SENATE—*Thursday, August 13, 1970*

The Senate met at 10 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

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

Our Creator, Redeemer, and Judge, humbly we stand before Thee and say with the prophet of old, "Holy, holy, holy is the Lord of hosts: the whole earth is full of His glory."

Thou art great and we are small. Thou art powerful and we are weak. Yet Thou hast made us for Thyself, formed us for fellowship with Thee, and equipped us for service to our fellow man. Keep us from discouragement in small failures or vanity in great successes. In both failure and success keep us constant in love, firm in faith, and resolute in seeking to know and to do Thy will. Refresh our spirits, renew our energies and anoint us with Thy spirit for living this day.

Through Jesus Christ our Lord. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, August 12, 1970, be dispensed with.

The ACTING PRESIDENT pro tempore (Mr. METCALF). Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, awaiting the arrival of the distinguished Senator from Oklahoma (Mr. BELLMON) who will be recognized, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar.

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

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

DEPARTMENT OF DEFENSE

The assistant legislative clerk read the nomination of J. Fred Buzhardt, Jr., of South Carolina, to be general counsel of the Department of Defense.

Mr. THURMOND. Mr. President, it is a pleasure for me to comment on the outstanding qualifications of J. Fred Buzhardt, Jr., to be the general counsel of the Department of Defense. If it had been known on February 21, 1924, when Mr. Buzhardt was born, that he would be selected for this high position, our Government could not have trained him better to assume the great responsibilities of this important assignment.

President Nixon could not have selected a better qualified and more capable person. I congratulate the President for his selection.

Mr. Buzhardt's experience has been the right mix to prepare him for his duties. He graduated from West Point and served his country in uniform. He was first in his graduating class at the University of South Carolina Law School, and later practiced law in South Carolina. In 1958, he came to Capitol Hill for 9 years, during which time he worked in the legislative and administrative fields as a member of my staff.

Mr. Buzhardt is a man of keen intellect, stanch integrity, great courage, and dynamic drive. His record reveals him to be a man who is fair and just and without bias.

Mr. Buzhardt has gained invaluable experience in the past year in the Department of Defense, as a special assistant and the staff director of the Blue Ribbon Panel on Defense Reorganization. Upon completion of these assignments, it was an obvious move for the President to nominate him for the position of general counsel. I am confident Mr. Buzhardt will continue to render our Nation distinguished service in this important position.

Mr. President, I strongly recommend that my colleagues unanimously approve the nomination of Hon. J. Fred Buzhardt, Jr., to be the general counsel of the Department of Defense.

Mr. President, an editorial about Mr. Buzhardt's appointment was published in the August 7, 1970, issue of the Columbia Record, Columbia, S.C. I ask unanimous consent for this editorial to be printed in the RECORD at this point.

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

BUZHARDT FOR TOP PENTAGON POST

Appointment of J. Fred Buzhardt Jr. of South Carolina as general counsel of the Defense Department is recognition of outstanding ability that long has been evident in Washington.

Buzhardt attended Wofford College, was graduated from the United States Military Academy at West Point, served as an Air Force pilot a number of years, and was top honor graduate in his law class at the University of South Carolina.

After practicing law in his home town of McCormick he joined the staff of Senator Strom Thurmond, serving as legislative and administrative assistant, teaming up with Harry Dent, who is now on the White House staff.

During his eight years in Thurmond's office numerous attacks were made on the Senator and his position, but they all boomeranged because the Dent-Buzhardt team's painstaking research armed him with superior factual ammunition and strategy for the confrontations. Dent and Buzhardt were recognized by friends and foes as the top assistants on Capitol Hill.

Buzhardt joined the Nixon Administration as a special assistant in the office of Secretary of Defense Melvin R. Laird. For the past year he has headed the committee studying the reorganization of the entire Defense Department.

The current issue of U.S. News and World Report says: "White House aides agree that J. Fred Buzhardt, executive director of the President's blue-ribbon panel on the Defense Department, had a most embarrassing job when he briefed the Joint Chiefs of Staff on the report. It was his task to inform the generals and admirals that inefficiency in their own system led the panel to recommend, among other suggestions, that they be stripped of control over military operations in the field."

Again, Buzhardt has done an outstanding job of fact-finding and allowing the facts to speak for themselves.

President Nixon has appointed him to be general counsel of the Defense Department—chief lawyer of the Pentagon. The nomination has been confirmed by the Senate Armed Services Committee and now goes to the full Senate for approval.

Early confirmation would be in the best interests of the Defense Department and the nation.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The assistant legislative clerk proceeded to read sundry nominations in the Department of Justice.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

NOTIFICATION TO THE PRESIDENT

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

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

LEGISLATIVE SESSION

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

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER FOR RECOGNITION OF SENATOR YOUNG OF OHIO TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the disposition of the Journal tomorrow, the distinguished Senator from Ohio (Mr. YOUNG) be recognized for not to exceed 15 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 measures on the calendar to which there is no objection, beginning with Calendar No. 1086 and ending with No. 1093.

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

AUTHORIZATION TO FIX CERTAIN FEES

The bill, S. 3906, to authorize the government of the District of Columbia to fix certain fees, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3906

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the District of Columbia Council is authorized and empowered to fix, from time to time, in accordance with section 2 of this Act, the fees authorized to be charged by the following Acts or parts of Acts:

(1) Section 2 of the Act entitled "An Act to regulate the erection, hanging, placing, painting, display, and maintenance of outdoor signs and other forms of exterior advertising within the District of Columbia", approved March 3, 1931 (46 Stat. 1486; D.C. Code, sec. 1–232).

(2) Sections 571, 586a, 753, and 754 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (31 Stat. 1280, 1282, 1312), as amended (D.C. Code, secs. 1–514, 29–414, 35–905, and 35–906).

(3) Sections 5 and 6 of the Act entitled "An Act to regulate and license pawnbrokers in the District of Columbia", approved August 6, 1956 (70 Stat. 1037, 1038; D.C. Code, secs. 2–2005 and 2–2006).

(4) Sections 7, 40, and 42 of the Act entitled "An Act to amend the Code of the District of Columbia to provide for the organization and regulation of cooperative associations, and for other purposes," approved June 19, 1940 (54 Stat. 483, 490; D.C. Code, secs. 29–807, 29–840, and 29–844).

(5) Section 121 of the District of Columbia Business Corporation Act, approved June 8, 1954 (68 Stat. 228), as amended (D.C. Code, sec. 29–936).

(6) Section 92 of the District of Columbia Nonprofit Corporation Act, approved August 6, 1962 (76 Stat. 300, 301; D.C. Code, sec. 29–1092).

(7) Section 2 of chapter 2 of the Act entitled "An Act to regulate the business of life insurance in the District of Columbia", approved June 19, 1934 (48 Stat. 1130; D.C. Code, sec. 35–402).

(8) Section 13 of title V of the Act entitled "An Act to regulate marine insurance in the District of Columbia, and for other purposes", approved March 4, 1922 (42 Stat. 408; D.C. Code, sec. 35–1113).

(9) Section 41 of chapter II and section 53 of chapter III of the Fire and Casualty Act, approved October 9, 1940 (54 Stat. 1081, 1082), as amended (D.C. Code, secs. 35–1345 and 35–1363).

(10) Section 7 of the Motor Vehicle Safety Responsibility Act of the District of Columbia, approved May 25, 1954 (68 Stat. 123), as amended (D.C. Code, sec. 40–423).

(11) The Act entitled "An Act relating to tax-sales and taxes in the District of Columbia", approved February 6, 1879 (20 Stat. 283), as amended (D.C. Code, sec. 47–306).

(12) Section 21 of title II of the District of Columbia Revenue Act of 1939, approved July 26, 1939 (53 Stat. 1096; D.C. Code, sec. 47–1521).

(13) Section 4 of article I of title V of the District of Columbia Income and Franchise Tax Act of 1947, approved July 16, 1947 (61 Stat. 342; D.C. Code, sec. 47–1564c).

(14) Paragraphs 14, 15, and 16 of section 6, and paragraph 42 of section 7 of the Act entitled "An Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes", approved July 1, 1902 (32 Stat. 621, 622, 628), as amended (D.C. Code, secs. 47–1706, 47–1707, 47–1708, and 47–2101).

(15) Sections 1 and 4 of title II of the District of Columbia Revenue Act of 1937, approved August 17, 1937 (50 Stat. 675; D.C. Code, secs. 47–1801 and 47–1804).

(16) Section 3 of the Act entitled "An Act to provide for a tax on motor-vehicle fuels sold within the District of Columbia, and for other purposes", approved April 23, 1924 (43 Stat. 107), as amended (D.C. Code, sec. 47–1903).

(17) Sections 1 and 3 of the Act entitled "An Act to create a revenue in the District of Columbia by levying a tax upon all dogs therein, to make such dogs personal property, and for other purposes", approved June 19, 1878 (20 Stat. 173, 174), as amended (D.C. Code, secs. 47–2001, 47–2002 and 47–2003).

(18) Section 2 of the Act entitled "An Act to prevent fraud at public auctions in the District of Columbia", approved September 8, 1916 (39 Stat. 846; D.C. Code, sec. 47–2202).

(19) Section 138 of the District of Columbia Sales Tax Act, approved May 7, 1949 (63 Stat. 113; D.C. Code, sec. 47–2615).

(20) Section 2 of the Act entitled "An Act to provide for the regulation of closing-out and fire sales in the District of Columbia", approved September 1, 1959 (73 Stat. 450; D.C. Code, sec. 47–3002).

(21) Section 1 of the Act entitled "An Act to authorize associations of employees in the District of Columbia to adopt a device to designate the products of the labor of their members, to punish illegal use or imitation of such device, and for other purposes", approved February 18, 1932 (47 Stat. 50), as amended (D.C. Code, sec. 48–401).

SEC. 2. The District of Columbia Council may, with respect to each of the fees established by the Acts or parts of Acts listed in the first section, after public hearing increase or decrease such fees to such amounts as may, in the judgment of the Council, be reasonable in consideration of the interests of the public and the persons required to pay the fee, and in consideration of the approximate cost of administering each Act or part of Act to which the fee relates.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1076), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the legislation is to vest authority in the District of Columbia Council, after public hearing, to set a variety of municipal fees, including fees for certain licenses and permits.

License and user fees are presently fixed by statute, and many such fees have not been adjusted over the years to reflect current costs for performing the governmental duties related to the activity for which the fee is charged.

GOVERNMENT OF THE DISTRICT OF COLUMBIA, EXECUTIVE OFFICE,
Washington, D.C., March 13, 1970.

The PRESIDENT,
U.S. Senate, Washington, D.C.

DEAR MR. PRESIDENT: The Government of the District of Columbia has the honor to submit herewith a draft bill to authorize the government of the District of Columbia to fix certain fees.

The purpose of this proposed legislation was stated by the President in his April 28, 1969 message to the Congress recommending legislation for the District of Columbia, as follows:

"The Reorganization Plan which established the present [District of Columbia] government left to Congress many mundane municipal functions which are burdensome chores to it but important functions for good local government. At present, Congress must allot a portion of its legislative calendar to setting ordinances for the District of Columbia, in effect performing the duties of a local city council for the Capital. It thus deals with matters which are of little or no importance to the Nation as a whole—the setting of a fee, for example, to redeem a dog from the city pound. The concerns of the District are frequently shunted aside to allow for higher priority legislative business. 'No policy can be worse than to mingle great and small concerns' argued Augustus Woodward, one of the founders of our city, when Congress considered establishing a territorial form of government in 1800. 'The latter become absorbed in the former; are neglected and forgotten.'

"Legislation will be proposed to transfer a number of specific authorities to the District Government—*including authority to change various fees for user charges now fixed by statute,* * * * and modernize the licensing of various businesses, occupations and professions." (Italic and bracketed language supplied.)

The government of the District of Columbia accordingly proposes that the Congress enact legislation to authorize the District of Columbia Council to change, from time to time, a number of fees specified by the Congress in 21 separate statutes. The fees provided by the statutes presently range from 10 cents for certain notary services to $500 for licenses for pawnbrokers, private banks, and the stock exchange. The District believes that these fees, which are listed and described in the attached chart, should be examined from time to time and, if appropriate, increased or decreased to such amounts as the Council determines after public hearing to be reasonable in consideration of the interests of the public and the persons required to pay the fee, and in consideration of the approximate costs of administering each of the District's statutory duties related to the activity for which the fee is charged.

The District believes that the legislation of this nature is highly desirable, both from the standpoint of relieving the Congress of these mundane municipal fee-fixing functions and from the standpoint of vesting in the municipal government and people of the District of Columbia more responsibility in local matters.

The government of the District of Columbia has been advised by the Bureau of the Budget that, from the standpoint of the administration's program, there is no objection to the submission of this legislation to the Congress and its enactment would be consistent with the administration's objectives.

Sincerely yours,

GRAHAM W. WATT,
Assistant to the Commissioner
(For Walter E. Washington, Commissioner)

FEES SPECIFIED IN ACTS OF CONGRESS RELATING TO THE DISTRICT OF COLUMBIA

	District of Columbia Code citation	Type of fee	Amount
1.	1-232	Permit for an outdoor sign	$5 per year.
2.	1-514	Notary fees for various services	$0.10 to $1.75.
3.	2-2005 and 2-2006	Pawnbroker license	$500 for 1st year and $250 per year thereafter.
4.	29-414	Filing of certificate of incorporation of institution of learning	$25.
5.	29-807	Filing of amendment of articles by cooperative association	$1.
6.	29-840	Filing of certified copy of amended articles by cooperative association.	$5.
7.	29-844	License of cooperative association	$10 per year.
8.	29-936	Fees for licenses, filing documents, etc., by business corporations	$1 to $20.
9.	29-1092	Fees for filing documents and issuing certificates by nonprofit corporations.	$1 to $10.
10.	35-402	Various fees for life insurance companies	$5 to $50.
11.	35-905	Service of process on Superintendent of Insurance	$3.
12.	35-906	Permit to do business in District of Columbia from Superintendent of Insurance.	$5.
13.	35-1113	Marine insurance company fees	$100 to $200.
14.	35-1345	Various fire, casualty, and marine insurance fees	$5 to $50.
15.	35-1363	License fee for financing insurance premiums	$50 per year.
16.	40-423	Service of process on District government for nonresident motorist	$2.
17.	47-306	Certificate of taxes and assessments due	$1.
18.	47-1521	Copy of income tax return furnished to taxpayer for a year prior to 1947.	$1.
19.	47-1564c	Copy of income tax return furnished to taxpayer for 1947 and any year thereafter.	$2.
20.	47-1706	Unincorporated private banks	$500 per year.
21.	47-1707	For business done on Washington Stock Exchange	Do.
22.	47-1708	For note brokers	Do.
23.	47-1801	Certificate of authority for insurance companies	$25 per year.
24.	47-1804	Filing of annual statement by insurance companies	$20 per year.
25.	47-1903	License fee for motor vehicle fuel importers	$5 per year.
26.	47-2001	For each dog owned or kept in the District of Columbia	$3 per year.
27.	47-2002	Certified copy of record of payment of dog fee	$0.25.
28.	47-2003	Impoundment fee for stray dogs	$2.
29.	47-2101	License fee for employment agencies	$100.
30.	47-2202	Public auction permit	Not to exceed $50.
31.	47-2615	Copy of sales tax return furnished to taxpayer	$2.
32.	47-3002	License for closing out sale	$100.
33.	48-401	Registration of union label	$1.

The committee fully endorses the above letter for the reasons stated therein.

HISTORY OF LEGISLATION

S. 3906 was introduced by Senator Eagleton at the request of the District government. Hearings were held on the bill on June 8, 1970, and testimony was presented favoring the bill by the Office of Corporation Counsel.

No unfavorable testimony or statements on S. 3906 have been received by the committee.

ANALYSIS OF THE BILL

Section 1 authorizes the District of Columbia Council to fix, from time to time, fees authorized to be charged by a number of acts or parts of acts. The affected activities are listed above in the letter from Mr. Watt.

Section 2 provides that in exercising its authority in section 1 the Council may increase or decrease such fees, after public hearing, to such amounts as, in the judgment of the Council, may be reasonable in consideration of the public interest and the persons required to pay the fee, and in consideration of the proximate cost of administering each act or part of act to which the fee relates.

CHANGES IN EXISTING LAW

In the opinion of the committee, it is necessary to dispense with the requirements of subsection (4) of rule XXIX of the Standing Rules of the Senate in order to expedite the business of the Senate.

Mr. WILLIAMS of Delaware. Mr. President, I have no objection to this particular bill; but many of us, when we do not know in advance that a calendar is going to be called, and find no notice to that effect in the RECORD, believe that a more orderly procedure could be arrived at, and that a time certain should be set for the calling of the calendar. For example, recently, we read in the newspaper that the Senate had passed a bill involving $1 billion to be spent over a period of 5 years. I would have supported that particular measure, but I think that more than about three Senators should be on the floor when these bills are called up. Therefore, I suggest the absence of a quorum.

Mr. MANSFIELD. Will the Senator kindly withhold that suggestion briefly?

Mr. WILLIAMS of Delaware. I am glad to withhold it temporarily.

Mr. MANSFIELD. If the distinguished Senator does not want the calendar called, we will be only too glad to hold it back. The procedure has been to require at least a 24-hour delay before any bill was called on the current calendar so that both sides could be apprised. I want to assure the distinguished Senator that if this does not meet with his approval, the leadership will be glad to consider altering this procedure.

Mr. WILLIAMS of Delaware. I have no objection to calling the calendar at the beginning of the day's session or at any time certain, but I think it would be more orderly procedure if, for example, we had known yesterday that the calendar would be called first this morning, or at 12 o'clock or some time certain. Those of us who are interested in asking questions could then be in the Chamber. But when the calendar is called at irregular intervals and when we attend committee meetings—our committee is meeting this morning, for instance—we just cannot be in both places. I was just hoping that we could get an understanding as to when the calendar would be called tomorrow, and on other days. Could we be given some notice as to when it would be called? I have no objection to its being called now, of course.

Mr. MANSFIELD. The leadership has no objection. What we are doing is calling up unobjected-to items which have been cleared by both sides.

Referring to the bill which I think the Senator has in mind, we held that one on the calendar for at least a week and stated, I believe, before the bill was called up, a day or so previously, that it would not be called up except under unanimous consent; but the bill was of such a nature that we thought there should be some debate on it.

Mr. WILLIAMS of Delaware. That is correct. Notice was given. But where the calendar is to be called, inasmuch as the pending business is the military construction bill, I think it would be proper to call the calendar when more Senators are present in the Chamber. I have no objection, but I would first suggest the absence of a quorum.

Mr. MANSFIELD. Will the Senator withhold the suggestion so that I can explain?

Mr. WILLIAMS of Delaware. Yes.

Mr. MANSFIELD. All of these bills, with three exceptions, have to do with the District of Columbia. All were reported to the Senate and placed on the calendar on August 10, 1970. One of the three bills, an act to amend the Merchant Marine Act, had a "hold" placed on it in the usual procedure for screening Consent Calendar bills and will not be brought up today.

Mr. WILLIAMS of Delaware. I would have no objection, but I am wondering whether we could not have an agreement that when the calendar will be called, in the future, we can designate a time certain whether it be today or tomorrow; then if we have a question or two, or some point we want clarified, we can be in the Chamber.

Mr. MANSFIELD. Would the Senator agree that we should continue the procedure we have, that at the beginning of business each day, provided enough time has elapsed for the committees and both sides to consider a bill, we continue this operation into the future as we have in the past, or would the Senator suggest some other procedure?

Mr. WILLIAMS of Delaware. No. I am perfectly willing to follow that procedure. But there should be an established procedure; there should be a notice placed in the CONGRESSIONAL RECORD that the calendar will be called upon the opening of the Senate, or some time certain. Then I would have no objection.

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

The ACTING PRESIDENT pro tempore. Under the previous agreement, the Senator from Oklahoma (Mr. BELLMON) is to be recognized. The Chair now recognizes the Senator from Oklahoma.

Mr. SCOTT. Would the distinguished Senator from Oklahoma (Mr. BELLMON) yield to me, without losing his right to the floor or any of his time?

Mr. BELLMON. I am pleased to yield to the distinguished Republican leader.

Mr. SCOTT. I thank the Senator from Oklahoma.

Mr. President, I merely want to point out that I think the orderly procedure is that we normally do call the calendar soon after the convening of the Senate. I should like to be able to continue that procedure, with the understanding that

if it is going to be irregularly called, or at an uncertain time, then it should be preceded by a short quorum call, and any Senator who has been served notice or wishes to be advised specifically has only to let us know and we will do so.

Mr. WILLIAMS of Delaware. I have no objection to any kind of orderly procedure, but then it should be made clear that the calendar will be called at the opening of each session.

Mr. MANSFIELD. On unobjected-to items.

Mr. WILLIAMS of Delaware. That is right. If that is to be the procedure then the membership should be alerted that each morning, regardless of the special orders, the calendar would be called. As we read the RECORD this morning, we find that immediately after disposition of the Journal, the Senator from Oklahoma would be recognized; apparently, therefore, the calendar would not be called. If the calendar was to be called first thing in the morning, it should have been so announced that immediately after the prayer there would be a calendar call. Then the Senator from Oklahoma and other Senators having orders to speak would be recognized. If we could have that understanding, it would be a more orderly procedure and I would have no objection.

I think it would clear up the point I am making.

Mr. MANSFIELD. That would be perfectly agreeable. The Senator has a good point. The joint leadership will try to be more explicit hereafter, so that the Senate as a whole, and individual Senators, will be aware of the procedure which we would like to pursue.

Mr. WILLIAMS of Delaware. Yes.

Mr. SCOTT. So in the future, when we provide for certain Senators to be recognized, perhaps we could provide that they be recognized after the call of the calendar.

Mr. WILLIAMS of Delaware. Yes, after the call of the calendar.

Mr. MANSFIELD. That would be on unobjected-to items, of course. This colloquy today can serve as notice to the Senate of the ordinary procedure followed and to be followed.

Mr. WILLIAMS of Delaware. Unobjected-to items on the calendar.

Mr. MANSFIELD. Mr. President, it is a good idea. I think it would clear it up. May we proceed?

Mr. WILLIAMS of Delaware. I would have no objection to going ahead with the call of the calendar now with the understanding that in the future advance notice will be given.

TAXATION BY DISTRICT OF COLUMBIA OF REGULATED INVESTMENT COMPANIES

The bill (H.R. 15381) to amend the District of Columbia Income and Franchise Tax Act of 1947 with respect to the taxation of regulated investment companies 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. 91–1077), explaining the purposes of the measure.

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

PURPOSE OF BILL

The bill (H.R. 15381) would conform the provisions of the District of Columbia Income and Franchise Tax Act of 1947 (D.C. Code, title 47, section 1501 et seq., 61 Stat. 331) to the provisions of the Federal Internal Revenue Code relating to the treatment to be given to dividends paid by regulated investment companies which qualify for the dividends-paid deductions under section 852(b)(2)(D) and section 852(b)(3)(A)(ii) of the Internal Revenue Code of 1954.

Its purpose is to make clear that investment companies domiciled in the District of Columbia will be accorded treatment under the laws of the District of Columbia similar to that which they are accorded under Federal law, namely, the flowthrough or conduit treatment in connection with their distribution of dividends to their shareholders.

Regulated investment companies (mutual funds which distribtue their income currently are not subject to Federal income taxation. This is because mutual funds are merely conduits for the dividends and net gains which are passed on to the shareholders. Most States (including Maryland and Virginia) follow the Federal practice and do not tax mutual funds.

NEED FOR LEGISLATION

The District of Columbia Revenue Act of 1969 (Public Law 91–106, October 31, 1969, 83 Stat. 169) conformed the provisions of the District of Columbia Income and Franchise Tax Act to the provisions of the Federal Internal Revenue Code with respect to capital gains and losses generally, including the treatment accorded shareholders of regulated investment companies.

The need for this legislation is caused by the language in that act which amended the D.C. Income and Franchise Tax Act of 1947 by defining the term "capital asset" in a manner consistent with our Federal income tax laws but different from that previously the case in the District of Columbia. The new provision provided that retroactive to January 1, 1969, individuals and corporations domiciled in the District of Columbia would be taxed on their capital gains realized on capital assets held for a period of more than 6 months.

The conference report (H. Rept. 91–604) on the 1969 act, with respect to gains and losses from the sale or disposition of capital assets, reads in part as follows (pp. 16–17):

"Income and franchise taxes: Capital gains and losses—

"The Senate amendment contained provisions not in the House bill that removed (effective taxable year 1969) the exemption from the District income and franchise taxes in existing law for income from sales or exchanges or capital assets (defined under District law as certain assets held more than 2 years) and provided for bringing District capital gains tax provisions into conformity with Federal practices.

"The conference substitute conforms to the Senate provisions. In adopting those provisions, it is the intent of the Managers of both the House and Senate that gains and losses from the sale or other disposition of capital assets shall, for District income and franchise tax purposes, be determined in accordance with provisions of the Internal Revenue Code of 1954 relating or applicable to the determination of gains and losses from the sale or other disposition of capital assets for Federal income tax purposes. The intention is to conform District and Federal law in this regard to the greatest extent possible."

However, the language of the 1969 act, as finally adopted, left unclear the treatment of mutual funds, which in the District of Columbia are not explicitly accorded subchapter M conduit treatment such as is available under the Federal law, and in other States as Maryland and Virginia.

If conduit treatment is held to be unavailable to mutual funds, the net effect would be triple taxation: (1) taxation of the corporation paying dividends to the mutual fund; (2) taxation of the mutual fund itself; and (3) taxation of the shareholder.

Already, the shareholder or taxpayer does in fact pay a tax and, of course, the corporation distributing the dividends to the mutual fund pays a tax. The second tax would be eliminated by the enactment of H.R. 15381 and this would grant to mutual funds the same deductions for dividends paid to shareholders that mutual funds are allowed for Federal income tax purposes.

REVENUE EFFECT

The District of Columbia Government has informed the committee that there will not be any actual revenue loss due to this legislation.

HEARINGS

A hearing was held on this legislation on June 8, 1970, before the Fiscal Affairs Subcommittee of the Senate District of Columbia Committee. Testimony in support of the bill was offered on behalf of the District of Columbia Government by an assistant corporation counsel and by representatives of regulated investment companies located in the District.

WATER AND SANITARY SEWER RATES

The Senate proceeded to consider the bill (S. 3905) to authorize the District of Columbia Council to fix the rates charged by the District of Columbia for water and water services and for sanitary sewer services which had been reported from the Committee on the District of Columbia with an amendment on page 3, line 14, after the word "the", where it appears the third time, strike out "change" and insert "charge"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the third sentence of subsection (a) of section 101 of title I of the District of Columbia Public Works Act of 1954 (68 Stat. 101), as amended (D.C. Code, sec. 43–1520c(a)), is amended to read as follows:

"In computing the charge for the consumption of water in excess of the minimum amount allowed for metered service, if such charge is for a period beginning prior to a change in water rates and ending thereafter, the charge for such excess consumption shall be based upon the rate in effect at the time the charge is rendered."

SEC. 2. Subsection (b) of section 101 of such Act (D.C. Code, sec. 43–1520c(b)) is amended to read as follows:

"(b) Notwithstanding the provisions of subsection (a) of this section, the District of Columbia Council is authorized from time to time to fix the rates charged by the District for water and water services furnished by the District water supply system, at such amount as the Council on the basis of a recommendation made by the Commissioner, determines is necessary to meet the expense

to the District of furnishing such water and water services."

SEC. 3. Section 207 of title II of such Act (D.C. Code, sec. 43–1606) is amended (a) by striking out in subsection (a) ", but such percentage shall not exceed 75 per centum of the water charge"; (b) by striking out in subsection (b) ", but such percentage shall not exceed 75 per centum of such rates"; (c) by striking out in subsection (d) "not more than 75 per centum of the water charge" and inserting in lieu thereof "the amount"; and (d) by adding the following subsection:

"(e) The District of Columbia Council is authorized, in its discretion, from time to time to establish one or more sanitary sewer service charges at such amount as the Council, on the basis of a recommendation made by the Commissioner, finds is necessary to meet the expense to the District of furnishing sanitary sewer services, including debt retirement."

SEC. 4. Subsection (c) of section 208 of title II of such Act (D.C. Code, sec. 43–1607(c)) is amended to read as follows:

"(c) In computing the charge for sanitary sewer service, if such charge is for a period beginning prior to a change in the established sanitary sewer service charge and ending thereafter the charge shall be based on the rate in effect at the time the charge is rendered."

The amendment was agreed to.

The bill was ordered to be engrossed for 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. 91–1078), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the legislation is to make it possible for the District of Columbia City Council, by appropriate increases in the rates to be charged for water and water and sewer services, to meet operating costs and debt retirement need involved in furnishing these municipal services.

The bill eliminates the maximum rate restrictions imposed on water and sewer rates and leaves the setting of such rates to the sound discretion of the District of Columbia Council on the basis of recommendation by the Commissioner.

NEED FOR LEGISLATION

Data presented by the District of Columbia Department of Sanitary Engineering demonstrates that rate increases on water and sewer must be made to defray maintenance and operating costs, costs of outstanding debt, and costs of new debt in both the water and sewage works programs. Projections for operating expenses and debt retirement indicate that by 1972 the water fund will be in a deficit position and the sanitary sewage fund will have only a small surplus to meet any unexpected demands.

Water and sewer construction must constantly expand to meet the city's growing needs, and sewage treatment must be improved to meet water quality standards.

In addition, current borowing authority is exhausted, and, hence, water and sewer rates must be increased and additional borrowing capability provided if revenues sufficient to meet demand are to be available.

The need for the bill was established by figures and projections submitted by the Director of the Department of Sanitary Engineering. These figures are summarized below.

NEED FOR INCREASED RATES, WATER FUND

Public Law 87–408, 87th Congress, second session, approved March 2, 1962, authorized the then Board of Commissioners to increase water rates up to 25 percent of the rates in effect on January 1, 1961. This authorization is now exhausted.

The first increase under this authority was on July 1, 1962, when the metered water charge for the semiannual minimum (3,600 cubic feet) was raised from $7 previously in effect to $7.5. The second was on July 1, 1967, when the minimum rate was increased from $7.50 to $8.10. The third was on April 1, 1969, when the minimum rate was increased from $8.10 to $8.75. An increase in the charge for water used in excess of the minimum was made in the same instances from 12 cents to 13 cents per 100 cubic feet in 1962 and 13 cents to 15 cents in 1967. The maximum rates authorized are $8.75 and $0.15 for the semiannual minimum and excess usage, respectively.

Estimates of water fund revenues and funds required (as of June 1, 1970), based on revenue from current rates (see table I) shows a water fund status for operations ranging from a slight surplus of $303,000 in fiscal year 1970 to an accumulated deficit of $8,092,500 in fiscal year 1976.

Table I also shows three options for increasing rates to provide the required funds and the effect of these increases on the average water bill.

NEED FOR INCREASED RATES, SANITARY SEWAGE WORKS FUNDS

Public Law 87–408 also authorized the Commissioners to increase sewer charges from 60 percent of the water charge in effect January 1, 1961, up to a maximum of 75 percent. This authorization is now exhausted.

One increase was made July 1, 1962, to 70 percent of the water charge. The second increase was made on April 1, 1969 when rates were increased to the maximum.

Estimates of sewage works fund revenue and funds required (as of June 1, 1970) based on revenue from current rates (see table III) shows a sewage works funds status for operations ranging from a surplus of $1,220,900 in fiscal year 1970 to an accumulated deficit of $10,718,200 in fiscal year 1976.

Table III also shows options for increasing rates to provide the required funds and the effect of these increases on the average sewer bill.

DISTRICT OF COLUMBIA FEDERAL PAYMENT AUTHORIZATION ACT OF 1970

The Senate proceeded to consider the bill (S. 3903) to provide additional revenue for the District of Columbia, and for other purposes, which had been reported from the Committee on the District of Columbia with amendments: On page 2, at the beginning of line 14, strike out "Bureau of the Budget" and insert "Office of Management and Budget"; in line 16, after the word "the", where it appears the second time, strike out "Bureau of the Budget" and insert "Office of Management and Budget"; on page 3, line 10, after the word "this", strike out "title" and insert "Act"; and in line 11, after "July 1," strike out "1969" and insert "1970"; so as to make the bill read:

S. 3903

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "District of Columbia Federal Payment Authorization Act of 1970."

SEC. 2. Regular annual payments are hereby authorized to be appropriated from revenues of the United States to cover the proper Federal share of the expenses of the Government of the District of Columbia, and such annual payments, when appropriated, shall be paid into the general fund of the District of Columbia. The annual payment so authorized shall be an amount which is equal to 30 percent of all general fund revenues derived from taxes, charges, and miscellaneous receipts, including that part of the motor vehicle registration fees which is credited to the general fund. Such authorization shall be based upon the estimate of such revenues which the Commissioner of the District of Columbia determines will be credited during each fiscal year to the general fund of the District of Columbia, but excluding any amount derived from grants and loans from the Federal Government to the District government.

SEC. 3. The Commissioner of the District of Columbia shall annually compute the amount of the Federal payment authorized to be appropriate under this Act, and the amount of such authorization so computed shall be submitted to the Office of Management and Budget with each regular budget of the District of Columbia, and, as approved by the Director of the Office of Management and Budget, shall be submitted to the Congress. Each such computation shall be determined on the basis of estimates of the tax revenues referred to in section 2 of this Act which are expected to be credited to the general fund of the District of Columbia during the fiscal year for which the annual payment is being computed: *Provided,* That the amount so determined shall be subject to review after such fiscal year, and if the Federal payment appropriated on the basis of the amount so determined differs from the amount determined on the basis of revenues actually received and credited to the general fund, the Federal payment authorization for the second year succeeding such fiscal year shall be adjusted to the extent of such difference.

SEC. 4. Amounts authorized by section 2 of this Act may be appropriated within fiscal year limitation.

SEC. 5. Article VI of the District of Columbia Revenue Act of 1947 (61 Stat. 301), as amended (D.C. Code, secs. 47–2501a and 47–2501b), is repealed.

SEC. 6. This Act shall take effect with respect to fiscal years beginning on and after July 1, 1970.

Mr. WILLIAMS of Delaware. Mr. President, I would like to have an explanation of the bill.

Mr. MANSFIELD. Under this bill the annual Federal payment authorization would be established at 30 percent of the District general fund tax revenues. Under present law, the authorized Federal payment is an amount not to exceed $105 million annually, fixed by section 1 of article VI of the District of Columbia Revenue Act of 1947, as amended by section 701 of title VII of the District of Columbia Revenue Act of 1969. Public Law 91–106, 91st Congress. The 1969 act also authorized a special one-time Federal payment supplement of $5 million for fiscal year 1970 to be used for law enforcement activities in the District of Columbia.

The new formula proposal would authorize a 1971 Federal payment estimated at $130.4 million or an increase of $25.4 million over the present annual

$105 million authorization. It is currently estimated that general fund revenue collections for fiscal year 1971 will equal $438.8 million. Applying the Federal payment formula at 30 percent, an amount of $130.4 million would be available.

The following local tax revenues would be included in the base of the proposal for determining the Federal payment authorization:

Income and franchise taxes.
Sales and gross receipts taxes.
Deed recordation tax.
General fund portion of motor vehicle registration revenue.

Would the Senator like me to continue?

Mr. WILLIAMS of Delaware. I think that covers it.

Mr. SCOTT. Mr. President, I imagine that the increase is largely to pay for the costs involved in the new District of Columbia crime bill.

Mr. MANSFIELD. For law enforcement.

Mr. WILLIAMS of Delaware. I have no objection.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendments.

The amendments were agreed to.

The ACTING PRESIDENT pro tempore. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, 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. 91–1079), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

Under this bill the annual Federal payment authorization would be established at 30 percent of the District general fund tax revenues. Under present law, the authorized Federal payment is an amount not to exceed $105 million annually, fixed by section 1 of article VI of the District of Columbia Revenue Act of 1947, as amended by section 701 of title VII of the District of Columbia Revenue Act of 1969. (Public Law 91–106, 91st Cong.) The 1969 act also authorized a special one-time Federal payment supplement of $5 million for fiscal year 1970 to be used for law enforcement activities in the District of Columbia.

The new formula proposal would authorize a 1971 Federal payment estimated at $130.4 million or an increase of $25.4 million over the present annual $105 million authorization. It is currently estimated that general fund revenue collections for fiscal year 1971 will equal $434.8 million. Applying the Federal payment formula at 30 percent, an amount of $130.4 million would be available.

The following local tax revenues would be included in the base of the proposal for determining the Federal payment authorization:

Income and franchise taxes.
Sales and gross receipts taxes.
Property taxes.
Inheritance and estate taxes.
Deed recordation tax.
General fund portion of motor vehicle registration revenue.

NEED FOR THE BILL

The Congress and the President have consistently recognized the unique responsibility of the Federal Government for the District of Columbia as the Federal City and the Congress has regularly provided payments to help defray the costs of operating the District.

Varying amounts of Federal support were provided to the District of Columbia over the years. During the first 89 years of the Capital City's existence, the Federal Government appropriated an average of approximately 40 percent of the cost of local government, though the amounts were not explicitly determined on any consistent basis. Beginning in 1879, the level of Federal participation was set at a flat 50 percent of total expenditures, an arrangement which was maintained for 42 years. Between 1921 and 1924 the Federal share was set at 40 percent of District expenditures. Since then, Congress has enacted lump-sum authorizations which have varied over the years.

On nine occasions since World War II, Congress has increased the lump-sum Federal payment authorization, raising it from a wartime level of $6 million to $105 million in 1969. In each case, within a short time span, the level established became inadequate as the needs of the District grew in response to changes in the District's population, greater demands for Government service, and a decline in the real value of the dollar. During this same period, taxes imposed on District residents were increased substantially in response to public expenditure needs. While increases in the Federal payment authorization have been made by Congress from time to time, its growth has been irregular, and has had no consistent relationship to annual needs. Instead, what is required is an equitable and systematic method of determining, annually, the relative amounts to be provided by District taxpayers and the Federal Government.

The committee believes that the proposed 30-percent Federal payment formula authorization represents such an equitable means of determining the fair share of the Federal Government toward helping meet the municipal expenses of the District. The formula approach would adequately compensate the District for revenue loss (primarily property and corporate income tax) and increased expenditures resulting from the Federal presence in the city. Some significant aspects of that Federal presence include:

Over the past 5 years, property of the Federal Government has averaged 32 percent of the total assessed value of land and improvements in the District.

