Indian tribal governing bodies or their agencies or instrumentalities, or (2) by a board of directors elected or selected by one or more of the described Indian tribal governing bodies or their agencies or instrumentalities.

SEC. 5. The President may prescribe regulations necessary to carry out this Act and to protect and assure the compensation, retirement, insurance, leave, and reemployment rights and such other similar civil

service employment rights as he finds appropriate.

SEC. 6. This Act shall be effective 60 days after the date of its enactment.

S. 4164

A bill to provide for the assumption of the control and operation by Indian tribes and communities of certain programs and services provided for them by the Federal Government, and for other purposes

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

SECTION 1. For the purposes of this Act:

(a) "Indian Tribe" and "Indian Community" means an Indian tribe, band, nation or Alaska Native Community for which the Federal Government provides special programs and services because of their Indian identity. The terms may also include the reservation or other land area in which the tribe or community is located and tribally recognized communities within a reservation.

(b) "Indian tribal organization" includes the elected governing body of an Indian tribe or community. The term may also include legally established organizations which are controlled by one or more such bodies or which are controlled by a board of directors elected or selected by one or more such bodies.

(c) "Secretary" means the Secretary of the Interior or the Secretary of Health, Education, and Welfare, as appropriate.

(d) "Programs" and "services" include the local activities and undertakings of the Bureau of Indian Affairs of the Department of the Interior and the Indian health service program of the Public Health Service of the Department of Health, Education, and Welfare serving Indian communities and the related facilities, equipment, supplies, materials and budget. Such other programs as may be designated by a Federal department or agency responsible for the administration thereof may also be transferred pursuant to this Act.

SEC. 2. (a) Notwithstanding any other provision of law, if an Indian tribe or community, after consultation with the Secretary, requests that it be given the control or operation of a program or service administered by the Secretary, the Secretary shall within 120 days from such request, or such later date as may be agreed to by the Secretary and the organization, transfer such control or operation to the Indian tribal organization. Any request made pursuant to this subsection must be accompanied by a plan for carrying out the program or service requested. A tribe or community assuming such control may enter into agreements to carry out all or any part of such program or service. A transfer under this subsection shall stipulate the retrocession procedures provided for in subsections (d) and (e) of this section which are designed to safeguard the residual trust responsibilities of the Federal Government. In the case where a requested program or service is serving the members of more than one Indian tribe or community, the requested transfer of such service or program must be approved by each tribe or community served by said program or service before any transfer shall be required under this Act.

(b) During the period preceding or immediately subsequent to any transfer required by this Act, the Secretary shall provide assistance, other than financial, on the request of the Indian tribal organization, to insure an orderly transfer of the control and operation of the program or service involved.

(c) For each fiscal year during which an Indian tribal organization engages in an activity pursuant to any program or service transferred to it under this Act, the Indian tribal organization shall submit a report to the Secretary including an accounting of the amounts and purposes for which Federal funds were expended and information on conduct of the program or service involved. The reports and records of such Indian tribal organization with respect to such program or operation shall be subject to audit by the Secretary and the Comptroller General of the United States.

(d) Should an Indian tribe or community request retrocession to the Secretary of any program or service which was assumed by the Indian tribal organization under this Act, such retrocession shall be effective upon a date specified by the Secretary within 120 days of such indication or such later date as may be agreed to by the Secretary and the organization. Such retrocession will not prejudice the tribe's or community's right to again assume control of a service or program at a later date.

(e) In any case where the Secretary determines that any program or service assumed by an Indian tribal organization is being accomplished in a manner which involves (1) the violation of the rights or endangers the health, safety, or welfare of individuals served by such program or service, or (2) gross negligence or mismanagement in the handling or use of Federal funds provided to the organization pursuant to this Act, the Secretary may, under regulations prescribed by him, after providing notice and hearing to such Indian tribal organization, reassume control or operation of such program or service if he determines that the organization has not taken corrective action as prescribed by the Secretary. The Secretary may retain control of such program or service until such time as he is satisfied that the violations of rights, endangerment of health, safety, or welfare, or the gross negligence or mismanagement which necessitated the reassumption has been corrected as indicated by the plan accompanying a request by an Indian tribal organization to again take control or operation of such program or service.

(f) In the allocation of available funds, Indian tribal organizations that assume control or operation of programs or services under the provisions of this Act, or retrocede control or operation to the Secretary, shall be treated in the same manner as they would be if the control or operation had been maintained continuously by the Federal Government.

SEC. 3. The Secretary is authorized, upon the request of any Indian tribe, band, group, or community, to detail any civil service employee serving under a career or career-conditional appointment for a period of up to 180 days to such Indian tribe, band, group, or community for the purpose of assisting such Indian tribe, band, group or community in its control or operation of a program or service transferred to it pursuant to this Act. The Secretary may, upon a showing by an Indian tribe, band, group or community of a need for an employee detailed pursuant to this section, extend such detail for a period not to exceed 180 days.

SEC. 4. Nothing in this Act shall be interpreted as authorizing or requiring the termination of any existing trust responsibility of the United States with respect to Indians.

S. 4165

A bill to provide for the creation of the Indian Trust Counsel Authority, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in reaffirming the trust and treaty relationships between the United States of America and the American Indians, and between the United States and the Alaska Natives, which Indians and Natives are hereinafter referred to as "Indians", the purpose of this Act is to establish an Indian Trust Counsel Authority to provide independent legal counsel and representation for the preservation and protection of the natural resource rights of the Indians.

SEC. 2. (a) The Indian Trust Counsel Authority, hereinafter referred to as the Authority, is established as an independent agency in the Executive Branch.

(b) The Authority shall be governed by a Board of Directors composed of three members to be appointed by the President by and with the advice and consent of the Senate.

(c) At least two of the members of the Board of Directors shall be Indians.

(d) The terms of office of members of the Board of Directors shall be four years, except that of the first three members appointed, one shall be appointed for a two year term, one shall be appointed for a three year term, and one shall be appointed for a four year term. A member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of his term of office, a member shall serve until his successor has been appointed and qualified.

(e) The President shall designate one of the Directors to serve as Chairman at his pleasure.

(f) The members of the Board of Directors shall receive pay at the daily equivalent of the rate provided for grade GS–18 in section 5332 of title 5, United States Code, for each day they are engaged in the business of the Authority, and shall be allowed travel expenses, including a per diem allowance as authorized by section 5703 of title 5, United States Code, in connection with their services for the Authority.

SEC. 3. The Board of Directors shall convene at the call of the Chairman, but must convene at least once each quarter, to set policy for the Authority and review its activities. The Board of Directors shall report to the President and the Congress annually on the activities of the Authority.

SEC. 4. The Board of Directors shall, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint and prescribe the duties of a chief legal officer for the Authority, who shall have the title of Indian Trust Counsel, and who shall be paid at a rate equal to that provided for in level V of the Executive Schedule (5 U.S.C. 5316), and a Deputy Indian Trust Counsel who shall be paid at a rate not in excess of that provided for grade GS–18 in section 5332, of title 5, United States Code.

SEC. 5. (a) The Board of Directors shall appoint, fix the pay of, and prescribe the duties of such attorneys as it deems necessary after consulting with the Indian Trust Counsel.

(b) The Board of Directors shall appoint and fix the compensation of such special counsel and experts as it deems necessary.

(c) Attorneys or special counsel apopinted under this section may, at the direction of the Authority, appear for or represent the Authority in any case in any court, before any commission or in any administrative proceeding.

SEC. 6. The Board of Directors shall, subject to the provisions of title 5, United States Code, appoint such employees as it deems necessary in exercising its powers and duties.

SEC. 7. The Authority, in the exercise of its functions, shall be free from control by any Executive Department.

SEC. 8. The Authority, with the consent of an aggrieved Indian, Indian tribe, band, or other identifiable group of Indians, is authorized to render legal services in regard to rights or claims of Indians to natural resources, including, but not limited to, rights to land, rights to the use of water, timber, and minerals, and rights to hunt and fish,

within the United States' trust responsibility owing to the Indians, which services are now rendered by the Department of the Interior or by the Department of Justice, but nothing in this Act shall absolve the Department of the Interior and the Department of Justice of their responsibilities to the Indians, except that the Department of Justice as of the effective date of this Act or as soon thereafter as practicable, is relieved of its responsibility to Indians with regard to their rights or claims to natural resources, including, but not limited to, rights to land, rights to the use of water, timber, minerals, and rights to hunt and fish. The legal services performed pursuant to this section may include, but shall not be limited to, the investigation and inventory of Indians' land and water rights, and the preparation and trial and appeal of cases in all courts, before Federal, State, and local commissions, and in all administrative proceedings.

SEC. 9. The Authority, with the consent of an aggrieved Indian, Indian tribe, band or other identifiable group of Indians, acting in the name of the United States as trustee for the Indians, may initiate and prosecute to judgment in all courts of the United States and of the States, against the United States, its departments, agencies, officers, and employees, or against any of the States, their subdivisions, departments and agencies, or against persons and corporations, public or private, all actions in law and equity for the protection, preservation, utilization, conservation, adjudication, or administration of natural resources or interests therein had or claimed by the Indians, including, but not limited to, rights to lands, rights to the use of water, timber, and minerals, and rights to fish and hunt. The Authority is authorized to prosecute appeals in all courts of the United States and of the States, and to intervene in any Federal, State or local administrative proceeding in order to protect the rights of the Indians. The United States waives its sovereign immunity from suit in connection with litigation initiated by the Authority under this section.

SEC. 10. The powers granted to the Authority by this Act shall not extend to the filing or prosecution of any action, claim, or other proceeding against the United States relating to any matter as to which a claim has been filed or could have been filed under the Indian Claims Commission Act of 1946, as amended, or any other statute authorizing a suit to be brought against the United States.

SEC. 11. The Authority is authorized to:

(1) Make such rules and regulations as it deems necessary to carry out its functions.

(2) Request from any department, agency, or independent instrumentality of the Government any information, personnel, services, or materials it deems necessary to carry out its functions under this Act; and each such department, agency or instrumentality is authorized to cooperate with the Authority and to comply with a request to the extent permited by law, on a reimbursable or nonreimbursable basis.

(3) Receive and use funds or services donated by others.

(4) Make such expenditures or grants, either directly or by contract, as may be necessary to carry out its responsibilities under this Act.

(5) Charge a fee based upon the Indians' ability to pay for services rendered pursuant to section 8 of this Act. The fees collected pursuant to this subsection shall be paid into miscellaneous receipts in the Treasury of the United States.

SEC. 12. There are authorized to be appropriated to the Authority created herein such sums as may be necessary to carry out the provisions of this Act.

S. 4166

A bill to amend Acts entitled "An act authorizing the Secretary of the Interior to arrange with States or Territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes", and "To transfer the maintenance and operation of hospital and health facilities for Indians to the Public Health Service, and for other purposes," and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act of April 16, 1934 (48 Stat. 596), as amended by the Act of June 4, 1936 (49 Stat. 1458), be amended to read as follows:

"That the Secretary of the Interior be, and hereby is, authorized, in his discretion, to enter into a contract or contracts with any State or political subdivision thereof or with any State university, college, or school, or with any appropriate State or private corporation, agency, or institution, or with any Indian tribe, band, group, or community, recognized by the Secretary, for education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians, through the agencies of the State, tribe, band, group or community, or of the corporations and organizations hereinbefore named, and to expend under such contract or contracts, moneys appropriated by Congress for the education, medical attention, agricultural assistance, and social welfare, including relief of distress; of Indians in such State."

SEC. 2. The Act of August 5, 1954 (68 Stat. 674), as amended by the Act of July 31, 1959 (73 Stat. 267) is amended:

(a) by redesignating sections 4, 5, 6, and 7 as sections 5, 6, 7, and 8, respectively.

(b) by adding after section 3 the following:

"SEC. 4. That the Secretary of Health, Education, and Welfare is authorized to contract with any Indian tribe, band, group, or community to carry out all functions, authorities, and responsibilities conferred upon him by this Act, in accordance wtih the Act of June 4, 1936 (49 Stat. 1458)."

(c) by adding a new section 9 at the end of the Act of August 5, 1954 (68 Stat. 674), as amended, as follows:

"SEC. 9. In accordance with section 214(d) of the Public Health Service Act, 42 U.S.C. 215(d), upon the request of any Indian tribe, band, group, or community, personnel of the service may be detailed by the Secretary for the purpose of assisting such Indian tribe, band, group, or community, in work related to the functions of the service.

SEC. 3. Paragraph (2) of section 6(a) of the Military Selective Service Act of 1967 (50 U.S.C. App. 456(a)(2)) is amended by inserting the words "or who are assigned to functions of the service in assisting Indian communities pursuant to the Act of August 5, 1954 (68 Stat. 674), as amended by the Act of July 31, 1959 (73 Stat. 267)," after the words "Environmental Science Services Administration."

The material submitted by Mr. JACKSON is as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 29, 1970.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed are four legislative proposals that are submitted as the final part of the legislative package that was discussed by President Nixon in his message to the Congress on Indians on July 8, 1970.

We recommend that each of the proposals be referred to the appropriate committee for consideration and that they be enacted.

These four proposals, plus the three submitted on July 11, 1970, are designed to fully implement the new Indian policy enunciated by the President in his message.

The Office of Management and Budget advises that enactment of this proposed legislation would be in accord with the program of the President.

Sincerely yours:

WALTER J. HICKEL,
Secretary of the Interior.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 29, 1970.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a proposal "To amend Acts entitled 'An Act authorizing the Secretary of the Interior to arrange with States or Territories for the education medical attention, relief of distress, and social welfare of Indians, and for other purposes', and 'To transfer the maintenance and operation of hospital and health facilities for Indians to the Public Health Service, and for other purposes' and for other purposes."

We recommend that the proposal be referred to the appropriate committee, and that it be enacted.

Section 1 of the proposal amends the Act of April 16, 1934 (48 Stat. 596), as amended by the Act of June 4, 1936 (49 Stat. 1458), known as the Johnson-O'Malley Act by inserting in the Act the phrase "or with any Indian tribe, band, group, or community recognized by the Secretary,". It also strikes the word "Territory" wherever it appears in the first section of the Act because of the fact that it is no longer applicable to the Act.

Section 2 of the proposal amends the Act of August 5, 1954 (Public Law 568, 68 Stat. 674), by adding two new sections to the Act and renumbering the other sections so that they conform to the Act with the new sections. The first new section added is a new section 4 that authorizes the Secretary of Health, Education, and Welfare to contract with "any Indian tribe, band, group, or community" to carry out his health responsibility to the Indians. The second new section added by the proposal is a new section 9 that gives the Secretary of Health, Education, and Welfare the authority to detail Public Health Service personnel for the purpose of assisting an Indian tribe, band, group, or community in carrying out Indian health functions.

Section 3 of the proposal amends Paragraph (2) of section 6(a) of the Military Selective Service Act of 1967 by adding words that will allow the commissioned officers of the Public Health Service who are serving under a service agreement with the Public Health Service that exempts them from the provisions of the Selective Service Act to continue to be exempt from the provisions of the Selective Service Act while on detail to work with Indian tribes, bands, groups, or communities.

In the President's Indian message of July 8, 1970, he discusses the need to make certain that Johnson-O'Malley funds, which were designed to help Indian students, should come under the influence of the Indians as to the way that the money is spent. He therefore proposed that the Congress amend the Johnson-O'Malley Act to authorize this Department to channel funds appropriated under the Johnson-O'Malley Act directly to Indian tribes and communities. The amendment proposed in section 1 of our proposal will carry out this Presidential request. This amendment will give the Secretary of the Interior authority to contract directly with not only State and local institutions but with Indian tribes, bands, groups, or com-

munities who run their own educational institutions. The Secretary will then be able to contract directly with these Indian tribes, bands, groups, or communities to carry out his responsibility in Indian education, agricultural assistance, and social welfare to the Indians. This will be in connection with the direction the Department has been given by the President to make every effort to ensure that Johnson-O'Malley funds which are presently directed to public school districts are actually spent to improve education of Indian children in those districts.

The amendments made by section 2 of the proposal will give the Secretary of Health, Education, and Welfare the same authority to deal with Indian tribes, bands, groups, or communities in carrying out the health functions that were transferred to the Secretary of Health, Education, and Welfare by Public Law 568 of the 83d Congress that the amendment made by section 1 of the proposal gives to the Secretary of the Interior in the areas of education, agricultural assistance, and social welfare.

Basically the amendments give the Secretary of Health, Education, and Welfare the authority to make contracts with Indian tribes, bands, groups, or communities to carry out the Indian health function that has been placed in the Secretary of Health, Education, and Welfare. In connection with this contracting authority, the Secretary is given the authority to detail personnel of the Public Health Service to work with Indian tribes, bands, groups, or communities in relation with the contracts made by them to carry out the health function.

Section 3 of the proposal is a provision that is needed as a companion to the new section 9 added to Public Law 568, 83d Congress by section 2 of this proposal. The language in section 3 continues the draft-deferred status of those commissioned officers of the Public Health Service who are detailed by the Secretary of Health, Education, and Welfare to work with Indian tribes, bands, groups, or communities in connection with transfers made by the Secretary to carry out the Indian health function. Without this amendment to the Selective Service Act, the commissioned officers of the service who are detailed to work with Indian tribes, bands, groups, or communities would lose their draft-deferred status, making the detailing of the junior officers to this work virtually impossible.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely yours,

WALTER J. HICKEL,
Secretary of the Interior.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., July 29, 1970.

HON. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a proposal "To provide for the creation of the Indian Trust Counsel Authority, and for other purposes."

We recommend that the proposal be referred to the appropriate committee for its consideration and that it be enacted.

The purpose of this proposal, as provided in section 1, is to establish an Indian Trust Counsel Authority to provide independent legal counsel and representation for the preservation and protection of the natural resource rights of the Indians in order to reaffirm the trust and treaty relationships between the United States and the American Indians and Alaska Natives.

Section 2 of the proposal establishes as an independent agency in the Executive Branch the Indian Trust Counsel Authority. The Authority will be governed by a three-man Board of Directors who will be appointed by the President by and with the advice and consent of the Senate. At least two of the members of the Board must be Indians. The term of members of the Board shall be 4 years except that the initial Board shall be appointed in a staggered manner. The President shall designate one of the members of the Board to serve as chairman. The members of the Board shall receive pay that is the daily equivalent to that of a GS–18 for each day they are engaged in the business of the Authority and shall be allowed necessary travel expenses.

Section 3 provides that the Board of Directors shall convene at the call of the chairman but must meet at least once each quarter to set policy for the Authority and to review its activities. This section requires the Board to report annually to the President and the Congress on the activities of the Authority.

Section 4 authorizes the Board, without regard to the civil service laws, to appoint and prescribe the duties of the chief legal officer for the Authority who shall be called the Indian Trust Counsel at level V of the Executive Schedule and a Deputy Indian Trust Counsel who shall be a grade GS–18.

Section 5 authorizes the Authority to appoint and fix the pay and prescribe the duties of attorneys it employs. It also authorizes the Authority to appoint and fix the compensation of needed special counsel and experts. Finally, it authorizes the attorneys or special counsel appointed by it to appear for and represent the Authority in any case before any court, commission or administrative proceeding pertaining to its responsibilities.

Section 6 authorizes the Authority to hire such other employees as it deems necessary.

Section 7 provides that the Authority shall be free of control by any Executive Department.

Section 8 authorizes the Authority, with the consent of any aggrieved Indian or Indian tribe, band, or other identifiable group of Indians, to render legal services in regard to rights or claims of the Indians in relationship to their natural resources. The extent of the Indians' rights in their natural resources to be protected by the Authority is set out in this section. This authority shall be exercised in combination with the authority exercised by the Department of the Interior in all of its trust responsibilities to the Indians and in relationship to the Department of Justice in the exercise of its responsibility to the Indians except that the Department of Justice no longer will exercise any responsibility to the Indians in the area of natural resources. This responsibility will be exercised under the provisions of the proposal by the Authority. This section also provides that the Authority may perform services pursuant to this section to include investigation and inventorying of Indians' land and water rights and the preparation, trial and appeal of cases involving the natural resources of the Indians in all courts and before Federal, State and local commissions and administrative bodies.

Section 9 authorizes the Authority, with the consent of any aggrieved Indian, Indian tribe, band or other identifiable group of Indians, acting in the name of the United States as trustee for the Indians, to initiate and prosecute to final judgment in all Federal and State courts against the United States or any of its departments, agencies, officers or employees or against any of the States, their subdivisions, departments or employees or against any persons or corporations, public or private, all actions in law and equity for the protection of the natural resource interests and rights of the Indians. The United States waives its sovereign immunity to suit in connection with litigation initiated by the Authority under this section.

Section 10 provides that the powers granted the Authority by this Act shall not extend to the filing or prosecution of any action, claim or other proceeding against the United States relating to any matter as to which a claim has been filed or could have been filed before the Indian Claims Commission or under any special statute authorizing a suit to be brought against the United States.

Section 11 enumerates the authorities of the Authority.

Section 12 authorizes the appropriation of funds necessary to carry out the provisions of the Act.

As the President stated in his message of July 8, 1970:

"The United States Government acts as a legal trustee for the land and water rights of American Indians. These rights are often of critical economic importance to the Indian people; frequently they are also the subject of extensive legal dispute. In many of these legal confrontations, the Federal government is faced with an inherent conflict of interest. The Secretary of the Interior and the Attorney General must at the same time advance *both* the *national* interest in the use of land and water rights *and* the *private* interests of Indians in land which the government holds as trustee.

"Every trustee has a legal obligation to advance the interests of beneficiaries of the trust without reservation and with the highest degree of diligence and skill. Under present conditions, it is often difficult for the Department of the Interior and the Department of Justice to fulfill this obligation. No self-respecting law firm would ever allow itself to represent two opposing clients in one dispute; yet the Federal government has frequently found itself in precisely that position. There is considerable evidence that the Indians are the losers when such situations arise. More than that, the credibility of the Federal government is damaged whenever it appears that such a conflict of interest exists.

"In order to correct this situation, I am calling on the Congress to establish an Indian Trust Counsel Authority to assure independent legal representation for the Indians' natural resource rights."

This proposal will carry out the policy enunciated in the President's message by establishing the Indian Trust Counsel Authority. The Authority will be, as provided in section 7, free from control of any Executive Department. This independence will free the trust Authority of having to take into consideration any interest other than that directly affecting the Indians and will allow it to independently carry out its function of protecting the natural resource rights and interest of the Indians.

The Authority will be under the direction of a three-man Board of Directors, two of which must be Indians. This majority control of the Board of Directors by the Indians will assure the Indians that they will have a majority voice in the direction of the activities of the Authority. Further, the Board is given the authority in the proposal to hire necessary attorneys including the chief legal officer and his deputy and such other personnel as they deem necessary to carry out the functions given them by the proposal. The majority control will assure the Indians that the people hired by the Authority to carry out the responsibilities of the Authority will be those people that are acceptable to them. This assurance should, from the inception of the Authority, make the Authority a body that has the confidence and trust of the Indians.

The proposal provides that the Indian Trust Counsel, who is the chief legal officer for the Authority, shall be a level V in the Executive Schedule. We feel that this level is necessary in order for the Authority to be able to obtain the kind of person that it needs to direct the legal activities of the

Authority and at the same time give him sufficient stature to be able to deal with cabinet and sub-cabinet members of the Executive Department. The Board of Directors is also authorized, in section 5 of the proposal, to hire, fix the pay and prescribe the duties of such attorneys, including special counsel, as it deems necessary. It is also given the authority to hire experts in connection with its work. These attorneys will be the working group that will carry out the responsibilities and functions of the Authority. It is the Administration's intention that the Authority will build up a cadre of well-trained and devoted attorneys whose energies will be turned to the protection and preservation of the Indians' natural resource rights and interests.

The authority to hire special counsel is needed in those instances when the Authority must go outside of its own attorney staff to hire an individual who is uniquely qualified to assist in the preparation of trial and appeal material regarding a special case. This also applies to its authority to hire outside experts.

Section 8 of the proposal authorizes the Authority to, upon the request of an aggrieved Indian or Indian or group of Indians, assist those Indians in the protection of their natural resource rights and interests in the courts and before administrative bodies. This authority will be used when a tribe has a justiciable claim and feels that it needs the assistance of the Authority for prosecuting its claim. The Authority is authorized to lend its assistance in the area of natural resource rights and interests to such Indian or Indian group. The section, however, makes it clear that the assistance rendered by the Authority in this section in protecting the rights of the Indians in their justiciable claims to natural resources, and the rights attached thereto, is in addition to the responsibilities that the Department of the Interior has to protect the Indians, not only in their natural resource rights, but in all rights protected by the trust relationship between the United States and the American Indians. The section also provides that the Department of Justice will, after the enactment of the proposal, be relieved of any responsibility that it may have to the Indians in the area of natural resources but will continue to fulfill whatever responsibility it may have with regard to Indians generally.

Section 9 authorizes the Authority to initiate suits, when requested by an aggrieved Indian or group of Indians, acting in the name of the United States as trustee for the Indians, to protect the rights of the Indians in their natural resources from the United States or any of its departments, agencies, officers or employees as well as against the States, their subdivisions, departments and agencies or against any private or public person or corporation. This section also provides for the waiver of sovereign immunity of the United States in connection with litigation initiated by the Authority pursuant to this section. The Authority will use the power granted it by this section in those cases where the Indians' rights or claims are of such a nature that they are precluded from bringing suit against the United States because of bars that the United States has as a sovereign to suits generally. These bars will be removed by the provision waiving United States' sovereign immunity as it relates to actions brought by the Authority. The proposal clearly limits the waiver of sovereign immunity to the narrow area of litigation initiated by the Authority.

Section 10 of the proposal will bar the Authority from relitigating any claims that have been filed or should have been filed before the Indian Claims Commission. It will bar their reopening any claims settled by the Indian Claims Commission as well as any claims settled by the Court of Claims or any other competent court of the United States pursuant to special legislation authorizing an Indian Tribe to bring suit against the United States for settlement of its claims.

Section 11 authorizes the Authority to make rules and regulations, to request assistance from any department, agency, or independent instrumentality of the Federal government to carry out its function under this proposal and such assistance may be given to the Authority on a reimbursable or nonreimbursable basis. The Authority is authorized to receive and use funds authorized or donated to it by others. It is also authorized to make expenditures or grants, either directly or by contract, as may be necessary to carry out its responsibilities.

The Authority is authorized to charge a fee for services rendered by it based upon an Indian's or Indian group's ability to pay for such services. The fee shall be charged only in those cases handled by the Authority under section 8. This provision is included so that the Authority may lend its assistance and expert help to those tribes that are able to afford their own private counsel but make the choice to seek the services of the Authority in connection with its claim. The fee charged by the counsel will vary from tribe to tribe depending upon the tribe's resources. In some instances, the cases will be on a contingent basis with a fee to be collected from any award won by the Authority for the Indians or Indian group. The receipts collected pursuant to this subsection shall be paid into the miscellaneous receipts in the Treasury.

Finally, section 12 of this proposal authorizes the appropriation of funds necessary to carry out the provisions of the proposal.

The Indians of our country have for years felt that the Federal government, because of the inherent conflict of interest that the President discussed in his message, has not given their rights adequate legal protection. We believe that this bill will restore the confidence of the American Indian in the ability of our government to give their natural resource rights legal protection to which they are entitled. This will make it clear to the American Indian that the United States is meeting the legal obligation it has as trustee to advance the interest of the beneficiaries of the trust without reservation and to the highest degree of its ability and skill.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely yours,

WALTER J. HICKEL,
Secretary of the Interior.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., July 29, 1970.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a proposal "To provide for the assumption of the control and operation by Indian tribes and communities of certain programs and services provided for them by the Federal Government and for other purposes."

We recommend that the proposal be referred to the appropriate committee for its consideration and that it be enacted.

Section 1 of the proposal sets out definitions that are used in the proposal.

Section 2 provides that, notwithstanding any other provisions of law, if an Indian tribe or community requests that it be given the control or operation of a program or service administered by the Federal Government the Secretary shall turn over to that tribe or community, within 120 days after request or such other period as may be agreed to, the control and operation of such program or service. Section 2 requires that the request made by the Indian tribe or community must be accompanied by a plan for carrying out the service or program requested. It authorizes the tribe or community to enter into agreements to carry out all or any part of the transferred program or service. The transfer authorized in this section shall stipulate the retrocession provision provided for in later subsections of this section.

In subsection (b) of section 2, the Secretary is required to provide assistance, other than financial assistance, to any Indian tribal organization who requests it during the period preceding or immediately following a transfer made under this proposal.

Subsection (c) of section 2 requires that for each fiscal year during which an Indian tribal organization engages in the operation or control of a program or service transferred to it under the provisions of this proposal, it must report to the Secretary, such report to include an accounting of the amounts and purposes for which Federal funds were expended. Subsection (c) also opens reports and records of the Indian tribal organization maintained in connection with such program or operation for audit by the Secretary and Comptroller General.

Subsection (d) provides that should an Indian tribe or community request a retrocession to the Secretary of any program or service which it assumed pursuant to this proposal, such retrocession shall be effective 120 days after such request for retrocession or such later period as may be agreed to by the Secretary and the Indian tribal organization. This subsection specifically provides that retrocession of any program or service will not prejudice the Indian tribe or community's right to again assume control of the service or program.

In subsection (e) of section 2, if the Secretary determines that any program or service assumed by an Indian tribe is being accomplished in a manner which would violate the rights or endanger the health, safety or welfare of individual Indians served by such program or service or that there has been gross negligence or mismanagement in the use of Federal funds provided pursuant to this proposal, the Secretary may reassume control of the program or service under such regulations as he may prescribe but only after providing notice and hearing to the Indian tribal organization involved that he plans to reassume the program or service. The Secretary is authorized to retain the service or program until he is satisfied the problems causing him to reassume the service or program have been corrected.

Subsection (f) of section 2 provides that in the allocation of funds for programs and services to Indians, those Indian tribal organizations which assume control or operation of programs or services pursuant to this proposal or retrocede control or operation to the Secretary, shall be treated in the same manner as they would have been if the control and operation of the program or service had been maintained continuously by the Federal government.

Section 3 authorizes the Secretary, upon the request of an Indian group, to detail any Civil Service employee for a period of up to 180 days to assist the Indian group in its control or operation of a program or service transferred pursuant to this proposal. This section also provides that the Secretary may, upon a showing of need by an Indian group for a continuing need for the services of the detailed employee, extend the detail of the employee for a period of not to exceed 180 days.

Section 4 provides that nothing in this proposal shall be interpreted as authorizing or requiring the termination of any existing trust responsibility of the United States with respect to Indians.

As the President pointed out in his message of July 8, it is necessary that we reject the suffocating pattern of paternalism that so many of our programs of the Indians have assumed. This proposal is aimed at destroying this pattern of paternalism by turning over to the Indians the control and operation of programs and services that are now

extended to them by the Federal government. As the President stated:

"For years we have talked about encouraging Indians to exercise greater self-determination, but our progress has never been commensurate with our promises. Part of the reason for this situation has been the threat of termination. But another reason is the fact that when a decision is made as to whether a Federal program will be turned over to Indian administration, it is the Federal authorities and not the Indian people who finally make that decision.

"This situation should be reversed. In my judgment, it should be up to the Indian tribe to determine whether it is willing and able to assume administrative responsibility for a service program which is presently administered by a Federal agency."

This proposal will give any Indian tribe, band or group or community the right to request and assume the control to any program or service now extended to it by the Bureau of Indian Affairs of the Department of the Interior or the Indian health service program of the Public Health Service of the Department of Health, Education, and Welfare. These two program areas are the ones that deal most directly with our Indian people.

If any Indian group decides it is willing and able to assume administrative responsibility for a service or program which is presently administered by the Bureau of Indian Affairs or Public Health Service it can request that such service or program be turned over to it. The turn will be made after the tribe has consulted with the Department that is to transfer the service or program and has worked out a plan for the operation and control of the program or service to be transferred and submits the plan with its formal request.

The program or service will be transferred to the Indians if they persist in their request even if, in the judgment of the Secretary of the appropriate Department, they are not adequately equipped to control or operate the program or service. The transfer will be made subject to the rights of retrocession or reassumption as provided in the proposal. In those instances where there is a question about the adequacy of the Indian group to control or operate the transferred service or program the Secretary will monitor the program or service to be certain that the rights, health, safety and welfare of the individual Indians is not endangered. The proposal empowers the Secretary to move to reassume the service or program at any point where he thinks the health, safety or welfare of an Indian is endangered. The proposal contemplates that the Secretary will make every effort to assist Indian groups in their efforts to assume the control and operation of the program or service. There is a provision in the proposal that will allow the Secretary to detail to the Indian group those civil servants that under a companion proposal to this bill will not transfer with the service or program to Indian control for periods up to 180 days with a right to extend the period for an additional 180 days in order to lend assistance on the transferred program or service.

The proposal makes it clear that there will be no discrimination against those tribes who assume control or operation of a service or program solely because of such assumption. This is an assurance to an Indian group that if it assumes control of a service or program that the service or program assumed by them will be given the same consideration in the allocation of budget funds as that program or service would have had if it had continued under the control of the Federal government. This assures the Indians they will not be penalized for assuming control or operation of a program or service.

The last section of the bill provides that nothing in this proposal shall be interpreted as authorizing or requiring the termination of any existing trust responsibility of the United States with respect to Indians. This provision makes it clear that even though an Indian group assumes the control and operation of a program or service, the Federal government continues its responsibility for that service and program and will continue to meet this responsibility.

The Office of Management and Budget has advised that this legislative proposal is in accord with the progam of the President.

Sincerely yours,

WALTER J. HICKEL,
Secretary of the Interior.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., July 29, 1970.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is our proposal "To retain coverage under the laws providing employee benefits, such as compensation for injury, retirement, life insurance, and health benefits for employees of the Government of the United States who transfer to Indian tribal organizations to perform services in connection with governmental or other activities which are or have been performed by Government employees in or for Indian communities, and for other purposes."

We recommend that the proposal be referred to the appropriate committee for its consideration, and that it be enacted.

Section 1 of the proposal cites the bill as the "Federal Employees Indian Tribal Organization Transfer Act."

Section 2(a) of the proposal provides that notwithstanding any other statute, executive orders, or regulations, civil service employees serving under an appointment not limited to one year or less who, before December 31, 1980, transfer to an Indian tribal organization in connection with governmental or other activities which are or have been performed by employees in or for Indian communities will be entitled, if agreed to by the employee and the Indian tribal organization to:

(1) Retain coverage, rights, and benefits under the provisions for compensation for work injuries and for the purposes of the proposal his employment with the Indian tribal organization is deemed employment by the United States. However, if an injured employee, or his dependents if he should die, receives any payment from the Indian tribal organization on account of the same injury or death, the amount of the tribal payment shall be credited against any benefits payable under the compensation for work injuries as provided in the proposal.

(2) To retain coverage, rights, and benefits under the retirement provisions of Government employment if necessary employee deductions and agency contributions in payment of the coverage, rights, and benefits for the period of employment with the Indian tribal organization are currently deposited in the Civil Service Retirement and Disability Fund and the period during which coverage, rights, and benefits are retained under this provision is deemed creditable service under the provisions of section 8332 of "title 5", United States Code. Any unused sick leave credited to an employee under a formal leave system at the time of his transfer to an Indian tribal organization will remain to his credit for retirement purposes during the period of his service with the Indian tribal organization.

(3) Retain coverage, rights, and benefits under the life insurance protection granted Federal employees if necessary employee deductions and agency contributions in payment for the coverage rights and benefits for the period of employment with the Indian tribal organization are currently deposited in the Employees' Life Insurance Fund, and the period during which life insurance rights and benefits are retained under this provision is deemed service as an employee for the life insurance program.

(4) Retain coverage, rights, and benefits under the Health Insurance Program provided Federal employees, if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with the Indian tribal organization are currently deposited in the Employees' Health Benefits Funds in the period during which the health insurance coverage, rights, and benefits are retained under this provision is deemed service as an employee for the Health Insurance Program.

(5) Be reemployed within 30 days of his application for reemployment in his former position or in a position of like seniority, status, and pay in the agency from which he transferred, if he transferred at the time such activity was transferred to an Indian tribal organization or within 90 calendar days after such transfer to an Indian tribal organization, if he makes the application for reemployment not later than 5 years after the date of his transfer to the Indian tribal organization or if the activity that was transferred to the Indian tribal organization is transferred back to the United States. On reemployment under this provision, the employee is entitled to the rate of basic pay to which he would be entitled had he remained in the agency from which he transferred. Upon reemployment, the agency will restore employees sick leave account by credit or charge to its status at the time of transfer. If at the time of transfer to the Indian tribal organization, the employee received a lump-sum payment for annual leave, if he is reemployed within one year of the date of his transfer under the provisions of this proposal, he will refund to the agency from which he transferred the amount of the lump-sum payment and the leave covered by said lump-sum payment will be restored to his account. Any employee reemployed under this provision will be able to count the period of his service with an Indian tribal organization as well as the period necessary to affect his reemployment as creditable service for all appropriate Civil Service employment purposes.

Section 2(b) provides that during an employee's period of service with the Indian tribal organization, that Indian tribal organization shall deposit currently in the appropriate funds the employee deductions and agency contributions for the retirement, life insurance, and health programs.

Section 3 provides that an employee who transfers to an Indian tribal organization pursuant to section 2 of this proposal, such transfer being agreed to by the Indian tribal organization, must make the election to retain compensation for work injuries benefits, retirement benefits, life insurance benefits, and health insurance benefits, as provided in section 2 of the proposal prior to the date of his transfer.

Section 3 also provides that an employee who elects to retain benefit coverage under a transfer to one Indian tribal organization, may retain that coverage if he transfers to another Indian tribal organization to perform service activities of the type covered by section 2 of the proposal.

Section 4 of the proposal contains definitions used in the proposal.

Section 5 authorizes the President to prescribe regulations necessary to carry out the proposal and to protect and assure the compensation, retirement, insurance, leave, and reemployment rights and such other similar civil service rights as he finds appropriate.

Section 6 provides that this proposal will be effective 60 days after the date of its enactment.

This proposal is a companion to our proposal that authorizes Indian tribes to assume control and operation of programs and services now rendered for them by the Federal

Government. In most instances, when these programs or services are transferred to an Indian tribal organization, the Indian tribal organization will request that certain employees who are operating the program or service be transferred with the program or service. Any effort to take over programs or services by any Indian tribal organization without a program for the continuity of manning that this proposal would provide, would be doomed to failure. This proposal allows civil service employees to transfer with the program or service and retain coverage that they now enjoy as civil servants and also give them for a period of 5 years, preferential reemployment rights.

The right of reemployment for a five-year period assures the civil service employee that he can transfer with the program or service that he is working with and continue his work without the danger of losing any of his rights. We believe this provision will be an important factor in getting civil service employees to make a transfer to an Indian tribal organization to lend continuity to the problems and services transferred to Indian tribal organization.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely yours,

WALTER J. HICKEL,
Secretary of the Interior.

ADDITIONAL COSPONSOR OF A BILL

S. 3151

Mr. NELSON. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Texas (Mr. YARBOROUGH) be added as a cosponsor of the bill (S. 3151) to authorize the U.S. Commissioner of Education to establish educational programs to encourage understanding of policies and support of activities designed to enhance environmental quality and maintain ecological balance.

The ACTING PRESIDENT pro tempore (Mr. ALLEN). Without objection, it is so ordered.

SENATE JOINT RESOLUTION 225—INTRODUCTION OF A JOINT RESOLUTION RELATING TO LAW OFFICERS APPRECIATION WEEK

Mr. SMITH of Illinois. Mr. President, these days, our law officers daily risk the physical assault of the lawless. More and more the officer is becoming the tragic target of the lawbreaker. The senseless killing of two officers at Chicago's Cabrini-Green apartments, and the wild antipolice melee that saw at least six of Chicago's fine police hospitalized after a rock festival last week are all too indicative of the truth that the law officer is now under fire from the criminals as never before.

At the same time our law officers must endure constant nitpicking and undercutting from that element of the population—especially the politically ambitious—whose peculiar brand of civic concern can be characterized only as soft on crime, hard on crimefighters. These opportunists, by their repeated attempts to undermine responsible public safety officials—and the authority of the man on the beat—have done much to create the atmosphere of suspicion and distrust of police that rioters and common criminals thrive on.

Well, the time has come for an orderly counterdemonstration by those of us who regard the greatest majority of our crimefighters as heroes, who appreciate their dedication and personal sacrifice, and who are just plain disgusted with the attacks—both physical and verbal—that seem to haunt them as they make their dangerous tours of duty on our behalf.

Today, I am introducing a joint resolution authorizing and requesting the President to proclaim October 25-31, 1970, Law Officers Appreciation Week throughout the Nation. I am also writing President Nixon, Attorney General Mitchell, Governor Ogilvie, Illinois Attorney General Scott, and Mayor Daley asking them to declare and support Law Officers Appreciation Week, and to participate in appropriate ceremonies during that period. These ceremonies should memorialize officers who have given their lives in public service, recognize outstanding police work, and promote greater community-police relations.

I ask unanimous consent that the text of my resolution and certain press reports be printed in the RECORD at the close of my remarks.

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

(See exhibit 1.)

Mr. SMITH of Illinois. Most important, today I am inviting public support of the appreciation programs I hope we can spark throughout the Nation. I am asking all citizens to hold out the hand of friendship, confidence, and support to the men in blue. To my fellow Illinoisans, and to all Americans, I say: If you believe our law enforcement officers deserve our cooperation and support—let them know it. Let them know it person to person when you see them on the street. Let them know it by writing their superiors when individual officers have performed well. Let them know it by cooperating with them as they do their best to protect you and your neighbors. If you do not support them, you have no standing to complain about the deterioration of law and order in our society.

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

The joint resolution (S.J. Res. 225) authorizing the President to proclaim the period October 25 through 31, 1970, as Law Officers Appreciation Week, introduced by Mr. SMITH of Illinois, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S.J. RES. 225

Whereas, the Nation is experiencing an accelerating increase in the incidence of crimes, and

Whereas, the law enforcement officer is society's first line of defense against the lawlessness of its criminal element, and

Whereas the greatest majority of law enforcement officers are dedicated public servants who risk their lives to protect the persons and property of others, to insure domestic peace, and to promote compliance with just laws, and

Whereas, the instances in which individual law enforcement officers conduct themselves in a manner contrary to their duty or to the public good are relatively very few, but are often exploited to undermine public confidence in law enforcement officers in general, and

Whereas, mutual confidence and cooperation between citizens and law enforcement officers is essential to the preservation of individual rights: Now, *therefore, be it*

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to proclaim the period October 25–31, 1970, as Law Officers Appreciation Week and to call upon the people of the United States to observe such period with appropriate ceremonies and activities.

EXHIBIT 1

LONGER THAN THE CONVENTION

(By Tom Fitzpatrick)

Make no mistake about this one. This was a tougher and more vicious battle than any Chicago police fought against the demonstrators during the Democratic National Convention of 1968.

The police came out of that one with their reputation tarnished by charges that they had overreacted. They have been hypersensitive ever since.

Monday night, the police, hopelessly outnumbered by thousands of frenzied rock fans, had all they could do to escape with their shields intact.

It was close all the way. There were times when it seemed the only way the police could save their own lives would be to begin shooting to kill.

This is not an exaggeration for dramatic effect. It was that close, because if this mob had finally gotten the upper hand, I truly believe it would have stoned policemen to death.

The rock festival fans had a reason for all this, of course.

Monday was a hot, muggy day in Grant Park, and many of them had been on hand long before the 4 p.m. starting time for a concert by a group called Sly and the Family Stone.

When Sly and the Family Stone didn't take the stage for the assembled thousands, the mood of the crowd turned ugly.

"This is the fourth rock concert I've been to," Helen Lozowsky, 18, said later," and it's the fourth time they haven't come on stage.

"Those people who had the loud-speaker on stage kept buggin' us. First, they'd tell us that Sly was on his way in a police van. Then they'd tell us he was in a helicopter hovering up above the bandstand. Then they'd say he was underneath the stage and afraid to come out. Anybody would get mad at that kind of treatment."

"Yeah," said Sheri Meltzer, 18. "Sly is chicken. He's afraid to come on stage whenever the crowd gets too big. That cat don't know where his head is."

That was how the battle began. Unhappy rock fans began tossing rocks and bottles at the empty stage and finally surged forward, knocking down a snow fence in front of it and overwhelming the Andy Frain ushers.

The police moved in to protect the ushers. The sight of the police inflamed the crowd, most in it viewing any man in a police uniform as a mortal enemy.

That's how the battle began. It went on that way until after dark.

The demonstrators at the Democratic convention never could produce the numbers this crowd mustered. Police estimates of the crowd at the start of the battle were in excess of 75,000 and it was a crowd made up of both blacks and whites. There were very few black demonstrators at the convention.

They were pitted against no more than 400 police officers and the crowd must have sensed it had the upper hand and that it would be impossible for police to surround and subdue it.

The field of battle was that naturally shallow soup bowl that is Grant Park, just north of the bandshell.

It was a battle that went on for four hours, then with the rock fans being driven as far north as Buckingham Fountain and counter-attacking and driving the police south to the band shell.

This was a crowd that was in a frenzy, exhorting one another to "kill the pigs." They had shouted this at the convention, too, but that crowd was almost always on the defensive. This crowd was on the attack right up until the moment that the police made their final move shortly before 9 p.m.

I lost count of the policemen I saw with bloody mouths, bloody shirts and hands and legs dripping blood from thrown rocks and broken bottles that had hit them after traveling in long, high arcs.

It was dark when First Deputy Supt. James M. Rochford stepped in front of a line of 200 helmeted policemen and waved his baton with the red tassle as a signal to advance.

Rochford, in his dress blues and soft cap, made a beautiful target as he marched 20 yards in advance of the line.

Several rocks came close to hitting him, warded off only by a deft move of his baton. . . .

POLICE, ROCK FANS CLASH IN GRANT PARK

(By Joel Havemann and Paul McGrath)

Thousands of young people battled police in Grant Park and the Loop Monday night after spilling out of a rock concert at the Grant Park band shell.

Hospitals reported treating at least 25 persons, including at least 10 policemen, and at least one youth who was shot in the chest. Many other persons were reported injured and untreated.

Many policemen were struck by flying bottles and stones. A few instances were observed by reporters of policemen clubbing youths. Police once used gunfire to fend off a charge of thousands of demonstrators in the park. Most policemen pointed their guns in the air, but some held their weapons level, reporters observed.

At least two cars and a police squadrol were ignited in the park.

The youths then spread into the Loop from Grant Park and broke windows and looted stores.

Police recorded 42 arrests early in the disturbance, but many more persons were taken into custody.

Grant Park also was the major battlefield during the disturbances that accompanied the Democratic National Convention in August of 1968.

This time the violence began at the Grant Park band shell when youths demanded the appearance of the featured group, Sly and the Family Stone, at a concert sponsored by the Chicago Park District.

Cmdr. Paul McLaughlin of the 1st Police District estimated the crowd at the band shell at 75,000.

The crowd began pushing during the performance of Fatwater, the group that led off the concert, while Sly and the Family Stone waited in a Michigan Ave. Hotel.

"Then the one group busted out through a fence," said David Honor, a Park District employe. "People fell and other people started trampling all over them."

AUTO GAS TANK EXPLODES

Some 200 policemen tried to clear the area, and the confrontation began.

Youths began throwing bottles and stones.

The battle spread north, and the youths and police set the battle line at Balbo Dr. in the center of Grant Park, with youths on the north and police on the south.

The integrated crowd of youths set the three vehicles afire on Balbo, and the gas tank on one of them exploded.

Police used tear gas sparingly to break up the mob.

The crowd of thousands of youths grouped on the north side of Balbo and charged across at about 200 policemen, throwing bottles, stones and pieces of asphalt ripped from sidewalks, some as big as 8 inches across.

LIEUTENANT RALLIES POLICE

Two youth held a signpost 6 inches thick and 8 feet long and used it as a battering ram. Police fought them off and they dropped the post.

Lt. William McKeon of the 1st Area Task Force shouted, "Policemen, let's hold that line, let's hold that line right here."

But the crowd outflanked the police and maintained the rush. McKeon was struck in the face by a stone, and the policemen retreated south toward the band shell down an incline.