Federal employees account for 50 percent of all employment in the city.

In the past 8 years, the Federal Government has constructed about 28 percent of all new office and related space in the District of Columbia.

The Federal Government owns 43 percent of the land in the city.

The Federal sector constitutes almost 34 percent of the annual gross product of the District of Columbia.

The additional Federal funds which would be authorized by enactment of this proposed legislation would be within the total estimate of Federal funds to the District of Columbia contained in the Federal budget submitted to the Congress by the President on February 2, 1970.

These additional funds will be helpful in meeting the serious financial needs of the District of Columbia government, as reflected in the recently enacted District of Columbia Appropriations Act, 1971. Because of a lack of revenue and because the District of Columbia budget is required to be balanced by law, the Congress was forced to approve a District of Columbia budget that was cut over 20 percent and which left the District with a smaller overall program than it had a year ago. Mainly mandatory items were spared in cutbacks which seriously limited new and expanded programs vital to the District of Columbia.

For example, the lack of funds for programs designed to fight crime resulted in serious limits on this effort. For instance, the lack of funds prohibited the hiring of 213 new roving leaders who work in the streets with juvenile gangs. This is a program which has been called by the juvenile court judge one of the most successful the District has in working with potential juvenile delinquents. But instead of 245 of these street counselors, the District will have to make do with 32.

Lack of funds meant the elimination of 43 new guard and other positions in the Department of Corrections at a time when prison population is expected to rise from 3,000 to 4,000. The prison program is already strained to the breaking point, but there will be fewer guards per 100 inmates this year than last because of lack of funds.

There will also be less work with drug addicts within the corrections system. The District's request for 22 new workers to help rehabilitate an additional 250 inmate addicts was denied, again, for lack of funds.

The court of general sessions had requested six new positions to strengthen its probation program and 24 new employees to help judges meet the growing backlog of cases. The Parole Board wanted three new employees to meet its expanded workload. All of these were cut.

These examples do not exhaust the list of cuts in anticrime programs, but they are indicative of the seriousness of the District government's revenue shortage.

Serious cuts were also made in other important areas such as proposed increases in the supply of textbooks to ghetto children, expansion of the kindergarten classes, and improvement in special education programs for children with physical handicaps.

A Federal payment authorization based on a percentage of District tax revenue would provide an annually updated measure of an equitable Federal payment toward the expenses of the Government of the District of Columbia. This would enable the District to compute the Federal payment authorization based on such a formula at the time of its earliest budgetary planning, and would make it possible for the District to assess its probable total resources from local sources and from the Federal Government so that priorities could better be established among competing needs. In this way the District will be able to evaluate and present to the Congress its recommendations for programs considered necessary for proper administration of the District government.

LEGISLATIVE HISTORY

The Senate Subcommittee on Fiscal Affairs of the Senate District of Columbia Committee held hearings on the bill on June 8, 1970. Representatives of the District of Columbia testified on behalf of the legislation and there was no opposition to the legislation.

BILL PASSED OVER

The bill (H.R. 15424) to amend the Merchant Marine Act, 1936, was announced as next in order.

Mr. MANSFIELD. Mr. President, over.

PROTESTANT EPISCOPAL CHURCH VESTRY ACT

The Senate proceeded to consider the bill (S. 2336) relating to the parishes and congregations of the Protestant Episcopal Church in the District of Columbia

which had been reported from the Committee on the District of Columbia with an amendment to strike out all after the enacting clause and insert:

That the Act of the General Assembly of the State of Maryland, passed in the year 1798, entitled "An act for the establishment of vestries for each parish in the State," ("The Vestry Act," chapter 24 of the Maryland Acts of 1798) as amended by the Legislative Assembly of the District of Columbia in 1872 and 1873, and by the Congress of the United States in 1874, 1919, and 1947, be repealed, except for paragraphs 9, 28 (without the proviso clause), 29, and 32 of chapter 24, which authorize the corporate structure of the church, its ownership of property and right to sue and be sued, which are hereby retained. Nothing in this Act shall be deemed in any way to impair or otherwise adversely affect the title to property as presently held or hereinafter acquired. Hereafter the government and operations of the Protestant Episcopal Church in the District of Columbia shall be in accordance with the constitution and canons of said church.

The amendment was agreed to.

The bill was ordered to be engrossed for 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. 91–1081), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the legislation is to conform applicable law to changes recently enacted by the General Assembly of Maryland with respect to the Protestant Episcopal Church.

The bill will repeal those anachronistic sections of the so-called Vestry Act which deal with the internal organization and operation of the Protestant Episcopal Church, but will leave intact those provisions which establish general corporate powers and which may affect title to property held by the church.

NEED FOR LEGISLATION

The basic civil law for the organization of parishes and vestries of the Protestant Episcopal Church is the Vestry Act adopted by the General Assembly of Maryland in 1798 and continued as the law in the District of Columbia was created in 1800. The Diocese of Washington includes four Maryland counties and the District. Thus, when substantial revision of the Vestry Act was enacted in 1969 by the Maryland General Assembly, the two parts of the diocese became subject to conflicting laws which made internal government of the church difficult and certain property rights tenuous.

The Church requested introduction of S. 2336 to eliminate certain anachronistic provisions in the Vestry Act (acknowledgedly conflicting with constitutional principles of separation of church and state) but otherwise to give local parishes more control over their own affairs and to preserve property relationships.

The committee has concluded that a complete repealer of the Vestry Act in order to eliminate church-state conflicts is not an adequate solution. The chancellor of the Diocese of Washington (the honorable Oliver Gasch, a judge of the U.S. District Court for the District of Columbia) has been advised and is of the opinion that potential problems with land titles of parishes acquired under the Vestry Act would be avoided with the retention of the Vestry Act with amendments rather than for the parishes to operate under any other statutory provisions applicable to religious corporations now in effect in the District of Columbia. Further, the conversion of the parishes to such other statutory provisions would cause unnecessary administrative turmoil. Finally, and of controling significance, the effective operation of the Diocese of Washington is dependent upon all parishes operating under substantially the same provision of civil law. Any result wherein the District parishes would be operating under one set of statutory provisions, and the four Maryland parishes would be operating under another, would be extremely burdensome and undesirable.

HISTORY OF LEGISLATION

S. 2336 as introduced would have conformed the Vestry Act to the law now in effect in the State of Maryland, which presently governs the four Maryland counties included in the Washington diocese, including a repealer of a number of provisions involving internal affairs of the church.

At the hearing on the bill, strong opposition was voiced by a representative for the American Civil Liberties Union against those aspects of the bill which would continue the Vestry Act's involvement of government in any way in the internal affairs of the church, including establishing residency and age requirements for voting for vestrymen. The hearing was concluded with a request to the diocese to propose a revision which would take the government entirely out of the internal affairs of the church but would preserve vital property relationships which is the central concern of the diocese in proposing the legislation.

The diocese responded by letter on January 27, 1970, proposing a general repeal of the Vestry Act, thus leaving the government and operations of the church to its internal constitution and bylaws, but with the exception of such clauses as deal with the church as a corporate entity, its ownership of property and its rights to sue and be sued. The bill, as revised, is the version approved by the committee.

ANALYSIS OF LEGISLATION

The bill repeals the Vestry Act in large part and thus eliminates government connection with internal affairs of the church, including provisions for election of vestrymen, conduct of vestry meetings, oaths of office, and various other penalties and prohibitions directly relating to internal church organization and affairs.

The sections not repealed are limited to the following:

Section 9. Vestry to have title to parish property.

Section 28. Vestrymen of every parish to constitute a corporation with general corporate powers.

Section 29. Relating to the sale or transfer of church property by the Vestry.

Section 32. Vestry to have capacity to sue and be sued, and to have a common seal.

INCREASING THE SECURITIES ACT EXEMPTION FROM REGISTRATION FOR SMALL BUSINESSES

The Senate proceeded to consider the bill (S. 336) to amend section 3(b) of the Securities Act of 1933 to permit the exemption of security issues, not exceeding $500,000 in aggregate amount, from the provisions of such act.

Mr. WILLIAMS of Delaware. Mr. President, could I have an explanation of this matter.

Mr. MANSFIELD. Mr. President, the purpose of the legislation is to amend the Securities Act of 1933 in order to assist small businesses in raising capital. To accomplish this objective the bill gives the Securities and Exchange Commission power by rule or regulation to increase the size of an offering of securities that may be made without compliance with the full registration requirements of the Securities Act from the present amount of $300,000 to $500,000.

At the time of its enactment, section 3(b) of the Securities Act of 1933 authorized the Securities and Exchange Commission to exempt certain classes of securities if their total offering price to the public did not exceed $100,000. In 1945 the act was amended increasing the exemption to $300,000.

This increase was intended to aid small businesses in raising capital for the commencement or expansion of their activities. In 1945 the $100,000 exemption was found to be an inadequate amount for accomplishing these objectives. This was due to the increase in the costs of equipment and labor between 1933 and 1945.

Mr. WILLIAMS of Delaware. Mr. President, I understand it. That is satisfactory.

The ACTING PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

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

S. 336

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(b) of the Securities Act of 1933 (15 U.S.C. 77c. (b)) is amended by striking out "$300,000" and inserting in lieu thereof "$500,000".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1082), explaining the purposes of the measure.

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

PURPOSE OF THE LEGISLATION

The purpose of the legislation is to amend the Securities Act of 1933 in order to assist small businesses in raising capital. To accomplish this objective the bill gives the Securities and Exchange Commission power by rule or regulation to increase the size of an offering of securities that may be made without compliance with the full registration requirements of the Securities Act from the present amount of $300,000 to $500,000.

BACKGROUND OF THE LEGISLATION

At the time of its enactment, section 3(b) of the Securities Act of 1933 authorized the Securities and Exchange Commission to exempt certain classes of securities if their total offering price to the public did not exceed $100,000. In 1945 the act was amended increasing the exemption to $300,000.

This increase was intended to aid small businesses in raising capital for the commencement or expansion of their activities. In 1945 the $100,000 exemption was found to be an inadequate amount for accomplishing these objectives. This was due to the increase in the costs of equipment and labor between 1933 and 1945.

Since 1945, costs have continued to rise throughout the economy. The $300,000 exemption enacted in 1945 obviously, has far less purchasing power today. In many cases it is an inadequate amount to properly finance a small established business seeking to modernize or expand its facilities, or a

newly organized venture. In light of these present day conditions, this legislation would increase the dollar amount to $500,000 for a securities issue which may be exempted under section 3(b) of the act. This Committee feels that this is the minimum amount necessary to carry out the original congressional intent in enacting the section.

The $300,000 limitation has also made it unduly difficult for small business issuers to secure underwriters for their offerings. When an underwriter can be found, his commission may run as high as 15% to 20% of the amount sold, thereby substantially reducing the funds which the issuer receives. An increase to $500,000 would help alleviate this situation by making the offering more attractive to underwriters, reducing underwriting costs and providing the issuer with a greater return.

SUMMARY OF THE LEGISLATION

This bill would amend section 3(b) of the Securities Act of 1933 by increasing the maximum aggregate dollar amount of securities from $300,000 to $500,000 which may be offered to the public pursuant to an exemption from the act's registration provisions. However, the Securities and Exchange Commission is required to promulgate rules and regulations under regulation A of this section which will provide investors with adequate disclosure concerning the exempted securities. The Commission has advised the committee that it will act promptly in amending its rules and regulations in order to carry out the intent of this legislation.

Regulation A of the Securities Act of 1933, as amended by this legislation, would permit a company to obtain needed capital which is not in excess of $500,000, including underwriting commissions, in any one year, from a public offering of its securities without registration, provided specified conditions are met. These conditions include the filing of a notification supplying basic information about the company, where the offering is to take place and the filing with the Commission of the offering circular which is to be disseminated to investors. These documents are somewhat simpler and less expensive to prepare than the full registration statement required under the Securities Act for nonexempt offerings.

CONVENTION ON OFFENSES AND CERTAIN OTHER ACTS COMMITTED ON BOARD AIRCRAFT

The Senate proceeded to consider the bill (S. 2176) to implement the Convention on Offenses and Certain Other Acts Committed on Board Aircraft, and for other purposes.

Mr. SCOTT. Mr. President, is that the aircraft hijacking convention?

Mr. MANSFIELD. Yes. Mr. President, the bill amends the Federal Aviation Act of 1958 to permit the United States to implement certain provisions of the Tokyo Convention.

Section 101 of the act is amended to create the term, "special aircraft jurisdiction of the United States" which would include, while in flight, all civil aircraft of the United States, aircraft of the national defense forces of the United States, and any other aircraft within the United States, or under specified circumstances, outside the United States.

The ACTING PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

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

S. 2176

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

(1) A new subsection (32) be inserted in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301) as follows:

"(32) The term 'special aircraft jurisdiction of the United States' includes the following aricraft while in flight—

"(a) civil aircraft of the United States;

"(b) aircraft of the national defense forces of the United States; and

"(c) any other aircraft—

"(i) within the United States, or

"(ii) outside the United States which has its next scheduled destination of last point of departure in the United States provided that in either case it next actually lands in the United States.

For the purpose of this definition, an aircraft is considered to be in flight from the moment when power is applied for the purpose of takeoff until the moment when the landing run ends."

(2) Existing subsections (32), (33), (34), and (35) are renumbered (33), (34), (35), and (36), respectively.

(3) Subsections 902 (i), (j), and (k) of such Act (49 U.S.C. 1472 (i), (j), and (k)) are amended by deleting the words "in flight in air commerce" wherever they appear in those subsections and substituting therefor the words "within the special aircraft jurisdiction of the United States."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1083), explaining the purposes of the measure.

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

SUMMARY OF THE BILLS

The bill amends the Federal Aviation Act of 1958 to permit the United States to implement certain provisions of the Tokyo Convention.

Section 101 of the act is amended to create the term, "special aircraft jurisdiction of the United States" which would include, while in flight, all civil aircraft of the United States, aircraft of the national defense forces of the United States, and any other aircraft within the United States, or under specified circumstances, outside the United States.

Subsections 902 (i), (j), and (k) of the act (which provide criminal penalties for aircraft piracy, interference with flight crew members, and certain other acts) are then amended to substitute the "special aircraft jurisdiction" for the jurisdiction presently conferred by the term "in flight in air commerce." The effect of these amendments is to extend the criminatl provisions to all aircraft within the special aircraft jurisdiction of the United States as defined by the amended section 101. While this redefinition of jurisdiction is necessary to conform with the purposes of the Tokyo Convention, it still falls wholly within the jurisdiction of the Federal Government under the Constitution.

COMMITTEE CONCLUSIONS

In June 1950, the Legal Committee of the International Civil Aviation Organization began a study into the possible negotiation of a treaty that would establish rules respecting jurisdiction over crimes committed onboard aircraft, and other related matters. Over the next 13 years, the United States actively participated in discussions of the many problems involved and in negotiations to resolve them. On September 14, 1963, the convention was opened for signature at Tokyo, and the United States (a major supporter of the convention) signed.

The principal purpose of the Tokyo Convention is to promote aviation safety through establishment of continuity of jurisdiction over criminal acts occurring onboard aircraft. The Tokyo Convention is a desirable international agreement.

The Convention establishes a positive rule of international law respecting jurisdiction as between the contracting states. Under this rule, the state of registry of an aircraft may exercise jurisdiction over offenses committed on board that aircraft when it is: (1) In flight; (2) On the surface of the high seas; or (3) On any other area outside the territory of a state. This rule is analogous to the state-of-flag rule for jurisdiction over ships. This is not a rule of exclusive jurisdiction. Rather, the Convention ensures that the state of registry of an aircraft always is competent to exercise jurisdiction even though the aircraft leaves the state's territory, and yet allows other states to exercise concurrent jurisdiction. The exercise of concurrent jurisdiction would depend on a state's interest in the offense and the applicability of the traditional rules of international law regarding assertion of jurisdiction.

The Convention makes more certain the powers and authority of an aircraft commander and establishes a uniform international standard for judging the actions of the commander. Without these provisions, his actions to apprehend and "off-load" an offender would be subject to the laws of the state where he lands the aircraft. Also, the correctness of his decisions might be judged under the national law of a country overflown. Finally, if their actions are reasonable and comply with the Convention, each aircraft crew member and passenger, the aircraft owner or operator, and the person for whom the flight is made, all would have legal immunity. This immunity should enhance the proper attitudes and actions necessary to significantly contribute to safety of flight in international aviation.

The Convention establishes rules and procedures to "off-load" an offender. Under the Convention, the commander may disembark in any State in which the aircraft lands any person he reasonably believes has committed, or is about to commit, an act on board which might jeopardize the safety of the aircraft, passengers, or cargo or jeopardize good order and discipline on the aircraft. Also, the commander may deliver to the authorities of any contracting state in which the aircraft lands a person he reasonably believes to have committed on board a serious offense under penal law of the state of registration of the aircraft. The Convention obligates any contracting state to allow disembarkation or to accept delivery. If satisfied that the circumstances warrant, the state accepting a person "delivered" or one suspected of hijacking must take custody or other measures to ensure the suspected offender's presence. In this regard, the Convention has several provisions that are designed both to protect a suspected offender's rights and to ensure his case is handled legally and expeditiously in accordance with the generally accepted concept of due process of law.

The Convention imposes a positive obligation on all contracting states to take every appropriate measure to restore control to, or preserve control in, the lawful commander of an aircraft. A contracting state in which a hijacked or threatened aircraft lands must permit passengers and crews to continue their journey as soon as practicable and return the aircraft and its cargo to the persons lawfuly entitled to possession, thus minimizing the adverse impact that a hijacking has upon the passengers and crew. While not a complete resolution of this serious problem, this provision does represent an important step for the protection and convenience of passengers, aircraft, and cargo.

The United States has continued to press efforts to gain widespread international acceptance of the Tokyo Convention and to promote other efforts to deter and resolve hijackings. On May 12, 1969, the United States Senate gave its advice and consent to ratification of the Tokyo Convention. (See Executive Report No. 3 of May 8, 1969, to accompany Ex. L. 90th Cong., 2d sess.) On September 5, 1969, the United States of America presented to the International Civil Aviation Organization the instrument of ratification of the Convention, being the twelfth Nation to do so. As a result, under Article 21, paragraph 1, the Convention came into force on December 4, 1969. Following the United States' ratification, 10 other countries ratified the Convention, making a total of 22 of the 40 signatory nations that have become parties to the Convention. As an additional measure to the Tokyo Convention, the legal committee of the International Civil Aviation Organization (ICAO), with active United States participation, is meeting now in Montreal to consider a draft protocol prepared by the Legal Subcommitee on Unlawful Seizure of Aircraft that, among other proposals, would require the state in which a hijacked aircraft lands either to extradite the hijacker to the aircraft's state of registry or else to consider prosecuting him under its own laws.

S. 2176 fulfills the U.S. responsibility to implement the Tokyo Convention.

Mr. MANSFIELD. Mr. President, that concludes the call of the calendar today. Mr. President, I thank the Senator from Delaware, the Senator from Oklahoma, and the distinguished minority leader.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, none of the time used thus far will come out of the time of the distinguished Senator from Oklahoma.

The ACTING PRESIDENT pro tempore. The Chair so understands.

The Chair now recognizes the Senator from Oklahoma for 30 minutes.

Mr. BELLMON. Mr. President, I thank the Chair. I will not need the 30 minutes, I will yield back some of the time.

SENATE RESOLUTION 444—SUBMISSION OF A RESOLUTION RELATING TO THE ACCOUNTABILITY OF MEMBERS OF THE ARMED FORCES OF THE UNITED STATES IN COMBAT SITUATIONS

Mr. BELLMON. Mr. President, I am today submitting a resolution relating to the accountability of members of the Armed Forces of the United States in combat situations, where they are proceeding under lawful orders. This resolution is the result of a deep feeling of concern which I have as, a result of charges which have been brought against certain members of the American Armed Forces as a result of tragic incidents which have occurred in Southeast Asia.

No reasonable person condones brutality or savagery in either war or peace. Certainly, no reasonable person approves of the injury or death of civilians who are caught up in the path of armed military conflict. Any reasonable person will take precautions, sometimes at personal risk to avoid such tragic occurrences. As a member of the Marine Corps in World War II, who was involved in intense combat in the Pacific, I have many vivid memories of the plight of civilians. Also, I recall many humanitarian efforts put forth at considerable risk to their own lives by American servicemen to save civilians from harm and to aid those who had been injured by our military action.

Mr. President, I have checked with the Judge Advocate General's office and can find no case during World War II where the American system of justice punished a member of the armed service for injuries inflicted on civilians while such member was on a combat assignment and was under fire. The concept of bringing criminal charges against members of the American armed services who are performing combat missions under lawful orders, as far as I can determine, is a recent development by our system of military justice. The practice has never been accorded congressional approval or disapproval and is a serious development so far as the future ability of our armed services to perform their mission is concerned.

For instance, it is not at all uncommon for the pilots or crews of American B–52 bombers to be assigned targets where civilians are known to be present and where civilian injuries and deaths are almost certain to occur. When these bombing attacks are carried out, under orders of American field commanders, are the pilots of crews of these planes to be criminally charged for the civilian deaths which result from their actions? These bombings take place from thousands of feet in the sky, where the crews are in virtually no personal danger and where they have no personal knowledge of the injury or death to civilians which result from their action.

It is also common for artillery or naval barrages to be ordered in support of American combat operations. On occasion, civilians are injured and killed by such action. When these tragic events occur, are the artillery crews or the commanding officers to be called to account and criminally punished for the civilian injuries and deaths?

Civilian deaths or injuries which occur as a result of bombing strikes, artillery fire, or naval gunfire in Southeast Asia are impersonal and are inflicted by American servicemen who may face no personal danger during the course of their actions.

The situation as it relates to an American infantryman is considerably different. When infantrymen are ordered into combat zones, their lives are in constant and imminent jeopardy. At any moment they may encounter a booby trap which will inflict mortal injury. At any time their movements may attract small arms, mortar, or artillery fire. In countless cases, apparent noncombatants have taken actions which have caused injury and death to Americans. The Vietcong are civilians and many members are very young or are women. In fact, it is impossible, under many conditions, to identify friends or foes among the native population.

In spite of the dangers and personal tensions which American infantrymen face in the discharge of their hazardous assignments, members of the Infantry are the only Americans in South Vietnam which have been charged, tried, and sentenced for injury or death of noncombatants.

To me, this policy seems entirely inconsistent and even dangerous to the future ability of this Nation to conduct ground military actions where civilians may be involved. Unless our infantrymen can go into battle feeling that their government will support the actions which these men feel are necessary for their own safety, I am of the opinion that the morale of our infantrymen may be totally destroyed.

Mr. President, in my opinion, the policy of this Nation toward our ground forces in combat zones must be clarified. This clarification should not and cannot come from military courts of justice in combat zones. This question is of immense importance to the security of our Nation and is a proper concern of the U.S. Senate.

Mr. President, the question of the legal accountability of members of American Armed Forces acting under lawful orders in combat situations is brought out clearly in the recent case of a marine private. The private was a member of a killer team, ordered by their commanding officer on a "search and destroy mission." He has been sentenced to life imprisonment for his actions in connection with the deaths of 12 civilians. The case is on appeal and cannot be fully discussed at this time. However, this case has been brilliantly researched and reported by Pulitzer Prize-winning Reporter Miriam Ottenberg, of the Washington Star. I ask unanimous consent that articles by Miss Ottenberg, describing this case and a copy of an editorial, dated Sunday, July 12, 1970, be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibits 1 and 2.)

Mr. BELLMON. Mr. President, the resolution I am submitting is brief, and I ask unanimous consent that it be printed in full in the RECORD at this point.

The ACTING PRESIDENT pro tempore. The resolution will be received and appropriately referred; and, without objection, the resolution will be printed in the RECORD.

The resolution (S. Res. 444) was referred to the Committee on Armed Services, as follows:

S. RES. 444

Resolved, That it is hereby declared to be the sense of the Senate that whenever civilian casualties in connection with any military operation carried out by members of the Armed Forces of the United States pursuant to lawful orders, the law does not hold such United States military personnel individually responsible for such casualties if inflicted incident to direct ground combat with members of an opposing armed force when the United States military personnel were being resisted by hostile fire from such an opposing armed force.

Mr. BELLMON. Mr. President, this issue is one which vitally affects the ability of our Nation to provide for its security and to discharge its responsibilities as a leader of the free world. How long can we expect members of our mili-

tary services, made up largely of men who were drafted into service, to risk their lives in combat, knowing that actions they take, under orders, may result in long prison sentences?

The question here is whether or not members of the American armed services who take action against an enemy while their own lives are in danger should face the ordeal of criminal prosecution.

Congress provides the funds for the conduct of military operations. I believe it has the responsibility of providing ground rules to guide the administration of justice in connection with these operations.

EXHIBIT 1

[From the Washington Star, July 7, 1970]

SHOULD A MARINE PRIVATE DISOBEY?

(By Miriam Ottenberg)

Can a young man trained in Marine boot camp to instant obedience be expected to disobey any order of a superior—even a "patently unlawful" one—on a night patrol in Viet Cong-infested territory?

That was the basic question in the court-martial in Vietnam of the 20-year-old Pvt. Michael Schwarz of Weirton, W. Va., on a charge of premeditated murder.

It is a question now being raised in this country by veteran Marine officers, editorial writers, parents of servicemen in Vietnam and others in the wake of Schwarz's conviction and sentence to life imprisonment at hard labor.

And it is a question sure to be aired tomorrow when attorneys for Pfc. Samuel G. Green, 18, of Cleveland, Ohio, another member of the same patrol, ask District Court here to order his court-martial postponed and absolve him of all wrong doing on the ground he was obeying orders.

In the wake of the Schwarz court-martial and in the face of the upcoming My Lai trials, another question is getting almost as much attention: Are the constitutional rights of servicemen properly protected in court-martial?

The Star discussed these and other questions with Marine headquarters, with defense attorneys for the accused Marines, with the Schwarz family and with Marine reserve officers who practice law but have no connection with the pending cases.

Although the answers apply to all four Marines accused of murdering 16 Vietnamese civilians last Feb. 19, they particularly affect Schwarz for several reasons.

He was the only one who did not have a civilian attorney before he went to trial or during his trial. He was the first tried and the only one convicted so far.

Of the other three, one of them—Pfc. Thomas R. Boyd Jr., 19, of Evansville, Ind., has been acquitted after convincing a judge—rather than a court-martial—that he never shot anybody. Attorneys for the second, Lance Cpl. Randall D. Herrod, 20, of Calvin, Okla., who was slated to go to trial July 6, have succeeded in getting his trial postponed by the Military Court of Appeals here, which has ordered the Navy to reply by July 13 to points raised by the defense. And Green's case is being fought in District Court.

These cases hinge on a time span of only two or three minutes. When it was over, five women and 11 children were dead—at least that's the number found the next day in the village of Son Thang, 27 miles southeast of Da Nang.

No autopsy was performed so there was no official determination of who shot them. but Schwarz and Herrod were charged with premeditated murder and Green and Boyd were charged with unpremeditated murder.

Charges against the fifth man on the patrol, Pvt. Michael S. Krichten, 18, of Hanover, Pa., have been "held in abeyance." He was granted immunity to testify for the prosecution at the court-martial.

Only an hour before the Son Thang shootings, a buddy of the five Marines had been killed by a booby trap.

Herrod's attorney, Oklahoma State Sen. Gene Stipe, who attended the Schwarz trial, said there was testimony that during the previous week they had lost nine members of their platoon and that their company had suffered more casualties than all the rest of the battalion.

They were, then, under more than the usual stress when they volunteered for this patrol, were given what amounted to a pep talk by their commanding officer and sent off on their night "search and destroy" mission.

Normally, the leader of such a fire team would be a corporal but, the Marines say, "due to temporary personnel attrition, sickness, wounds or temporary transfer turnover, lance corporals do command fire teams and patrols when corporals are not available." Herrod, a 20-year-old lance corporal, was assigned command of this team on the night of Feb. 19.

Accounts of what actually happened that night vary greatly. Krichten, for instance, after he was given immunity from prosecution; testified that the women and children were "herded from their hooches (huts)" and gunned down.

Stipe said he tried to look at Krichten's original statement to investigators but that the Marine major who had taken the statement said Krichten had asked for it back and the major had given it to him. He did not know what happened to it after that.

Schwarz' pre-trial statement to military investigators was used at the court-martial. In that statement, Schwarz said, "When the firing started, I joined in. When the firing quieted, the people were all dead. I started firing with everyone else as ordered."

At his trial he said each time he went into a hut to investigate, he heard the patrol leader outside shouting orders to "shoot 'em, kill 'em all."

Schwarz had been the point man ahead of the others when they first approached the village and saw a house with several people outside on the porch. He testified that as he entered the house, the Vietnamese on the porch started shouting and he believed they were trying to signal the Viet Cong. Inside, he said he found a bunker and heard what he thought were men's voices.

When he heard Herrod outside yelling, "Shoot 'em, shoot 'em all," he ran outside and began firing in the direction he saw the others firing.

At another house, where Herrod was going to throw in a fragmentation grenade, Schwarz said he asked him not to do it and went in to check it out. Again he said he heard Herrod shouting orders to kill and rushed outside, thinking the Viet Cong were coming back. He got off two shots before his rifle jammed.

(The jammed rifle took on added significance when he got back to base and found the gun had been struck twice by bullets.)

Stipe said Schwarz' commanding officer, Lt. Louis Ambort, testified that he had examined the rifle and it had been struck twice but that testimony was given at the military version of a preliminary hearing and Ambort wasn't asked about the rifle at the court-martial. And the rifle was not offered in evidence.

(The reason Stipe attaches importance to the rifle is the contention—knocked down by the prosecution at the Schwarz court-martial—that the Viet Cong were firing from the brush. Schwarz, Herrod and Green all said they saw muzzle flashes from enemy weapons in the brush. Schwarz said he fired at the flashes.)

The testimony indicated that Schwarz did some thinking about the orders he was getting that night. He testified that when Herrod ordered him to shoot a crying baby, he fired to miss the infant because "I couldn't see shooting the baby, sir." But he said he believed the other shooting was lawful "because guys don't open up on a bunch of people for no reason."

The decision to try four of the five Marines for murder was made in mid-May by Maj. Gen. Charles F. Widdecke, commander of the 1st Marine Division. Col. Robert M. Lucy, 1st Marine Division staff judge advocate, said the trials would begin in June.

The families of the men immediately started looking for civilian attorneys to defend them. Only one of them failed. Mr. and Mrs. James G. Schwarz said they wrote to senators from both Pennsylvania, where Schwarz' wife lives, and West Virginia and got no response. They couldn't find anybody who would volunteer to go to Vietnam to defend their son and the cost of paying for a defense was prohibitive. They were assured by the Marine Corps, however, that Mike would be represented by counsel, a Marine attorney.

Schwarz went on trial on June 19, but attorneys looking at news reports on his trial and Stipe, who was there, say by that time the damage had been done. Schwarz had answered every question asked him by investigators.

Were his constitutional rights violated?

These rights, as spelled out by the Supreme Court, include the right to refuse to answer questions of investigators, the right to have an attorney present, the right to be warned that anything said during the questioning may be used in a later trial.

In answer to questions, the Marine Judge Advocate Division said: "Under military law, no person subject to the Uniform Code of Military Justice may question another person who is suspected of having committed an offense unless the suspect is first advised of the nature of the offense of which he is suspected, of his right to remain silent, of the fact that anything that he does say may be used against him in a trial by court-martial, of his right to consult with a lawyer and to have a lawyer appointed to represent him and be present with him during any interrogation and of his right to terminate any interrogation at any time.

"Once a military lawyer is appointed to represent a suspect, no other lawyer may properly question the suspect without the permission or presence of his appointed counsel."

How much warning of their rights the Marines got is now a matter of controversy. A Marine major has since said he did warn them, but not the first time they faced questioning.

And Lt. Ambort, Schwarz' 23-year-old company commander, said after the court-martial verdict, "If I'd been smart, I'd have told these guys down there not to talk until they saw a lawyer. But I'm not smart. I told them to talk."

Several attorneys among Marine reserve officers question whether a Private First Class will exercise his right to remain silent—even if he gets the warning—when a major or lieutenant colonel is doing the questioning. As one reserve officer said, "This isn't police questioning a criminal. This is an officer questioning a boy who thinks he must confess."

As it turned out, the prosecutor, Capt. Franz Jevne, based much of his case on a pre-trial statement Schwarz made to military investigators. That's the statement in which Schwarz said, "When the firing started, I joined in."

As for the trial itself, Stipe said the questions posed by the prosecution to try to impeach Schwarz' character wouldn't have been allowed in any civilian court.

He said two Marines who didn't know Schwarz well were asked if they would believe him under oath. Both said no.

At the trial, Schwarz' defense counsel, Capt. Daniel H. Legear, argued that Schwarz was obeying orders.

"We put leaders in charge," he said. "We tell subordinates to follow the leaders' orders. Let's not crucify the private who obeys those orders. If we put the burden on the private to decide the rightness of the orders, we'll have a lot of dead Marines."

He was responding to prosecutor Jevne's argument that although Schwarz allegedly had been ordered by Herrod to fire at the civilians, he should have disobeyed the order as "patently unlawful."

That was exactly the position taken by the military judge in his instructions to the seven-officer court.

"A Marine," said Lt. Col. Paul St. Amour, "is a reasoning agent, who is under a duty to exercise judgment in obeying orders to the extent that where such orders are manifestly beyond the scope of the authority of the one giving the order and are palpably illegal upon their face, then the act of obedience to such orders will not justify acts pursuant to such illegal orders."

After the verdict, defense counsel Legear commented: "It comes down to when can you disobey an order. And they just don't tell these kids that."

So The Star asked the Marine Corps when Marines are first told that they are supposed to refuse to obey "patently unlawful orders," how are they told and how often is the instruction repeated.

The Marine Corps replied that one of the objectives of basic training is "to develop a state of discipline which assures respect for authority and instant, willing obedience to orders."

"Such an objective," the Marine spokesman said, "is essential considering the fact that the basic nature of any military organization involves the need to motivate men to march into combat, thereby willingly exposing themselves to the dangers of being maimed or killed.

"In pursuit of this objective, the approach taken in Marine training is positive rather than negative. Marines are taught that discipline and obedience to orders are necessary to the creation of an environment of loyalty, unit spirit, solidarity and teamwork and that it is these qualities which permit survival on the battlefield.

"Marines are not taught in training to disobey unlawful orders but rather to obey lawful ones."

During recruit training, the Marine spokesman said, all Marines receive two hours of instruction in the Uniform Code of Military Justice, again after they complete six months of active duty and again on re-enlistment.

Included in this instruction are the articles dealing with failure to obey lawful orders. In accordance with the Code of Military Justice, "an order requiring the performance of a military duty may be inferred to be legal, but an act performed manifestly beyond the scope of the authority or pursuant to an order that a man of ordinary sense and understanding would know to be illegal or, in a wanton manner in the discharge of a lawful duty, is not excusable."

Asked to comment on the instructions as they were read into the Schwarz case, several Marine reserve officers said expecting an enlisted man to disobey a superior's orders put a tremendous burden on him when he had been taught blind obedience to orders.

Col. Marvin Schacher president of the Marine Corps Reserve Officers Association, commented: "It's a matter for the court, but it's not possible to put Marines in a position to weigh each order given as to the probabilities and likelihood of it being right or wrong. You can't run a war that way."

The stress and strain of a situation, he said, in large part dictates what a man does. The more intense the strain, the less a man can question an order.

"The further removed you are geographically from the action," he said, "the better position you are in to say 'no, this is immoral or illegal and I won't do it.' But you have to be sure you're right because you'll be called on to answer for it later."

On the question of stress the night of the patrol prosecutor Jevne said the patrol was not in a "combat situation" but Schacher commented that "the entire area is a battlefield" and a Marine reserve officer just back from Vietnam said "every time you leave the barbed wire around the base, you're in a combat situation."

Another Marine reserve officer, Col. Robert McKinley who represented a young Marine in a case similar to the Schwarz case and got his man acquitted, said he argued successfully that the boy believed the orders he got from his lieutenant to "kill everything that moves" was a lawful order.

"You can't expect kids to be judges," he contended. "If they tried, the military organization would disintegrate. What I might question as a lieutenant colonel is certainly different from what a Pfc. would question."

Retired Maj. Gen. M. Shoup, former commandant of the Marine Corps and a critic of the Vietnam war, was asked if he thinks a boy trained at Parris Island to strict obedience should be expected to disobey any order, even one that may be unlawful.

His reply recalled Schwarz testimony about avoiding killing a baby.

"I think it's reasonable," the general said, "to believe that any man committed to combat duty must surely have the good sense and judgment which would cause him to know that it is not reasonable and expected that he fire into and kill children. There's a question with women. They might have grenades. You almost have to be there to make a judgement in each case, but it's not reasonable to kill children."

Many of the letters reaching the home of Michael Schwarz' parents—300 arrived in two days—coupled comforting words for the parents with outrage that a young Marine should be expected to refuse to obey an order.

Some of the letters enclosed copies of protest letters written to senators and the White House.

A veteran of the Vietnam war from Alexandria, Va., wrote President Nixon that he could not understand how such a "travesty" could have occurred as the Schwarz conviction.

"All through his training, a soldier, and particularly a Marine," the veteran wrote, "is told that he is not paid to think, just to obey; he is also constantly told to obey and then complain but never vice versa. All this training is opposed to the statement of the court."

Urging the President to use the power of his office to set Schwarz free, the veteran added: "Many Americans regard this conviction as merely a propaganda move, but since when does America sacrifice its young men for such a petty and worthless cause?"

Michael Schwarz, son of a steel mill foreman disabled in World War II and the next to the youngest of eight children, dropped out of high school at 16 to join the Marines. His mother knew he was altering his birth certificate but since he'd wanted to be a Marine since he was 12 years old, she let him do it. Three of her other sons were in the Navy.

The parents were so proud of the four boys that they erected a tall flagpole in the front yard of their Weirton home and flew the flag every day—until Mike's conviction.

The senior Schwarz said then he'd never fly the flag again, but he says now he's changed his mind about that.

"You can't blame this on the flag," he said.

Mike was allowed to call home once after his conviction. He told his mother, "If we hadn't shot, they would have shot us." Then he was cut off.