Suddenly the police turned and many pulled their revolvers and aimed mostly over the heads of the crowd. Reporters estimated 50 or 100 shots were fired.

YOUTHS CHEER FELLED POLICE

Reports of injured persons began pouring into police headquarters. There was an unconfirmed report that two policemen were shot.

Police reached the band shell and found themselves surrounded by demonstrators.

Many policemen were struck by flying objects and carried off. The youths cheered each time an officer was carried away.

About 150 policemen regrouped at the band shell and began marching back across the field. Each was ordered to make an arrest, and most of them captured at least one youth.

Police forced the crowd all the way back to Balbo, and then many of the youths charged into the Loop.

Windows were broken in stores and hotels throughout the business area from Randolph south. Damage was reported at most of the major department stores and hotels.

There was some looting. Jewelry was taken at 402 S. Michigan and flowers at 79 E. Van Buren.

TOO MUCH ROCK IN THEIR HEADS

(By Tom Fitzpatrick)

The heavy-set police lieutenant's white shirt stood out in the gattering dusk. It was 7:05 p.m. and he was standing on a hill that overlooks Grant Park with a loudspeaker in his right hand.

He was looking down into the natural bowl dotted with softball fields and shouting into the speaker at the thousands of kids in the park.

"This park is now closed," the lieutenant shouted.

"If you do not leave, you are guilty of mob action.

"Let's move out of the park."

"Pig . . . . Pig . . . . Pigs!" the shouts came back from the crowd. A shower of rocks and bottles came with the epithets.

For some reason, however, the crowd began moving northward toward Balbo Dr. The line of policemen moved forward until it was lined in front of a wire mesh softball backstop on diamond No. 12.

Two bearded young men with flared, bell-bottom pants, their feet bare, approached a police sergeant at the side of the police line.

"Man," said the apparent leader, "I ain't never been to a rock festival where they had police before.

"You're the guys who started it just by being here."

The police sergeant did not appear angry.

"We're not here to discuss sociology at this time," the sergeant answered. "You have orders to leave the park. If you don't, you are guilty of mob action."

Down in the middle of the field now, Helen Lozowsky, 18, and Sheri Meltzer, 18, are in the center of a knot of 20 persons.

"This the fifth rock concert that I've been to that Sly and the Family Stone didn't show up at when they were supposed to." Helen shouted. "He's chicken. He's afraid to come on stage whenever the crowd gets too big . . . ."

"Yeah, shouted Sheri in agreement," that cat don't know where his head is.

"We waited here from 4 o'clock until 7 for that concert to begin. No wonder all the kids got mad and started throwin' bottles at the stage. I don't blame them."

That was how the battle had begun. The rock festival enthusiasts, thousands strong, had packed the Grant Park bandshell for the concert.

The concert was late in getting started. The crowd rushed the Andy Frain ushers and clobbered them.

Rocks and bottles fell on the stage in a heavy rain. The police moved in to save the ushers.

The battle was on and it was to go on for hours.

In the first skirmish, a police squad car was turned over and burned in the area of the bandshell. Before it was over, three more cars parked on Balbo were turned over and set afire.

I walked with the police skirmish line as it advanced to Balbo Dr. shortly after 7:20 p.m.

They were walking into a hail of rocks, bottles, sticks, clumps of dirt and pieces of pavement.

The police didn't stop and the rock fans kept tossing.

I saw at least 10 policemen felled by rocks during the advance and when they reached Balbo and took a stand under the trees the rock fire became heavier.

At this point, the police began tossing rocks back, but they were so badly outnumbered they didn't have a chance.

The rocks and bottles kept coming.

Then a platoon of rock fans rushed a tan four-door sedan and began rocking it. Within 10 minutes, they had it turned on its roof and in another five minutes flames and black smoke were leaping more than 50 feet into the air.

Frank Sullivan, chief public relations officer for the police department was standing under a tree and directly behind a paddy wagon.

"We're just so badly outnumbered. I don't see how we can hold them back. They're crazy people," Sullivan said.

He was right about that. The rock fans were acting like crazy people. There was no apparent sense to it.

Why are they throwing rocks at the police? You ask yourself as another policeman falls groaning to the grass five feet away.

You don't have to worry about the answer.

Now the order is given to the police to retreat from the hill. They don't want to, but the order is given and they must obey.

As they walk down the hill, backward so that they can fend off the rocks and bottles, the attackers gain courage.

If the police don't do something, they are all going to be surrounded.

One officer pulled his service pistol from its holster and fired a shot in the air.

Within less than a second, it seems, the air is filled with the sound of pistol fire, perhaps more than 100 rounds fired into the air, and finally the rock fans are retreating.

As they retreat into the trees on Balbo, you can see only the striped pants of the rock fans who are really in uniform.

Above them three lines of black smoke are furling into the air above the trees as the three autos they set afire burn to junk.

The police are re-forming now and Deputy Chief Jim Riordan is shouting at them through his bullhorn.

"Now the next pass we make through this field," Riordan says, "I want every policeman to make an arrest. If anyone is not gone from the park, then he is going into the van.

"Stay together. I don't want any policemen throwing rocks. If I see it, you'll be suspended. My reputation and yours is on the line."

They moved out again, but don't think that ended it. The battle became even more bloody at this point, and it will be hard for anyone to put the blame on the police for this one.

HOW FEAR FIRED BATTLE OF BALBO

(By Warren W. Kellogg)

The Battle of Balbo, 1970 . . .

The battle lines weren't clearly drawn. There was too much confusion, too many little flare-ups that ballooned into bloody confrontations as the word spread: Sly and the Stones ain't comin' . . . ain't gonna be any rock concert."

But there, on both side of E. Balbo, the major battle of the war was being fought. It started out as a war of nerves—just as the first Battle of Balbo, back during the 1968 Democratic National Convention, had begun.

Then came the rocks and chunks of sod and asphalt, the screams of "get the pigs," and the obscenities.

The artillery came from the young ones, lined up on the north side of E. Balbo. Their uniformed targets, some 200 of them, were stationed on the south side, at the top of the slope above the playing field.

RUN FOR COVER

A policeman at the west end of the rank went down, holding his bleeding leg. Newsmen dodged behind trees or squadrols. A photographer ran for cover as blood trickled down his cheek.

And the rocks and bricks and chunks of dirt kept coming.

Some of the policemen were picking up the missiles and hurling them back. There was an order to assemble, a charge and the youths scattered for cover on their side of the drive.

Arrests were made. Several times small groups of policemen would return to their side of the Balbo battle line, leading bleeding prisoners, dragging them or even carrying them. The prisoners went to the squadrols and later to the police station.

"You pigs!" screamed a dirt-smudged young female in a sweatshirt. "You pigs! Police brutality!"

"So what do we do," muttered one of arresting officers. "Stay gentle with 'em and just fall down and die?"

The cars lined up on both sides of E. Balbo became the targets of the hostile young crowd.

CARS BECOME TARGETS

It took several heaves, several warning rushes by the police, before the youths finally succeeded in overturning the beige Chevrolet probably parked there long before the battle by an unsuspecting park visitor—or maybe even by one who himself had hoped to attend a rock festival on this steaming night in July.

There were cheers as the car toppled.

"Let's set fire to it," screamed a long-haired youth in a T-shirt. Even before he had finished the sentence, others were approaching with papers and rags and dousing them with gasoline.

Another rush by the police, and the youths again retreated to their side of E. Balbo.

And the arrests continued. More policemen and photographers and reporters and just curious spectators catching those bits of sod and rock that stopped only intermittently.

ANGER ON BOTH SIDES

As the young woman in the sweatshirt had said, the arrests were not gentle.

Policemen, themselves bleeding from those missiles clawed up from the ground, clubbed their prisoners even after they had been subdued.

One youth lay bleeding on the sidewalk at the south side of E. Balbo—enemy territory.

"Help me, help me," he moaned, covering his face with his hands, squirming there on the grass of the battle terrain.

"Serves you right," one of the policemen said. Another passed over the prone figure and whacked him on the arm with his club. Not too hard—just enough to let him know that the anger was on both sides.

"My buddy got one," another policeman said. "Maybe he got the (blank) that hit me on the arm with a brick."

Now the target on the north side of E. Balbo was another car. This one was in their territory, however, so the youths had little trouble setting it afire.

As it burned, a fire department car ventured into the area, east on Balbo, and was greeted with a hail of stones and bottles.

"Get out of there, you silly ———!" yelled one of the policemen.

The fire car driver needed no warning, however. He veered to his right, sped past the fiery vehicle and kept on going.

"It's gonna blow!" someone yelled. Again scurrying.

CLUBS PROVE FUTILE

Then they got to that luckless beige Chevy parked on the south side. It soon went up in black smoke, its horn sounding a mourning, continuous wail as the flames enveloped it.

By now, no one was paying much attention to the fires, though.

Now one of the rocks hit another policeman, Lt. William McKeon who was standing in front of that line of 200 on the south side of E. Balbo. Behind him, undercover detectives and newsmen dodged this latest barrage.

Then came the order: "Withdraw." And the policemen started walking back, toward the bandshell where a concert was to have been started at 4 p.m., some four hours earlier.

A police squadrol burned. One policeman started to put out the blaze in the beige Chevy, but the crowd moved in viciously, the artillery again nearing its mark.

Then it happened.

Just as the policemen were retreating, the crowd stormed over E. Balbo and down that slope onto the playing field—running, screaming, throwing their rocks and bricks.

LIST OF INJURED IN WILD GRANT PARK FIGHTING

Following is a partial list of the injured in the Grant Park disturbance:

POLICE

Michael Swistowicz, 24, central district patrolman, cut on the right knee, treated and released from Henrotin Hospital.

Roy Despere, 26, Burnside Task Force, pains in chest, back, and groin, treated at Mercy Hospital.

Thomas Minnick, 30, Burnside Task Force, cuts on legs, treated at Mercy.

Thomas McCarthy, 26, Burnside Task Force, cut right hand, treated at Mercy.

David Ferguson, 40, Gang Intelligence Unit, lacerations, treated and released from Illinois Research Hospital.

R. J. Feldman, Gang Intelligence, treated at Mercy for cuts.

James Burns, 25, Burnside Task Force, lacerations right arm and right leg, treated and released from Illinois Research Hospital.

Torrence Davies, Burnside Task Force, gassed, treated at Michael Reese Hospital.

Kenneth Grabowski, Burnside Task Force, treated for a cut on the left arm at Michael Reese Hospital.

Joseph Davenport, Area 1 Task Force, hit in the eye by a brick, being treated at Wesley Memorial.

David Kohn, Maxwell Task Force, bruised shin, treated at Henrotin Hospital.

Kenneth Thelen, Area 1 Task Force, cuts and bruises on arms and right leg, treated at Henrotin Hospital.

James T. Robinson, Area 1 Task Force, broken nose, treated at Michael Reese Hospital.

Leroy Dudek, Austin District patrolman, possible fractured skull, treated at Presbyterian-St. Luke's Hospital.

Lt. William McKeon, Area 1 Task Force, cut wrist and right leg, treated at Michael Reese Hospital.

CITIZENS

Robert Johnson, 15, shot in left chest, in critical condition at Mercy Hospital.

Leonard White, 18, of 8018 S. Constance, cuts, treated at Mercy Hospital.

Jergen Stephens, 16, fainted, treated at Mercy Hospital.

Gammie Guskezyk, 19, of 1446 N. Greenview, cuts, treated at Mercy Hospital.

Sharon Crosby, 14, of 7032 S. Paxton, cuts, treated at Mercy Hospital.

Kevin Pruitt, 13, of 6858 S. Merrill, lacerations, shot in buttocks, treated at Mercy Hospital.

Lona Dorsey, 18, of 5015 W. Quincy, minor cuts, treated at Mercy Hospital.

Keith Klunckles, 17, of 347 Addison Av., Elmhurst, cuts, treated at Mercy Hospital.

Adrianne White, 19, of 527 E. 89th Pl., cuts, treated at Mercy Hospital.

Anthony Sissac, 18, head cuts, treated and released from Illinois Research Hospital.

Lawrence Holowinski, 23, fractured nose, in good condition at Illinois Research Hospital.

Austin Hamilton, 18, gassed, treated and released from Michael Reese Hospital.

Eileen Simmons, gassed, treated and released from Michael Reese Hospital.

Sharon Morton, gassed, treated and released from Michael Reese Hospital.

Sandy Golden, 16, of Lockport, gassed, treated at Michael Reese Hospital.

John Schmidt, 21, struck on head, treated at Henrotin Hospital.

WINDOWS SMASHED FROM GRANT PARK TO LOOP

(By Michael Miner and Michael Wilson)

Vandals smashed windows with abandon Monday night as thousands of youths moved north on Michigan from Grant Park to the Loop.

There was scattered looting, but for the most part a small pack of boys in T-shirts simply shattered the windows on Michigan with heavy sticks and moved on.

Scattered vandalism was reported inside the Loop.

Three windows at Roosevelt University were broken, the front of Renee Imports & Interiors at 520 S. Michigan was smashed, and a trash can was thrown through the front window of La Borie Gallery, at 522 S. Michigan, damaging sculpture inside.

Glass was broken at the Chicago Sightseeing Co., 530 S. Michigan, and Modern Travel Service, the same address.

Further north, windows were smashed at Guild Hall Galleries, 406 S. Michigan, Lee Gilbert Jewelry, 402 S. Michigan, Burrougns Corp., 324 S. Michigan; Baldwin Piano and Organ Co., 318 S. Michigan, and the Illinois State Bank of Chicago, 300 S. Michigan.

A gang of about 30 youths moved west on Van Buren until dispersed at Dearborn.

They shattered windows at Goldblatt Brothers, State and Van Buren, and looted one window of Sears, Roebuck & Co. at the same corner.

Burny Bros. Bakeries at 34 E. Van Buren was struck, as was McMahon-Till Florist at 79 E. Van Buren. A trash can was thrown through the window at Bailey's Inc., 25 W. Van Buren.

Other establishments hit included the Chicago Magic Center, at 19 W. Randolph and Smoky Joe's Men's Fashion, at 336 S. State.

In addition, rocks and bottles smashed windows of police and private vehicles.

DALEY GIVES PLAN TO END THE FEAR AT CABRINI-GREEN

(By Harry Golden, Jr.)

Mayor Daley announced Thursday a $3 million plan to improve conditions and "end the fear" at Cabrini-Green Homes.

The massive housing development where two policemen were killed by snipers July 17 would get beefed-up police patrols, other security measures and a force of 300 resident workers co-ordinating recreation and community services.

Funding for the new program was assured, it was understood, from new federal aid and existing city resources. About 50 extra policemen would be assigned to Cabrini-Green for interior patrol of elevators and stairwells, as well as galleries and grounds.

About 100 vacant apartments would become offices for the resident workers or new recreation areas.

An elevator security system, which could be put into effect in 45 days, would equip elevator-control areas with an alarm system to alert police within the buildings.

George W. Romney, secretary of the Housing and Urban Development Department, will visit the Cabrini-Green Homes Saturday. After conferring with the Rev. Jesse L. Jackson, national director of Operation Breadbasket, Romney will tour the development to determine how the federal government can respond to conditions there.

Mayor Daley said the new program could start with review and approval by Cabrini-Green resident councils.

The manager of Cabrini-Green would coordinate the program with the aid of an elected resident advisory board of from 9 to 15 members. The commander of the police 18th District and the Chicago Housing Authority security director would be ex officio members.

The program was developed by CHA chairman Charles R. Swibel, Police Supt. James B. Conlisk, Jr., and heads of several other city agencies.

The mayor said, "We believe the program will end the fear of residents who have been victims of criminal gangs and others who terrorize the community.

"The overwhelming majority of residents of the community are good citizens who wish to raise their families without the threat of violence and vandalism."

The mayor continued, "Through the use of existing services and the employment of residents to help augment family income and raise living standards, is expected the program will contribute directly to improving the quality of life for all residents.

"We will seek the counsel of residents continuously throughout the operation of the program."

The mayor emphasized that the new spending will not bring any increases in rents or other service charges for the tenants.

Cabrini-Green's present population is 17,650, including 12,470 minors.

In a prepared statement, the mayor's office said the activities "will be financed with resources from both the national and local level." The $3 million cost estimate was made for "the first year."

The resident workers will be trained to assist tenants with individual and family problems in such areas as health, welfare, employment and social relations.

Swibel went to Washington to appeal to Romney's department for federal aid to expand security at Cabrini-Green shortly after the sniper murders of Police Sgt. James Severin and Patrolman Anthony Rizzato.

They were shot down on a grassy field near the facility while on a community-relations mission under the walk-and-talk program. Four males, aged 14 to 23, have been charged with murder in the case.

Romney also will be in Chicago Friday afternoon for dedication of Edgewater State Park on the North Side.

SENATE CONCURRENT RESOLUTION 76—SUBMISSION OF A CONCURRENT RESOLUTION ON THE CONVERSION TO A LOW-EMISSION PROPULSION SYSTEM FOR MOTOR VEHICLES

Mr. NELSON submitted a concurrent resolution (S. Con. Res. 76) on the conversion to a low-emission propulsion system for motor vehicles to replace the internal combustion engine, which was referred to the Committee on Commerce.

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

SENATE CONCURRENT RESOLUTION 77—SUBMISSION OF A CONCURRENT RESOLUTION EXPRESSING THE SENSE OF THE CONGRESS TO ADOPT A NATIONAL CRASH PRIORITY PROGRAM ON DREAD DISEASES

Mr. McGOVERN. Mr. President, the Nation continues to be appalled by the death rate of its people, stemming from cancer, stroke, and heart disease. Cancer alone takes the lives of over 300,000 Americans each year and over 1 million of our citizens are currently under treatment for one of the many forms of this dread disease. Thousands die from the effects of stroke each year and thousands upon thousands suffer the crippling effects of cerebral incidents. Heart diseases of one form or another took the lives of one-half million citizens last year and continue to place a serious strain on our hospital facilities through treatment and research.

My distinguished colleague in the House of Representatives, Mr. ROONEY of New York, in early March of this year introduced a concurrent resolution calling for the eradication of cancer. His resolution has received substantial support from interested groups and foundations throughout the country. Last month, also in the House, the distinguished Congressman from the 13th District of New Jersey, Mr. GALLAGHER, introduced a House resolution with over 100 cosponsors, stating that it be the sense of the House of Representatives that adeqaute funds be appropriated annually over a period of 10 years for a cancer research program. Earlier this year I cosponsored Senate Resolution 376 introduced by the distinguished Senator from Texas and chairman of the Committee on Labor and Public Welfare, Mr. YARBOROUGH, authorizing the committee to study and ascertain the causes and develop means for the treatment, cure, and elimination of cancer.

Mr. President, I laud and congratulate the efforts of my distinguished colleagues in the area of cancer and cancer research. To complement and expand these energies, I submit for appropriate reference today a Senate concurrent resolution with the cosponsorship of the distinguished Senator from Illinois (Mr. PERCY) expressing the sense of the Congress that a national crash priority program on dread diseases be established and that the purpose of the program is to, as an appropriate commemoration of the 200th anniversary of the independence of our Nation in 1976, seek the delivery of our people from the menace of cancer, stroke, and heart disease. The resolution further provides authority for the Surgeon General of the United States to report to the Congress his advice and recommendations concerning the nature and the extent of the funds necessary to accomplish this goal and reciting the sense of the Congress that the necessary funds be appropriated.

Mr. President, I feel strongly about the eradication of these dread diseases. My mother was an unfortunate victim of a crippling stroke which left her without the power of speech for many years prior to her death. My senior colleague from South Dakota has been hospitalized for many months by a stroke. Close friends and relatives have died from the lingering effects of cancer and heart disease. I daresay that there is not a Member of either body who has not at one time or another felt the pain of these three diseases within the close confines of his own family.

We are now in the 195th year of our national life. As a nation we have spanned and developed a great continent. We have developed a standard of living for our people unrivaled in the history of our civilization. We have survived the ravages of a Civil War and two major global conflicts and several incidents of undeclared wars. We are presently engaged in a commitment in Southeast Asia which consumes almost $30 billion of our national treasure each year. It is time, Mr. President, that we turn the forces of our affluence toward the major menaces which undermine the health of our people, which cripple and kill the young and middle aged and which incapacitate and cause great suffering and death for our older people.

Let me say that I intend no criticism of the magnificent work that is being done by the various governmental agencies and private foundations in these important fields. Their's has been a sincere but often lonely dedication to the aims I express here today. However, it is my purpose through this resolution to let them know that the Congress supports them and intends to help them through expanded appropriations, through additional training and research programs, and through additional personnel recruitment, to accomplish their goals and ours by the time we reach the 200th anniversary of our national life.

I hope that my colleagues on both sides of the aisle and in the House will join me in this high purpose and that the Government and private sector will

generously come forward with the good counsel and the public dedication necessary to accomplish the goals of the resolution within the relatively short time span provided in the resolution.

I would especially ask the leaders of the Congress in both the legislative committees and appropriation committees in the Senate and the House to look favorably on this recitation of national purpose. And lastly, I would ask that the people of our great country unite with clear vision to recognize that what we have set out to do is right and good and that they remember the dramatic closing words of President John F. Kennedy's inaugural address:

> With a good conscience our only sure reward, with history the final judge of our deeds let us go forth to lead the land we love, asking His blessings and His help but knowing that here on earth God's work must truly be our own.

Mr. President, I ask unanimous consent that the text of the Senate concurrent resolution to adopt a national crash priority program on dread diseases be printed at the conclusion of my remarks and that it be appropriately referred.

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

The concurrent resolution (S. Con. Res. 77), which reads as follows, was referred to the Committee on Labor and Public Welfare:

S. CON. RES. 77

Resolved by the Senate (the House of Representatives concurring), Whereas our country is now commencing the 195th year of its national life; and

Whereas preparations are being made for the recognition of the 200th Anniversary of the founding of our nation in 1976; and

Whereas the dread diseases of cancer, heart disease, stroke, continue to claim the lives of thousands of Americans each year; and

Whereas we deem it a first order of national priority and national purpose to eradicate the threat of these diseases from our national life; and

Whereas greatly expanded medical programs and medical personnel are necessary and wanting to accomplish this high purpose. Now therefore be it

Resolved by the Senate of the United States (the House of Representatives concurring), that it is the sense of the Congress that we adopt a National Crash Priority Program on Dread Diseases in the United States. Be is further

Resolved that the purpose of the National Crash Priroity Program be to seek by 1976 as an appropriate commemoration of the 200th Anniversary of the Independence of our Nation the deliverance of our people from the diseases enumerated in this preamble and be it further

Resolved that the Congress of the United States officially recognize (1) the thousands of hospital beds occupied by patients suffering from these diseases; (2) the millions of working days and man hours lost becaue these diseases still threaten our national health; (3) the high cost of hospital and medical care of those suffering from these diseases; and (4) the critical shortage of trained medical personnel; and be it further

Resolved that it is the sense of the Congress that necessary funds be appropriated to form a national crusade aimed at the prevention as well as the treatment of these said diseases, and be it further

Resolved that the Surgeon General of the United States be authorized to report to the Congress his advice and recommendations concerning the nature and extent of funds and research programs necessary to accomplish this purpose.

SENATE CONCURRENT RESOLUTION 76—SUBMISSION OF A CONCURRENT RESOLUTION ON THE CONVERSION TO A LOW-EMISSION PROPULSION SYSTEM FOR MOTOR VEHICLES

Mr. NELSON. Mr. President, I submit, for appropriate reference, a concurrent resolution on the conversion to a low-emission propulsion system for motor vehicles to replace the internal combustion engine.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). The concurrent resolution will be received and appropriately referred.

AMENDMENT OF CLEAN AIR ACT—AMENDMENTS

AMENDMENT NO. 815

Mr. NELSON. Mr. President, I submit an amendment, intended to be proposed by me, to the bill (S. 3229) to amend the Clean Air Act in order to extend the authorizations for such act, to extend the provisions of title II relating to emission standards to vessels, aircraft, and certain additional vehicles, and for other purposes, and to provide for a study of noise and its effects.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). The amendment will be received, and printed, and will be appropriately referred.

POLLUTION CRISIS AND BUSINESS AS USUAL

Mr. NELSON. Mr. President, for several days last week a massive pollution cloud lingered over the 17 States along the eastern seaboard of the United States. Front page newspaper pictures dramatically told the ugly story. It was but an ominous messenger of the future, a messenger warning of pollution more frequent and more intense.

From Los Angeles to New York to Tokyo to Rome, the story is just the same—increasing pollution, growing health hazards, mounting concern and business as usual. Everybody cares, everybody talks about it, everybody deplores it and nothing is done.

The whole thing presages a disaster of colossal proportions, but somehow, no one is responsible.

From his press conference in California, the President said it is a serious problem that could not be solved overnight, but it would help if Congress passed some legislation he has recommended. That is fine, but the President has not submitted anything meaningful concerning this problem.

Congress has not done anything either because it would require some pretty drastic action and that is not our business.

Industry has not done anything either because it would cost a lot of money and most industries will not admit that air pollution is a serious problem anyway.

For more than a quarter century, scientists have been issuing alarms about the rapidly deteriorating quality of this thin envelope of air surrounding our planet. They have warned that the trend must soon be reversed to avert disaster. They have predicted that all major metropolitan areas will soon become environmental death traps.

And all that they have predicted is coming true on schedule, if not ahead of time.

It hardly seems worth while to repeat the facts, because nobody seems to give a damn.

The facts are gruesome. Perhaps that is why we do not want to talk about them. Already the health of tens of millions of people is being compromised by air pollution, and life shortened for millions more.

John Gardner, Secretary of Health, Education, and Welfare, warned in 1966:

> There is no doubt that air pollution is a contributing factor in the rising incidence of chronic respiratory diseases—lung cancer, emphysema, bronchitis and asthma.

The staff report of Senator MAGNUSON's Commerce Committee projects that the air pollution from automobiles will double in the next 30 years. Add to that the dramatic increase from industrial pollution—it spells calamity.

Imagine the air over New York City or Los Angeles twice as polluted as it has been the past few days. What happens when it concentrates, as it will, in densities four and five times as great as anything we have yet seen?

If the current accelerating rate of air pollution is permitted to continue unabated, the next decade will witness the repeated closing of entire metropolitan regions, as an emergency health precaution. Traffic, industry, and all but emergency services will be required to come to a standstill.

For those increasing numbers who doubt the capacity of the "establishment" to solve our problems, what more eloquent argument can we give them? If we cannot protect the health of the Nation because it would require some tough decisions that interfere with traditional right of free enterprise to do business as usual, then I suggest that both the system and the people are in jeopardy.

We can effectively and successfully meet this problem as soon as we are prepared to make some simple and tough decisions.

First, a flexible air quality standard must be established which requires all industry to install the pollution control equipment that meets the current, highest status of the art. As more effective equipment is developed, it must automatically become the new standard to be enforced without delay.

Second, standards on the use of low emission heating fuel must be established as in London several years ago.

Third, open burning dumps must be rapidly phased out.

Fourth, and most important, the automobile pollution problem must be met

head on, with the requirement that the internal combustion engine be replaced by January 1, 1975. While we have delayed confronting this problem, the auto industry has skillfully filibustered and sweet talked the Nation out of forcing them to do anything meaningful.

Until we face the problem of auto pollution, we cannot claim to be serious about air pollution. The automobile is responsible for 60 percent of the Nation's air pollution and for as high as 90 percent in many metropolitan regions.

There are now 105 million motor vehicles using 82 billion gallons of gasoline annually. The combustion of over 82 billion gallons of gasoline to feed these automobile engines exhausts a cloud comprised of carbon monoxide, unburned hydrocarbons, oxides of nitrogen, lead and oxidants. Each of these contributes to endangering the health of all people in this country and around the world.

While the effects of air pollution can be seen and measured in damages to houses and plant life, the damage to health is more subtle and complex. Auto pollutants do many things to the human system. Carbon monoxide reduces the capacity of blood to carry oxygen from the lungs to the tissues of the body. Unburned hydrocarbons possibly cause cancer. Oxides of nitrogen are a major cause of smog and are toxic and even fatal in high concentrations. Oxidants such as ozone cause eye irritations and adverse respiratory effects. Lead compounds are hazardous but insufficient knowledge exists as to the degree of their toxicity.

In New York City, for example, under the recent smog conditions, it was obvious that a person did not have to die to suffer the ill effects of heavy pollution. Studies have shown that breathing badly polluted New York City air was roughly the equivalent to smoking 38 cigarettes a day. Collectively, these chemicals and those from stationary sources have increased the incidence of respiratory ailments and diseases such as lung cancer, emphysema, chronic bronchitis, asthma, hardening of the arteries, and possibly the common cold.

It is necessary to pass legislation to require the replacement of the internal combustion engine because the auto industry will not do so voluntarily. It is now practical to replace the internal combustion engine. There are alternative propulsion systems which perform efficiently and are relatively pollution free.

The testing and development of alternative engines has been carried out almost entirely by people outside the auto industry—without the use of the industry's vast resources.

The most extensively tested alternative is a steam engine known as the Rankine Cycle engine which relies on external combustion and burns a low grade of gasoline or even kerosene at a steady flame.

In 1967, an interdepartmental advisory committee of experts, established by the Secretary of Commerce and chaired by Dr. Richard S. Morse of the Massachusetts Institute of Technology, concluded that the steam engine was a "feasible" and "reasonable" alternative to the internal combustion engine. The 1969 staff report of the Senate Commerce Committee entitled "The Search for a Low-emission Vehicle," also concluded:

> The Rankine Cycle propulsion system is a satisfactory alternative to the present internal combustion engine in terms of performance and a far superior engine in terms of emissions.

The Williams Brothers steam car, one of the best known of the Rankine Cycle, was developed 9 years ago and has yielded impressive results as far as auto emissions are concerned. The test results are:

Hydrocarbon emissions on the Williams car are 20 parts per million; on the stock internal combustion engine, they are 900 p.p.m., 45 times higher.

Nitrogen oxide emissions from the Williams car are 40 p.p.m.; on the internal combustion engine, they are 1,500 p.p.m., 375 times higher.

Carbon monoxide emissions for the Williams car are 0.05 percent for the internal combustion engine, they are 3.5 percent, 70 times higher. Finally, the Rankins engine emits no lead since that element is not required as an additive in its fuel.

In a report to the Society of Automotive Engineers, performance characteristics of the Rankine Cycle were compared with the internal combustion engine. In all tests, the Rankine engine was comparable or outperformed the internal combustion engine in top speed and acceleration.

Extensive research has also been underway on the gas-fed turbine. This engine is significantly pollution-free and efficient enough to have led such people as William Lear of the Lear Motor Corp. to believe that this propulsion system can replace the present inefficient internal combustion engine.

The Chrysler Corp. has made optimistic statements about their experience on the gas turbine engine from 1954 to the present. In particular, they have acquired valuable data from the 50 gas turbine cars produced in the mid-1960's for testing by ordinary drivers.

The enthusiasm of users was noted. The consumer was impressed with the gliding sensation at all speeds, the reduced maintenance, the starting ability and fast, sure ignition. Performance problems observed were acceleration lag, particularly from a standstill and fuel economy.

Chrysler is currently testing its sixth generation of gas turbine. Some authorities have maintained that if Chrysler had aggressively followed through with the gas turbine program, mass production at a cost close to the internal combustion engine would have been possible.

The Chrysler Corp. has released data on emission rates for the latest generation of the experimental gas turbine car. The hydrocarbon and carbon monoxide rate is a low 15 percent of 1970 Federal standards. The nitrogen oxides rate is an equally low 25 percent of current emissions.

Expert after expert outside the automobile industry has confirmed that we can produce alternatives to the present automotive engine that are efficient, economical, quieter, and virtually pollution free.

Those with the greatest stake in preserving the internal combustion engine, the auto and petroleum industries, have attempted to distort the extensive body of knowledge showing there are efficient replacements.

The industry will not voluntarily convert to another engine for obvious reasons.

First, they have the internal combustion engine and are satisfied with its performance. They see no obligation to convert to another engine as an act of social conscience because that has nothing to do with producing either automobiles or profit.

Second, it will cost the automotive industry an estimated $3 to $5 billion to convert to an alternative engine. Spending that much money is obviously a real concern of the manufacturers.

It is valid to point out, however, that the taxpayers are paying for air pollution damages estimated at $30 billion annually. The automobile is responsible for more than half that $30 billion.

It is worth noting that the cost to the automotive industry for converting to a substitute for the internal combustion engine is only one-third the annual economic damages caused by the present internal combustion engine.

What the auto industry has spent, however, has been inadequate and directed almost solely to rigging a jerry-constructed internal combustion engine that will have attained some slight degree of social acceptability and be a little cleaner.

This money is still spent on the internal combustion engine, even though a top Chrysler Motor Corp. official has admitted it will cost $10 billion just to control the nitrogen oxide standards with the present engine, while $1.5 billion has already been wasted on inadequate attempts to control carbon monoxide and hydrocarbon emissions.

It would also cost $1 to $5 billion to convert present fuels to the nonleaded, high octane gasoline needed to propel the jerry-rigged internal combustion engine. In addition, installation, inspection, maintenance, and replacement of proposed antipollution devices for cars currently on the road will run total costs up several more billion.

At best, these moves will be temporary measures, because by 1980 the automobile population will have continued its explosive growth to the point that total emissions will again reach present levels and will continue upward.

According to its own estimates, the auto industry is investing $11 to $15 billion to strengthen its bond to the internal combustion engine, expenses that ultimately the consumer pays for in the final product.

The continuing problem in dealing with the automobile industry has been their lack of good faith in assuming the responsibility for developing a pollution-free engine. It is ironic to note that while the auto industry has been proclaiming that it was attempting to find an alter-

native engine, the most significant research in the area was taking place outside the industry.

A prime example of this lack of good faith became public in 1969, when it was learned that members of the industry had a formal agreement for 16 years in which all parties agreed to inhibit research and development in the area of pollution control.

After the Justice Department brought suit against the industry, the auto manufacturers agreed to a consent decree prohibiting them from engaging in any future collusion to restrain research on air pollution control.

Thus for 16 years, the automotive manufacturers agreed to do nothing about the air pollution problems of their products. The dismal record of the industry makes congressional action necessary.

Each year the industry spends $1½ billion in unnecessary styling changes that amount to little more than fashion, frills, and fins.

In view of the critical air pollution crisis facing the Nation, I suggest that the industry declare a moratorium on style changes. I am introducing a sense of the Congress resolution that manufacturers of motor vehicles declare a moratorium on styling changes and reallocate the moneys that would normally be expended for styling changes to the costs of converting to a low-emission propulsion system that will replace the internal combustion engine and be offered for public sale no later than January 1, 1975.

I am also introducing an amendment to the Clean Air Act which will prohibit the sale of any motor vehicle powered by an internal combustion engine after January 1, 1975.

Mr. President, I ask unanimous consent that the amendment and the concurrent resolution be printed, referred to the appropriate committees, and be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). The amendment and the concurrent resolution will be received and appropriately referred; and, without objection, will be printed; and the amendment and the concurrent resolution will be printed in the RECORD.

The concurrent resolution (S. Con. Res. 76), which reads as follows, was referred to the Committee on Commerce:

S. CON. RES. 76

Whereas it is recognized by Congress that motor vehicles account for at least sixty percent of the total air pollution in the United States and over eighty five percent of the air pollution in many metropolitan areas; and

Whereas it is recognized by Congress that emissions of carbon monoxide, hydrocarbons, oxides of nitrogen, lead, and oxidants from motor vehicles have deleterious effects upon human physiology and health; and

Whereas it is the intent of Congress to prevent and control the emissions of air pollutants from motor vehicles; and

Whereas it is recognized by Congress that prevention and control of emissions of air pollutants from motor vehicles requires the accelerated development of a mass produced low-emission propulsion system to replace the internal combustion engine; and

Whereas it is recognized by Congress that rapid conversion to a low-emission propulsion system to replace the internal combustion engine will necessitate the large expenditure of monies: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring) That it is the sense of the Congress that manufacturers of motor vehicles declare a moratorium on styling changes and reallocate the monies that would normally be expended for styling changes to the costs of converting to a low-emission propulsion system that will replace the internal combustion engine and be offered for public sale no later than January 1, 1975.

The amendment (No. 815) was referred to the Committee on Public Works, as follows:

AMENDMENT NO. 815

On page 5, line 10, after the semicolon strike "or".

On page 5, line 16, strike the period at the end of the line and insert in lieu thereof a semi-colon and "or", and between lines 16 and 17 insert the following:

"(6) for any new motor vehicle propelled by an internal combustion engine to be sold within or brought into any State after January 1, 1975.

Mr. NELSON. Mr. President, I also ask unanimous consent that the editorials and articles from the New York Times, the Washington Post, and the Washington Evening Star be printed in the RECORD.

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

[From the Evening Star, July 29, 1970]

REHEARSAL FOR DISASTER

The stagnant bubble of pollution that hangs over the Eastern United States from New York to Atlanta, is, we are assured, no cause for alarm in the Washington area. The problem will end when a tide of cool air arrives to shoulder the polluted air mass out over the Atlantic. In the meantime, it will sting the eyes and irritate the lungs. But it is, according to the official assessment, just a bother and nothing more.

It is—or it should be—a great deal more.

It should be taken as a reminder that nature cannot always be counted on to cart away man's airborne garbage. It should be accepted as persuasive evidence that mankind is indeed charting a course to environmental disaster. It should be seized upon as an opportunity to develop and to test the escape mechanisms before that disaster materializes.

The weather phenomenon that laid the damp blanket over Atlanta, Washington, Baltimore, Philadelphia, New York is nothing really new. Every now and again, the infinitely complex mechanism that produces the weather creates a vast dome of stable air, massive enough to resist the pressures that normally move weather patterns in a west-east parabola. The mass comes to rest. Winds, both lateral and vertical, are at a virtual standstill.

When this mass settles down over an industrial area, the pollutant byproducts of civilization are pumped into the stagnant pond of air. There they are altered and strengthened by the photochemical actions of the sun on the tainted air trapped beneath the dome of the atmospheric greenhouse. It has happened before. It will happen again. And every time it happens, man's industrial progress has moved the threat of areawide disaster several steps closer to fulfillment.

Washington will, assuming the predictions of relief are accurate, escape a killer smog such as those that have, in the recent past, claimed hundreds of lives in London. Washington will be spared the white horror that, until today, enveloped the major cities of Japan, and produced 9,000 serious illnesses. The most that is anticipated is an area alert that will trigger some voluntary antipollution steps.

But there must be no assumption that an emergency can't happen here. It can, and it will. And the present minor emergency could have been utilized for a full-dress rehearsal for disaster. It would have been possible to put the contingency plans for a real emergency to the test, curtailing the area's limited industry and halting all non-essential auto and bus travel. Then it could have been seen if the limited measures that have been planned are really enough to reduce the levels of poison in a body of stagnant air.

The Washington Council of Governments should determine now that such a test will be made the next time nature sets the stage for a disaster drill. And the rest of us should hope that the next time is not the real thing.

(From the New York Times, July 30, 1970)

HANDWRITING IN THE SKY

Through the polluted haze that for days has hung over East coast cities from New York to Atlanta, nothing is clear but a timely warning. Urban areas are getting perilously close to the point where they may have to choose between the internal combustion engine and breathable air. That Tokyo should be undergoing the same harrowing ordeal in the same week demonstrates that the problem is worldwide and not even primarily an American phenomenon.

On the basis of Federal air pollution criteria, Robert N. Rickles, New York's Commissioner of Air Resources, estimates that this city is in the "unhealthy" category about one-third of the year. And this in spite of the fact that sulphur emissions from fuel oil and coal have been reduced by 50 per cent.

The chief offender is clearly the automobile. Even if all the proposed anti-pollution devices worked as well as possible and were universally installed tomorrow, the continuingly increased use of the car would give the country the same degree of pollution in fifteen years that it enjoys today. And, it need hardly be said, the improvements have only limited use and are only sporadically required. Even when they are installed, moreover, their effectiveness depends in part on the car's state of repair, a single dead spark plug being capable of raising emissions at least ten times over the legal limit.

All of which means that what has up to now been regarded as personally hysterical and economically unthinkable may yet become a reality. Until the gasoline engine can be made pollution-free or a clean substitute for it developed—eventualities at least ten years in the future—the automobile may actually have to be banned from the centers of major American cities. Where it has been prohibited for short times and in small areas, the air has visibly and quickly improved. In the present New York crisis a prohibition on all non-essential traffic may yet have to be invoked in certain areas, or even throughout the city, as the fourth stage of the prescribed emergency procedure.

Ten years ago an American business section without private cars was unimaginable If we want to continue breathing, we will have to begin at least to imagine it right now—and while we are at it, to imagine a public transit system capable of taking their place.

A CLOUD NO BIGGER THAN THE EASTERN SEABOARD

The dangerous cesspool of air that now hangs over this city and the eastern seaboard is a shock but not really a surprise. The bread we threw out on the water now returns to us. It is true that abnormal weather in the form of a mass of warm air that won't

move on is a major weave in the blanket of pollution now covering us. But we cannot blame the fickleness of nature for this mess; it is manmade, largely by the exhaust fumes from automobiles and buses, according to local officials.

This raises the immediate question of whether the public can wait the 10 years the automobile industry has said it needs to produce clean cars. Has an independent group thoroughly looked into this time-table to see if 10 years really is needed? Or is it a comfortable pace the industry has set for itself? These are honest questions and there is an urgent need for answers; the air around us argues that anything less than a crash program to get clean air is basically a no-win effort.

A world-wide survey by the UPI reveals that we are not alone in our filth. Wallowing also in smog are places like Japan, Mexico City and Singapore. The ongoing series of articles on world pollution by Claire Sterling on this page has been detailing the theme that we are all in this problem together; action by one country and not by another will not do. And neither will it do to wait until things get worse.

A recent book called "The Vanishing Air" by John Esposito ends with a chapter called "Pollution and Palliatives." What he and his researchers tried to do, says Mr. Esposito, and in many people's opinion did, was "illustrate how the public's hope for clean air has been frustrated by corporate deceit and collusion, by the exercise of undue influence with government officials, by secrecy and the suppression of technology, by the use of dilatory legal maneuvers, by special government concessions, by high-powered lobbying in Congress and administrative agencies . . ."

In saying where the blame lies, Mr. Esposito also implies where the remedy lies: in positive and immediate action by corporations, governments and citizens, not just in Washington or in the United States, but in every part of this blanketed planet.

The trouble is that as long as the menace remains invisible, by and large, we may fool ourselves into thinking that there is no urgency in the developing crisis of our environment, which suggests a silver lining in the great dirty cloud that has enveloped, not just a city, but an entire area of the United States the past few days. For what this has done has been to make the menace all too frighteningly visible, as a regional thing, which is only a step away from a continental, and ultimately, a planetary thing.

It is often said that the crisis of pollution and environment will fade away, like other fads, a victim of our short attention span, as the media turn to new trinkets or inserts to play with. But it won't, in our view, because it won't remain invisible. When the old and sick are in danger of dying along a whole seaboard, when officials in Washington and New York are ready to block roads to keep cars from being used, when the menace is inescapably there for all to see and breathe, it is not a fad which can fade away. A blind eye can be turned on the ghettos or the war but no one who ventured outdoors the last few days could avoid seeing what we are doing to ourselves. It would be nice to think that we could take sensible warning from a cloud no bigger than the eastern seaboard.

[From the Washington Post, Aug. 3, 1970]

TOKYO CURBS THE CAR, BEATS THE SMOG

TOKOYO, August 2.—Tokyo closed 122 of its busiest streets to cars today, and for a short while part of the world's most populous city was free of the exhaust fumes that have plagued it recently.

Tokyo's anti-pollution campaign took on a carnival air as thoroughfares in four important shopping districts were cleared of traffic and turned over to throngs of pedestrians for a few hours.

It was part of Tokyo Gov. Ryokichi Minobe's campaign to show the 11.5 million residents what life could be like without the noise and stench of the internal combustion engine.

The experiment will be repeated every Sunday and public holiday for an indefinite period. Sunday is normally a busy shopping day here.

The improvement in the air was dramatic. Meters recording carbon monoxide levels nosedived, and for a few minutes in the West Tokyo area of Shinjuku the needle rested on zero.

In the world-famous Ginza shopping and entertainment district of downtown Tokyo the pollution level dropped to two parts per million—about half the normal 4 p.m. Sunday reading.

Although no recordings were made in two other heavily traveled areas of the city, Ikebukuro and Asakusa, the air was reported to be less smelly than usual.

Their eyes, throats and noses punished by weeks of stinging smog, Tokyo residents responded enthusiastically to today's experiment.

About 750,000 people were reported by police to have thronged the traffic-free streets.

In Ginza, they sat in temporary sidewalk cafes, were offered cold wet towels and free ice cream by bikini-clad girls and watched a folk dancing troupe from southern Japan. Police said crowds at some places were 20 times greater than usual.

The Mitsukoshi department store said it had 200,000 shoppers, compared with a usual Sunday figure of 130,000. Sales ran 50 per cent ahead of the usual figure, store officials said. Officials at the Matsuya department store said that "sales are just about like Christmas."

The store estimated that it had 160,000 visitors. Ginza's third big department store, Matsuzakaya, said sales were 35 percent ahead of normal for Sunday.

In Shinjuku, the promenaders became entangled in a march by two rival left-wing student factions who converged on the same spot for a fund-raising drive. Police watched from the sidewalk, but there was no trouble.

Signs proclaiming "Shinjuku Beautiful Day" sprouted on stores along the street, where business was reported better than ever. Ginza merchants vetoed a similar street closure last year because they feared it would damage business.

Minobe told newsmen tonight he hoped the next step would be to extend the street closure to Saturdays and then perhaps for limited periods during the week.

Meanwhile, Tokyo's anti-pollution police squads will be back in action Monday stopping vehicles throughout the city for spot checks on exhaust emission.

New regulations in force since yesterday allow a carbon monoxide density of up to 4.5 per cent in vehicles less than a year old and 5.5 per cent in those older.

Two hundred drivers have already been instructed to repair their vehicles or face a fine of up to 30,000 yen ($85).

[From the New York Times, Aug. 3, 1970]

ENVIRONMENT AGENCY FUND CUT DEPLORED BY KEY CONGRESSMEN

(By E. W. Kenworthy)

WASHINGTON, August 2.—Members of Congress who had hoped that the Federal Government would play a much larger role in setting policy for environmental protection are disheartened over a one-third cut in a key appropriations bill.

Last week, in an action that received little public attention, a House-Senate conference committee cut the authorization for the White House Council on Environmental Quality from $1.5-million to $1-million. The funds were among those voted for a cluster of the smaller Federal agencies.

The council is charged with advising the President on all matters relating to environmental protection. Its principal function is to evaluate the effects of Federal programs and actions, such as the building of a dam or the possible dangers of pesticides approved by the Department of Agriculture.

COMMENT BY MUSKIE

In an interview after the conference committee's action, Senator Edmund S. Muskie, Democrat of Maine, who is chairman of the Public Works Subcommittee on Air and Water Pollution, said:

"It is ironic that appropriations for the Council on Environmental Quality should be cut while an environmental crisis exists along the entire length of the East Coast. This is not the time for underfunding, which can only result in undermanning of important work in environmetal protection."

Senator Henry M. Jackson of Washington, chairman of the Interior Committee, said:

"If this cut stands, the performance of the C.E.Q. will be far from its promise. Without staff, the council cannot evaluate the effect of Federal programs on the environment, which Section 102 of the act requires."

Senator Jackson was the sponsor of the National Environmental Policy Act of 1969, which was signed by President Nixon Jan. 1. The act established the council of three members and authorized an appropriation of $700,000 for the fiscal year 1971.

Senator Muskie was the principal author of the Water Quality Improvement Act of 1970, which was signed by Mr. Nixon April 3. This law authorized $750,000 for the fiscal year 1971 to finance an Office of Environmental Quality, which serves as staff to the council.

JACKSON BACKS FUNDS

In addition, Congress authorized $50,000 for the Citizens' Advisory Committee on Environmental Quality, established by Mr. Nixon in 1969. This group is headed by Laurance Rockefeller.

Of the total authorization of $1.5-million, the House appropriated only $650,000. The Senate voted the whole amount.

Last week, the conference committee agreed on $1-million. Rarely does either chamber refuse to accept the recommendation of an appropriations conference committee.

Senator Jackson said that he would try to get the cut restored in the next supplemental appropriation bill, which Congress will act on just before adjournment. Unless the council gets the full amount authorized, Mr. Jackson said, its chairman, Russell E. Train, will be unable to assemble the professional staff he requires.

The council is an advisory body. It has no power to enforce environmental programs. Its only real "clout" is derived from Section 102 of the act creating it.

This directs every Federal agency, when making any legislative recommendation that could significantly affect the environment, to include "a detailed statement" on the environmental impact of the proposed action along with alternatives to that action. These statements must be sent to the President and the council and be made public.

Initially, there was much confusion over what actions were covered by this section. For example, when Secretary of Agriculture Clifford M. Hardin urged passage last February of a bill to permit increased logging in the national forests, he submitted no statement on the ground that there would be no significant environmental impact.

In another instance, Secretary of Transportation John A. Volpe and John H. Shaffer, head of the Federal Aviation Administration, interpreted Section 102 as not applicable to the request for $290 million more for the supersonic transport. The SST, they argued, was an ongoing program, initiated before the Environmental Policy Act was passed, and the funds were for the development of a prototype plane that in itself would have no environmental impact.

On April 30, Mr. Train issued interim guidelines to all agencies clarifying what actions were covered. The guidelines made it clear that a proposal to increase cutting in the national forests should be accompanied by a statement under Section 102. On the question of existing programs, he said that "to the fullest extent possible" the act should apply to them.

The council has no power to reject it or to halt a project but can recommend such action to the President.

According to staff members of the council, the White House is giving full support to the council's interpretation of the act in requiring the submission of statements when an action is proposed and not after it is taken.

There is, however, one notable exception, these officials concede. That involves the supersonic transport, which the council opposes and the President vigorously supports.

[From the New York Times, Aug. 3, 1970]

ENVIRONMENT GOES TO COURT

The State of Michigan is pointing the way toward a society in which men, either personally or disguised as corporations, will foul the envirenment only at their legal peril. The Legislature has passed, and Governor Milliken has signed, a measure that will allow a citizen to file suit against anyone, including the state itself, believed to be seriously contaminating the air, water or land resources belonging to all.

Like the Hart-McGovern-Udall bill, still in committees of both Houses of Congress, the Michigan law does not rest on a showing of personal damage—at least not the kind of damage that can be measured in dollars and cents. It will be enough to persuade a Michigan court that a river is being polluted or the air contaminated in spite of the law or even that the law itself is inadequate to the need. The court than could grant injunctions, impose conditions or even direct the upgrading of standards.

If the 49 other states were to follow Michigan's lead, there might be no need for a Federal law, but that is no more probable than a uniform approach to divorce, crime or election laws. But Federal legislation might well obviate the need for state-by-state laws allowing environmental suits. The course of the Hart-McGovern-Udall bill shows that its highly desirable passage cannot be taken for granted. The Justice Department is known to be sour on the proposal, possibly anticipating the discomfort it might feel in serving as counsel to a fellow-agency of government brought to book.

But it is precisely because governmental agencies, Federal or state, are so frequently derelict in the enforcement of the very standards they were created to enforce that a way must be found for the citizen to seek judicial relief. It is not a circumvention that should be resorted to lightly, but there is no likelihood that Michigan's judges are going to burden their already overcrowded calendars with frivolous suits. A plaintiff in environmental cases should have to present a serious cause of action. When he does, he is surely entitled to more than the quick brushoff of the endless delay which are the twin traits of administrative bureaucracy.

SENATE RESOLUTION 437—SUBMISSION OF A RESOLUTION AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF PART 1 OF HEARINGS BY THE COMMITTEE ON COMMERCE ON "CONSUMER PROTECTION"

Mr. MOSS submitted the following resolution (S. Res. 437); which was referred to the Committee on Rules and Administration:

S. RES. 437

Resolved, That there be printed for the use of the Committee on Commerce one thousand additional copies of part 1 of the hearings before its Consumer Subcommittee during the Ninety-first Congress on "Consumer Protection" (S. 2246, S. 3092, and S. 3201).

SENATE RESOLUTION 438—SUBMISSION OF A RESOLUTION AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF PART 2 OF HEARINGS BY THE COMMITTEE ON COMMERCE ON "CONSUMER PROTECTION"

Mr. MOSS submitted the following resolution (S. Res. 438); which was referred to the Committee on Rules and Administration:

S. RES. 438

Resolved, That there be printed for the use of the Committee on Commerce one thousand seven hundred additional copies of part 2 of the hearings before its Consumer Subcommittee during the Ninety-first Congress on "Consumer Protection" (S. 2246, S. 3092, and S. 3201).

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 428

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Oregon (Mr. HATFIELD) be added as a cosponsor of Senate Resolution 428, authorizing the Committee on Commerce to conduct an investigation of firms promoting travel abroad by American students.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). Without objection, it is so ordered.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, August 3, 1970, he presented to the President of the United States the enrolled bill (S. 3348) to amend title 38, United States Code, to increase the rates of compensation for disabled veterans, and for other purposes.

AMENDMENT OF CLEAN AIR ACT—AMENDMENTS

AMENDMENT NO. 815

Mr. NELSON submitted amendments, intended to be proposed by him, to the bill (S. 3229) to amend the Clean Air Act in order to extend the authorizations for such act, to extend the provisions of title II relating to emission standards to vessels, aircraft, and certain additional vehicles, and for other purposes, and to provide for a study of noise and its effects; which were referred to the Committee on Public Works and ordered to be printed.

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

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENT—AMENDMENT

AMENDMENT NO. 816

Mr. PROXMIRE submitted an amendment, intended to be proposed by him, to the bill (H.R. 17123) to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes, which was ordered to lie on the table and to be printed.

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

AMENDMENT NO. 817

Mr. WILLIAMS of Delaware (for himself, Mr. MANSFIELD, and Mr. DOLE) proposed an amendment to House bill 17123, supra, which was ordered to be printed.

(The remarks of Mr. WILLIAMS of Delaware when he proposed the amendment appear later in the RECORD under the appropriate heading.)

AMENDMENT NO. 818

PERMANENT CHANGE OF STATION

Mr. PERCY. Mr. President, we are currently considering legislation that deals with the authorization for military procurement. Each of us knows that the debate on this bill will be lengthy. Those parts of the debate relating to our national security will be bristling with facts and hold the attention of everyone; other parts of the debate may be tedious. But all of it will be an important part of the function of this body. We in the Congress have not only the right, but the duty, to question closely each item for which the taxpayer's money is to be spent.

Over the past weeks, I have indicated my desire to identify those areas where excess fat can be trimmed from the fiscal 1971 budget and spending can be reduced by at least $4 billion.

Up to this time, I have recommended actions by the administration and Congress that would result in annual savings of $1.5 billion. Today, I direct my remarks to another area in the budget where we can economize. I am pleased to be able to identify an area that will not only save money, but will go a long way toward stabilizing the life of military families.

In fiscal 1971, $1.3 billion is earmarked for permanent change of station moves, or PCS. Basically, this is the rotation of military personnel from assignment to assignment.

Approximately $460 million of the total will go for rotation of servicemen after 12 months of duty in Southeast Asia. This expenditure is certainly necessary and I fully support it.

Another $300 million of the total is to go toward the normal cost of training and separation, also I presume necessary.

We are, therefore, left with approximately $559 million. I have studied this

proposed expenditure, and it is my opinion that the Secretary of Defense should immediately undertake an investigation to determine how best to reduce, from this remainder, at least 25 percent of the cost of permanent change of station moves.

The most obvious course of action would be to lengthen certain tours of duty. The decision on how this can best be achieved rightly belongs to the military itself.

As I have indicated, a reduction by 25 percent in PCS moves would have two immediate beneficial effects.

First, by a lengthening of tours, there would be less frequent moving from base to base. Consequently, the military families would have the opportunity to enjoy a greater degree of stability. I have talked to military men with families, and they have been enthusiastic about the potentially beneficial effects of this proposal.

The second advantage would be one of economy. By reducing the number of PCS moves by just 25 percent, a saving of approximately $140 million a year could be realized. Most organizations in the private sector that rotated personnel as frequently as the military services would go bankrupt. The practice is overdone, is wasteful, and inefficient as now carried out.

I believe that this is an area in which we can tighten our belt in the fight against inflation, and move toward a more balanced budget without any real loss. Consequently, I am today submitting an amendment that will amend the military authorization bill to instruct the Secretary of Defense to take the necessary actions to implement the plan I have spoken of this afternoon.

Mr. President, after my last announcement concerning the subsistence programs of the military, I received a letter from a woman who suggested I stop enumerating such trivial items. However, it is through the accumulation of items that may seem trivial that I have been able today to reach a total of more than $1.6 billion in projected savings. It is precisely by looking at what may seem to be unimportant or trivial that we can help to stem the tide of inflation and help the President in his attempt to avoid a sizable deficit in fiscal 1971—a deficit that some predict may reach $10 billion.

So I pledge that I will continue to carefully appraise the spending programs of the Federal Government as a part of my overall responsibility on the Senate Government Operations Committee and as a member of the Joint Economic Subcommittee on Economy in Government. I will be looking for areas in which we can save money; that will be my only criterion. I do not care how exciting the search may be.

Saving money is the goal of President Nixon, it is my goal, and it is a goal of every member of this body.

Mr. President, I ask unanimous consent that the text of my amendment be printed in full at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. DOLE). The amendment will be received and printed, and will lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 818) is as follows:

AMENDMENT No. 818

At the end of the bill add a new section as follows:

"SEC. 507. In order to reduce annual expenditures in connection with permanent change of station assignments of military personnel and in order to help further stabilize the lives of members of the Armed Forces and their dependents, the Secretary of Defense is directed to initiate promptly new procedures with respect to domestic and foreign permanent change of station assignments for military personnel under which the length of permanent change of station assignments will, whenever practicable and consistent with national security, be made for longer periods of time. The Secretary shall achieve not less than a 25 per centum reduction in such expenditures in the fiscal year beginning July 1, 1971, and in each fiscal year thereafter, as compared with expenditures for such purposes in the fiscal year begnning July 1, 1970, taking into account the relative number of men in military service during such fiscal year and other relevant factors. The provisions of this section shall not apply with respect to the assignment of military personnel in combat zones or with respect to so-called fixed expenditures resulting from training, separation, promotion, and similar activities within the Department of Defense."

ADDITIONAL COSPONSOR OF AMENDMENTS

AMENDMENT NO. 765

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Oregon (Mr. HATFIELD), I ask unanimous consent that, at the next printing, the name of the Senator from Idaho (Mr. CHURCH) be added as a cosponsor of Amendment No. 765 to H.R. 17123, the Military Procurement Authorization Act, implementing the recommendations of the President's Commission on an All-Volunteer Armed Force.

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

AMENDMENT NO. 774

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Texas (Mr. YARBOROUGH), I ask unanimous consent that, at the next printing, the name of the Senator from Utah (Mr. BENNETT) be added as a cosponsor of amendment No. 744 to S. 3619, to create within the Office of the President an Office of Disaster Assistance, which would authorize the Small Business Administration to make loans to disaster victims to prevent the dispossession or eviction of any person from his residence as a result of the foreclosure of any mortgage or lien, cancellation of any contract of sale or termination of any lease, oral or written of the property which is such person's residence.

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

REVENUE-SHARING GIMMICK

Mr. WILLIAMS of Delaware. Mr. President, in the Washington Daily News of Monday, July 27, there appeared an editorial entitled "The Revenue-Sharing Gimmick."

This editorial should be read by every Member of Congress and by every Governor since it points out the extravagant policies of both the State and Federal Government as they attempt to finance the multitude of overlapping programs.

With our Government operating at a deficit averaging over $1 billion per month it is time that the Governors recognize that all that the Federal Government has to share is a deficit.

There is only one real method of the Federal Government's sharing revenue with the people of the respective States; and that is, that first it must reduce expenditures, which can be accomplished by a reduction in the demands of the State governments for more Federal aid, and then after achieving a balanced budget let us reduce taxes and let the American people spend their own money rather than siphoning it through State legislatures.

What both the Federal Government and the State governments need to recognize is that the American taxpayers who earn the money know best how to spend it.

I ask unanimous consent that the editorial referred to be printed in the RECORD.

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

THE REVENUE-SHARING GIMMICK

Last August President Nixon proposed to Congress a modest program to "share" Federal tax income with the states. He wanted to start out by turning over a half-billion dollars to the states, stepping this up to $5 billion annually in the next five years.

Congress hasn't done anything about this and the governors of the states are quite annoyed. At a recent meeting in Columbus the governor of Minnesota said the congressmen were acting like "prima donnas" on this proposal and the governor of Illinois proposed that the states initiate a constitutional amendment to force the Federal Government to share revenues with the states.

Ever since FDR was President, the states have been panting for more and more money help from Washington. So-called Federal "aid" to state and local governments has zoomed to around $28 billion a year.

But the results, as the Governor of Indiana said in Columbus, have been simply frustrating.

"No governor, no state administration," he said, "can have satisfactory relations with the Federal Government."

Too much bureaucracy in Washington. A baffling maze of programs. Too many rules. Too much extra cost for the states themselves.

Or, as President Nixon said last August: "We have hampered the effectiveness of local government by constructing a Federal grant-in-aid system of staggering complexity and diversity."

It's worse than that, in fact. Whatever usefulness these programs have had, it has come nowhere near being commensurate with the costs. That's because of the overlapping, delay and uncertainty, red tape, bureaucratic costs and confusion.

Despite the eagerness of local politicians for these handouts from Uncle Sam, the states and local communities rarely save money, sometimes spend even more, and seldom get the job done as well as they might do it themselves.

The Federal Government, as Congressman Charles A. Vanik of Cleveland suggests,

would do better simply to vacate these programs, yield up some of the tax sources it has hogged, and let the states and towns raise their own revenues and meet their own needs.

As long as the Federal Government collects the money and siphons it back to the states, it will exact a heavy—and wasteful—handling charge, not to mention the complaints cited by the governor of Indiana.

The governors have encouraged the fantastic growth of Federal handouts by constantly rushing to Washington with tin cups. It would be cheaper for their taxpayers if they simply would tell Washington to mind its own affairs, and let the states attend to theirs.

McGEE SENATE INTERNSHIP WINNERS

Mr. McGEE. Mr. President, this week, I shall have in my office with me two outstanding young people from the State of Wyoming who are the statewide winners of the annual intern competition which I conduct in the State. The purpose of the competition is to permit a high school junior boy and girl to spend a week in the Nation's Capital, in all the relevant places here that would enhance an understanding of the mechanisms and the procedures of a democratic society.

These two youngsters are Dennis Wagner, who will be a senior this coming year in the Cheyenne Central High School, and Miss Laura Connell, who will be a senior at the Big Horn High School in the northern part of the State.

These two youngsters, in emerging as the winners of the competition, reflect the caliber of what was undertaken. Most of the high schools in Wyoming picked their local winners, each of which in turn then became a contestant on a statewide basis.

Three well known, nonpolitical people from the State served as the panel of judges in the competition. In their judgment, this year brought the highest level of essays that the many years of this contest has produced.

The subject matter was conservation, quality living, environmental control. For Wyoming to focus on that question is of great relevance. For here is a part of the world that we call God's country in which one would think there were no pollution problems, per se.

I think what it does say to us in the Rocky Mountain West is that the mistakes that have polluted parts of the United States already may have served as a grim warning to those of us from the high altitudes in the Rockies of at least what to watch for and try to avoid in the future and, at the same time, to come to grips with the first outcroppings of the environmental pollution even at the local level.

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

Mr. McGEE. Mr. President, will the Senator yield me an additional minute?

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may proceed for 10 minutes.

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

Mr. BYRD of West Virginia. Mr. President, I yield 1 minute to the distinguished Senator from Wyoming.

Mr. McGEE. I will share their essays with the Senate, Mr. President. But first let me say a few words about these two young people. Dennis, the son of Mr. and Mrs. J. Owen Wagner of Cheyenne, has maintained honor roll standing throughout secondary school. He has been active in band and junior ROTC, wherein he has won both the high scholastic award and superior cadet decoration. His activities also include Key Club and Science Club; his hobbies include music, photography and tennis. Like Miss Connell, he maintains a standing in the upper 10th of his class.

Laura is a member of the Honor Society at Big Horn High School in Sheridan County, Wyo., where she resides with her parents, Dr. and Mrs. J. R. Connell. She has been a student council representative and both secretary and treasurer of her class, as well as a member of the Pep Club, the Glee Club, Girls' Athletic Association and a cheerleader for 3 years. She also has been active for 8 years in 4–H Club work. She has done ranch work and horsetraining. Laura, in fact, is an accomplished horsewoman. Her other hobbies are diving and trampolining.

With that introduction of the authors, Mr. President, I ask unanimous consent that their essays on "Conservation: Its Relevance in Wyoming" be printed in the RECORD.

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

CONSERVATION: ITS RELEVANCE IN WYOMING

(By Dennis Wagner)

Industrial growth in the United States has caused severe environmental damage. Skies are filled with fly ash, lead, and various other harmful chemicals. Rivers and lakes overflow with old tires, sewage, and manufacturing waste. Even our land is covered by ugly freeways and parking lots. Cities have become merely a mass of steel and concrete. Our home, the earth, is being made unfit for life.

Wyoming is one of the few areas in our country that has not been troubled severely by pollution—but it has begun. Our wide open spaces are now speckled with waste paper. Our rivers appear to become just a little dirtier each day. Some people are even beginning to complain about the smoke in the air. Much of our land is now covered by concrete in one form or another. Yes, pollution is here. It is extremely irritating, but not yet unbearable.

It seems that many people do not yet understand why we should be so concerned about preserving our forests and waters when industrial plants, polluting or not, mean money in their pockets. Others are concerned, but they are not yet ready to make the sacrifices necessary to curb pollution and wasting of resources.

The United States is a country rich with natural heritage. Wyoming is one of the last great holdouts for nature, but man is gnawing away at the retreat. In Wyoming one can marvel at a countless number of nature's wonders. In Yellowstone National Park we can see nature at her creative best with works that man, even with all of his technical skill, can never hope to top. Devil's Tower is an astounding rock formation that man can only wonder about. Simpler but equally marvelous sights are everywhere in Wyoming. Indeed, the simple life of our abundant wildlife is a miracle in itself. When one stops a moment to reflect on these simple marvels, he appreciates life just a little more, and society as a whole benefits.

The complex society we have created makes it necessary for each man, woman, and child to take a periodic rest. It is beneficial to our sanity to be alone with nature, if only for a short time. There is no better place to see nature than in Wyoming's wonderful forests. Animals of nearly every type are free to roam, and their freedom is passed on to anyone watching. The viewer comes away with a restored sense of purpose, and perhaps a new view on the sheer beauty of life.

But how quickly a visit to the forest can be ruined by the sight of cans, bottles, film boxes, and countless other articles of trash. In some cases, the forest itself has disappeared. Man has seen fit to replace it by progressive industry, a mining operation perhaps. Hundreds of animals have been forced to flee or perish. The sky where birds once soared high and free has become clouded with photochemical smog. Other waste is steadily fed into the nearby river where many fish once swam. Houses and related industries spring up around our mine to cover even more of the earth's beauty. Soon bigger highways will be needed to carry more automobiles that in turn will worsen air pollution. The earth has been exploited—a once beautiful forest has been ruined, and the most unfortunate part of it all is that the minerals that have been taken from the earth will probably be wasted through unwise use.

How can man, in all his greatness, honestly believe that he has the right to destroy huge portions of nature to make room for his projects? Man is but one member of a marvelous and complex ecosystem existing on planet earth. Every member—insect, earthworm, tree, even tiny bacteria—has an important role to play. Man has tipped the balance and is now just beginning to reap the rewards. The balance must be restored as nearly as possible if we are to survive.

When a forest is destroyed, it can never be exactly replaced. When a rock formation is toppled, man can never restore it. When a living creature is killed, man cannot magically put life into the empty shell again. Afterwards is too late. Much of the damage done to our earth is irrepairable—and we are now beginning to realize it. Yet we continue to destroy. We preach conservation while we waste land, water, other resources, and even life itself. The violations of natural law now in progress must be stopped; the damage that has already been done must be repaired as nearly as possible; and strict guidelines for the future must be established.

This is not to say that industry must be barred from Wyoming or that its inhabitants must return to a pioneer way of life. Industrial growth must be carried out in harmony with nature. The important thing is for Wyoming to be maintained as the "Great Land Outdoors." We as individual members of a vast ecosystem need room in a healthy, unpolluted world to communicate with our fellow members. It is only in this manner that life can take on real meaning. Man's desire to solve the many puzzles of life can only be satisfied by study carried out in a pure world. We must fight doggedly any "progress" that calls for the destruction of nature. Our very survival is at stake!

CONSERVATION: ITS RELEVANCE IN WYOMING

(By Laura Connell)

A boy standing atop a high hill can see for miles, to the edge of the earth it seems. Broad green valleys stretch for miles below him. Twenty-five miles to the west he can see huge mountains rising to meet the endless blue sky. Through the cold clear air comes the sound of a train whistle, ten miles away. The green pastures below him are dotted with cattle and horses grazing. Deer mingle freely with them, and he can see his

favorite fishing hole below, sparkling in the sunlight.

Another young boy, standing in a roof garden atop a tall building in New York, looks out across the city. He looks across the endless panorama of gray and dirt-brown buildings. Huge smokestacks and chimneys spout black smoke, and small bits of cinder and ash float lazily through the air above the rooftops. A short distance away, where the mighty Hudson River dumps its oily, brown waters into the Manhattan Bay, huge mountains of suds pile up. Like fluffy gray and white clouds, they float away to the ocean. Dead fish twist and turn as they drift into the waves. Half a mile away, the Empire State Building can be seen vaguely through the smog. Below, the traffic winds through dirty, litterstrewn streets. Above the noise of the city, the boy can scarcely hear his mother calling from downstairs.

Which lookout point would you choose? Many people today don't even know there is a choice. Those who have been raised in large cities have long since grown used to pollution of every kind, air pollution, water pollution and even noise pollution. Others, raised in country such as our Wyoming, often don't realize what real pollution is. For us, it is nothing unusual to stand on a green river bank and watch the trout play in the clear water, or to look up and see an eagle soaring high above us under the clear blue sky.

People often don't appreciate their blessings until they lose them. Everyone goes his own way, to school or to work, never thinking what a candy wrapper dropped or a beer can tossed out the window can do to a landscape. Still everyone complains about the littered highways, parks, and campgrounds that "the other guy" messed up.

It often takes something big or sudden to make the public realize that they are losing the natural beauty they have inherited. A sawmill built on the edge of town, a new detergent factory dumping pollutants into a river or a rash of sonic booms often shock people to their senses, but not often enough.

You sometimes wonder if you are in the right state when you wake up in the morning and see a pall of smoke hanging over the valley, all caused by one sawmill. Of course it doesn't happen every day, but *no* factory should rely on Wyoming weather to carry the smoke away. It also makes you wonder when you travel long miles into a Rocky Mountain primitive area and still see trash and litter along the trails.

These things are not only disagreeable to humans, but they harm the wild life as well. In Wyoming we are extremely fortunate; we don't have to watch birds suffer and die from lack of pure air or watch them flounder about in an oil-covered ocean. We don't have to see dead fish floating down our rivers by the hundreds. Hopefully we will never have to see these things in Wyoming. But it will take a great deal of intensive conservation on the part of the public, as individuals and as a whole, to prevent this.

Then there is the vital problem of conserving Wyoming's wildlife. The forest service and wildlife councils in Wyoming are doing a terrific job, but the people, as a group, must stand behind them in their conservation programs.

A deer poached here and a turkey there, can add up to enough out-of-season killing to upset a whole program. The laws are here; all they lack is strict enforcement. Stiffer penalties could also curb out-of-season hunting and fishing. But most of this conservation *must* depend on the individual.

It is possible for the public to take steps to stop air and water pollution. Volunteer groups can start drives to clean up road sides and advertise anti-litter movements. The public as a whole can encourage governors, senators and representatives to present anti-litter and pollution bills, can write letters, start petitions and send telegrams.

Yes, we do have a choice, a choice between clean air and smog, polluted water and sparkling streams, abundant wildlife or its extinction. There is a choice; it is now left for us to choose.

CAMPUS DISTURBANCES

Mr. BYRD of West Virginia. Mr. President, the American people are deeply disturbed by the unrest and disorders which have disrupted our colleges and universities, and they are apprehensive over reports that militant radicals and subversives may attempt to close a number of our institutions of higher learning this fall.

The recent testimony taken by the President's Commission on Campus Unrest has done little to allay fears that even worse may be in store than what has already been experienced, since most of the statements made to the Commission and publicized thus far have come mainly from those who appear to sympathize with and support the militants, dissidents, and revolutionaries.

There is, likewise, little that is reassuring in the report made to the President by his special adviser on campus problems, Dr. Alexander Heard, chancellor of Vanderbilt University.

In both instances—the statements taken by the Commission and the report of Dr. Heard—the scales appear to be weighted in favor of those who have caused the trouble, and against those who want to get an education. Unless some proper balance is achieved between the views of opposing sides on this issue, I very much fear that neither the advice of the President's special adviser nor the eventual report of the Commission headed by former Governor Scranton will be of much help in bringing a satisfactory conclusion to the very serious problems in our schools.

Another of President Nixon's special advisers on the campus problem, Dr. James E. Cheek, president of Howard University, was quoted in the press today as having said on television yesterday that he is "pessimistic" about the hopes for a better situation partly because the White House has yet to exert a strong moral influence.

I am not sure, Mr. President, exactly what President Cheek had in mind. But it should be obvious to anyone who has considered this situation at all that the absence of strong moral leadership by the colleges themselves, their administrations and their faculties, is the major factor in the deterioration of the quality of campus life that has occurred.

Dr. Cheek was further quoted as saying that "conflicting assessments" of the campus situation were being made in important places—and he is certainly right on that score. The failure of the college community itself to make proper evaluations in regard to the disorders has exacerbated the turmoil.

Mr. President, commonsense—just plain, old-fashioned commonsense—should tell us that much more is needed to produce a mature judgment on the campus problem than to just keep harping on the "grievances," whether real or imagined, of dissatisfied students and nonstudents. There are two sides to this question—and precious little has yet been heard on the side of maturity, responsibility, and sound educational policy.

Where change or reform is necessary, it should be made—and it is being made. More, I venture to say, has been done in the last few years to bring our colleges and universities into conformity with young people's needs—to make them "relevant," in the current phrase—than at any previous time in our history. But whatever is done does not seem to be enough. Now, much of the college trouble is being blamed on the attitude of President Nixon and Vice President AGNEW—a ridiculous contention, in my opinion, since both men took office a good while after the campus problems began.

The nub of the difficulty is the growing disregard for discipline in our society, manifested on the campus by the failure of college administrators to fire professors and expel students who foment rebellion, and in the home by the failure of parents to heed the scriptural admonition: "Spare the rod and spoil the child."

To use an old cliche, Mr. President, we have reached the point in American education where the "tail is wagging the dog." For student activists to complain that they are not being heard is preposterous; they are being heard to the exclusion of almost everybody else.

Yet, Mr. President, college students represent only something like 4 percent of the population of this country, and few of them have ever had any actual responsibility in the sense that the mature population in this country is faced with responsibility. The disrupters, the noisy dissidents, and the militants constitute a much smaller minority, and I see no reason for the President, or the Congress, or the Governors of the States, or legislatures to be expected to spend large amounts of time conciliating and placating only a tiny minority of the college population.

Friday's New York Times, Mr. President, contained an interesting front page story headlined "White House Cool to Heard's Story"—and I may say that I applaud the position taken by the President on this subject during his news conference last Thursday evening.

I also call attention to an article which appeared on the editorial page of the Wall Street Journal Wednesday, July 29, which I found to be an unusually perceptive piece dealing with the subject of the campus troubles and the role of the Scranton Commission and the Heard Report.

In this article, written by Douglas L. Hallett, a Yale University senior, the statement is made by this student that "students are frighteningly ignorant of the problems the country faces and of the efforts that have been made to solve them." Moreover, this observer from the campus itself says, "Students do not know what they want." And he concludes that colleges, "more than any other institution . . . are responsible for preserv-

ing our past and passing along the best of it to the next generation. They have failed miserably in that role."

Mr. President, I believe that Senators will find both the articles to which I have alluded worthwhile. I ask unanimous consent that the articles to which I have referred and an article entitled "Heard Says the System Must Court Alienated," published in the Washington Post on August 2, 1970, be printed in the RECORD.

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

WHITE HOUSE COOL TO HEARD'S STUDY—NIXON MEN, DISAPPOINTED IN DATA ON CAMPUS UNREST, ARE CRITICAL OF SCHOOLS

(By Robert B. Semple Jr.)

SAN CLEMENTE, July 30.—The White House view of the recent Heard report on campus unrest is only now becoming known, and it can be summarized in one word: disappointment.

The 40-page report was written by Alexander Heard, Vanderbilt University chancellor, who served from May 8 to June 30 as President Nixon's special adviser on the academic community. It was unveiled late one afternoon last week with little White House comment.

But on the basis of extensive talks with Mr. Nixon's senior aides here, it is clear that in their minds the report fell short of expectations as both a philosophical examination of the causes of student unrest and as a practical guide to policy.

Their major objection, they complain, is that Mr. Heard tended to attribute student unrest to national policies, particularly Vietnam, whereas in their view the fault lies at least in part with the students, faculties and university administrators and what one aide called "the overwhelming sense of self-righteousness in the academic community."

ARTICLE IS PRAISED

At the Presidential compound in San Clemente yesterday, for example, one of Mr. Nixon's top four advisers came up to a reporter with an article that he had clipped from yesterday's Wall Street Journal. The article, written by Douglas L. Hallett, a senior at Yale and present chairman of The Yale Daily News, was headlined "Campus Unrest: Don't Blame Mr. Nixon" and argued that the responsibility lay with the very same people "who have been devoting so much energy to blaming the President."

"This," the aide said, brandishing the clipping, "is the best thing written on the campus problem." The article has since received widespread distribution among the President's staff.

None of the criticism is directed at Mr. Heard personally. He arranged many meetings between the President and university leaders, and all of the meetings were described here as "very helpful." Also, his energies are widely appreciated by Mr. Nixon and his aides.

Yet the criticism persists in many forms. As a practical matter, for example, one aide said that he and the President had hoped the report would yield concrete suggestions for a "permanent mechanism" for communicating with students. But he said that Mr. Heard's urgings to bring young people into policymaking posts or "improve two-way communications with the campuses" were either too vague or impractical.

The same aide also acknowledged that the White House itself had not been able to devise a "permanent mechanism." Indeed, if private interviews here this week are a reliable guide, the appointment of Robert H. Finch, counselor to the President, as "White House liaison" with the campuses is the only initiative likely to be undertaken, apart from general efforts to make sure that the President's point of view is more widely appreciated.

PROBLEM IS DEFINED

"The students are being heard" one official insisted. "We do not, for example, need weekly meetings with them to understand what's bothering them, what we do need are better efforts to get across our position."

Philosophically, the objections lodged here take many forms. Although Mr. Heard acknowledged that "educators have a lot of work to do for themselves," the thrust of his argument was that only an immediate rearrangement of "national priorities" would soften tensions and dissipate alienation among students.

The White House feels that he devoted insufficient attention to the other possible causes, including the bureaucratic structure of the universities and the failure of faculties to educate students to what Mr. Hallett calls, in his article, "the slow and deliberate character of social change."

In addition, the White House resents Mr. Heard's characterization of the student community as a particularly influential group deserving special access to the President.

It prefers, instead, to accept Mr. Hallett's definition of students as a small element of the population whose responses are "emotional," whose "commitments are transitory" and who tend to react to "rhetoric" alone because "they are frighteningly ignorant of the problems the country faces and of the efforts that have been made to solve them."

PRESIDENT TO ALL

"There are seven million students in colleges and universities, about 4 per cent of the population," one aide said. "The President is President of 100 per cent of the people."

Nor do White House aides accept Mr. Heard's implicit characterization of students as a relatively homogeneous group pushed leftward by the Cambodian incursion and the deaths of four students at Kent State.

One official said that Mr. Heard had tended to derive his opinions from the "prestige" universities, whereas a meeting between Mr. Nixon and the presidents of St. Louis University, East Texas State, Brigham Young and other colleges less well known than Eastern schools had produced "quite a different" view of campus attitudes.

In all these comments, too, there is an undercurrent of frustration at what Mr. Nixon's associates believe to be the students' refusal to give credit for efforts to disengage the country from Vietnam, reform the welfare system and replace the draft with a volunteer army.

This simply reinforces their conviction that students are oriented toward "absolutist" moral solutions of popular emotional issues—which Mr. Heard conceded—and that the students are therefore impatient with the hard work of gradual reform within the existing political system.

The political implications of these views are difficult to assess, but to some observers they suggest that the Administration is hardly prepared to make special efforts to conciliate 4 per cent of the nation's population at the expense of its many followers in the "silent majority."

CALIFORNIA A FACTOR

Moreover, the men who have studied the Heard report carefully—including Mr Finch and H. R. Haldeman, Mr. Nixon's chief of staff—are Californians by background, and in California politicians have found profit in criticizing student dissent.

Mr. Haldeman served on the Board of Regents at the University of California during some of its most troubled days and is known to have strong views on the subject.

CAMPUS UNREST: DON'T BLAME MR. NIXON

(By Douglas L. Hallett)

WASHINGTON.—President Nixon has now had an opportunity to study the initial testimony of his Commission on Campus Unrest headed by William Scranton. He has also received a report from his special adviser on campus problems, Alexander Heard, chancellor of Vanderbilt University. Hopefully he will read both selectively. Although the commission and Mr. Heard have elucidated some of the problems facing universities, their basic thrust is much too one-sided and much too limited by contemporary events to be of any real value.

While the testimony before the Scranton commission and Mr. Heard's report make some reference to the need for reform on university campuses themselves, the dominant tone is somewhat different: The President is at fault. He must listen to the students, respond to their views, end the war, and if that cannot be done tomorrow, at least try to "communicate" with the nation's colleges and universities.

"It may well be that the only line in your report that will have meaning for our colleges and universities is the line that reads: 'This war must end'," said Sen. Edward M. Kennedy (D., Mass.). From Robben Flemming, president of the University of Michigan: "An end to the use of American troops in Vietnam will not still campus unrest, but it will do more than anything else to help contain it." From Charles Palmer, president of the National Student Association: "As long as there is substantial American military involvement in Indochina, students will continue to oppose it."

And the foundation of criticism of the war is always buttressed with the nation's other alleged failings. "Unless we can begin now (restoring youth's faith by doing their bidding)," testified Yale psychologist Kenneth Keniston, "ours will not only be a divided and sick society, but a society that has lost the best of its youth—a society on its deathbed." Even calm Mr. Heard recommended "that the President increase his exposure to campus representatives, including students, faculty and administrative officers, so that he can better take into account their views, and the intensity of those views, in formulating domestic and foreign policy."

There is, of course, some validity in these views. Certainly the war and the threat of the draft have created consternation on campus. Certainly many able students are shocked by the disparity between their own luxury and the deprivation around them when they leave comfortable suburban high schools for the dirt and tedium of urban university neighborhoods.

IMPORTANT SOCIAL FACTORS

Even more important are other social factors the Scranton Commission and Mr. Heard have yet to discuss. Students discover in college for the first time that they will not inherit the earth, that the increasingly centralized nature of the American economy has foreclosed many of the opportunities for self-expression they thought they would have. Thousands study international relations in college, but the State Department can use only 150 each year. Only a few in any profession can rise to positions where individual initiative and creativity are truly possible.

But no amount of frustration with society justifies or explains the destructive path some student protest has taken recently. President Nixon has withdrawn more than 100,000 troops from Vietnam and instituted draft reform that will lead to a voluntary army. He has proposed an income maintenance plan that would be the most revolutionary domestic program in a generation and he is already the first President since Franklin Roosevelt to spend more on domestic programs than on defense.

It can be argued that these steps are not enough. But can it really be argued that they are so unsatisfactory that burning buildings and disrupting classrooms become justifiable or even understandable?

Can it really be argued that students, a

group possessing the luxury of time to use traditional political channels and the most potential for eventually controlling them, deserve the President's special attention?

Can it really be argued that students are doing anything more than indulging their own uncontrolled emotions when their activities polarize the society and undermine the political viability of issues with which they are supposedly concerned?

Mr. Keniston and others who have been counseling the President over the past few weeks may be optimistic about the students and their concerns, but the real radicals in this society fear them. They see many students as indulging themselves at their expense. The Black Panthers denounced the white students who took to the streets during the May weekend demonstrations as "racist exhibitionists who know black people, and not they themselves, will have to face the repercussions of their madness."

And Steven Kelman, a Socialist and recent Harvard graduate whose book, "Push Comes to Shove," is the best yet on Campus unrest, blasted his fellow students before the Scranton Commission for their "snobbish, arrogant and elitist attitude." He said unrest would continue "as long as students continue to regard the American people not as potential allies in solving problems but as an enemy to be confronted."

A FUNDAMENTAL REALIZATION

Neither the Panthers nor Mr. Kelman would appreciate being coupled with Vice President Agnew, but they share with him one fundamental realization: Most so-called student radicals cannot be trusted. Students don't know what they want. They identify for periods of time with anybody from Eugene McCarthy to Bobby Seale, but their commitments are transitory. The outrage that followed the Cambodian incursion has not been followed by sustained political activity among students. As president Kingman Brewster of Yale knew when he undertook his policy of generous tolerance last spring, students get bored easily when it comes to the hard work of political organization and stop when the initial enthusiasm has passed.

Worse yet, students are frighteningly ignorant of the problems the country faces and of the efforts that have been made to solve them. They react strongly to rhetoric because they have nothing else on which to rely. It can be argued that President Nixon's withdrawal from Vietnam is too slow, but those who make this point should be willing to acknowledge that Mr. Nixon is doing exactly what Robert Kennedy proposed in 1968.

Similarly, it is possible to quarrel with the "new urbanology" of Daniel Patrick Moynihan and Edward Banfield, but it should also be clear that their approach is designed partially to eliminate the statism that proved so ineffective in the Johnson Administration's "Great Society" programs. Students, in their false morality, refuse to make these acknowledgements because their historical sense is too weak to breed in them the tolerance that should come with learning.

Responsibility for this situation does not, as the Scranton commission testimony and Mr. Heard's report come close to implying, lie with Mr. Nixon. Rather, as only a few brave academic souls such as former Cornell President James Perkins have partially conceded, it lies with the very same people who have been devoting so much energy to blaming the President: The faculty and administrators of the nation's colleges and universities. During the Fifties, Mr. Perkins argues, universities became so distracted by the McCarthy furor that they failed to keep pace with changing historical currents. Instead of changing teaching content and academic structures, they just marked time.

On a public policy level, Mr. Perkins believes this led to the universities' advocating two premises that were "bankrupt" long before the academic community noticed. One was that the United States could intervene freely throughout the world. The other was that integration, accepted by both black and white, would be the answer to racial tensions. Mr. Perkins says these faulty ideas have "chopped up" universities. And although he does not continue his argument, presumably he means that this has taken place at least partly because the universities have refused to accept responsibility for their views. Now, in their efforts to escape responsibility, they are blaming Mr. Nixon. In the process, they are breeding in their students the kind of rigidity that comes only with a one-sided historical analysis.

UNCHANGED SINCE THE MIDDLE AGES

The Perkins analysis can also be extended to the internal structure of universities. Universities are the only institutions in American society that have not fundamentally changed since the Middle Ages. They still maintain highly structured tenure systems that protect incompetence and cheat the student out of the personal tutoring that he is told the best universities offer. But the academic community's own rigidity does not stop it from lashing out at the political system and accusing it of the very same authoritarianism and repression academic institutions so perfectly exemplify. Learning from people who engage in this kind of self-delusion and self-projection, students naturally come away confused about their history and their place in it.

In fairness, it must be noted that the problem lies deeper than the campus. The loss of historical perspective and the diminished and unsure sense of the self that it brings have been encouraged by other institutions as well. Writes historian Daniel J. Boorstin. "In our churches the effort to see man sub specie aeternitatis has been displaced by the 'social gospel'—which is the polemic against the supposed special evils of our time. Our book publishers and literary reviewers no longer seek the timeless and durable, but spend most of their efforts in fruitless search for ala mode 'social commentary'—which they pray won't be out of date when the issue goes to press in two weeks or when the manuscript becomes a book in six months." Nor have the news media, in this day of up-to-the minute television coverage, done much to develop in their audience a feel for the slow and deliberate character of social change.

But inevitably the universities must take primary responsibility for the confusion among many of our students. More than any other institution, they influence the thought and feelings of the brightest of our young. And more than any other institution, they are responsible for preserving our past and passing along the best of it to the next generation. They have failed miserably in that role. And only when they begin to succeed will students turn to more constructive paths for their emotional surges.

This does not mean President Nixon cannot take some steps to ease campus tensions. He can persuade his Vice President to soften his statements that appear to many students to be deliberate incitement to riot. He can make a far better intellectual presentation of his own views than he has so far. He can begin advocating the kinds of public and private decentralization that will create new opportunities for self-expression for students and others. But Mr. Nixon should resist, and resist vigorously, anybody who advises him to institute artificial consultation with students that cannot be followed by policy decisions the students desire. The problem goes far beyond anything symbolic gesturing could solve, and besides, students get too much of that already on their campuses.

HEARD SAYS THE SYSTEM MUST COURT ALIENATED

(By Eric Wentworth)

Unless America's established political system can provide responsive national leaders, Alexander Heard warns, disaffected students and blacks may turn increasingly to other leaders—even demagogues—outside the system.

The Vanderbilt University chancellor, who served recently as President Nixon's special adviser on campus problems, contends that effective national leadership includes conveying to disaffected Americans a sense of common purpose toward solving the nation's problems.

Heard, during an interview in his office on the Nashville, Tenn., campus, recalled a previous President's performance in this connection.

"With all of the divisions and friction that characterized Franklin Roosevelt's second term especially," the 53-year-old chancellor said, "he nonetheless created a great sense of common effort and national purpose as the United States tackled the multiple problems of the Depression."

SILENT ON NIXON

The Georgia-born political scientist and Democrat repeatedly refused, however, to say anything new for the record on how he viewed Mr. Nixon's own responsiveness to what Heard has called the "national crisis" arising from student unrest.

In a summary statement issued July 23. Heard described the President as showing "serious concern . . . openness and a searching interest in what we had to say." Asked in the interview to elaborate on Mr. Nixon's reactions, he simply said, "Time will tell."

Just 12 hours after this interview, however, President Nixon was asked at his Thursday night press conference to comment on Heard's advice that he should pay greater heed to the problems of students and blacks.

Mr. Nixon replied that, among other things, he thought it was "very short-sighted" of university leaders to blame campus unrest primarily on the government.

Heard responded with statements answering both Mr. Nixon and a report that certain top White House aides were unhappy with his advice.

The chancellor said that he and James E. Cheek, president of Howard University, had been asked to advise the President, not the academic community. He was well aware, Heard added, that university authorities could do much more to control unrest themselves.

A FEW BRAMBLES

While still declining any remarks aimed directly at Mr. Nixon, Heard in one statement came close to betraying his keen disappointment. "I think that when one accepts an invitation to walk in the political forest," he said, "he must be prepared to be snagged by a few brambles."

It was evident during the interview that the chancellor was concerned lest something he might say about Mr. Nixon, or some disclosure of their private discourse, might threaten a successful outcome of his two-month mission as campus envoy to the White House.

While students and other disaffected Americans often demand swift solutions to national problems, Heard said in the interview, "we conclude from our conversations with students and our observations of students that there is an additional element involved in their definition of responsiveness, which I guess in a way is the extent to which they are taken seriously.

"They like to know why the President cannot follow their views and must follow a different line of policy," he continued. "If it is explained to them, to the extent that the

President and other public officials can, where the disagreement lies, what the differences in assumptions and values held are, what the deficiencies of inadequacies are in what they recommend, then the students like everybody else are more willing to accept the decision."

IN COMMON WORDS

Heard added that for students to be reassured that their views have been weighed in national policymaking, and for them to appreciate why these views could not be followed, "the interpretations and explanations have to be in a vocabulary—in common words—that they understand."

To recommend such responsiveness, the chancellor said is to ask for more than presidential salesmanship: "I think it's a plea from students for a tougher substantive 'dialogue' in which they can engage with public officials."

Disaffected Americans, he continued, must be made to feel that "indeed they are an important part of the President's concern, that they and their federal government are on the same side, trying to solve the problems that concern them, and that we are working together and making progress together toward the solution of these problems. . . .

"If the national government is unable to make substantive progress, they can still feel a sense of common purpose if they and their President and other public officials acknowledge their common difficulties, their common frustrations."

ASSUMPTION OF HOSTILITY

Heard sees student protest as more than a phase that young people are passing through en route to acquiescent adulthood. "The danger is," he warned, "that significant numbers of people will grow up with an assumption of hostility to their government and a conviction that their government is ineffective. If that occurs, it handicaps the functioning in the future of the most important way people have of working together on matters that they have to work together on—their government."

Heard had noted in one of his memoranda to President Nixon that over 60 percent of students polled in a special survey saw little difference between the Republican and Democratic parties; that few present-day political leaders enjoyed much student support.

Under such conditions, he was asked, could demagogues move in from outside the political mainstream and fill this leadership vacuum?

"First of all," Heard replied, "obviously any disaffected group can be prey to demagogic appeal. On various campuses, in local episodes of disruption, demagogic leadership has of course on occasions been important."

WITHIN THE SYSTEM

But the special Louis Harris survey, he said, disclosed that disaffected students at the same time showed "a clear determination to work within the existing political framework at least for the present.

"Now then," the chancellor continued, "if significant numbers of students feel that working within this framework does not produce effective public policy, and they begin to look around for alternatives, they can easily become susceptible to the appeals of demagogic leadership.

"I think the real question that is extremely difficult to answer is the extent to which a deep and lasting alternation from our basic governmental institutions will develop . . . I just don't think we know how many people will be lastingly disaffected."

Heard also made the point that demagogues or other anti-establishment leaders could gain a following as well "among those blacks and students.

"That's why it's so damn important for the system to work."

With his reticence to talk about President Nixon, Heard was also discreet on the subject of Vice President Agnew and Attorney General John N. Mitchell—both of whom he talked with during his White House mission.

Of Agnew, he said, "In the two sessions I attended with the Vice President, I found him extremely interested in the attitudes expressed by students and faculty toward his own public statements and toward administration policies. He seemed to enjoy discussion and debate and was an effective conversationalist."

As for the Attorney General, "I found Mr. Mitchell very receptive to open discussion of administration policies and of campus reactions. He seemed to me to encourage the expression of a diversity of viewpoints in his own staff and I felt he was quick to understand the points of view that I expressed to him that are held by students and other people."

He added that Mitchell was a "very complex" person.

RESOURCE RECOVERY ACT OF 1970

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate reconsider the vote by which it passed S. 2005, to amend the Solid Waste Disposal Act in order to provide financial assistance for the construction of solid waste disposal facilities, to improve research programs pursuant to such act, and for other purposes, which had been reported from the Committee on Public Works, as amended.

This matter has been cleared on the other side of the aisle.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). Without objection, it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Committee on Public Works be discharged from further consideration of H.R. 11833.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 11833.

The PRESIDING OFFICER. The bill will be stated by title.

The BILL CLERK. A bill (H.R. 11833) to amend the Solid Waste Disposal Act in order to provide financial assistance for the construction of solid waste disposal facilities, to improve research programs pursuant to such act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to strike out all after the enacting clause of H.R. 11833 and to insert in lieu thereof the text of S. 2005, as passed by the Senate on Friday, July 31, 1970.

The PRESIDING OFFICER. Without objection it is so ordered.

The question is on agreeing to the amendment in the nature of a substitute.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 11833) was read a third time and was passed.