Mike's 19-year-old wife Linda lives with their three-year-old son in her mother's trailer in a heavily wooded area near Bulger, Pa. The state representative from her district John L. Brunner, has been trying to interest people in the case. "I've been expecting a grass-roots movement by a veterans' or service organization to help with the boy's defense," he said, "because it will be a great financial drain."

Help in the form of a highly respected civilian attorney has come to the Schwarz family. Pittsburgh attorney James E. McLaughlin of the law firm of McArdle, McLaughlin, Paletta and McVay said he got interested when a United Press International story quoted the elder Schwarz as saying all the attorneys in the area were afraid to buck the government.

"I thought it was horrible that nobody in this area would come to their aid," said McLaughlin, "so I volunteered."

His goal is complete vindication, rather than just a reduction of sentence.

"What reduction is meaningful?" he asked. "I don't think he should have been tried at all because he was obeying what he considered a lawful order."

He cited Supreme Court Justice Oliver Wendell Holmes saying "The law does not require detached reflection in the presence of an uplifted knife."

"The knife of the Viet Cong hangs over these boys every night," he said. "How much detached reflection can you expect of boys who are trained to obey instinctively and shoot to kill?"

That will be asked again tomorrow when attorneys for Pvt. Green ask Judge John Lewis Smith Jr. for a temporary restraining order to put off his court-martial until the suit they've filed in District Court can be tried.

The court will be asked for a judgment absolving him of the charge of unpremeditated murder "by reason of carrying out the orders and directives of his superior officers . . . while engaged on a "search and destroy mission" as a member of said 'killer team.' "

In arguing for the restraining order, Green's attorneys said, "He acted and participated without any fault or wrong doing on his part under the specific orders and instructions of his superior officers to the best of his information, knowledge, experience, ability, capability and training received as a member of the U.S. Marine Corps."

McLaughlin will be sounding that theme repeatedly as he follows the Schwarz case through review by the commanding general in Vietnam, through a board of review in Washington and, finally, through the Court of Military Appeals.

Meanwhile, Mike Schwarz will be confined first in Vietnam and then at a naval prison in Portsmouth, N.H. And young Mrs. Schwarz and her son will try to get along without their allotment. The checks were cut off as of the day Schwarz was sentenced to life imprisonment at hard labor.

EXHIBIT 2

[From the Washington Star, July 12, 1970]

THE SCHWARZ AFFAIR: A JUDICIAL ATROCITY

When war begins, the morality and the logic on which civilization is structured must undergo wrenching alterations.

It is demanded of soldiers that they suspend most of the moral and religious training they have accumulated. The ultimate crime of a peacetime society, the taking of a human life, is transmuted by the fact of war into an achievement to be rewarded by medals and promotions.

The ethical barrier that man has erected to protect his civilization from the jungle that surrounds it is breached in time of war. But that barrier cannot be allowed to fall. Men at war must continue to act within set boundaries of permissible behavior. The brutalizing process of combat cannot be total.

The dividing line between duty and atrocity is not readily distinguishable. In a war such as that in Vietnam the division is particularly blurred. No front lines separate the combatants. The enemy cannot always be identified by uniform, sex or age. But the fact that the war in Vietnam is an unsually difficult, dangerous and dirty war does not cancel the obligation of the military to recognize an atrocity when it takes place and to punish those who are responsible.

Atrocities would appear to have been committed by American soldiers at My Lai in March of 1968, and the process of fixing responsibility, passing judgment and meting out punishment is under way in the military courts. Another atrocity, smaller in scope but not less horrifying, took place on February 19 of this year in the village of Son Thang. And in the Son Thang case, military authorities have moved with blinding speed.

Four of the five Marines involved have been accused of murder. The fifth has been granted immunity in return for his willingness to testify for the prosecution. One of the accused has been acquitted after testifying that his revulsion against the taking of life is such that he has never, during his entire tour of combat duty in Vietnam, fired at anyone but has always carefully aimed over the heads of the enemy. One of the defendants—Private Michael Schwarz, age 20—has been tried, convicted and sentenced to life imprisonment at hard labor.

That conviction compounds the battle-zone atrocity with an atrocity by court-martial.

A detailed account of the incident at Son Thang and its aftermath, written by Miriam Ottenberg, The Star's Pulitzer prize-winning investigative reporter, was printed in last Tuesday's editions. From that account, it appears that Schwarz's rights were violated and that the the appeal process may result in a reversal of the conviction or a reduction in the sentence. But more shocking than the questions raised by evidence that Schwarz was questioned by a Marine major before being informed of the suspected offense, of his right to remain silent or his right to legal counsel, is the clear implication that the military is embarked on a broad misapplication of its own system of laws.

The body of law that governs all United States servicemen—the Uniform Code of Military Justice—states that the orders of superiors must be obeyed. And then it qualifies this unambiguous statement with the observation that the order must be "lawful." What is an unlawful order? It is, in the words of the Code, one "that a man of ordinary sense would know to be illegal."

In the courtroom in Vietnam, well removed from the scene of battle, the illegality of the order to Pvt. Schwarz appeared clear enough. The five-man "search and destroy" mission, under the command of a 20-year-old lance corporal, walked into the quiet village at night. Some three minutes later, 16 civilians—five women and 11 children—had been shot to death. According to the testimony, the order given repeatedly by the platoon leader was: "Shoot them. Shoot them all."

The order was illegal. But does it therefore follow that Schwarz should be punished with a sentence of life imprisonment for premeditated murder? By any reasonable application of logic, he should not.

The Military Code, it is true, states that unlawful orders need not be obeyed. But this theoretical legalism is negated by the fundamental realities of military life.

A recruit in any branch of the service receives saturation training in one basic military requirement: Orders are to be obeyed. There is to be no hesitation, no questioning of the logic, no consideration to the legality. There must be—particularly in combat—instant obedience. Any other reaction, the trainee soon learns, is met with swift and severe punishment.

Such a system is dictated by the brutal logic of war. In battle, men may have to be ordered into a situation of danger so extreme that it amounts to almost certain death. They are expected to follow their orders. No superior can take the time to explain the logical necessity for an action that may seem unnecessarily dangerous or inhumanly brutal. The assumption must be that a leader is rational, is logically motived and that—in the absence of overwhelming evidence to the contrary—any order given is a lawful order. The alternative is military chaos.

Does this mean that the Military Code's statement that the rule of obedience applies only to "lawful" orders is meaningless?

On the contrary, the qualifying adjective retains a very important meaning as the basis for a defense against the failure to obey an order that can be shown to be unlawful. A soldier who has the moral courage and the quickness of intellect to recognize an illegal order for what it is can use the language of the Code as a legal shield. But no soldier, sailor, airman or Marine can reasonably be obligated in a combat situation to pass instant judgment on the legality of an order.

The fact remains, however, that if an atrocity is committed, responsibility must be fixed. No Solomon-like judgment is required to determine where such responsibility rests. The man who gives an order to commit an atrocity—not the man who carries it out—is the one who should stand trial.

If that leader was given prior orders that prompted his illegal action, then the guilt must pass up the chain of command. But the leader on the scene cannot automatically be absolved. He has the opportunity to question orders given in non-combat situations. He has the time to reflect on the legality of the orders. And the responsibilities of command impose an obligation to do just that.

This is not to prejudge the case of the 20-year-old lance corporal who substituted for the regular patrol commander on the "killer" mission at Son Thang. But whatever the outcome of this trial, it is clear that the military must not make scapegoats of privates who do what they are trained to do: Obey orders. The services must in addition begin to temper the conditioned reflex of unquestioning obedience by providing noncommissioned and commissioned officers with some realistic guidelines to mark the indistinct border between necessity and atrocity.

High on the list of war's tragic byproducts is the inevitable brutalizing influence it exerts on the society that sponsors it. This instruction in inhumanity must not be augmented by a demonstration of injustice in the military courts.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. What is the pleasure of the Senate?

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order the Senator from South Carolina is recognized for 30 minutes.

NERVE GAS DISPOSAL

Mr. HOLLINGS. Mr. President, the decision of the Army to dump 65 tons of liquid nerve agent into the Atlantic Ocean raises serious and disturbing questions. Where is our much-touted concern for ocean conservation? Can we continue polluting the resources of the sea and expect to survive? How is it that the U.S. Army, operating under a veil of secrecy and callous disregard, could be allowed the sole power of decision on a question of far-ranging ecological and social importance?

I submit today, Mr. President, evidence that our Government's current scuttling operation flouts the simplest rules of commonsense, ignores significant scientific evidence on the potentially harmful effects of this sea dump, and in so doing takes unnecessary risks with the ocean's future—hence our future. If we are to overcome the challenges of survival, we must awaken to the fact that the ocean may be our best ally, maybe our last ally, in fighting for the future of mankind.

The traditional misuse of the ocean as a dumping ground for the garbage and waste of human society can no longer be tolerated. Nor can we afford the mistakes of a decisionmaking process which ignores the testimony and advice of our best minds. There has been gross and willful neglect of responsibility by the Department of the Army in the handling of the nerve gas problem.

First, the Army's continuing chemical warfare program has consistently failed to plan for the neutralization or safe disposal of these deadly weapons. I realize full well the urgent need for research and development of chemical warfare agents, and I have no desire to let the Soviet Union and Communist China develop superiority over us in this field. But I also understand the necessity for safety. These have been notably lacking throughout the history of chemical weaponry programs.

The M–55 air-to-ground rocket, the same rocket that is today being prepared for scuttling off the coast of Florida, was designed years ago without any consideration whatever for its safe and easy demilitarization. All weapons become obsolete, and all weapons must be so designed as to render them harmless when they become outdated. The M–55 rocket, loaded with its deadly store of nerve gases, could not be easily demilitarized, so the alternative is to dispose of the entire rocket physically. Such weaponry design can no longer be sanctioned.

Second, the Army failed to consider the alternative methods of physical disposal. Instead it took the easy way out, the same old careless way it had taken on two previous occasions. They chose simply to encase them in concrete and dump all these toxic agents into the sea. Out of sight, out of mind, they thought.

The rockets may end up out of sight, Mr. President, but the effects may come back to haunt us all.

Instead of exploring available options for land disposal, the Army encased the current shipment of gas rockets in concrete and steel and chose to dump them at sea. That was the procedure used in earlier programs and for the Army, apparently, what was done in the past was good enough for the future. I have always believed that we are supposed to learn from the past, to change course once we have erred, rather than blindly continue and compound the mistakes of yesterday.

Only after a storm of congressional and public protest in the spring of last year did the Army grudgingly consent to even look at other possible methods of disposal. Even then, its heart was in the old way of doing things.

Third, Mr. President, I cite the laxity of the Department of the Army in failing to pursue land disposal and both the Army and the Atomic Energy Commission in rejecting underground nuclear destruction of the nerve gas rockets. A land disposal method was first recommended to the Army by a National Academy of Sciences Committee on June 25, 1969. Public and congressional pressure had by then forced the Army to solicit the advice of outside experts. Two days later, the Department of the Interior also recommended land-based disposal. And in July, a distinguished group of experts, headed by Dr. Paul M. Gross, emeritus professor of chemistry, Duke University, and chairman of the Munitions Command Advisory Committee, chose as its first recommendation, "use of a nuclear device to completely destroy them in one explosion." The Atomic Energy Commission's Lawrence Radiation Laboratory—and this is highly significant, Mr. President—concluded:

> These obsolete chemical munitions can be reliably destroyed by an underground nuclear explosion. This operation can also be conducted with no undue or unusual onsite and off-site safety hazard if the structural integrity of the steel shipping vaults can be assured through the time of emplacement hole stemming.

In October 1969, the Lawrence Radiation Laboratory recommendation was flatly overruled by the Commissioners of the AEC. Their reasons were that there was a strong probability of adverse public reaction to such a venture and that the proposed plan would interfere with their projected series of underground nuclear tests. Imagine that. Here we were, faced with the problem of finding the safest and best way to rid ourselves of these obsolete weapons, and the Atomic Energy Commission decides that the best way might mean bad public relations. As for the AEC contention that atomic neutralization would delay other nuclear programs, I would simply point out that priorities do exist, and in my mind the effective disposal of the nerve gas should have been given No. 1 priority. The fact is that, had the AEC used an existing nuclear test hole, the job could have been done by April 13 of this year, 1970. Even if it had to dig a new hole, the task could have been finished as I stand here today, August 13.

If you refer to the report made by the Lawrence Radiation Laboratory at the request of the Department of the Army, you see that various sites were studied for the possibility of disposing of the nerve gas vaults, two at Yucca Flats and one at Pahute Mesa, the Atomic Energy Commission recommended the Pahute site over the Yucca Flats site, saying that in this way we would not disturb any on-going testing by the AEC and it would not have to do certain other procedures relative to personnel who were then engaged in nuclear testing at the Yucca Flats site. If we take the laboratory's projected weekly schedules, interpolate and expand them from a 5-day workweek to a 7-day workweek, and take out the contingency time, the gas could easily have been destroyed by now.

There is some contention even at this moment that they could not have come under the August 1 deadline recommended by the Gross committee as the date after which the safety of these nerve gas rockets could not be guaranteed.

The AEC also mentioned safety factors, but the testimony before Congress last week made it abundantly clear that no meaningful efforts to test safety considerations were made. I can only conclude that the AEC was protecting its own vested bureaucratic self-interest. It was guarding its own flank rather than considering the long-term effects of disposal by non-nuclear means. Nuclear detonation was possible. The manpower, the technology, and the money were there, but the determination was not. Buck passing carried the day, and we were back once again to the old plan of dumping the gas in the ocean.

Fourth, the Army's procedures in handling the nerve agent rockets were shocking and careless.

For example, Army witnesses last week were forced to admit that they had completely lost track of two large lethal gas shipments sunk off the coast of New Jersey in 1967 and 1968. Believe it or not, in this day of computers, sophisticated tracking equipment and all the rest, the Army just has not found over 50,000 rockets previously consigned to the deep. Why not? Because the scuttled cargo contained no instruments to pinpoint the location of the hulks.

Mr. President, there was no surveillance of marine biological life at the New Jersey site before the 1667 and 1968 dumpings, and they finally admitted, under cross-examination, that they have not found those hulks since. So obviously no post-testing of marine biological life was made off the New Jersey coast at the area where this nerve gas was dumped, and even today no one knows where those hulks, with more than 50,000 rockets are.

There are other examples of the haphazard procedures which characterize the whole program. The list is legion. When the current shipment of nerve gas rockets was encased in concrete coffins 18 months ago, no attempt was made to record the positions of the entombed weapons. Are they in there frontward or backward? Nobody knows. This meant, of course, that onsite demilitarization was impossible, because no one is going to cut or drill through the steel and concrete and thereby risk puncturing and detonating the propellant in one of the rockets. And also, the enclosed nerve gas is highly lethal: only three-thousandths of a gram—a drop so tiny as to be invisible to the naked eye—can kill a man within 1 minute.

Why the rockets were encased with their live fuel is also beyond my comprehension. And when they were, the concrete containers were placed one against the other and exposed to the intense summer heat. Not until the public outcry of 1969, and only after strong prodding from the National Academy of Sciences, did the Army take rudimentary, commonsense precautions to avoid a heat-induced explosion. Only then did the Army coat the outer layer of steel with reflective heat-resistant paint. Only then did it separate the coffins from one another to guard against triggering them all if there was an explosion in one. It is a story of incompetence hard to believe.

Another unsettling fact: Despite all the Army's protestations that there is almost no chance of sniper sabotage, we do know that a bullet actually penetrated the steel, concrete, and outer rocket casing of one of the dummy vaults used for testing and lodged in one of the rockets. Today we can all breathe a little easier because the long train ride is over. But I felt more than a little apprehensive, Mr. President, when I saw in the newspapers pictures of hundreds of people lining the routes traveled by the tow trains. We did not have a sniper disaster, but the possibility at least was there. And nobody deserves any citation because the catastrophe was averted.

Fifth, and most important, the long, dismal history of these scuttling projects shows a callous and flagrant disregard for the ocean. We have been dumping the most lethal, odious products of human ingenuity into the environment that we know least about. And we have done so contrary to the advice of our most distinguished scientists.

A National Academy of Sciences group chaired by George B. Kistiakowsky, a distinguished chemist and formerly Special Assistant to the President for Science and Technology from 1959 to 1961, argued:

> We believe . . . that the government should set an example to private organizations and individuals of minimizing risks to humans and damage to the environment even though this may complicate and make more costly its own operations.

This group went on to suggest that—

> All such agents and munitions will require eventual disposal and that dumping at sea should be avoided.

Such advice fell upon deaf ears, and the Army went ahead with the ocean-dumping operation.

The honorable Russell Train, currently Chairman of the Council on Environmental Quality, admitted to the Senate Subcommittee on Oceanography last week that—

> Clearly, the potential long-term environmental effects of sealing the rockets in concrete were not taken into consideration at the time the decision was made.

Certainly, we had a right to expect the Army to leave no stone unturned, no experiment undone, to test the ocean area where the gas was to be deposited. Earlier warning was given in a paper presented by the staff of the Sandy Hook Marine Laboratory in 1969. The possible biological destruction of dumping gas into the sea was pointed out. But nothing in the record before or since indicates that the Army followed this up with biological monitoring—either at the 1967–68 site off the coasts of New Jersey, or at the current site off the the coast of Florida. Since the New Jersey site was marked on international charts as a munitions dumping area, the Army apparently felt it could dispose of anything and everything there with impunity, with no consideration for the impact on marine life.

And the same applies, of course, to the marking of the Florida site.

Once public opinion forced the Army to seek another location for nerve gas burials, a new site, 16,000 feet deep and 282 miles off Cape Kennedy, Fla., was selected. This new locale was over twice as deep as the New Jersey site, and its environment was much different. Yet not a single biological test was made in this basically unknown environment. Not one. And the physical and chemical tests which were hastily made were sadly inadequate to test the full range of environmental impact. The Army contented itself by taking a number of pictures, and then tried to tell the Subcommittee on Oceanography that no important life existed at that depth—"so do not worry. Just leave it to us."

I asked Dr. Howard L. Sanders, senior scientist at the Woods Hole Oceanographic Institution, about this last week. He quickly dispelled the false notion that the vast stretches of the deep ocean floor constitute a barren and desolate wasteland. Rather, said Dr. Sanders, the deep ocean harbors a rich and varied animal life. The diverse marine environment at those depths is finely tuned, and the various life forms have a narrow range of tolerances. Commenting on the testing that was done in the pre-dump survey, and the relative lack of testing at the drop site off New Jersey, Dr. Sanders stated:

> It appears that a somewhat uncritical mania for secrecy has created a needless danger to our society and potentially serious although unmeasured threat to the marine environment.

I submit, Mr. President, that there are very real risks to deep marine life in this current scuttling operation. Herein we encounter yet another Army blunder. In one of the 418 vaults—they do not know which one it is—there is a mine containing 10.4 pounds of deadly VX nerve agent. On land and against humans and other mammals, VX is 200 to 400 times faster and more effective than the GB gas which comprises the remainder of the shipment. In sea water, VX is considered less toxic than GB to marine life, but we now know that it retains its power much longer. It can last for up to 20 years; and in that time who knows what evil it might work?

We just do not know enough about conditions at 16,000 feet to make confident judgments and reassuring public statements. Until many more tests are conducted, all of our judgments are tenuous in the extreme.

Fifteen years ago, we were not even aware of the existence of the Mid-Atlantic Ridge, an important part of a world circling mountain range extending over 40,000 miles. That, Mr. President, is how sketchy our knowledge is of the ocean.

The Army's soothing reassurances rest upon a foundation as volatile as the M–55 rocket's gas. Let me give you an example. In 1964, a munitions-laden liberty ship was scuttled off the New Jersey coast. Five minutes later, it exploded. To this day, the Army is uncertain whether the explosion resulted from the impact on the ocean bottom or from the tremendous pressure at that depth. The blast was so severe that it registered on seismic instruments all over the world.

On another such scuttling operation, the vessel exploded on the way down, causing another seismic disturbance and sending a 600-feet-high waterspout into the air. Even more startling, the SS *Robert Louis Stevenson*—which was supposed to sink to a specific depth and then explode with the munitions aboard, destroying the munitions and removing all danger—sank so slowly off the Aleutians that it drifted into water too shallow to detonate its fuses. Consequently, it is still there intact, and today it is marked on the charts as a navigational hazard.

Within the past few weeks, the Army has assured us that no more sea-dump operations are planned and from now on, disposal will take place on land. I pray this is correct. But I insist that we follow up on this, that we initiate measures to guarantee that no more lethal chemicals are deposited in the ocean. We can no longer afford the luxury of avoiding our responsibilities. We can no longer sanction one small sector of the Government making unilateral policy decisions affecting the future of us all.

In addition to a rigorous followup on future decisions, I earnestly recommend that professionally respectable surveys be conducted at both the New Jersey and Florida sites. We must have accurate data on all the physical, chemical, and biological conditions in the dump areas.

I recommend, further, that the Army be required to furnish annual reports to the appropriate congressional committees, detailing the results of their studies, and the overall status of its chemical warfare disposal projects.

I recommend also that the Army furnish this body with data as to the volume and location of nerve agent munitions—classified material, of course, to be given to the appropriate chairmen of our special Committees of Armed Services and Appropriations and to the leadership. We are told only that the current shipment represents a small percentage of lethal gases stockpiled around the world in M–55 rockets, howitzer shells, land mines, aerial bombs, aircraft spray tanks, and ground-to-ground missiles—all weapons of war.

I could go on with this recitation, Mr. President, but time does not permit a complete presentation of the facts.

The Army has, in effect, locked us all in concrete. The hour is late, and the dumping operation will not now be halted. But we can halt future steps which would imperil the ecology of the ocean. We are dumping not only nerve gas into the deep, but also city wastes, lead, arsenic, mercury, persistent pesticides such as DDT, oil wastes, and countless other effluents. Off of the Pacific coast there are some 40 approved dumping areas. Off the Atlantic seaboard there are some 49. Off the Gulf of Mexico there are 34. That is a total of 123 appproved dumping areas, approved through ignorance and operating in a vacuum of ignorance. The ocean is not a refuse dump into which we can continue casting our waste. We must stop polluting the oceans, and we must stop now.

The problem of the ocean is the problem of us all. Its fate cannot be entrusted to those whose past record is writ large in failure. For my part, as chairman of the Subcommittee on Oceanography, I am determined to do everything in my power to stop the needless depredation of our marine resources. But we need help—help from the American people. Only when the people have made their wishes clear, only when the people have committed themselves, will Government respond with a meaningful program for the future. We all know the inertia of Government, its slow response to most problems. The only way to galvanize it into action is for the people to make their voices heard—not just to articulate environmental quality, but it is time to practice what we preach. Too often, we just deal with the politics of problems rather than with the problems themselves. It is time for the President to get involved, too, instead of relaying word through his press secretary on this particular important subject that he would take no part in this debate.

I submit also that the ocean's future rests not with just one nation, but with all nations. So I suggest that serious efforts be made to develop increased international cooperation for the conservation of the sea. The hour is already late but not, I hope, too late.

Mr. President, we have important committee meetings in course. Both the distinguished Senator from Kentucky (Mr. COOK) and the distinguished Senator from Virginia (Mr. SPONG), among other committee members, have participated very actively in the hearings we have had. They both wanted to be heard on this subject and join generally in these remarks. I am sure they will at a later time elaborate and comment on our hearings, but they wanted the RECORD to reflect—which is certainly appreciated by me—their vital interest in his important subject.

Mr. President, I yield the floor.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. What is the pleasure of the Senate?

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. METCALF. Mr. President, I ask unanimous consent that I be allowed to speak for 2 minutes.

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

THE FEDERAL POWER COMMISSION

Mr. METCALF. Mr. President, it is my understanding that the Federal Power Commission is now considering the appointment of Mr. T. A. Phillips, vice president of the Arizona Public Service Co., to the position of Chief of the Bureau of Power. I understand that in his new position with the Federal Power Commission, Mr. Phillips will continue to draw a pension from his former employer, the Arizona Public Service Co., which is a so-called "regulated" utility.

I suggest that before this appointment is made, it be cleared with the Department of Justice to determine whether or not there is a conflict of interest in connection with a man who is supposed to be in a regulatory agency, regulating power, and at the same time drawing a pension from the Arizona Public Service Co.

I would suggest that the administration apply the same standards to its appointment that it is demanding that we apply in Congress and be applied elsewhere.

I am concerned about putting a man in a regulatory position who is on the payroll of an industry that he is supposed to regulate. I think the ethics are clear that there is a conflict of interest, but I have misgivings even about the legality of the appointment.

I yield the floor.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R 8298. An act to amend section 303(b) of the Interstate Commerce Act to modernize certain restrictions upon the application and scope of the exemption provided therein;

H.R. 17570. An act to amend title IX of the Public Health Service Act so as to extend and improve the existing program relating to education, research, training, and demonstrations in the fields of heart disease, cancer, stroke, and other related diseases, and for other purposes; and

H.R. 18110. An act to amend the Public Health Service Act to extend the programs of assistance to the States and localities for comprehensive health planning.

HOUSE BILLS REFERRED OR PLACED ON THE CALENDAR

The following bills were severally read twice by their titles and referred or placed on the calendar, as indicated.

H.R. 8298. An act to amend section 303(b) of the Interstate Commerce Act to modernize certain restrictions upon the application and scope of the exemption provided therein; to the Committee on Commerce.

H.R. 17570. An act to amend title IX of the Public Health Service Act so as to extend and improve the existing program relating to education, research, training, and demonstrations in the fields of heart disease, cancer, stroke, and other related diseases, and for other purposes; and

H.R. 18110. An act to amend the Public Health Service Act to extend the programs of assistance to the States and localities for comprehensive health planning; ordered to be placed on the calendar.

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENT AND OTHER PURPOSES

The PRESIDING OFFICER. The Chair would inform the Senate that at 12 noon a vote will be taken on the amendment (No. 808) offered by the Senator from Wisconsin (Mr. PROXMIRE). The time between 11 a.m. and 12 noon is under control and will be equally divided between the Senator from Mississippi (Mr. STENNIS) and the Senator from Wisconsin (Mr. PROXMIRE).

Who yields time?

Mr. STENNIS. Mr. President, I understand that the parliamentary situation at this time is that a request should be made to lay before the Senate the pending business, and I ask unanimous consent that that be done.

The PRESIDING OFFICER. Without objection, the Chair lays before the Senate the unfinished business, which the clerk will read by title.

The legislative clerk read as follows:

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.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 808) of the Senator from Wisconsin.

Mr. STENNIS. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 1 minute.

Mr. STENNIS. Mr. President, it could be that the Senator from Mississippi would have to ask unanimous consent for more time to be allowed on the pending amendment than was requested yesterday. The unanimous-consent request was made during the only 10 minutes when I was not in this Chamber yesterday. I was not consulted and knew nothing about it. Thus, the manager of this bill was caught unaware on this matter. I am not complaining. I am just stating facts. Even though I hate very much to ask for more time, I may be compelled to do it.

The Senator who handled the legislation under consideration, the Senator from Washington (Mr. JACKSON), is tied up in the committee, of which he is chairman, and it may be impossible for him to be here between now and noon.

Since this is an attack on that legislation to a degree, I think that the Senate would want to hear from the nonmilitary committee.

I yield the floor.

Mr. PROXMIRE. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 1 minute.

Mr. PROXMIRE. Mr. President, what this amendment attempts to do is not to attack any legislation or to reduce its effectiveness in any way. Quite the contrary. What the amendment attempts to do is to enforce a law which we passed last year and which has been in effect since January 1, 1970, requiring an agency of the Federal Government, whenever it engages in any significant action that could have an adverse effect on the environment, or whenever it proposes any major legislative measures, to make a report on the effects of that on the environment.

Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 2 additional minutes.

Mr. PROXMIRE. Mr. President, in that time, there have been only 75 reports made by agencies of the Government. Far less than there should have been. But of the 75, only one has come from the Department of Defense, in spite of the fact that environmental experts say the Department of Defense is responsible for 80 percent of the pollution caused by the Federal Government.

That one report, which was made with respect to the placing of poisonous gas in the ocean, the Department of Defense refused to issue a report on the transportation of the gas across the country although, of course, many people, not just conservationists, were concerned with the possible environmental effects of that transportation.

Again, this is in no way designed to inhibit or restrain the Department of Defense at all. Its only purpose is to see that a report is filed. The benefit of the report will be to alert Congress to the cost of weapons systems, the cost of testing, the cost of maneuvers, and the cost of a big contract all in environmental terms. We are aware of the money cost. We should be made aware of the cost to our environment.

It will also enable the Department of Defense and the Congress to consider what steps are being taken by the Department of Defense to mitigate and reduce environmental effects so that we know they have given consideration to the environmental consequences. That is what my amendment attempts to do.

I think it is a modest amendment and a limited amendment. If there is anything we can do to modify it or make it acceptable to the Department of Defense so that it would not in any way inhibit, slow down, or delay them, I want to do it. But we want to do it in such a way that we do not destroy the effectiveness of the amendment, of course, which is to prevent pollution.

The main moral force behind it is that the Federal Government calls on the cities, States, counties, and private industry to reduce their pollution at consider-

able sacrifice, certainly the least we should do would be to require the biggest department of Government to make a report on the environmental consequences, the pollution consequences, of the activities of that department.

That is what my amendment attempts to do.

Mr. President, I yield the floor.

Mr. STENNIS. Mr. President, reserving my right to ask for additional time because of the reasons already given, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 15 minutes.

Mr. STENNIS. I am prepared here and now to discuss this amendment on its merits from the opposition standpoint. There are only four or five Senators in the Chamber at this time and a vote is scheduled for 12 noon, so that I do not see how it is possible to pass on this matter on its merits within that time.

I mentioned that the Senator from Washington (Mr. JACKSON), who is trying to get to the Chamber, is tied up in committee as its chairman right now, but he handled the original bill.

One of the basic points in connection with this amendment—I am not speaking against the National Environmental Policy Act, I am for it and support it—but this amendment, in great measure, undertakes to provide that the Department of Defense cannot make contracts for weapons until all of the provisions of the pending amendment have been complied with.

I would emphasize that the amendment would apply to all appropriations of the Department of Defense and would, in effect, become permanent law. Equally important, it would affect prior year moneys not yet expended, so that, we would be, in effect, laying down a special law and tying up the money for the hardware in the military procurement bill for the Department of Defense.

If enacted, the amendment would prohibit the obligation or expenditure of funds for any project or activity included in six general categories enumerated in the amendment until the Department of Defense has complied with the provisions of sections 102(1) and 102 (2)(C) of the National Environmental Policy Act of 1969. The bill purports merely to require the Department of Defense to comply with the existing law; in fact, it will complicate implementation of that law.

The proposed amendment will interfere with the orderly execution of many important programs of the Department of Defense. Let us examine the specific terms of the proposed amendment, which refer to the following two sections of the act:

Section 102(1) of NEPA requires that the policies, regulations, and public laws of the United States be interpreted and administered in accordance with the NEPA policies;

Section 102(2)(C) of the NEPA requires all agencies of the Federal Government to prepare a detailed statement of the environmental aspects of every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the environment. The statement will accompany the proposal through agency review processes, and copies of it will be furnished to various agencies and persons.

The problem is one of time. That is the key to this matter, Mr. President. The amendment would make the provisions of NEPA effective during fiscal year 1971.

That is the present year. NEPA does not establish deadlines for compliance with provisions of sections 102(1) and (2)(c). Those who drafted those sections that are already in the law know that deadlines were impracticable so early in the game. That is bound to have been the basis of it, that it was impracticable to establish hard, firm deadlines and datelines at such an early date.

Section 103 of NEPA established July 1, 1971, as the date by which Federal agencies will propose to the President such measures as are needed to bring their authority and policies into conformity with the intent, purposes and procedures set forth in that act. This amendment, though, would set that time back a year and make it be in effect during fiscal year 1971.

The establishment of that date is clear recognition of the complexity and difficulties involved in implementing this important legislation. Establishing the necessary organization, procedures, both intra and interagency, and putting these into effective operation is a monumental task which takes time.

The details of the proposed amendment may well evolve in the normal implementation of NEPA. There is no reason why the proposed amendment should be injected at this time because it would disrupt the action which is being taken by the Department of Defense in cooperating with the Council on Environmental Quality and following interim guidelines issued by that Council to all Federal agencies.

Another problem which results from the proposed amendment involves the description of projects or activities which are made subject to section 102(2)(C). This determination should be made as part of the normal implementation of the act. It should include direct negotiations between the Council on Environmental Quality and Defense. In my view, it is presumptive to preempt the prerogatives of the agencies and Council which have been charged directly and specifically by law with this responsibility. Definitions should be drawn by the experts in these agencies who are closest and most versed in the technicalities of these matters as they pertain to the unique missions and responsibilities of each agency. The proposed amendment would "jump-the-gun" on this whole process.

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

Mr. STENNIS. I yield.

Mr. PROXMIRE. Mr. President, I believe that the implication of the Senator's remarks was that when the act was passed, it would not be complied with for a year and a half until guidelines were worked up. It seems to me that if we read the language of the act, it does not suggest that at all.

The section to which the Senator refers says that all agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of the act.

What the act provides is that they have a year and a half to determine whether there is any legal, I repeat legal reason why they cannot comply. In the meantime it was certainly contemplated that they must file reports and that they would not continue for a year and a half with whatever pollution the various Federal agencies might be engaged in without any improvements.

The best evidence of that is that 75 reports have already been made, and the Defense Department has only made one; 80 percent of the pollution and one report.

Mr. STENNIS. Mr. President, I thank the Senator from Wisconsin.

The act we are talking about, NEPA, was approved January 1, 1970. One of the delays stemmed from the fact that the Council of Environmental Quality Control which was set up by that act finally issued implementing guidelines in early May 1970, which in turn were further implemented by agency instructions and guidelines which, in the case of the Department of Defense, were issued on August 8, 1970.

So, half a year was gone before the Council issued guidelines. Some time had to pass in which to allow the Department to get their guidelines.

I was in a hearing this morning and Secretary of Transportation Volpe emphasized that he worked on this matter and got a man in charge of environmental compliance and was able to abolish an office and set this up without asking Congress for an additional secretary. I commend him for that.

They had to rush around and get ready to create a new bureau within the department and get ready for compliance.

I do not know of any department that had a more serious problem than did the Department of Transportation.

Mr. PROXMIRE. Mr. President, I think the Senator from Mississippi is fair and considerate. I know that he has the same objective I do. He, too, would like to prevent pollution and recognize that the Federal Government should be setting an example and should not be dragging along in these matters.

Under these circumstances and in view of the Senator's position—which I respect, although I disagree—suppose that I modify my amendment to provide as follows:

None of the funds authorized to be appropriated by this act or any other act or for the use of the armed forces of the United States may be obligated or expended after June 30, 1971, for any project or activity described in this section.

This would do several things. It would exempt the Defense Department, in effect, from the amendment for a fiscal year. It would delay the effectiveness of this until the last deadline set in the basic law had been reached.

Would the Senator feel that this would be a reasonable and fair accommodation?

Mr. STENNIS. Mr. President, I thank the Senator for his suggestion. I will certainly consider it.

I think, though, that the committee which handled this measure and presented it to Congress, headed by the Senator from Washington (Mr. JACKSON) and who handled the bill on the floor, should have a major part in any decision made about this matter.

The Senator from Washington is trying to arrange his affairs so that he may come to the Senate floor. I expect him shortly.

Mr. President, I thank the Senator for his suggestion. The Senator from Washington is trying to arrange it so that he can get to the floor to be heard. I will continue with my explanations here, as we see it, on the requirements of the bill.

I emphasize that it took 5 months after the bill passed for the council to get their regulations. There certainly should be a reasonable period for the Department of Defense to get theirs, by August.

I do not know how they did it. I do not know of any proof here. I do not know of anything except the general statement that they have been dragging their feet. I do not know of any hearings. Maybe there are some facts. But I do not think that there have been any hearings on this matter—none that I know of.

I imagine that they have about as hard a job with such a large activity and so many operations as any department, and perhaps more so.

Mr. President, I continue with my statement with reference to this amendment.

NEPA has qualifying language, by deliberate design, to recognize that the implementation of all the provisions should not be absolute. Section 101(b), for example, states that it must be "consistent with other essential considerations of national policy." Section 102 states "to the fullest extent possible" agencies shall comply. I must conclude, therefore, that the proposed amendment, which is expressed in absolute terms relative to restrictions on the obligation or expenditure of funds and its implementation during fiscal year 1971, is not compatible with the broader intent of the law.

The control of the quality of the environment is a complex matter. The act represents the first attempt of the Federal Government to deal comprehensively with this important subject. The implementation of the act is under the direction of the recently established Council on Environmental Quality, and the Department of Defense is working closely and constantly with the Council in an effort to comply with the letter and spirit of the law. The Council has distributed Interim Guidelines relating to section 102(2)(C) for the Federal agencies to follow. They are interim because of the extremely technical and difficult subject matter with which they deal, and the Council needs to obtain experience in this area in order to develop permanent programs. The proposed amendment would create obstacles to the efforts of the Council. It not only requires the Department of Defense to comply with the 1969 act, but it defines what the provisions of that act are by enumerating specific categories of activities for which the Department must comply with the act, whether or not those activities would otherwise be included in the provisions of the act itself.

In substance, Mr. President, this amendment can be expected to delay many important projects for the reason that funds could not be expended until the reports called for in the law have been submitted.

Mr. President, this amendment gets ahead of the present law; it gets ahead of the surveillance of the parent committee of the Senate, the Committee on Interior and Insular Affairs; and it gets ahead of the whole program in picking out the Department of Defense in adding these additional requirements.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I ask unanimous consent that we have a quorum call, the time to be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, may I have the attention of the acting minority leader?

Mr. President, I ask unanimous consent that the vote on the pending amendment take place at 1 o'clock rather than 12 o'clock, because of circumstances which none of us foresaw at the time the request was made.

The PRESIDING OFFICER. Is there objection to the request? The Chair hears none, and it is so ordered.

Mr. STENNIS. Mr. President, I thank the majority leader for fixing that time.

The PRESIDING OFFICER. Without objection, it is so ordered and the time until 1 o'clock will be equally divided.

Mr. GOLDWATER. Mr. President, I would like to ask the Senator from Wisconsin a few questions. Unfortunately, I was not in the Chamber yesterday when he made his presentation.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, this will be on my time. I yield myself 10 minutes.

Mr. GOLDWATER. I did not realize we were under controlled time.

I have a brief résumé of what the Senator proposes in his amendment. The Senator states:

> The Department of Defense is responsible for 80 percent of the pollution caused by the Federal Government.

That is a rather large figure. I wonder if the Senator could give an explanation of that statement.

Mr. PROXMIRE. Yes. This was an estimate made by an expert on the Council on Environmental Quality. The reason he estimated it this high is that this is the biggest department; this is the department that has almost 1,000 ships, 26,000 planes, and which engages in testing of all weapons, and that kind of thing.

Looking at the Federal Government as a whole, we know that that part of the Government that expends its funds in areas such as service on the national debt and social security checks paid out, engenders no pollution; and of course some other agencies for example: Transportation, do engender pollution. But Defense is No. 1.

Also, if there is a particular contract in a particular part of the country, where a small town, as has happened, might get a billion-dollar contract, this brings in a great number of people, which affects land use and sewage, and the environment problem could be serious.

I do not say we should stop or delay the contracts for a minute. I say the Department of Defense has a responsibility to say they are aware of the adverse effect on the environment and to indicate what alternatives are available to meet that situation, and the plans to reduce the adverse effect. That is what the report would achieve.

Mr. GOLDWATER. In the Senator's paper the Senator states:

> 4. The amendment states that no funds for the military for a specific proposal or major action "significantly affecting the human environment" in this or other Acts may be expended until the military complies with the law.

I understand what the Senator is trying to get to, but I can think of weapons systems on which reports cannot be made because of lack of knowledge of what might happen.

I think it would be easy to estimate the effect on a community by moving a military base, or a large manufacturer moving a plant to a more favorable location. I can understand how studies could be made on existing equipment.

To give an example, there has been a lot of talk lately about pollution that is going to be caused by the SST, the 747 and its large engines, and all the large air buses. The truth is there is less pollutants coming from these engines than from the 727 or the 707; the truth is that when water vapor is released from these engines the carbon monoxide molecules are turned to water and there is no pollution at all.

Mr. PROXMIRE. The Senator may well be right, but we had some contrary testimony which indicates that the SST would provide more pollution per passenger mile flown, and so forth. But that is in controversy. All that has to be done in this case is to file a report. If the opinion just expressed is the conviction of the Defense Department, all they have to do is say that.

Mr. GOLDWATER. What would be the nature of the report?

Mr. PROXMIRE. The nature of the report is spelled out in the public law itself, and I quote from it. This is not my amendment; this is the law now on the statute books. It reads:

> Include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—
>
> (i) the environmental impact of the proposed action,
>
> (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
>
> (iii) alternatives to the proposed action,
>
> (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
>
> (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Once again, it is hard to spell these things out. They just have to do the best they can. The report can be concise. They can speak in general terms about it. What they have to do is make a report. They do not have to stop the contract. They simply say what they have done to show the impact on the environment.

Mr. GOLDWATER. Is there any penalty in the existing law for not complying?

Mr. PROXMIRE. There is no penalty. That is why the amendment is necessary. There is no effective penalty.

Mr. President, the whole purpose of the amendment is to provide some kind of effective sanction. At the present time it could be argued that the Defense Department and some other agencies are violating the law and not complying with it. Ordinarily, people are fined or sent to jail for violating the law. All we are doing here is providing that if they do not comply with the law, they will get no funds. Compliance with the law is going to take no great sacrifice. It will take no substantial amount of time, or it should not.

Mr. GOLDWATER. In effect, the amendment would require a report as a prerequisite for the spending of moneys for the types of activities specified?

Mr. PROXMIRE. That is correct.

Mr. GOLDWATER. Let us assume the money has been authorized and appropriated. How would that be controlled?

Mr. PROXMIRE. If the money had already been authorized and appropriated, the only way we could control it would be in the event the Defense Department were to engage in a significant action—this is what the basic law says—that had not been contemplated before, but for which moneys were available. Say they wanted to change the kind of weapons systems they had, which would adversely affect the environment. At the time they wanted to go ahead with the new project, they would be required to file a report.

Mr. GOLDWATER. I think the amendment would be very restrictive on ongoing projects or in delaying new projects because of this requirement. I am in sympathy with what the Senator is trying to do. I personally think the law can do that. If they are not complying with the law, I think we can bring the necessary pressure.

I do not like the pressure of holding back money that is badly needed for research and development to find out these things, or for the development of weapons systems that we must have, because many times we have to sort of guess. I would not be able to tell the Senator, for example, that the B–1's engines will not pollute, or if I said they would pollute, I could not tell the Senator how much they would pollute. I do not think anybody really knows.

In this general field, the Air Force would be at a great disadvantage with their planes. So would the Army, So would the Navy.

With respect to an oceangoing ship, I think anyone who has ever been on one knows that it pollutes the water. But can anything be done to change that, for example? If we authorize and appropriate money for the Navy to build a new ship, can we expect the Navy to produce a clean ship that leaves no pollution?

Mr. PROXMIRE. I think that is an excellent example of how this provision, if made effective, could provide protection to the environment. The Navy discharges garbage from its tremendous ships. They take action which results in pollution, in harbors and other areas. All we ask is that they be aware of it, that they are conscious of it, and that they have considered alternatives and are trying to do their best to mitigate it in ways they can. The amendment does not require that they do anything but make Congress aware of what they are trying to do to prevent pollution of the environment.

We must recognize that if we are trying to be tough about cracking down on industrial polluters, the least we can do in the Federal Government is to require the biggest department of the Government to file a report, when it does not really have to comply with the law at all. It seems to me this is a modest, limited proposal. If we could arrive at sanctions other than through limiting funds, I would be happy to consider any other way which could bring pressure on them to file a report.

There is no evidence that they really intend to do anything. They have indicated that they have some guidelines, but they are weak, as I shall indicate later.

Mr. GOLDWATER. I am far more interested in what they do. If the Senator is interested only in receiving a report, I do not think that goes far enough.

Let me cite an example that I saw last week. On Sunday I flew out West and took my boat down to San Diego. As I was coming out of the harbor, coming back to San Diego, here came a great, big freighter which was washing out its bilges. This is done by every ship in the world. Why cannot we, either by State law of California, or by Federal law, make it illegal to flush bilges out except, say, 100 miles at sea?

That is the kind of action I am in favor of taking to get at what the Senator proposes.

For example, we have said to the mining companies in my State, where we produce 52 percent of the copper produced in this country, that in 2 years they have got to get the smoke out of their stacks; we do not care whether they produce copper or not. I think the same kind of action could be taken to prevent the pollution of our streams.

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

Mr. PROXMIRE. Mr. President, I yield myself 3 additional minutes.

Mr. GOLDWATER. I do not think it is sufficient just to ask for a report and not demand that something be done. If the report is made, for example, and they say, "This weapon will pollute," what would the Government do, under the Senator's proposal?

Mr. PROXMIRE. I think the Defense Department and the other Federal agencies are sufficiently sensitive—if not, we can make them sensitive—to criticism and action by the Congress and the Executive. If it is sufficiently disclosed that there is pollution, we will be in a position to take action. That was the spirit of the Jackson bill which became law and has been in effect since January 1.

It would not. The Senator from Arizona is perfectly correct; it would not by itself stop any pollution, but it would require the agency to identify it and to demonstrate that they have considered alternatives to it, and it would put the overseeing agencies in Congress and the administration in a position to know what was at stake, and how the environment was being damaged by Federal action.

Mr. GOLDWATER. Let me pursue the amendment a little bit further. I want the Senator to understand that I am in complete sympathy with what he is trying to do. My feeling is that we have already provided the mechanism. If it is not working, let us perfect the mechanism, and not add more law to what we already have.

As I understand it, this amendment would apply not only to fiscal year 1971, but to any expenditure, including, of course, prior year moneys, being effective on the date of enactment, insofar as the reporting requirement is concerned, and could cause some real delays in major programs; am I correct in that?

Mr. PROXMIRE. Will the Senator repeat his question?

Mr. GOLDWATER. Yes. As I understand, the amendment would apply not only to fiscal year 1917 funds, but also to any other funds.

Mr. PROXMIRE. Well, it would apply in the sense that those funds might conceivably be used to fund new action; and if new action with funds that have already been provided is contemplated, that could have an adverse effect on the environment, the Defense Department would be required to file a report.

Of course, let me say that as far as this amendment is concerned, I think the implication of the Senator's question is quite correct that where the funds

have been appropriated, there is nothing we can do to reclaim those funds; they have been appropriated.

All I am saying is that their past action would not free them from at least a moral requirement of indicating what effect the new action would have on the environment.

Mr. GOLDWATER. Well, let us say, for example—and I am sure there are many others—that the Navy discovers a new atomic submarine is emitting waste. They did not think it would happen; it did not happen on earlier models, but the last one they built, they discover, is putting out waste—not atomic waste, necessarily, but waste. In other words, it is polluting.

What effect would the Senator's amendment have on another submarine of the same type that was being constructed, say, at Norfolk?

Mr. PROXMIRE. It would only have an effect if we have funds in this bill that would provide for the consideration of that particular submarine. Just because there are similar submarines which are polluting the environment would not absolve the further action with respect to a submarine to be constructed in the future. They would still have to file a report indicating what effect this has on the environment, and what the alternatives are, with a view to preventing it.

Mr. GOLDWATER. Let me pursue this just a little further.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PROXMIRE. Will the Senator from Mississippi yield the Senator from Arizona further time?

Mr. STENNIS. Yes, I yield the Senator 3 minutes.

Mr. GOLDWATER. As to the Senator's comment, the application of the amendment to prior year funds will pose serious administrative problems, no matter what the effective date of the amendment might be.

For example, in a competitive contract, where the life of the bid remains over 60 days after the contracts have been revealed, there might not be, in many instances, time to assess the environmental impact, and this might impose a problem on any beginning implementing date. I can see grave reservation on a manufacturer's part on getting into a competitive bid where this problem might exist.

Mr. PROXMIRE. Well, this is difficult, but again, it does not require any action on the part of a contractor or on the part of the Defense Department except the filing of a report indicating what the pollution might be.

It is true that when they file that report, there may be indications that the Defense Department is going to have to change its approach and take a more expensive approach that would have an effect on the contract.

But I think once we adopt this amendment, it would be clear that the Defense Department is going to have some problems, and that this is something to consider as they move ahead on these contracts.

The whole point to consider is that if we are serious about preventing pollution, this is the minimal action, certainly, we would have to take. It would be effective under the present law, inasmuch as it would require reports not now being made.

Mr. GOLDWATER. I could not disagree with the Senator's intent, nor what he is saying, but I cannot see that just the filing of a report is going to help the thing.

Let us say they admit they have a weapon that will pollute. I think the answer should then be, "Let us do everything we can to make it nonpolluting."

Mr. PROXMIRE. Exactly. But there is no one who asks that question now.

Mr. GOLDWATER. There is no provision in the Senator's amendment for that.

Mr. PROXMIRE. But we would be made aware. We would be in a position, then, to consider the cost, not only in terms of money, but in terms of environmental destruction, which may be more serious, even, than money. We would at least know about it, and could consider our options at the congressional level, when we decide to fund one weapon instead of another, or do our best to persuade the Defense Department to adopt measures which would reduce pollution.

Mr. GOLDWATER. If the Defense Department has failed to report under the existing law, then I think that the very fact that we are discussing this matter on the floor should wake them up. I am amazed that they have not done it, although I have to say that I can understand their inability to do it, because of the complete lack of knowledge, in many cases, of what the weapon might do in the way of pollution.

I think, too, that in the long run you could stretch this thing to the manufacturer.

In other words, let us say that we are going to build a tank, and the factory that builds it is polluting a stream, and the Defense Department reports that fact. Then what penalties do we have to use on the manufacturer, who is polluting the stream that is getting the Defense Department in trouble because they need the weapon?

Mr. PROXMIRE. Well, of course, all we get out of this law and my implementation of the law would be a report. It is true there are other provisions; I would hope we can provide those, and make them much stronger on the Federal level.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PROXMIRE. Two additional minutes. And much stronger, perhaps, on a State and local level, to prevent air pollution.

That is a different issue. But we should have the awareness of whether or not the Defense Department or other agency—and I intend to broaden this as we go along to cover the Transportation Department, public works, and so forth—so that we will at least know what pollution effect our actions have, and so we will be in a position to act to discourage pollution.

It may well be that as we go down the line, and pollution gets worse in our country, we may want to take more serious action; but at least now we can take the first step, and make that first step meaningful—not just pass a law, as we did last year, and have it flouted and ignored.

Mr. GOLDWATER. Can the Senator tell me if anyone who is in charge of the operations under this law has made a specific request of the Secretary of Defense? I wonder if he is aware of the fact that he has to submit these reports.

Mr PROXMIRE. I am sure the Secretary of Defense is aware of it. As a matter of fact, we have just gotten action by the Defense Department, after my amendment was introduced. They have enunciated some guidelines which they expect to put into effect, and that action was only taken within the last 72 hours or so by Deputy Secretary Packard, who indicated that there are some guidelines he wants to follow. I have a lot of trouble with those guidelines; I think they are pretty weak, and ignore some important areas that could result in environmental pollution. But nevertheless, they have begun to take action.

After all the Defense Department has very able people in it, including the Secretary and the Deputy Secretary.

The PRESIDING OFFICER. The Senator's time is expired.

Mr. GOLDWATER. Let me have 5 more minutes, to complete the colloquy.

Mr. PROXMIRE. And I am sure they were aware of this Jackson bill when it was passed. I brought it up with the Defense Department when its representatives appeared before my Joint Economic Subcommittee. I asked them why they did not comply, and was told that it was in the pipeline.

So they are aware of the law, and just have not complied with it. It seems to me we need some muscle in order to make that compliance effective.

Mr. GOLDWATER. Mr. President, I may be wrong in this, but I am informed that the Corps of Engineers has submitted 26 or 27 reports since this law became effective, and I believe it was only set up on the 8th of this month.

Mr. PROXMIRE. The Corps of Engineers, as I understand, is operating in the public works area. In making these reports, such as on dumping certain matters in a lake in connection with dredging on a public works project, the Corps of Engineers, in this capacity, is working as a part of our public works effort, not as a part of our defense effort, primarily.

Mr. GOLDWATER. Does the Senator feel that the fact that this law has only been effective, we might say, since August 8, might have some bearing on the matter?

Mr. PROXMIRE. The law has been in effect since January 1, 1970.

Mr. GOLDWATER. I know, but the machinery was not set up. It has not been a working organization, as I understand it, since the first part of this month.

Mr. PROXMIRE. Well, since the first part of this month, the Defense Department has begun to take cognizance, since we introduced the amendment, and since they have begun to get some questions and pressure from the chairman of the committee; at least, he has been asking

about this, and why they have not complied with it. But 75 reports have been made, including, as the Senator pointed out, 26 by the Corps of Engineers and a number by other agencies; only one by the Defense Department in connection with any military action, and that was the burying of the poisonous chemicals in the ocean.

Mr. STENNIS. Mr. President, will the Senator yield with respect to a matter that occurred while the Senator from Arizona was out of the Chamber momentarily?

Mr. GOLDWATER. I yield.

Mr. STENNIS. The proof shows that the Council on Environmental Control did not issue their guidelines until April 30, 1970. The Defense Department came along on August 8, 1970, with theirs, which was a mighty good run for the money, and that was only a few days ago. Today is the 13th.

Mr. GOLDWATER. Will the Senator put that in the RECORD?

Mr. STENNIS. Yes.

Mr. GOLDWATER. I was unaware of that.

Mr. STENNIS. Mr. President, I ask unanimous consent to have this memorandum printed in the RECORD at the conclusion of the colloquy between the Senator from Arizona and the Senator from Wisconsin.

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

(See exhibit 1.)

Mr. PROXMIRE. May I say to the Senator from Mississippi and the Senator from Arizona that the issuance of guidelines is not necessary for compliance with the law. When they contemplate a new action or propose legislation, it seems to me that they can issue a report without waiting on guidelines either from the Environmental Control Administration or from the Defense Department. They know that the law requires this, and the law was effective as of January 1. They did not say that the enactment would not take place until the later date.

Mr. GOLDWATER. I have one more comment to make, and I would like the Senator from Wisconsin to respond.

As I understand it, the amendment sets up six categories of activities that must be complied with prior to the spending of money. The 1969 act is cast in much broader terms and does not specify the activities to be covered. It is left to the discretion of the agency. The amendment, as I see it, goes beyond the intent of the act insofar as attempting to specify the activities to be covered is concerned. The act was purposely left broad because of its pioneering character. Would the Senator agree with that assumption?

Mr. PROXMIRE. No, I would not agree.

What we tried to do in setting forth these specific areas was to recognize that the failure of the department to comply had been perhaps because the law itself had been so general; that they did not feel that anything they were doing—although they were doing many things that could obviously have an adverse effect on the environment—would have a significant effect on the environment.

We specified particular areas, and it seems to me—if the Senator would go over those areas—that if the DOD objects to these guidelines, it means they do not mean business about stopping pollution. It includes "developing, construction, and testing of any weapons system which significantly affects the environment."

If you are going to have an effective Environmental Quality Act requiring reports from agencies which are polluting the environment, it should be required.

Another thing that concerns me is that in our amendment we specified that the transportation or transfer of dangerous substances or devices, and this is explicitly left out of the Defense Department guidelines. They are not going to report on that, and I think they should.

Mr. GOLDWATER. I thank the Senator for engaging in this colloquy. It has cleared up some points.

My reaction at the end of this exchange is that we are not giving the Defense Department or any other department time to get going under this act, because they have only had a relatively few days. I think that the Senator and I, if we were engaged in a business, would expect departments in our business to report promptly. But we have been around this Government long enough to know that those things do not happen in the Federal Government, as he and I would like to have these things happen. I would like to have them submit these reports. I think we ought to give them a little more time.

If Secretary Laird is politically smart, as I know him to be, I think that the discussion of the Senator's amendment will give him the needed nudge to get going with these reports, even though reports have been made.

As I say, my knowledge of weaponry and weapons and manufacturing leads me to believe that in many cases there is no way that the Defense Department can make a report that would satisfy the environmentalists of this country, and I am one of them.

There are areas that I think they can correct themselves and start correcting immediately, and I would hope that the mere discussion of this matter on the floor of the Senate would suffice.

I dislike to see another law where we already have a law. If there are deficiencies in the other law, let us amend that law and not get into the business of controlling the expenditure of funds that are asked for and, I might say, thanks to the Senator from Wisconsin, are getting extremely tough to get. I dislike to see it made any tougher.

Mr. PROXMIRE. I think the Senator raises a very understandable objection, as does the Senator from Mississippi, that the Defense Department should have more time.

In the first place, let me point out that they have had more than 7 months now. It went into effect on January 1 of this year. They have not complied so far. We can say that they have had this much notice and they ought to comply from now on.

To accommodate the further allowance of time, I am willing to modify my amendment to provide that the funds would only be withheld after June 30, 1971, which will give them an entire year.

It seems to me that this is a very substantial compromise on my part, and it would give them all the time in the world—a full year and a half from the time of enactment—in order to come into line with what the law requires.

Mr. GOLDWATER. I thank the Senator. I yield the floor.

EXHIBIT 1

INTERIM GUIDELINES ON ENVIRONMENTAL STATEMENTS

1. PURPOSE

Pending the publication of a DoD Directive on the National Environmental Policy, this memorandum provides interim guidance with regard to the general policies and procedures required by Section 102(2)(C) of Public Law 91-190, the National Environmental Policy Act of 1969 (NEPA); Executive Order 11514; and the Interim Guidelines for Statements on Major Federal Actions Affecting the Environment published by the Council on Environmental Quality (CEQ). This memorandum will amplify these documents by (a) identifying actions requiring environmental statements; (b) clarifying procedures for obtaining the information and reviews required for their preparation; (c) designating officials responsible for the preparation, review and disposition of environmental statements; (d) insuring proper coordination of such actions, including consultation with appropriate Federal, State and local agencies; and (e) explaining requirements for providing timely public information on proposals for legislation and other major actions having potential significant adverse effects on the natural environment.

2. BACKGROUND INFORMATION

Section 101 of the NEPA has established the Federal policy on environmental quality. Section 102 of the NEPA directs that the policies, regulations and public laws of the United States will be interpreted and administered to the fullest extent possible in accordance with the NEPA. Section 102(2)(C) of the NEPA requires, among other things, that there be included with every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the natural environment a detailed five-point statement of the environmental impact of the intended action.

The NEPA further directs that prior to submitting the final environmental statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise. Copies of such statements and the comments and views of the appropriate Federal, State and local agencies which are authorized to develop and enforce environmental standards will be made available to the President, the CEQ and the public, and will accompany the proposal through the existing agency review processes.

The CEQ has provided Interim Guidelines herewith attached to assist Federal departments, agencies and establishments to implement the NEPA.

3. POLICY

a. At the inception of a major action, including the preparation of recommendations on reports or proposals for legislation of primary concern to the Department of De-

fense, the Office of the Secretary of Defense, Military Departments, Organization of the Joint Chiefs of Staff, and Department of Defense Agencies (hereafter referred to as DoD components) shall make an assessment of the probable ecological and environmental impacts of that action.

b. In the continuation of an existing program which was initiated prior to the passage of the NEPA, DoD components will similarly assess the environmental impact of the proposed continuing action.

c. If these appraisals indicate that (1) a significant adverse environmental effect will result from a proposed action or a proposed legislation or (2) a proposed action is likely to be controversial with respect to environmental effects, a five-point draft environmental statement will be prepared in accordance with this memorandum.

4. ACTIONS REQUIRING ENVIRONMENTAL STATEMENTS

a. The necessity for submitting an environmental impact statement should be evaluated in accordance with the attached CEQ guidelines. If in the best judgment of the DoD component, the proposed action will cause important adverse changes in natural surroundings, including effects on man, wild life, plants, fish and marine life, or will result in substantial controversy, submission of an environmental statement is required. To assure that the requirements of the NEPA are met, DoD components will interpret broadly the scope of the term "significant adverse environmental effect."

b. Activities or actions of the following types, in particular, should be assessed carefully for the necessity of preparing an environmental statement:

(1) Real estate acquisitions, outleases of land, and developments of new installations;

(2) Construction at installations of major mission changes which will result in a significant impact on the surrounding communities or natural resources;

(3) Initiation of the development of new weapons systems whose noncombat use may adversely affect the environment;

(4) Programs for weapons testing;

(5) Large scale training operations;

(6) Programs for utilization of pesticides and herbicides;

(7) Proposed legislation which, if enacted, would initiate commitments of natural resources, result in possible degradations of the environment, forecast changes in the use of land, or alter population concentrations.

c. Examples of some activities or actions which normally would not require submission of an environmental statement include the following:

(1) Improvement projects for the abatement of air and water pollution;

(2) Routine training operations;

(3) Combat operations;

(4) Transportation of munitions;

(5) Activities or actions in foreign countries (However, the requirements of Section V, I of DoD Directive 5100.50 are to be complied with.);

d. Separate guidance will be issued regarding environmental protection requirements of contractors in their performance of contracts with the Department of Defense.

e. *Projects or Programs Initiated Before January 1, 1970.* Consistent with the above guidelines, an environmental statement shall be filed on actions significantly adversely affecting the quality of the environment even though the actions arise from projects or programs initiated prior to enactment of the NEPA on January 1, 1970. Where it is not practicable to reassess the basic course of action, further incremental major actions should take into account environmental consequences not fully evaluated at the outset of the project or program.

f. In cases where the DOD component has any doubt about the necessity of preparing an environmental statement for a particular proposed action, the Office of the Assistant Secretary of Defense (Health and Environment) (OASD (H&E)) should be consulted.

5. PREPARATION OF AN ENVIRONMENTAL STATEMENT

An environmental statement shall be prepared by the DOD component which is proposing the intended activity, is proposing the legislation, or is the principal agency concerned with the proposed legislation. The statement must include the following information:

a. Predictions of the probable *total impact of the proposed action on the environment.* This shall include commentary on the direct impact on some part of the environment such as the clearing of forests or the pollution of air or water resources, as well as the more threatening dangers associated with changes in existing ecosystems. Likewise, any benefits to the environment resulting from the proposed action shall be mentioned.

b. A statement of any *adverse environmental effects which cannot be avoided should the proposal be implemented.* This would include an evaluation of the extent to which aesthetically or culturally valuable surroundings, human health, high standards of living, and other of life's amenities would be sacrificed.

c. A list of carefully developed *alternatives to the proposed action* that might avoid some or all of the adverse environmental effects. Include with these alternatives economic, technical and operational considerations, as well as their environmental impact.

d. Exposition of the *relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity. For this exposition,* assessment of the actions' cumulative and long-term effects is required. Short-term uses are to be construed as those not affecting succeeding generations.

e. *An inventory of all irreversible and irretrievable commitments of natural resources which would be involved if the proposed action should be implemented.* This section should identify the extent to which the action curtails beneficial uses of the environment.

6. PROCESSING ENVIRONMENTAL STATEMENT ORIGINATED BY A DOD COMPONENT

a. *Submission of Draft Statement to "the OASD (H&E).* The cognizant DoD component shall prepare a *draft* environmental statement in accordance with paragraph 5 above and submit 3 copies to the OASD (H&E). This submission will be accomplished prior to any formal review outside the DoD.

b. *Review of Draft Statement by the OASD* (H&E). The OASD (H&E) shall review the draft statement and obtain comments from other appropriate elements of OSD. The OASD (H&E) shall then communicate with the originating DoD component, indicating concurrence or recommending changes.

c. *Submission of Draft Statement to the CEQ.* Following receipt of the OASD (H&E) review and concurrence, the originating DoD component shall submit 10 copies of the *draft* or revised *draft* statement to the CEQ. A copy of *revised* draft statements shall be sent to the OASD (H&E).

d. *Review of Draft Statement by Other Federal Agencies.* Immediately after submission of the *draft* statement to the CEQ, the originating DoD component shall solicit the views of other Federal agencies having jurisdiction by law or special expertise with any of the environmental problems associated with the proposed action in accordance with paragraph 8 of the attached CEQ guidelines.

e. *Review of Draft Statement by State and Local Agencies.* Concurrently with solicitation of the views of other Federal agencies, the originating DoD component shall solicit comments from State and local agencies when the environmental impact of a proposed action is pertinent to those agencies. A significant degree of public interest in the proposed action or similar previous actions would be one indication of the pertinence of the issue to State and local agencies. Also, the need for State or local authorizations to enforce environmental standards would necessitate solicitation of their remarks. Comments on the *draft* environmental statement may be obtained directly or by publication of a summary notice in the *Federal Register.* The notice in the *Federal Register* may specify that comments of the relevant State and local agencies must be submitted within 60 days of publication of the notice.

f. *Submission of the Final Statement to the CEQ.* After concluding the review process with other Federal, State and local agencies, 10 copies of the final environmental statement including 10 copies of all comments received shall be forwarded to the CEQ. When appropriate, a presentation of the problems and objections raised by other agencies in the review process and the disposition of those issues should be included with the *final* environmental statement. Concurrently a copy of the *final* submission will be provided to the OASD (H&E) by the originating DoD component.

7. PROCESSING ENVIRONMENTAL STATEMENTS ORIGINATED BY OTHER FEDERAL AGENCIES

a. When a request for review and comment on an environmental statement prepared by another Federal agency is received by OASD (H&E), the following procedure shall be followed:

(1) The OASD(H&E) shall determine which DoD components or elements within DoD should review the environmental statement. This determination shall be based upon the nature of the environmental impact involved and the DoD expertise available.

(2) The appropriate DoD components or elements will be requested to review environmental statements and shall provide OASD(H&E) with comments.

(3) The OASD (H&E) shall prepare a consolidated review report or designate the DoD component or element with primary interest to prepare such a report. The consolidated review report shall be forwarded to the requesting Federal agency by the OASD(H&E).

b. Should a request for review and comment on an environmental statement from another Federal agency be received directly by a DoD component, these procedures shall be followed. If the DoD component:

(1) Concurs with or without comment—reply directly to the requester and provide the OASD(H&E) with an information copy:

(2) Nonconcurs—send the proposed comments to the OASD(H&E).

c. If it is determined that more than one DoD component has been requested to review and comment on an environmental statement prepared by a Federal agency, the reply shall be forwarded through the OASD(H&E) for preparation of a consolidated response.

8. PROCESSING OF LEGISLATIVE ACTIONS

Pending definitive guidance from the Office of Management and Budget, the present methods for accomplishing coordinating actions on proposed legislation shall be continued. Necessary comments indicating the impact on the environment shall be included in DoD legislative proposals and in comments prepared by DoD components on legislation prepared by other Federal agencies or introduced by members of Congress and of primary concern to the DoD.

9. AVAILABILITY OF ENVIRONMENT IMPACT STATEMENTS AND COMMENTS TO PUBLIC

The DoD component which has prepared an environmental statement is responsible for making its statement and all comments pertinent to it available to the public pursuant to the provisions of the Freedom of Information Act (5 U.S.C. Sec. 552).

10. IMPLEMENTING ACTIONS

DoD components shall comply with the provisions of this memorandum and shall:

a. Designate an individual who will act as liaison with the OASD(H&E) with respect to environmental impact statements.

b. Identify new and continuing actions and advise th OASD(H&E) no later than 60 days from the date of this memorandum of all environmental statements pending preparation or submission.

c. Submit 2 copies of implementing instructions to OASD(H&E) within 60 days of date of this memorandum.

d. Provide OASD(H&E) with recommended changes in the policies and procedures delineated in this memorandum within 90 days of the date of this memorandum.

STATEMENTS ON PROPOSED FEDERAL ACTIONS AFFECTING THE ENVIRONMENT

1. PURPOSE

This memorandum provides interim guidelines to Federal departments, agencies and establishments for preparing detailed environmental statements on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, as required by Section 102(2)(C) of the National Environmental Policy Act (P.L. 91–190) (hereafter "the Act"). Underlying the preparation of such environmental statements is the mandate of both the Act and Executive Order 11514 (35 *Fed. Reg.* 4247) of March 5, 1970 that all Federal agencies, to the fullest extent possible, direct their policies, plans and programs so as to meet national environmental goals.

2. POLICY

Before undertaking major action or recommending or making a favorable report on legislation that significantly affects the environment, Federal agencies will, in consultation with other appropriate Federal, State and local agencies, assess in detail the potential environmental impact in order that adverse affects are avoided, and environmental quality is restored or enhanced, to the fullest extent practicable. In particular, alternative actions that will minimize adverse impact should be explored and both the long- and short-range implications to man, his physical and social surroundings, and to nature, should be evaluated in order to avoid to the fullest extent practicable undesirable consequences for the environment.

3. AGENCY AND BOB PROCEDURES

(a) Pursuant to Section 2(f) of Executive Order 11514, the heads of Federal agencies have been directed to proceed with measures required by section 102(2)(C) of the Act. Consequently, each agency will establish no later than June 1, 1970 its own formal procedures for (1) identifying those agency actions requiring environmental statements, (2) obtaining information required in their preparation, (3) designating the officials who are to be responsible for the statements, (4) consulting with and taking account of the comments of appropriate Federal, State and local agencies and (5) meeting the requirements of section 2(b) of Executive Order 11514 for providing timely public information on Federal plans and programs with environmental impact. These procedures should be consonant with the guidelines contained herein. Each agency should file seven (7) copies of all such procedures with the Council on Environmental Quality, which will provide advice to agencies in the preparation of their procedures and guidance on the application and interpretation of the Council's guidelines.

(b) Each Federal agency should consult, with the assistance of the Council on Environmental Quality if desired, with other appropriate Federal agencies in the development of the above procedures so as to achieve consistency in dealing with similar activities and to assure effective coordination among agencies in their review of proposed activties.

(c) It is imperative that existing mechanisms for obtaining the views of Federal, State and local agencies on proposed Federal actions be utilized to the extent practicable in dealing with environmental matters. The Bureau of the Budget will issue instructions, as necessary, to take ful advantage of existing mechanisms (relating to procedures for handling legislation, preparation of budgetary material, new policies and procedures, water resource and other projects, etc.).

4. FEDERAL AGENCIES INCLUDED

Section 102(2)(C) applies to all agencies of the Federal Government with respect to recommendations or reports on proposals for (1) legislation and (ii) other major Federal actions significantly affecting the quality of the human environment. The phrase "to the fullest extent possible" in Section 102(2)(C) is meant to make clear that each agency of the Federal Government shall comply with the requirement unless existing law applicable to the agency's operations expressly prohibits or makes compliance impossible. (Sec. 105 of the Act provides that "The policies and goals set forth in this Act are supplementary to those set forth in existing authorizations of Federal agencies.")

5. ACTIONS INCLUDED

The following criteria will be employed by agencies in deciding whether a proposed action requires the preparation of an environmental statement:

(a) "Actions" include but are not limited to:

(i) recommendations or reports relating to legislation and appropriations;

(ii) projects and continuing activities directly undertaken by Federal agencies, supported in whole or in part through Federal contracts, grants, subsidies, loans, or other forms of funding assistance, and involving a Federal lease, permit, license, certificate or other entitlement for use;

(iii) policy- and procedure-making.

(b) The statutory clause "major Federal actions significantly affecting the quality of the human environment" is to be construed by agencies with a view to the overall, cumulative impact of the action proposed (and of further actions contemplated). Such actions may be localized in their impact, but if there is potential that the environment may be significantly affected, the statement is to be prepared. Proposed actions the environmental impact of which is likely to be highly controversial should be covered in all cases. In considering what constitutes *major* action significantly affecting the environment, agencies should bear in mind that the effect of many Federal decisions about a project or complex of projects can be individually limited but cumulatively considerable. This can occur when one or more agencies over a period of years puts into a project individually minor but collectively major resources, when one decision involving a limited amount of money is a precedent for action in much larger cases or represents a decision in principle about a future major course of action, or when several government agencies individually make decisions about partial aspects of a major action. The lead agency should prepare an environmental statement if it is reasonable to anticipate a cumulatively significant impact on the environment from the Federal action.

(c) Section 101(b) of the Act indicates the broad range of aspects of the environment to be surveyed in any assessment of *significant effect*. The Act also indicates that adverse *significant effects* include those that degrade the quality of the environment, curtail the range of beneficial uses of the environment or serve short-term, to the disadvantage of long-term, environmental goals. Significant effects can also include actions which may have both beneficial and detrimental effects, even if, on balance, the agency believes that the effect will be beneficial. Significant adverse effects on the quality of the *human environment* include both those that directly affect human beings and those that *indirectly* affect human beings through adverse effects on the environment.

(d) Because of the Act's legislative history, the regulatory activities of Federal environmental protection agencies (e.g., the Federal Water Quality Administration of the Department of the Interior and the National Air Pollution Control Administration of the Department of Health, Education, and Welfare) are not deemed actions which require the preparation of an environmental statement under Section 102(2)(C) of the Act.

6. RECOMMENDATIONS OR REPORTS ON PROPOSALS FOR LEGISLATION

The requirement for following the Section 102(2)(C) procedure as elaborated in these guidelines applies to both (i) agency recommendations on their own proposals for legislation and (ii) agency reports on legislation initiated elsewhere. (In the latter case only the agency which has primary responsibility for the subject matter involved will prepare an environmental statement). The Bureau of the Budget will supplement these general guidelines with specific instructions relating to the way in which the Section 102(2)(C) procedure fits into its legislative clarance process.

7. CONTENT OF ENVIRONMENTAL STATEMENT

(a) The following points are to be covered:

(i) the probable impact of the proposed action on the environment, including impact on ecological systems such as wildlife, fish and marine life. Both primary and secondary significant consequences for the environment should be included in the analysis. For example, the implications, if any, of the action for population distribution or concentration should be estimated and an assessment made of the effect of any possible change in population patterns upon the resource base, including land use, water, and public services, of the area in question.

(ii) any probable adverse environmental effects which cannot be avoided (such as water or air pollution, damage to life systems, urban congestion, threats to health or other consequences adverse to the environmental goals set forth in Section 101(b) of P.L. 91–190.

(iii) alternatives to the proposed action (Sec. 102(2)(D) of the Act requires the responsible agency to "study, develop and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources"). A rigorous exploration and objective evaluation of alternative actions that might avoid some or all of the adverse environmental effects is essential. Sufficient analysis of such alternatives and their costs and impact on the environment should accompany the proposed action through the agency review process in order not to foreclose prematurely options which might have less detrimental effects.

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity. This in essence requires the agency to assess the action for cumulative

and long-term effects from the perspective that each generation is trustee of the environment for succeeding generations.

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented. This requires the agency to identify the extent to which the action curtails the range of beneficial uses of the environment.

(vi) where appropriate, a discussion of problems and objections raised by other Federal agencies and State and local entities in the review process and the disposition of the issues involved. (This section may be added at the end of the review process in the final text of the environmental statement.)

(b) With respect to water quality aspects of the proposed action which have been previously certified by the appropriate State or interstate organization as being in substantial compliance with applicable water quality standards, mere reference to the previous certification is sufficient.

(c) Each environmental statement should be prepared in accordance with the precept in Section 102(2)(A) of the Act that all agencies of the Federal Government "utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and decision making which may have an impact on man's environment."

8. FEDERAL AGENCIES TO BE CONSULTED IN CONNECTION WITH PREPARATION OF ENVIRONMENTAL STATEMENT

The Federal agencies to be consulted in connection with preparation of environmental statements are those which have "jurisdiction by law or special expertise with respect to any environmental impact involved" or "which are authorized to develop and enforce environmental standards". These Federal agencies include components of (depending on the aspect or aspects of the environment involved):

Department of Agriculture.
Department of Commerce.
Department of Defense.
Department of Health, Education and Welfare.
Department of Housing and Urban Development.
Department of the Interior.
Department of Transportation.
Atomic Energy Commission.

For actions specially affecting the environment of their regional jurisdictions, the following Federal agencies are also to be consulted:

Tennessee Valley Authority.
Appalachian Regional Commission.

Agencies obtaining comment should determine which one or more of the above listed agencies are appropriate to consult. It is recommended that the above listed Departments establish contact points for providing comments and that Departments from which comment is solicited coordinate and consolidate the comments of their component entities. The requirement in Section 102(2)(C) to obtain comment from Federal agencies having jurisdiction or special expertise is in addition to any specific statutory obligation of any Federal agency to coordinate or consult with any other Federal or State agency. Agencies seeking comment may establish time limits of not less than thirty days for reply, after which it may be presumed the agency consulted has no comment to make.