Mr. BYRD of West Virginia. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CONFERENCE REPORT ON THE POSTAL REORGANIZATION

Mr. YARBOROUGH. Mr. President, when the conference report on postal reorganization bill, H.R. 17070, comes before the Senate for final action, I shall oppose it. I fully realize that I may be like a voice crying in the wilderness, but I submit that, if Congress approves this bill, the repercussions will be felt by the people of this country for many years to come.

I have served on the Committee on the Post Office and Civil Service longer than any other Member of this body and I know whereof I speak.

My reasons for opposing this bill are simple.

First. This bill has ridden through Congress on the back of the postal workers' just demands for an increase in pay. Without this vehicle this ill-conceived bill would still be buried in the ash heap of worthless measures where it belongs.

Second. This bill takes away the only voice the people of America have in postal matters by stripping Congress of its power to legislate in this area and giving this power to a few individuals who are responsible only to themselves. Under the amendments adopted in conference the Senate would not even be allowed to confirm these people who will have complete power over the postal organization.

Third. This bill turns the Post Office into an instrument for raising money at the expense of the postal workers and the American people. Once the postal corporation is in full operation, the administration will put into effect its so-called 5-year plan of operation which is designed to make the Post Office a moneymaking organization. This would be accomplished by: (a) reducing postal workers' wages by $1 billion over a 5-year period; (b) by reducing the number of postal employees by 100,000 over a 5-year period; and (c) eliminating important postal services such as Saturday mail delivery, afternoon business delivery in cities, and window service and closing rural post offices.

Mr. President, this is already happening across the country. The present Postmaster General, although we have given him all the appropriations he has asked for, has been doing this for months. If other Senators have not received complaints, I have.

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

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

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

Mr. YARBOROUGH. Mr. President, continuing with the ways in which this would be accomplished, the next one would be (d) allowing a group of rate commissioners, who will not even be confirmed by the Senate, set rates on mail.

That was surrendered in conference, as Postmaster Blount sat in GERALD FORD'S office and issued orders and many conferees on both sides supinely yielded. This means that every time the Government wishes to make up its losses on such financial disasters as the C–5A, it will simply raise the price of stamps.

The administration is not fooling anybody. This has been candidly stated. They admit that they are going to make up the deficits this way. The average American will then be put to the simple choice of paying these new rates out of his already overburdened and overtaxed income or give up communicating with others by mail.

By consolidating mail processing centers, it will therefore, deprive our rural communities of their post offices and postmarks. In my State alone, the towns of Hereford, Tulia, Littlefield, Dumas, and Plainview, a city with the population of over 25,000 people, are being deprived of their identity by the loss of their postmarks. I think the postal service is important to the people of America, as important as any other branch of Government.

Mr. President, there is a need to improve the postal system. There is a need to raise the pay of postal workers. These two important steps can be accomplished by good management and effective legislation. Instead of facing up to his responsibilities as manager of the Post Office, the Postmaster General has devised a plan to destroy the Post Office. This reminds me of the old saying regarding getting rid of rats by burning down the barn. I cannot be a party to such a barn burning.

Many branches of Government provide free service, such as the Weather Bureau, Agriculture, and others. This bill would take the oldest Department in Government, established by the First Congress, and destroy the public service concept. Yet the Post Office is the only Department in which we are seeking to destroy the public service concept.

Mr. President, before we act on this important matter, let us stop and ask ourselves what we are doing. Are we really accomplishing anything of which we can be proud. The answer is clearly "No." They are taking out the public service concept. Therefore, on behalf of the 750,000 postal workers who require justice, and the millions of Americans who depend on the Post Office, I ask that this conference report be rejected.

This Postal Corporation bill is the Tonkin Gulf Resolution of Domestic Legislation. I understand this matter will be voted on at 3 o'clock. Why so soon? What is going to happen? Many who vote for this bill today will regret it for years to come, as they live with a deteriorating postal service. This bill substitutes a corporation bookeeping profit oriented system for the public service concept installed by Benjamin Franklin our first Postmaster.

I know of no precedent for this bill. The Constitution provides that Congress shall establish the Post Office and post roads. We abdicate this constitutional responsibility when we turn this function over to a corporation and abdicate our power to confirm those individuals who will make postal policy.

ONE INDIVIDUAL'S FIGHT AGAINST DRUG ABUSE

Mr. SPARKMAN. Mr. President, a few days ago there was an interesting article in the news regarding the activities of a young man who, acting as an individual, stirred up the people of his community in action against drug abuse. He was inspired to do this by a story that appeared in the press of a girl far away in another State who died while she was just a young girl as a result of drug abuse.

He started with the intention of doing something in his community.

It is inspiring to read what one individual can do.

I ask unanimous consent that the article be printed at this point in the RECORD.

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

UNKNOWN GIRL'S DEATH LEADS TO ANTI-NARCOTICS WEEK

(By Boone Aiken)

PHENIX CITY.—An unknown teenager who died hundreds of miles from Phenix City while on a drug-induced "trip" is causing the entire town to take a week-long look at the harmful effects of drugs.

The 17-year-old girl was killed when her car, travelling in the wrong direction on a one-way street, collided with a truck.

Investigating officers blamed LSD for the girl's confusion.

The story was reported in a national magazine and read by a young man named Ronnie Johnson, a produce manager for a chain store in this east Alabama town bordering the Georgia line.

For about six weeks, Ronnie, 23 an assistant Boy Scout leader, thought about the story. What if it had happened to someone he knew? Could the young Illinois girl whose name he had already forgotten, have been stopped from the use of the harmful drug?

Ronnie decided to start a one-man campaign to alert the young people of his town to the harmful effects of drugs.

Digging into his savings toward a college education and a legal career, he ordered 600 bright orange posters with "Help prevent narcotics they can turn you on and turn you off" printed in black.

Since he was aiming his campaign primarily at teenagers, he decided to dedicate it to the story of the young girl. Naming her "Fran," he added on the bottom of the poster in a black-bordered square, "Fran born 3-15-52, died 8-23-69."

In the lower left hand corner are the words "Ronnie Johnson, chairman."

He could truthfully have added also vice chairman, secretary, treasurer and committee.

Ronnie distributed the signs all over town and storeowners began placing the posters in windows and prominent places.

Next he visited a wrecked car dealer and not only did the owner agree to lend him a car to be displayed at a traffic intersection, but saw that it was placed there.

He then talked to city and county officials and received their support. Mayor Woodrow Wilson signed a proclamation designating July 27 through Aug. 1 as "Help Prevent Narcotics Week" in Phenix City.

Several even made financial contributions toward the campaign.

A local soft drink bottling firm agreed to donate two billboards. Ronnie placed one at the scene of the wrecked car, the other he used at the Seale intersection on the opposite side of town.

Under the second billboard he put a borrowed tombstone with temporary lettering which read: "Fran born 3–15–52 died 8–23–69." Traffic slowed down as motorists spotted the unusual grave complete with a fresh mound of dirt.

For the special week Ronnie has purchased 2,000 pamphlets on the harmful effects of drugs from the U.S. government printing office. He has received free an additional 200 from the Alabama Department of Public Health.

Plans call for these to be distributed by young girls to shoppers and motorists.

Booths will be set up Saturday at a shopping center not only for the distribution of pamphlets but also for the sale of the well-known book "The Drug Scene" by Dr. Donald B. Louria. These will be sold at cost, Ronnie having paid for the 100 copies himself.

This publication outlines the actions of a person on drugs and contains helpful suggestions on what can be done to help the user of drugs.

Final activity now being planned is for a Saturday night rally where movies on drugs will be shown. It is also hoped that a former drug addict will speak.

Ronnie also hopes that the movies, which he has purchased, will be used by local churches that have encouraged him in his campaign.

PRESIDENT NIXON'S PROPOSALS ON THE ARAB-ISRAELI CONFLICT

Mr. BELLMON. Mr. President, the general acceptance by all principals of President Nixon's proposal for a cease-fire and the beginning of negotiations on the Arab-Israel question is extraordinarily good news.

Along with most other Americans, I am greatly heartened by these hopeful developments in the Middle East and wish to commend President Nixon and his administration for the even-handed policy he has followed throughout this crisis.

Mr. President, these developments illustrate the wisdom of President Nixon's refusal to yield to public pressure for markedly increased deliveries of Phantom jets to Israel.

While such action would not have been militarily decisive, it would have been politically disruptive and would likely have been detrimental to the long-range interest of peace.

As I remarked on June 2 before this body:

An action-reaction syndrome is likely to develop that will escalate the war there as has occurred in Southeast Asia.

I commend President Nixon for his continuing efforts to provide this country with a peace administration.

Mr. President, since the beginning of history, nations have endeavored to settle their differences on the battlefield.

These efforts have proved in most cases to have disastrous effects on both the victors and the vanquished.

Perhaps now, in the Middle East, a series of events is beginning which will

enable nations to apply civilized, peaceful methods to the settling of national differences.

Success there, and the procedures developed may give governments the guidance and the inspiration needed to prove that the pen is mightier than the sword.

In these times of instant communication, improved international intercourse, rapid global transportation, and growing economic interdependence, the state of civilization may hopefully have developed to the degree that men of difficult cultures and of varied, conflicting, interests can meet, discourse, and agree without bloodshed.

In my lifetime, nations have been engaged in almost continual warfare.

Loss of life and material has been tragically high and development of the world's resources has been seriously retarded.

If these experiences have taught us anything, it is that when the shooting stops, the problems still remain.

Solutions come only when the talking begins.

Perhaps the time has come when men can settle at the conference table, before the shooting starts, the differences common sense tells us are impossible to settle on the battlefield.

Mr. President, as I stated June 2 on the Senate floor, in Southeast Asia we have paid an enormous price when we gambled on the side of war.

In the Middle East, by taking a position on the side of peace, perhaps we can help avoid a heavy loss of life and a serious financial drain.

At the same time our policy may help convince the nations of the world that ours is a country whose citizens are strongly dedicated to peaceful relationships between nations and which has no selfish designs upon either the substance or the independence of other countries.

Mr. President, it is my prayerful hope that an agreement to a cease fire and the beginning of talks will be the first in a series of agreements that will result in enduring peace in the Middle East and elsewhere.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ADDITIONAL STATEMENTS OF SENATORS

UNPREPAREDNESS IS RISKY

Mr. McGEE. Mr. President, the attempt to discount the past as irrelevant could lead us on a dangerously thorny path to the loss of our liberties. Jenkin Lloyd Jones, in a column published in the Washington Evening Star of August 1, makes this point most effectively, adding that unpreparedness today is riskier than ever before. I ask unanimous consent that his column be printed in the RECORD.

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

HISTORY HAS EXAMPLES FOR AMERICA

(By Jenkin Lloyd Jones)

The worst things rarely happen for the same reason that the best things rarely happen. Human inertia and unpredictability usually cause plunging graphs to bend upward and soaring graphs to bend downward short of utter disaster or complete paradise. Generally, history frustrates both Jeremiahs and Pollyannas.

But history is no stranger to cases where once-great peoples ran out of gas, where their social systems descended into chaos and where golden ages were followed by loss of morale, retrogression in the arts and eventually defeat and slavery.

The ingredients for the collapse of America as a dynamic society and a great world power now exist.

The American people are about to suffer their first clear loss in war.

The Korean affair came to a disappointing stalemate—neither victory nor defeat. But the speed with which we now seem determined to leave Indochina will surely result in a Communist takeover, first of Laos and Cambodia, then of South Vietnam, then of Malaysia and Singapore and finally the rest from Burma to New Guinea.

In a very short time it is probable that the much scoffed-at proponents of the "domino theory" will look wonderful.

Having expended all this blood and treasure to no purpose, the American people will probably undergo a psychological change akin to that suffered by the British after the loss of their empire.

A recent issue of U.S. News and World Report quotes a high British military man as saying: "You can no longer count on Britain in a pinch. This country has fought its last war. It will never fight again."

The dispirit of the British is no surprise. But if it ever becomes plain that America has fought its last war—or at least fought effectively for the last time—then the world's balance of power will change swiftly.

The claim by the New Left that history is irrelevant is absolutely necessary to support the philosophy of the New Left. For if history has any relevance the theories of our neorevolutionaries take on psychedelic shapes.

For example, if you are going to embrace the idea that, if we would only disband our military forces and throw away our arms, the power of our moral example would cause peace and justice to triumph throughout the world, you have to forget about Adolf Hitler.

Peace we might buy through abject and utter surrender, for nobody fights with a rug. But justice would be a different matter.

If the Nazi philosophies had prevailed throughout the world through a process of default, the New Left might ask itself what the climate for protest on campuses would be. There would be no black students, no Jewish students. And an American Gestapo would have no difficulty in surrounding even the gentlest white dissidents with barbed wire.

If we hadn't practiced some brinkmanship in Europe after 1945, the Iron Curtain would have been raised not in Central Europe but on the Atlantic. History records no area of weakness that the Kremlin was hesitant to exploit. It is interesting to speculate what the world would be like today if either Hitler or Stalin had arrived first at the atom bomb.

In the face of all this it is fantastic that many thousands of young people in America, who keep telling each other that they are the wisest generation in human history, seem utterly convinced that if our nation stands naked before the world the Kingdom of Heaven will arrive.

The theory seems to be that we need only make the magic sign of peace and the Attilas and Genghis Khans and Tamerlanes of the present and future will fall flat upon their faces in worship. This is a little risky.

Indeed, it is riskier now than ever before. For if any future dictator should ever hold the sole keys to the world's nuclear arsenal, here is a Bastille that will not be taken with scythes and pitchforks.

So, if history turns out to be relevant after all, a young generation, conditioned to surrender, could put in jeopardy not only their own liberties but the liberties of many generations to follow.

"Power," says Mao Tse-tung, "grows out of the barrel of a gun."

It might be wise, at the next joint meeting of the Bug-Out Society, the Lie Down League and the Unilateral Disarmament Club to take up the question whether Mao is relevant.

THE COOPER-CHURCH AMENDMENT MUST BE RETAINED

Mr. CHURCH. Mr. President, the Cooper-Church amendment and the Foreign Military Sales Act (H.R. 17123) to which it is attached are now in a conference of the Senate and the House of Representatives. The amendment was adopted by the Senate by a bipartisan vote of 58 to 37 on June 30, 1970, after a debate extending over a period of 7 weeks.

In opposing the amendment, the administration holds to a definition of Presidential power so large that Congress could not accept it without abandoning its own authority and responsibility under the Constitution.

As the Washington Post observed in an editorial captioned "Mr. Nixon's Challenge to Congressional Power," published on July 19, 1970:

> There is probably no more important issue before Congress than the establishment of its right to limit our military spending and commitments abroad.

Under the terms of the Cooper-Church amendment, this reassertion of congressional prerogative has been accomplished without infringement on the legitimate exercise of the President's role as Commander in Chief. As the New York Times explains in an editorial on July 18, 1970:

> The Cooper-Church amendment in no way inhibits the President's legitimate command over troops already committed in Vietnam to a war which has been accepted—although never formally declared—by Congress. It does forbid any new commitment of troops to a wider war in another country without the prior consent of Congress. This is no more than a reaffirmation of the Constitutional responsibility of Congress to declare war. To

argue that the President has the authority to initiate military action in a foreign country on his own is to claim powers for the Commander-in-Chief that were never intended by the Constitution and that are inimical to a free society.

Mr. President, I ask unanimous consent that the Washington Post and the New York Times editorials be printed in the RECORD.

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

[From the New York Times, July 18, 1970]

PRESIDENT VERSUS COOPER-CHURCH

From the time of the framing of the Constitution it has been the generally accepted view of the American system of checks and balances that "the President proposes, the Congress disposes." Curiously, for a man who has served in both houses of the legislative branch, President Nixon appears to favor a much narrower interpretation of the role of Congress.

In his strong opposition to the Senate's Cooper-Church amendment restricting military action in Cambodia, as in his earlier adamant stand on the Carswell nomination to the Supreme Court, Mr. Nixon seems to be suggesting a philosophy of government that might be described as "the President imposes, Congress reposes." This is certainly not what the Founding Fathers had in mind when they spelled out the responsibilities of the Executive and the Legislature in the Constitution.

The Administration has called on a House-Senate conference committee to strike the Cooper-Church amendment from the foreign military sales bill because, it argues, "the restraints imposed by this section appear to affect the President's exercise of his lawful responsibilities as Commander in Chief of the armed forces." They do no such thing.

The Cooper-Church amendment in no way inhibits the President's legitimate command over troops already committed in Vietnam to a war which has been accepted—although never formally declared—by Congress. It does forbid any new commitment of troops to a wider war in another country without the prior consent of Congress.

This is no more than a reaffirmation of the constitutional responsibility of Congress to declare war. To argue that the President has the authority to initiate military action in a foreign country on his own is to claim powers for the Commander in Chief that were never intended by the Constitution and that are inimical to a free society.

The action of the generally hawkish Senate Armed Services Committee in writing new restrictions on Cambodian operations into another defense measure this week should serve as further warning to the President that many members of Congress, including some who share his own views on Indochina, are tired of being treated as rubber stamps. Mr. Nixon would better serve his own stated purpose of disengagement from Southeast Asia if he stopped fighting the efforts of the legislative branch to reassert its constitutional role in the formulation of foreign policy.

[From the Washington Post, July 19, 1970]

MR. NIXON'S CHALLENGE TO CONGRESSIONAL POWER

No doubt the administration's renewed adamancy against any congressional restriction on American operations in Cambodia is largely political. Although nobody has ever expected the House to share the Senate's views on Cambodia and the war powers, the President presumably figures he can claim a victory in the opposition of the House to the Cooper-Church amendment (now in conference as part of the foreign military sales bill) and wants to make the most of it. In the process, however, his spokesmen are asserting a principle to which Congress cannot agree without abandoning its right to control American military commitments abroad.

Before passing the Cooper-Church amendment, the Senate modified it so that it could not be construed as an encroachment upon any legitimate power of the Commander-in-Chief. Even Senator Dole, an administration spokesman in these matters, concluded that it would not impose any restraint upon the President. Yet the administration is going all out against the amendment on the ground that its restrictions against further invasion of Cambodia and support of the Cambodian government "appear to affect the President's exercise of his lawful responsibilities as Commander-in-Chief of the armed forces."

This comes close to saying that any limitation which Congress may fix on military operations in an area where fighting has been going on is unconstitutional. But there is nothing in the Constitution which even remotely suggests that Congress must provide funds for any operation which the Commander-in-Chief may deem to be necessary or desirable. Congress has complete control over the national purse, subject, of course, to the presidential veto. It could, if it wished, forbid the expenditure of any military funds in Southeast Asia.

The principle is vital because of its intimate relationship to congressional curtailment of future presidential wars. We have previously noted that the work of Senators Cooper and Church was largely done when their amendment was approved by the Senate as a warning to the President against repetition of the Cambodian incident. That warning will stand whether or not the amendment is written into the law by House concurrence. But already the issue of curbing military operations through the power of the purse is again before the Senate, and many similar uses of congressional authority may be expected in the months ahead.

This time the Senate Armed Service Committee, with even the hard liners concurring, has modified the language of the $19.2-billion military procurement bill so as to forbid spending for military operations in support of the Cambodian government. Funds could be used, under this limitation, to finance South Vietnamese raids against the sanctuaries in Cambodia on the theory that they are related to the war in Vietnam, but they could not be used to prop up or support the Lon Nol government. Will the State Department protest this, too, as an encroachment upon the constitutional powers of the Commander in Chief? It is hinted that the administration may let the military sales bill die rather than swallow the Cooper-Church amendment, but it could scarcely apply that technique to the bill authorizing the procurement of weapons for our own forces.

There is probably no more important issue before Congress than the establishment of its right to limit our military spending and commitment abroad. In one way or another Congress must reassert its right to curb presidential wars, and there is not likely to be a more appropriate occasion than that now at hand in Cambodia.

WORLD PUBLIC OPINION ON THE PRISONER-OF-WAR ISSUE

Mr. BELLMON. Mr. President, today is the day when our newly named chief delegate to the Paris peace talks, Ambassador David K. Bruce, reports to take up his new and onerous duties. I know that everyone in this chamber, in the seats on the floor and in the galleries as well, is behind our emissary in this new and difficult mission, and wishes him success.

That goes without saying. But it is well to remember that it takes two sides to make a successful diplomatic negotiation, and the world will note which is the side that is willing to go halfway and which is the side that is not. The world will also note that it is the other side that is torturing prisoners, holding them for ransom, and in general behaving in an uncivilized, barbaric fashion toward the helpless men who have had the misfortune to fall into their hands.

As Ambassador Bruce approaches his task, we know he will place the highest priority on receiving assurances of the humane treatment of these men. And we hope Hanoi will realize that the mill of public opinion of the world, while it may grind slowly, will grind exceedingly fine. These prisoners of war will not be forgotten by the world at large. Hanoi would do well to ponder this fact.

THE 256 DAYS: HOW MUCH LONGER DO WE HAVE TO WAIT?

Mr. PROXMIRE. Mr. President it was 256 days ago that I wrote to the Department of Justice seeking an investigation of the Fitzgerald matter; 256 days Mr. President. When, if ever, does the Justice Department plan to take action in this case?

Ernest Fitzgerald was a former cost-efficiency expert for the Air Force. In testimony before the Joint Economic Committee, he blew the whistle on the tremendous cost overruns that were occurring on the Lockheed C–5A project. For his candor, he was rewarded with a reduction in his duties and eventually with a pink slip.

Section 1505 of title 18, United States Code, makes it a crime, punishable by up to 5 years in jail, to "injure" anyone on account of his testimony before a congressional committee. If depriving an employee of his job does not constitute "injury," I do not know what does.

Mr. President, what is left for the Justice Department to investigate? What is taking so long?

ALASKA NATIVE LAND CLAIMS BILL

Mr. STEVENS. Mr. President, along with many other Alaskans, Secretary of the Interior Walter J. Hickel labored long and hard to secure passage by the Senate of the Alaska Native land claims bill.

The battle is only half over, but Secretary Hickel is to be applauded for the leadership he has shown in this cause.

I ask unanimous consent that a statement issued by Secretary Hickel on the day of the passage of the bill by the Senate be printed in the RECORD.

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

STATEMENT BY SECRETARY OF THE INTERIOR WALTER J. HICKEL, ON PASSAGE BY THE SENATE OF THE ALASKA NATIVE LAND CLAIMS BILL, JULY 15, 1970

For Alaskans—and for the millions of Americans throughout the 50 states who have been frustrated over the years in trying to do something positive, progressive and fair

for America's first citizens, this should be considered a great victory.

The rapid action of the Senate in approving the Alaska Native Land Claims bill, is of course gratifying. The members of the Committee, the Interior Department at its highest executive levels, the state administration of Alaska and countless dedicated individuals throughout the country have worked not for months, but years, to put together a legislative package that would do the job and be a positive answer to the needs of these citizens.

I am extremely proud that this rapid action was based not on political or personal considerations, but on solid testimony which showed conclusively that these Americans have a genuine and just claim.

This dovetails exactly with President Nixon's recent message in which he expressed the Administration's determination to advance the cause of America's Indian, Eskimo and Aleut citizens.

Further, this is not merely a victory for the citizens of one state.

The Administration is proud that it is a victory for all Americans who are more interested in a "fair shake" than the expediencies of politics or mere rhetoric.

I am confident that the house will consider the individual features of the bill and move it along toward passage with equal fairness and speed.

THE FAMILY ASSISTANCE ACT

Mr. TALMADGE. Mr. President, the administration's Family Assistance Act to reform the welfare system came to the Senate last spring. The claim was made that this far-reaching legislation would revamp public welfare by placing more emphasis on job training and work than on the dole, which we all must admit has been an extremely costly failure.

The bill was ill prepared and apparently hastily drawn, and in May the Committee on Finance sent it back to the Department of Health, Education, and Welfare for revision. The bill, now returned, still falls far short of its target. There is still far too much emphasis on "welfare," and not nearly enough on "workfare." The legislation, in fact, because of its built-in, generous system of handouts, would be a strong disincentive to working in many cases.

We hope to resolve these shortcomings in committee, and I have myself submitted an amendment that will encourage job training and promote employment for people who are able to work.

The Washington Evening Star of Friday, July 31, 1970, contains an excellent editorial column written by Richard Wilson that sets forth in some detail the kind of work disincentives to which I refer. Mr. Wilson illustrates how very often it would be more profitable for an able-bodied person to sit at home, do nothing, and draw welfare than it would be for him to secure gainful employment.

I bring this article to the attention of the Senate and ask unanimous consent that it be printed in the RECORD.

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

[From the Evening Star, July 31, 1970]

SENATE UNIT SPOTLIGHTS "WORKFARE" ANOMALIES

(By Richard Wilson)

President Nixon called it "workfare" when he proposed to Congress in August 1969 a wholesale revision of national welfare policy with a $1,600 floor under the income of all families. It sounded attractive, even though more expensive.

Incentives to work would replace an unsatisfactory system that encouraged idleness, was unfair and was generally judged a monstrous failure.

The House passed a version of the Nixon welfare plan in April this year which required the working poor to register for jobs or work-training while receiving federal assistance.

But it was not until the "workfare" plan reached the Senate Finance Committee that there could be said to be anything like a firm grasp on its meaning, cost and magnitude.

On the probably sound assumption that hardly anyone outside the Senate Finance Committee, and certainly not the public at large, has the foggiest idea of what this colossal measure provides, here is some information:

Federally assisted welfare recipients under the present law numbering 10 million would automatically rise to 24 million, or an increase of one and a half times, in the first year of operation.

In 13 states the welfare rolls would be more than tripled.

In 16 states more than 15 percent of the population would be on welfare, led by Mississippi with 35 percent—yes, more than one-third—of its population on relief.

The total cost to the federal government of welware would nearly double, from the present estimated cost of $4.5 billion to $9.1 billion.

Other information brought forth by Senator John W. Williams of Delaware in hearings before the Senate Finance Committee includes:

An unemployed woman heading a four-person family in New York on welfare and without income would receive more net income than a woman with an income of $7,000 earned at work. So who should work?

In Phoenix, Ariz., a woman with four dependents and $5,000 in earned income would take a drop of $5 in welfare benefits if she was promoted to a job paying $6,000. So how does promotion get you off welfare?

In Chicago a woman with four dependents and an earned income of $720 would receive total benefits of $6,142. But if she earned $6,000 a year at work, received housing benefits and paid her taxes, her total would be only $6,001. So why get a full-time job?

These are a few of the anomalies and contradictions which neither former Health, Education and Welfare Secretary Robert Finch nor the present secretary, Elliot Richardson, has been able to explain with any clarity to the Senate Finance Committee. They have arrived before the committee with their charts, beaming with confidence, and departed in confusion, not to say dejection.

What emerges is that there is a borderline, a shadowland, where incentives to work become highly problematical and subjective, depending on the personality of welfare recipients. It has to be borne in mind also that it costs money to work, in the form of transportation, clothing and meals away from home. For some the incentive to work must be powerful, indeed.

It becomes clearer that the Nixon welfare plan, if adopted, will be attended by a continuous procession of horrible examples which have aroused so much popular despair all through the history of publicly financed relief.

The Senate Finance Committee is probably the only barrier to the final adoption of some version of the Nixon welfare plan. Once this measure reaches the Senate floor, if it does, there will be attempts to increase the $1,600 income floor by double.

The idea was good. It was plausible in the beginning that the high "start-up" costs could be justified because the new system would lift people out of dependency and ultimately reduce the chronic costs of a permanent underclass in America.

Now, with the disclosures in the Senate Finance Committee, this premise becomes more doubtful, and the mind turns to the basic facts that federally supported welfare rolls will be more than doubled, the cost will be nearly doubled, and the incentives to work may not be sufficiently powerful.

ISRAELI-ARAB CEASE-FIRE

Mr. PEARSON. Mr. President, last Friday the Government of Israel accepted the U.S. proposal for a 70-day ceasefire and a beginning of negotiations with the Arab nations under the auspices of Dr. Jarring. This move followed by a week the initial breakthrough when the United Arab Republic, and subsequently the governments of Jordan and Lebanon, accepted the U.S. proposal.

These events came as a surprise to many observers of the Middle East, who recognize the complex relationship of territorial, diplomatic, military, and religious problems facing anyone who seeks serious peace negotiations in the area. These observers also recognized the importance of the initial hurdle in securing acceptance of a peace initiative by President Nasser of the U.A.R.

I think it is only appropriate to note—with full recognition of the difficulties ahead—that U.S. diplomats, under the direction of President Nixon, have accomplished a very impressive first step in the struggle to restore peace in the Middle East. While I am sure there was cooperation from our friends in Western Europe as well as from the United Nations, where communications on the Middle East have been in progress between ourselves, the British, the French, and the Soviet Union, there is little doubt in my mind that the persistence and imagination of our own team of policymakers and on-the-scene diplomatic officers deserves a large share of the credit for the success of this initiative. I hasten to add that it is only the first inning of what may be a long and tough ball game, and that we do not yet know what the tone of negotiations will be once they get underway. But at least we are on the field with all the players agreed to take part, and that is a good beginning.

IMPLEMENTING LEGISLATION FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, apparently the single most significant objection to the Genocide Convention is not concerning the treaty itself, but rather the fact that there has been no real effort to come up with adequate implementing legislation to accompany the treaty when the United States becomes party to its provisions.

Mr. President, this should receive the highest priority in the next few weeks, as a decision on the Genocide Convention by the Foreign Relations Committee draws near.

The section of individual rights and responsibilities of the American Bar Association, in its favorable report to the ful association on the Genocide Convention, submitted a possible draft of implementing legislation. This draft is

not necessarily the only possibility, but it certainly serves as an example of how the Genocide Convention would be implemented after ratification by the Senate.

I ask unanimous consent that the proposed draft of implementing legislation, submitted by the individual rights and responsibilities section of the American Bar Association, be printed in the RECORD.

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

DRAFT OF POSSIBLE IMPLEMENTING LEGISLATION FOR THE GENOCIDE CONVENTION AS PROPOSED BY THE AMERICAN BAR ASSOCIATION SECTION OF INDIVIDUAL RIGHTS AND RESPONSIBILITIES

An act To Implement the Convention on the Prevention and Punishment of the Crime of Genocide

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 18 of the United States Code is amended by adding the following new Section.

Sec. 000 GENOCIDE.

(a) Whoever, with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such, wilfully—

(i) kills members of the group;

(ii) causes serious harm to the body or mind of members of the group;

(iii) inflicts on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(iv) enforces measures intended to prevent births within the group; or

(v) transfers children of the group by force to another group.

shall be guilty of genocide.

(b) Whoever is guilty of genocide, or of conspiracy to commit genocide, or of attempt to commit genocide, or of aiding, abetting, counseling, commanding, inducing, procuring commission of genocide or of publicly inciting to genocide shall be punished [by such punishment as the Congress shall determine to be appropriate].

THE FRIGHT PEDDLERS

Mr. McGEE. Mr. President, we can be, I think, too complacent about the activities of radical groups, as the past has surely taught us. Though some of the old-line extremist groups of both right and left have lost some vigor, perhaps, we should not require a memory course to recall that they are not alone. There are newer groups and other groups still working the ground, both to the left and to the right. Nonetheless, the report by Gordon D. Hall, published in the Washington Post of Saturday, August 1, based on this year's John Birch Society rally in Boston July 4, tells us something about the fright peddlers. 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:

THE DIMINISHING THUNDER ON THE RADICAL RIGHT

(By Gordon D. Hall)

The thunder on the radical Right has diminished to a distant rumble. Only Georgia's Lester Maddox kept the booksellers and pamphleteers from outnumbering the audience at this year's July 4 John Birch Society rally in Boston.

Maddox put a thousand people in the Statler's grand ballroom on Sunday, but during the rest of the long Fourth of July weekend the number never went over 600 in contrast to three and four times that number in previous years.

What was once a gathering of Far Rightist luminaries from every corner of America has become an annual hustlers' contest among obscure religious fanatics and racist crackpots. Dr. Billy James Hargis, retired General Edwin A. Walker, John Rousselot, Tom Anderson, Congressman John Rarick, men never actually close to political power but powerful enough to make extremism an issue in a presidential race just six years ago, didn't even bother to show up this year.

Many who might have attended have turned elsewhere. There are now Wake Up America, Honor America, Support-the-Flag, and Tell-It-to-Hanoi rallies, and many of these were staged this July 4 weekend. The radical Right is melting in part at least, in the heat generated by men like Vice President Agnew. What remains on the radical Right is remarkable, if for no other reason than the glimpses afforded of collective fear generated by apoplectic anticommunism.

Rally officials began again this year by denying any connection between the rally and the John Birch Society, publicly offering $100 to anybody with proof to the contrary.

Such proof was, of course, overwhelming, beginning with rally chairman Laurence E. Bunker, a member of the executive committee of the John Birch Society's national council, and his assistant, Mrs. Anna McKinney a kind of den mother to birchers all over the greater Boston area.

There are the rally exhibitors, too, many of whom are quite candid about how they get to Boston every year. J. L. Ward, for example, a black segregationist from Memphis, who doesn't seem to mind being the house black for one weekend each year, printed up his gratitude and put it on sale at his exhibit. It reads in part:

"As the Founder and President of the Prince of Peace Goodwill Movement the John Birch Society has invited me to attend their National Convention in Boston for the past three years, to express my views about the danger of these revolutions in America and the world."

Ward has little chance to express himself. He is usually kept behind his exhibit and away from the press. The white audience drifts by his exhibit, which consists of various odes to the John Birch Society. The average contribution is one dollar, and Ward usually mutters something like "Sweet Jesus" to the donor.

Mrs. McKinney has nine children and several of them, like herself, are prominent in the John Birch Society. They are also indefatigable joiners. Birch-watchers in the Boston area estimate that at least five of the McKinneys, in hot pursuit of recruits for the society, have joined most of the organizations in the yellow pages.

Robert Welch is another who keeps alive the myth that the July 4 Boston rally was a thing apart from his John Birch Society. But whenever a big moment arrives, Welch suddenly turns up, and always at the head table. He introduced Governor Maddox this year, and later the same day presided at the windup banquet honoring wealthy Milwaukee industrialist William J. Grede. Grede was seated at the right side of Welch when the society was formed in December, 1958, and has since been one of its principal financial angels.

Governor Maddox should have been the big news story of the rally, but he was neatly upstaged 48 hours before his arrival by Daniel Rea Jr., the 21-year-old state chairman of the Young Americans for Freedom. Rea surprised everyone at the rally by announcing that YAF had declined to participate because of the "racism" of Maddox. YAF hasn't participated in a Birch Boston rally since 1966, but the announcement put the Georgia governor on the defensive and brought rally officials close to apoplexy.

Caught off guard, chairman Bunker went before the TV cameras stammering something about a possible leftist takeover within the Young Americans for Freedom. Kent Courtney, the Louisiana segregationist and veteran rally participant, was more specific, feeling duty bound to defend Maddox, a close friend. "William F. Buckley is behind this smear," Courtney cried. He has personally ordered and commanded Young Americans for Freedom to attack this rally."

Thanks to Courtney, everyone was soon talking about Daniel Rea and YAF rather than Governor Maddox. By noon on the Fourth, Courtney had managed to escalate the controversy to the level of a "conspiracy." Buckley, whom he called "the pussycat of the liberal press," was still the chief conspirator, but Courtney was assuring everyone that "others were also in on it."

Rea wasted little time. Labeling Courtney's charges both false and absurd, he quickly brought YAF, a nonparticipant at the rally, to the top of the news for a second time. By the next morning, Courtney was back on the attack, charging that Buckley had personally ordered YAF to picket Governor Maddox. He was now farther from the truth than the day before, but with everyone talking about a nonexistent picket line, YAF was enjoying equal billing with the governor, who had at last reached the hotel, where he expressed his gratitude for all Courtney had done.

With YAF and the John Birch Society publicly split, the far Right has lost whatever links it may have had to the college-age audience. Universities like Bob Jones, in Greenville, S.C., will continue to send ushers and usherettes to far Rightist functions, but this is not the same thing as putting hundreds of politically oriented college-age doorbell ringers into the streets at election time. The Bob Jones people were officially represented this year, handing out stickers with legends like "God Will Bless Modesty in Dress" and "From the Public Schools in Our Land of the Free, God is Banned From Nine to Three."

The news media's absorption in the YAF-Bircher split served to obscure the fact that the radical Right is entering the seventies no more unified or ideological than they were in the early sixties. Everyone is now 10 years older and looks it, but it can't be said that many of them are any wiser. In truth, the far Right remains the same politically futile and curious amalgam of crank economic theorists, a declining number of retired military figures, bizarre and rigid religious fundamentalists, racial bigots and otherwise well-intentioned but utterly naive little ladies in tennis shoes who seem to believe anything as long as it is cloaked in anticommunism.

There is no better place than Boston each July 4 weekend to witness the radical Right's futility. The offerings at the 60-odd exhibit booths still rate Senator Kuchel's apt description—fright literature. Timetables for the Communist "takeover" of America are either moved up or back, depending on the date of the previous prediction, and the titles of lectures, books, film strips and pamphlets increase each year in luridness.

Sex education programs, for example, are said to be open advocacy of "raw stuff" and "degeneracy" right in the classrooms. Churches caught in controversy are believed "seduced." Scholarly examination of the Bible is pointed to as "perversion" of the original. Students in high schools and colleges are being "brainwashed," while "leftist medicine" contains its inexorable drive "to control our bodies."

Incongruities occur by the hour, and they are missed by almost everyone. Introducing Reed Benson this year, M. Daisy Atterbury, a missionary representing "Free China," was

obviously thrilled and she said she was, calling the director of the John Birch Society's Washington office "such a perfect dear."

Reed Benson, in my judgment, *is* a perfect dear, but since the nation's capital is constantly portrayed at these rallies as the seat of international Communist conspiracy, a place where racial riots are both instigated and financed, and where murder takes place in broad daylight, one would think the participants would prefer someone a little more vigorous, a John Wayne type perhaps.

Hildegarde was the major incongruity this year. Allowances can be made for the fact that she was plugging a book which Devin-Adair, a rally exhibitor, has published for her, but she still looked out of place among the heavily corseted lady Birchers, many of whom kept inquiring about her last name. The famed chanteuse, still chic at 64, sang at the final banquet, providing the first genuine touch of glamor since the rallies began back in 1963.

The political candidates were especially futile. Nord Davis, a militant Bircher from a remote corner of Massachusetts—so remote in fact that his mail is delivered across the New Hampshire border—is running this year on the state Wallace ticket against Sen. Edward Kennedy. Davis campaigned openly at the rally, even among participants from our state, grabbing arms and hands and bellowing: "Hi, I'm Nord Davis, and I'm running against Ted Kennedy for the United States Senate." A shill named Louis De Boer, from Ontario, stood behind Davis shouting, "He'll give Ted one hell of a fight," but almost everyone being greeted by Davis kept asking, "What did you say your first name is?"

It may seem hard to believe that rally officials so easily upstaged by a 21-year-old official of the Young Americans for Freedom would consider returning to the pit for another year, but there is already talk of next July and the ninth consecutive rally. An individual in deep trouble is often the last to recognize it; thus the same could be true of organizations like the John Birch Society. I don't think the analogy is stretched when one suggests that an organization unwilling to admit to the general public that it is the sponsor of its own rally is in very deep trouble indeed.

UNICEF—THE UNITED NATIONS CHILDREN'S FUND

Mr. PERCY. Mr. President, over the years I have been greatly impressed with the accomplishments of the United Nations Children's Fund. It has been able to do a great deal of good for millions of children and mothers with a relatively small amount of money. It seems useful to examine how and why these achievements have been possible. Perhaps lessons can be discovered in such a review which would be valuable to all of us as we search for solutions to the problems of our time.

I note, for example, that UNICEF requires that a country must be willing to help itself to be eligible for UNICEF assistance. The people of the country contribute to the program in whatever way they can participate. Thus they learn to help themselves. They are eager to learn what they can do to improve the lot of their children as UNICEF shows them how they themselves may build for the future. UNICEF is not a charity in the usual sense of the term, but is rather a common sense program to teach willing learners to help themselves so that they may take pride in their own accomplishments.

UNICEF reaches for fundamentals in its stress on teaching mothers how to care for their children—how to prevent infectious diseases from spreading through ignorance of the principles of hygiene, and the importance of a nutritious diet to the health and mental development of the oncoming generation of children. It has been said that to educate a woman is to educate the whole family; many millions of families face a brighter future because of UNICEF's vision.

I am aware, however, that the work of the Children's Fund is not as widely understood by the American people as it deserves to be. In some instances, it has been the target of serious misrepresentations that have raised questions in the minds of sincere citizens who may not know how to obtain the facts for themselves. I, therefore, invite the attention of Senators and the American people to a description of the way the U.N. Children's Fund functions. I ask unanimous consent that it be printed in the RECORD.

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

DESCRIPTION OF UNITED NATIONS CHILDREN'S FUND

PURPOSE AND PHILOSOPHY

UNICEF is one of the family of United Nations agencies assisting developing nations. As the sole organization within the United Nations system to focus on children, it is unique. Its major objective is to cooperate with developing countries as they strive to improve the conditions of their children and young people and prepare them to contribute to their societies.

UNICEF emphasizes the need to give high priority to children and adolescents in national plans. It participates in projects, upon request by developing countries, by giving material assistance largely in the form of supplies and equipment and by helping governments find effective ways of improving services for their children.

At the beginning of the 1970's, the UN's second Decade of Development, there is new awareness of the importance of human resources in economic development and a recognition that the ultimate aim of progress is not things, but people. As Henry R. Labouisse, the Executive Director of UNICEF, recently stated, ". . . human resources, whose importance to development is at last being recognized, do not simply arrive on the scene well prepared and of sound mind and body. They require deliberate preparation, certainly as youth, but actually from the earliest possible moment." [1] With this point of view, the Children's Fund urges no separate plan solely for children but, rather, an extension of governments' plans to include concern for the protection and preparation of children to enable them to lead useful lives.

ORIGIN OF UNICEF

Today, while UNICEF's focus is children in the developing world, the organization began in a more limited context. Known originally as the United Nations International Children's Emergency Fund, UNICEF was created to alleviate the suffering of children in the aftermath of World War II. Former President Herbert Hoover was appointed by President Truman in 1946 to head a survey mission which recommended that the U.S. Government support the creation of a United Nations body to meet the emergency needs of chidlren in countries devastated by war. On December 11, 1946, UNICEF was established by the United Nations General Assembly.

During its first years UNICEF concentrated on providing material assistance to children of the war-ravaged countries of Europe. In 1950 the UN General Assembly continued UNICEF's mandate, but with a new direction: to assist programs of long range benefit to children in less developed countries. In 1953 this mandate was continued indefinitely and the name of the organization was changed to the United Nations Children's Fund.

TYPES OF UNICEF-AIDED PROJECTS

The specific kinds of projects assisted depend on the priority needs of children in individual countries requesting UNICEF's assistance. In general, UNICEF-aided projects are in the fields of health, nutrition, education, social services and pre-vocational training. These include assistance to health services for mothers and children, disease prevention and control, environmental sanitation, applied nutrition, milk processing, development of low-cost protein food concentrates, teacher training or refresher training, local production of teaching materials, teaching of science and practical skills, day-care and training in women's activities. While emergency aid is no longer a major part of UNICEF's work, it is provided when not sufficently available from other sources.

Training of national personnel is at the core of most projects in all fields; about 30% of assistance is devoted to training within the assisted country. Such a policy helps to assure the continuation of benefits to children after UNICEF's own participation has terminated.

PLANNING AND APPROVAL OF PROJECTS

UNICEF's aid is given only in response to a government's request. In UNICEF's view, governments must develop their own policies in regard to children and young people. In the process of developing a proposal for UNICEF assistance, the appropriate government departments, the staffs of UNICEF and of any other agencies involved, such as the World Health Organization or the Food and Agriculture Organization, draw up a draft plan of operations. The details having been worked out, proposed projects are recommended by the UNICEF Executive Director for approval by the Program Committee of the Executive Board and by the Board itself.

CARRYING OUT UNICEF-AIDED PROJECTS

Kind of Aid Given.—In helping countries plan for their children, the major part of UNICEF aid takes the form of equipment and supplies essential to the assistance program. Contrary to some popular misunderstandings, UNICEF does not give money to the governments for procurement. What UNICEF provides covers a wide range—from medical supplies for children's health services to production equipment for milk processing and weaning foods. In addition, some scholarships are given for nationals being trained in UNICEF-assisted projects.

Conditions of aid.—An agreement signed by UNICEF and each assisted government stipulates that UNICEF supplies will be used on the basis of needs, without regard to race, creed, nationality status or political belief; that UNICEF officials will be permitted to observe the handling, distribution and use of supplies; and that the assisted government will maintain and furnish to UNICEF, on request, records concerning the projects being aided.

Matching principle.—Each assisted government also agrees to undertake the necessary local expenditures for staff, building, equipment and the like to carry out the project. This is usually termed "matching". The matching principle assures that all partners in the project are making substantial investments in it, and is based on the belief that, when a government makes a major

[1] From address to the Social, Humanitarian and Cultural Committee of the United Nations General Assembly, December 2, 1969.

contribution of its own, the project will be likely to become firmly established and its benefits continued. In recent years, assisted countries have spent an average of $2.50 for every dollar spent by UNICEF.

ADMINISTRATION OF UNICEF

Executive Board.—The governing body of the Children's Fund is an Executive Board composed of 30 members. Ten members are elected each year for a three-year term by the United Nations Economic and Social Council. The United States has served continuously since UNICEF's establishment. The Board meets once a year to review progress, establish policies, consider requests for and allocate aid, and fix the operational and administrative budgets of the Organization. UNICEF's work is also reviewed annually by the Economic and Social Council and by the General Assembly.

The Executive Board for 1970–71
(August 1, 1970–July 31, 1971)

Belgium, Brazil, Bulgaria, Canada, Chile, China, Costa Rica, Czechoslovakia, Federal Republic of Germany, France.

Gabon, India, Indonesia, Italy, Malawi, Nigeria, Pakistan, Philippines, Poland, Sierra Leone, Sweden.

Switzerland, Thailand, Tunisia, Turkey, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela.

The Executive Board elects its own officers. The Chairmen of the Board, who preside over meetings but traditionally do not vote, have come from the following countries: Poland, Canada, Switzerland, India, Pakistan, Australia, New Zealand, Mexico, Israel, Turkey, and Sweden (incumbent 1970).

Secretariat.—An Executive Director, appointed by the UN Secretary-General in consultation with the UNICEF Executive Board, carries the responsibility for the operation of UNICEF's work. The first Executive Director, Maurice Pate, an American citizen, served from UNICEF's inception to his death in 1965. His successor, the present Executive Director, Henry R. Labouisse, is also a citizen of the United States, and a former U.S. Ambassador to Greece.

The secretariat of UNICEF is a part of the international civil service, with 191 professional staff members of 51 nationalities. 42 members of the UNICEF staff are citizens of the United States.

Each U.S. citizen who is employed by UNICEF (or any other public international organization in which the U.S. Government is a participant) is subject to an investigation by the U.S. Government under the provisions of Executive Order 10422. Concerning each U.S. citizen in UNICEF employ, UNICEF has been notified officially by the International Organizations Employees Loyalty Board (an agency of the U.S. Government) that the Board has determined that there is no reasonable doubt as to the employee's loyalty to the U.S. Government.

FINANCE

The work of the Children's Fund is financed by the voluntary contributions of governments and of organizations and individuals. In 1969 income was $47 million, of which government contributions accounted for $33.4 million. Contributions to UNICEF's general resources (not a part of the internal matching referred to above) were received from 128 governments. Income from other sources, including the world-wide sale of UNICEF greeting cards and the contributions of civic and religious groups and individuals totalled $13.6 million. The United States government contribution to UNICEF in 1969 was $13 million

Most governments give to UNICEF in their own currencies. Because the bulk of UNICEF aid is in the form of supplies and equipment, contributions are generally spent within the contributing country for the purchase and shipment of such supplies. In the last five years UNICEF's dollar expenditures in the United States have been higher than its income from sources within the United States (governmental and private), due to contributions in United States currency made by more than twenty other governments.

ACCOMPLISHMENTS

The qualitative value of UNICEF's work, while easily visible, is difficult to measure. There are signs of progress, however, that can be measured quantitatively yet even these statistics do not tell the full story of what is happening to change for the better the lives of mothers and children. The statistics of measurable accomplishment include the following:

By the end of 1969, UNICEF had provided supplies and equipment for:

11,134 rural health centers and 34,444 subsidiary centers;

1,388 teacher training institutions and 45,059 primary schools associated with them;

3,404 nutrition centers, demonstration centers or community gardens;

1,803 day care centers and 3,313 women's clubs.

Through the same period, 302 million BCG vaccinations against tuberculosis had been given. UNICEF-aided disease control programs had also resulted in 406 million yaws examinations and 24 million treatments, and 41 million trachoma treatments. In 1969 alone, 32 million children were protected against malaria in programs aided by UNICEF.

By the end of 1969, UNICEF had helped in the training of 578,251 people, including health workers (nurses, birth attendants, and medical and paramedical personnel of various kinds), teachers, nutrition workers and many others.

RECENT EMERGENCY AID

During 1969, in addition to monetary contributions, some governments made special gifts in kind toward the emergency in Nigeria/Biafra. The U.S. government contributed 44,400 metric tons of CSM (corn-soya-milk mixture), 1,000 metric tons of rice and 1,385 metric tons of beans, valued at a total of $8,711,015, and in addition defrayed shipping costs on these commodities. In 1970, through May, the U.S. Government had announced a special contribution of $2 million for relief and rehabilitation in Nigeria, and had pledged a further gift of 61,000 metric tons of foodstuffs.

Already in 1970 natural disasters have made additional demands on UNICEF resources to which UNICEF is responding. Flood damage in Rumania has caused widespread hardship while the destruction and suffering caused by the earthquake on May 31 in northern Peru are still being assessed as emergency supplies are being rushed to the scene.

Aid to Viet-Nam.—At its April, 1970 session, the UNICEF Executive Board authorized the acceptance of $200,000 in funds-in-trust contributed by the governments of the Netherlands and Switzerland to provide clothing for needy children of North Vietnam. Subject to acceptance of the agreement for this assistance by the UNICEF Executive Director and the Hanoi government, the children's clothing would be made available to the League of Red Cross Societies for distribution in North Vietnam. It should be noted especially that the funds for this project are a special purpose gift. No U.S. contributions are involved.

At the same Board session, a second funds-in-trust contribution of $800,000 from the governments of the Netherlands and the United States was approved to help build a training school for social workers in Saigon. This project was in addition to an allocation of $338,000 to support ongoing UNICEF child care programs in South Vietnam which began in 1952.

NATIONAL COMMITTEES—THE U.S. COMMITTEE FOR UNICEF

In 26 countries national committees for UNICEF now exist to provide information on the needs of children in developing countries, build understanding of the Children's Fund's purpose and programs and stimulate public participation and support. In the United States, the U.S. Committee for UNICEF, founded in 1947, is a national voluntary organization, authorized by its by-laws and by UNICEF to receive contributions to the Fund. The Committee is governed by individuals who represent a national cross-section of civic, religious and professional fields. These Corporate Members elect a Board of Directors who determine the policies of the Committee.

Several major projects in support of UNICEF are coordinated by the U.S. Committee. Through the UNICEF Halloween program, which began in 1950, over 3.5 million children participate in an educational and fund-raising program each year. Most become involved by "Trick-or-Treating" for UNICEF with others from their schools, churches or other clubs. They learn about UNICEF's work, spread awareness of this work throughout their community and help other children with the contributions they collect at this time. Their concern resulted in the designation of October 31st each year as National UNICEF Day by Presidential Proclamation in 1967.

National committees, including the U.S. Committee, help to promote the worldwide sale of UNICEF greeting cards. The designs for the cards are donated by their artists and are selected by an international panel. The cards, popular at the Christmas holiday season in the United States, are sold throughout the year in over 100 countries.

STATEMENTS IN SUPPORT OF UNICEF'S WORK

Through the years national leaders have expressed their support of the purpose and work of the Children's Fund. Every President of the United States, from Harry S. Truman to Richard M. Nixon, has affirmed his faith in the value of the kind of humanitarian work that UNICEF is doing. President Nixon stated on March 20, 1969, "Ever since its founding, UNICEF has enjoyed the full support of the people and Government of the United States. I want to take the opportunity to reaffirm this commitment, and pledge you our continued cooperation in the advancement of your high human goals."

Similar endorsements have also been received from the major religious denominations in the United States. They include the General Board of the National Council of Churches of Christ in the U.S.A., the American Jewish Committee, and the Roman Catholic Church on the occasion of the Holy See's seventeenth annual contribution to UNICEF in 1969.

THE CHALLENGE AHEAD

Considering the enormous needs of children and the comparative lack of resources to meet them, UNICEF-assisted projects are not likely to provide immediate world-wide solutions to the problems facing the children of the developing countries. UNICEF does, however, serve as a catalyst, promoting projects which can serve as models for future growth, leading to support from other sources and stimulating the extension of services to children.

The impetus for UNICEF's work, today as in its emergency beginnings, is the knowledge that, throughout the world, millions of children suffer. The present challenge is great. "Every half minute, 100 children are born in developing countries. Twenty of them will die within the year. Of the 80 who survive, 60 will have no access to modern medical care during their childhood. An equal number suffer from malnutrition during the crucial weanling and toddler age—with the

possibility of irreversible physical and mental damage; and during this period their chance of dying will be 20 to 40 times higher than if they lived in Europe or North America. Of those who live to school age, only a little more than half will ever set foot in a classroom, and less than 4 out of 10 of those who do enter will complete the elementary grades. This situation is especially disturbing when we realize that three quarters of all the world's children under 15 years of age—over a billion children—live in developing countries."[2]

A child's needs must be met today. Tomorrow may be too late.

TED MANSUR—A GREAT ONE

Mr. McINTYRE. Mr. President, I want to join in the richly deserved plaudits given last Friday to Edward E. Mansur, Jr.—Ted to all of us who have known him and held him in such high regard and valued his counsel.

There are some people who just exist in their jobs. There are some who do not fit the jobs they are called upon to perform.

Ted Mansur loved his job. Ted fit his job. Ted belonged in his job.

He came a long way from Missouri to his high post here in the Senate, but he travelled the road well, and his many contributions to the Senate have been among the fine signposts on the highway of history during the 23 years he has served here.

Our Nation was recovering from World War II when Ted joined the Senate staff. Five Presidents have been in the White House, the Korean war was fought, the Vietnam war was started, most of the progressive laws now guiding our country were passed during the years Ted was here. He has been an integral part of the smooth functioning of the Senate as our Nation has met and recovered from crisis and moved forward to new accomplishments.

Ted deserves the rest he can now have and the time he can spend with his wife Carolyn and his lovely daughters.

Mr. President, Ted Mansur will be missed, but I wish him all the best in this new phase of his life. May it be a rewarding time for him.

TAX EXEMPTION PRIVILEGES FOR PHILANTHROPIC FOUNDATIONS

Mr. CASE. Mr. President, questions were raised during last year's debate on the tax reform bill as to whether private philanthropic foundations should continue to be granted tax exemption privileges.

Abundant evidence, I am glad to say, demonstrated the importance of continuing the work carried out by these great reservoirs of private initiative and skill.

During that debate I pointed out that some 200 national and local foundations in New Jersey were helping to meet local and statewide needs, particularly in urban areas. While public attention is often focused on grants made by the large, well-known foundations, it is noteworthy that much significant work is being done by small local foundations.

One such foundation is the Victoria Foundation, which has granted more than $600,000 over the past 6 years to develop an inner city school in Newark, N.J. The Victoria project was recently described in an article in the Newark Evening News.

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:

VICTORIA FOUNDATION INJECTING INNOVATION INTO GHETTO SCHOOL

(By Jeffrey W. Grambs)

Newark's Cleveland School is such a typical fixture of the city's aging and overcrowded "inner city" school system that it has enjoyed some special advantages for six years.

Like a lot of the city's schools, it's not much to look at for anyone spoiled by the suburban variety of new school construction. It's an uninteresting looking weathered brick box near the heart of the Central Ward.

The windows are covered with gratings. Because of vandalism, the visitor must ring an outside bell to be admitted.

In fact, it seemed such a typical big city school that the Victorian Foundation six years ago decided to see what could be done with it.

So it piped more than $600,000 into the school over the past six years to develop a variety of educational experiments.

STIMULATES INTEREST

The extra aid is of such proportions,—$160,000 this past year notes Vice Principal Norman Dultz—that teachers are not only encouraged to come in with "innovative ideas" but, "nine times out of ten their requests will be honored". And innovation is not something easily afforded in Newark.

The foundations, with headquarters in Montclair, was founded in 1924 by the late Hendon Chubb, an insurance executive, and named after his mother, Mrs. Victoria Eddis Chubb. Its president is Percy Chubb II, the founder's son.

Many of the foundation's annual grants are for education and youth projects, a large proportion of which go to programs within this state, particularly Newark.

Dovetailed with the regular school administration and relying in large part on the regular Cleveland faculty, the Newark Victoria Plan is injecting into the 900-pupil school special staff talents and services for everything from pre-kindergarten training to a novel curriculum intended to repair educational lag with remedial work and then build up with "enrichment" programs.

It is the only school in the city now on the New Math from kindergarten through sixth grade—Cleveland's entire grade range. The school's prekindergarten class, stressing language, social living patterns, science and parent participation, was a prototype for the federal Title I program and Head Start.

The key to the program, according to Thomas H. Cooke Jr.; plan coordinator, is that the regular classroom teacher is "backed up" by specialists and, because of the extra funds, has available teaching materials not normally on hand in Newark.

SUBURBAN AVERAGE

"I'm convinced myself," says Cooke, "that the average kid here would be average in a suburban school, too. And you should realize we're dealing with a lot of kids who come from poor and broken homes, have poor attendance records, move around in the city and out with their families, don't get good nutrition at home and often don't have any place to study at home or anything to study with."

Cooke and Dultz are particularly happy with one objective result. A standardized test done by the Educational Records Bureau in Connecticut last October showed the first and second graders to be above national norms in the New Math. The summer reading program last year, according to both, also showed "clear improvements" in the youngsters' ability.

The project is operated as a sort of team affair by Cooke, Dultz and Dr. Herbert E. Scuorzo, principal. "It runs so smoothly this way," says Dultz, "that you don't know three individuals are involved."

SPECIALISTS' ROLE

At each grade level, there is a "control" group and an experimental group of students.

In terms of special talents available for teaching, the foundation's aid has provided Cleveland with four reading specialists, a math coordinator and science specialist. The average Newark school, for comparison, has one part time reading expert.

For the most part, the role of the specialists is to help the school's regular teachers with curriculum planning and instruction methods, though the specialists may next fall also work directly with slow learners among the enrollment.

In addition, the Victoria Foundation finances a full-time "resource" person to work particularly with new, inexperienced teachers, and 11 community "aides"—college students and parents who help teachers in non-instructional tasks in the classroom.

The combination of Victoria money and Board of Education budgeting has also given Cleveland two full-time art teachers and a speech therapist, a music instructor. Its funds also pay for five social workers who work with community and parent groups on home and family problems in the area of the school.

MODERN MATH TAUGHT

Two years ago, Cleveland became the first city school with its entire enrollment on modern math from kindergarten through grade six. Where many schools in Newark are still on the traditional textbooks, explains David Schwartz, math project specialist, Victoria funds enabled Cleveland to get new texts.

The school board's curriculum guides for arithmetic, science and health were last revised between 1949 and 1951. They're still "excellent books", says Schwartz, "but they're not current." The result: they were rewritten, in effect, by Cleveland's faculty.

The Project just inaugurated formal reading in kindergarten last fall. This summer, it will offer a six-week reading program for 75 youngsters with four hours of classes daily, and—something new—two hours of homework. With college students as aides for the school teachers, the summer course will have at either end of it a standardized test to measure the results of the six weeks.

CLUB PROGRAMS

In an effort to offer youngsters something constructive to do after school, the program this year opened a "club" program that drew particularly favorable reaction from parents. The clubs give the youngsters a chance to become interested and skilled in such things as ballet—which drew a surprisingly heavy turnout of youngsters—art, gymnastics, sewing, photography, modeling and fashion and stamp and coin collecting.

The main problem so far, according to Cooke, has been finding competent teachers to work with ghetto children. "We get new teachers coming in for interviews with a lot of dedication," he says. "They have a sort of 'I'll love you to death because you need love' attitude. But you can't work only with love.

[2] From *Progress Begins with the Child*, excerpts from a statement by Henry R. Labouisse, 17 December, 1968.

"The kids have to be given discipline", he adds. "They need firmness, something and someone to respect. You have to teach 'up', not 'down'."

Dultz goes a bit further in outlining the problem:

"I indict every teachers college for not being involved more in the inner city school. I'd like to see what they can do to relate their courses to teaching ghetto kids. They're deathly afraid of this. They're afraid they can't meet the test.

"They just don't know about Newark, the kids, how to handle them—and the teachers deserve the opportunity to be exposed to this. It won't contaminate them."

DELAY URGED IN OPERATION OF SUPERSONIC PLANES

Mr. FULBRIGHT. Mr. President, an article published in the New York Times of August 2 reports that a group of leading scientists, after a month-long meeting on environmental problems, have recommended that large-scale operation of supersonic transport planes be delayed until serious questions about the planes' potential for environmental contamination can be answered.

This latest report, called the Study of Critical Environmental Problems, is one of a number of reports and studies that questions the advisability of proceeding with the development of the SST.

Another article, published in the Times of the same date, reports that the environmental defense fund has decided to ask a Federal court to order the Federal Aviation Administration to set noise and environmental standards for the SST before certifying its worthiness for air.

The same article points out that the Government has already invested $737 million in the SST, and the administration is requesting an additional $290 million. That means the Federal investment would pass the $1 billion mark, and no one knows where it might stop.

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

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

[From the New York Times, Aug. 2, 1970]

SCIENTISTS ASK SST DELAY PENDING STUDY OF POLLUTION

(By Bayard Webster)

WILLIAMSTOWN, MASS.—Scientists from the United States and Europe, after a month-long meeting here on environmental problems, recommended today that large-scale operation of supersonic transport planes be delayed until serious questions about the planes' potential for environmental contamination can be answered.

The scientists, concluding their study of global pollution problems and effects on the earth and its climate, indicated that regular stratospheric flights by such planes could cause an increase in cloud formation and higher stratospheric temperatures, with consequences that are unpredictable.

[In Washington, it was disclosed that the Environmental Defense Fund, a private organization, decided to file a suit aimed at requiring the Federal Aviation Administration to set noise and environmental standards for the SST before certifying its ability to fly. Page 25.]

The question of environmental pollution has become heated, and has assumed political overtones, in the debate between American advocates and opponents of the supersonic jet. The study group here, consisting of more than 50 scientists and professionals, pointedly emphasized that its concern was based solely on scientific observations in various parts of the world.

A report by the group said that an increase of water vapor induced into the stratosphere by the planes tended to favor the formation of clouds.

The scientists also reported that fine particles from the exhaust of jet engines would tend to double global averages of such particles, with unknown effects. The particles, distributed in the lower level of the stratosphere where the first supersonic jets will fly, reflect sunlight back into the stratosphere, thus tending to warm it.

The group's preliminary report, called the Study of Critical Environmental Problems, also recommended that a monitoring program be set up promptly to measure the lower stratosphere for water vapor quantities and to determine the measurements for sulphur dioxide and nitrogen oxide and hydrocarbons, which make up most of the fine particle matter.

The report followed a recent call by William M. Magruder, in charge of the Federal Government's supersonic transport program, for a study of the plane's potential environmental impact. The supersonic, or S.S.T. project, is currently awaiting Senate action on a $290-million appropriation.

The teachers, scientists and professional men who met here also studied and reported on other aspects of worldwide pollution. These included contamination by D.D.T. and other persistent pesticides, mercury, oil and fertilizers and waste nutrients.

The group, recruited under the sponsorship of the Massachusetts Institute of Technology, met throughout July on Williams College Campus in the Berkshire foothills.

Its worldwide pollution study was primarily concerned with the indirect effects of pollution on man through changes in climate, ocean ecology or in large terrestrial ecosystems. No local or regional environmental problems such as lake and stream pollution, the effects of population growth, or the direct health impact of pollution on man were studied.

Among the findings of the study were these:

The effect of increasing quantities of carbon dioxide in the atmosphere (believed to raise temperatures by the "greenhouse effect") has resulted in little climate change in the century, but its future consequences are unknown.

The earth's oxygen supply remains fairly constant and the depletion of oxygen by the blending of all the recoverable fossil fuels in the world would result in only a .15 per cent reduction.

The effect of DDT on the oxygen-producing phytoplankton in the ocean is negligible.

An estimated total of 1.5-million tons of oil is introduced into oceans every year by ships, offshore drilling and accidents. Almost three times this amount, the group estimated, could eventually be introduced into waterways and the oceans as a result of emission and wasteful practices on land.

The increasing use of fertilizers and the growing quantity of animal and human wastes will result in destructive runoffs of nutrients in rivers and streams, causing eutrofication, unless recycling technology is soon developed.

"We confined our study to environmental problems of worldwide significance," said Prof. Carroll L. Wilson of M.I.T., director of the study, which is believed to be the first intradisciplinary one of its kind in the world.

"But strangely enough," Professor Wilson went on, "the existence of a global problem doesn't mean there's always a global solution. Most corrective action must be taken by a country, a region, or a city government," he added.

A BASE FOR 1972 PARLEY

The study group was formed in the hope that its findings might provide a better planning base for the United Nations Conference on the Human Environment in Stockholm in 1972 and would also help in the planning of other national and international environmental conferences.

Evidence of the paucity of data on environmental problems was frequently noted in the summary. "This is a question there is no available data on," was the comment of several of the group leaders as they explained the summary of findings to newsmen who attended a two-day briefing here. In many ecological areas, "there are large gaps of knowledge," Dr. Wilson noted.

Despite this, the scientists made recommendations in almost every area. In many cases they urged the establishment of sophisticated monitoring facilities for determining facts about air and water pollution and the routes the pollutants travel.

Global computer models incorporating atmospheric motion and ocean-air interaction were also recommended by the group. A drastic reduction in DDT use was strongly urged, with subsidies furnished to countries unable to afford the more expensive nonpersistent pesticides.

The group also suggested that information centers on technology and environmental pollution be established in conjunction with a problem evaluation center and a public information center.

In addition to their major findings the study group also uncovered some less significant but curious oddities or questions without answers, such as:

Some 3.3-million tons of lubricating oil are used every year in vehicles and industry and are never reclaimed. Where do they go? Nobody knows.

Japan uses such high quantities of insecticides to achieve high food yields that it has killed off most pollinating insects, and apple trees must now be pollinated by hand.

RADIOACTIVE WASTE ISSUE

One major problem—the management of radioactive wastes from nuclear power plants—was omitted from the summary, but the scientific group advised the Atomic Energy Commission, one of sponsors of the study, of its concern over the problem and recommended that an investigation be made of better ways of handling such wastes.

The study group was conceived last year by several of the participants, not primarily to make specific recommendations for solution of area problems, but rather to seek recommendation for new programs of focused research and action and to obtain more definitive information on the major worldwide pollution problems.

Those who participated came from more than a dozen disciplines including meteorology, oceanography, biology, ecology, geology, physics, engineering, economics, social sciences and law. Members also came from Federal agencies, national laboratories and nonprofit and industrial corporations.

The members clustered themselves after a while into four major work groups—climate effects, biosphere effects, baseline measurements and monitoring, and implications of change. They called on worldwide data sources such as the United Nations and Government agencies, universities, scientific institutions and private industry and prepared papers during the month before the actual work period of July.

The study was supported and funded by the following organization and Government agencies:

The Department of Agriculture, Atomic Energy Commission, Department of State, Environmental Science Services Administration, United States Forest Service, National Aeronautics and Space Administration, National Air Pollution Science Foundation, American Conservation Association, Ford Foundation, Rockefeller Foundation, Sloane Foundation, Center for the Environment and Man, Massachusetts Institute of Technology.

United States Coast Guard, Federal Water Quality Administration, United States Fish and Wildlife Service, United States Geological Survey, National Academy of Sciences, National Center of Atmospheric Research, Oak Ridge National Laboratory, Rand Corporation, American Electric Power, Boise Cascade Corporation, Consolidated Edison, Esso Research and Engineering, and General Electric.

The full report of the study group will be published in paper book form on Oct. 15 by the M.I.T. Press.

In addition the following provided support through preparation of background materials and professional participation:

[From the New York Times, Aug. 2, 1970]

SUIT TO SEEK SST NOISE AND ENVIRONMENTAL GUIDE

(By E. W. Kenworthy)

WASHINGTON.—The Environmental Defense Fund has decided to ask a Federal court to order the Federal Aviation Administration to set noise and environmental standards for the supersonic transport before certifying its worthiness for air.

The environmental fund is a group of scientists, lawyers and conservationists, incorporated in New York, that seeks to protect the environment from further impairment.

Over the last few months the fund has obtained Federal court orders blocking the immediate construction of the haul road for the Alaska pipeline and requiring the Department of Agriculture to give reasons why the use of the pesticide DDT should not be suspended.

Officials of the fund and attorneys of a Washington law firm, Berlin, Roisman and Kessler, will meet here this week to decide when the suit will be filed. They have already made the decision to go to court because the F.A.A. has not replied to a petition filed by the fund last May 25.

PROCEDURAL ARGUMENT

The fund will argue that, because of the silence of the aviation agency, it has exhausted all administrative remedies under the Administration Procedure Act.

In its petition, the fund asked that the aviation agency, which is under the Department of Transportation, to determine now that the noise standards that it has already set for subsonic aircraft would be applied to the supersonic transport commonly called the SST.

The fund also asked the F.A.A. to initiate a rule-making proceeding to consider "the minimum environmental standards" that would govern certification of the plane.

When President Kennedy committed the Government in 1961 to subsidize 90 per cent of the development costs of two prototypes of the SST, he limited the commitment to $750-million. The Government was to recover its investment from the sale of the first 300 planes.

So far the Government has invested $737-million. The Administration has requested $290-million more. In May the House approved this amount by a vote of 176 to 163. The Senate will act soon, and the outcome is in doubt.

William M. Magruder, a former test pilot and engineer with The Boeing Company and Lockheed Aircraft Corporation who is in charge of the SST, has been lobbying vigorously for votes in the Senate.

The Environmental Defense Fund is convinced that the imminence of the Senate vote explains the lack of response by the aviation agency to the fund's petition. Members of the White House Council on Environmental Quality likewise suspect that, for the same reason, the Department of Transportation has delayed filing a "Section 102" statement on the supersonic plane.

Section 102 of the National Environmental Policy Act of 1969 requires that every Federal agency, when recommending any program with a significant environment effect, submit a detailed statement on the environmental impact.

Mr. Magruder announced on July 20 a $27.6-million program of research on environmental hazards of the SST, but the study is to last three or four years. Meanwhile, if the $290-million appropriation was approved, prototype development would be approved.

Last May 7, Russell E. Train, chairman of the Council on Environmental Quality, assured a House subcommittee that, under the environmental policy act, the aviation agency would have "to take the fullest range of environmental factors into account as part of the certification procedure."

However, the Environmental Defense Fund and many Congressional critics of the supersonic transport were not reassured by this statement. They note that while Congress, in 1968 amendments to the Federal Aviation Act, instructed the F.A.A. to set standards for abatement of noise and sonic boom, it also said that the agency should take into account what was "economically reasonable and technologically feasible."

Senator William Proxmire, Democrat of Wisconsin, and the environmental fund in its petition contend that if environmental considerations are left until the time comes for certification, the Administration will be under such pressure to recoup its investment that it will consent to the aviation agency's expected recommendation that noise standards be relaxed for the SST.

JUSTIFICATION SUGGESTED

The F.A.A., they contend, could find justification for such relaxed standards in the manufacturer's contention that it is not economically reasonably or technologically feasible to meet the sideline (runway) noise standards for subsonic craft in the supersonic plane.

The standard for subsonic aircraft is 108 PNdB (perceived noise in decibels). Although the contract for the SST requires that its sideline noise will not exceed 118 PndB, it is now expected to be in a range of 122 to 129.

Since the decibel is a logarithmic unit, Dr. Richard L. Garwin, of the White House Office of Science and Technology, has said that an SST with a sideline noise of 125 PNdB "will produce as much noise as the simultaneous take-off of 50 jumbo jets," each of which has a sideline noise of 108. Mr. Magruder vigorously denies this.

The Environmental Defense Fund also wants the aviation agency to develop standards that would take into account such environmental problems as the effect of placing into the upper atmosphere large quantities of water vapor engine exhaust.

Dr. George MacDonald, a member of the Council on Environmental Quality, told a House subcommittee that the discharge of large amounts of water vapor might destroy some of the ozone that acts to shield the earth from dangerous ultraviolet radiation in sunlight. But Mr. MacDonald conceded that much more study was needed to determine the degree of danger from the discharge of water vapor.

USING YOUR HEAD

Mr. PERCY. Mr. President, in these days of radical disturbances and unrest among our youth, it is most refreshing to read of a young man using his head.

Mike Prieto, a young man in Modesto, Calif., by allowing a fly ball off the bat of Len Boyer to bounce off his head and over the left field fence, turned what would have been a routine out into victory—for the other side.

The fact that Prieto was unhurt goes a long way to disprove current theories of the soft effete younger generation.

Upon being contacted after the game, Mike agreed to donate his brain—upon the expiration of his natural days—to the Brain Research Center at the University of Chicago, where intensive studies can be made of the granite-like substance that rests upon his neck.

I predict a great future for Mike in the major leagues some day.

I ask unanimous consent that an article on this subject be printed in the RECORD.

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

BOYER BROTHER BOUNCES HOMER OFF OUTFIELDER

MODESTO, CALIF.—Len Boyer, one of the five baseball brothers hit an unusual home run Wednesday night—a 330-foot fly that bounced off an outfielder's head and carried another 20 feet over a 15-foot fence.

Left fielder Mike Prieto, who lost the ball in the lights, was unhurt. Boyer's homer was the final run for the Modesto, a St. Louis farm club, in a 9–0 victory over San Jose in the Class A California League.

Len's brother, Clete, is an infielder for Atlanta. Another brother, Ken, retired recently as a Los Angeles Dodger. Cloyd, a former St. Louis Cardinal, is a New York Yankee scout, and Ron is in the Yankee farm system.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 3302) to amend the Defense Production Act of 1950, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 2846) to assist the States in developing a plan for the provision of comprehensive services to persons affected by mental retardation and other developmental disabilities originating in childhood, to assist the States in the provision of such services in accordance with such plan, to assist in the construction of facilities to provide the services needed to carry out such plan, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled bill (H.R. 14619) for the re-

lief of S. Sgt. Lawrence F. Payne, U.S. Army (retired), and it was signed by the Acting President pro tempore (Mr. ALLEN).

POSTAL REFORM—CONFERENCE REPORT

Mr. McGEE. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17070) to improve and modernize the postal service, to reorganize the Post Office Department, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. JORDAN of North Carolina). Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. McGEE. Mr. President, in view of the great length of the conference report, I ask unanimous consent to dispense with the printing of the conference report in the RECORD.

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

Mr. McGEE. Mr. President, my statement today will be brief. At the outset, my purpose will be to correct some misapprehensions that I understand are afoot.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. McGEE. I am glad to yield to the Senator from West Virginia.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent—and it is my understanding that this request has been cleared on both sides; I have just discussed it with the able assistant Republican leader, and it has been cleared with the manager of the bill, and I understand it is agreeable with the ranking minority member—that the vote on the pending conference report occur at 3 o'clock p.m. today.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McGEE. Mr. President, I have been advised, though I have not seen it myself, that the New York Times, in an article yesterday, reported that Senator McGEE from Wyoming was expected to "lead the fight against the postal reorganization bill" this week in the Senate.

That is only approximately correct. I say approximately because, while it will be this week, and while it will involve the postal reorganization bill, the only error is that I do not intend to fight it but to support it. So, with that small correction in the RECORD as to the article in the New York Times of yesterday, I shall proceed.

Postal reorganization has been the dream of a great many of us for a good long time, and the Senator from Hawaii (Mr. FONG) and I have spent a great many tedious hours at times, though very rewarding hours, trying to hammer out the structure of some meaningful postal reorganization.

This we feel we have done. In the compromises that were reached between the positions of the two Houses on the key issue, we believe that a stronger and more effective postal structure has been produced.

Obviously the Senate did not get its way on all of its measures. On some issues we receded in the conviction that perhaps the House position may have protected some factors more adequately than some of the Senate provisions. But in general, the important thing is that the differences that arose between the two Houses were differences over refining postal reorganization, rather than differences as to whether we should reorganize or not.

The singular element in this whole controversy for some time now has been the high level of agreement, both with the present administration and the preceding administration, and with the leadership in both Houses and their respective committees, that substantive postal reorganization was indeed in order; and this measure, coming out of 3 weeks of conference between the two Houses, would seem to achieve that goal.

The major issues in the conference were: Procedures for establishing postal rates and classes of mail; recognition of collective bargaining units in the section on labor-management relations; mail transportation; the union shop versus open shop; representation rights for postal supervisors and other managerial employees; the public service contribution by the Congress; free and reduced rate mail for certain mailers; and the degree of independence, if any, for the Postal Rate Commission.

On most of these important points, the Senate's basic position was preserved and on others where we yielded, I think the compromise is workable.

There were two rollcall votes in the Senate on issues where ultimately the Senate yielded to the House. I call these to the Senate's attention so that they will know why we did what we did. On the amendment by the distinguished junior Senator from Kentucky, Senator COOK, guaranteeing equal employment opportunities regardless of sex, the Senate yielded because after we reached conference we learned that present law affecting all Federal employees, including employees under the new Postal Service, guarantees antidiscrimination provisions which are of greater benefit to women employees in the Government than the provisions of title VII of the Civil Rights Act of 1964. Learning this, we decided to yield in order to retain the superior benefits of existing law.

On the issue of the open shop, the Senate's position guaranteeing that the Postmaster General could negotiate a union shop if he so wished was diametrically opposed to the House provision guaranteeing an open shop. By a substantial majority, the House conferees were instructed on this issue and their refusal to yield virtually required that we recede on this point. I think it is pertinent to observe that better than 90 percent of all postal workers today are members of a union even though the issues bargained on under current law do not include wages, hours, or conditions of employment. I am inclined to think that the open shop provisions of the House bill will not have a substantial impact upon the growth of labor organizations in the Postal Service.

The integrity of the Postal Rate Commission to operate independent of the Board of Governors or any other outside influence was preserved. Final decisions on rates and classes of mail are made by the Board of Governors, but they cannot change any recommendation by the Commission unless all nine Governors appointed by the President agree in writing to modifying the recommendation and only then if they can prove that the recommendation of the Commission will not produce sufficient revenue to operate the Postal Service.

On collective bargaining, the Senate receded to the House so that postal unions which are not craft units will have at least the opportunity, subject to recognition prodecures by the National Labor Relations Board, to compete for recognition. In the transitional bargaining phase this year, only the unions having national exclusive recognition will be the bargaining agent. That transitional contract will not interfere with the National Labor Relations Board's ultimate determination for another bargaining unit if it determines that is the right thing to do.

On mail transportation, the House conferees accepted all of the Senate language on air transportation; and on surface transportation the right of small star route contractors to compete fairly with big intrastate motor carriers was fully preserved. In addition, star route carriers may be certificated by the Interstate Commerce Commission if they wish to apply.

For postal supervisors, the provision requiring that they be consulted in advance on any programs related to their pay and working conditions and that they be entitled to participate directly in the planning and development of such programs was preserved.

On the issue of how much money Congress will pay the Postal Service in order to gradually approach operating somewhere close to a breakeven point, the conferees agreed on a middle ground. Under the Senate bill, the 10 percent public service contribution was permanent. Under the House bill it declined quite rapidly and went out of existence by 1978. Senate conferees viewed this as completely unrealistic and insisted that a longer period of time be provided for. Our agreement is that for 8 years the contribution will equal 10 percent of the fiscal 1971 apropriation—about $800 million. Thereafter, it will decline at the rate of 1 percent a year over a 5-year period. After fiscal year 1984—and I must interject here that I hope that date is not prophetic—the Postal Service may reduce the public service contribution if it can do so without disrupting postal services or requiring increases in postal rates. If the Postal Service is half as efficient as some of its advocates claim, that should not present a serious problem 14 years from now.

On the reduced rate mail the conferees agreed that small town newspapers and the specified nonprofit charitable, re-

ligious, educational, and other organizations could continue to mail at preferred rates. But those rates will not be set by Congress and we will be rid of any ratemaking responsibility for any class of mail except through our basic constitutional power to legislate. The rate for such nonprofit mail will be set by the Postal Rate Commission, as for any other class of mail, but the rate may not exceed the actual postal costs, excluding any overhead costs. The loss so incurred will be made up by direct congressional appropriation and if Congress fails to appropriate the money, the Postal Service may increase the rates.

I will be happy to answer any questions which my colleagues may have concerning the committee report.

With that, I turn to my colleague the Senator from Hawaii (Mr. FONG), the ranking minority member on the committee, and take this occasion to say to him that without his leadership and without his constant service, often day and night, it would have been impossible to have moved this matter along in the spirit of good legislation.

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

Mr. McGEE. I am glad to yield.

Mr. FONG. Mr. President, I thank the distinguished Senator from Wyoming for his very fine remarks. I congratulate him for his patience and for his expertise and outstanding leadership during the many months of painstaking work on the postal reform bill. I compliment him especially for his very fine leadership in the conference between the Senate and the House of Representatives. It was due to his very fine leadership that we were able to come out with this very fine conference report. We have, Mr. President, presented to the Senate and to Congress an excellent bill. I say it is landmark legislation.

It was over a year ago that the Congress received President Nixon's message that he was recommending total reform of the Post Office Department. From that day Senator McGEE and the entire Senate Post Office and Civil Service Committee has dedicated itself to producing a reform bill in line with President Nixon's recommendations but with refinements we on the committee felt were critical to the type of postal system the American people deserved—one that would give all Americans fast and efficient mail service at the most economical postal rates.

I was greatly pleased when on June 30, 1970, the Senate endorsed its Post Office Committee's recommendations by the overwhelming vote of 76 to 10 in passing the postal reform bill.

Senate and House conferees on this legislation completed action on a compromise bill last week—Thursday, July 28—after over 3 weeks of intensive morning and afternoon conference sessions.

I believe the compromise legislation we are now presenting to the Senate for approval is an excellent bill. Under the agreement worked out in conference the new U.S. Postal Service will be an independent executive agency, operated by a nine-member Board of Governors appointed by the President with the advice and consent of the Senate. They will be appointed for staggered 9-year terms. This Board of nine members will appoint the Postmaster General and his deputy. These two appointees will also serve as members of the Board, thereby increasing the Board's membership to 11 members.

An essential element of the new Postal Service other than removing the Postmaster General from direct partisan politics, as is now the case, is the independent postal rate commission, which the distinguished Senator from Wyoming insisted on and which prevailed in the conference report. The House-passed postal reform measure recommended a dependent rate commission, while the Senate bill contained an independent rate commission. The Senate position prevailed in conference with minor modifications.

Congress will no longer set postal rates, nor will it have any veto power over postal rates. Its power over rates as with that of any other phase of the postal service's operations, will be that which Congress always retains—the power of passing general legislation.

In the setting of postal rates there will be opportunity for full and impartial hearings, and aggrieved parties will have the right to full court review.

The Senate conferees yielded on the right-to-work amendment that was in the House bill and modified the provision on rates for nonprofit institutions allowing them to mail at lower rates than regular second and third class mailers.

Although this bill opens up new and uncharted areas of postal operations, I believe that we have given postal management the tools they need to run the service as it should. They have bonding authority to raise much needed funds for the modernization of its buildings and equipment; they are being given authority to bargain with labor; and they are being given the authority to manage rather than be caretakers of an obsolete system.

I am convinced the measure produced by the Senate-House conferees is a good one. It goes a long way in meeting the desires of the administration but also contains provisions which Congress and particularly the Senate and House Post Office and Civil Service Committees feel should be in any postal reform bill.

I am very appreciative of the excellent work done by the conferees and all the members of the Senate and House Post Office Committees. The support given the conferees and the input from the Members of the Senate were given every consideration in reaching the decisions we did in the conference.

This is landmark legislation—a bill of which the 91st Congress can be proud.

I urge my Senate colleagues to pass this compromise bill overwhelmingly.

I thank the distinguished Senator from Wyoming for yielding to me.

Mr. McGEE. Mr. President, I cannot stress strongly enough how intricately involved in this process of give and take and learning from the ideas of others has been the constructive contribution by the Senator from Hawaii throughout the long, protracted period of time that we have been studying postal reform. I think it is very much as he says—it is landmark legislation. This is a major breakthrough so far as updating and modernizing this institutional operation in a free government is concerned.

The temptation is understandable, of course, to turn the postal service completely over to a private enterprise type of operation, if one thinks only of running something the way one runs a business. But something else is present that a business per se cannot be entrusted with, and that is the public interest. In a national monopoly, which the postal service is, it carries the image and indeed provides the imagery of the Government of the United States of America. In three-fourths of the towns and cities of our land, the only, the basic epitome of our Government is contained in the flag that flies over the local post office.

Many of us on the Senate side, and some others, felt very strongly about preserving that public concept, and this indeed is basic here. To be sure, each of us, in his own way, thought he had the best possible plan to protect all these considerations. But I would stress now, at this late hour, that we have come a long way; that we have basic postal reform with all the legitimate goals that have been spelled out here; and that its chance for success—or, better, the degree to which it can succeed—will now depend upon the spirit of those who undertake its implementation.

With that thought in mind, I would express the feelings of the Senate conferees—of all the conferees—that both downtown and here on the Hill every effort be made to cooperate and to get underway in this new undertaking, with the total spirit of figuring out how best to make it work, rather than concentrating on how to drag or how to slow it down or how to make it not work. This is a desperately important moment from that point of view, and that state of mind will hold in balance its chances for success.

It is in that spirit that I can assure the complete cooperation of the relevant committees of this body in the proposed legislation. We believe that, while this is less "jazzy," I suppose one would say, on the horizons of day-to-day news, it will loom large in history as a significant breakthrough in updating a national postal monopoly.

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

Mr. McGEE. I am glad to yield.

Mr. FONG. Is it not true that this bill is historic in the sense that we are departing from a procedure which is approximately 300 years old, since the King of England first gave a commission on postal matters to a private individual?

Mr. McGEE. That is correct.

Mr. FONG. And this will eliminate politics from the Post Office Department as we have seen it operate.

Mr. McGEE. Indeed, it will. We have taken politics out of the postal service.

Mr. FONG. The only thing that any Member of Congress could do in a matter of writing letters is to follow what the prescribed law is now—he can only write a letter on a man's character and residence.

Mr. McGEE. That is correct. That is the law now, as the Senator has stressed. Only by living up to the law and by doing what is in the normal course of events would a Member of Congress participate at all in a character reference and a locale reference in regard to an individual.

Mr. FONG. The advisory part which Congress always played in the selection of postmasters is now entirely out of the bill.

Mr. McGEE. It is completely out of the bill.

Mr. FONG. So the Postmaster General, after he is appointed by the nine-member Commission appointed by the President, will have almost full power to appoint the postmaster he wants, so that he can improve the postal service.

Mr. McGEE. Not only will he have the full power; what is more important he will have the full responsibility which goes a step further. Not only can he appoint the man; he has to take the consequences for the man he has appointed.

Mr. McGEE. Yes.

Mr. FONG. In other words, we have placed power in the Postmaster General so that he cannot come to the Congress and say that he does not have the tools to make an efficient postal system.

Mr. McGEE. He has the tools personally. He has the tools to take care of the labor costs in the postal system. He has the tools in financing. He has all the tools that a person could ask for in establishing leadership in this new operation.

Mr. FONG. Is it not true that whereas Congress has been loath to make appropriations to modernize the Post Office Department and it is estimated it will cost approximately $7 billion to modernize and produce an efficient postal system, now, with this new bill, we will give to the postal service the right to go ahead and sell bonds so that they can raise the $7 billion to $10 billion; is that correct?

Mr. McGEE. That is correct. We have taken the financing of the postal service almost entirely out of the public sector in the old sense of that phrase. As the Senator knows, Congress' role will be in protecting the public interest sector. The postal service at the present time totals about 10 percent of our annual budget. We have tried to tide this over the transitional period to make it possible for the new operation to get off the ground.

Mr. FONG. The distinguished Senator from Wyoming knows that it is a very difficult problem for Members of Congress to set postal rates and to determine what each class of mail should pay. Now an independent postal rate commission which will have expertise in this matter will determine what the rates should be.

Mr. McGEE. Indeed so. More important still, aside from Congress' lack of time to become rate experts, it will take the lobbyist out of the Halls of Congress on all cases of postal rate matters. As most anyone knows who has ever been involved in this matter, they express the constant presence of or the need for lobbyists to buttonhole Congressmen to try to persuade them to one rate or another. We think this is an important breakthrough in the public interest, to get Congress out of the ratemaking business, and out of being the target of the lobbyist in this case.

Mr. FONG. Yes. Is it not true that the postal employees will find that the labor-management provisions in this bill is more advantageous to them and that they will be promoted on the basis of merit. Merit will be the foundation on which these employees of the new postal service will be able to look to for promotions, rather than to the influence of Congress.

Mr. McGEE. Indeed so. Not only will this enhance their chances, but the mechanism we have spelled out in the reorganization bill will actually speed up the process of promotion of postal employees so that they will not have to serve for a quarter of a century before achieveing all their in-grade promotions and the like.

Likewise, it means that they will have access, through negotiations, to implementing their working conditions and the other circumstances that will lend a professional or near-professional status to their new role.

Mr. FONG. So that in this bill, we have taken a very historic step, so far as labor bargaining is concerned, in that the Government will now bargain with the employees of the postal service on fringe benefits, wages, and other personnel matters.

Mr. McGEE. The Senator is correct. This is the first breakthrough at the Federal Government level of the collective-bargaining process between the Government, on the one hand, as management, and its employees on the other in the postal service.

Mr. FONG. There are a few persons who have been fearful that Congress would give away all of its overseeing powers over this new Postal Service. That is not true, is ti?

Mr. McGEE. Indeed not. Congress could not do so, even if it wanted to. Under the Constitution, this remains an independent agency of the Federal Government and Congress has the responsibility to make sure that it is not abused, tortured, or, in effect, scrapped in some devious way.

Mr. FONG. Even though we have given management of the new Postal Service to the Board of Governors and the Postmaster General, Congress, in its fundamental power, still has control over the agency, and if Congress decides to make any changes, it can still do so; is that not correct?

Mr. McGEE. Congress always has that. Under the Constitution, it has both the power and the responsibility, if, in its judgment, it is called for.

Mr. FONG. Again let me compliment the very distinguished Senator from Wyoming for his leadership in this historic, landmark legislation. I am quite sure that it will work to the benefit of all the people of the United States, to the employees of the Postal Service, and to the overall efficiency of the postal system.

Mr. McGEE. I thank my colleague from Hawaii for his comments.

Mr. COOK. Mr President, will the Senator from Wyoming yield for a statement of approximately 5 or 6 minutes, and then will he yield for some questions?

Mr. McGEE. I am glad to yield to my good friend from Kentucky.

Mr. COOK. Mr. President, on July 30, 1970, the Senate and House conferees to H.R. 17070, the Postal Reorganization and Salary Adjustment Act, completed the final action on this important legislation. However, directly contradicting the wishes of 93 Senators, including the distinguished senior Senators from Wyoming and Hawaii, my amendment making the U.S. postal service subject to title VII of the Civil Rights Act of 1964 was deleted from the final version.

In fairness to the hardworking and conscientious conference members, this provision was deleted only upon the advice of the U.S. Civil Service Commission, as contained in a memorandum to the conferees, and by reason of the efforts of one of the House conferees who stated that the House was adamant, and would not accept it under any circumstances.

At this time, Mr. President, I ask unanimous consent to have this memorandum from the Civil Service Commission printed in the RECORD.

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

COMMENTS ON SENATE AMENDMENT TO SECTION 510(b)(6) OF SENATE SUBSTITUTE TO H.R. 17070 MAKING THE U.S. POSTAL SERVICE SUBJECT TO TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

Senator Cook proposed this amendment apparently on the basis that Executive Order 11478 dealing with equal employment opportunity in the Federal Government would not apply to the new Postal Service. As reported in the Congressional Record, Senator Cook said:

"In effect the civil service regulations, such as those involving inspections, grievance procedures, and appeals are denied to postal employees."

Since the new Postal Service would be in the Executive Branch of the Government and Executive Order 11478 applies to the Executive Branch, employees of the new Postal Service would continue to have coverage under the Executive Order. They would have the same coverage as employees of Federal agencies and Government corporations, such as TVA, now have under the Order.

PRESENT PROCEDURES ON DISCRIMINATION COMPLAINTS

Under present Civil Service Commission procedures issued pursuant to Executive Order 11478, a post office employee or an applicant for employment who believes he or she has been discriminated against because of race, color, religion, national origin or sex has an opportunity for informal counseling in order to help resolve the complaint. If this is not successful, the employee may file a formal complaint which will be investigated by Post Office staff, followed by another attempt at informal resolution. If the employee is still not satisfied, he or she has a right to a hearing before an independent third-party appeals examiner, trained and certified by the Civil Service Commission, and from outside the Post Office Department, who makes a recommended decision to the Department head. If still not satisfied, the employee may appeal to the Commission's Board of Appeals and Review for final review. The Board will order corrective action giving relief to the complainant where appropriate.

The key is emphasis on informal resolution of the problem and the achievement of cor-

rective action through an informal procedure. During the period, January-March 1970, 771 postal employees who alleged discrimination were counseled and only 93 filed formal complaints, indicating that the great majority of cases are settled by informal procedures within the Post Office Department.

EFFECT OF THE COOK AMENDMENT

Under the Cook amendment, discrimination complaints in the new Postal Service would come under the jurisdiction of the Equal Employment Opportunity Commission. EEOC investigators would make investigations of each complaint. If the EEOC determines that there is reasonable cause to believe the charges true, and where its attempts at voluntary compliance fail, the Commission notifies the aggrieved party that he may file a civil action in an U.S. District Court against the Postal Service seeking relief. EEOC has no power to require compliance with its findings.

A discrimination complaint case is handled under Commission procedures within six months. EEOC cases take over 22 months to process, exclusive of any court time.

Mr. COOK. Mr. President, I might digress here to say that we had attempted to obtain advice from the Civil Service Commission when we were preparing this amendment. However, they were not really willing to discuss it with us. We also tried to solicit information from the Equal Employment Opportunity Commission.

Mr. President, the thrust of this memorandum is that the postal service would be a part of the executive branch, and, like the Tennessee Valley Authority, its employees would be covered by Executive Order 11478, which deals with equal employment in the Federal Government. This so-called "memorandum" makes no reference to any other legal or statutory citation.

After reviewing the statutory authority for the Tennessee Valley Authority, and the proposed authority for the U.S. postal service, I must take issue with the very shallow advice offered to my colleagues by the Civil Service Commission.

Mr. President, 16 United States Code 831(b) specifically states that the Board of Directors of the TVA "shall without regard to the provisions of Civil Service laws" hire employees necessary for the transaction of its functions. In effect, the Congress has stated that this independent agency shall ignore Civil Service regulations in regard to employment relations. However, at this particular moment I am not so concerned with past congressional action on the TVA, but, rather this memorandum which treats so lightly the rights of employees of this new postal service.

Mr. President, H.R. 17070 still does not insure implementation of the Federal policy prohibiting discrimination in employment on the basis of race, religion, sex or national origin. While section 410 of the Postal Reorganization and Salary Adjustment Act attempts to apply the "policy" of nondiscrimination via 5 *U.S.C.* 7151—it specifically states that this does not apply to postal service employees "unless expressly made so applicable." Title 5, section 7151 of the United States Code provides the basis for Presidential authority "to carry out" this policy of nondiscrimination. Therefore, Executive Order 11478 will not as a matter of positive law protect postal service employees because it is not made "expressly applicable" to this new independent agency as required by section 410 of H.R. 17070.

It is inconceivable to me that the Congress, in an era when it is trying to reestablish its authority, would abdicate its responsibility in this vitally important area of employee protection.