9. STATE AND LOCAL REVIEW

Where no public hearing has been held on the proposed action at which the appropriate State and local review has been invited, and where review of the proposed action by State and local agencies authorized to develop and enforce environmental standards is relevant such State and local review shall be provided for as follows:

(a) For direct Federal development projects and projects assisted under programs listed in Attachment D of the Bureau of the Budget Circular No. A-95, review by State and local governments will be through procedures set forth under Part 1 of Circular No. A-95.

(b) State and local review of agency procedures, regulations, and policies for the administration of Federal programs of assistance to State and local government will be conducted pursuant to procedures established by Bureau of the Budget Circular No. A-85.

(c) Where these procedures are not appropriate and where the proposed action affects matters within their jurisdiction, review of the proposed action by State and local agencies authorized to develop and enforce environmental standards and their comments on the draft environmental statement may be obtained directly or by publication of a summary notice in the *Federal Register* (with a copy of the environmental statement and comments of Federal agencies thereon to be supplied on request). The notice in the *Federal Register* may specify that comments of the relevant State and local agencies must be submitted within 60 days of publication of the notice.

10. USE OF STATEMENTS IN AGENCY REVIEW PROCESSES; DISTRIBUTION TO COUNCIL ON ENVIRONMENTAL QUALITY

(a) Agencies will need to identify at what stage or stages of a series of actions relating to a particular matter the environmental statement procedures of this directive will be applied. It will often be necessary to use the procedures both in the development of a national program and in the review of proposed projects within the national program. However, where a grant-in-aid program does not entail prior approval by Federal agencies of specific projects, the view of Federal, State and local agencies in the legislative and possibly appropriation, process may have to suffice. The principle to be applied is to obtain views of other agencies at the earliest feasible time in the development of program and project proposals. Care should be exercised so as not to duplicate the clearance process, but when actions being considered differ *significantly* from those that have already been reviewed an environmental statement should be provided.

(b) Seven (7) copies of draft environmental statements (when prepared), seven (7) copies of all comments received thereon (when received), and seven (7) copies of the final text of environmental statements should be supplied to the Council on Environmental Quality in the Executive Office of the President (this will serve as making environmental statements available to the President). It is important that draft environmenttal statements be prepared and circulated for comment and furnished to the Council early enough in the agency review process before an action is taken in order to permit meaningful consideration of the environmental issues involved.

11. APPLICATION OF SECTION 102(2)(C) PROCEDURE TO EXISTING PROJECTS AND PROGRAMS

To the fullest extent possible the Section 102(2)(C) procedure should be applied to further major Federal actions having a significant effect on the environment even though they arise from projects or programs initiated prior to enactment of P.L. 91-190 on January 1, 1970. Where it is not practicable to reassess the basic course of action, it is still important that further incremental major actions be shaped so as to minimize adverse environmental consequences. It is also important in further action that account be taken of environmental consequences not fully evaluated at the outset of the project or program.

12. AVAILABILITY OF ENVIRONMENTAL STATEMENTS AND COMMENTS TO PUBLIC

The agency which prepared the environmental statement is responsible for making such statement and the comments received available to the public pursuant to the provisions of the Freedom of Information Act (5 U.S.C. Sec. 552).

13. REVIEW OF EXISTING AUTHORITY, POLICIES AND PROCEDURES IN LIGHT OF NATIONAL ENVIRONMENTAL POLICY ACT

Pursuant to Section 103 of the Act and Section 2(d) of Executive Order 11514, all agencies, as soon as possible, shall review their present statutory authority, administrative regulations, and current policies and procedures, including those relating to loans, grants, contracts, leases, licenses, certificates and permits, for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of the Act. After such review each agency shall report to the Council on Environmental Quality not later than September 1, 1970, the results of such review and their proposals to bring their authority and policies into conformity with the intent, purposes and procedures set forth in the Act.

14. SUPPLEMENTARY GUIDELINES; EVALUATION OF PROCEDURES

(a) The Council on Environmental Quality after examining environmental statements and agency procedures with respect to such statements will issue such supplements to these guidelines as are necessary.

(b) Agencies will assess their experience in the implementation of the Section 102(2)(C) provisions of the Act and in conforming with these guidelines and report thereon to the Council on Environmental Quality by December 1, 1970. Such reports should include an identification of problem areas and suggestions for revision or clarification of these guidelines to achieve effective coordination of views on environmental aspects (and alternatives, where appropriate) of proposed actions without imposing unproductive administrative procedures.

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

Mr. PROXMIRE. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator from Wisconsin has 36 minutes, and the Senator from Mississippi has 28 minutes.

Mr. PROXMIRE. I yield myself 5 minutes to yield to the Senator from Maine.

Mr. MUSKIE. I am extremely interested in the basic provision of the law to which the Senator's amendment is directed. It is section 102 of the Environmental Quality Act as it was passed last year.

In the Public Works Committee, and specifically the Subcommittee on Air and Water Pollution, we have over the past 6 or 8 years undertaken to develop effective policies to come to grips with the activities of Federal agencies which in themselves have an undesirable environmental impact.

Last year, two provisions were written into the law—the one upon which the Senator has focused, and a second one, which was written into the law and finally signed into law this March by the President in the Water Quality Improvement Act.

Section 21, covering cooperation by all Federal agencies in the control of pollution, was written for the purpose of

policing Federal activities from an environmental point of view.

For example, section 21 (b)(1) provides that any applicant for a Federal license or permit to conduct any activity, including but not limited to the construction or operation of facilities which may result in any discharge into the navigable waters of the United States, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate. The effect is to see that the water quality standards of that State are being complied with.

The pertinent paragraphs of section 21 read as follows:

SEC. 21. (a) Each Federal agency (which term is used in this section includes Federal departments, agencies, and instrumentalities) having jurisdiction over any real property or facility, or engaged in any Federal public works activity of any kind, shall, consistent with the paramount interest of the United States as determined by the President, insure compliance with applicable water quality standards and the purposes of this Act in the administration of such property, facility, or activity. In his summary of any conference pursuant to section 10(d)(4) of this Act, the Secretary shall include references to any discharges allegedly contributing to pollution from any such Federal property, facility, or activity, and shall transmit a copy of such summary to the head of the Federal agency having jurisdiction of such property, facility, or activity. Notice of any hearing pursuant to section 10(f) of this Act involving any pollution alleged to be effected by any discharges shall also be given to the Federal agency having jurisdiction over the property, facility, or activity involved, and the findings and recommendations of the hearing board conducting such hearing shall include references to any such discharges which are contributing to the pollution found by such board.

(b)(1) Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters of the United States, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge originates or will originate, that there is reasonable assurance, as determined by the State or interstate agency that such activity will be conducted in a manner which will not violate applicable water quality standards. Such State or interstate agency shall establish procedures for public notice in the case of all applications for certification by it, and to the extent it deems appropriate, procedures for public hearings in connection with specific applications. In any case where such standards have been promulgated by the Secretary pursuant to section 10(c) of this Act, or where a State or interstate agency has no authority to give such a certification, such certification shall be from the Secretary. If the State, interstate agency, or Secretary, as the case may be, fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence. No license or permit shall be granted if certification has been denied by the State, interstate agency, or the Secretary, as the case may be.

The sanction in that provision of the law is the issuance of the permit or the license which may be required. This covers dredging activities, for example. It involves any activities conducted under a Federal permit or license. It includes, in addition, the activities of the Atomic Energy Commission in approving licenses for nuclear powerplants. It also, I think, could be used to cover discharges under the Refuse Act of 1899, which prohibits the discharge from industrial or any sources into the navigable waters of the United States.

In brief, section 21 of the Water Quality Improvement Act provides sanctions—through the permitting or licensing authority of the United States—which can cover every industrial establishment in the country.

That was worked out, as I say, over a period of years, as we sought to find some kind of precision instrument for getting at Federal activities.

What troubles me about the Senator's amendment is this: Section 102 was written last year under legislation reported initially by the Committee on Interior and Insular Affairs. Because it also involved the jurisdiction of the Public Works Committee, we became involved with the Committee on Interior and Insular Affairs in writing this and other provisions of that act. Consequently, the provision does require a report. The law as written did not include the sanction because at that time there was no central agency in existence with the authority to police it. Under the provisions of that act, the Council on Environmental Policy was created and now consists of three commissioners, chaired by Russell E. Train. The first report of the Council was just issued this week.

My Committee on Air and Water Pollution received testimony from Mr. Train and his people on the report, and one of the questions raised in the hearing this week was the implementation of section 102, under existing provisions of law. What must be done is this: First of all, the Council has assumed authority given under the act to implement section 102. It is in the process of doing so. It has developed guidelines which have been circulated to the Federal agencies for that purpose. It is going to require, under the authority of the Presidential office in which it is located, compliance with section 102.

There are two limitations at the present time—three, really.

The first is the inadequacy of the Council staff at this point. The Council was created in January. It has been staffing up before its appropriations picture has been fully defined. The President requested full funding for this year of $1½ million. The Appropriations Committee approved only $1 million. If the $1 million is its ceiling, the total staff of the Council will be 37 or 38. That is the first limitation.

The second limitation is that the guidelines have just been developed, are being circularized, and will be implemented.

The third limitation, the extent of which we do not fully understand as yet, is that there are no sanctions other than the prestige of the Council and the backing of Presidential authority. Its effectiveness will require implementation.

May I say, in addition, to the Senator, that in the Public Works Committee, with those Federal activities under our jurisdiction, we have assumed the responsibility for insisting that the provisions of the act be complied with.

For instance, the Senate earlier this year considered the rivers and harbors bill. There were included in that bill, as it came to the committee, reports that did not include the section 102 reports. We sent them back and required that section 102 reports be filed and sent up to the committee. That demonstrates, I think, it was the intent of both the Interior and Insular Affairs Committee and the distinguished Senator from Washington (Mr. JACKSON) ——

The PRESIDING OFFICER (Mr. MCINTYRE). The time of the Senator from Wisconsin has expired.

Mr. PROXMIRE. Mr. President, I yield 3 additional minutes to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 3 additional minutes.

Mr. MUSKIE. The intent of the Committee on Interior and Insular Affairs and the Senator from Washington (Mr. JACKSON), who will comment on that himself, as well as the Public Works Committee, was to establish a clearcut policy to be implemented under the emerging authority and prestige of the Council on Environmental Policy, backed up by the two committees involved in writing the law.

What troubles me about the Senator's amendment are two questions.

The first is this: Section 102 requires that reports shall be filed in connection with any legislation proposed by any department on any major action proposed by the department.

Someone has to decide what is a major action requiring compliance with the law.

The second question is this: The law is specific with respect to the makeup of the report and the questions it must cover. That means someone must decide, if the Senator's amendment is adopted, whether a satisfactory report has been filed under section 102, because the Senator's amendment does not impose or give that responsibility to any agency of government—it does not give that authority to any agency of government.

It may be an assumption that the Council on Environmental Policy will assume those functions. It is not equipped to do so. There may have been the assumption that some other agency of government will have that responsibility. It is not identified, if that is the case.

But in the case of the Department of Defense, what troubles me is that in order to insure that a report is filed with respect to every action that may have been recommended as major by someone, under section 102, there is going to have to be a monitoring by some agency outside the Department of Defense of all decisions taken.

That seems to me to be an administrative task of some magnitude that should be carefully examined in committee.

Thus, I should like to suggest to the Senator from Wisconsin that this proposal, which I think has merit, certainly in terms of its objective, be referred to the Committee on Interior and Insular Affairs, and to my Committee on Air and Water Pollution, as well as to other appropriate committees, so that we can examine it. It may well be there is a need for this kind of tough sanction to implement section 102, but we should really focus on the implication of the various sanctions which can be made available and which we can use.

The Senator from Wisconsin should be complimented on offering his amendment, but I am troubled about the mechanics of implementing it, if it should become law.

Thus, I thought it might be helpful to give this background to the Senate as a matter of record.

Mr. PROXMIRE. The distinguished Senator from Maine speaks from a great deal of experience in this area. He has worked on it as much as any Member of the Senate—perhaps more than any other Senator. He knows what he is talking about.

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

Mr. PROXMIRE. I yield myself 3 additional minutes.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 3 additional minutes.

Mr. PROXMIRE. The Senator from Maine makes a legitimate point, but I feel that the Council has guidelines, the Department of Defense now has guidelines, and in general there will be agreement. It would seem to me that where there is disagreement, it would have to be resolved by the President or the Attorney General. There could be additional consideration given by the Committee on Interior and Insular Affairs or the Public Works Committee, which could be useful, but what concerns me very deeply is that we have waited for more than 7 months now for some effective action under the law, and we have not received any.

There is no question that we have not gotten the kind of report we should have. The Department of Defense is the most clearly negligent because, with respect to defense itself, it filed exactly one report.

Mr. MUSKIE. Will the Senator from Wisconsin yield?

Mr. PROXMIRE. I yield.

Mr. MUSKIE. Let me read section 102. The Senator is impatient in having to wait 7 months. I have been impatient for 8 years, may I say to the Senator, as we have undertaken to write this legislation. Let me read section 102 and what is required of every department. Unless the departments equip themselves with staff and resources to do it, this is not an easy task.

This is what section 102(c) requires:

> All agencies of government shall include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—
>
> (i) the environmental impact of the proposed action,
>
> (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
>
> (iii) alternatives to the proposed action,
>
> (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
>
> (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.
>
> Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5 United States Code, and shall accompany the proposal through the existing agency review processes;
>
> (D) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;
>
> (E) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;
>
> (F) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

Let me say to the Senator from Wisconsin that when we wrote this provision into the law, what we were interested in getting was not some pro forma, routine, casual examination of the environmental impacts of the actions taken by the Federal agencies. We wanted the kind of in-depth study and evaluation that could come only if each agency organizes itself with the appropriate staff and with the appropriate resources in research and other activities to do the job right.

Our complaint about the Department of Defense, the Department of Interior, the Corps of Engineers, and all of the other agencies is that they have given nothing but casual attention to the environment. We have thought we should split off the environmental improvement responsibilities of agencies from their resource development responsibilities.

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

Mr. PROXMIRE. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 2 additional minutes.

Mr. MUSKIE. I think there is a conflict and inconsistency which makes them less than an objective judge of the environmental impact of their own activities—if 7 months of useful time would not necessarily be sufficient to produce the kind of reports we had in mind for section 102.

I appreciate the impatience of the Senator, but I really earnestly ask him to consider whether this matter ought not to be given adequate care and study.

We thought about it. My committee is concerned. The committee of the Senator from Washington is concerned. We are concerned about the matter. We have written this provision into law. I think it would be most helpful for the achievment of the Senator's objective.

Mr. PROXMIRE. Mr. President, it seems to me that the Defense Department certainly has staff to burn. They have plenty of personnel. They have hundreds of thousands of people. They have a colossal number of personnel. They should be able to comply with the law in 7 months and should be able to file more than one report.

They did object to filing the report but not because it took expertise. They objected to filing the report on policy grounds. They should have been able to file many more reports than just the one.

It is clear that they will not comply, in my view, with the very comprehensive charter which the Senator from Maine has detailed unless we provide this kind of effective sanction.

I have suggested that we go another year. If 7 months is not enough—and it seems to me that it is—let us give them 18 months. Would that be enough to satisfy the Senator from Maine?

Mr. MUSKIE. Mr. President, I have served on committees with the Senator from Wisconsin. I know how carefully he examines every detail of legislative proposals which come before him.

I undertake to do the same thing in my committee. We devoted long hours, days, and weeks to this very problem. Now the Senator is suggesting that, in the hour since I learned enough about this amendment to understand it, that I should be able to form a judgment that it ought to be written into law effective a year from now.

The Senator himself does not apply that kind of judgment making process to legislative proposals that come before him. And I find it difficult to do it myself.

It may be an answer, but it has not had that kind of attention.

Mr. STENNIS. Mr. President, I yield 5 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 5 minutes.

Mr. JACKSON. Mr. President, first of all, I associate myself with the remarks of the able Senator from Maine in connection with the pending amendment.

Mr. President, much as I understand the concerns of the Senator from Wisconsin, I must oppose his amendment requiring the Department of Defense to comply with the National Environmental Policy Act. Because the amendment requires the Department to do what it is already legally required to do, it seems innocuous. But there are, I believe, real dangers in starting a recodification of the National Environmental Policy Act on a department-by-department, agen-

cy-by-agency basis. If we accept this amendment today, it is only the beginning. From now on, we may expect a series of amendments designed to relate different agencies to different sections of the act. It would be tempting, for example, to write special language covering the Corps of Engineers or the Federal Highway Administration. Once this process is started, there is no logical place to draw the line.

The net result of this approach is to undermine the broad, comprehensive coverage of the National Environmental Policy Act by suggesting that some problems are more important than others and by sowing the seeds of confusion as to what matters are covered by the act. No doubt some agencies would prefer that their activities not be covered by the act. The fact remains that the act is all-inclusive in its coverage and it is the responsibility of the Council on Environmental Quality and the Congress, in the exercise of its oversight function, to see that the act is complied with.

Mr. President, the members of the Council on Environmental Quality appeared before the Senate Interior Committee this morning and I asked the chairman, Russell Train, to comment on the pending amendment. Mr. Train made it perfectly clear that the members of the Council share the views I have expressed here this morning. Although the Council has only been in office 6 months, I personally have every reason to believe that it is prepared to see that the executive branch fulfills its obligations under the National Environmental Policy Act. I believe that passage of the proposed amendment would unduly complicate the Council's task of administering the act. It should be rejected.

Mr. President, this bill originated in my committee. I introduced it, as the Senator from Wisconsin knows. I worked very closely with the able Senator from Maine. We worked out the differences between the House version and the Senate version.

It is fundamental to this act that all agencies be included. I want to point out—and the Senator knows—that there are some real legal problems involved if we follow this course. If we single out the Department of Defense for special treatment, would that mean that other agencies are immune?

Mr. PROXMIRE. Of course not. We do not limit this to the Defense Department.

Mr. JACKSON. Why does not the Senator introduce an amendment to provide that it will be a condition precedent to the expenditure of any funds that agencies first comply with section 102?

Mr. PROXMIRE. I will do that when the legislation comes before us. It is not appropriate at this time.

Mr. JACKSON. We have had other appropriation bills here, and other measures. We have not added this kind of condition.

I concur completely in what the Senator is trying to do. I commend him for it.

I point out that the guidelines for compliance have now been submitted for the Department of Defense, and all its subagencies. They are moving on this problem.

I held hearings on the problem of Culebra. The Senator may be familiar with that problem in Puerto Rico. The Department is submitting to the committee the necessary information in compliance with section 102.

A lot of Federal agencies have not yet fully complied with section 102. The Department of Defense is not the only one.

We are, in our oversight authority, going into the whole problem.

I am working very closely with the able Senator from Maine in a joint effort of the Public Works Committee and the Senate Committee on Interior and Insular Affairs to see that the objective of section 102 is fulfilled.

I caution about the danger here of saying that this agency is the one that is not complying when other agencies have yet to comply.

The council has been operating under very difficult circumstances. They have had a difficult problem in getting adequate staff, as the Senator from Maine knows. We provided $1.5 million for staff in the Senate version of the appropriations bill which was vetoed.

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

Mr. STENNIS. Mr. President, I yield an additional 5 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for an additional 5 minutes.

Mr. JACKSON. Mr. President, as the Senator knows, the House cut it by $500,000. Only $1 million is available. There is not adequate funding for staff purposes. We hope that the money will be restored if the veto is sustained or if a supplemental bill is submitted.

Mr. President, I yield to my friend, the Senator from Maine.

Mr. MUSKIE. Mr. President, I think it would be helpful to read into the RECORD the comments of Chairman Train earlier this week before the Air and Water Pollution Subcommittee on section 102.

He said this:

Section 102(2)(C) of the National Environmental Policy Act has helped meet the second deficiency which I noted in the Federal Government's organization with respect to environmental issues—environmental impacts of Federal action were being overlooked in decision-making.

Section 102(2)(C) requires Federal agencies to include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment a detailed statement on: the environmental impact of the action, adverse impacts that cannot be avoided, alternatives, the relationship between short- and long-term uses, and any irreversible commitment of resources involved.

These detailed statements are to include comments of State and local environmental agencies as well as appropriate Federal agencies with environmental expertise.

The statements are to be made available to the Council on Environmental Quality, the President and the public.

On April 30, the Council issued Interim Guidelines for the preparation of environmental impact statements, requiring each Federal agency to establish internal procedures for implementing this provision of the Act by June 1, 1970.

These Interim Guidelines have been published in the Federal Register, under date of May 12th, as I recall.

In response to these guidelines the agencies have been developing internal procedures to implement Section 102.

At the same time, with help from the supplementary staffing authorization contained in the Environmental Quality Act, we have been developing our own staff capacity to review agency programs with particular impact on the environment, to evaluate the Section 102 statements that have been filed and to identify actions which should be covered.

With this foundation we should be able to assess the overall effectiveness of the Section 102 procedure.

Mr. Train also stated:

Finally, with respect to the Section 102 procedure, we have not limited our operating responsibility simply to the issuance of formal guidelines.

On the contrary, we have endeavored to develop and maintain close working relationships at the staff level with the key agencies.

I also call attention to this testimony by Mr. Train:

Senator SPONG. On pages 9 and 10 of your statement, you speak of Section 102. That section was employed, was it not, in the decision to dump the nerve gas in the Atlantic Ocean?

Mr. TRAIN. Yes. You said "employed", and I want to comment on the use of that word, because——

Senator SPONG. Well, use your own, if you will.

Mr. TRAIN. Because it is a section of the statute which is self-operative. It comes into play whenever any Federal agency is recommending any major action with potential significant environmental impact, and these are submitted to us.

Such a statement was submitted by the Department of the Army to the Council. The Council has commented to the Department of the Army on its statement, pointing out certain deficiencies which we felt of a procedural or technical nature in that particular Section 102 report.

Senator SPONG. If I recall, this is my own conclusion from listening to testimony, the report dealt possibly with the chemical aspects, but told us very little, and possibly that is because of lack of knowledge as far as everyone is concerned about the biological effects.

But what I would like to ask you is: Was that report prepared and circularized for comment early enough to affect the decision-making process before the action was taken?

Mr. TRAIN. The report was initially submitted to the Council in draft form on the 8th of July, and a final version was submitted to the Council on the 30th of July, as I recall, and during that period, although only before us in draft form, our staff did have occasion and opportunity to comment on and discussion with the Department of the Army's staff various aspects of the project.

It is hard to state, in any case, whether sufficient time has been given. In a case that is as complicated and controversial, necessarily, as this kind of project, I would say that the 30-day period which our guidelines provide is probably on the short side.

I hestitate to generalize. I think in many cases, the answer to that question would turn upon the completeness of the information provided in the first instance, so that in this case, where we felt there were some deficiencies of information, the period probably was not long enough.

The second point, I think, is covered

by Mr. Train's testimony. I ask unanimous consent that all of his testimony be printed in the RECORD.

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

STATEMENT OF HON. RUSSELL E. TRAIN, CHAIRMAN, COUNCIL ON ENVIRONMENTAL QUALITY

Mr. TRAIN. Thank you, Mr. Chairman.

If I might respond to one of the Chairman's introductory remarks, in which he expressed the hope that the Joint Committee on Environment might be established soon, I think that the Council would be glad to associate himself with that hope, noting that we are presently scheduled to testify before three committees this week on the report, and I suspect this may be only a beginning. I am sure a joint committee would be very welcome by all hands here.

Senator MUSKIE. Well, I hope we can help to prepare you this morning for your later bouts this week.

Mr. TRAIN. Mr. Chairman, and members of the committee:

It is a pleasure to appear before this distinguished committee for the first time, I would say, in our role as a Council, because, of course, I have appeared before this committee on previous occasions.

For the record, I would like to note that I am accompanied by both members of the Council, Mr. Robert Cahn, and Dr. Gordon MacDonald.

Our appearance today, in connection with the filing by the President of the First Annual Environmental Quality Report, furnishes a good opportunity to review the work of the Council and those areas in the report of particular relevance for this committee.

As you know, the First Annual Report has been prepared during the organizing period of the Council. Only a few months have been available for the task.

Likewise, the Council has had only a small staff during this period, all of whom have carried major responsibility for the wide variety of projects and issues, other than the report, which have concerned the Council during these months.

We also recognize that we possess insufficient environmental quality indicators or systems by which to monitor the environment and outline trends with any degree of the accuracy at this time.

Nevertheless, within the bounds of these limitations, the Council has attempted to bring together a comprehensive description of environmental problems and issues facing the Nation.

It does not require a highly developed monitoring system to tell that the present state of our environment is badly degraded, that our waters remain seriously polluted, that the air in and around our cities is in unsatisfactory condition, that congestion and noise and stress are increasing, that environmentally related disease is rising, that the solid wastes of our society are continuing to mount, that open space and natural areas are diminishing, that the natural diversity of our surroundings is decreasing, that ugliness and tawdriness are spreading across our American landscape.

Nevertheless, the year 1970 has marked the beginning of a significant attack on these problems. Not only has public awareness and concern reached new levels, but at the same time:

We have begun to achieve a better understanding of the complex root causes of our problems;

We have begun to build into the decisionmaking process of Federal agencies a consideration of a broad range of environmental factors;

We have continued and strengthened the development of a comprehensive action program that, given persistence and support, can arrest and reverse the adverse trends in our environment, and

We have begun to build the institutional base for more effective environmental management.

I would like to just give one word of emphasis to that last item, which I think is too often overlooked, when public attention tends to focus on specific problems.

We think so much in terms of programs to deal with those ad hoc, immediate problems, and rightly so, but over the long pull, we feel that the better institutional base for environmental management is one of the very basic fundamental goals which we must achieve.

The Annual Environmental Quality Report deals at some length with problems of interest to this committee. It includes analyses of the sources, effects, and major problems of water pollution, air pollution, and solid waste.

In the field of water pollution, vigorous and effective enforcement of water quality standards is necessary, as this committee well knows. The first need is to strengthen the legal basis for enforcement.

This committee has devoted much time to an examination of the Administration's proposals which would extend Federal jurisdiction to intrastate and groundwaters, streamline the conference hearing procedures, establish effluent requirements, and authorize fines up to $10,000 a day.

We understand that this committee is working on legislation along these lines.

However, a strengthened legal basis is only the first step in enforcement. To be truly effective, enforcement must be triggered by information from an adequate information system. States, municipalities, and industries should systematically be warned of violation of standards.

If action does not follow, and if extenuating circumstances do not exist, the Federal Government should automatically seek court action.

The successful control of air pollution requires strengthened legislation, as does successful control of water pollution.

I know that this committee has been working long and hard on proposed amendments to the Clean Air Act, and I hope that you soon will be reporting them out of committee.

The automobile is clearly the number one air pollution problem. The President has proposed legislation to provide for certification of assembly line vehicles to assure that emission control standards are met.

The Council on Environmental Quality is overseeing an effort to develop non-polluting alternatives to the internal combustion engine. However, there is still a need to insure that once new model vehicles are certified as conforming to the standards, they continue to meet the standards under actual operating conditions.

The Council report states that alternatives to assure continued control of motor vehicle emissions under actual road conditions should be evaluated.

The international dimensions of the air pollution problem should not be overlooked. The report contains an entire chapter devoted to man's unintentional modification of world climate.

The discharge of particulates and carbon dioxide to the atmosphere could have dramatic and long-term effects on the world's temperature with many major consequences.

The United States should take the initiative in forming cooperative arrangements to control air pollutants that could have widespread effects.

As this committee has recognized, we need to develop much better techniques for disposing of solid wastes. We must also aim at reducing the volume of material which is considered waste by encouraging maximum recycling and reuse of materials.

The Council is working with a number of Federal agencies to develop a recycling strategy and is studying a variety of special disposal problems, such as non-returnable bottles.

These are just a few of the many recommendations which our report makes. However, the significance of the document lies as much in its total coverage as in any of its specific recommendations.

We have tried to view the environment as a whole, and we have dealt with some of the root causes of environmental problems such as population and economic growth and land-use.

While there are many specific actions which must be taken, there is also a need to improve our thinking about the environment so that the interrelationships among problems are recognized and so that we do not create new problems by our attempts to solve existing ones.

IMPROVING THE FEDERAL GOVERNMENT'S ABILITY TO DEAL WITH ENVIRONMENTAL PROBLEMS

I would like to introduce the subject of the role of our Council by reviewing briefly the steps taken this year to improve the Federal Government's ability to deal with environmental problems.

In recent years, our Federal institutions responsible for environmental quality have been handicapped by organizational arrangements poorly suited to effective programs. There has been need for improvement in at least three areas.

First, there has been the need to focus environmental policy development and analysis of trends and programs. Since many problems of the environment cut across the responsibilities of a number of Federal agencies, no one entity had an overview function.

Second, environmental concerns have often been slighted when agencies pursue their primary missions with inadequate attention to side effects.

For example, the agencies constructing highways, dams, or airports are chiefly concerned with economic and engineering feasibility.

Such quantitative factors have tended to overshadow consideration of the environmental impact of proposed projects.

Finally, as pollution control programs have grown in scope and authority, effective management has become increasingly difficult.

Different agencies carrying out similar pollution control functions such as standard-setting, research, monitoring and regulation have grown up piecemeal.

There has been progress this year in all three areas. The establishment of the Council on Environmental Quality under the National Environmental Policy Act (P.L. 91–190) has provided a focal point in the Executive Branch for the development of environmental policy.

The Council's ability to perform its functions has been significantly strengthened by the passage of the Environmental Quality Improvement Act of 1970 (P.L. 91–224) which your committee initiated. This legislation provided for the Office of Environmental Quality and staff support to the Council.

The Chairman of the Council on Environmental Quality serves as director of the office and in practice the provisions of the two Acts have meshed together in a highly useful way.

P.L. 91–224, for example, provides useful contracting authority and flexibility in the hiring of specialists and experts.

This additional legislation brought the total authorization for the Council and the Office to $800,000 for fiscal year 1970; $1,450,000 for 1971; $2,250,000 for 1972; and $2,500,000 for 1973.

For fiscal 1971, the Administration requested funding up to the full amount of our authorization. That is, $1,450,000 and an

additional $50,000 for the Citizens' Advisory Committee on Environmental Quality.

As you know, Congress recently appropriated a total of $1 million for the Council and Office and for the Citizens' Committee.

Section 102(2)(C) of the National Environmental Policy Act has helped meet the second deficiency which I noted in the Federal Government's organization with respect to environmental issues—environmental impacts of Federal action were being overlooked in decision-making.

Section 102(2)(C) requires Federal agencies to include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment a detailed statement on: the environmental impact of the action, adverse impacts that cannot be avoided, alternatives, the relationship between short- and long-term uses, and any irreversible commitment of resources involved.

These detailed statements are to include comments of State and local environmental agencies as well as appropriate Federal agencies with environmental expertise.

The statements are to be made available to the Council on Environmental Quality, the President and the Public.

On April 30, the Council issued Interim Guidelines for the preparation of environmental impact statements, requiring each Federal agency to establish internal procedures for implementing this provision of the Act by June 1, 1970.

These Interim Guidelines have been published in the Federal Register, under date of May 12th, as I recall.

In response to these guidelines the agencies have been developing internal procedures to implement Section 102.

At the same time, with help from the supplementary staffing authorization contained in the Environmental Quality Act, we have been developing our own staff capacity to review agency programs with particular impact on the environment, to evaluate the Section 102 statements that have been filed and to identify actions which should be covered.

With this foundation we should be able to assess the overall effectiveness of the Section 102 procedure.

In our view, it would be desirable to get another six months or so of experience before considering the desirability of any change in the law.

Our guidelines have only been in effect for a short period. The agencies' own internal procedures are even more recent. We are only now beginning to have an opportunity to develop actual operative experience with these new procedures.

Having said this, I would like to underline the understanding of the Council on two points that have occasioned some debate:

First, it is our understanding that Section 102(2)(C) contemplates preparation of the impact statement and its circulation for comment by the relevant agencies early enough to affect the decision-making process before the action is taken.

We believe this interpretation to be consistent with and, indeed, required by, the statutory requirement that the statement "shall accompany the proposal through the existing agency review processes."

Secondly, we believe Section 102(2)(C) to be a remedial provision that should be applied, to the fullest extent possible, to further actions even though they may be part of a sequence started before January 1, 1970.

As our Guidelines put it with respect to existing projects and programs:

Where it is not practicable to reassess the basic course of action, it is still important that further incremental major actions be shaped so as to minimize adverse environmental consequences.

It is also important in further action that account be taken of environmental consequences not fully evaluated at the outset of the project or program.

Finally, with respect to the Section 102 procedure, we have not limited our operating responsibility simply to the issuance of formal guidelines.

On the contrary, we have endeavored to develop and maintain close working relationships at the staff level with the key agencies.

The third gap in our Federal organization to handle environmental problems I mentioned—the fragmentation of our pollution control operating programs, is proposed to be redressed in Reorganization Plan No. 3, which would consolidate our major operating pollution control programs in a new, independent Environmental Protection Agency.

This consolidation is based on the same concept of an independent environmental standard-setting and protection agency as the proposal authored by Chairman Muskie and co-sponsored by members of this committee.

Our Council strongly supports the plan of reorganization. We see no conflict between the missions of EPA and the Council on Environmental Quality. Indeed, the two organizations should be mutually reinforcing.

The Council is not intended to have operating responsibilities, and its functions are to advise the President with respect to environmental policies and to coordinate all activities of Federal agencies related to environmental quality.

EPA, on the other hand, will be responsible for executing anti-pollution policies and for carrying out the many functions involved in controlling pollution.

It will assist the Council on Environmental Quality in developing and recommending to the President new policies for the protection of the environment.

There is also a difference in the scope of concern of the two agencies. The Council is responsible for the environment, broadly defined. This includes such subjects as population, land use, and conservation.

I believe that our Annual Report, before this committee, bears out that scope of concern and responsibility to which I have alluded.

The new agencies, on the other hand, will focus specifically on pollution control, which is only one part of the Council's responsibilities.

However, the creation of EPA will be a significant building block in achieving the comprehensive view of environmental matters which the Council has tried to encourage.

OTHER COUNCIL ACTIVITIES

Apart from these matters of the Federal Government's organization and procedure to handle environmental issues, the Council has been involved in a broad variety of environmental policy questions which I will mention briefly.

In his February 10, 1970, message on the Environment, the President directed the Council to provide leadership in the areas of agricultural pollution, the research and development of non-polluting power sources for the automobile, the problem of junked automobiles and the recycling and reuse of commonly used materials.

In a subsequent message to the Congress on pollution in the Great Lakes and the oceans, the President also directed the Council, in consultation with other Federal agencies and State and local governments, to develop a Federal policy and programs for controlling disposal of wastes in the oceans.

The Executive Order which directed Federal agencies to undertake an extensive program for bringing Federal facilities into compliance with air and water quality standards also assigned the Council continuing responsibility to oversee implementation of the Order.

In addition to these Presidential directives, the Council is involved in a number of other activities. It participated with other agencies in the development of the President's proposals to control and prevent oil spills from waterborne transport.

It is currently working with a number of Federal agencies on proposals for improved control of pesticides, noise, and mercury pollution; reduction of phosphates in detergents; and pollution control programs in the Great Lakes.

A number of our projects relate to assignments made to the Director of the Office of Environmental Quality in P.L. 91-224.

For example, we are giving priority attention to review of existing environmental monitoring systems, the development of improved indicators of environmental quality and establishment of comprehensive environmental monitoring systems.

Secondly, the Council is evaluating the impact of a wide variety of Federal programs on development and growth of areas, the sufficiency of land-use planning and control at State and local levels, and alternative institutional and control mechanisms for better land-use management.

Thirdly, as an aspect of the impact of new technology, the Council is giving attention to the growing levels of toxic substances in the environment resulting from new and complex manufacturing processes and is evaluating alternative methods of pre-testing and controlling these substances.

In the Council and the Office of Environmental Quality, the President now has a permanent staff in the Executive Office for the specific purpose of evaluating the effects of Federal programs and policies on the environment and for developing environmental policy recommendations. We have built this staff capacity slowly and carefully.

Mr. Chairman, I am particularly proud of our Council's staff.

As you might imagine, the nature of our responsibilities has excited interest throughout the country, and we have received literally hundreds of applications for employment.

We have been able to accept, of course, only a few of the many outstanding candidates. I believe the group we have put together is exceptional.

The first Environmental Quality Report shows that much can be done to prevent some of the worst forms of environmental deterioration.

If I might go back to the staff again for a moment, Mr. Chairman, we have—I think it would be of interest to this committee—about seven interns working with us this summer, which I suspect, given the total number of our staff, may represent a higher proportion of interns than any other agency of the Government, and this has been a highly successful endeavor on our part.

The young people come from law school, colleges, and I believe one high school, and they have worked out absolutely splendidly, and have made a substantial contribution, in fact, to the work of the Council during this month, and I think speaking for the Council, we will miss them when they go.

Senator MUSKIE. They are good. I have got 38.

Mr. TRAIN. You have 38. Well, perhaps you have larger resources than we do. (Laughter.)

Senator MUSKIE. That certainly reflects my lack of resources. I have to reach out and get them, but they are good, delightful.

Mr. TRAIN. And I would like to mention, also, that yesterday the President had our entire staff to the White House, at noon, and he met with the entire staff, professional, secretaries, interns, temporary people on loan from other agencies to help on the report, and so forth, and the President was able to speak with and meet each single in-

dividual, and this was, I think, a very inspiring occasion for the staff.

Senator MUSKIE. How large is your staff altogether at this point?

Mr. TRAIN. We have at the present time, if I could focus on full-time professional people, approximately 17, of whom either two or three are on detail from other agencies on a rather long-term basis, and we have one Foreign Service Officer, for example, working with us, on international programs.

Senator MUSKIE. How large a staff will you be able to assemble under the appropriation already approved by the Congress, of a million dollars?

Mr. TRAIN. Our expectation and plan, under the requested appropriation, had been a staff in both professional and clerical, totalling approximately, as I recall, 54.