Therefore, I urge Senate action in either one of two ways. First, the amendment adding title VII of the 1964 act to the Postal Reorganization Act could be reinstated. In the alternative, the restrictive language in section 410 (b)(1) could be deleted, and positive wording bringing the postal employees within the Civil Service procedures be added.

In its memorandum to the conferees, the Civil Service argues that its proceedings are superior to those of the equal employment opportunity commission in two ways. A discrimination complaint processed by the Civil Service Commission takes approximately 6 months, while a similar EEOC proceeding requires 22 months. I would recommend that the EEOC study this matter and see why they are taking 22 months to solve problems that the Civil Service Commission states that it can do in 6.

Also, under present law, the EEOC has no authority to require compliance of its ruling, but must file suit in a Federal district court for a cease-and-desist order.

Perhaps, it would be incumbent on the House Members to see that H.R. 17555, which gives the EEOC authority to issue cease-and-desist orders, be passed and sent to the Senate.

Mr. President, at this late hour of the legislative proceedings on H.R. 17070, I shall not argue the relative merits of either proposal. However, the Senate must act in a positive manner and close this very important gap in employee protection. The fine men and women who will serve in this new postal service deserve the same protection that other Federal employees or employees in a private industry now have as a matter of law.

Mr. President, I want to give credit to both the distinguished Senator from Wyoming and the distinguished Senator from Hawaii because they kept my office advised, and supported the Senate position on this bill. However, I cannot understand, the adamant position of the House conferees and the reason that we gave way on an amendment of such importance that was passed by the Senate by a vote of 93 to 0.

Mr. McGEE. Mr. President, may I say to my friend, the Senator from Kentucky, who has made a very eloquent case for what we have called in the vernacular of the conference the Cook amendment, that the 93 to 0 vote in the Senate was testimony to the consensus of opinion supporting his amendment.

This was less a concession to the House and its insistence than it was to the persuasion of the conferees in consultation with the legal minds involved in the interpretation of the law and in consultation with the Chairman of the Civil Service Commission that, indeed, in this instance a very strong case was made that the equal rights provision would redound in more equal terms and more forceful terms under the Executive order that is now on the books than going through the EEOC.

It was on that ground that the Senate conferees decided that because of the absence of similar language on the House side, we were really making a stronger case procedurally, because we were achieving the goals that the 93-to-0 vote spelled out on the Senate side.

The Executive Order No. 11478 has been interpreted as applying specifically to all of these new employees, because it applies to the employees of the Federal Government, and this new independent agency comes under this aegis. With that in mind, it is under this procedure of the President's Executive order that any applicant who feels that he has a grievance, any postal employee, has the prerogative, on whatever grounds under the law, to seek an informal counseling session to begin with in order to help resolve the abuses of which he thinks he is the object.

If this is not successful, the employee may file a formal complaint which will be investigated by the Post Office staff, to be followed by another attempt at resolution. If the employee is still not satisfied, he or she has a right to a hearing before an independent third party appeals examiner, trained and certified by the Civil Service Commission, and from outside the Post Office Department. This would, in turn, make a recommended decision to the Department head.

If still not satisfied—and here is step 4 or 5 in the procedure—the employee may yet appeal to the Board of Appeals and Review for a final review.

There is not discrimination here against these new employees of the postal service, because they are postal employees. What is more, it carries out in the ultimate form an enforcing process that would be lacking in these particular grievances of theirs, however, much they are appealed under the EEOC.

On that ground, we felt that the case was a little tighter and it was for that reason that the Senate receded.

Mr. COOK. Mr. President, if the Senator would yield, I can only say that, knowing that this bill would be subject to amendment in the future, the distinguished Senator from Wyoming and the distinguished Senator from Hawaii will some time in the future accept the Cook amendment.

I will tell the Senator why. The first time a major problem presents itself within this postal service corporate structure, it will be pointed out that there are many hundreds of women working for the Post Office Department today and doing the same job as the men next to them, but for less money.

The first time that point is raised, a collateral argument or defense will be raised in the hearing that Executive Order No. 11478 does not apply because of section 410(b)(1).

They may be successful because the so-called memorandum of the Civil Serv-

ice Commission shall be accorded no weight of authority in establishing legislative history.

I fear that by reason of section 410 (b)(1) that 5 U.S.C. 7151 is not made specifically applicable to the postal service, and therefore, Executive Order 11478 will not apply. Title 5, section 7151 is the catalyst by which Executive Order 11478 becomes operative. But, section 410(b)(1) of the bill does away with that catalyst in regard to the postal service.

Mr. McGEE. Mr. President, may I report to my friend, the Senator from Kentucky, that we do have an obvious difference in interpretation or perhaps expectation in this regard.

I think it is a genuine and sincere one. We believe it is going to come out in the way he and I and the 93 Senators who voted with him intended.

I might add that this colloquy will reenforce for the public record the intent of the Senate. I am sure the Senator would be the first person to agree that how this comes out is what we are concerned about rather than what words may or may not say. The conferees believe we will, indeed, achieve the laudable purpose that the Cook amendment intended. If it does not, if we discover that the conferees were proven to be wrong in their expectation and that the fears of the Senator from Kentucky are warranted by subsequent decision or action, then I can guarantee to him that this body would proceed at once with the urging of members of the Committee on Post Office and Civil Service to legislate appropriately without delay. We believe it is not necessary. That is our judgment. The Senator deems it is necessary. I can only guarantee we would move and move with expedition should this impasse surface.

Mr. COOK. I hope the Senator is right. I hope this colloquy, which becomes a part of the legislative history, will lay the groundwork for the Civil Service Commission and the negotiating teams in the future that have to handle this matter. I also hope that it will reaffirm the Senate's intention that the amendment which was passed by this body by a vote of 93 to 0 will be enforced within this new department. I further hope that the Civil Service Commission in the future will not be able to say by reason of the wording of section 410(b)(1) of the act, that Executive Order 11478 does not apply. From listening to the distinguished Senator from Wyoming, it is my understanding that it was very clear to both the House and Senate members of the conference that this bill as written and without the inclusion of my amendment, will protect the employment rights of the employees of the new Postal Service. I only hope that this is true.

Mr. McGEE. Mr. President, I ask unanimous consent, in connection with the colloquy between the Senator from Kentucky (Mr. COOK) and me, that a more skillfully structured set of remarks by me by printed in the RECORD.

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

COMMENTS ON SENATE AMENDMENT TO SECTION 510(b)(6) OF SENATE SUBSTITUTE TO H.R. 17070 MAKING THE U.S. POSTAL SERVICE SUBJECT TO TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

Mr. McGEE. Since the new Postal Service would be in the Executive Branch of the Government and Executive Order 11478 applies to the Executive Branch, employees of the new Postal Service would continue to have coverage under the Executive Order. They would have the same coverage as employees of Federal agencies and Government corporations, such as TVA, now have under the Order.

PRESENT PROCEDURES ON DISCRIMINATION COMPLAINTS

Under present Civil Service Commission procedures issued pursuant to Executive Order 11478, a post office employee or an applicant for employment who believes he or she has been discriminated against because of race, color, religion, national origin or sex has an opportunity for informal counseling in order to help resolve the complaint. If this is not successful, the employee may file a formal complaint which will be investigated by Post Office staff, followed by another attempt at informal resolution. If the employee is still not satisfied, he or she has a right to a hearing before an independent third-party appeals examiner, trained and certified by the Civil Service Commission, and from outside the Post Office Department, who makes a recommended decision to the Department head. If still not satisfied, the employee may appeal to the Commission's Board of Appeals and Review for final review. The Board will order corrective action giving relief to the complainant where appropriate.

The key is emphasis on informal resolution of the problem and the achievement of corrective action through an informal procedure. During the period, January-March 1970, *771* postal employees who alleged discrimination were counseled and only *93* filed formal complaints, indicating that the great majority of cases are settled by informal procedures within the Post Office Department.

EFFECT OF THE COOK AMENDMENT

Under the Cook amendment, discrimination complaints in the new Postal Service would come under the jurisdiction of the Equal Employment Opportunity Commission. EEOC investigators would make investigations of each complaint. If the EEOC determines that there is reasonable cause to believe the charges true, and where its attempts at voluntary compliance fail, the Commission notifies the aggrieved party that he may file a civil action in a U.S. District Court against the Postal Service seeking relief. EEOC has no power to require compliance with its findings.

A discrimination complaint case is handled under Commission procedures within six months. EEOC cases take over 22 months to process, exclusive of any court time.

Mr. FONG. Mr. President, I wish to join the distinguished Senator from Wyoming in his remarks and his colloquy with the distinguished Senator from Kentucky.

The distinguished Senator from Wyoming stated that we feel that the provision relative to what the Senator from Kentucky was alluding to will be sufficient to take care of the problems of our civil service employees in the Post Office Department. Should it fail to bring the desired results, the Senator from Hawaii will join with the Senator from Wyoming to see that that amendment is enacted.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BOGGS. Mr. President, as one of the Senate conferees on postal reform, I would like to comment on the conference report before us today.

It was a great pleasure and honor to serve as a representative of the Senate in the effort to iron out our differences with the Members of the other body.

The Senator from Wyoming (Mr. McGEE), as chairman of the Senate Committee on Post Office and Civil Service, did an outstanding job in the lengthy deliberations over postal reform, and is to be commended for his fine efforts. The Senator from Hawaii (Mr. FONG) also can be proud of his labor on this massive legislation. His reasoned and knowledgeable approach to this intricate subject contributed greatly to the success of our negotiations which, while lengthy and sometimes tedious, were conducted in a cordial atmosphere with the Members of the other body.

Additionally, I would like to comment on the support provided by the staff. Without the knowledge, dedication, and long hours devoted to this bill by David Minton, Clyde Dupont, and the other members of the Senate committee staff, it would have been virtually impossible to produce this comprehensive legislation; and I would like to thank them for their unsung efforts.

We have succeeded in producing a bill that will revamp a system that has been an integral part of American life since the days of the Pony Express—the Post Office. Over the past 180 years it has provided a vital communications link for the American people. This system has carried good news and bad; bills and pay checks; packages of all sizes, shapes, and types. Over the years, the volume and demand on the system has increased tremendously and some facets of the system have become impractical and obsolete as a result.

This bill is an attempt to correct those problems and thereby improve the efficiency of the system. It will create a postal system devoid of politics. Employment and advancement will be based on what a person knows, not who he knows. Proficiency, not politics, will be the guideline.

The management structure will be patterned on the corporate form so successfully employed in the private sector, with a Board of Governors determining policy and the Postmaster General acting as the chief management official. The Board will have the responsibility of operating the Post Office in a manner that will be paying its way, with the exception of a small subsidy appropriated annually by the Congress.

That subsidy will cover the public serv-

ice value of the mail and, after 8 years at 10 percent of the 1971 budget, it will decline at an equal annual rate of 5 percent in the 13th year, when consideration will be given to making the Postal Service totally self-supporting.

A key to the finances of the new service will be an independent five-man body known as the Postal Rate Commission. It will be its responsibility to set rates to provide the necessary revenues to cover the costs. In doing this, however, it will afford a degree of preferential treatment to certain types of charitable nonprofit organizations which currently depend upon reduced rates to operate their vital services.

Included among these nonprofit organizations are churches, charitable organizations, libraries, educational organizations, veterans groups, and agricultural publishers. The contribution of these groups, particularly those engaged in health research and rehabilitation, cannot be measured. And, without such preferential rates, their effectiveness would be significantly reduced.

With enactment of this legislation, Congress will take steps to get out of the postal business. The American people and many of my distinguished colleagues have wanted to separate the Congress from the delivery of mail for many years. Now it can be done, and it can be done without interruption of this vital service.

I believe this legislation provides incentives for postal workers to make this new system work. It gives them the right to negotiate for increased benefits and wages, much as workers in the private sector. And it gives them a retroactive 8-percent pay raise that will do much to bring them up to a level of comparability with the private sector. In return, we believe that they can operate the new Postal Service economically and efficiently; and I am confident they will succeed in the challenge of revitalizing this massive system. Now it is up to them.

Mr. HANSEN. Mr. President, today the Senate is opening a new chapter in the history of the U.S. postal service. Postal reform is long overdue.

Our action today offers new hope to the postal users of this Nation for fast, efficient, and dependable service provided by modern facilities and the latest equipment.

It also promises to provide postal workers with fair wages, increased opportunities for advancement within the postal service, improved working surroundings and increased incentives to provide superior service. In addition, the Congress has preserved the traditional right of the postal worker to exercise freedom of choice in determining participation in the activities of labor unions.

President Johnson called the attention to the Nation to the possibility of a collapse of the postal service and appointed a blue ribbon commission to study the post office and recommend remedial action. On assuming office, President Nixon immediately asked the Congress to enact legislation to modernize the postal system. The Congress has acted now to fulfill its responsibility.

The postal reform legislation before us today is an outstanding example of the ability of this Nation to adapt, in an orderly fashion, its institutions to the needs and conditions of society today and continue to provide our citizens with quality governmental services.

I am pleased that, at long last, the postal reform legislation is to become a reality.

Mr. COOPER. Mr. President, today the Senate votes on the conference report on H.R. 17070, the postal reorganization bill.

When this bill was considered by the Senate on June 30, I approved many of its provisions including those that would provide for an 8-percent pay increase for postal employees retroactive to April 16, 1970, and other benefits to the postal workers. However, I could not support a provision in the Senate bill, as reported by the Post Office and Civil Service Committee and later adopted by the Senate, which provided that a union shop for postal workers could be a subject for collective bargaining between the Postal Service and union representatives.

I oppose such a compulsory union provision when applied to Government employees.

I spoke against this provision in the debate, stating that it was my conviction that Americans who wish to become a part of the Government and serve the public should be encouraged to do so, and should not be required to join a labor organization and pay union fees, in order to enter or continue in public service.

Because of this union shop provision, I voted against the bill.

In doing so I also considered that if this provision became law it would only be a matter of time before the union shop would be extended to and required of all Federal employees.

This provision was eliminated in conference and employees of the Postal Service will not be required by the bill to join a union in order to be approved for employment.

I can now vote for the report. But the Congress must watch this situation in the future.

Mr. President, no citizen of the United States should be required to become a member of a union as a condition for being approved for employment by his government. The first loyalty of all of us who work for the Government is to the Government of the United States.

I would like to make one further comment. The bill provides for the selection and promotion of qualified postal employees to be postmasters by regional selection boards. I do not believe this method of selection will be an improvement over the present practice of the Department's receiving recommendations from Members of the House and the Senate. I opposed this method of selection of postmasters when the Senate considered S. 1583 on August 12 of last year. I spoke against transferring the method of selection from the Congress to a board and voted against the bill transferring this power. I intend to keep close check on the way selections are made—and insist that it is fair to Republican Party members—as it has not been thus far—and that competent and respected citizens are chosen.

Mr. President, I ask unanimous consent that my statement of June 30, 1970, on the postal reorganization bill and my statement of August 12, 1969, be included in the RECORD at this point.

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

Mr. COOPER. Mr. President, I shall vote against the bill, only because of its compulsory union provisions. If this is corrected in conference, I will vote for the bill, as I approve the advances in pay scale, and other benefits.

Section 1309 of the Senate bill would extend the provision of the Taft-Hartley Act to the employee-management relations provided in this bill.

Section 14(b) of the Taft-Hartley Act authorizes States to enact legislation which would prohibit the union shop as a condition of employment in any collective bargaining agreement. Some 19 States have enacted laws prohibiting the union shop. In the remaining 31 States, of which group is included Kentucky, the union shop requirement is the subject of collective bargaining between employer and the certified union bargaining representatives.

Under the Senate bill, the union representatives and the Board of Governors of the Postal Service could enter into collective bargaining agreements providing for a union shop, but only in those States where no State law, enacted pursuant to section 14(b) of the Taft-Hartley Act, prohibits such agreement. Thus, under the committee bill, employees in some 31 States could be subject to the union shop requirement and employees in the remaining 19 States could not be required to join a union.

Federal employees have historically enjoyed the right to work for their Government without joining a union. In Executive Order 10988, President Kennedy set forth the basic policy for labor-management relations in the Federal service as follows:

"Each employee . . . have the right, freely and without fear of penalty or reprisal, to form, join, and assist a labor organization or to refrain from such activity, and each employee shall be protected in the exercise of this right."

This Executive order was continued in force and effect by President Johnson.

President Nixon followed in this tradition and issued Executive Order No. 11491 which states in section 1(A) the following:

"Each Federal employee has the right, freely and without fear of penalty or reprisal, to form, join and assist a labor organization or to refrain from any such activity, and each employee shall be protected in the exercise of this right."

I am informed that at the present time, there are approximately 750,000 postal workers. Of this group, some 250,000 do not presently belong to a union. Under section 1309 of the Senate bill, the officials of the Postal Service and the postal union can negotiate union shop contracts in the 31 States in which they are not outlawed, which contracts would require postal employees to join a union and pay union dues in order to keep their jobs. I repeat, in order to keep a Government position.

In 1947, I voted for the Taft-Hartley Act. However, I make a very clear distinction between private employment and Government employment. I believe that one of the great promises of our country and one of its virtues is that Government employment is open to all, with persons qualifying at various levels according to their abilities without any requirement that they must be affiliated with a union to obtain or retain their employment, or with any other organization.

I note that in his testimony before the House Post Office Committee, Mr. George Meany, president of the AFL-CIO, a very

honest man, stated that the union shop agreement for postal employees through collective bargaining will be the first step toward unionizing all employees in Government departments and agencies whether or not an employee desires to become a member of a union.

In conclusion, I believe that those Americans who wish to become a part of the Government and serve the public should be encouraged to do so, should owe their loyalty 100 percent to the Government, and should not be required to join a labor organization in order to continue in public service.

I have supported all legislation to enable non-Government workers to freely decide whether they shall be affiliated with a union—and the union shop principle. But I cannot vote for compulsory union for Government employees, requiring them to join unions, to pay checkoff dues, and to rely on their union for proper pay, benefits and working conditions, and Government employment itself, rather than rely on the U.S. Government and the States to which all of us owe our loyalty.

APPOINTMENT AND PROMOTION IN POST OFFICE DEPARTMENT ON BASIS OF MERIT AND FITNESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, pursuant to the motion entered on July 9, 1969, the Senate reconsider the vote by which S. 1583 was previously passed by the Senate.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 1583) to provide that appointments and promotions in the Post Office Department, including the Postal Field Service, be made on the basis of merit and fitness.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the bill.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate proceeded to consider the bill.

Mr. MCGEE. Mr. President, this bill was reported unanimously by the Committee on Post Office and Civil Service, by those present. We have agreement on all sides that no objection is being filed to the bill.

I think the Senator from Kentucky would like to make a statement in regard to it. I know of no other statements that anyone has requested to make.

Mr. COOPER. Mr. President, this measure was brought up, as I recall, in the morning hour, on the calendar and was passed with a number of other measures. I do not excuse myself for not being present at the time. The Senator from Texas (Mr. YARBOROUGH) later made a motion to reconsider, and the bill was brought back from the House.

Mr. MCGEE. It was brought back from the House; yes.

Mr. COOPER. I have talked with the Postmaster General about his proposed plan for the selection of postmasters. I have read the report of the committee, and I have read with care the statement of Postmaster General Blount, and other witnesses who testified in hearing before the Senate committee.

I must say that I cannot find fault in the principle of removing postmasters from politics, if it is possible. Talking with the Postmaster General, I inquired how the committees, which will select the postmasters, will be constituted. He explained that a number of private citizens would be appointed to these committees, that some of the members would be officials of the Post Office Department, and, in the regional committees, some members would be local postmasters.

I urged the Postmaster General that he watch carefully to see to it that the committees that are named to select postmasters are not politically oriented. In other words, it could be that there would exist a natural bias to accept the recommendations of Members for appointments of individuals from their own parties. I know that their recommendations must be considered at higher levels and finally passed upon by the Postmaster General. However, political factors could grow up in these selection committees, as has been done under the present system. I hope that will not occur.

The Senate committee unanimously voted for the changed principle.

Mr. MCGEE. Mr. President, I should explain that the Senator from Texas was not able to be present at that particular session so I would not want the word "unanimous" to include him in the unanimity. He had some reservations about it.

Mr. COOPER. Mr. President, I assume that no other Member of the Senate other than Senator YARBOROUGH will raise any question about this bill and that it will be passed without opposition. I have thought the matter over. I know the questions that arise when political selections are made by Members of the Congress. But I must say, with the exception of large post offices which deal with millions of dollars, I am sure that the recommending bodies in the new plan could not make better selections than Senators and Members of the House.

I remember an old citizen of my county, a rural county, once said to me that before we had so many governmental agencies, that the post office, in cities, towns, and in rural sections with the flag flying over it, was the link between the Federal Government and the people. Postmasters are very much respected in smaller communities, as outstanding citizens of the community. Members of Congress and the Senate have taken care to appoint men and women of integrity and men and women who would represent faithfully the Government of the United States, and bring credit and honor to the Government and their communities. This is my judgment with few exceptions of the thousands of postmasters who have been appointed under the political system.

I believe, even though this measure has been recommended by the President and the Postmaster General and has been approved by the committee, that the smaller post offices, rural postmasters, and letter carriers could be selected better by the Members of Congress, who know the communities and people than by this new plan.

In addition to being efficient postmasters, and this is a chief requirement, postmasters must deal with people. The regard of the people of the community for the Government depends in large degree on the way they are treated by these representatives of the Federal Government. And we in the Congress have better judgment on this factor than some committee far away.

I must say I would have been glad if post offices in cities of 25,000 or over, or 50,000 people or over, had been classified for nonpolitical appointments or by the volume of business, and left the appointment of postmasters for smaller communities and rural areas to Members of Congress. The job could be done better. What could a committee drawn up of men from various groups over the State know about a post office and postmaster in a place like Pippa Passes, Ky., or Mayfield, or Burnside, Ky.?

Mr. MCGEE. Or Spotted Horse, Wyo.

Mr. COOPER. I do not wish to place my opposition solely on that ground. I must say it would have been politically fair if there had been at least 2 years given to my party to catch up—we never could catch up, but we could have 15 to 20 percent of the post offices. It would be fair to my party. I live in a Republican county. I do not live in a Republican State. I have been in political life since 1925, and that makes 44 years.

When President Roosevelt came into power all Republican postmasters were fired. Then, when he was in office civil service was instituted and his party members were frozen in their jobs. When President Eisenhower was elected. Republicans believed at first they could come back, but they had been fired and frozen out. They are left out forever, with the exception of a few appointees during President Eisenhower's administration.

I do not think it fair to Republicans. I have recommended some Democrats as well as Republicans in my service. I have loyalty to my party, fairness to its members and this plan does not provide them an equal chance. Chiefly, I know that the boards sitting in Cincinnati or Cheyenne, Wyo., cannot select a postmaster for Pippa Passes, Ky., Cain's Store, Ky., or Waterloo, or Spotted Horse, Wyo., better than I can, or the distinguished chairman of the committee, Senator MCGEE.

I shall vote against the bill. But I do give my thanks to the able Senator from Wyoming, Senator MCGEE, for his fairness and to the distinguished Senator from Texas (Senator YARBOROUGH) for speaking up for the smaller communities and rural sections of Texas and the United States. I vote against the bill.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the pending conference report be temporarily laid aside.

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

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENT AND OTHER PURPOSES

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 17123, Calendar No. 1020, the unfinished business.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. H.R. 17123, to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

Mr. WILLIAMS of Delaware. Mr. President, a special panel appointed by President Nixon last year has made a strong recommendation that the Defense Department stop the practice of giving Members of Congress advance information on contracts that are being awarded in their States on the basis that as the Congressman or Senators make the announcement of the award he perhaps can get some credit for having obtained a project or contract for his State.

For years I have been critical of this procedure, which has been the practice for all preceeding administrations as well as the present one, and I commend the Presidential panel upon its recommending that this questionable procedure be abandoned.

It should be abandoned because it is highly misleading. First, if the Member of Congress had anything whatsoever to do

with obtaining this contract or if the Defense Department awarded the contract on the basis of the recommendation of a Member of Congress they were both in violation of the law which prohibits Government contracts from being awarded on the basis of political pressure or influence. Yet if a Member of Congress announces the awarding of the contract the industry involved naturally feels that he must have been of some assisttance, and likewise the unsuccessful bidders would feel that their mistake was in not having contacted the congressional office.

This policy gives the impression that influence peddling is a normal procedure.

I know of no better example to show just how ridiculous this practice has become than to relate an incident of a couple of years ago at which time I met an official of the Defense Department in the corridor.

In the conversation he asked the location of a certain Senator's office and mentioned that he was checking his watch to see just what time it was and how long it would take him to get there.

It developed further that two other officials were in the Capitol, one headed to the office of the other Senator from that State and one in the House of Representatives ready to notify the Congressman in the district.

It appeared there was considerable jealousy within the congressional group, and to avoid criticism the Department of Defense had sent three men to the Capitol with instructions to enter these offices at a scheduled moment.

The manner in which they were synchronizing their visits would almost let one think that they were getting ready for a major military maneuver.

I know of but one reason that can be advanced in favor of this practice of allowing Members of Congress to announce contracts; and that is, it would help their constituency to determine just who is the laziest man in the congressional delegation because the hard working and energetic Member of Congress would be busy attending committee meetings or attending to his duties on the House or Senate floor, whereas the lazy Member of the delegation would be back in his office more often with his feet propped up on the desk, and when the notice of the contract arrived he could be awakened and set the wheels of publicity in operation ahead of his colleagues.

Political influence in the awarding of Government contracts should not be encouraged, nor should either the Congress or the administration condone a policy which gives the appearance of influence peddling.

To put a stop to this unsound practice I am submitting an amendment to the pending bill, H.R. 17123, which will prohibit in the future this administration or any other administration from releasing this information through congressional or political sources.

So I send the amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk, Mr. Ast, read the amendment as follows:

At the end of the bill add a new section as follows:

SEC. 507. (a) No information concerning the identity or location of the person to whom any contract has been awarded by the Department of Defense shall be given to any individual, including any member of Congress, in advance of a public announcement by the Secretary of Defense of the identity of the person to whom such contract has been awarded.

(b) On and after the date of enactment of this Act, whenever the identity of the person to whom any defense contract has been awarded is to be made public, the Secretary of Defense shall publicly announce that such contract has been awarded and to whom it was awarded.

Mr. WILLIAMS of Delaware. Mr. President, if the managers of the bill are willing to accept the amendment, I am willing to have it accepted by a voice vote. Otherwise, I want a yea-and-nay vote.

Mr. BYRD of West Virginia. Mr. President, the manager of the bill is not presently on the floor, so I would like to suggest the absence of a quorum.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PROXMIRE. 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. 816

THE FLY BEFORE YOU BUY AMENDMENT

Mr. PROXMIRE. Mr. President, I am introducing today an amendment to the military authorization bill whose purpose is to carry out the fly before you buy recommendations of the Fitzhugh Commission—the so-called blue ribbon committee which has just made its report to the Secretary of Defense.

I have been very critical of the Commission, its membership, and the procurement portion of its report. I made a speech in the Senate last Thursday detailing my criticisms and objections to those portions of the report allegedly dealing with the problems of overruns, procurement, and weapons system buying.

But there is one overall recommendation in the report which has received general support. That is the recommendation that in the procurement of military weapons the Pentagon should fly before they buy, or to put it another way, develop fully tested and fully working prototypes before hundreds of millions or billions are spent for production. The point is to make certain, through the development of prototypes and full testing, that the bugs are out of the system before the production runs begin. This obviously was not the case with the C–5A, with the TFX, with a score of missiles, with the MBT 70 tank, and with numerous other weapons systems which universally have cost more than the original estimate, which are delivered a year or two too late, and which fail to meet their specifications.

There are some ironic facts about the fly before you buy recommendation. First of all, I thought that the policy was already in effect. About a year ago at a time the Department was under great criticism for its vast deficiencies in procurement, it announced that it was turning to the Milestone system of procurement. Milestone merely meant that the Department would proceed, stage by stage, to research, development, contract definition, and production of weapons. It was a fly before you buy policy. It was announced with considerable flair. As a result, I thought the Defense Department was already following the policy.

My best judgment is that one of the Department's public relations officers, for whom we pay at least $40 million a year, devised a new slogan. "Fly before you buy" is certainly snappier than "Milestone." It has been worth 2 or 3 days of publicity and has obscured, to a very considerable degree, the deficiencies of many of the procurement aspects of the report and the controversy over many of the proposals for the reorganization of the services and the Chiefs of Staff.

But the real test is, do they mean it? Do they really mean business?

I have gone to the Fitzhugh report where on pages 74 and 75 I find a dozen recommendations which are designed to carry out the "fly before you buy" policy which the Department has embraced so enthusiastically. I have taken those recommendations, almost precisely as given in the Fitzhugh report, and I have drafted an amendment to implement them.

The amendment requires that before any weapons system can go into production, the Secretary of Defense must submit a report to the Armed Services and the Appropriations Committees of the House and Senate indicating the degree to which the Department has complied with the Fitzhugh recommendations which make up the "fly before you buy" policy.

The requirement to send the report to both the Armed Services and the Appropriations Committees is important because systems are authorized by the Armed Services Committee but funded by the Appropriations Committees.

The requirement that the Secretary of Defense should make the report, rather than the individual services, is an effort to give the Secretary some means of enforcing the "fly before you buy" recommendations during the research, testing, and development stage of a weapons system.

The amendment does not prohibit the authorization or funding of the production of the weapons system if the service has failed to follow the "fly before you buy" conditions. There may be a number of reasons in any one case why a particular condition is inappropriate, impossible to fulfill or unnecessary. But where Armed Services or Appropriations Committees have authorized or funded the production of a weapons system and where the fly before you buy conditions have not been met, the amendment requires that the committee state that fact in the report on the bill which authorizes or funds the production of the weapons system.

May I point out that that statement would be involved only when a request was made to authorize or fund production of the weapons.

Last Thursday in my statement on the Senate floor, I proposed certain questions to the distinguished chairman of the Armed Services Committee (Mr. STENNIS) which grew out of the fact that many of the weapons systems authorized in this bill were originally asked for by the Pentagon before prototypes had been tested and before research and development had been completed. I was pleased to note that in case after case, the Senate Committee on Armed Services had cut out or cut back on funds where the Pentagon had asked for production funds before the weapon was adequately tested. I commend the chairman for that action.

There were exceptions, however, as we all know, in the committee's recommendation. One of the most conspicuous exceptions, of course, was the ABM. The whole argument, or at least one of the principal arguments last year for going along with phase I, the first two sites, was that then we could test ABM at those sites to determine whether it was practicable. This was exactly what the Secretary of Defense asked us to do.

Now the committee has proceeded with phase II, or site three, without "flying before we buy" and without testing at those two sites before proceeding.

Even though the Pentagon has had the Milestone system in effect for over a year, it is clear to me that on weapon after weapon they have wholly disregarded their own "Milestone" or "fly before you buy" policy.

My amendment, therefore, is necessary if we are to transform public relations gimmicks into effective policy, and to make the distinction between form and substance.

Let me say a word or two about the specific recommendations of the Fitzhugh Commission which form the 12 conditions in this amendment on which the Secretary of Defense must report.

The Fitzhugh Commission recommended: First, that exploratory and advanced development of selected subsystems and components of weapons systems should take place independently of the weapon system itself.

That is an important point. On hearings held before the Subcommittee on Economy in Government of the Joint Economic Committee on weapons systems, we found that the avionics systems for planes, the radar for ships, and the weapons and sonic systems on the new destroyers were often highly deficient when delivered to the weapon for inclusion in the system. These should be tested and ready to go before they are delivered as components for a ship or plane or tank.

Second, that Government laboratories and contractors be used to develop selected subsystems and components on a long-term level of effort basis.

That, too, is important. There are far too many crash programs for important and vital components of major weapons.

Third, that competitive prototypes be used in addition to or in lieu of paper studies.

It is important that prototypes be used instead of paper studies. No one can really tell how a system will work until it is built.

It is also true that whenever possible, it is good to have competitive prototypes; namely, that more than one company build a prototype before production. But on huge weapons, such as the B–1 bomber, which I do not think should be built in any case, or on a major ship, competitive prototypes may be far too expensive.

Fourth, that production schedules be selectively lengthened, that long range production be contracted for, and that new models of the system not be produced without specific authorization by Congress.

This is very important. We have far too many crash programs. We have far too many weapons systems which have taken on all the aspects of the yearly models of the automobile business. We have also seen the Defense Department shift to the second or third version of a system or a new model of the system without adequate authorization by Congress. At times what is said to be a new model is really a means of spending many billions on a new system without effective control.

Fifth, that concurrent development and production do not take place, until at least a small number of development prototypes have been developed and fully tested and successfully demonstrated.

This is the heart of the fly before you buy policy. Development must come before production. They must not be concurrent, except in the most unusual circumstances.

Prototypes should be developed, tested, and demonstrated successfully before production.

Equally important is that only a small number of prototypes be developed. It is obviously improper to build 25 or 50 fighter planes as prototypes before production. That merely gives the service an argument that so much has been spent already that production must follow in any event.

Sixth, that detailed cost studies be made to establish that a modification of an existing system would not be cheaper to produce and provide sufficient capability than an entirely new system.

I think this recommendation is good and an obvious one. This may help stop the rushing into a new model of a weapon or new weapons while the old one is fundamentally good.

Seventh, that gold plating be eliminated.

Of course, this has been policy for some time, but it needs to be watched on every weapon. It is a policy which needs enforcement and needs to be applied to all weapons. Some of them are so complicated and so sophisticated that they not only cost more money but also do not work.

Eighth, that the type of contract selected is the one most appropriate to develop and assess the technical risks of the weapon.

That, of course, is an obvious recommendation.

Ninth, that the requirement for contract definition not be invoked where it is inappropriate.

That, of course, is a sensible recommendation. But it must not be used to avoid the contract definition stage when it is needed.

Tenth, that maintainability and reliability be assured by means other than documentation during the design proposal stage.

We want proof that a weapon is reliable and can be maintained easily. That proof should be more than the paper work or initial design of the contractor. If such condition had been in effect and the prototype recommendation in effect for our tank program, much of the lack of reliability would have been avoided.

Eleventh, that planning for testing and evaluation occurred early in the development cycle, and that procedures were followed for an effective transition to the test and evaluation phase.

That is an obvious recommendation.

Twelfth, that total package procurement be prohibited as a means of contracting for weapons systems.

That, Mr. President, is music to my ears. I believe I was the first one to criticize total package procurement. Yet Assistant Secretary of the Air Force Charles insisted that it was a great system of procurement even after we had uncovered the $2 billion overrun on the C–5A.

Since I called for the elimination of total package procurement myself, because like so many other methods it was both inherently bad and a public relations effort, I welcome the Fitzhugh recommendation on that point, which comes more than a year after the Defense Department castigated our efforts to do away with it.

I commend the amendment to the Senate. If the Defense Department really means business, they will support this amendment. In the vernacular, they now have the chance either to fish or cut bait.

Mr. President, I send the amendment to the desk and ask that it be printed and lie on the table, and I ask unanimous consent to have the amendment printed in the RECORD.

The PRESIDING OFFICER. The amendment will be received and printed and will lie on the table; and, without objection, the amendment will be printed in the RECORD, as follows:

AMENDMENT NO. 816

No funds may be authorized or appropriated to or for the use of the Armed Forces of the United States for the production of any weapons systems until the Secretary of Defense has submitted a report to the Armed Services Committees and to the Appropriations Committees of the Senate and the House of Representatives indicating that the degree to which the Department of Defense has complied with the following conditions:

(a) That exploratory and advanced development of selected subsystems and components of the weapons system have taken place independently of the development of the weapons system;

(b) That government laboratories and contractors have been used to develop selected subsystems and components on a long-term level of effort basis;

(c) That competitive prototypes have been used in addition to or in lieu of paper studies;

(d) That production schedules will be selectively lengthened, long-range production will be contracted for, and new models of the system will not be produced without specific authorization by Congress;

(e) That concurrent development and production did not take place and production will not occur until a small number of development prototypes have been developed and fully tested and successfully demonstrated;

(f) That detailed cost studies establishing that modifications to existing weapons systems still in production or previously in production will not provide sufficient capability at a lower cost;

(g) That elements of the systems or subsystems do not include "gold plating";

(h) That the type of contract selected is the most appropriate for development and the assessment of the technical risks involved in the weapons system;

(i) That the requirement for formal contract definition is not invoked where it is inapplicable to the weapons system development;

(j) That maintainability and reliability have been assured by means other than detailed documentation by the contractor as a part of the design proposal;

(k) That appropriate planning occurred early in the development cycle for test and evaluation, and that procedures were followed for an effective transition to the test and evaluation phase; and

(l) That a total package procurement contract for research, testing, development, and/or production was prohibited.

Whenever the Committee on Armed Services of the Senate or the House of Representatives or the Committee on Appropriations of the Senate or the House of Representatives determines that one or more of the conditions described above have not been complied with by the Department of Defense in the case of any weapons system, that committee shall state in any report prepared by it on any legislative bill authorizing funds for the production of such weapons system or any bill appropriating funds for the production of such weapons system that such condition or conditions have not been met by the Department of Defense.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WILLIAMS of Delaware. Mr. President, my pending amendment reads:

No information concerning the identity or location of the person.

It has been suggested that a comma be inserted after the word "person" and that the words "company or corporation" follow, and I so modify the amendment.

I make the same modification with respect to paragraph (b), following the word "person."

The PRESIDING OFFICER. The amendment is so modified.

RECESS

Mr. BYRD of West Virginia. Mr. President, I move that the Senate stand in recess subject to the call of the Chair, with the understanding that the recess not extend beyond 2:50 p.m. today.

The motion was agreed to, and at 1:56 p.m. the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 2:44 p.m. when called to order by the Presiding Officer (Mr. BOGGS).

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

POSTAL REFORM—CONFERENCE REPORT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the pending business, the military procurement bill, be temporarily laid aside, and that the Senate proceed to the consideration of the conference report on H.R. 17070.

The PRESIDING OFFICER. The report will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. The report of the committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17070) to improve and modernize the postal service, to reorganize the Post Office Department, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. McGEE. Mr. President, in view of the pending rollcall vote on the conference report, it would be the hope of the chairman of the committee that if there are any remaining questions in regard to the conference report, they might be forthcoming within the next 10 minutes, so that we might stay on schedule with the rollcall at 3 o'clock.

The item of most contentious difference between the House bill and the Senate bill, and the one that seemed to be of deepest concern to this body, is that concerning the right-to-work issue—the union shop versus the open shop.

Mr. President, at this point I ask for the yeas and nays on the question of agreeing to the conference report.

The yeas and nays were ordered.

Mr. McGEE. On the question of the open shop or the union shop, the Senate was on record with a rollcall vote and a secondary vote substantially insisting on the right to a union shop if they went through the proper procedures. But in view of the protracted character of the conference, which extended through nearly 3 weeks, morning and afternoon and sometimes later than that, the Senate very reluctantly yielded its position to the House position; and the language in the House, which specifies that there should be no option of a union shop among Federal employees in the Post Office is the prevailing position brought out of conference by the Senate conferees. Because of the bearing that had on the attitudes of a number of Members of this body in regard to the total question of postal reorganization, I think it well that the record show that to be the significant bit of yielding that the Senate did in conference.

On the other side of the coin, the Senate felt very strongly about the key to reorganization resting in the independence of a professional rate board, a rate commission. Again, at the end of very lengthy give and take, the Senate prevailed in that independence.

So the present conference report contains the creation of a five-man rate commission to be appointed by the President, a commission that has specific and complete jurisdiction within the confines of its requirements—namely, that it produce the necessary revenue to meet the costing of the new Postal Service within the bounds defined by the bill; and, second, that it accord through the processes spelled out in the new mechanism its attention to the recommendations by the new postal authority itself—namely, the Board of Governors, which in turn appoints a Postmaster General.

With respect to the other areas that were in dispute in regard to the Federal subsidy that is present in the Post Office today, the House had recommended and the administration had recommended terminating any Federal subsidy. The Senate had insisted that a small Federal subsidy be continued at least for some years to protect the new postal authority against the costing factors in rural areas, in meritorious charitable mailings of one sort or another, in areas in which it was demonstrated that the public interest very clearly was vested.

In an attempt to do that, the Senate's recommendation was that for the first 13 years under the agreement there would be in fact a Federal subsidy grant. That grant would start at the same place the administration grant began—at 10 percent of the 1971 budget of the Post Office Department, or roughly $800 million, and this would continue for 8 years at that figure, under the final agreement, and then recede at the rate of 1 percent a year, until the 13th year it would be subject to absolute termination if in the judgment and the experience of a new postal authority such a termination was called for.

Mr. President, very frankly, this form of subsidy was retained because, in the judgment of the Senate, constantly present in the new independent postal authority would be a public interest and a public image—the image of the Government of the United States of America. As I have said on many occasions, in many of the middle-sized and small towns across the land, the only symbol of their Government, of the American Republic, is the local post office building and its facilities and the flag that flies over it. We did not believe that we ought to assign that to some private operation to protect in the national interest. This belongs to the people of the United States.

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

Mr. McGEE. I am glad to yield to the Senator from Texas, the ranking member of the Senate committee.

Mr. YARBOROUGH. Mr. President, I call attention to the fact that I did not sign the conference report. As the Senator knows, I do not agree to the proposed legislation.

Mr. President, I ask unanimous con-

sent to have printed in the RECORD an article published today in the Dallas Morning News, entitled, "Small Towns Suffer Loss of Identity."

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

SMALL TOWNS SUFFER LOSS OF IDENTITY

(By Mike Kingston)

How important is a simple postmark on a letter, that stamp which indicates the point of origin of a piece of mail?

Offhand one might say that, with the exception of stamp collectors, it wouldn't be worth much.

But that's wrong. A simple postmark is much more than that to small towns. It gives them an identity and perhaps some free advertising for what it's worth. But, more important to some struggling rural economies, it means jobs.

In an economy and efficiency drive, the Post Office Department is creating regional processing centers at which mail from many smaller cities is collected and distributed. The small-town postmark is one casualty of the move, and it doesn't sit well with the state's editors for many reasons.

H. M. Baggarly explains in the Tulia Herald:

"Small county seat towns are suffering another blow to their dignity. Towns in the Lubbock area are having all their mail shipped to Lubbock to be postmarked and dispatched to the four corners of the earth.

"We have been informed that towns in the Amarillo area are expected to do the same thing. All Tulia mail will bear an Amarillo postmark.

"All this is said to be in the interest of economy. Already the Tulia post office has had its payroll reduced with abolition of Saturday window service and earlier dispatch of mail at night.

"It's another case of the little guy being called upon to shoulder more than his share of the cost of 'government economy' and 'fighting inflation.'

"As towns like Tulia cut their local post office payrolls, and lose identity so far as mail postmarks are concerned, we wonder how much Lubbock and Amarillo are cutting their post office payrolls.

"This is the trend. The cities solicit funds in Tulia when they want to build a new hospital. Their argument is that the trend is toward concentration of medical care in the cities, with the towns relegated to the status of first-aid stations.

"They take away our identity, any advertising we might get by sending Tulia's postmark to the four corners of the earth. They remove our name from the vocabulary of our own telephone operators.

"But we aren't ignored altogether. We still have a function. We continue to be those poor devils living within the trade territory of Amarillo and Lubbock, who are supposed to provide something approaching half their retail trade. We are supposed to listen to Lubbock and Amarillo television and read their newspapers and then go to Amarillo and Lubbock and spend those dollars we have sucked out of Swisher County's economy.

"That apparently is the role of the small town in our present-day economy. And we wonder why the small-area towns are dying."

Dave McReynolds is no happier in the Stratford Star;

"Part of the governmental agencies are working to head off the drying up of small towns, but it seems that the largest part of all the big industrial giants and our government, too, is determined to do away with the small rural towns like Stratford.

"We've griped a few times in the past at postal service. We have a story about the possibility of Stratford losing its postmark due to the continuing changes in the postal department.

"Simply stated, the sorry mail service we are now going through is due to the big bottlenecks in the larger cities.

"Our esteemed postmaster general in Washington, is determined to cut costs (he says), but it will be at the expense of the user of the postal service, we bet.

"Already we are paying more and getting less for our postal services. If this new plan to send all the mail into Amarillo, where they will be responsible for canceling the letters, etc., goes into effect, who knows what kind of delays that will cause.

"The way it's going now, when the post office gets through being 'improved' there won't be any left."

The situation also has David Penn in the Olney Enterprise confused: "Talking about the post office, you might be interested to know that all the mail sent through the post office in Graham is now being postmarked 'Fort Worth.' All items mailed in Graham are sent to Fort Worth, where they are postmarked and then sent back to Graham for distribution. This is postal efficiency in action.

'The day may be close at hand when letters mailed in Olney to other folks in Olney will be sent to Wichita Falls for postmarking and then returned for distribution."

On the lighter side, Franz Zeiske comments in the Bellville Times: "It is an established fact that some of the components of some glues when sniffed, will make the sniffer 'high' meaning drunk. Makes one wonder how the people who work in glue factories get along."

Mr. YARBOROUGH. Mr. President, rural communities across Texas are having their mail processed in large cities such as San Antonio, Lubbock, and Amarillo, and the mail is being postmarked there. No longer will mail be postmarked at Plainview, Tex., a city of 25,000, or at Hereford, a city of 12,000. County seats such as Bellville and Stratford are being robbed of their identity by the elimination of their postmarks.

An inquiry, Mr. President: Will there be a division of time in the debate on this report? Will the opponents of this report have any time allocated to them so that they can express their views?

Mr. McGEE. I may say to my colleague that the measure has been pending since roughly 12 noon, when it was laid before the Senate; and, for want of those who were prepared to speak for or against, we finally yielded the floor approximately an hour and a half later, in order to abide by the unanimous-consent agreement to vote at 3 p.m.

Mr. YARBOROUGH. I felt that this matter should be laid over until tomorrow. If this were done, there would be many people to speak about it; however, to say at 2 p.m. that there will be a recess does not allow us who oppose this bill sufficient time to speak against it.

Mr. McGEE. The only reason for the recess at 2 p.m. was that no speakers were available who wanted to address themselves to this question.

Mr. YARBOROUGH. Could we divide the remaining time?

Mr. McGEE. The Senator from Texas may have the remaining time until 3 p.m., in toto. The Senator from Wyoming asks for none of it. I am glad to yield to the Senator from Texas.

Mr. YARBOROUGH. I do want to ask the Senator to yield the right to close. Perhaps we could get unanimous consent to vote at 3:05 p.m., and have 5 minutes apiece. Will there be any objection to a unanimous-consent request to vote at 3:05 p.m.?

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. BOGGS). The Senator will state it.

Mr. YARBOROUGH. Is it proper to ask for unanimous consent that the vote occur at 3:05 p.m., so that we will have 5 minutes apiece?

The PRESIDING OFFICER. Such a unanimous-consent request would be in order.

Mr. YARBOROUGH. Then, Mr. President, I ask unanimous consent that the vote be postponed until 3:05 p.m., so that we may have 5 minutes apiece. I will gladly share the time with the distinguished Senator from Wyoming.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD of West Virginia. Mr. President, reserving the right to object—I ask unanimous consent that the vote on the pending conference report occur at 5 minutes past 3 o'clock this afternoon.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McGEE. I yield all the remaining time to the Senator from Texas.

Mr. YARBOROUGH. Mr. President, I have in my hand the 5-year plan of operation for the new Postal Service, which shows what is planned when this bill becomes law. It calls for a reduction in employees and wages over a 5-year period that will cut the cost $1 billion. It calls for reduced service to the public. We already have a foretaste of that reduced service—no afternoon deliveries. Business deliveries already have been cut off in practically all the cities in my State. There will be no Saturday deliveries. They are closing the windows in post offices in many cities on Saturdays.

This bill calls for rates to be set by a group of rate commissioners who are not responsible to Congress. The Senate even surrendered to the House and gave away the right to confirm the nominations of rate commissioners. Under this bill, the so-called Postmaster General will be the only so-called Cabinet officer whose nomination will not be confirmed by the Senate.

I have just read into the RECORD what is happening in many cities in my State with a population up to 25,000. Plainview is the county seat of Hale County, which is one of the 10 richest counties in America in agricultural production. There the mail is being processed in Lubbock or Amarillo.

They are destroying the identity of small towns and cities all across Texas. This is the so-called new Postal Service. It is not service. It is a denigration of this Government.

This measure is the Tonkin Bay resolution of domestic government in America. It is going to pass here overwhelmingly, but many Senators who will vote for it today will wish next year that they had not voted for it and will wish even more that they had not voted for it in the years to come. This

bill actually calls for less service at greater cost. People will be paying and paying for it. This bill will destroy the concept of the postal service as a public service institution. It has substituted the word "service" for "corporation," It takes the Post Office out from under the control of the President, the executive branch, and the Congress and turns it over to a group of hand-picked individuals who are responsible to no one.

I predict that future Congresses will be back here trying to recapture its duties provided for under the Constitution, where Congress has the right to establish post offices and postal roads.

The Post Office was the first branch of Government to be established, in 1774. In June of 1775 they decided they needed an army and elected George Washington. In 1776 the Declaration of Independence was signed. Benjamin Franklin advised that the need for a postal service was of first importance, and that was the first branch of any public service we had in this country. Congress has undertaken to surrender and destroy it now and turn it over to a private group.

Whatever name we call it, we are still turning it over to a private group. We have not done that with the Interior, Labor, Commerce, or Defense Departments, and we have not done that with the Attorney General's office. Maybe, in the future, we will turn the Attorney General's office over to a private firm and let them handle the Government's business; or lease big war contracts out to private firms and do away with the Defense Department because it can all be done cheaper.

The Post Office is the only branch of Government which the Constitution specifically directs to be established by Congress. In this case, with this bill, the word "service" will not be there anymore. The plan is there already to destroy the afternoon delivery of mail.

We need to improve the postal system, not destroy it. The only reason the bill passed was that the postal employees are so terribly underpaid and they have used that low pay as a vehicle to ram this bill through and get the postal service away from the people.

Let me say to all Senators, particularly from farm States, that it has not hit their State yet, but it will as soon as this bill is passed. That is the plan of the Postmaster General.

We will see increased costs and a slowdown in the mail service. It does not make any difference where we mail anything from. The incident of sending the mail from Muleshoe, Tex., 70 miles, and then to a point 15 miles from the point of origin, losing 3 days in going from the point where it was mailed to a central distribution point like Lubbock or Amarillo, and to come down to a county seat 30 miles away, losing 3 days and losing mail efficiency in that way. They say it has been implemented by pilot projects and programs, but they are bad. The mail service is being destroyed in these small communities.

I say to the Senate that everyone will feel the pinch when this bill becomes law. Congress is surrendering its constitutional duty in establishing and running the Post Office. It will all be gone.

Mr. President, I ask unanimous consent to have printed in the RECORD my statement in full and the article on the 5-year plan on the postal service and how it will be destroyed.

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

STATEMENT BY SENATOR YARBOROUGH ON CONFERENCE REPORT ON H.R. 17070, THE POSTAL REORGANIZATION BILL

Mr. President, we are on the threshold of completing the job of destroying America's oldest public service institution, the United States Post Office. For nearly two hundred years, the Post Office has stood as a symbol of our nation's commitment that all people, regardless of their position or means, have a right to enjoy equally the services provided by our government. From the birth of democracy up to today, all our citizens have been able to use the postal service. The bill which we are about to take final action on would reverse our policy of equal government services for all and turn the Post Office into an instrument for making up deficits in the Federal budget at the expense of the American people. If there is one public service that our people cannot do without, it is the mail. Consequently, under the new postal corporation, the Post Office will be able to extract every cent the traffic will bear from a captive group of mail customers. The very purpose of this bill is contrary to every concept of democratic government.

In this late hour, it is important that we in Congress stop and search our souls before we vote on this measure. This is not a bill that can be passed and soon forgotten. On the contrary, the Post Office is one vital link that binds all our states together into one union and connects America with the rest of the world. If any institution in American life should be operated solely for the benefit of the people, it is the Post Office. Therefore, before Congress takes the Post Office out of the hands of the people and turns it over to individuals who are not responsible to the people's elected representatives, it is imperative that we ask ourselves certain questions.

First, how did this bill make its way through Congress? The answer to this question is clear. This bill would never have obtained the approval of both Houses of Congress had the Administration not cleverly tied it to the just demands of postal workers for a pay raise. In short the Administration captured the cause of the postal workers and used it as the lever to force this infamous bill through Congress. Thus, the postal workers became the unwilling pawns in the Administration's game. Never have I seen a group of American workers so misused.

I do not believe that there is any member of the Senate who has worked harder for better wages and working conditions for postal workers than I have. I have for years worked to obtain wages for all government employees that are fully comparable to those paid to workers in private industry. In my opinion the cause of the postal workers was a separate problem which Congress had a duty to resolve. To make a postal pay raise depend on the passage of a bill which would seriously affect mail service is to play one segment of our people off against another. Such tactics are contemptible and should be reputed. I submit that this bill would never have been passed as an independent measure.

Second, we must ask ourselves who are the real losers under this bill. The answer to this question is twofold. First, the postal workers stand to lose over $1 billion in wages during the next five years under the postal service's proposed "five year plan of operation" which will go into full operation as soon as the new postal corporation goes into action.

According to this plan, which was drawn up by the Post Office Department, it calls for a nine step program designed to eliminate postal deficits by cutting back on postal services and wages for postal workers. For example, one step in this plan calls for the consolidation of mail processing centers. According to the Department's own estimates, this proposal will in one year result in wage reductions in the following major cities:

Atlanta	$387,000
Chicago	552,000
Cincinnati	442,000
Dallas	331,000
Denver	166,000
Memphis	166,000
Minneapolis	231,000
New York	773,000
Philadelphia	552,000
St. Louis	276,000
San Francisco	608,000
Seattle	166,000
Washington, D.C.	331,000
Wichita, Kan.	166,000

I wish to emphasize that these reductions in wages are only one part of the overall plan. If it is carried out completely postal workers will lose over $1 billion in wages. In the final analysis, the postal workers have given up $1 billion in wages for small pay increases. Furthermore, as the new postal corporation looks for ways to save money and increase postal profits, the first "economy" measure taken will undoubtedly be to eliminate jobs. So in the long run, the postal workers of America have gained little and lost a great deal.

The second group to lose a great deal under this corporation, are the average American mail users. These citizens have lost their voice in how the Post Office should function since, under this bill, Congress has turned over its control of postal matters to a select group of hand picked bureaucrats who are responsible to no one but themselves and the special interest groups that lobby for their appointments. The lack of Congressional control will be particularly deterimental to the public in the area of postal rates. Under this bill, postal rates will be established by a postal rate commission composed of five commissioners appointed for six year terms by the President. These individuals, who will have more to say about how much it will cost our people to mail letters than anyone in government, do not even have to be confirmed by the Senate. Thus, the people have no say in who will sit on this important commission.

Once the rate commission has set a rate, it can be overruled only by the corporation's Board of Governors and then only by a unanimous vote. Congress has no say in the matter. Furthermore, this bill provides for the setting of certain "temporary rates" without the approval of even the rate commission. Under this procedure, the Postal Corporation can put into effect a temporary rate increase which does not have to be approved by either the rate commission or Congress.

It is a safe prediction that as soon after this bill becomes law, the people of America will have to pay 8 cents to mail a letter first class.

In addition to losing their voice in postal affairs the people will lose many important postal services. The Administration's five year plan calls for the elimination of the following postal services:

(1) six day mail delivery and Saturday Window service would be discontinued;

(2) Mail delivery to individual addresses at colleges, universities and trailer courts would be stopped. Mail would be delivered to one central point in each of these facilities;

(3) Fourth Class Post Office would be replaced by contract offices;

(4) Air transportation for first-class mail to points within 750 miles would be discontinued; and

(5) The number of mail collection boxes would be reduced and parcel post and certified mail would no longer be delivered to homes.

These services that the American people have long enjoyed and are justly entitled to. The reason most often advanced by the Administration for the elimination of these services is that they are not profitable. It is strange, however, that the Administration can oppose non-profitable postal operations, health and education programs but strongly support wasteful military sending. This is just another example of how the Administration places the needs of the people at the bottom of its list of priorities.

Mr. President, I have always supported measures that would improve mail service; however, I will not swallow this bitter pill even though the Administration has tried to sugar-coat it by calling it a "reform" measure. This is in no sense a reform bill and all the lavish speeches in the world will not transform it into one. The language of the bill itself clearly exposes the purpose behind this unwise measure. I served as Conferee on this bill for only one reason and that is that I wanted to save as much of the bill as I could for the people. However, I would be untrue to the people I represent and myself if I voted for final approval of this bill. Therefore, Mr. President, I shall oppose this bill on the final vote. I earnestly hope that in the years to come that the American people will demand that Congress repeal this unwise bill.

THE 5-YEAR PLANNING FOR THE NEW POSTAL SERVICE

FOUR BASIC PLANS

Program plan.
Revenue plan.
Support plan.
Transition plan.

Coordination of the program plan is the responsibility of the Bureau of Operations.

How will we develop the program plan?

We determine (1) Where we are; (2) Where we want to go; (3) How we will get there.

Where are we?*

Cost:
1970 8.1*
1975 11.0

Income:
1970 6.7
1975 7.8

Deficit:
1970 1.4
1975 3.2

Where do we want to go? 1975: 0 Deficit.

How will we get there?

Economize: $1 billion per year

The 9 Stratagems can produce a savings of $945 million constant dollars by 1975

THE NINE STRATAGEMS

1. Five Day Operations.
2. Area Mail Processing.
3. Production Standards.
4. New Techniques for Carrier Office Work.
5. Modification to Mail Delivery Policies and Practices.
6. Basic Services to Customers.
7. Customer Cooperation.
8. Standardization & Specialization of Postal Facilities.
9. Standard Levels of Service.

FIVE-DAY OPERATION

This plan contemplates the phased elimination of six day delivery and manned window service.

Payroll reductions

[In thousands]

Fiscal year 1971	$5,524
Fiscal year 1975	145,530,000

A. Five day delivery service.
1. Implement first in business areas (generally Saturday).
a. Reduce Saturday collection schedules to Sunday.
b. Discontinue parcel delivers on Saturday.
2. Rural and star route service.
B. Compress mail processing tours from 3:00 p.m. Saturday to 3:00 p.m. Sunday.
C. Five day window service.
1. Finance stations.
2. Windows at 1st class then all others.
a. Reduce window clerks staffing on Saturday.
b. Consider Friday night service.

AREA MAIL PROCESSING

This program envisions a consolidation of all outgoing* mailhandling functions into 400 to 500 area mail processing plants in two phases, (1) from associate offices into sectional center facilities and (2) the consolidation of sectional center facilities.

Payroll reductions

[In thousands]

Fiscal Year 1971	$7,063
Fiscal year 1975	80,659,000

A. Consolidate associate offices with sectional center facilities—
1. Into existing space.
2. Into planned space.
3. Into not yet planned space.
4. Consolidate small carriers stations into primary facilities when routes are motorized. Limit to about 70 routes.
B. Consolidate sectional center facilities to provide economies of scale.

PRODUCTION STANDARDS

This stratagem contemplates the development and implementation of individual and group standards of production for distribution and delivery employees and refinement of existing standards for maintenance employees.

Payroll reductions

[In thousands]

Fiscal year 1975	$136,258,000

A. Clerical standards in 500 largest offices.
B. Delivery standards on city and rural routes.
C. Vehicle operations standards.
D. Revise equipment requirements.
E. Incentive pay—City carriers.

NEW TECHNIQUES FOR CARRIER OFFICE WORK

This plan contemplates a fresh overall view of the carrier function, especially the time he spends preparing his mail for delivery.

Payroll reductions

[In thousands]

Fiscal year 1975	$189,504,000

A. Carrier delivery district concept:
1. Perform carrier sequencing at a different time.
2. Use more efficient carrier case.
3. Simplify route inspections.
4. Reduce distribution costs.
B. Machine sequencing carrier mail:
1. Reduce carrier and clerk cost.
C. Computer system for marking-up mail:
1. Reduce carrier and clerical costs.

MODIFICATION TO MAIL DELIVERY POLICIES AND PRACTICES

This program provides for the review, analysis, and revision of current policies and practices for the delivery of all classes of mail.

Payroll reductions

[In thousands]

Fiscal year 1971	$1,353,000
Fiscal year 1975	8,663,000

A. Single delivery point of mail for universities, colleges, trailer courts, etc.
B. One delivery attempt on parcel post.

BASIC SERVICES TO CUSTOMERS

This stratagem contemplates new and/or improved methods of providing services to customers.

Payroll reductions

[In thousands]

Fiscal year 1971	$1,405,000
Fiscal year 1975	36,163,000

A. Expand use of Special Services Postal Units:
1. Add vending units.
2. Replace window service with SSPU.
3. New mail service centers.
B. Replace selected locations with contract units.
C. Provide convenient philatelic services.
D. Reduce number of collection points.
E. Establish new village and suburban delivery service:
1. Cluster box concept.
2. Door delivery of signature articles.
3. Parcel post pick-up at post offices.

CUSTOMER COOPERATION

This stratagem encompasses actions which the customer can take to help improve the postal service.

Payroll reductions

[In thousands]

Fiscal year 1971	$11,147
Fiscal year 1975	161,182,000

A. Expand VIM program:
1. Single drop delivery.
a. VIM facilities, apartments, urban renewal housing.
B. Extend mail early program.
C. Patron preparation of mail:
1. Presort, precode.
2. Equipment loan.
D. Increase zip code usage.

STANDARD LEVELS OF SERVICE

This stratagem involves the establishment of reasonably achievable standards of performance of services to the postal customer geared to a 7:00 p.m. time for the beginning of a postal day.

Payroll deductions

[In thousands]

Fiscal year 1971	$1,375
Fiscal year 1975	33,083,000

Mr. YARBOROUGH. Mr. President, there is an agreement between the distinguished Senator from Wyoming and myself that I will yield back my time. He has yielded all his time, but I shall yield back my time after having made this statement.

Mr. President, I yield back the remainder of my time.

Mr. MANSFIELD. Mr. President, could I ask the Senator from Wyoming whether this bill raises the 6-cent stamp to 8 cents?

Mr. McGEE. This bill does not raise any postal rates.

Mr. MANSFIELD. I thank the Senator.

Mr. McGEE. Mr. President, the distinguished Senator from Nevada (Mr. CANNON) is unable to be here today to vote for the conference report on this Postal Reorganization Act because of a previous commitment to star route mail carriers out in Nevada.

If Senator CANNON were here today, he would have voted to accept the conference report. Senator CANNON has indicated that there has been some confusion over the Senate provisions of this

---

*All figures in billions of dollars.

*Also would include incoming mail at selected offices.

bill in the Nevada press. He wants to set the record straight and assure everyone that he has never voted for any provision that would require compulsory unionism in Nevada. Nevada voters have repeatedly sustained their State's right-to-work law and Senator CANNON wants it made clear that he has supported the mandate of Nevadans in this area.

The PRESIDING OFFICER (Mr. DOLE). The hour of 3:05 p.m. having arrived, the Senate will now proceed to vote on adoption of the pending conference report.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. YOUNG of Ohio. I have cast my vote against the conference report, but I find that I have a live pair with the junior Senator from Nevada (Mr. CANNON). If he were able to be present today, he would vote "yea"—in favor of the conference report. In view of my live pair, I withdraw my vote and state that if I were at liberty to vote, I would vote "nay."

Mr. BYRD of West Virginia. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Tennessee (Mr. GORE), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. BURDICK), the Senator from Missouri (Mr. EAGLETON), the Senator from North Carolina (Mr. ERVIN), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Mexico (Mr. MONTOYA), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Missouri (Mr. SYMINGTON), the Senator from New Jersey (Mr. WILLIAMS) the Senator from Oklahoma (Mr. HARRIS), the Senator from Washington (Mr. MAGNUSON), and the Senator from Rhode Island (Mr. PELL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. AIKEN), the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senators from New York (Mr. GOODELL and Mr. JAVITS), the Senator from Florida (Mr. GURNEY), the Senator from Nebraska (Mr. HRUSKA), the Senator from California (Mr. MURPHY) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Colorado (Mr. ALLOTT) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) and the Senator from Maine (Mrs. SMITH) are absent because of illness.

If present and voting, the Senator from Vermont (Mr. AIKEN), the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senators from New York (Mr. GOODELL and Mr. JAVITS), the Senator from Florida (Mr. GURNEY), the Senator from Nebraska (Mr. HRUSKA), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senator from Maine (Mrs. SMITH), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 57, nays 7, as follows:

[No. 251 Leg.]

YEAS—57

Allen	Griffin	Muskie
Anderson	Hansen	Nelson
Bayh	Hatfield	Packwood
Bellmon	Holland	Pastore
Bennett	Hughes	Pearson
Bible	Inouye	Percy
Boggs	Jackson	Prouty
Byrd, Va.	Jordan, N.C.	Proxmire
Byrd, W. Va.	Jordan, Idaho	Randolph
Case	Long	Schweiker
Church	Mansfield	Scott
Cooper	Mathias	Smith, Ill.
Cotton	McClellan	Sparkman
Cranston	McGee	Spong
Curtis	McGovern	Stevens
Dole	McIntyre	Talmadge
Dominick	Miller	Thurmond
Fannin	Mondale	Williams, Del.
Fong	Moss	Young, N. Dak.

NAYS—7

Cook	McCarthy	Yarborough
Ellender	Saxbe	
Fulbright	Stennis	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Young of Ohio, against.

NOT VOTING—35

Aiken	Gore	Montoya
Allott	Gravel	Mundt
Baker	Gurney	Murphy
Brooke	Harris	Pell
Burdick	Hart	Ribicoff
Cannon	Hartke	Russell
Dodd	Hollings	Smith, Maine
Eagleton	Hruska	Symington
Eastland	Javits	Tower
Ervin	Kennedy	Tydings
Goldwater	Magnuson	Williams, N.J.
Goodell	Metcalf	

So the report was agreed to.

CONTINUATION OF DUTY-FREE STATUS OF CERTAIN DYEING AND TANNING MATERIALS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 932, H.R. 14956.

The PRESIDING OFFICER (Mr. DOLE). The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 14956) to extend for 3 years the period during which certain dyeing and tanning materials may be imported free of duty.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. WILLIAMS of Delaware. Mr. President, I shall take only a few minutes.

Earlier this year the Senate agreed to an amendment I sponsored which would provide 6-percent interest on a new type savings bonds. The amendment was rejected in conference.

Mr. BYRD of West Virginia. Mr. President, we cannot hear the Senator.

The PRESIDING OFFICER. The Senate will be in order. Senators will please be seated. Attachés will please be seated or leave the room.

Mr. WILLIAMS of Delaware. Mr. President, since the rejection of this 6-percent proposal in conference we have been working with the Treasury Department, House Members of the conference, and the conferees of the Senate.

Mr. HANSEN. Mr. President, the Senate is not in order. We cannot hear the Senator.

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

Mr. WILLIAMS of Delaware. Mr. President, we reached an agreement on a 5½-percent rate on all series E bonds. This includes new issues as well as outstanding issues. New issues of series E bonds sold June 1, 1970, and thereafter would have a one-half percent bonus payable at maturity raising the yield to 5½ percent from date of sale to maturity. Outstanding bonds which have not yet reached first maturity would receive a bonus payable at maturity sufficient to raise their present yield to maturity from the start of the first full interest crediting period, beginning on or after June 1, 1970, by one-half of 1 percent. Issues entering an extension period on or after June 1, 1970, would be given flat 5½ percent yields through their next maturity, whenever redeemed. Bonds now in an extension period would have their yields increased by approximately one-half of 1 percent per annum to next maturity, whenever redeemed.

Mr. President, I think this is a reasonable compromise.

I send to the desk an amendment as endorsed by the Treasury Department and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the end of the bill add a new section as follows:

"SEC. —. (a) The proviso in the second sentence of section 22(b)(1) of the Second Liberty Bond Act, as amended (31 U.S.C. 757c(b)(1)), is amended by striking out "5 per centum" and inserting in lieu thereof "5½ per centum."

"(b) Section 22(b) of the Second Liberty Bond Act, as amended (31 U.S.C. 757c(b)), is further amended by adding a new paragraph (3) reading as follows:

"'(3) The Secretary of the Treasury, with the approval of the President, may increase the interest rates and the investment yields on any offerings of United States savings bonds by not more than one-half of one percent for any interest accrual period that begins on or after June 1, 1970, and for any interest accrual period thereafter, to be paid

as a bonus either on redemption or at maturity as the Secretary shall specify at the time the increase is provided.'"

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

Mr. WILLIAMS of Delaware. I yield.

Mr. MANSFIELD. Mr. President, if the Senator would add my name as a cosponsor I would appreciate it. I think this move is long overdue.

Mr. WILLIAMS of Delaware. Mr. President, I am delighted to ask unanimous consent that the name of the Senator from Montana be added as a cosponsor.

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

Mr. WILLIAMS of Delaware. Mr. President, I also ask unanimous consent to have added as cosponsors the names of the Senator from Arizona (Mr. FANNIN), the Senator from Iowa (Mr. MILLER), the Senator from Nebraska (Mr. CURTIS), the Senator from Wyoming (Mr. HANSEN), the Senator from Kansas (Mr. DOLE), and the Senator from North Dakota (Mr. YOUNG).

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

Mr. WILLIAMS of Delaware. I yield.

Mr. CURTIS. This proposal deals with series E bonds. Is that correct?

Mr. WILLIAMS of Delaware. The Senator is correct.

Mr. CURTIS. What rate of interest do they draw now?

Mr. WILLIAMS of Delaware. They now draw 5 percent. Upon the enactment of this measure they would draw 5.5 percent beginning June 1, 1970.

Mr. CURTIS. If I understood the Senator correctly, this would apply to bonds purchased hereafter and it would also apply to bonds now held by our people.

Mr. WILLIAMS of Delaware. The Senator is correct. It applies also to those which have matured, which are being held and which are in the second or third maturity period. There would be a bonus of one-half of 1 percent on all bonds outstanding and the interest rate would be 5.5 percent on all new issues.

Mr. CURTIS. I believe this is a very good move because as a matter of fairness to holders and future purchasers of series E bonds it should be raised. From the standpoint of the Treasury Department, if this results in an an increase in the sale of series E bonds, it will lessen the overall interest burden of the Treasury because the amount would be less that has to be borrowed on short-term borrowing. Is that correct?

Mr. WILLIAMS of Delaware. The Senator is correct. In addition, the Treasury is now paying 7.75-percent interest on 5- to 7-year bonds, but these are issued only in larger amounts. This measure would give greater equity to the small bond buyer.

Mr. CURTIS. Mr. President, I commend the Senator for his leadership.

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Secretary of the Treasury dated July 29, wherein the terms of this amendment are further outlined.

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

THE SECRETARY OF THE TREASURY,
Washington, D.C., July 29, 1970.

Hon. JOHN J. WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WILLIAMS: The Treasury has carefully reviewed the amendment to H.R. 14705 which you offered and which was adopted by the Senate. Your amendment would require the sale by the Treasury of obligations, designated as retirement and savings bonds, with investment yields of 6 percent. Based upon this review, it is our judgment that revisions in the yields offered on the traditional savings bonds, rather than the operation of two competing programs, would be highly preferable.

Accordingly, if the appropriate authorizing legislation were enacted in lieu of your amendment, the Treasury would make the following changes in the yields on savings bonds:

1. New issues sold beginning June 1, 1970, and after would have a ½% bonus payable at maturity raising the yield to 5½% from date of sale to maturity.

2. Outstanding bonds, which have not yet reached first maturity, would receive a bonus payable at maturity sufficient to raise their present yield to maturity from the start of the first full interest crediting period, beginning on or after June 1, 1970, by ½ of 1%.

3. Issues entering an extension period on or after June 1, 1970, would be given flat 5½% yields through their next maturity, whenever redeemed.

4. Bonds now in an extension period would have their yields increased by approximately ½ of 1% per annum to next maturity, whenever redeemed.

We would also propose to review the entire savings bond program to decide whether any longer-range changes should be made in the program.

Sincerely,

DAVID M. KENNEDY.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. PROXMIRE. Mr. President, this is a very interesting proposal and, as the Senator indicated, it has much merit. I am concerned about this matter for two reasons. First, I am concerned about the effect this would have on housing. An interest rate of 5½ percent would possibly mean that people who are now putting money into savings and loan institutions might invest in series E bonds with the Federal Government instead of institutions that finance housing. We have been through an experience in 1966 when people took money out of the savings and loan institutions and put the money on deposit in banks because they paid a higher rate of interest. Since then we put into effect regulation 2 to prevent that outflow. In the last few months we have had a healthy situation of money coming into savings and loan institutions and this has been of great help in the housing market. I would not want to see anything done to disrupt that flow and I know the Senator would not.

Mr. WILLIAMS of Delaware. I agree with the need of the housing industry, but this amendment would merely give some semblance of equity to the small investors, many of whom are now cashing their E bonds. Why should the Government hold down the rate of interest for the small investor when the larger investors receive 7¾-percent interest? Persons who are able to purchase certificates of deposit in the amount of $100,000 or over get substantially more in interest than do smaller depositors.

This is not fair, and the situation should be corrected.

The pending amendment which I am reasonably certain will be accepted by the House, will give an additional one-half percent to the small investors, who are purchasing these savings bonds.

Personally, I would have preferred the 6-percent rate, but the 5½-percent rate is a fair compromise.

Mr. PROXMIRE. The Senator is correct. I am asking whether Secretary Romney or Preston Martin, President of the Federal Home Loan Bank Board, are aware of this and support the proposal.

Mr. WILLIAMS of Delaware. I did not check this out with Mr. Romney, but the Treasury Department has endorsed it. The Treasury Department did not agree to the 6 percent for the same reasons the Senator outlined, we all agreed on the 5.5 percent as a compromise.

Mr. PROXMIRE. I am concerned about the precedent that might be involved. As I understood the colloquy between the Senator from Nebraska and the Senator from Delaware, if someone bought a bond 2, 3, or 5 years ago, the yield will increase on the basis of this proposal, even though the purchaser bought the bond with the notion he might get 4.5 percent or 5 percent. He will now receive 5.5 percent, although that was not his original interest rate.

Mr. WILLIAMS of Delaware. That is correct, but these are saving bonds and this is not a precedent because this increase has been granted every time we changed the interest rate for new bonds. This is merely carrying out the practice that has always been followed.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. HANSEN. Mr. President, I would like to ask the Senator if it is not a fact that there is much merit in the point made by the Senator from Wisconsin. I think it impinges on money that may be put into housing, but rather than affecting the typical homeowner or prospective homeowner, as the distinguished Senator from Wisconsin fears it might, it will have precisely the opposite effect. I say that because, generally speaking, the people who own series E bonds are not big investors. They will not put significant amounts of money into Government bonds of any kind. They do not have it to invest. They are the persons represented by the rank and file of Americans who have been encouraged through the years, going back to World War II days, to buy $18.75 bonds for their youngsters. In practically every town in America there are still some of these bonds in existence that were bought years ago. What will happen is that the small homeowner who has not yet paid for his home will have the advantage of 0.5 percent more interest so that he can have more parity with the big investor who can pick and choose investing his money where it will have a greater return, which up to now has been denied the small

series E bondholder precisely because he did not have the money to put into the larger bonds.

So I would say to my friend from Wisconsin that, rather than deprive the market of the sort of financing he feels is important, it will give many small homeowners, and people who are not yet in ownership of their homes but who are paying for them, an opportunity to come a little nearer to being treated fairly and equitably by their Government. They will receive a one-half percent higher rate of interest that will bring them a little closer than they are at the present time to what big investors receive.

Mr. WILLIAMS of Delaware. I thank the Senator.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. COOK. Relative to the remarks of the Senator from Wisconsin, is it not true that, based on the present rate that E bonds pay, we are retiring more bonds than we are selling?

Mr. WILLIAMS of Delaware. That is correct.

Mr. COOK. Therefore, this proposal actually constitutes relief to the Federal Government in regard to the discharge of its operations?

Mr. WILLIAMS of Delaware. Yes. That was the argument advanced and supported by the Treasury in order to justify this proposal.

Mr. COOK. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill (H.R. 14956) to be read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 14956) was passed.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILLIAMS of Delaware. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENT AND OTHER PURPOSES

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business, which will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 17123) to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the vote on the pending amendment offered by the Senator from Delaware (Mr. WILLIAMS) occur at 12 o'clock noon tomorrow.

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

The unanimous-consent agreement, subsequently reduced to writing, is as follows:

Ordered, that the Senate proceed to vote on Tuesday, August 4, 1970, at 12 noon, on the pending amendment by the Senator from Delaware, (Mr. WILLIAMS), No. 817, to H.R. 17123, an act to authorize appropriations for the Armed Forces, and for other purposes.

(Subsequently, this order was modified to provide for the vote to occur at 12:15 p.m.)

Mr. WILLIAMS of Delaware. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. There is not a sufficient second.

The yeas and nays were not ordered.

DD963 CLASS DESTROYERS

Mr. MUSKIE. Mr. President, last week I introduced for myself and Mrs. SMITH, and Messrs. AIKEN, HART, PELL, PROXMIRE, WILLIAMS of New Jersey, YOUNG of Ohio, and MCINTYRE, a bill to amend H.R. 17123. The purpose of this amendment is to provide that none of the funds authorized by H.R. 17123 may be expended for the procurement of the DD963 class destroyers unless the contract for such destroyers is entered into with two domestic shipbuilders, and that the total number of such destroyers is divided equally between the two shipbuilders.

I think that we now know of the weakness of the so-called total package procurement contract. We need only look at the C–5A and all of the various issues and problems which have resulted from a large procurement from a single source.

We have an opportunity to take corrective action on the DD963 class destroyer contract. I am sure that if we do not split this contract between two shipbuilders, we will see the same cost overruns in the next few years for the DD963 that we are now experiencing with the C–5A.

Mr. President, I ask unanimous consent that the text of the amendment be printed at this point in the RECORD.

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

On page 7, line 6, strike out the period and insert in lieu thereof a colon and the following: "*Provided*, That none of the funds authorized by this Act may be expended for the procurement of DD 963 class destroyers unless (1) contracts for the construction of such destroyers are entered into with two domestic shipbuilders, and (2) the total number of such destroyers to be constructed is divided substantially equally between such shipbuilders."

ORDER FOR ADJOURNMENT UNTIL TOMORROW AT 10 A.M.

Mr. BYRD of West Virginia. First of all, Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 10 o'clock tomorrow morning.

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

(Subsequently, this order was modified to provide for the Senate to adjourn until 9:30 a.m. tomorrow.)

ORDER FOR RECOGNITION OF SENATOR YOUNG OF OHIO TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, immediately upon the disposition of the reading of the Journal tomorrow morning, the able Senator from Ohio (Mr. YOUNG) be recognized for 30 minutes.

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

ORDER FOR RECOGNITION OF SENATOR HATFIELD TOMORROW

Mr. BYRD of West Virginia. And that that be followed by recognition of the able Senator from Oregon (Mr. HATFIELD) for not to exceed 30 minutes.

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

SPANISH BASES

Mr. FULBRIGHT. Mr. President, as some Members of the Senate may know, I wish to discuss this afternoon the question of whether or not the administration should submit to the Senate for its consideration, under the advise and consent clause of the Constitution, an agreement which has been negotiated with Spain—a very far-reaching agreement. This agreement, I may say, has already been discussed in Madrid. It has been submitted to the Foreign Relations Commission of the Spanish Cortes, and it is described in an article datelined Madrid, July 31, by Richard Eder.

I ask unanimous consent to have the entire article appear in the RECORD at the end of my remarks. The article demonstrates a strange irony; these things are handled fairly openly in Spain, a country which has a government that bears little resemblance to a democracy, and in an opposite, closed manner here in this country.

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

(See exhibit 1.)

Mr. FULBRIGHT. Mr. President, if the Senate and through it the people of the United States are to regain for themselves their responsible role in the making of commitments with foreign countries, action must be taken within the next 2 weeks with regard to the proposed agreement with Spain. That draft agreement sets the political and military terms for the extension of our military base rights in that country.

We should have learned from the tragic war in Vietnam, which spread first to Laos and now to Cambodia, that in taking the first step of a commitment any administration, whether it be headed by President Nixon, President Johnson, President Kennedy, or some future President, must see down the road where that first step could lead. A commitment today which requires the spending of money and results in the stationing of our troops on foreign soil contains the prospect that sometime in the future it

might require the spending of American lives.

The administration must come to accept, and we in the Senate must press for, public hearings so that a commitment such as the one we are about to continue and expand in Spain is not ambiguous; and so that some future President will not face the need of having to fight either a secret war or one which the public and the Congress had never authorized.

There is some irony in the present situation with regard to the Spanish agreement. Few in this body or in this country would deny that Spain, if not an outright military dictatorship, has few characteristics of a democracy. Yet under Spanish law, the proposed United States-Spanish base agreement must be approved by its legislative body, the Cortes. And according to information supplied me by the Department of State, the Foreign Relations Commission of the Spanish Cortes must give authority to the Spanish Government before its Foreign Minister can sign the proposed agreement.

Let me relate, however, the situation with regard to this country and the manner in which, under our democratic system, this administration—like its predecessors before it—seeks to gain approval for this agreement without public hearings or congressional approval. There have been, over the past year and a half, a number of closed hearings before the Senate Foreign Relations Committee on the Spanish base negotiations. Only at the last meeting—on July 24, 1970—did the administration, through the Under Secretary of State for Political Affairs, U. Alexis Johnson, and the Deputy Secretary of Defense, David Packard, present the details of the proposed agreement. That meeting was called on 2 days' notice and only five members of the committee, including myself, were able to attend. During the 2-hour session, a number of questions were asked pertinent to this agreement.

May I interject here to say that the principal thrust of my argument and of the whole discussion at that session was not the merits of the agreement; it was whether or not it should come to the Senate for its approval. That is about all we examined, at some length.

There was little discussed in that secret meeting that could not be discussed in public, and there is more that should be. In fact, I believe that before this agreement is signed, whether in its present form or as a treaty, all of its details should be discussed in public from the political and security commitments involved to the quid pro quo that has been promised. Because of the security classification attached to this information, however, I find it necessary to discuss the details of the agreement not as presented in secret to the committee, but in terms of information published in the press from sources in Madrid—which must include not only Spanish Government officials, but also American Embassy personnel—and articles published here in Washington, sources for which are unnamed officials in the Departments of State and Defense.

Another irony of present-day foreign policy discussions in Washington is that the Foreign Relations Committee is criticized by the administration as the source of leaked information.

Mr. President, I was handed just before I started this speech an article off the news ticker which reports that unnamed officials of the State Department, having seen an advance copy of my speech—which was given to the press for news purposes, have alleged that in this discussion I am breaching security. I ask unanimous consent at the end of my remarks, to put their comments in the RECORD, together with the article I mentioned earlier datelined from Madrid.

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

(See exhibit 2.)

Mr. FULBRIGHT. It is very strange to me the way the State Department reacts to this kind of matter. The Committee on Foreign Relations is criticized by administration as the source of leaked information, when, in fact, almost all information leaked to the press on foreign policy matters comes from administration sources. I believe that the one difference is that security information from the committee sometimes does not support the administration, while security information leaked from the administration is done so as to give support to that policy. One, therefore, is bad and the other goes unnoticed as part of the daily routine.

But using as a guide that information which either the Spanish or the State Department feels can be discussed, I would like to focus attention on the quid pro quo mentioned and its implications, not just for Spain but for U.S. relations around the world. According to the New York Times of July 31, in a story from Madrid to which I have already referred:

> The United States has agreed to make 36 used F–4 Phantom jet fighter-bombers available to Spain as part payment for a new five-year agreement allowing American forces to use three bases there.
>
> The Phantoms are of an early type, still in use by the United States Air Force but no longer being manufactured, according to informed sources.

Mr. President, the provision of F–4's to Spain, whether by grant or at some cut-rate price with credits, represents both an important military and political step for the United States. It is a military step because, although these apparently are an early type of F–4, they are of a type still being used by the United States, and to provide them to another country will reduce our F–4 stocks by that amount. I see that in the bill before us the administration is seeking 24 F–4's at a total cost of $71.3 million. What relationship does our disposal of 36 old F–4's have to our buying 24 new ones or to some future agreement to buy new ones?

The proposed transfer of F–4's, however, carries added implications. Who has already forgotten the pressure that developed in this Congress for providing a squadron of F–4's to Taiwan—which has none and wants some? Who has forgotten the $35 million gift of F–4's to Korea, which has already indicated it wants more? And what about the Greeks, and the Turks, and, even the Portuguese—having approved the transfer of 36 F–4's to Spain, how can we resist the demands of other countries?

What is the threat facing Spain today that requires an additional 36 of the most potent fighter-bombers in the world? I make that remark noting that Spain has recently purchased 30 Mirages from France; that it already has F–5's and F–104's; and that the United States has 54 of its own F–4's stationed on Spanish soil. I submit that that presents an extraordinary force of jet combat aircraft for a country at war with no one, whose territory borders on two allies and which, as far as I can see, faces no threat requiring such a formidable air combat force.

Newspaper stories have detailed other parts of the quid pro quo military aid package, which in total represents, by my calculations, close to $300 million worth of arms, weapons systems, and ammunition. I include in this the reported Navy vessels—five destroyers, two submarines, four minesweepers, three LST landing ships and other smaller ships totaling some $143 million in value—which are to be loaned rather than given as outright grants.

News stories have also listed a variety of Army equipment which totals somewhere near $25 million in value and includes tanks, armored personnel carriers and helicopters, none of which seems related to any apparent ground threat facing the Spanish Government—except perhaps as planning for some future internal crisis.

In addition to the above, the United States is prepared to furnish other equipment—not mentioned in the press—and turn over to Spain United States facilities in Spain. These added items represent the administration's latest figures, a value of near $100 million.

Mr. President, by using published material, by hedging what the administration will permit to be said under its own self-serving rules of classified information, one can easily describe the direct and indirect costs of the Spanish agreement as near $400 million over 5 years. On dollar terms alone I would not in any sense describe that as an insignificant figure.

But there is more money than just the Spanish $400 million involved in this agreement. The Portuguese, the Greeks, the Turks, the Ethiopians, the Thais, the Filipinos, the South Koreans, the Taiwanese, even the Japanese are watching to see what kind of settlement the Spaniards receive. We have bases in each one of those countries and thus the costly price paid Spain could and probably would be repeated many times over.

Money, however, is only one—and possibility the lesser—part of the danger in the Spanish agreement and the manner in which it has been handled vis-a-vis the Congress and the public.

The Spanish agreement represents the boldest—and going back to 1953 perhaps the first—attempt by the executive branch since World War II to have a security commitment by Executive agreement and thus avoid the need for Senate advice and consent to a treaty.

It is an open secret between the execu-

tive branches of the Spanish and United States Governments that since 1953 we have had a de facto military treaty. And as long as it was not in statements before the Senate Foreign Relations Committee, administration officials felt free to admit it.

During one of our closed sessions on Spain, Under Secretary of State U. Alexis Johnson, who has negotiated each of the agreements since 1963—including the present one—referred to Benjamin Welles, the former New York Times Madrid correspondent, as a trustworthy commentator on Spain. In his book on that country, "The Gentle Anarchy," Mr. Welles wrote:

> To coat the pill for Congress and liberal U.S. sentiment, the (original 1953) Washington-Madrid link was designated an "executive agreement" rather than a military alliance since it did not specify the mutual obligation of the two governments in case of war.

Mr. Welles went on to describe further how the 1963 revision of the agreement included language suggested by the then Spanish Ambassador and derived from his study of all the treaty language then operative between the United States and its allies.

The result was the defense agreement and joint declaration of 1963 which read:

> A threat to either country, and to the joint facilities that each provide for the common defense, would be a matter of common concern to both countries, and each country would take such action as it may consider appropriate within the framework of its constitutional process.

In hearings before the Foreign Relations Committee during March and April 1969, both then Under Secretary Richardson and Under Secretary Johnson strongly denied this language represented a commitment—despite the fact that a simple reading shows it does. And despite the fact that, as Mr. Welles' book tells us, the Spanish who drafted it clearly intended it to.

I might add that from this July 31 news article from Madrid, one reads of the Spanish comments on the agreement and they obviously understood that it did.

This new 1970 agreement drops that old language and adopts new phrases such as United States' "support for the defense system of Spain," which has been reported in the press.

Under Secretary Johnson, in our closed hearing last week, maintained that the new language represents no commitment. Asked why the 1963 language was not repeated, Mr. Johnson replied:

> Let me say during our discussions with the Spanish in their efforts to get language which I would interpret as a commitment they pushed very, very strongly for getting this language that was in the Joint Declaration of 1963. I have said that we could not do that without entering into a mutual defense treaty, and this was a road that we did not want to go.

If I may freely interpret Mr. Johnson's words—a year ago the 1963 language was not a commitment, because at that time the State Department intended to continue to use that language. This year, with new language drafted, the reason for dropping the old language was because Mr. Johnson now interprets the old language as a commitment.

Mr. Johnson is not the only Under Secretary who appears to have changed his mind about the Spanish commitment. Former Under Secretary Nicholas Katzenbach, in his statement, last week before a House Foreign Affairs Subcommittee suggested, rhetorically, that he, too, now can see the commitment in the Spanish agreement.

> Many of our treaties qualify U.S. obligations by reference to Constitutional processes. Such a provision is contained, for example in the SEATO agreements, in our defense agreement with Spain, with Korea, with the Republic of China and many others.

Mr. Katzenbach, free of the burden of office, appears to drop the facade and list the Spanish agreement among "our treaties."

Perhaps the frankest recognition of the United States-Spanish relationship was that given by then Chairman of the Joint Chiefs of Staff, Gen. Earle G. Wheeler, in November 1968, during secret discussions. General Wheeler said:

> By the presence of United States forces in Spain the United States gives Spain a far more visible and credible security guarantee than any written document.

Considering the manner in which this administration interprets the President's authorities as Commander in Chief to defend his troops—as witness the Cambodia invasion—General Wheeler's statement appears valid indeed.

Mr. President, the question facing the Senate is what it can do with regard to the Spanish agreement consistent with a responsible execution of its constitutional responsibilities.

The Nixon—as did its predecessors—administration seeks to limit public knowledge and public discussion of the agreement, using its ability to declare as classified material whatever it wishes. A more open discussion of this important question is taking place in Franco Spain through the Government-controlled press and that country's Parliament than is taking place in this country.

In order to avoid even a public hearing before the Foreign Relations Committee, State Department officials are seeking support for a move to have last week's closed hearing sanitized and released.

Mr. President, I oppose such a course, and to support my position I must note that in closed hearings on Spain over the past 16 months before the full committee and the Symington subcommittee, administration officials, whether consciously or not, have clearly misled the committee on a variety of matters. In short, a reading of all the transcripts involved—closed hearings held on March 11, 1969; April 2, 1969; April 14, 1969; June 5, 1969; April 22, 1970; material submitted for a subcommittee hearing on July 17, 1970; and July 24, 1970—shows that facts are being tailored—even changed—to fit the end desired at the time by the administration.

Under Secretary Johnson's change of view on the 1963 language is only one example. Let me cite others:

In 1969, when the administration sought to retain control of and to defend the value of all the Spanish bases, their total cost was listed as $395,600,000 and replacement cost—at 1967 prices—at $1,088,000,000. In 1970, when it was disclosed that the new agreement included turning over all residual value of the bases to the Spanish, the original cost was listed at $322.8 million and residual value at $125 million. No replacement cost was included. In short, if the objective is to retain control of them, they are very valuable; if the object is to justify relinquishing them to Spain, the value is insignificant—much less, at least, if not insignificant.

Or take the case of one specific group of facilities which under the new 1970 agreement is to be turned over to the Spanish. In 1969, when the United States was planning to hold it as part of our needed Spanish facilities, these units were said to have cost us $46,600,000 to construct and would cost—at 1967 prices—$128,200,000 to replace. Last week, in presenting the backup for the new agreement, the administration declared that the facilities had a current value of "at least $25 million" and a replacement value of "about $40 million." In a submission 1 week earlier, the administration said the facilities originally cost $26 million to construct.

In matters of substance, administration witnesses use classified information at closed hearings to suit their own purposes. For example, in 1969, when defending the need for the Spanish bases, General Wheeler freely gave the committee, in closed session, the details of contingency plans to show the importance of the Spanish facilities. Today, administration witnesses refuse all testimony about contingency plans. Only open public hearings, going over the details of the agreement and the quid pro quo involved, can—under our form of government—satisfy the need for public understanding of this commitment to Spain.

Only affirmative congressional action, through a treaty, convention, or other legislative instrumentality can meet the constitutional requirements and, more important, provide the measure of public support for the continuation of this security undertaking.

Therefore, I will introduce later this week an amendment to the Procurement Act, H.R. 17123, which will read substantially as follows:

> After January 1, 1971, none of the funds authorized by this or any other Act may be obligated or expended, directly or indirectly, for purposes related to the stationing of forces or other military uses by the United States of military bases or facilities in Spain except in consequence of affirmative action taken by the executive and legislative branches of the United States Government through means of a treaty or convention.

I believe it fitting to be attached to this measure; for within this bill not only is some of the equipment destined for Spain under the agreement, but also is authorized the purchase of new equipment which will replace that being given or sold to Spain.

I do not believe that affirmative Senate or congressional action will in any measure increase the commitment al-

ready implicit in the administration's draft agreement—just as I do not believe that disclaimers by the administration to Congress lessen the obvious commitment that exists.

The agreement with Spain represents a serious political step and one that promises to cost hundreds of millions of dollars. The process of orderly constitutional government requires past practices to be changed and public support to be obtained for such actions.

Mr. President, to illustrate how extreme has become the attitude of the administration with regard to the function of the Senate in our constitutional system, I have outlined here very briefly the nature of this agreement. As I have said, the basic material for my statements, with only a few additions from statements of Under Secretary Johnson, are contained in the article from Madrid on July 30, and I want to read just an example of it:

> Some of these details were revealed by Foreign Minister Gregorio Lopez Bravo in a closed-door appearance before the Foreign Relations Commission of the Spanish Cortes, or parliament, on Monday. In discussing the Phantoms according to those present, Mr. Lopez Bravo did not mention that the jets were not new.
>
> EFFORT BY THE GOVERNMENT
>
> The Government is making an effort to convince the Cortes and the country that the new agreement, which will permit the United States to continue using air bases at Torrejon and Zaragoza and the air-sea base at Rot, is a good thing for Spain. It has not been entirely successful.
>
> Newspapers that reflect the views of the Foreign Ministry most closely have pointed out, as Mr. Lopez Bravo did in the Cortes, that in a time of transition Spain needs the support of a great power and that since alliance with the Soviet Union is out of the question, the only possible ally was the United States.

Mr. President, I submit it is quite clear from a Spanish point of view that this agreement is considered an alliance. It is a military alliance. From the Spanish point of view, it would require in the case of need that the United States come to the assistance of Spain. They are discussing it before their Foreign Relations Commission in the Cortes. It seems to me, really, most extraordinary, in a country which professes to be a democracy, as we do, and with a constitution which requires that a treaty—certainly the making of military alliances—shall be submitted to the Senate for approval, that, in this case, the State Department or the administration does not follow this course.

To illustrate a distinction, on July 17 a United States-Mexico Treaty, a treaty concerned with the recovery of stolen archaeological, historical, and cultural property. The title is, "Treaty of Cooperation Between the United States of America and the United Mexican States Providing for the Recovery of Returned or Stolen Archaeological, Historical, and Cultural Property."

This, I submit, is an interesting objective and I certainly have no objection to it. It concerns the recent commerce that has grown up among outlaws and criminals of stealing either from museums or historical sites in Mexico these articles and trafficking in them and selling them in this country. This Mexican treaty is one designed to try to control that kind of activity.

But can anyone imagine the Senate considering this Mexican treaty and not this other kind of agreement—concerning the welfare and the future of our country, an alliance with Spain involving some $400 million worth of various kinds of equipment, but above all involving what would certainly appear to me to have been a commitment in the nature of an alliance with Spain.

I am not saying today that this agreement would not be in our interest, but I most positively do say that it is the type of agreement that should be submitted to the Senate for approval.