Now our reexamination of the state of the Council's economy, based upon the recent appropriations, would indicate that we probably would have to cut this back to about 39 personnel all told, and I believe a second serious effect would be an almost complete erasure of our capacity to enter into contracts, because I think that we would, if forced to a choice, rather put the available funds on strengthening our staffing, rather than on outside contracts.

Senator MUSKIE. Well, I think this whole committee sympathizes with your need for the full funding that you have requested. I think this view is shared by Senator Jackson and his colleagues, so maybe we can mount an effective effort to get full funding for your work.

I think it is terribly important that you get off to a good, solid start, with the adequate staffing, and I am sure you have not been excessive in your request, from my understanding of the problem, and what needs to be done.

Mr. TRAIN. Thank you, Mr. Chairman.

We believe, on this point, that looking ahead, and looking to the authorizations for subsequent years, it is very important to build the staff in a methodical fashion, and our own analysis is that the kind of staff level which we had requested for 1971 is fully within our ability to manage and make effective use of, and we have kept away, I think, from seeking large levels of staffing and funding, simply for the sake of large levels.

Now, the levels requested are those which we believe we can effectively use at this time, and would represent a very important step in our development as an effective instrument of government.

I will return to the beginning of this paragraph.

The first Environmental Quality Report shows that much can be done to prevent some of the worst forms of environmental deterioration. As it spells out in detail, much improvement can be accomplished despite serious deficiencies in research and monitoring.

In the foreseeable future, it is reasonable to expect to be able to slow or to stop environmental degradation, especially air and water pollution. Many essential steps toward this end have been proposed by the President and are awaiting action by the Congress.

Our Report lists a number of specific recommendations for the directions in which we should move in the future.

We believe that the Annual Environmental Quality Report should be of considerable use to your committee by providing a regular survey of our environmental problems and measurement of our progress.

It should also aid your work by fostering greater public understanding of the nature of environmental problems and the prospects for taking action to control them. Improved monitoring systems and the development of indicators of environmental quality should also prove as useful to your committee as to the Council.

I will conclude this first appearance before your committee by saying that we have valued the sustained support and interest of this committee and the help we have received from many quarters.

We are conscious of the many contributions made by the Congress to our understanding and better handling of environmental problems. This committee, in particular, has played a vital role in the development of our pollution problems programs and deserves much credit for the progress that has been made.

Thank you, Mr. Chairman.

Senator MUSKIE. Thank you, Mr. Chairman.

I suggest to my colleagues that we might invoke the 10-minute rule on the first round of questions. That may exhaust them, although I doubt it, and then we will proceed from there.

With respect to the air, water and solid waste proposals in the Report, I gather there are no new recommendations in this Report.

The recommendations are those submitted to us by the President earlier this year, and upon which this subcommittee is now working. Am I right?

I detect no new recommendations.

Mr. TRAIN. No, there are a good many new directions which we recommend, Mr. Chairman.

Senator MUSKIE. I mean, legislative recommendations.

Mr. TRAIN. Specific legislative recommendations for action now are restricted to those already pending before Congress.

In addition, the Council has set out in varying detail a large number of recommendations for the directions in which we should be moving in all of these programs. I think in the pollution sections alone, we have some 50 proposals for action. But we have not set these out as "must" legislative items at this time.

Senator MUSKIE. No, I understand the distinction. I wanted to be sure we didn't overlook any specific legislative proposals at this time.

The reason I put the question, in addition to wanting to identify the nature of the report in this respect is this: One of the reasons we still are discussing, for example, the air pollution legislation in the committee is that in response to the testimony that we received in 10 days of hearings which we conducted, in response to, I think, much that we have learned about the urgency of the problem this year, and the reaction of the public to it, we felt a responsibility to re-focus on some of the legislative proposals which the President introduced, which I introduced, which other members of the Senate introduced, to determine whether or not there were not better answers than those contained in that initial legislation to the problems with which we must deal.

We are conscious of the fact that lead times are vanishing on us, and the policy we write this year is policy we are going to have to live with and work with for some time in the future, and so wanted to be sure that we had the best answers that we were capable of putting together this year.

Because the committee hasn't reached agreement yet on what concepts we ought to write into the law, I don't know if I can surface all of the options that we are considering, but we may get into some of them, if we have enough time.

Mr. TRAIN. We certainly wouldn't wish to discourage this committee from acting affirmatively on any of the additional proposals which the Council has set forth.

Senator MUSKIE. No, we look at those, too.

Mr. TRAIN. We feel that they very definitely deserve careful consideration, and the President himself has said that, in his letter of transmittal.

Senator MUSKIE. May I ask this question: Have you developed a sufficient expertise in your own staff to get into specific legislative proposals, in the air pollution field, for example, or do you rely upon the air quality, the Air Pollution Control Administration to develop specific legislative proposals which appear in your Report?

Mr. TRAIN. We do have expertise within our own staff, in the field of air pollution.

Naturally, we also do look to the responsible program agency for a great deal of technical support in the air pollution field, as well as others.

So it is neither one or the other, but we do definitely have our own staff competence in that particular field.

Senator MUSKIE. Well, in due course, then, I suspect that the committee will be in touch with you as well as the Air Pollution Control Administration, to test out whatever new concepts the committee has agreed upon.

May I say this: I realize, out of the months that have passed since last January, that there is a tendency to think of the development of ideas in this field as an exercise in partisanship.

That is understandable, I suppose. But these ideas really don't fall under those labels very comfortably, or very usefully. We welcome ideas. We deal with them in our committee on a non-partisan basis. That doesn't mean that we are not going to disagree with each other, or with the Administration, but I think we have got some hard decisions to make in this situation, and we can't hope to make them if the basis of our judgment is political partisanship.

That is our attitude, and I am sure it is yours. At least, that has always been my reaction to your approach to the problem.

So we hope to have a tough air pollution law, and we may ask for your reaction to it before we reach our own final decision.

Mr. TRAIN. Well, we may have differences in detail, Mr. Chairman, but I assure you that the Administration also wants a tough air pollution law, and will be happy to cooperate with this committee in helping to produce such legislation.

Senator MUSKIE. I would like to ask two or three questions related to your testimony, if I may. You spoke about the need for international cooperation in this field, and I must say I compliment you for focusing upon that need.

On the top of page five, you discuss this briefly.

Now there is an international problem, it seems to me, which falls right in the context of your comments. The most obvious basis for international action, of course, is the effect on the atmosphere of the earth, which doesn't distinguish between peoples on the basis of political boundaries.

Now, as far as long-term, world-wide weather effects are concerned, there are reports that the operation of the SST at high altitudes will emit water vapor which will have profound effects on world climate. Whenever questions of this kind are raised, the usual argument that we get in response is that the SST is necessary, because of competition from abroad, and the possible unfavorable impact upon our balance of payments situation if some other country develops an SST that is attractive in the world market before we do.

Now, if the SST has these potential atmospheric effects, then we ought to be looking toward an international judgment on whether or not it ought to be developed on a competitive basis. An agreement among all the nations to drop the SST might serve the needs of humanity better than competition among the nations to build it.

Would you have any comment on that?

Mr. TRAIN. Well, on two points: We certainly agree wholeheartedly on the importance that international cooperation bears to this whole business of producing a better environment for all people. The problems are global, in many cases. Atmospheric problems, and, of course, related climatic prob-

lems, that an area such as Europe has, and river basin problems are frequently international in nature. Of course, in our own case, the problems of the Great Lakes are international in nature.

In very many ways, problems of the enviromnent can only be gotten at effectively by international initiatives of various kinds, and we strongly support a leadership role on the part of the United States, world-wide, in the fight for a better environment.

On the second point, with respect to the supersonic transport specifically, the uncertainties as to possible atmospheric impact of the operation of a commercial fleet of supersonic transports sometime in the future are certainly of a kind which lend themselves naturally to international cooperative efforts, leading to the resolution of those uncertainties, and in the testimony which I presented on May 12th, I think, before the Joint Economic Committee on behalf of the Council, I stressed the desirability of international discussions of the various possible long-range atmospheric consequences in particular, and also noise characteristics of the SST.

Senator MUSKIE. Well, the report on page 99, for example, says "Further study is necessary to better determine the effects of supersonic jet transports in the stratosphere before they are mass produced."

And on page 127, you have similar comments on the noise effects to which you referred. And we are now considering in Congress, and this subcommittee had hearings recently, on an international agreement to deal with the consequences of oil spills.

It seems to me that our Government might well take the initiative and raise the question of the SST as another environmental hazard with international implications.

All of the momentum is on the other side. That is, in the interest of international economic competition, we have got to be in the head of the race, and to do that, we have got to build.

It seems to me we might well take the initiative to raise these environmental questions with governments of the other countries involved, the Soviet Union, and France, to see whether or not it is in the interest of mankind to go forward with this kind of technological development.

As the report emphasizes over and over again, in a sense, the environmental crisis of today is the product of heedless and headlong technological development. The SST represents and symbolizes this very thing, and gives us an opportunity, it seems to me, to focus internationally upon the kind of rearrangement of values that your report represents domestically here at home.

I don't know that you have any role or any influence in the international area, with respect to the State Department, the White House, or any other agency of the Government that might be able to take such an initiative, but if you have, I would urge its consideration.

Mr. TRAIN. Well, we very definitely do have a role. The President has confirmed this by the Executive Order which he issued shortly after the Council was set up by legislation. The legislation itself didn't address itself expressly to the international aspects of the environment, although I think the legislative history indicated the intent of Congress quite clearly, to the effect that the Council should concern itself with the broader international concerns.

As I mentioned in my testimony on the supersonic transport, in addition to proposing international discussions, which have taken place on a very informal basis so far, and which we would recommend be carried out on a definite basis, and a positive scale, in the near future, we have also suggested that the possibility of this kind of technological development being the subject of discussions at the 1972 United Nations Conference on the Problems of the Human Environment.

We have had very informal discussions, again, with officials of both France and Great Britain on this general subject.

You will also recall, I think, that in my testimony of May 12th, we in pointing out some of the more significant, as it seemed to us, environmental uncertainties, recommended a concerted research effort on the part of the Federal Government, to address itself to those uncertainties, hopefully, to lead to their resolution, and the Department of Transportation has developed, and I believe has discussed with the appropriate committees, a fairly comprehensive research package, costing, I think, in the neighborhood of 26 plus millions of dollars, which our Council has reviewed and, based on that review, feel is responsive and does address itself to the environmental questions which we believe should be answered.

Senator MUSKIE. With respect to the SST.

Mr. TRAIN. Yes.

Senator MUSKIE. Should they be answered before we proceed with further investment of public funds?

Mr. TRAIN. Of course, this represents a judgment involving a great many matters that this Council really does not consider itself appropriate to offer public conclusions on, such as balance of payments, technological spin-off, airframe sales, and things of this sort, or the competitive situations with other aircraft.

We really are not experts in those particular fields. We have looked at the prototype program, which has been proposed by the Administration, which calls for the design, development and, I believe, 100-hour or so flight testing of two prototype commercial supersonic transports, and we believe that those prototypes, in and of themselves, raise no significant environmental problems at all, assuming that the flight testing is carried out under reasonably appropriate control circumstances.

Senator MUSKIE. Well, you can answer this question, perhaps, then, or will, at some point: Whether or not if the environmental risks which the report refers to in connection with the SST are not resolved, whether or not we should proceed to build it and operate it.

Mr. TRAIN. It is always difficult to look ahead, but I would risk stating this amount of looking ahead, and that is, if it is the conclusion of this Council, following research, reasonable research efforts, over the next two, three, four years, whatever is available, if it is then determined that there are remaining significant environmental uncertainties, then I have no question in my own mind that this Council would recommend against the development of a commercial fleet of SSTs at that time, until those uncertainties were resolved.

That is our present position.

Senator MUSKIE. Well, with that advice, the Congress, I think, is in a better position to decide, I think, whether or not to invest more money in it at this time. That is a decision for us to make.

I have used more than my 10 minutes, but I will be back.

I yield to Senator Boggs at this time.

Senator BOGGS. Well, thank you, Mr. Chairman. I know you want to follow the 10-minute rule, and I think you are very good to do that. I will be brief, but if you want to pursue the questions at this time, I will be glad to yield to you.

Senator MUSKIE. No, I was going to shift to another subject.

Senator BOGGS. Very good. I want to say again, Mr. Chairman, that I have been impressed with this First Annual Report of the Council. I realize in the brief time that you have had, the six months, the organizing period, that it has been very difficult to cover the whole subject, and you have covered it well, and I don't mean to repeat this, but the format of it, I think, is helpful not only to the Members of the Congress, the committees, and so forth, but I would think to State and local organizations, and citizens' groups, advisory groups.

I can't imagine a question I get more often, since I have been serving on this committee, and certainly in the last year, from citizens all over the country, and especially in my own State, than, "What can we do?" And I think your approach and your format is very good and helps me in answering those questions, and I think this report, the First Annual one, is going to help to accomplish a lot of progress in itself, regardless of the recommendations and your recommendations to the Congress, and how the Congress, after hearings, may approach those recommendations and so forth.

I know, out of all of it, we are going to make some great forward progress in this environmental control.

And the concept, Mr. Chairman, of the Annual Report, is a great thing in this field. As you mention in your testimony, to institutionalize, or lay the firm foundation of government organization for the meeting of the total environmental program, I again want to compliment the report aspect of it.

I think in itself it is a great contributor to the goals we must attain.

I didn't mean to take up all my time by making a statement, Mr. Chairman, but I couldn't help but say that, because this committee, under the outstanding leadership of Chairman Muskie, as you well know, since 1963, when the committee was organized, has been struggling along, and I say for the committee, and I believe made great accomplishments during this period, under rather difficult circumstances, and this past year, development and the public recognition of the problem, and that something must be done about it, in its total aspect, has been most encouraging, and this report, I think, pulls together this whole picture, and to me, it is very encouraging, and very pleasing.

I realize the Council is not an operating agency, but I suppose there are a lot of twilight areas there, gray area between the Council and the operating program agencies, the EPA, for example, but I just had people in my office this morning, including a constituent of mine, from the area of Dover, Delaware, who has been working in this problem of waste oil, crankcase oil, as one example, and as you know, there is about a billion gallons of that a year, and some of it is used, and some of it is collected, but a lot of it, millions of gallons, nobody knows what happens to, and it is presumed that that gets into streams and sewers, and in the ground, and so forth, and I was wondering if the Council has been directing any attention on this subject, and what observations you may care to make, as one example of the recycling and one example of the things we must look to that are, every day, polluting, really, the air, the water, and the land.

Mr. TRAIN. Well, we certainly recognize the problem of waste oils as one of the more important of our waste problems, and the Council has been directing attention to this.

We have set up an interagency task force, with representatives of the various departments that are concerned with the problem. For example, HEW, Interior, Treasury, Commerce, and the Federal Trade Commission, and we are working with them, taking a look, to get a better understanding of what causes the problem, what the economic forces are that are at work here, and what possible economic incentives or disincentive could be generated to help meet the problem, but we are by no means at any point of conclusion on this at this time.

Senator BOGGS. Well, I commend you for that, and that encourages me, that you do

have the problem in focus, and are working on it, because I think that is one example of how if we can meet this problem successfully, that one item, that a great deal can be accomplished in both air and water pollution and land pollution control. I commend you on that.

Now, your Report discusses the need for land-use planning, which is certainly very important.

Could you discuss and make any observations on how such planning would be complemented by the imposition of regulations dealing with air and water quality standards?

While land-use planning, as you know, is not necessarily before this subcommittee, it seems to me that the air and water pollution regulations and standards, quality standards, would have a considerable impact on land-use programs, and vice versa, too.

Mr. TRAIN. There is obviously—I think this committee is well aware of it—a very close and intimate relationship between air, water pollution programs in particular, and wise land-use, and one need only look at the air quality impact of highways, expressways, in the close proximity to our metropolitan areas, to see one example.

The siting of power-generating plants is another exceedingly important example of the relationship of pollution problems to land use, and I think this, the latter one in particular, is an area in which we must be moving forward very, very shortly, and we, here again, are working closely in this case particularly, with the Office of Science and Technology, Dr. DuBridge's group, on the development of appropriate Federal policy in connection with the siting of electric generating plants for later submission to the Congress.

Senator BOGGS. Very good.

Mr. Chairman, I know our time is moving on, and I want to yield back the balance of my time for you and my colleague here.

Senator MUSKIE. Senator Spong.

Senator SPONG. Mr. Train, the battle for a better environment has been very gleefully joined by Madison Avenue. Many enterprises. We hear jingles every day about lead-free gasoline. I don't know the effect of lead-free gasoline on either the environment or on one's automobile, but I hear of it daily.

Just around the bend, I foresee phosphate-free detergents being sung about. Do you believe that the Council has any power or responsibility to the public or to the Congress, to try to comment upon what might be called fraudulent advertising in this area, either to the public or to FTC, or the FCC?

Mr. TRAIN. I think we certainly would have a responsibility to work closely with the appropriate regulatory agencies, and I suppose this would be mainly the Federal Trade Commission, and if anything of this sort came to our attention, we certainly would take it up with the FTC.

Senator SPONG. On pages 9 and 10 of your statement, you speak of Section 102. That section was employed, was it not, in the decision to dump the nerve gas in the Atlantic Ocean?

Mr. TRAIN. Yes. You said "employed," and I want to comment on the use of that word, because——

Senator SPONG. Well, use your own, if you will.

Mr. TRAIN. Because it is a section of the statute which is self-operative. It comes into play whenever any Federal agency is recommending any major action with potential significant environmental impact, and these are submitted to us.

Such a statement was submitted by the Department of the Army to the Council. The Council has commented to the Department of the Army on its statement, pointing out certain deficiencies which we felt of a procedural or technical nature in that particular Section 102 report.

Senator SPONG. If I recall, this is my own conclusions from listening to testimony, the report dealt possibly with the chemical aspects, but told us very little, and possibly that is because of lack of knowledge as far as everyone is concerned, about the biological effects.

But what I would like to ask you is: Was that report prepared and circularized for comment early enough to affect the decision-making process before the action was taken?

Mr. TRAIN. The report was initially submitted to the Council in draft form on the 8th of July, and a final version was submitted to the Council on the 30th of July, as I recall, and during that period, although only before us in draft form, our staff did have occasion and opportunity to comment on and discussion with the Department of the Army's staff various aspects of the project.

It is hard to state, in any case, whether sufficient time has been given. In a case that is as complicated and controversial, necessarily, as this kind of project, I would say that the 30-day period which our guidelines provide is probably on the short side.

I hesitate to generalize. I think in many cases, the answer to that question would turn upon the completeness of the information provided in the first instance, so that in this case, where we felt there were some deficiencies of information, the period probably was not long enough.

Senator SPONG. Well, this will certainly be one of the decisions that you will have under review in your six-month's study that you referred to.

Mr. TRAIN. That is correct.

Senator SPONG. Senator Boggs questioned you about land-use.

In your statement, you referred to land-use as one of the root causes of environmental problems.

Senator Muskie, in his opening statement, said that any land-use policy that failed to consider the existing Federal system would not be better than no policy at all.

Has the Council focused upon land-use policy to the extent that you have commented on what you see as the role of the States in the formulation of this policy.

Mr. TRAIN. In a very general way, I would comment. And we are actively engaged in looking at this whole, very complex area of land-use.

I think the chapter in our Report on this subject indicates the scope and complexity of this problem. It is not a single-shot kind of thing. It involves a whole range of functions and responsibilities.

I think we can be absolutely certain that under any allocation of responsibilities, there is going to be a very important role for the Federal Government, for State governments, and for local governments, in land-use.

I don't think there is any suggestion, when we talk about a national land-use policy, that Washington take over all responsibility for all land-use decisions at the local level. Obviously not.

Now, if there is a major shift in the allocation of responsibilities that is needed, I would say that this would be a shift of some responsibility from the local units of government, both municipality and county, back toward the State.

So many of the problems of land-use, with which we are all becoming increasingly familiar, extend by their very nature well beyond the boundaries of the particular political entity which may have, in fact, the responsibility.

The town has a responsibility, but the impact of its decision goes far beyond that town, so that we have to, in some fashion, institutionalize this broader kind of responsibility for dealing with these problems, on a regional basis, and in many cases, on a State basis.

As you know, in most States, all zoning authority resides in the local unit of government. Sometimes towns, sometimes county. And none in the State government. There is very definitely a trend in the other direction underway. Some States have already established, I think—about two States have a State zoning law.

There is also the taking back of authority in some States over specific kinds of zoning, such as flood plains zoning, shoreline zoning, in the State of Wisconsin.

I think these are indicative of a growing recognition that these problems have a much broader geographical makeup than can be adequately handled by most local units of government.

So I would say this is the major direction I would see in the years ahead, in terms of the allocation of responsibility between different units of government. It is apt to be very controversial, as you all certainly are aware. I mean, this is a very jealously guarded prerogative of local government, and local governments and local communities should play a very significant role in the making of decisions that so significantly affect the well-being and futures of their own communities, so there is a balance here of interests and of responsibilities that must be achieved.

Senator SPONG. Thank you, Mr. Chairman.

Senator MUSKIE. Senator Dole.

Senator DOLE. Let me say as others have said that I certainly appreciate what I consider to be an excellent report that has been very helpful and will be very helpful.

I have been viewing with great interest the very excellent program on CBS morning news with reference to radiation, apparently triggered, since this is the 25th anniversary of dropping the A-bomb, particularly concerned because Kansas may become the dumping ground for atomic wastes, solid wastes.

We are very eager to have new industry in Kansas, but we have some qualms about becoming a dumping ground in abandoned salt mines for atomic wastes, and I note some serious questions have been raised on the CBS programs—they have been continuing all week, and will continue the balance of the week.

Do you have any jurisdiction? Does this fall in the same category under Section 102 as the so-called nerve gas question?

Mr. TRAIN. Yes, certainly, Senator. Any program for the below-ground disposition or storage of large amounts of radioactive wastes would, in my opinion, call for the preparation of an environmental impact statement, under Section 102 of the National Environmental Policy Act, and submission to our Council.

And I think as you know, the Act also contemplates that in the preparation of such statements, the comments of other agencies with expertise or jurisdiction in a particular matter is required to be gotten, as well as the comments of State and local governments that may be involved in some way in the particular project.

So that there should be, in the process of developing a decision in this area, full opportunity for the people of your State and the communities concerned to make their views known fully.

Senator DOLE. There appears to be a great potential for storage of solid wastes in the State of Kansas, because of the salt mines, and they appear to be ideally suited, at least according to the AEC, for safe storage for hundreds and hundreds of years.

But it was pointed out, I think, on this morning's program, that because of a so-called melting process near Detroit, Michigan, a few years ago, there was some serious talk about a total evacuation of the City of Detroit. There were also estimates of possible

destruction, contamination, as well as physical injury and death, which were very frightening to me.

So it indicates it is a very serious problem, because we are building more and more atomic reactors, and they are larger and larger, and apparently, every day of production means a problem that extends for as much as 200 years.

Now, in a recent bill passed by this committee, and I understand it is now awaiting action by House and Senate conferees—at least, waiting for the House to respond—Solid Waste Resource Recovery Act, we provide in Section 212 a National Disposal Sites Study, which would create a system of national disposal sites for storage, and also of hazardous, radioactive, toxic in chemical and biological and other ways, which might endanger the public health, and in addition, the Environmental Protection Agency would have jurisdiction in the event this program becomes operable.

Now I don't criticize the AEC, but it does appear that some independent review would be most helpful; because they are in part a party in interest, not only developing reactors, but disposing of the waste, and we have had some very serious questions raised in our area. And I am certain they have been raised and will be raised; I think the chairman raised some questions, just last week, about the potential hazards of disposal of liquid or solid atomic wastes.

Dr. MacDonald, do you have any comment on that area?

Dr. MACDONALD. I would of course, like to distinguish between the disposal of the waste and the reactor accident that you referred to, or a potential accident in Detroit.

However, we will certainly be reviewing the AEC's 102 statement, when they have prepared it, and as Chairman Train pointed out, there will be an opportunity at that time for a really rather wide-ranging discussion of the whole issue of the disposal of waste.

It does underline one point that we consider very important: That as one develops new technologies, it is important to look way ahead, to the whole process. It is not just the creation of electrical power, but everything that goes with it, and when we talk of a national energy policy in the report, it is addressed just to this question, and we can't just look at the building of a particular power site, but how that fits into overall national needs.

Senator DOLE. Well, I agree with that, and I think the report indicates that there has been may be some lack of looking at the entire problem.

We have looked at the consumers' interests, and production, the national energy policy, creation of power, and I assume at the same time, a great emphasis on disposal of the waste, but perhaps not in the priority that it deserves.

There are questions being raised, again, on this same program, which to me appears to be most interesting, that didn't suggest we were near a crisis point, but there are areas where we have liquid atomic wastes stored, and the tanks are corroding, and the question very properly raised as to how much time do we have, and what policy do we have?

Now the other side of the coin, of course, from AEC, is that there really is no danger, there was no danger in Detroit, there was no danger in Washington, but there have been instances, I think, in Idaho, where three persons were killed because of some—I don't understand the melting process, but at least there is potential danger.

This may not, hopefully will never happen, but the threat is there, and it is encouraging to me to know that the Council, as well as the EPA, and provision in the Resource Recovery Act will provide more review of this very important problem.

Mr. TRAIN. You know, I just add on that point, Senator Dole, that the AEC's own agency procedures, which have been adopted and published for compliance with Section 102, specifically list designation of disposal sites as one of the programs which will call for a Section 102 statement and its submission to the Council by the AEC.

So the agency itself very defintiely recognizes that this kind of program which we describe comes under the requirements of that section.

Senator DOLE. Well, I say very seriously that there is a site now in central Kansas, which if approved—it has been under study for seven years or longer—would have some economic impact in the area, but there is some reluctance, bipartisan reluctance—a Democratic governor and Republican Members of Congress—to encourage this type industry, and I think it is much like the nerve gas; you know, there are many opportunities to bring in a little industry, if you want nerve gas in your State.

But there also needs some assurance that nothing will happen. I am not certain it is possible to ever guarantee that you can store solid wastes or liquid wastes, but at least, the people of Kansas appreciate the fact that there will be additional review. Nothing is certain, I guess.

Thank you.

Senator MUSKIE. Along that line, Senator Dole, there is an interesting little story in this morning's Washington Post, based on a Reuters dispatch. It is short, and I think it is worth reading:

"Dateline London, August 10th: Police today toured vacation resorts in the Isle of Wight off Britain's south coast, to warn swimmers of lethal gas, after cannisters containing a corrosive chemical washed ashore on some beaches.

"The chemical, ferrous chloride, used in dye manufacture, gives off deadly hydrochloric gas when mixed with water. The manufacturers believed that the one-gallon cannisters were dumped at sea several years ago. It was normal practice to puncture the drums before disposal."

These foolproof methods of disposing of nerve gas, radioactive wastes, may turn out not to be so foolproof after all.

The time is rapidly slipping by, Mr. Chairman. It is clear we are not going to be able to get into all of the aspects of the Report that we might like to, let alone all of the others that merit discussion.

I am going to try to concentrate on two or three other points that might be useful, and one of them relates to something the report says on page 53.

On that page, the report discusses the Federal Water Pollution Control Act, and as you noted in your testimony, this committee is working on legislation proposed by the Administration as well as other bills that have been introduced to strengthen that Act, and we all recognize the need to strengthen it.

But you say this in the report:

"Finally, the only force that the government can wield against a polluter is a cease-and-desist order. The court's only option in the case of noncompliance is a contempt-of-court action."

I think a cease-and-desist order, rather than an injunction, or a specific performance of relief, can be very effective tolls, but I would like to suggest another one, that I gather the Administration is turning to increasingly, and it may be the kind of a policy question you would like to consider as a Council, in conjunction with the Air Quality Administration, and this is the Refuse Act of 1899, in conjunction with Section 21(b) of the new Water Quality Improvement Act of 1970.

Now, the Refuse Act of 1899 says this:

"It shall not be lawful to throw, discharge, or deposit or cause, suffer, or procure to be thrown, discharged or deposited, either from or out of any ship, barge, or other floating craft of any kind, or from the shore, wharf, manufacturing establishment, or mill of any kind, any refuse matter of any kind or description whatever."

Now, that was not written as an anti-pollution piece of legislation. It was legislation written to protect navigation. But nevertheless, it provides the authority to stop any discharge whatsover.

Then there is a provision that reads as follows:

"Provided that the Secretary of the Army, whenever in the judgment of the Chief of Engineers, anchorage and navigation would not be injured thereby, may permit the deposit of any material above-mentioned in navigable water, within limits to be defined and under conditions to be prescribed by him."

So there is a permit authority, that gives them a handle on these discharges.

Now, under the language of that Act, the conditions apparently relate to anchorage and navigation. But then we come to Section 21(b) of this year's Water Quality Improvement Act, it reads as follows:

"Any applicant for a Federal license or permit to conduct any activity, including, but not limited to the construction or operation of facilities which may result in any discharge into the navigable waters of the United States, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate, or if appropriate, from the Interstate Water Pollution Control Agency having jurisdiction, certification that there is reasonable assurance, as determined by the State or interstate agency, that such activity will be conducted in a manner which would not violate applicable water quality standards."

Now, what is the state of the 1899 law?

Congressman Reuss, and I want to read this into the record, Congressman Reuss, in, I think, an excellent study which reports to the Congress on July 29, 1970, and you might want to look at that, points out that that is permit authority, has not been used.

Table A, which is attached to his statement, "shows that there are no existing Corps permits for industrial wastes in 23 States." That includes mine, I might add.

And all of those States, then, those discharges into navigable waters or tributaries of navigable waters, are illegal at the present time. They are not operating under permits of any kind.

"In Massachusetts, the only existing Corps permits"—there is only one of them—"was suspended on February 13, 1970, because of unspecified complaints by State officials. Except for New Jersey, California, and Louisiana, there are less than 25 existing Corps permits for industrial waste discharges in each of the remaining States and Puerto Rico.

"The discharges covered include some of the nation's producers of pulp and paper, synthetic fibers, chemicals, petroleum products, steel and aluminum."

So there is here authority which, if used. could establish by means of permit guidelines controls, direct controls over all industrial discharges into navigable waters of the United States, those permits to be conditioned upon compliance with water quality standards set up under the 1965 Act.

I think it would be useful, and I am not going to ask for an off-the-cuff policy opinion from you on this, but it would seem to me that here is an area of established authority, and we are going to supplement it this year with additional law, established authority that is not being used—and that is no criticism of this Administration; it hasn't been used since 1899, so there is a lot of blame to be spread out over a long period of time—authority that might be very useful

to more effectively control discharges of industrial wastes into our navigable waters.

Mr. TRAIN. Well, let me comment on that, Senator Muskie.

We are quite aware of the existence of this authority in the statute, and while it has not been used, as you point out, since the statute was put on the books in 1899, the Corps of Engineers has recently announced in, I believe, public hearings before another subcommittee of the Senate, that it intends to and in fact, is developing a program which would involve the use of this permit authority, and our Council is working closely with the Corps of Engineers, and the Department of Justice, and the Department of Interior—FWQA, specifically—to coordinate the various interests involved here, because as you point out, we are now also very much aware of the relationship between this permit authority in the 1899 Act and the certification requirement in the legislation Section 21(b) which you mentioned.

And speaking insofar as the Council is concerned, we are fully in accord with the maximum use of the Refuse Act of 1899 and all other available tools to the Federal Government for the enforcement of water quality standards. No question about it.

And we believe that this permit authority does—although apparently it has never been used, really, over the years—it does provide a very significant kind of Federal leverage, and I would be hopeful that in a very short period of time—I don't know quite what I mean by that, perhaps a month's time—there will be a promulgation of an actual program.

But just exactly what the timing on that is, I can't answer. I would presume that this would address itself first to new facilities, rather than trying to deal ex post facto way, with what is it someone said? some 50,000 plants scattered all over the United States already.

But with respect to new facilities, I would think that this program would get underway fairly soon, and be very effective, and would require the certification by the appropriate water standard administration of the various States.

Senator MUSKIE. It would be ironic, wouldn't it? Perhaps one of the most effective statutory tools we have is one written in 1899, for other purposes entirely.

Mr. TRAIN. I would also point out, of course, the cease-and-desist authority of the 1899 Act is being employed. It is the basis of the action recently brought by the Department of Justice against some eight concerns in connection with alleged mercury violations.

Senator MUSKIE. That includes firms in my State.

We are back on the record now.

Did you complete your statement on that? You did.

Mr. TRAIN. Yes, sir; I believe I did.

Senator MUSKIE. Now on the question of new legislation, I would like to pose just one or two questions. Not so much to get at this point your definite response to policies that this committee is considering, but to test the flavor of your reaction to this kind of thing.

I think the most difficult problem we are facing in the Air Pollution Subcommittee is the question of national deadlines of some kind to meet either ambient air quality standards or emission standards, on a national scale.

And the single most important problem that we see in this is the automobile, which you have correctly identified in your statement as the single most important air polluter.

The problem is not the new automobile we have tended to focus on since the 1965 Act, but the used car. There are 110 million of them on our highways, and although there have been developed, add-on hardware of one kind or another, which initially, at least, might improve the environmental performance of used cars, they involve considerable cost, $150 to $250 per car. They involve the problem of enforcing their attachment on 110 million automobile owners, and involve the problem of leaded gasoline, which we still have, even though there seems to be increasing consensus that we ought to get rid of leaded gasoline.

In other words, we still have it, and that affects the performance of these devices. You have the economic burden on a lot of people who can't afford it, who need the automobile, in day-to-day work, and so on.

There are all sorts of other questions that arise, as we pursue the implications of a national policy.

But what is the answer, to cleaning up the performance of this huge used car population?

If we proceed under the present policy, even strengthened by the amendments which the Administration has submitted, and others which we have submitted, what the Congress talks about is 1990, before we have turnover in this used car population, and new technology on new cars that are manufactured in the future, before we begin to get a clean automobile in cities and urban areas.

Can we wait that long? Must we set what might appear to be arbitrary national deadlines, in order to increase the set of urgency to develop the new technology or to find some substitute for the automobile in our crowded cities?

This is really a tough problem, with tough choices, that this committee is faced with. We could simply, you know, try to accelerate the evolutionary process that we tried to set in motion with the 1965 Act and the 1967 Act, but that clearly is not going to move us along the road fast enough to deal with this automobile problem, in my judgment.

Has the Council really focused on this? Does it have some guidance to give us?

Mr. TRAIN. Well, the Council very definitely is focusing on this particular problem, Mr. Chairman.

The President, in his February 10th Message, devoted quite a bit of attention, as you will recall, to the problem of automotive emissions, and I believe he singled it out as, if memory serves, the single most important problem that we had to deal with.

And he made a number of suggestions, but specifically, I believe, directed to your concern, he charged our Council with responsibility for coordinating the Federal Government's research and development efforts with respect to the development of what has been called unconventional vehicles, substitutes for the internal combustion engine, and the goal of that program, as established by the President, is the development of two commercially feasible alternatives by 1975.

And that is a goal toward which we are working, and there is a research and development program in this year's budget of $9 million, with primary responsibility in HEW, in furtherance of that goal.

Senator MUSKIE. Well, you see, that is the evolutionary approach, and that is the one this committee adopted in 1965. It means, perhaps, that if you do develop those commercially feasible clean cars by 1975, the industry may be able to tool-up and put them on the road in another couple of years, but in the meantime, we will be putting on the road unsatisfactory automobiles, from the environmental point of view, for another seven or eight years, at the rate of seven million or eight million a year or more, thus perpetuating this problem.

The automobiles that were built under the guidelines established under the 1965 Act simply haven't been satisfactory, from an environmental point of view. We wrote the law. We hoped that we would stimulate the evolutionary process, but they are not satisfactory now, and I suspect that 1975 may be as early as you could hope to get a prototype of the internal combustion engine, at least, developed by 1975. Or maybe even an electric automobile, but if we get an electric automobile developed by 1975, what do we do about providing the electric power to fuel those cars?

We have had hearings in another subcommittee pointing up the dilemma that the power companies face, especially in the New York area, with respect to providing their present projected needs, let alone the massive amounts of power that would be needed to fuel an electric automobile.

What is the answer to this? Do we need to restrict the use of individually operated automobiles in our urban centers? Are we going to get some judgments from the Council on questions like that, say, in its second Annual Report?

I realize it is not a judgment you are in a position to make in this Annual Report. But how do you do it? We have just had this air pollution problem on the whole East Coast within the last two weeks, and that was the automobile. There is no other important source of pollution here in Washington.

We approached the air pollution alert stage here, in the District of Columbia. That was the automobile. And in accordance to the Administration's program, and indeed, legislation that we have written, it is going to be some time later than 1975 before we really begin to clean up the problem that is created by the automobile. Isn't that right?

Mr. TRAIN. Yes, that is correct, sir.

Senator MUSKIE. So that isn't a satisfactory answer. I am not being critical of you. I am as frustrated as anybody else is.

Mr. TRAIN. No, I would hope not.

Senator MUSKIE. You have been in office six months. Another year, maybe we will blame you a little.

Mr. TRAIN. I am a little bit alarmed by the fact we only filed our Annual Report yesterday, and now you already have me worrying about the contents of the second Annual Report. We had hoped for a little longer vacation than that.

Seriously, in terms of the unconventional vehicle, you refer to the problems of the electric-battery-driven alternative and I think that we give this a very low priority at the present time, as a viable possibility.

It certainly would represent a major new demand on electric power, with all of the pollution side-effects that we are all too familiar with, and I think our present best bet would be in the area of the steam turbine and gas turbine and hybrid vehicles.

You asked me whether we recommend a banning of the automobile, and I certainly do not believe that the time has yet come when we would recommend undertaking such a step. That is not to say it could not be a possibility at some future date, of course.

The automobile does represent, particularly in our urban areas, a very major source of air pollution.

Now we believe that as new emission standards take hold, and as the older cars get phased out, that there need not be in the immediate future any substantial worsening of the situation. There will come a time, as the President indicated in his February Message, and as we do in our Report, that despite the improvement in individual automobile emission controls, the shear increase in automobile population will at some point probably toward 1980, overcome any possible, or could overcome any possible improvement such as I have described.

It is for this reason, and to guard against this kind of eventuality, that is leading us to emphasize the development of viable alternatives. But first, we do not have the alternatives at hand as yet.

I would not believe that the pollution impact of the automobile is yet to a degree which would lead this Congress to tell the

American people that you can't drive a car anymore.