It is true that there is no hard and fast line between what should be submitted as a treaty and what should be submitted as an executive agreement; but I think all authorities are quite clear that a matter which involves the stationing of troops, or an undertaking with regard to coming to the assistance of a foreign country is of such importance and such a potential drain upon our country; but more than that, of requiring our involvement even in a war, as we now have in Vietnam, that it should be submitted as a treaty, if there is anything at all that should be submitted to the Senate as a treaty.

The Department of State seems to have reversed its traditional legal distinction between executive agreements and treaties and the way they should be treated. The rule of thumb used to be that if it is insignificant or unimportant and contains no commitments, then it is perfectly proper to submit as an executive agreement. If it is important and dignified and involves relations between two sovereign nations and, above all, involves a military alliance and use of troops, then it should certainly be a treaty. They have reversed that now, in this instance—the important one they propose to make an executive agreement, and the trivial one, involving a cultural exchange of artifacts, they propose to make a treaty.

Sometimes, one is driven to the conclusion that if some bright young man in the State Department will occupy the time of the troublesome Senate with trivialities, the Senate will not bother them with important matters. Therefore, they go to great depths to send us these very insignificant matters as treaties.

We make treaties of friendship and cooperation and they have no particular substance, and we make treaties involving tax matters involving mutual ways to tax, which are important enough, of course, but not particularly world-shaking, certainly not having the possibility of involving us in a war, or the use of our troops, or all the difficulties that arise from the stationing of troops in a foreign land.

Thus, I submit, this is most unusual. This is a most unusual way to interpret the Constitution.

Mr. CRANSTON. Mr. President, will the Senator from Arkansas yield?

Mr. FULBRIGHT. I yield.

Mr. CRANSTON. The Senator from Arkansas has given a very forceful and, I think, constructive exposition of the situation between the Executive and Congress on treaties and Executive agreements.

The Senator from Arkansas also provided great leadership, a while back, with the commitments resolution, adopted overwhelmingly by the Senate, in an effort to deal generally with the problem.

I should like to inquire what the administration has done to indicate recognition of the fact that the commitments resolution was passed in relationship now to this particular agreement with Spain?

Mr. FULBRIGHT. Obviously, they have completely ignored the commitments resolution and have taken it with a grain of salt. They do not attribute any great significance to it. This is the first major agreement I know of that has occurred since the commitments resolution. This is a classic case, it seems to me, for a treaty in making a commitment—the kind of commitment that was envisioned in the commitments resolution.

If the Senate does not insist that this be submitted as a treaty, we might as well forget the whole matter, as well as the whole matter of advise and consent, because I can think of no treaty of more consequence and a more normal example of a treaty of alliance than this one.

Mr. CRANSTON. Thus, this will constitute, in effect, the first test of whether the commitments resolution will be observed?

Mr. FULBRIGHT. It seems to me it is the first test as to whether they intend to observe the spirit of the commitments resolution. It was, of course, a sense of the Senate resolution, so it is not a law. Therefore, it is a matter of whether the executive intends to pay any respect or take any notice of the overwhelming sentiment of the Senate—as I recall it, some 70 Senators who voted for the commitments resolution.

Mr. CRANSTON. I thank the Senator from Arkansas. I, for one, will do all I can to support the amendment.

Mr. FULBRIGHT. I thank the Senator from California.

Mr. President, I mentioned at the beginning this matter that has just come over the news wires. The State Department is alleging that I have violated security by mentioning some of these matters which are in the agreement that have not yet been officially made public.

As I have already stated, this is all very interesting concerning the origin. The State Department in its own way declassifies whatever it chooses to declassify. And it hides the identity of those who do it under "official sources." They leak it in Spain in this case or in other they leak it here.

The story does not say that Mr. Johnson or some other official says so and so. But they leak it as "an official source." They leak whatever they feel is in their own interest.

There is nothing, as I have said, for which there is the slightest reason to declassify. There is no information that would be useful to the enemy so to speak. It is not even relevant to that.

These past Spanish agreements were discussed at length last year in the press. These excerpts about what was in the language in the 1953 and 1963 agreements were discussed. They were discussed last year. As a matter of fact, last year the administration officials were much freer in their discussions, both in executive and open session, of this whole matter.

They have now decided, at least tentatively, not to submit it for Senate approval. They seek to keep it secret. They complain about the leaking of it.

That is not a matter of any importance. There is nothing of a security nature involved. The issue is on the merits of whether this country ought to undertake this commitment to Spain.

On the floor of the Senate within the last few months—last year, I remember, and subsequently—the Senator from Arizona (Mr. GOLDWATER) very forcefully made the statement that if we are to cut or reduce our military expenditures, we have to reduce our commitments. He made that statement last year very vigorously in the course of the ABM debate, I think. At any rate, it was in the course of one of the debates relative to some item in the Defense Department. I agreed with him. As a matter of fact, nearly a year and a half ago the Foreign Relations Committee began a study of our foreign commitments to see what we are committed to do, how many bases we have, how many men are there, and the cost.

We have found it extremely difficult to get this information from the administration. They take 6 months sometimes to answer a letter. They acknowledge the letter and say that it will take 6 months to find out the information. Sometimes they do not answer at all.

We employed two very competent men who were sent out to look at the bases first-hand. This was done under the direction of the Senator from Missouri (Mr. SYMINGTON). We obtained a good deal of information that we did not have before. There are well over 300 of what are called major bases of the United States scattered all around the world. In large part they are in Europe, but they are scattered all over the world. I am quite sure that very few Senators are aware of all these or what they cost. The cost is enormous.

These matters ought to be reviewed. There is no way for us to meet the challenge of the Senator from Arizona (Mr. GOLDWATER) and more recently that of the Senator from Mississippi (Mr. STENNIS), who in a speech about 2 weeks ago reiterated the same theme, that before we can cut the military procurement bill we should restrict our military commitments around the world.

Here is the most appropriate example of an opportunity at least to consider and understand a commitment and determine if it is not overwhelmingly necessary. If it is not absolutely essential, it should not be done. It is a very serious expansion of our commitment. When I say expansion, that deserves some explanation.

The administration itself has insisted in the past that the agreement of 1953 and 1963 did not constitute a military alliance, that it was simply a lease agreement for bases.

According to the article from which I have just read, the Spanish interpreted the language in it as an alliance. The statement from General Wheeler would indicate that in his view it was tantamount to an alliance, if not a formal alliance. The existing circumstances would tend to give greater credibility to a de facto alliance than a written document would.

The administration as a result of the subcommittee's action did not last year extend the treaty or the agreement for 5 years. They extended it for 18 months approximately. It will elapse, I think, this coming September 26.

This was done in order to review the situation and to see what arrangements could be made to make it more palatable. But for various reasons, to carry on the traditional agreement, they have now negotiated this one. It is for 5 years. If it is done, it will no doubt be extended for another 5 years.

It is in the nature of a long-term commitment to support the Government of Spain. I would submit that if there were any agreement that should be submitted to the Senate for its approval, this is it. And it ought to be submitted for open hearings so that everyone knows what it is.

There is no war going on there. Spain is not involved in a war. In fact, I do not know of any serious threat to Spain. Two of her neighbors are NATO allies and are very peaceful and stable countries. I have heard of nothing that would indicate the slightest threat to Spain at this time.

There is no occasion for great secrecy or urgency. Spain is not about to collapse. It is a very stable country. She has enjoyed life and prospered over the past several years so far as I know. And I am quite sure that we would have known of it if this were not the case. There is no occasion for any rush or secrecy.

If we were not to study the matter, I would consider, as a Senator, that we had simply failed in our responsibility to discharge our constitutional duty; if we were not to examine the serious treaty agreements constituting an alliance with a foreign country that involves our troops, our treasury, and our security.

As I said, I had an executive meeting of the Foreign Relations Committee with the sole purpose not of examining the matter on its merits, but of determining whether it was a serious undertaking that should be a treaty and should be submitted to the Senate.

Everyone that was there agreed that it was, but we did not prevail upon the administration to submit it as a treaty. They left with an indefinite attitude that they would consider the matter and that on the following Monday or Tuesday, they would let me know whether it should be submitted as a treaty or, at the very least, we should have public hearings on it.

So far—it is now a week later—I am not aware of any decision to do either. It still is indefinite. They have not notified me as to what their prime decision is.

With respect to the amendment which I propose to offer to the bill, when it is called up I think it would be a good idea for the Senate, in order that it have an opportunity to judge the matter on its merits, to have a closed session.

It would strike me that this would be the best way to do it because we would immediately run into the argument on the part of the administration that we are discussing classified material. And there are a good many other details about this matter which are classified which have not been mentioned here today.

I tried to restrict my comments today on this material to the newspaper story which, as I said, emanated from Spain.

It names the amounts of money, the number of planes, and so forth. It was obviously obtained by the newspaper from Spanish authorities in Madrid shortly after the submission of the agreement to the Spanish Parliament.

I hope that before it comes to holding a closed Senate session—because they have not finally notified me it will not be a treaty—after considering what happened in Spain and the discussions here today, the administration would change its mind and submit it as a treaty. That would certainly meet all my views about it. I think the Senate and the country would be satisfied with it. If it is not, there is the possibility in case trouble should arise that once again, we would have the kind of dissension arising in this body and in the country that we have over Vietnam; that we have been led into an obligation blindfolded and put upon. If the agreement had earlier been subjected to public hearings and approved by the Senate then no one would have a legitimate complaint about it if we were called upon to make good our obligations under the treaty.

Mr. President, I ask unanimous consent to have printed in the RECORD an article which was published in the New York Times on July 25, 1970.

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

(See exhibit 3.)

EXHIBIT 1

SPAIN TO GET PHANTOM JETS FROM UNITED STATES

(By Richard Eder)

MADRID, July 30.—The United States has agreed to make 36 used F–4 Phantom jet fighter-bombers available to Spain as part payment for a new five-year agreement allowing American forces to use three bases here.

The Phantoms are of an early type, still in use by the United States Air Force but no longer being manufactured, according to informed sources.

Spain is to receive credits of $125-million over the next five years to buy military equipment, plus an outright grant for such equipment to a value of $20-million.

The Phantoms are to be purchased with

the credits. The price to be paid could not be learned here, but it is reliably reported to be far less than that of new aircraft.

According to sources familiar with the base agreements, which are virtually concluded and are expected to be signed within the next two to three weeks, Spain can buy from 18 to 36 Phantoms.

MOST OF PLANES ARE OLD

The Spanish Air Force until recently has consisted of F–104 Starfighters and older planes. The Phantoms, along with 30 Mirages purchased from France and a number of Northrop F–5's being assembled here, will modernize Spanish air power to a considerable extent.

Other equipment to be made available to Spain as part of the agreement includes five destroyers, two submarines, six landing craft, a tanker and several other vessels, all on the point of being mothballed. These will be lent rather than transferred.

In addition, the grants and credits will cover the purchase of 102 armored combat cars, 50 halftracks, 16 naval helicopters and a quantity of artillery. Ordnance equipment for the manufacture of ammunition and some types of arms will also be included.

Some of these details were revealed by Foreign Minister Gregorio Lopez Bravo in a closed-door appearance before the Foreign Relations Commission of the Spanish Cortes, or parliament, on Monday. In discussing the Phantoms according to those present, Mr. Lopez Bravo did not mention that the jets were not new.

EFFORT BY THE GOVERNMENT

The Government is making an effort to convince the Cortes and the country that the new agreement, which will permit the United States to continue using air bases at Torrejon and Zaragoza and the air-sea base at Rot, is good thing for Spain. It has not been entirely successful.

Newspapers that reflect the views of the Foreign Ministry most closely have pointed out, as Mr. Lopez Bravo did in the Cortes, that in a time of transition Spain needs the support of a great power and that since alliance with the Soviet Union is out of the question, the only ally was the United States.

After Mr. Lopez Bravo appeared before the Cortez, some 80 deputies issued a statement complaining that he was not giving them all the facts.

Although much of the Spanish press has commented on what it terms the meager amount of aid being offered by the United States, most have reported that the American commitment to defend Spain has been increased from the terms of a 1963 joint statement, which declared that "a threat to either country would be a matter of common concern."

Some sources familiar with negotiations take the opposite view. A phrase referring to United States agreement to "support the defense system of Spain" does not necessarily involve anything more, they say, than the furnishing of equipment and technical assistance.

EXCHANGE CALLED UNUSUAL

WASHINGTON, July 30.—The exchange of weapons for foreign bases is considered an unusual practice, a Pentagon spokesman said, although he would not confirm the transfer of F–4 phantom jets to Spain.

"It is not the normal thing to do on a quid pro quo basis," the spokesman said.

Such transactions, when they occur, are conducted through the military assistance program, which allows the United States to dispense hundreds of millions of dollars worth of weapons to foreign countries each year.

In 1968 the fiscal year, for example, South Korea received a squadron of 18 Phantom jets out of military assistance funds. The only other countries believed to have F–4's have purchased them from the United States.

These countries are Israel, West Germany and Iran, according to the Defense Department.

In 1970 the fiscal year, which ended June 30, the military assistance program figure for Spain was $25-million, and the figure for the current fiscal year is believed to be roughly equal.

Although no cost figures were readily available for used F–4 Phantom jets comparable figures for a squadron of 25 new F–4–E's, the only model still in production, would be about $110-million to $120-million, including spare parts for a year.

EXHIBIT 2

FULBRIGHT

WASHINGTON.—The State Department today charged Chairman J. William Fulbright of the Senate Foreign Relations Committee with making public confidential information concerning the U.S. negotiations for Spanish bases.

In an effort to avoid a public confrontation with Fulbright, the department issued a statement criticizing newspaper "articles" which it said contained "unilateral versions and interpretations of matters under negotiation with a foreign government discussed during the course of hearings in executive session before the Senate Foreign Relations Committee."

However, when asked whether the department statement was charging the press or Fulbright with these "unilateral versions and interpretations," Department officials acknowledged that it was Fulbright's statements to the press and not the articles themselves.

Fulbright said in a Senate speech that he would try to block funds for U.S. military bases in Spain unless the Nixon administration submits the agreement to the Senate as a treaty or convention between the two countries.

Fulbright disclosed that the U.S. has been giving Spain military aid of about $400 million every five years for the use of three air bases and one naval base. He claimed that he was not disclosing confidential information because he was able to outline the shape of the Spanish agreement by quoting newspaper stories. He also disclosed that the proposed new agreement, beginning in September, would give Spain 36 F–4 Phantom jets as well as numerous warships as part of the payment.

Fulbright also asserted that Under Secretary of State U. Alexis Johnson in a closed hearing last month virtually acknowledged that the language of previous base agreements with Spain constituted a U.S. commitment to defend that country.

Fulbright contends that any such commitment requires a treaty which must be submitted to his committee for approval.

The State Department statement sidestepped Fulbright's demand for a treaty instead of an executive agreement on the bases and attacked, instead, the information it released.

Johnson, the highest State Department official on hand, today because of Secretary of State Rogers' presence in New York, was understood to have approved the statement issued by the Department spokesman.

In addition to attacking what was contained in the newspaper "articles," the Department statement went on to say: "We understand the rules of the Committee require the confidentiality of executive sessions. We intend to respect that and therefore believes it would be most inappropriate to have a public discussion of this matter at this time."

Department officials, in opposing putting the Spanish bases agreement into treaty form, usually advance the argument that it would not be possible to secure ratification by that time, and present agreement expires in September.

However, they also acknowledged that there is considerable sentiment against the bases agreement in the Senate and they are not too sure they could ever get ratification.

EXHIBIT 3

UNITED STATES PLEDGES SPAIN DEFENSE SUPPORT FOR USE OF BASES

(By John W. Finney)

WASHINGTON, July 24.—The United States has pledged to "support the defense system" of Spain in return for rights to continue using naval and air bases there, State Department officials disclosed today.

In addition, the United States has promised that it will make its defense policies compatible with those of Spain.

The five-year agreement, reached after months of fitful and sometimes controversial negotiations, is expected to be signed within the next few weeks.

The new agreement would replace one that expired in 1968. The old agreement was extended for two years after negotiations broke down over Spanish demands for some $1-billion in military assistance as a condition for granting a five-year renewal for United States use of the Air Force bases at Torrejón and Saragossa and the Naval base at Rota.

In preparation for the signing, U. Alexis Johnson, Under Secretary of State for Political Affairs, and David Packard, Deputy Secretary of Defense, briefed the Senate Foreign Relations Committee today on the agreement.

It was not immediately clear to members of the committee what concrete security guarantee was intended by the Nixon Administration.

During the briefing, Senator J. W. Fulbright, Democrat of Arkansas, the committee chairman, protested that an agreement of "such great potential importance" should take the form of a treaty, which requires Senate ratification, rather than an Executive agreement between the two Governments. An Executive agreement does not require Senate approval, nor is the executive branch under any obligation to present the agreement to Congress for its information.

In the negotiations resumed this spring, the Spanish Government severely reduced earlier demands for financial aid. As described by State Department officials, the new agreement provides for $20-million in direct grants over the next five years and $125-million in Export-Import Bank loans, plus some surplus weapons and ships.

The United States succeeded in reducing the financial aid only by increasing its commitments on the defense of Spain, they said.

As a condition for extending the agreement, Spain had sought either a firm security commitment or considerable amounts of military assistance, the officials said.

The Spanish contended that some form of security guarantee would be needed because Spain could leave herself open to attack by permitting use of the bases.

In the negotiations this spring, Spain was said to have insisted upon more specific security guarantees than those in the series of agreements since 1952. These agreements have contained the broad declaration that an attack on either country would be "a matter of common concern."

This declaration was reported to have been replaced in the new agreement with a section specifying United States military support for Spain.

According to State Department officials, the new agreement specifies that "each Govern-

ment will support the defense system of the other." In addition, the agreement states that "both Governments will make compatible their defense policies."

Even after the briefing it was not clear to members of the committee what commitments were entailed in a security guarantee. The presumption within the committee is that the Administration will decide to proceed with an Executive agreement.

If that is the case, Senator Fulbright is considering introduction of a resolution expressing the sense of the Senate that agreements involving military commitments to a foreign Government, such as the proposed agreement with Spain, should be in treaty form.

ORDER FOR RECOGNITION OF SENATOR ALLEN TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that at the conclusion of the statement by the able Senator from Oregon (Mr. HATFIELD) tomorrow, the very able and very distinguished Senator from Alabama (Mr. ALLEN) be recognized for not to exceed 45 minutes.

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

S. 4167—INTRODUCTION OF A BILL RELATING TO SCHOOL DESEGREGATION—THE UNANSWERED QUESTIONS—II

Mr. SPONG. Mr. President, recently, I spoke on the Senate floor concerning the confusion which exists as a result of the conflicting opinions in a number of court cases regarding the desegregation of public schools. Today, I would like to discuss the legislative history of congressional action on school desegregation legislation and speak about the powers and responsibilities of the Congress at this time.

The major congressional action in the civil rights field has, of course, been the 1964 Civil Rights Act. Two titles of that act had special significance for public education. Title IV, in its principal provisions, authorized the Attorney General of the United States to initiate suits for the desegregation of public schools and colleges if he received a signed complaint and made certain determinations. It also provided for technical and financial assistance to school districts planning or going through the process of desegregation.

Title VI prohibited discrimination in federally assisted programs, authorized the Federal departments and agencies to issue rules and regulations approved by the President to carry out the Title and outlined procedures for terminating Federal assistance to localities, including local school districts.

Title IV also, however, stated:

> Nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve . . . racial balance . . . .

In April of 1965 the Department of Health, Education, and Welfare, pursuant to title VI of the 1964 Civil Rights Act, issued its first desegregation guidelines, providing that compliance, under varying circumstances, could be achieved by an assurance of compliance form, court orders directing desegregation of the school system or submission to HEW of an acceptable desegregation plan.

In early 1966 the Civil Rights Commission issued a report criticizing the guidelines as too lenient. New guidelines were issued in March of 1966 and restated in January of 1967. These required faculty desegregation and set guidelines for the percentage of Negro children who should be attending white schools.

In 1966 a House Judiciary Subcommittee held hearings on the guidelines issued by the Office of Education but took no further action.

During consideration of the Elementary and Secondary Education Act amendments, however, a number of votes concerning school desegregation were taken. The final version of the bill contained sections providing for the deferral of Federal funds for 90 days while a school district's practices were investigated and banning forced transportation of children in order to achieve racial balance.

The Elementary and Secondary Education Act Amendments of 1967, then, added to existing law provisions requiring that the guidelines issued by HEW cite the legal authority on which the guidelines were based. They also stipulated that a school district would be considered in compliance with the 1964 Civil Rights Act if it was complying with a court desegregation order.

Not included in the final version of the bill were provisions adopted by the House requiring that guidelines be uniformly applied and enforced throughout the Nation and providing that Federal funds not be deferred until there had been a hearing and an expressed finding that a district was in noncompliance. The latter was identical to a 1966 House provision which was not included in the final version of the 1966 bill.

In the Senate, a debate took place over the amendment offered by the late Senator Everett M. Dirksen, which stated that no Federal money could be used to bus students or reassign teachers to overcome racial imbalance. The amendment was withdrawn, after some discussion, in which former Senator Wayne Morris said the key word in the 1964 Civil Rights Act was "require" and that the Dirksen amendment should not be adopted because it would deny those districts which voluntarily wished to bus to overcome racial imbalance from doing so.

In 1968, during consideration of the fiscal 1969 Labor-Health, Education, and Welfare appropriations bill, the Whitten amendments first cleared the House of Representatives. The amendments prohibited use of Federal funds to force busing of students, close any school, or require the attendance of students at a particular school, and prohibited the above as a prerequisite to obtaining Federal funds.

Before final clearance of the bill by Congress, however, a clause was added to the Whitten amendments making them enforceable only where the cited actions were designed to overcome racial imbalance.

During consideration of the final Labor-Health, Education, and Welfare appropriations bill for fiscal 1970, Congressman JAMIE L. WHITTEN again offered amendments prohibiting use of Federal funds for forced busing, abolition of schools, and required attendance at particular schools against the will of a student's parents or as a prerequisite for receiving Federal aid. These were included in the House version, but the final version of the bill qualified them by adding the phrase, "Except as required by the Constitution."

This year the House version of the education appropriations bill for fiscal 1971 contained the Whitten amendments as well as an amendment prohibiting school assignments on the basis of race, creed, or color, which had been adopted by the House but deleted in the Senate the previous year. Both proposals were eliminated in the Senate, by rather large margins.

The conference bill, however, contains the following language:

> SEC. 209. No part of the funds contained in this Act may be used to force any school or school district which is desegregated as that term is defined in Title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parent or parents.
>
> SEC. 210. No part of the funds contained in this Act shall be used to force any school or school district which is desegregated as that term is defined in Title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students, to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

Instead of clarifying the situation, however, the legislative history surrounding the adoption of the amendments only serves to confuse the issue more. During Senate debate on adoption of the conference report on the education appropriations bill, a letter from Elliot Richardson, written when the latter was Secretary-designate of Health, Education, and Welfare, to Senator CHARLES MCC. MATHIAS, JR., was inserted into the CONGRESSIONAL RECORD. The letter said, in part:

> While sections 209 and 210, the so-called Whitten Amendments, would not, if enacted, alter school desegregation requirements under Title VI of the Civil Rights Act of 1964, they would, nevertheless, encourage some people to believe that there has been a change in basic law when there was not, and thus serve to confuse local authorities as to their constitutional responsibilities.

On the other hand, other Senators have interpreted the amendments as

providing relief for the South and its school districts.

In addition to this, during consideration of the Elementary and Secondary Education Act Amendments, the Senate adopted an amendment specifying that the school desegration guidelines be applied uniformly throughout the United States. Although the amendment was dropped in conference, it did lead to creation of a Senate Select Committee on Equal Educational Opportunity, to which I was appointed.

At this point, then, I think it is necessary to look at what Congress has done, to summarize the meaning of the various votes which have been taken in the past few years and to spell out what Congress has not done.

Thus far in these remarks, I have concentrated on actual congressional enactments, rather than on the many and various proposals which have been made, or introduced. The reasons for this are twofold. First, what is law is our best guide to congressional sentiment. And, second, even with those provisions which have been enacted, there are several interpretations, as evidenced by the debate on them.

Nevertheless, from a review of those provisions which have become law, I believe that several conclusions can be drawn. One is that the Congress as a whole has never viewed racial balance as the ultimate goal of its civil rights legislation. Another is that Congress as a whole has been skeptical of the forced busing of schoolchildren, a view which I share.

It is obvious, of course, that the House of Representatives has been stronger on these matters than the Senate, especially this year.

But, we do have legislation on the books which suggests congressional sentiment on racial balance and forced busing and I believe that that legislation must be interpreted as I noted earlier.

At the same time, however, I would be the first to admit that congressional expression of its views on school desegregation has been extremely limited.

It has indicated that racial balance is not the ultimate goal. It has shown skepticism about forced busing. There have been indications of concern over the dual standards which are being applied in various parts of the Nation.

But, the answers leave much to be desired. Earlier, I criticized the Supreme Court for recessing without answering questions concerning busing, racial balance, and other problems mentioned by Chief Justice Warren Burger in March. The Court will not return to work until October—a month or more after most schools are scheduled to open. The uncertainty which will attend the school openings and the disruptions which may result from subsequent rulings are unsound and unwise from both an educational and a practical point of view.

I have also criticized the executive branch for pursuing seemingly contradictory courses of action. The Department of Justice and the Department of Health, Education, and Welfare have often apparently worked in opposite directions. The President, in his school desegregation message, by recognizing a distinction between de facto and de jure segregation, only perpetuated a dual standard for the North and South.

I must, however, also criticize the Congress for failing to provide more specific guidance. Its recent action on the Whitten amendments, particularly the various interpretations which were permitted to go unchallenged, served only to confuse, rather than clarify policy.

Certainly, the matter is a controversial one. Certainly, it is an emotional one. But, it will not go away just because we leave it alone.

I believe that most Americans are fairminded. I believe that most of our citizens want our people throughout the land to have access to opportunity and to share in the affluence which our Nation has to offer. And, I know that every parent—whether he be black or white—has a concern for his children, their education and the situations to which they will be exposed.

To ignore the problems which have come to plague our school districts is to ignore major concerns of the American people. I do not believe they can be ignored any longer.

Our education problems are everywhere. If any school district is not faced with difficulties today, it may only be lucky until tomorrow. Court cases involve areas from Virginia to California. State laws have been enacted from New York and Michigan to Florida.

What we need is a single, uniform, reasonable desegregation policy for the entire Nation. We need a policy which will open the doors of opportunity to all our children. We need a policy which will provide excellence of education, within a reasonable cost/benefit ratio and without massive social experimentation.

We must come to grips with the question of what is constitutionally required. We must have definitions of unitary school districts, desegregated systems, et cetera. We must have some standard for determining what requirements can reasonably be made of an individual school district.

Those who believe we can do otherwise are deluding themselves and are suggesting courses which could wreck the entire system of public education in our Nation.

After some study of the matter and conversations with Representative RICHARDSON PREYER, of North Carolina, I have decided to introduce in the Senate, with some modifications, a companion bill to H.R. 16484. Alexander Bickel, story professor of constitutional law at Yale University, assisted in preparation of this legislation.

The bill sets a national policy on school desegregation. It specifies that the purpose of our law and our policies remain the disestablishment of segregation. It creates a national right for a pupil to transfer from any public school in which his race is a majority to one in which his race is a minority. It commits the Federal Government to equalization of educational opportunities and facilities.

This bill will not please those who want massive busing of children for any distance despite the risk of social and educational disruption. It will not please those who wish to punish the South for past sins. It will not please diehards who hope somehow out of the present confusion to return to the days before the Brown case. It is offered to that large majority of Americans, North and South, who are reasonable and looking for guidance toward a commonsense approach to this problem.

I believe this bill offers such an approach. First, it seeks to clarify the confusion which now exists as a result of varying court decisions, Executive policies and congressional statements.

Second, it sets a single desegregation policy for the entire Nation, North and South, East and West.

Third, it reiterates a basic commitment to desegregated education in line with the Constitution.

Fourth, it establishes a national right for any child in a school in which his race is in a majority to transfer to a school in which his race is in a minority.

Fifth, it outlines the conditions which must be met in order for a school system to be considered a unitary system. The same definition of a unitary system would apply throughout the United States.

Sixth, the bill provides for a child to attend the school nearest his home; that is, his neighborhood school, as long as the policy is administered in a fair and honest manner.

Seventh, it eliminates the need for massive busing of schoolchildren.

Eighth, it seeks to avoid resegregation.

Ninth, it prescribes a national commitment to the reduction and elimination of inequities which exist between so many of our schools in terms of facilities, curriculum, teacher-pupil ratios, et cetera.

Tenth, it would help preserve public support for and commitment to our public education system. Public education cannot survive without the financial and philosophical support of our people. Our Nation has already seen too many school bond referendums lost, too many schools closed for a variety of reasons. We risk havoc if we permit situations contributing to these events to continue. This bill will, I believe, help preserve support for our public school system and, at the same time, eliminate the doubts and uncertainties which are currently disrupting our basic educational activities.

Hearings on the bill introduced by Congressmen PREYER and GALIFIANAKIS of North Carolina are currently underway in the House. I am pleased that southern representatives would initiate legislation seeking a national solution toward a national problem—a problem that will not be solved by unanswered questions or conflicting lower court interpretations of the law, and will not be solved under a double standard cloaked in the tweedle-dum and tweedle-dee hypocrisy of de jure and de facto segregation.

I regret that litigants, lower courts and the Nation have received so little guidance from the Supreme Court, but I be-

lieve the Nation expects more on this subject from the Congress than is represented by the rather vague and somewhat conflicting legislative history recited earlier in these remarks. If we are not being told what the law is, we certainly should not hesitate to participate in the formulation of what it should be.

I hope we can have early hearings in the Senate on this proposal. Undoubtedly, changes and refinements should and will be suggested. In a time of confusion and uncertainty, this legislation is offered as a reasonable approach to a national problem. We would be remiss if we did not seek rational solutions and we invite chaos if we do not do so immediately.

Mr. President, I send the bill to the desk and ask that if be appropriately referred.

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

The bill (S. 4167) to enforce the guarantees of the 14th amendment with respect to the desegregation of public elementary and secondary schools, introduced by Mr. SPONG, was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

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

Mr. SPONG. I am pleased to yield to the Senator from Alabama.

Mr. ALLEN. Mr. President, I wish to commend the able and distinguished Senator from Virginia for the presentation of his exhaustive study of the legislative history in Congress of measures requiring the desegregation of the public schools in this country.

I would like to ask the distinguished Senator from Virginia if it is not presently the Federal school policy regarding the desegregation of public schools to require immediate desegregation of the public schools of the South, while at the same time protecting and fostering the segregated schools in those areas of the country outside the South?

Mr. SPONG. I would say to the Senator from Alabama that 2 weeks ago, on a Monday, I addressed the Senate, and at that time endeavored to outline, through the decisions of the Supreme Court and the writs for certiorari that have been denied, the current legal situation, which shows that the law of the land insofar as, for instance, the State of Ohio, the State of Indiana, and the State of Missouri are concerned, is that racial balance and busing shall not be required is the segregation which exists is not of the making of the school division or the locality involved.

The situation in the South, as of this time, although the Supreme Court of the United States has not spoken on racial balance, has not spoken on massive busing, has not adequately defined a unitary school system, and has not yet addressed itself to the difference, if any, between de jure and de facto segregation, is that under rulings of the fifth circuit and the fourth circuit, massive busing could be required this September in the cities of Little Rock, Charlotte, Norfolk, Richmond, and Roanoke.

So we have at this time a void in the law, in which the interpretations of the circuit courts in the fourth and fifth circuits are such as to require racial balance and massive busing, while in the circuits in which Ohio and Indiana are located, the law is that this is not required because the situation there is regarded as de facto.

Let me go further with my answer, to make a further distinction for the Senator from Alabama:

The State of Indiana had a law which required segregation of its schools until the year 1946. The State of Missouri had a law requiring segregation of its schools until sometime after the Brown case was decided.

Undoubtedly the laws on the books of those States contributed to the housing patterns in localities within those States. What these three circuits are saying, contrary to each other, until the Supreme Court addresses itself to this problem, is that you are de facto if you had a law in 1946, but you are de jure if you had a law in 1953, although the housing patterns which undoubtedly flowed from the existence of those laws were on the books and were part of the laws of those States.

As a matter of fact, I introduced an exhibit with my statement 2 weeks ago from Judge Hoffman's memorandum in the Norfolk school case, which showed that 45 out of the 50 States had had either court decisions of final resort or laws on the statute books which were discriminatory by race.

So, in answer to the Senator's question, the laws as presently being interpreted by the fourth circuit, the fifth circuit, and circuits in the North are in conflict either until the Supreme Court speaks or until a national policy is enacted by Congress.

Mr. ALLEN. I thank the distinguished Senator from Virginia. I would like to ask him further, though, if it is not the policy of HEW to take the position that the Whitten amendments, as presently enacted into law, which do forbid the use of funds appropriated in the HEW appropriation act for the forced busing of students or the forced closing of the schools, or for forcing a child to go to any school other than the school chosen by the parent of that child—I ask the Senator if it is not the position of the Department of Health, Education, and Welfare that those prohibitions are not effective as regards de jure segregation, whereas they are effective as regards defacto segregation, which is said to exist in the North?

Mr. SPONG. Well, I quoted in my remarks from the letter signed by Mr. Richardson and addressed to Senator MATHIAS. That is certainly the thrust of what he said.

I would say further to the Senator from Alabama that I examined Mr. Jerris Leonard 3 or 4 weeks ago before the Select Committee on Equal Educational Opportunity. I asked Mr. Leonard to explain the distinctions in the way the law was being applied throughout the United States, and Mr. Leonard told me that nothing would be done in, for instance Chicago, or Philadelphia, or Cleveland. Those were the three cities that we discussed. They have more segregation today than they had at the time of the Brown decision.

We discussed this, and Mr. Leonard said that nothing will be done with regard to these cities until the law is changed either by the Supreme Court or by Congress, because segregation in these cities is de facto and there is a distinction between de facto and de jure situations.

Mr. ALLEN. But is it not true that the Supreme Court has never ruled that de facto segregation is constitutional?

Mr. SPONG. The Supreme Court has not addressed itself to the problem of de jure and de facto segregation.

Mr. ALLEN. Has it not said that the maintenance of racially segregated schools is a denial of the equal protection of the laws to a black student required to attend a school attended only by black students?

Mr. SPONG. The Supreme Court has said that segregation by race or denial of opportunity for a child to attend a school solely because of race is unconstitutional. It has not addressed itself to the entire de facto and de jure situation. The Court has not said that racial balance is required under the Constitution. It has not said that massive or enforced busing is required.

Mr. ALLEN. It has been 16 years since the Brown decision. It seems that the Federal policy, then, has been to be satisfied with outlawing the de jure segregation as it is said to exist in the South and to continue the protection of de facto segregation as it exists outside the South.

Mr. SPONG. The Senator from Virginia agrees with the distinguished Senator from Connecticut (Mr. RIBICOFF), who some months ago called this "monumental hipocrisy." I call it morally indefensible. What I am seeking here is legislation that will create a national policy on desegregation. I believe in equal opportunity for every child in the United States, black or white.

Mr. ALLEN. I think every Senator does.

Mr. SPONG. But I believe that we must have a law that is going to be interpreted the same way in Indiana as it is in Virginia.

Mr. ALLEN. The distinguished Senator from Virginia has mentioned rulings of the Supreme Court of the United States, and I should like to ask him whether he feels that it is inconsistent for the Supreme Court in the Brown case to say that a State or a local educational agency cannot maintain segregated schools but now take the position that the State is required to take affirmative steps to end segregation and thereby to promote integration. Does the distinguished Senator from Virginia see any inconsistency in those rulings?

Mr. SPONG. The Senator from Virginia believes that what the Court has done in the 16 years since the Brown case has been extremely limited, that it has not given sufficient guidance to the Nation as a whole insofar as this problem

is concerned. The Court has said that under certain circumstances you cannot have freedom of choice, for example. It said this in the Green decision, which came out of my State of Virginia. It said that a unitary school system was the objective. But, for example, the Court has not told us what a unitary school system is. So the Senator from Virginia would prefer to use the word "limited" rather than "inconsistent."

I think the Court has not given the Nation the guidance it needs. The greatest authority for this is the concurring opinion of Chief Justice Burger in the Memphis decision, in March, in which the Chief Justice said that at the proper time the Court should address itself to very practical problems—whether racial balance was required under the Constitution, whether transportation was to be required to achieve racial balance. The Court has before it the Charlotte, N.C., decision.

Mr. ALLEN. Also, the change of districts, I believe, was the third one.

Mr. SPONG. That is correct.

It has denied certiorari in the Norfolk case. I am not as familiar with the Charlotte case as I am with the Norfolk case, but I believe that the Norfolk case addresses itself not only to the legal and practical questions but also to educational considerations. Dr. James Coleman, of Johns Hopkins, was widely quoted, and Dr. Thomas Pettigrew, of Harvard, was a witness in the case, discussing the educational values involved. All this could have been brought before the court had they seen fit to grant certiorari.

Mr. ALLEN. I would like to differ mildly with the distinguished Senator from Virginia with respect to his statement that in the Green case the Supreme Court held that you could not have freedom of choice. I believe the ruling was to the effect that, since this particular freedom-of-choice plan had not measured up to the point of bringing the required amount of desegregation, for that reason it was ruled out, not because it was a freedom of choice plan per se. Does the distinguished Senator from Virginia agree on that point?

Mr. SPONG. The Senator from Virginia spoke, when he very briefly talked of the Green ruling, in terms of a unitary school system. What the Court said, if I understood it, was that whatever plan the county in Virginia had did not result in a unitary school system.

Mr. ALLEN. But a freedom-of-choice plan, if it did produce a result that met the approval of the Supreme Court, would be perfectly legal and constitutional, would it not?

Mr. SPONG. As the Senator from Alabama knows—I heard him recite it on the floor of the Senate the other day—the State of New York has a freedom-of-choice plan.

The Legislature of Michigan recently passed a bill. I do not believe the Governor of Michigan has signed the bill yet. I am not certain. I asked the distinguished Senator from Michigan earlier today. This bill, if the Governor signs it, has overtones of freedom of choice.

I might say that Mr. Leonard, in my examination of him before the committee, said that freedom of choice, so long as it operates separate and apart from dual school systems, is perfectly acceptable and would seem to him to be a worthwhile goal. I am not quoting him exactly, but that is the thrust of what he said.

Mr. ALLEN. I am glad that the distinguished Senator from Virginia mentioned the situation that exists in the State of New York, where a recent report of the regents of the University of the State of New York, dated late in 1969, pointed out that segregation in the State of New York was increasing at a rapid rate; whereas, we all know that the administration has pledged to end this year, by September, segregation in 97 percent of the school districts in the South.

I am interested in the bill that the distinguished Senator from Virginia has introduced, and I was delighted to hear him say that it was based on suggestions by Professor Bickel, who is certainly an outstanding authority on constitutional law.

I should like to ask the distinguished Senator from Virginia whether his bill has an element of freedom of choice, in that any child in a public school, where his race is in the majority, would have the right—and I suppose that would mean the freedom of choice—to enter another public school in that same system, where his race is in the minority. Would that not be, then, a limited freedom-of-choice approach?

Mr. SPONG. Yes. The distinguished Senator from Alabama is correct. That feature of the bill is a freedom-of-choice provision. Congressman PREYER noted this in several statements he made.

Mr. ALLEN. I think that phase of it is certainly very desirable and much to be sought.

I should like to express my deep appreciation to the distinguished Senator from Virginia for this compilation of the acts of the House and Senate and the decisions of the Supreme Court bearing on this most important question.

Mr. President, the forced, immediate desegregation of the public schools of Alabama and the South is threatening to destroy our public school system. Our public schools are in a chaotic condition with the approaching edicts of HEW and the rulings of the Federal courts. I am hopeful that some measure will be approved by Congress and some action will be taken by the administration that will give relief to the public schools of the South and to the students, parents, and patrons of those school systems.

We are on the verge of losing our public schools in Alabama and the South. That is being done by this Federal policy which I have spoken of, and which the distinguished Senator from Virginia has alluded to, which does require the immediate desegregation of the public schools in the South and protects and fosters the desegregated schools of the North.

I am delighted that the distinguished Senator from Virginia has introduced a bill that would establish a national school policy. We talk about equal enforcement of the laws and equal protection of the laws, but we certainly do not have it in regard to the Federal policy regarding desegregation of the public schools.

We have one policy for the North and a vicious policy for the South.

Mr. President, the administration has not been satisfied to threaten the very destruction of our public school system in Alabama and the South, but has now had the Treasury Department issue a ruling that contributions made to a private school in the South that does not have an open admission policy will not be tax deductible by the maker of that contribution to the public schools.

There are over 30,000 tax-free foundations in this country. They are set up for every "do-good" policy, every "do-good" purpose, and, in many cases, "do-bad" purposes. Contributions to these tax-exempt foundations are tax deductible and the foundation itself is exempt from Federal income tax. But yet, when the people of the South set up their private schools and send their children to them in order to try to give them a good education and a quality education, they continue to help support the public schools in the South and pay the high tuition necessarily required in the private schools. Then to say that the contributions to those private schools are not tax deductible is certainly a vicious and a politically-motivated decision.

Mr. President, the people of Alabama and the South deeply resent this dual federal policy regarding our public schools. They resent the Treasury Department's ruling knocking out the tax deductibility of contributions to the private schools of the South.

Possibly the bill offered by the Senator from Virginia will be helpful. Certainly it would set up a single policy. That is what the Stennis amendment sought to do. The Senate, in a display of statesmanship, voted for the Stennis amendment to set up a single policy but, of course, they took it back a few days later when they had the opportunity to vote on the conference report.

However, I hope that the Senate and the House will rise again to a display of statesmanship and support a uniform policy for the public schools throughout the country.

The people in the South are entitled to equal treatment under the law. We are entitled to equal and fair application of the law. We are not getting it. We resent it. Congress has the power to set that straight. We hope that it will.

I am glad, too, that the distinguished Senator from Virginia pointed out the long recess the Supreme Court has taken for itself. It is in recess now and will remain in recess until after, I assume, all the public schools throughout the country have opened. Yet, these vital questions remain to be answered.

The chaotic condition of the public schools in Alabama and the South is a great tragedy. The Federal bureaucrats and the Federal courts have been in-

terested and continue to be interested in integration for integration's sake. People of the South are interested in giving their children, black and white, a good education.

I am hopeful that we can get some relief at this point at the hands of Congress, at the hands of the Executive department, or at the hands of the Federal courts.

I thank the distinguished Senator from Virginia.

Mr. SPONG. Mr. President, I thank the Senator from Alabama. I reiterate that this is a desegreation bill. It is a bill that acknowledges the constitutional requirements as previously interpreted by the Supreme Court. It is a bill that in the absence of guidance from the Supreme Court seeks some congressional expression that will make the law uniform and equal insofar as Indiana, Virginia, and Alabama are concerned.

It imposes upon all of us certain responsibilities with regard to equality and with regard to education. But it also, I believe, injects a tone of reasonableness and hopefully brings into the discussion some of the many aspects that have never gotten beyond the debate stage on the floor of the Senate.

I think it is time that we stop talking about de jure and de facto segregation. I think it is time that we stop giving conflicting opinions both in the lower courts and on the Senate floor as to what the law is and as to what the law should be. And, in the absence of being told what the law is, I think we all have a responsibility to participate in trying to determine what the law should be.

I thank the Senator from Alabama.

DEMOCRATS AND THE WAR IN VIETNAM

Mr. DOLE. Mr. President, apparently it is copout time in the Democratic Party, but I am not sure if the American people are ready to settle for a copout in these dangerous times.

A person or a party or an appeasement group that cops out on one issue or in one area of trouble can hardly be trusted not to do the same the next time around.

Just last week the chairman of the Democratic National Committee took the road of apologetic appeasement in appearing before the Democratic Party's McGovern commission.

Mr. O'Brien said then:

> No political entity that helps to perpetuate the U.S. involvement in Indochina can ever expect to win the trust and allegiance of that segment of our citizenry most directly affected by the war.

This from a man whose party helped perpetuate and enlarge that war for 8 solid years, and he should know.

Next, in today's papers we have the incredible story from Kenneth O'Donnell, one of those closest to President Kennedy, that Kennedy would have ended the war in 1963 except for the fact that he feared political repercussions and therefore presumably without regard to the cost in American lives, decided to wait until after the 1964 election.

I am at a loss to know why Mr. O'Donnell places the onus for not ending the war in 1963 on the back of the late President, but since he has done so I would like to call attention again to Mr. O'Brien's remark:

> No political entity that helps to perpetuate the U.S. involvement in Indochina can expect to win the trust and allegiance of that segment of our citizenry most directly affected by the war.

I should also like to point out to our young people that under President Nixon the war is being wound down as rapidly as is consistent with our own national security, our commitments to our allies, and our credibility with the rest of the world.

President Nixon is doing what he said he would do and he is doing what must be done in the way that it should be done.

Our citizenry most directly affected by the war can now take heart and encouragement from a President's actions regarding Vietnam. This after 8 years of being constantly discouraged by a war that was apparently to be fought in 1964 for political purposes and after that was to be fought indefinitely but not to be won or lost or terminated at any time.

THE O'DONNELL STORY

Mr. GRIFFIN. Mr. President, the paper this morning carried a story that is very hard for me to believe. It is a story which, in effect, turns a man whom the Nation and the world viewed as an idealistic young President into a Macciavelli who put political expendiency ahead of American lives.

Mr. President, it is beyond me why those who were closest and dearest to President Kennedy would set out to destroy the image and the fond memories which many Americans hold of President Kennedy, who was cruelly cut down by an assassin's bullet.

I refer of course to the story which appeared in the Washington Post this morning headlined, "JFK Decided in 1963 To Order Vietnam Pullout After Election." The story goes on to say that late in 1963 President Kennedy decided to pull all American troops out of Vietnam in 1965—after the election.

The principal source for this information is Kenneth O'Donnell, one of the late President's closest aides and confidants.

The worst part of the story, so far as I am concerned, is that O'Donnell goes on to quote President Kennedy as follows:

> In 1965, I'll be damned everywhere as a Communist appeaser. But I don't care. If I tried to pull out now (in 1963) we would have another Joe McCarthy Red scare on our hands, but I can do it after I'm re-elected. So we had better make damned sure that I am re-elected.

If what Mr. O'Donnell says were true, President Kennedy obviously thought the United States should get out of Vietnam in 1963. But O'Donnell tells us, in effect, that the President was willing to wait until 1965—more than a year later—for purely political reasons.

Frankly, as one Senator, I find this very hard to believe, and I sincerely hope that there is some other explanation. I suggest that Mr. O'Donnell's explanation is a terrible burden to place on any President, living or dead.

Obviously, 1970 is not 1963. Between late 1963 and early 1969, when President Richard Nixon took office, there were 5 long years of constant escalation of the war and our involvement in it.

By 1969, it was not possible to do what might have been possible in 1963.

ORDER FOR ADJOURNMENT TO 9:30 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 9:30 tomorrow morning.

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

ORDER FOR RECOGNITION OF SENATOR HANSEN TOMORROW MORNING

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that upon the disposition of the reading of the Journal on tomorrow morning, the able Senator from Wyoming (Mr. HANSEN) be recognized for not to exceed 30 minutes.

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

Mr. BYRD of West Virginia. Mr. President, this means that the other orders which have been previously agreed to will stand as consented to, but that the Senator from Wyoming (Mr. HANSEN) will make his remarks prior to those Senators for whom there are previous unanimous consent agreements.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the vote on the pending amendment, offered by the able Senator from Delaware (Mr. WILLIAMS), occur tomorrow at 12:15 p.m.

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

ADJOURNMENT UNTIL 9:30 TOMORROW MORNING

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 9:30 tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 18 minutes p.m.) the Senate adjourned until tomorrow, Tuesday, August 4, 1970, at 9:30 a.m.

NOMINATION

Executive nomination received by the Senate August 3, 1970:

DIPLOMATIC AND FOREIGN SERVICE

Nicholas G. Thacher, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Saudi Arabia.