Now that day may come, but I would say it is a considerable ways off yet.

And in the meantime, I think that what we should be doing is emphasizing the development of alternatives, and that is what we are doing.

Senator MUSKIE. According to the criteria on carbon monoxide emissions, by the Department of HEW just what, within the last six months, the carbon monoxide concentrations exceed, what would be the health effects limits in every major city of the United States today, for some period of time, during the day.

Now, this is bound to increase, because the used car population is going to be increased by some millions of unsatisfactorily operating automobiles, before we begin to get the satisfactory substitute which you are talking about, so that the level of carbon monoxide levels in these cities is going to rise, even above the present levels.

I don't think that is going to stabilize at present levels. I think it is going to rise above the present level, that over the years, we are talking about finally getting something like a clean, new car.

It seems to me that unless we impose some kind of pressure we do not now have, that the evolutionary approach isn't satisfactory.

Now, this is the question the committee is laboring with. I can't prejudge what the committee will do. I think we are all frustrated by it. But I think we are strongly drawn to the idea of national deadlines as a way of applying the pressure, leaving it, of course, to the particular regions to establish stronger standards or more restrictive ones, within their own areas.

We are not talking about the national mandate to limit the movement of cars, but national standards which give regions that option, if that is the one they choose.

Mr. TRAIN. Of course, I haven't seen the language which the committee may have developed. I am not even sure whether the committee has developed language along these lines.

But if I could comment very generally, not having seen any specifics, and addressing myself to this idea of deadlines, national deadlines on an across-the-board kind of way, and not speaking specifically of the automobile problem, but of a range of problems, I think that probably much could be said for that kind of an approach.

Now again, I would want to know what the details would be, before committing myself to that statement, but in principle, I think there is much to be said for the use of that kind of deadline.

I think we all have to recognize that deadlines don't solve problems. There is a lot else that has to go with it. Tough standards, and tough enforcement, and funding to support those programs, training, and so forth.

But deadlines, I suppose, can help create an atmosphere of urgency, and help encourage the kind of action which leads toward solutions.

I think that would be my general reservation. I don't think that the public should be led to believe that just because we set some deadline dates, that the particular problems will go away on that date. They might or might not.

We must make some technological breakthroughs, and this takes a lot else beyond just deadlines, but in principle, I am not a bit opposed to the idea. I think that there may be much to be said for it.

Senator MUSKIE. It might be useful to you to give a little bit of the argument we have with ourselves, that led us to our present state.

First, the Administration proposed national ambient air quality standards. We felt that, at least I felt, and there have been several members of the committee who felt, that that would be deluding the public, to set national ambient air quality standards, without a deadline.

Without a deadline, there is nothing national about the standard.

To make them national, there must be a national deadline, it seems to us, because under the proposal submitted, we have national standards, but the deadline for meeting them would have varied within various regions and various cities of the country.

I am saying this not in critical context at all, but this was the way our reasoning went.

So then we began to debate with ourselves the idea of a national deadline for ambient air quality standards. This seemed to us to pose the problem then that we have discussed of the automobile. We are talking about a national deadline three or four or five years from now; how do we on a national basis insure that at the end of that period, whichever we choose, the automobile is going to be in a position to comply? That created a problem for us.

Now we are considering a combination, of national emission standards for automobiles, tied to a deadline, combined with regional ambient air quality standards, which gives communities with the tougher problems the option of being tougher in dealing with them, by either requiring add-on devices, or restricting the movement of automobiles within their own limits.

Now this, I think, this traces the route that I think it has taken, and this takes you to the point at which we are now trying to decide what we ought to do, and I would be interested in having any follow-up comments off the record or in any way representing your reaction to this approach.

Mr. TRAIN. Well, naturally, we would be delighted, members of the Council and our staff, to discuss these matters with the members of your subcommittee, your staff.

Senator MUSKIE. Thank you very much.

Senator BOGGS. No further questions.

Senator MUSKIE. I guess that there are no further questions that we have time to ask at this point. There are many we would like to ask, and I am sure in the course of the months and years ahead, we will have many exchanges.

Mr. TRAIN. We would be willing to come back, Mr. Chairman.

Senator MUSKIE. Thank you very much.

Mr. MUSKIE. I would say the Council regards this as one of its prime responsibilities and that it is moving actively and positively to implement it. I expect, under the leadership and stimulation of the Council, that the agencies of Government, including the Department of Defense, will respond to the mandate of the law.

Mr. JACKSON. Mr. President, I concur in the Senator's statement. I was about to get to that point, but I do concur in the statement which has been made by the able Senator from Maine.

The agency response under section 102 has been quite good. We have to realize that this applies to every Federal agency in the Government. It is a complicated matter to implement. The agencies have accelerated their planning in this regard. The Senator from Maine pointed out that the Department of Defense has submitted its guidelines for compliance under this particular provision.

There is an obvious need for amendments to the National Environmental Policy Act. We asked Chairman Train about this this morning. As the Senator from Colorado knows, he indicated that the Council would be submitting recommendations for amendments to the act to better do their job and carry out the charter we gave them.

I believe the sensible thing to do here is to let the committees responsible for this program do the job of oversight they have started.

The Senator from Maine has started his hearings. We started ours today to review the entire National Environmental Policy Act in connection with the annual report just submitted as required by law.

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

Mr. JACKSON. I yield to the Senator from Colorado.

Mr. ALLOTT. Mr. President, I thank the Senator for yielding. I wish to make an observation.

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

Mr. JACKSON. Mr. President, I yield myself 3 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 additional minutes.

Mr. ALLOTT. Mr. President, we are all involved very deeply in the writing of section 102; and section 102 involved a great deal of time in the conferences on that bill, as the Senator knows.

My observation with regard to this matter and the amendment pending is that we are moving, in my opinion, in a sensible way now in the entire environmental problem; not as fast as some people would like, but we are moving sensibly. It is my hope that we do not clutter this matter with a lot of other provisions of law which, in my opinion, would keep the provisions of S. 1075, if it became law, from being meaningful and constructive in the objective of getting a world that is more environmentally acceptible to all of us.

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

Mr. JACKSON. I wish to make one comment and then I shall be happy to yield to the Senator from Arizona.

Mr. President, I wish to say that the Committee on Interior and Insular Affairs and, I know also, the Committee on Public Works, are reviewing this entire matter very carefully and the sensible thing here is to give us the opportunity to complete that process. The report was just submitted. It was submitted as of August 10. Our responsibility under the law is to review this situation. We have an oversight responsibility. We have started that process; and I know we are going to complete it. I know the Senator from Maine is of the same mind.

I wish to emphasize again what has been said by the Senator from Maine. There is a conflict of interest under the amendment because although the Council on Environmental Quality is policing this matter under the act, the Department of Defense would police its obligation under the amendment. I point this out as all the more reason this matter should be studied carefully.

I admire the Senator from Wisconsin for what he is endeavoring to do.

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

Mr. JACKSON. I yield.

Mr. PROXMIRE. There is nothing in my amendment which would change the Jackson bill that passed. All we say is that we will not appropriate funds, or authorize funds until the act is complied with. As far as the administration of the act, we do not touch the basic law at all.

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

Mr. STENNIS. Mr. President, I yield 2 additional minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. JACKSON. Mr. President, the matter is quite clear to me.

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

Mr. JACKSON. I yield.

Mr. MUSKIE. This goes to the question that puzzles me. The basic act gives the Council no authority over expenditures. We give them no authority to decide whether the departments can spend money in connection with an amendment, such as the amendment offered by the Senator from Wisconsin.

I assume that since that responsibility is not placed anywhere else, either the Department of Defense will decide if it complies with this amendment, or the question will be left in confusion.

Mr. PROXMIRE. Mr. President, I yield myself 2 minutes in order that I may reply to the Senator.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. What we specify here is that a report has to be made.

Mr. MUSKIE. But that is already a requirement by law, so it is not new.

Mr. PROXMIRE. That is correct, but we indicate to the Department of Defense specific areas where a report must be required.

That differs from the views which the Department of Defense indicated in the guidelines. They would not report on transportation of dangerous substances or devices, for instance.

Mr. MUSKIE. There is nothing in section 102 which would exclude these things——

Mr. PROXMIRE. The guidelines exclude them.

Mr. MUSKIE. The guidelines presumably would not be approved by the Council. They are too narrow. They are proposed guidelines by the Department of Defense; so section 102 is administered by the Council, and the Council, I am sure, will zero in on that point.

The question is: Who decides whether or not expenditures should be withheld under the operation of the amendment? As I read it, either the Department decides it, or it is left in the air.

Mr. PROXMIRE. Under the present circumstances funds are not limited at all; they can make the report or not make it.

Mr. MUSKIE. I disagree with the Senator. I have undertaken to explain the history and the thrust of the act. I have undertaken to elicit from Mr. Train this week the steps he has taken to implement it. They are positive steps, they are working, and I am sure they will be effective in implementing the law.

Mr. JACKSON. The effectiveness of the section has been dramatized in lawsuits. Failure to comply with this section makes it possible to get injunctive relief, and it has been granted. There is legal authority for an individual or cities or States to go into court for failure to comply with section 102, and there have been a number of decisions rendered in such cases.

Mr. PROXMIRE. I think the Senator from Maine and the Senator from Washington have made clear that there has been compliance by the Corps of Engineers. There has not been compliance by the rest of the Department of Defense. They filed only one report, and that was under great duress, with respect to burying chemicals in the ocean, but nothing else. Do Senators mean to say there has been no action by the Defense Department in 7 months that had an adverse reaction on this environment?

Mr. JACKSON. May I say to my friend—and let us make this very clear—it is simply not possible to overcome all the guidelines that have to be proposed and approved in this time.

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

Mr. JACKSON. It is just not physically possible to do it.

Mr. STENNIS. Mr. President, I yield 2 additional minutes to the Senator from Washington.

Mr. JACKSON. Mr. President, what concerns me is that I do not know why the Senator wants to single out one agency. If we go through the list of them, we will find that all the agencies have not had time to fully comply with the law.

I certainly concur with the objective of the Senator from Wisconsin, but the Chairman of the Council on Environmental Quality, Mr. Russell Train, said today they are considering amendments to the act and they want time to be able to determine what new tools they may need. They are insisting on compliance, but I do not think it is humanly possible to get definitive guidelines on all the needs in this time frame. First of all, Congress has not even given them money to provide a full staff. They are struggling without the people to administer this program.

Mr. MUSKIE. Mr. President, on this point, the Council on Environmental Quality last year was provided a limited authorization of funds. The additional authorization was included in the Environmental Quality Improvement Act which was signed into law by the President this March. It was not until March that the Council was in a position to come to the Congress and ask for the $1.5 million in appropriations necessary to do the job. It has been only since March that the Congress has been in a position to arm the Council with the kind of authority to implement section 102.

March to August is not an unreasonable amount of time, since the money has not yet been appropriated. The Council has not been able to get a full staff to do the job. I do not think the Council could be faulted on the performance of its job.

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

Mr. PROXMIRE. Mr. President, I yield myself 2 additional minutes.

They could do the job far better than they have done it. They have filed only a single report. That is the first point. Second, this amendment would give them another year before it would be effective, before it would restrain funds for not complying with the law. So the agency would be given ample time to develop its guidelines.

Mr. MUSKIE. Mr. President, may I respond to that?

Mr. PROXMIRE. Let me finish this thought, because the Senator from Washington has asked me again and again why we do not apply it to other agencies. The answer to that is that we ought to, and I intend to do so, but the testimony is, and it has not been challenged, that 80 percent of the pollution caused by Federal agencies is by the Defense Department. This was the opinion of an official of the Council on Environmental Quality. So I think it reasonable to provide an amendment that would include some muscle requiring such a report.

The Senators from Maine and Washington are two of the ablest men in this body, but I think on this particular matter they are just too patient, if, from the biggest agency of the Federal Government, we are told that they cannot file more than one report on this matter——

Mr. MUSKIE. May I say that the first effective provisions on this subject were written last year by the Committee on Interior and Insular Affairs and my committee, laws that we are now trying to implement with the product of our committees. We have formed some judgment which I hope we can get to the Senate on how best to proceed. That does not mean we are infallible, but it suggests that we ought to be able to make some inquiry into the sanctions that are provided.

The Senator is saying, all right, it has not had enough experience; let us give them a year's time, but at the end of the year, let us make sure that this is the solution, no matter what they may find. It does not matter that they may identify some other sanction in that year that would work better, but whatever finding they make in that year, they have to do this.

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

Mr. STENNIS. Mr. President, I yield 3 minutes to the Senator.

Mr. MUSKIE. It seems to me this is not the intelligent way to be proceeding. If the Senator concedes that a year's experience would be useful, why do we not use that year's experience to examine not only this kind of sanction but also other kinds of sanctions that might be applicable, and then make the judgment about which one should be selected? Instead, the Senator says:

> We will give you one year to develop an experience, but at the end of the experience we want only one kind of answer, and that is this sanction.

Mr. PROXMIRE. They are having 1 year's notice, or 10 or 11 months' notice, that they are going to have to comply; that there is real muscle in the law; that they have to make reports.

If that is not done, if we delay until next year then next year they will say, "Give us another 6 or 7 months in order to comply."

It seems to me, on the basis of the way things operate, if we act today, get it into the bill, and the bill becomes law next month, then Defense will have ample time to prepare, to make their reports, beginning July 1. If we wait until next July 1 to do it, we will have to wait that much longer.

If we are going to have action, we should indicate that we mean business as far as the biggest department of the Federal Government is concerned.

I agree that we should crack down on industrial and private polluters, but I do not think we should permit the Defense Department to get into a position in which they drag their feet. They do not seem to be complying. It is true that there are situations in which these kinds of delay can be rationalized or justified, but it seems to me the Department could do a better job than it has done.

Mr. MUSKIE. That is not an easy judgment to challenge. We all could have done better. We could have written a better law. We could have written it earlier than we did. We could have had it enacted 3 or 4 years earlier. That is the kind of judgment I cannot contest. The Senator probably can.

What I am saying is that we have been working since the first of the year on the new antipollution law. The committee has spent more hours in executive sessions on the question of how tough it should be, what sanctions should be included, how they should be put together in a comprehensive policy that makes sense, than I could count on the fingers of my hand if I stood here counting the rest of the day.

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

Mr. STENNIS. Mr. President, I yield the Senator 3 minutes.

Mr. MUSKIE. What the Senator is saying is that all that is wasted effort; that, instead, we should put together an amendment on the first day of the session, bring it in, and let the Senate act on it, just because somebody has not done as good a job as he should have done in the past.

I take the view that when we get into complicated questions of this kind, they are deserving of some time and testing and dialog and testimony and interaction of opinions. But, no; the Senator has developed his sanction and has brought it on the floor of the Senate. The Senate is not deserving of further consideration of it. It is not important that the Senate does not know enough about it.

If that is his view, then we should not hold any more executive sessions or markup sessions on the air pollution law. I will report it tomorow as an amendment on the floor, without further consideration of it.

These are complicated questions, I may say.

The Senator paid a tribute to my interest in this area. May I just suggest that he consider this opinion from me: That it is complicated; that it does take time to develop ways and guidelines; that we have worked on it; that the provisions of the law we enacted last year dealing with that question——

Mr. PROXMIRE. I think the law is very helpful.

Mr. MUSKIE. But it requires that kind of time.

Mr. PROXMIRE. I think the law specifying that kind of policy should be followed. The report required can be enormously helpful. The provisions are the result of discussions, hearings, and careful deliberation, and I commend the Senator for that.

I think that the Senator from Washington and the Senator from Maine have cooperated very effectively in getting a good law. All I say is that it has not been complied with, on the basis of the record we have and the hearings we have had before my committee. When we have asked witnesses who have appeared in behalf of the Defense Department and others, they say they have not filed reports. It seems to me it does not take a great deal of time and effort, or they should not have to have an enormous amount of detail and extensive hearings, to provide this simple and limited sanction. All we say is, "The law has been worked out very carefully; comply with the law, or you do not get any funds."

Mr. MUSKIE. I must say to the Senator it is not that simple. If it were, we would not need any legislative hearings on environmental legislation. Wherever there are sanctions of any kind, whether in the form of criminal penalties, civil penalties, or otherwise, it is just as complicated, with respect to the report being filed.

Senator PROXMIRE's amendment, by requiring the Department of Defense to impose sanctions on itself for not implementing the requirements of Federal law, would establish an unacceptable precedent. The Department of Defense and other Federal agencies whose activities may affect the environment should not have the final authority to determine whether or not sanctions will be imposed, which activities will have environmental effects or what environmental effects may result. These decisions should be made by the Environmental Protection Agency or the Council on Environmental Quality.

Mr. GOLDWATER. Mr. President, will the Senator from Mississippi yield me 2 minutes?

Mr. STENNIS. Mr. President, I wanted to yield to the Senator from Tennessee (Mr. BAKER), but he does not seem to be present at the moment.

Mr. GOLDWATER. Will the Senator give me 2 minutes while we wait for the Senator from Tennessee?

Mr. STENNIS. The Senator from Florida had asked me first. How much time does the Senator from Florida require?

Mr. GURNEY. Two minutes.

Mr. STENNIS. I yield 2 minutes to the Senator from Florida.

Mr. GURNEY. I thank the Senator from Mississippi for yielding.

Mr. President, I have listened very carefully to the colloquy between the Senator from Maine and the Senator from Wisconsin on this matter of the environment. It seems to me that the argument made by the Senator from Maine is a valid one. What he is saying is that this whole area of the environment is something that is not a new problem, but it is new as far as Congress is concerned, and therefore we ought to have a little more time on the part of the people concerned with the problem.

The Public Works Committee and the Council on Environmental Quality have been dealing with it, attempting to come to grips with the proper solutions; and, once having found some key to the proper solutions, to implement them, and then go after the Defense Department and the other agencies of the Government to enforce compliance. That makes all kinds of sense to me.

It occurs to me, as to this great problem of the environment and environmental quality that faces the Nation today, that I do not think the Federal Government has ever taken faster action or come to grips more quickly with a national problem, once we realized it, than we have with this one. Certainly asking for more time—say 6 months or a year—for the guidelines to be established and further hearings to be conducted on how to implement the solution to the problem more properly, is the sensible way to go about it, rather than come up with some sort of big stick to hold over the Department of Defense and say, "Unless you comply we are going to hit you over the head."

The job of the Defense Department is defense. That is their main business; and as a matter of fact, right now they are fighting a war—one of the longest, most difficult, and most extensive in our history. I would think that would be occupying their attention more than the environment.

So let us let the people who are handling the environmental problem——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. I yield the Senator an additional minute.

Mr. GURNEY. I might say that the Senator from Maine has made a valuable contribution to this effort, in his leadership in coming to grips with the problem.

I say let those people who are primarily saddled with the responsibility of coming up with answers to the problem of environmental quality get a little better handle on this problem. Then we can go to the Defense Department and say, "This is what we want you to do; these are the guidelines." Then I think we will have compliance. That certainly is the businesslike, sensible, reasonable way to go about it.

I certainly am opposed to the amendment, and I think the argument of the Senator from Maine makes eminent good sense.

Mr. STENNIS. Mr. President, I yield 2 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Mississippi has only 1 minute remaining.

Mr. PROXMIRE. Mr. President, I am happy to yield 2 minutes to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, we discussed this matter earlier, but I want to point out again that the Senator's amendment does nothing at all to eliminate environmental problems. It merely says to the Department of Defense, "You cannot spend the money until you send a report over." It does not say what we are going to do with the report if it indicates the weapon will cause environmental problems.

It is merely another weapon hung over the head of the Department of Defense, that says they have to comply with the law before they can spend the money. It does not seem to matter whether it pollutes the whole atmosphere or the surface of the earth, just so they submit a report.

Mr. President, I think, too, that the argument that has been made—one that I made earlier—that this is entitled to more study, is a very sound one, because I do not think this amendment will accomplish what the Senator rightfully wants to accomplish.

I might point out that in May of this year, the guidelines were drawn by the Council, and on August 8, less than 10 days ago, the Department of Defense drew their own guidelines.

I suggest that we have a little patience. Let us see how this law is going to work that the two distinguished Senators, one from Maine and one from Washington, have worked so hard on, and on which the staff is working so hard. Let us see if it works. If it does not work, we can amend it, but I do not think we should amend it on the floor of the Senate without any discussion at all, when this amendment is aimed at the Department of Defense only because it happens to be the Department of Defense.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, because the amendment is subject to a time limitation, I do ask unanimous consent to modify the amendment.

So I ask unanimous consent, Mr. President, that on line 3, after the word "expended" the words "after June 30, 1971" be inserted.

The PRESIDING OFFICER. Is there objection?

Mr. STENNIS. Mr. President, reserving the right to object—and I shall not object—I did not hear all the Senator's proposed modification.

Mr. PROXMIRE. I simply propose to modify it as I suggested earlier, to make it effective after June 30, 1971, so it would not be effective upon enactment.

Mr. STENNIS. I do not object to that, of course.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Wisconsin? The Chair hears none, and the amendment is so modified.

Mr. PROXMIRE. Mr. President, before yielding to the Senator from Mississippi, let me say that again and again, in this debate, Senators have said, "Give us more time, be more patient."

The Senator from Washington has said, "The agency response has been quite good."

The Senator from Colorado said, "We are moving in a sensible way to meet environmental pollution."

Now the Senator from Arizona has just said, "Have a little patience, the DOD just enunciated their guidelines a few days ago."

Mr. President, I wonder how patient we should be, when we consider what is happening to our environment, when we consider the fact that, regardless of all the rationalizations and all the arguments about guidelines, and so forth, the fact is that this is the law of the land, and has been in effect since January 1, 1970. It has been the law of the land for more than 7 months. The fact is that there has been some compliance; some agencies have complied very well.

But it is clear that with respect to this action, the Defense Department has not. I am not singling out the Defense Department for particular criticism. I am saying, however, that it is a fact that they have not complied with the act, and the very notion that they have only enunciated their guidelines a few days ago is an indication of how delinquent they have been in complying with the act.

Also, I emphasize once again that they have filed one report. That was with regard to sinking the poisonous chemicals in the ocean. They did that under great duress, and with considerable objection. The guidelines that they have enunciated are extremely limited. They leave out of account one requirement which the amendment specifically requires, and that is that they make reports on the transportation or transfer of dangerous substances or devices.

If we do not pass this amendment, it is clearly the intention of the Defense Department not to alert us when they contemplate such action, or when they propose legislation which would provide them with funds to carry it out.

Mr. President, I expect to sum up later, but notwithstanding the great prestige and the great ability of the men who have spoken here against the amendment, I do hope the Senate will give it careful consideration, because it is a simple, straightforward action that provides an effective sanction against the failure of the biggest department in our Government, the department that, on the basis of competent testimony, has polluted, to the extent of 80 percent of the total pollution by all agencies combined, their failure to comply with the law.

I yield to my colleague, the distinguished junior Senator from Wisconsin.

Mr. NELSON. I thank the Senator.

Mr. President, I support the amendment of my senior colleague of Wisconsin. I think the issue of what is happening to the environment is probably the most critical issue facing the whole world. When we pass a very good act, as we did here, and the biggest agency of the Federal Government does not comply with it, it is scandalous, in my judgment.

I am going to vote for the amendment. But I think the record should be perfectly clear that whether the amendment is adopted or not, the legislative history should be clear that this may not be interpreted by the military as an exemption under the law as it now stands. Unless the Senator's amendment is adopted, I would serve notice that we will be back on the floor every time the military does not comply with the law, and I will join the Senator and raise this fight month after month after month, until the Department of Defense complies with the law.

Mr. PROXMIRE. I thank the distinguished Senator from Wisconsin, who has done more than anybody I know, and has done it longer, in fighting for a cleaner and better environment and opposing the very serious pollution problem we have.

Mr. President, I yield 4 minutes to the Senator from Mississippi.

Mr. STENNIS. I thank the Senator from Wisconsin.

Mr. President, how much time do I have now?

The PRESIDING OFFICER. The Senator have 5 minutes in all.

Mr. STENNIS. I yield 1 minute to the Senator from Kansas.

Mr. DOLE. I thank the Senator.

Mr. President, I want to associate myself with the remarks of the Senator from Maine and the Senator from Washington.

One point that I think has not been mentioned by anyone is the fact that on July 9, 1970, President Nixon transmitted to Congress a reorganization plan which would create a new and independent environmental protection agency. This would combine programs now housed in five separate Federal agencies and would have jurisdiction over the very problem which concerns, and should concern, the Senator from Wisconsin (Mr. PROXMIRE).

I point out that the Council on Environment is only an operational council. It has no jurisdiction as such. It cannot enforce compliance. But the EPA will be a fact, perhaps by October. It will have jurisdiction. It is an independent agency. I think it addresses itself to the very problem raised by the Senator from Wisconsin.

Mr. STENNIS. I yield 2 minutes to the Senator from Maine (Mr. MUSKIE).

Mr. MUSKIE. Mr. President, no one on the floor is urging that the Department of Defense be excepted from the provisions of section 102. I should like to read from the first annual report of the Council on Environmental Quality:

> In addition to its immediate impact within the Federal establishment, the provision of the law requiring detailed environmental statements has been the subject of litigation in several lawsuits and administrative proceedings. In one instance a Federal court blocked a Federal loan to develop a wildlife habitat into a golf course pending submission of the required environmental analysis. In another, the Corps of Engineers was enjoined from removing the ground cover along a river in Arizona.

This law has teeth. They have been applied to the Defense Department specifically, as indicated in this paragraph.

It is the intent of the Council on En-

vironmental Quality to see that this provision of the law is honored and enforced. It is the intent of the Committee on Interior and Insular Affairs and the Committee on Public Works to see that this law, which those committees were responsible for, is enforced. That is what will be done regardless of the result of this vote today.

Mr. STENNIS. Mr. President, I will sum up quite briefly.

I call attention to the very strong statements made here by the Senators who have the legislation in charge, as to what the estimate of this amendment is and what they propose to do on the followthrough generally.

Mr. President, I believe that thousands and thousands of transactions by the Defense Department would be affected by this amendment. I warn the Senate now that if it should become law, the moment the President signs this bill, every dime and every dollar that has already been appropriated in prior years, but not yet obligated and expended, all the money that is in the bill and all future money under its terms, is locked in, dead as Hector, and cannot move until the elements of this amendment are complied with.

It is unthinkable that we would tie up any major department, more particularly a department that is so essential and so vital.

I have great deference for the Senator, but I believe that his amendment overspoke itself by a thousand miles and that whatever merit it has can be taken care of by these expert committees, and I trust that the amendment will be rejected.

The PRESIDING OFFICER. The Senators' time has expired.

Mr. PROXMIRE. Mr. President, to listen to the distinguished Senator from Mississippi—who is, of course extraordinarily able and fair—one would think that this amendment was going to close down the Defense Department. All this amendment does is provide that they have to make reports—that is all—to comply with the present law, the law that this Congress enacted and put into effect on January 1, 1970. That is all we ask.

Furthermore, we postpone, on the basis of the modification that has been accepted by the Senate, the withholding of funds until June 30, 1971. So, in effect, they have another 12 months before they have to comply with this very limited action. Of course, when they comply with the law by filing a report, it does not mean they have to stop the pollution. It means they will have to make us aware of it, so that we know, when we go ahead with a weapons system, not only the money cost but also the environmental cost.

Mr. President, the Federal Government ought to set the example. Its actions, and particularly those of the Defense Department, have a greater effect on our environment than any other single group.

If we fail to adopt this amendment, how can the Federal Government demand action in good faith from the States, the counties, the cities, private industry, and the rank and file citizens of this country?

This law has been on the books since January 1, and the Defense Department has filed one report—nothing on the B–1 bomber, nothing on the ship construction they have had, no reports, none on some of the biggest defense contracts that this Government has ever entered into, although the law says that any significant action must require a report on the impact of it on the environment. The Defense Department is responsible for 80 percent of the pollution caused by our Federal Government, according to experts on the environmental council.

How can we in good faith demand that private commercial planes put suppressors on their jet engines while military jets do not?

Can we bring action against a giant steel company for polluting the air and water of the Nation if a huge military base is allowed to spew poison chemicals into the atmosphere?

Can we in good faith take land through Federal action in order to preserve our priceless seashores, our mountain slopes, and irreplaceable forests, if the military can bulldoze a unique environmental area without even a report to the Congress telling us about it?

The vote on this amendment is the acid test. If the largest Department in the Government can continue to flout the law, then, neither as Federal officials or as men, can we expect to be respected when we require others to clean up the environment.

Mr. President, I know the great sincerity of some of the fine Senators who have spoken against this amendment, and I know that they feel deeply about conservation. But I honestly feel that if we mean business, if we are not hypocrites about cracking down on pollution, this kind of amendment, which provides some muscle for a change and requires the biggest agency in our Government to conform with the law, should be adopted.

I ask for the yeas and nays on the amendment, Mr. President.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, what is the situation on time?

The PRESIDING OFFICER. The Senator has approximately 30 seconds remaining.

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 (Mr. HUGHES). Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise to record my opposition to amendment No. 808 of the military procurement bill.

This amendment, if adopted, would attempt to resolve complex issues by fiat that are presently being resolved by the application of existing technology, available knowledge, and experience. The Department of Defense is cooperating with the National Environmental Council in working to resolve many problems which are unique as they relate directly to the national security of this country.

Mr. President, while this amendment purports to require compliance with the National Environmental Policy Act of 1969 known as NEPA, it in fact introduces confusing language changes. In my opinion it would bring about a disruption of many vital defense programs.

The Senate should remember that application of this act is underway as it concerns all governmental agencies and interpretation of its various provisions. The Defense Department, along with all Government agencies, is working in this connection. Passage of this amendment would throw these efforts into confusion and possibly result in a delay of implementation. It should also be recognized that of all Government agencies the Defense Department has special and unusual problems in connection with coming into compliance with the NEPA.

Mr. President, while this amendment purports to require compliance with the National Environment Act it is actually duplicative of this act in some respects and introduces confusing language.

This amendment should be rejected solely on the basis of timing. If such an amendment is needed such need could not be properly determined at this point in time.

The Defense Department is especially concerned about the provision of the amendment that none of the funds authorized in this or any other act may be expended for any project or activity described in the section. This requirement is subject to considerable interpretation. Does it mean any existing project or activity carried out by or for the Armed Forces of the United States regardless of the stage of such a project? What about projects on which funds may have already been obligated for completion of that particular project? What about funds scheduled to complete some weapon system critical to our national security?

Mr. President, I hope the Senate will reject this amendment.

The PRESIDING OFFICER. Pursuant to the previous order, the Senate will now proceed to vote on amendment No. 808, offered by the Senator from Wisconsin (Mr. PROXMIRE).

All time on the amendment has expired. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. I announce that the Senator from Virginia (Mr. BYRD), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE), is absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE) is absent on official business.

The Senator from Arizona (Mr. FANNIN), the Senator from Oregon (Mr. PACKWOOD) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Kentucky (Mr. COOPER) is detained on official business.

If present and voting, the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. FANNIN), the Senator from South Dakota (Mr. MUNDT), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 26, nays 59, as follows:

[No. 257 Leg.]

YEAS—26

Bayh	Javits	Pastore
Case	Kennedy	Prouty
Fulbright	Mansfield	Proxmire
Goodell	Mathias	Ribicoff
Harris	McCarthy	Schweiker
Hart	McGovern	Williams, N.J.
Hatfield	Metcalf	Yarborough
Hollings	Mondale	Young, Ohio
Hughes	Nelson	

NAYS—59

Aiken	Ellender	Muskie
Allen	Ervin	Pearson
Allott	Fong	Percy
Anderson	Goldwater	Randolph
Baker	Gore	Russell
Bellmon	Griffin	Saxbe
Bennett	Gurney	Scott
Boggs	Hansen	Smith, Maine
Burdick	Holland	Smith, Ill.
Byrd, W. Va.	Hruska	Sparkman
Cannon	Inouye	Spong
Church	Jackson	Stennis
Cook	Jordan, N.C.	Stevens
Cotton	Jordan, Idaho	Symington
Cranston	Long	Talmadge
Curtis	Magnuson	Thurmond
Dodd	McClellan	Tydings
Dole	McIntyre	Williams, Del.
Dominick	Miller	Young, N. Dak.
Eastland	Murphy	

NOT VOTING—15

Bible	Fannin	Moss
Brooke	Gravel	Mundt
Byrd, Va.	Hartke	Packwood
Cooper	McGee	Pell
Eagleton	Montoya	Tower

So Mr. PROXMIRE's amendment (No. 808) was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. GURNEY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

The PRESIDING OFFICER. Pursuant to the previous order, the Senator from New York is recognized for a period of not to exceed 20 minutes.

Mr. PASTORE. Mr. President, will the Senator yield to me for several minutes? While Senators are present, I would like to explain the situation that confronts the Senate today.

Mr. GOODELL. Mr. President, I would be delighted to yield to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senate will please be in order. The Chair has repeatedly called for order. Senators will please take their seats. If they want to talk, they will please do it outside.

EQUAL TIME REQUIREMENTS FOR CANDIDATES FOR PUBLIC OFFICE

Mr. PASTORE. Mr. President, I have a conference report I wish to call up this afternoon. This is a conference report that I think most Senators are interested in, whether they are Republicans or Democrats.

This has to do with a limitation on the amount of money which can be spent either in a primary or in a general election on electronic broadcasting, whether radio or television.

The matter came before the Senate. The bill was introduced with quite a number of sponsors on the part of the Senate. Our committee heard the matter at length.

We came back with a recommendation in April of this year. And we passed the bill on the floor of the Senate and sent it to the House. The House made certain amendments and passed the bill only this week.

We realize that the House is going to be in recess for some weeks beginning tomorrow night. I thought that we could resolve this matter today and give the Members of the House an opportunity to vote on it tomorrow before they leave.

I realize that some Senators are not in agreement with this legislation; but after all, this is a privileged matter. This matter was debated at some length on the floor of the Senate and it was debated at some length on the floor of the House of Representatives. We have gone to conference and we have come back with a conference report. I must be honest in saying that the Republican conferees refused to sign the report.

I want to assure Senators this is not a partisan measure and it was never intended to be a partisan measure. As a matter of fact, I have no personal interest in it one way or the other. But it is my duty and responsibility and I would like to see it go through.

I wish to ask the distinguished majority leader what he expects me to do about this matter. I would like to go home myself today, if possible, but on the other hand we have a job to do and if we do not pass this measure today the House will wait until it comes back sometime in September and you might as well kiss this goodby.

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

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. MANSFIELD. Mr. President, will the Senator from New York yield to me, so that I may reply to the Senator from Rhode Island?

Mr. GOODELL. I yield.

Mr. MANSFIELD. Mr. President, I have discussed this matter earlier today.

Mr. KENNEDY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Staff members will please be seated.

The Senator from Montana may proceed.

Mr. MANSFIELD. Mr. President, at that time I told the Senator from Rhode Island, "Anything John wants, John gets."

Mr. PASTORE. That is Lola who gets what she wants.

Mr. MANSFIELD. Since that time I understand that from the Republican side there has been a suggestion that this matter be postponed until next week. However, the chairman of the Senate conferees is quite correct when he says that the House will recess tomorrow for almost a month. There will be no chance for action. Even though I do not intend to be here I would suggest to the Senator from Rhode Island that, in view of the fact this is a privileged matter, and he is the manager of the bill, at the conclusion of the remarks of the Senator from New York, he go ahead with the conference report.

Mr. SCOTT. Mr. President, will the Senator from New York yield to me?

Mr. GOODELL. I yield to the Senator from Pennsylvania.

Mr. SCOTT. Mr. President, I think the reason for the discussion about the measure is that there appears to be some sense of haste here, inasmuch as the conferees only agreed this morning. There has been no opportunity to disseminate the decision of the conference, which represents a divided point of view and I might say a sharply divided point of view. It seems to me it would be unfortunate to rush this matter under those circumstances. Normally we would have sufficient time to gain at least the opportunity to advise our colleagues as to what was done in conference. I do not know why there has to be all this haste and urgency about the matter. The other body is not going to be able to act, as I understand it.

Mr. PASTORE. That is just the point. They could act tomorrow.

Mr. SCOTT. We have seen no evidence that they are prepared to act tomorrow or even to have a quorum.

The "hegira" is underway over there. They are pursuing the course of lemmings. They are headed toward their expected coasts with varying prospects of survival, and it is a situation we must all face.

But it seems to me this is—I would certainly not call it indecent haste—a rather headlong move to try to bring up a matter which has not been disseminated here, which could hardly be disseminated here today to all of our colleagues.

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

Mr. GOODELL. I yield.

Mr. MANSFIELD. I would like to propound a question to the distinguished minority leader. How much time does he think the Senate should have before this privileged matter could be brought up?

Mr. SCOTT. I think if we could bring it up on Monday, it would be all right. We are not seeking an inordinate delay, but the Senator knows there are some quite serious differences of opinion. It is a matter that was debated at quite some length, not only in this Congress but also in other Congresses.

Mr. PASTORE. Would the Senator agree to a unanimous consent to vote at 1 p.m. on Tuesday?

Mr. SCOTT. I would have no objection to that if the Senator from Tennessee has none.

Mr. PASTORE. That will give Senators an opportunity to debate this matter for 72 hours. We could make it 2 p.m. Tuesday.

Mr. BAKER. Mr. President, will the Senator yield to me so that I might reply?

Mr. GOODELL. I yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I was the other conferee on the Republican side; I am on this committee; and I opposed these amendments in the conference report on the floor when they were offered. I have deep feelings about this matter, and I intend to resist adoption of the conference report as strongly as I know how.

Mr. PASTORE. I understand.

Mr. BAKER. I expect other Senators will want to speak, not at great length but at some length. I think a time certain to vote is appropriate, but I am not sure Wednesday is enough time.

Mr. PASTORE. Tuesday at 2 p.m. That will give everyone a chance to study the features of the bill. I can explain it this afternoon, and it will be in the CONGRESSIONAL RECORD. Any Senator who has anything to say would have tomorrow, Monday, and Tuesday until 2 p.m. to debate the matter.

This is a privileged matter. This legislation has been discussed here before. I know the Senator from Pennsylvania and the Senator from Tennessee voted against it, but it was passed by the Senate, it went to conference, and we have to expedite it. I do not care if Senators vote it up or down, but it should be expedited. I say that Tuesday at 2 p.m. is fair.

Mr. BAKER. I have no feeling on the time, but I think there will be a day or two of fairly energetic debate. I think we are subsidizing our own campaigns.

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

Mr. GOODELL. I yield.

Mr. CURTIS. When would this bill become effective if the conference report is adopted and the bill signed?

Mr. SCOTT. January 1.

Mr. PASTORE. No.

Mr. SCOTT. Thirty days after enactment.

Mr. PASTORE. Yes; 30 days after enactment.

Mr. SCOTT. That is correct.

Mr. PASTORE. Mr. President, will the Senator from New York yield so that we may resolve this matter?

Mr. GOODELL. Mr. President, I yield further. Mr. President, I ask unanimous consent that this time not be taken from my allotted time.

Mr. PASTORE. I have no objection.

The PRESIDING OFFICER. The time will not be deducted from the 20 minutes allocated to the Senator from New York.

Mr. PASTORE. Can we agree on Tuesday at 2 p.m.?

The PRESIDING OFFICER. Is there objection to a time certain of Tuesday at 2 p.m.?

Mr. MURPHY. Mr. President, will the Senator yield to me?

Mr. GOODELL. I yield.

Mr. MURPHY. Mr. President, it seems to me quite obvious that there is an objection on the part of the distinguished Senator from Tennessee and the distinguished minority leader, and they have expressed it. This seems to be a hurried decision.

I appreciate the fact that my good friend wants to get it done and over with. I agree the matter should be resolved, but I am concerned now about the objections. I am worried that there are Senators who are not here. Few will be here later. I would be concerned if we were to rush into something in haste that we might regret.

Quite frankly, I am not certain of all the provisions of the measure. I have not had a chance to look at them. I think that out of deference to the two Senators on this side of the aisle who have expressed themselves, we could work out a better time—maybe Wednesday or Thursday.

Mr. PASTORE. I hope the Senator realizes that this is a privileged matter. I could call it up this afternoon, no matter who thinks what. I want to be agreeable. I do not want to become involved in a filibuster. I do not care who has anything to say about it, it would not take 5 minutes to resolve the matter and say if one is for the measure or against the measure. Personally I do not care whether Senators are for it or against it, but in deference to the Senator from Rhode Island, who has of official necessity put in so much time on this matter we should agree on a time certain to vote. If Senators would like Wednesday I can agree to Wednesday, but let us have a time certain.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. SCOTT. I suggest we take it up Wednesday.

Mr. PASTORE. For a vote?

Mr. SCOTT. We could vote after it is taken up. We want a chance to talk about it.

Mr. PASTORE. No. This can be discussed today, Monday, and Tuesday; otherwise I will bring it up this afternoon. It is a privileged matter. If anyone wants to stay here and debate it with me he may stay and debate it.

I have just as much time as anybody else. I have gone through this and gone through this and gone through this. It is a delaying tactic, nothing more. If Senators want to do it Thursday, I will do it.

Mr. MURPHY. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senator from New York has the floor. He has yielded.

Mr. MANSFIELD. Mr. President, if the Senator will yield, may I point out that if Tuesday, Wednesday, or Thursday is agreed on, the House will not be back until the 9th of September. Then, it is my understanding, it does not go into effect until 30 days later.

Mr. PASTORE. After the President has signed it.

Mr. SCOTT. Mr. President, we are willing to have a vote at 2 o'clock Thursday if the Senator will withdraw his remarks regarding delay.

Mr. PASTORE. Mr. President, I withdraw my remarks.

This means a vote at 2 o'clock on Thursday? Is that correct?

Mr. SCOTT. This means a vote at 2 o'clock.

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

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. MURPHY. The Senator from New York has yielded to the Senator from California.

I would like to say to the distinguished Senator from Rhode Island that there was no intention to delay on my part. There was an effort to accommodate, to make certain every Senator knew what was happening.

Mr. PASTORE. I understand that. I understand.

The PRESIDING OFFICER (Mr. HUGHES). The Senate will be in order. The Senator from California is entitled to be heard.

Mr. MURPHY. I will turn up my machine. [Laughter.]

Since the distinguished minority leader has agreed on the time that the matter will be introduced—or voted upon?

Mr. SCOTT. Voted upon on Thursday at 2.

Mr. MURPHY. Thursday at 2.

I withdraw my objection, and I assure my friend from Rhode Island that I have no intent to delay.

Mr. PASTORE. I know that, and there was no implication from the Senator from Rhode Island that he meant the Senator from California.

Mr. MURPHY. I was sure of that.

Mr. PASTORE. Furthermore, I have read the Senator's book, and it is beautiful—captivating from cover to cover.

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

Mr. GOODELL. I yield to the Senator——

Mr. MANSFIELD. Mr. President, will the Senator yield to me briefly so that, in the third or fourth degree, I may yield to the Senator from Rhode Island?

Mr. GOODELL. I yield.

Mr. PASTORE. Mr. President, may I have another word?

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PASTORE. I understand if the papers are sent to the House there is a likelihood it can act today or tomorrow.

Mr. SCOTT. Mr. President, we have an agreement to vote on Thursday. Why can we not stay with the agreement?

Mr. MANSFIELD. If we have an agreement.

Mr. SCOTT. I ask unanimous consent that we agree to vote on Thursday at 2:00.

The PRESIDING OFFICER. The question has been raised and the Senator from Tennessee has sought to ask the Senator from New York to yield to him.

Mr. BAKER. I understood the Senator to yield.

Mr. GOODELL. I yielded to some other Senators and then the Senator from Rhode Island was yield to.

I yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I make inquiry as to what the proposal is as to

when the conference report will be laid down and made the pending business. We have information that if it is laid before the Senate on Thursday at 1 o'clock——

Mr. PASTORE. Mr. President, I understand the House is ready to act on it. For that reason I withdraw my request and will make it next week.

MESSAGES FROM THE PRESIDENT—APPROVAL OF A BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on August 12, 1970, the President had approved and signed the act (S. 3348) to amend title 38, United States Code, to increase the rates of compensation for disabled veterans, and for other purposes.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. JORDAN of Idaho) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. HUGHES). Pursuant to previous order, the Senator from New York (Mr. GOODELL) is now recognized for a period not to exceed 20 minutes.

Mr. GOODELL. Mr. President, on July 9 I made a speech——

The PRESIDING OFFICER. The Senator from New York will suspend until we have order in the Chamber.

The Senator from New York.

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENT—AMENDMENT

AMENDMENT NO. 838

CULEBRA II

Mr. GOODELL. Mr. President, on July 9, in a speech on the Senate floor, I noted that the education of the children of the island of Culebra, the island's economy, and its ecosystem are being greatly and irretrievably damaged by the Navy's continued bombardment of that island.

At that time, I wrote to the distinguished Senator from Washington, Senator JACKSON, recommending that the Subcommittee on Military Construction of the Senate Armed Services Committee, a subcommittee of which he has ably served as chairman, convene hearings upon Culebra as soon as possible.

The PRESIDING OFFICER. The Senator will suspend until there is order in the Chamber. There are conferences going on all over the Chamber. The Senator from New York cannot be heard. He is entitled to be heard. Will you please extend the courtesy of the Chamber to the Senator from New York?

The Senator may proceed.

Mr. GOODELL. Mr. President, I suggested that the hearings focus upon the following issues:

First. What precisely are the purposes in all their technical detail, for which the Navy utilizes portions of Culebra?

Second. Are those purposes consistent with the maximation of our national security in general and with the imperative of having, in particular, a bombardment practice setting as close to combat conditions as possible?

Third. What precisely are the methodologies, in all technical detail, which the Navy utilizes to fulfill those purposes? Are those methodologies consistent with maximization of the combat-realism of the simulation setting?

Fourth. What alternatives to the use of Culebra are there which would meet the Navy's objectives and/or revised objectives which your subcommittee may decide would better further the national security?

Fifth. How has the economy of Culebra been affected by the Navy's utilization of the island? Is any effect of Navy's utilization irreversible?

Sixth. How has the ecosystem of Culebra and its surrounding cays been affected by the Navy's utilization of the island? Is any such ecological effect irreversible?

Seventh. Has the education of the children of Culebra been affected by the Navy's utilization of the island? Is any such effect upon their education irreversible?

Eighth. Have any of the civil liberties of the people of Culebra been infringed upon as a consequence of the Navy's utilization of the island? With what cost?

Ninth. Should the Navy be permitted to fulfill its plan of taking over another third—2,350 acres—of the island?

Tenth. Should the Congress require the Navy to cease using Culebra totally for bombardment practice purposes?

In a reply dated July 29, Senator JACKSON noted that he had requested a report from the Navy on the matter and that he had also requested a report from the Defense Department. He further noted:

> I expect to meet with Navy officials in executive session within the next few days to discuss the future of Culebra and possible alternatives. Whether public hearings will follow depends upon the outcome of this meeting.

I also sent a letter to the distinguished Senator from Mississippi, Senator STENNIS, seeking his reactions to the recommendation for hearings which I had made and to the specific questions which I had suggested be considered. In his reply of July 31, Senator STENNIS noted the following:

> It is my understanding that Senator Jackson intends to explore this matter with the appropriate officials of the Department of the Navy in executive session at the propitious time. This will probably be before the completion of the hearings on the military construction authorization bill which we are now considering.

I am confident, therefore, that the deliberative processes of this body have taken cognizance of the needs of the people of Culebra, and that action in the Senate to help them has become a possibility.

The interests of Culebrans have not fared so fortunately in other parts of our Government, regrettably. Representative CHARLES BENNETT'S Real Estate Subcommittee of the House Armed Services Committee has issued a report whose conclusion is that the Navy has no cheap alternative to Culebra for its goal of bombardment practice, and that the Navy should be permitted to acquire another third of the island. The report suggests, moreover, that perhaps the Navy should take over the island entirely, with the people of Culebra being relocated en masse to a nearby island.

Despite the possibility of constructing artificial islands or floating platforms to serve as targets, and despite the availability of two alternative islands which the Governor of Puerto Rico has offered the Navy in lieu of Culebra, Secretary of Defense Laird has flatly stated that there is no Navy alternative to Culebra. He came to this conclusion despite the contradictory conclusion of the Advanced Research Projects Agency—ARPA—of the Defense Department, for ARPA scientists have publicly stated that construction of artificial targets is feasible. A research program officer of the Office of Navy Research, as I noted in my speech on July 9, has confirmed that.

Given the availability of alternatives to Culebra, the conclusions of the House subcommittee and of the Secretary of Defense are insensitive, irresponsible, and inhumane. There is no excuse whatsoever for the Navy's retention of bombardment upon Culebra.

Accordingly, I am this morning submitting an amendment to H.R. 17123, the Military Procurement Authorization Act, which would terminate the Navy's bombardment of Culebra. The text of the amendment is as follows:

> At the end of the bill add a new section as follows:
>
> "SEC. 507. None of the funds authorized to be appropriated by this Act or by any other law shall be used for research, development, test, evaluation, personnel training exercises, or the procurement of weapons or other supplies by any military department if such activities include the naval shelling or air bombardment of the island of Culebra (located off the coast of the Commonwealth of Puerto Rico), of any of the keys adjacent to such islands, or of any waters within three nautical miles of such island."

The PRESIDING OFFICER (Mr. HUGHES). The amendment will be received and printed, and will lie on the table.

Mr. GOODELL. Mr. President, for the information of other Senators, I ask unanimous consent to have inserted in the RECORD at the conclusion of my remarks an excellent series of Armed Forces Journal articles upon Culebra. The articles detail the damage which is being done to the Culebrans and to the ecosystem of their island, and discuss the feasibility of alternatives to the island for the Navy's purposes.

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

(See exhibit 1.)

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

Mr. GOODELL. I yield.

Mr. JAVITS. Mr. President, the Senator is speaking on a very important matter, and taking an important initiative, in which I join with him, and join in his remarks now in urging action by the Armed Services Subcommittee under the Senator from Washington (Mr. JACKSON).

Mr. President, our relationship with Puerto Rico is a very special one under Commonwealth status. It is not a State of the United States, nor is it a dependency or territory of the United States. Puerto Ricans are American citizens. I was a member of the Puerto Rican Commission to determine what should be its form of government. We decided that Congress would undoubtedly accept whatever status the majority of Puerto Ricans wished, that it was entirely up to them. Right now, they seem to be staying with the Commonwealth.

Therefore, in our relations, as we handle their defense and Puerto Ricans serve in our Armed Forces, and as we handle their foreign policy, a great degree of tact and wisdom must be exercised in respect to the impact upon them of our defense activities.

This bears very heavily on the people of Culebra, and yet it presents an important strategic question for the United States as well. I think my colleague is approaching it in exactly the right way. I shall do my utmost to work with him in respect of it.

In this situation, the burden is on the Navy. The Navy has to show that strategically it must have this facility, that it cannot do without it and, therefore, that these citizens simply have to accept something in their own interests and the interests of the United States. We are not at all convinced of that. Neither are the Puerto Rican authorities themselves, Mr. President. I think Senator GOODELL and Senator JACKSON are going at it in the right way, and I only hope—and I am sure this will happen—that the two curves cross, and that, before it is necessary to take the plenary action which the Senator suggests by his amendment, we may have an authoritative finding from our own Armed Services Committee as to whether or not these citizens really have to take the punishment they are taking. Senator GOODELL does not believe they do, and I do not believe they do; but we are willing to accept the substantive proof, if there is any.

I compliment my colleague upon the tact and statesmanship with which he is approaching this matter.

Mr. GOODELL. I thank my colleague from New York. Obviously, the senior Senator from New York has been much interested in this problem and other problems that affect the Commonwealth of Puerto Rico.

I might emphasize here that there is solid evidence from experts, including the Advance Research Projects Agency of the Defense Department, that Culebra is not necessary. I agree with my colleague that if the Defense Department can come forward with some irrefutable evidence, unknown in any form at this moment, to my knowledge, we obviously would reassess the situation. But I am introducing my Culebra amendment today because I believe that it is now clear that if the Senate does not act to protect the American citizens upon Culebra, no one will. It is squarely our responsibility.

Since Senator JACKSON's Military Construction Subcommittee has begun executive session inquiry into the issue, I do not intend to call up the amendment for a vote while there appears to be substantial hope that that subcommittee's efforts may persuade the Navy to withdraw from the island. I hope that the subcommittee will indeed be successful in this regard, and I offer to it and to Senator JACKSON whatever aid I can give.

Should the Navy maintain its intransigence on this issue over the coming weeks, however, and should no steps toward withdrawal from the island be taken as this body finishes its debate upon the Military Procurement Authorization Act and moves on to consideration of the Military Construction Act, I will feel compelled to reassess the situation at that time and to take such action as will protect the interests of the people of Culebra. It is my hope that the Navy will carefully listen to the Subcommittee on Military Construction, and that such further action will prove not to be necessary.

EXHIBIT 1

[From the Armed Forces Journal, May 23, 1970]

CULEBRA: NAVY FOCUS ON CINCLANT'S BULL'S-EYE IS WAY OFF TARGET, BUT MAY BE COMING INTO RANGE

(By Ben Schemmer, Clare Lewis, and the Journal staff)

CULEBRA ISLAND.—Like the mouse that roared, the tiny island of Culebra—owned in part by 743 Spanish-speaking, patriotic U.S. citizens who have representation but no vote in Congress—has appealed to the Governor of Puerto Rico and the House Armed Services Committee to help it win a battle with the United States Navy it has tried hard to avoid.

The Navy wants to expand gunnery and bombing operations on this docile, 7,000-acre Caribbean municipality used as CINCLANT's bull's-eye. Culebrans have accepted their odd destiny with quiet humility for over 35 years, in some respects for almost 70. Now, they want the Navy to shoot at something else.

The Navy says that it has no choice: that it needs more targets and larger safety zones on Culebra for new air-to-ground missiles like Walleye, Standard ARM, Bulldog, and Hobo glide bombs. But some of the very experts who stress this now admit they haven't even read the studies telling what's wrong with a host of other, uninhabited nearby island alternatives.

You probably read about Culebra in *Life* on 10 April. But *Life* cut into the onion no deeper than the peel, and facts available to The Journal suggest that the Navy—even though it sliced a lot longer—hasn't gone much deeper. Hopefully, the Governor of Puerto Rico and the House Armed Services Committee will cut through to the middle.

Hearings on the Culebran issue will be held this week before an HASC Real Estate Subcommittee headed by Representative Charles Bennett (D–Fla). Since 1954 the Navy has wanted to buy the entire island, on which it already owns at least 2,683 acres. But on 31 December, Culebrans wrote to President Nixon objecting to Navy plans—never explained to them—to resettle Culebra's 450 families on the nearby island of Vieques, which in part is another Navy bombardment range.

The quiet islanders began making noise when bombardment operations peaked, early this year—led by the Navy, but with ships of at least six (and some say over 20) other nations peppering away, too.

Since, the mouse that roared has lost a major court battle, won a partial but ironic victory from the Navy (see page 39), and today could be calibrated on a political/social bull's-eye which the Navy apparently doesn't see.

After stabbing at the onion for the last ten days, our impressions of the "Culebra problem" could fill a book. The Navy would not like it. Nor does The Journal. Here, in brief, is why:

INNUENDOS

We've heard more innuendos from the Navy than facts from either side, Navy spokesmen suggested, in The Journal's preliminary inquiries, that the Culebra problem stemmed—to a large degree—from "confusion stimulated by greedy guys." What apparently were innuendos about Culebran landowners and other U.S. citizens hoping to develop small parcels of land or exercise development options jeopardized by the Navy's Culebran plan just didn't check out.

In the case, for example, of a St. Louis Washington University professor who has a limited option on property near the harbor of Dewey, but who has been outspoken on behalf of the Culebrans—and whose interests were subtly questioned by the Navy—The Journal has a sworn affidavit that he would give up his option, *at cost*, "to the end that goals of the people of Culebra may be realized."

Suspicions that expenses incurred by Culebra's Mayor Ramon Feliciano, traveling on his islanders' behalf, were paid by land promoters just aren't true.

Slurs against a retired Methodist minister on Culebra who's added his voice to the mouse's roar aren't worth the paper they're printed on—except to put the *Navy's* problem in perspective.

A group of so-called "squatters" turned out to be Culebrans who have built houses on land the Navy moved them to, but for which they can't get deeds.

SINCERITY ON BOTH SIDES

The Navy is sincere, but readers who talk with the Culebrans would probably find them even more so. The Culebran problem isn't targets: it's people—patriotic, warm, gracious, honest, candid Americans who aren't accustomed to dealing with bureaucratic subtleties. They are not at war with the Navy. The only enemy the Culebrans have is indifference. But when you're sitting on the bull's-eye, it doesn't matter whether it's friend or foe who pulls the trigger.

The Culebrans earn their living from the land, and from the sea. They have only limited access to both, and the Navy proposes to make the limits even tighter. There is no school on the island; there is, as yet, no hospital. For both, the Culebrans must go to the Puerto Rican mainland. Denial of that access becomes a major infringement on their very lives.

What the Culebrans have asked for—and for 35 years didn't get, until about two weeks ago—was a "dialogue" with the Navy.

ILL-ADVISED EXPERTS

Some Navy Culebran "experts" are, in large part, ill-advised, misinformed, or blind. Asked "How do the Culebrans really feel?" an Op-Nav action officer, referred to The Journal by a higher authority, said bluntly: "The Culebrans want the Navy to stay." Asked about a very recent poll in which 304 out of 313 Culebran families voted to have the Navy *leave*, this officer said he had not heard of any such vote, but got his dope from a Culebran who "really had his pulse on the people." When The Journal later got the

source's name, he turned out to be custodian of the Navy's Culebran range. Culebrans said they love this man, but that he is 70-some years old, and perhaps not attuned to his people today.

Navy spokesmen—guys on the front line on the Culebran issue—had few details on and little perception of alleged serious safety problems and near the island first "joined" the Navy in 1901.

In 1914, Isaac Espinosa lost his right arm from a grenade or detonator he picked up on Culebra's shore. In 1935, Alberto Pena Garcia, a 15-year-old schoolboy, was killed when he playfully banged a USMC grenade with a hammer. That same year, in a different accident, Vincento Romero lost his right arm.

These accidents don't quite track with carefully structured Navy statements that "no one has been killed or injured as a result of this training." Because the Navy statement technically refers to ships gunfire practice since 1936, after Marine Corps maneuvers were moved to Vieques. But no one The Journals was referred to had ever heard of young Sixto Colon, who lost his right eye in 1964 playing catch with an explosive toy which Culebrans say the Navy left on the island. And the Navy spokesman didn't mention the nine Navymen killed in April 1946 when an aircraft dropped its ordnance on an observation post painted the same color as the target.

Navy spokesmen mention near accidents, such as the time the battleship *New Jersey*, late in the '40s or early in the '50s, lobbed shells on a cistern between the town of Dewey and the impact area. Or when the *Missouri*, about the same time, scored on the safety zone instead o fthe impact area. Or when "destroyers fired over the island." But no one The Journal has been referred to by the Navy seemed remotely aware of even more recent incidents in which:

The San Juan yacht *La Vagabunda* had smokepots dropped athwartships during five passes by an aircraft on a clear day while the vessel cruised amidst a flotilla of 14 others.

A bomb "or something" landed in Dewey Harbor just months ago, 400 yards from the house of Culebra's only doctor.

"1,000-lb bombs" landed intact in six to 10 feet of water just off Culebra's eastern shore.

(Each of these allegations was verified by The Journal through recorded eyewitness reports and/or on-the-ground surveys.)

ALTERNATIVES

There may not be any alternative to expanded operations on and near Culebra. CINCLANT *does* need targets, especially for new missiles with bigger "footprints." What bothers us is that the "experts" who rejected the alternatives apparently haven't read the studies about them—that's what two of the experts conceded.

The Journal doesn't want to second-guess the Navy, but Puerto Rican Governor Luis Ferre told us on 22 May that "There is so much area nearby that has *not* been exhaustively studied." He mentioned such possibilities as:

Vieques—The Navy and Marine Corps already use the island's eastern 2¾ miles for naval gunfire support/aerial close support *targets*, the next three miles inland for a Marine landing/maneuver area, and Vieques' western end for an "inert" naval ammunition depot. *Question:* Why not move the "ammunition depot" to Culebra, the Marine maneuver area to the western end of Vieques, and the new targets and expanded safety zones for Walleye, etc., to the freed area on Vieques' eastern coasts? CINCLANT's "expert" conceded he had "never thought about it." Yet SecNav's office repeatedly deferred to this very officer on questions on the alternatives so "exhaustively studied." A CINCLANT spokesman later explained, however, that "it's really not [this officer's] job to answer these kinds of questions," and referred The Journal back to Navy headquarters in Washington. Governor Ferre told The Journal Friday that the Culebra/Vieques switch could have substantial merit and that he'd probably discuss it with his "good friend Mel Laird."

Isla Palominos—At the very closest, by nautical charts The Journal looked at on the scene, this 165-foot-high island is at least 2¾ miles east of Puerto Rico, 1¾ miles from the nearest (and uninhabited) island—and it's close (10 nm) to CINCLANT's gunnery operations center at Roosevelt Roads.

Caya Lobos—A 40-foot-high island 2½ miles from the northeastern tip of Puerto Rico, which boasts of a luxurious hotel. The hotel has been empty for the past four to five years. (If the Navy needs more varied terrain than this "flat" island provides, barges of dirt could change it, we think, and dirt costs less than the rental on Culebra—even under the Navy's 30 April $70,000-a-year easement.)

We don't question Navy statements that, from a strictly military viewpoint, Culebra is "the most suitable" target complex. What's at issue is whether or not others, more "suitable" from a political/social viewpoint, still could be militarily "acceptable."

WHAT IT BOILS DOWN TO

Navy spokesmen have been less than candid. What sounded like "substantial investments" turns out to be acquisition costs of $501 for Culebran land Culebrans can't use, Injuries, incidents, and accidents alleged apparently haven't been checked out.

The irony of the "Culebra problem" merits thought. A Supreme Court ruling of 1958—won by the *American Communist Party*—held that the right to travel "across frontiers in either direction and *inside the frontiers as well*" is a right guaranteed by the fifth amendment (emphasis added). It is incongruous that Culebrans don't benefit from this ruling, while the American Communist Party does.

Culebra's new "custodian," Admiral Ward, is the Navy's former (and first) Safety Director—another irony, but perhaps a hopeful sign as well. An attorney writing Culebra's appeal to the Supreme Court is a Director of the San Juan Navy League.

And the final irony may prove to be this: The whole Culebra problem hinges on the five-mile safety zone needed for Walleye and other new guided missiles. But Walleye apparently isn't funded for production next year. And all the follow-on missiles (Condor, etc.), a Navy expert let slip, have safety-zone footprints so much larger that they "could not be tested at all on the Culebrita targets" about which the Navy has been so adamant.

The Navy may have legal as well as political and social problems with Congress over the Culebra issue. For one thing, the statute under which the new leasehold is being requested apparently requires the Navy to specify payment costs. The 30 April request says only that the new easement "exceeds $50,000." Second, a key CINCLANTFLT official told Washington attorneys representing the Culebrans—on a no-fee, "pro bono publico" (for the public good) basis—that Culebra is a "range." He said the area is not a "training camp." But Title 10 USC 2663(a)(1), from which the Navy request derives, provides condemnation power *only* for fortifications, coastal defenses, or military training camps. A fine point, perhaps—but it could be a crucial one for the Culebrans. And for the Navy as well.

As Governor Ferre told The Journal, "This is an issue *everyone* can still win," given time for the dialogue Culebrans have sought—given time for a really good whack at the onion. But if *anyone* loses, no one wins. And the Culebrans lose if the Navy wins too soon. Congress should give the Culebrans time for the Navy to catch up on its reading.

[From the Armed Forces Journal, May 23, 1970]

"LAS BAMBAS—VAMANOS" (THE BOMBS—LET'S GET OUT OF HERE)

CULEBRA/SAN JUAN.—The resident Navy seaman in charge of firing operations on Culebra admitted in writing today that he and three other Navymen fired six mortar rounds into a bay on Flamingo Beach where "bathers were . . . earlier"—but that "when we fired the mortar rounds, we did not look at the beach." By his description, "Three rounds were fired long and three were fired short." The shells landed within 200 yards of seven children and at least one adult, interviewed and photographed on the spot today by The Journal.

The Navyman also admitted that, at the time of the near tragedy, "The red flag was not raised" (over their observation post, which has a commanding view of the beach). The flag is a standard range signal to warn those in the area that firing operations are about to begin or are underway.

Two of the children and a 30-year-old Culebran woman signed a separate statement that:

They had checked firing schedules posted throughout the town of Dewey before going swimming; "No firing was scheduled." (The Journal has the schedules: No firing was scheduled.)

Before swimming, and moments after seeing the rounds land, they had checked for the red flag on the OP above the beach: "We looked for a red flag—but saw only the United States flag."

Just one hour earlier, Journal publisher Ben Schemmer—flying into Culebra for a meeting there with Governor Luis Ferre—listened to the Navy OP, call sign "Big Mary," advise his aircraft that "We have no operations today." Schemmer had requested permission to photograph Navy targets on Culebrita Island. Big Mary inquired, "Request why you want to take pictures of Culebrita." Told that Schemmer was an editor, Big Mary responded, "hmmmmmm," "Wait," and then advised, "Request you remain clear of area near Twin Rocks." Targets on Twin Rocks, a federal bird sanctuary, are at least seven miles east of the beach toward which the mortar rounds were aimed.

RAdm N. G. Ward told The Journal in San Juan late today: "The incident reached my attention today and it is under active investigation to understand why it happened. There is no denial the incident occurred. The info I have is not clear and garbled."

The senior man on the island in charge of "Big Mary"—a Navy petty officer first class—said in his written statement, "I asked [the Navy range officer at Roosevelt Roads] if we could make these [mortar] firings . . . He said go ahead." The same officer had been asked on Friday or Saturday, by Washington attorenys representing the Culebrans without fee, about the then-alleged mortar firings on Flamingo Beach last Friday, and reportedly said: "No, it's impossible, it never happened. Every mortar round was under lock and key. There were no operations scheduled and none were carried out."

The Journal was told by several Culebrans that the Navy Seaman in charge of the Friday firings said at a town meeting on 14 March (the day before the Culebrans delivered their "ultimatum" for the Navy to leave their island): "Culebra could demonstrate as much as it wants, but with one shot the Navy could blow everybody off the island."

[From the Armed Forces Journal, May 23, 1970]

CULEBRA'S FIGHT FOR LIFE

Presidential Executive orders signed in 1901 and 1902, and reaffirmed on 26 June 1903, reserved all public lands on Culebra and adjacent cays for use of the U.S. Government,

under Navy jurisdiction. Air space over the island and water three miles around it were restricted to exclusive use of the military by Presidential Executive Order 8684, signed 14 February 1941.

One effect of these Executive orders is that private planes and ships must arrange for special Navy permission to approach or leave the island—one of 76 municipalities of the Commonwealth of Puerto Rico. *Life* magazine wrote on 10 April: "To all intents and purposes, the 700 [*sic*] islanders are prisoners on their own land."

On 5 December of last year, RAdm Alfred R. Matter, then Commander Caribbean Sea Frontier, wrote a Puerto Rican land developer—who wanted to build vacation condominiums on 225 acres on Culebra's eastern tip—an unfortunate letter which described vividly what the Executive orders mean to U.S. citizens on the island:

"Culebra Island is a keystone in the Atlantic Fleet weapons range, which encompasses Naval Station, Roosevelt Roads, nearby Vieques Island, and thousands of square miles of ocean area. This large complex is expanding and operations are becoming increasingly intensive, frequently being conducted through seven days of the week. As such use increases, inhabitants of nearby areas such as your property will be subjected to the noise of supersonic booms, gunfire, rocket fire, and heavy air traffic."

Culebrans since have lost two legal battles to replace the "supersonic booms, gunfire, rocket fire, and heavy air traffic" with the more tranquil environment for which their neighbors on the U.S. Virgin Islands just 10 miles to the east are envied. On 11 March, the U.S. Court of Appeals in Boston upheld an earlier District Court decision and reaffirmed the Navy's legal right to bombard, strafe, and mine Culebra and its nearby cays and rocks.

Two days later, on 13 March, Culebrans voted in a town meeting to ask the Navy to withdraw from their island. What turned these docile custodians of CINCLANT's bull's-eye into the mouse that roared, one citizen told The Journal, was the "new generation." "We have been peaceful and tolerant, but our lives have been in danger. I am the father of two sons and a daughter. Airplanes loaded with bombs pass over. It's as simple as that."

In past years, three Puerto Rican governors have resisted DoD overtures to buy the island outright, citing a provision of the Commonwealth's Constitution that no municipality could be dissolved without approval by its own people in a referendum. On 26 March, the Puerto Rican Senate passed a unanimous resolution asking President Nixon to "re-examine the Navy's activities in Culebra for the purpose of assuring the residents . . . peace, order, free movement, and development of economic interests." Since, the Culebran issue has been widely publicized. Feature articles have appeared in the *Miami Herald* (2 April), the *San Juan Star* (4 April, 17 May), *Life* (10 April), and the *New York Times* (15 April).

President Nixon on 14 April directed staff assistant Hugh W. Sloan, jr. to write Mayor Feliciano, informing him that the Defense Department "is reviewing restrictions imposed."

On 24 April, Culebrans won a partial victory, but a questionable destiny. RAdm Alfred R. Matter announced an alternative Navy plan at a press conference in San Juan. (The Navy never consulted with Mayor Feliciano or the citizens of Culebra in developing the plan, nor were they invited to the press conference at which it was announced.)

Instead of outright purchase of the entire island, the plan would return to the Culebrans 10 miles of beach and coastline, along with 680 acres of land near the town of Dewey (named for the naval hero) for use as homesites, recreational areas, and a medical dispensary. (Earlier, the Navy had refused to turn over two acres of unused land so that Culebrans could build a hospital for which the people—only half of whom have jobs—had already raised the money.)

But the Navy still proposed to lease, and later to buy by right of eminent domain, a new parcel of 2,350 acres covering the eastern one-third of Culebra. Since the western third of the island is an impact area and safety zone for naval ship-to-shore gunnery training, Culebran families centered in the town of Dewey felt they would be "strangled." Shells would still explode 2½ miles to their west, and bombing/missile runs would intensify 3½ miles to their east. The Navy told the Journal that the bombardment operations would climb from about 5,000 sorties in FY 69 to over 9,000 sorties this year.

Governor Luis Ferre—who reportedly had not set foot on Culebra since 1943—greeted the revised Navy plan with enthusiasm. He said it would pave the way for the turnover to his Commonwealth of other Navy-owned land in Puerto Rico, at Fort Buchanan and Isla Grande. (He did not say, but The JOURNAL learned, that other Navy lands on the north central coast of Vieques might also be freed.) Governor Ferre said that the Navy's new Culebran plan would "substantially improve the living conditions of residents on this island" and that it revealed a "new attitude" on the Navy's part which would probably lead to better relations in the future between the Navy and residents of Culebra.

But on 15 May, the Puerto Rican Senate voted, with only one dissenting vote, to back the Culebran islanders in opposition to the Navy plan. (In the Puerto Rican Senate, Governor Ferre's party is in the minority.) On 21 May, the Senate's minority leader indicated that he would go to Washington to testify on behalf of the Culebrans. Although Governor Ferre has been careful not to take a strong public position, it is now clear that bipartisan support is coming together throughout the Commonwealth of Puerto Rico for the Culebrans. Governor Ferre made it clear to The JOURNAL on 22 May that he would give serious study to other alternatives and would get the Navy to work with him so that peace and calm could return to Culebra.

At JOURNAL presstime, however, the Navy proposal still stood. It was submitted to Congress 30 April as a routine, 1¾-page FY 70 real estate acquisition request. But the House Armed Services Committee will give the islanders a chance to make their feelings known early next week.

Their feelings are clear. Earlier this month, 304 families of 313 polled voted to back Mayor Feliciano's request that the Navy leave Culebra. Unless the House Armed Services Committee specifically disapproves the Navy request, they could still lose: condemnation proceedings could begin the day after the mouse makes its roar heard in Congress.

Culebra Act II: House Panel Reschedules Hearings; Navy Still Adamant on Need for Targets

(By Ben Schemmer and Bruce Cossaboom)

The Navy apparently intends to turn a deaf ear to the mouse that roared—the tiny Puerto Rican island of Culebra.

Navy officials this week told Puerto Rico's Resident Commissioner in Washington, Jorge Cordova, they have no intention of abandoning their missile target range activities on the island, despite recent shore-shelling incidents and misfires on the island.

Cordova, who sits as a non-voting member of the House Armed Services Committee, met this week with Assistant Secretary of the Navy (I&L) Frank Sanders and SecNav Civilian Special Assistant (on Culebra) Joseph A. Grimes, jr.

Cordova told Sanders of his conviction (and that of the island's political leaders) that the Navy should cease use of Culebra as a target area—much less expand it, as the Navy now proposes in an action pending before the House Armed Services Real Estate Subcommittee.

Cordova told The Journal he was informed the Navy "could not accede" to this request.

The Navy is now investigating the firing incidents (Journal, 23/26 May) and told Cordova that, after studying its findings, it would try to insure that there would be no repetition of the near misses.

Cordova had suggested to the Navy that it extend his investigation beyond the shelling incidents to the whole question of the use of the island. He said the Navy should find other uses for its property on the island, and consider abandoning it altogether as a target area.

The Navy says it needs Culebra as a target range and that the "incidents don't change the picture," Cordova told The Journal.

Meanwhile, a Real Estate Subcommittee hearing on the Navy's proposal to expand bombardment activities on the island—originally scheduled for 1 June but postponed after a public furor broke over the island—has been rescheduled for 10 June.

Two days after a 23/26 May Journal Commentary suggested that "Congress should give the Culebrans time for the Navy to catch up on its reading," Representative Charles E. Bennett (D-Fla) announced on 28 May that his panel would postpone hearings on the Navy's 30 April request to lease—and later to buy—a new, 2,350-acre safety zone on the 7,000-acre island for Walleye and other guided-missiles.

Bennett's original postponement action apparently stemmed in part from news that mortar rounds fired without warning on 22 May toward a beach on which Culebran children were swimming—on a day when no firing operations were scheduled—caused the yacht on which Governor Luis Ferre was leaving the island to change course after its pilot heard the rounds.

Ironically, Ferre's visit to Culebra was his first there since 1962—and he had just been briefed by the Navy on ship-to-shore bombardment and aerial bombing exercises on and near the island. The incident happened within an hour or so after The Journal interviewed the governor on Culebra.

Ferre got his briefing from the Navy at the very observation post from which the mortar rounds were later fired. A Navy officer at Roosevelt Roads called them "marking rounds" without much explosive.

Bennett said, "Before conducting hearings on any new plans for the island, I want to first get a report from the Navy Inspector General, who has been asked to look into this most recent incident. I then plan to ask my Subcommittee to conduct its own investigation."

The Subcommittee staff declined to state whether Congressman Bennett or the Navy initiated action to postpone the hearings.

Governor Ferre told The Journal in Washington earlier this week that he does not expect to testify personally at the hearings. But he said, "Every measure must be taken to protect the lives and tranquility of the Culebrans" and that he supports Jorge Cordova's efforts. He said the Navy may be re-examining an alternative target area, the island of Desecheo, about 20 n.m. from Ramey AFB on Puerto Rico's northwest corner.

(The Journal was in error last week when we said that Governor Ferre had suggested, when interviewed on Culebra 22 May, another possible alternative, an island called "Box of the Dead," only six miles from his home town. That alternative was mentioned by a Navy official in the area. Governor

Ferre did cite the other island target alternatives mentioned in the 23/26 May issue.)

Ferre has been cautious in recent weeks, commending the Navy for its revised April 24 proposal to return to the Culebrans about 680 acres of land in and around the harbor of Dewey, but not endorsing Navy plans for a new 3,250-acre easement on the island's eastern tip.

Bi-partisan support on behalf of the Culebrans, who now want the Navy to quit shooting at their island altogether, has been mounting.

Cordova announced on May 28 in San Juan that he would testify against Navy plans to continue, much less expand, range activities on the island. Heretofore, he has been relatively non-committal on the issue.

Also in Puerto Rico, the Commonwealth's Senate minority leader, number two man in Governor Ferre's own party, on May 26 made public his position that the Navy should stop using Culebra as a target. The next day, the Senate's majority leader announced that he, too, opposed the Navy's continued use of the island.

DOT, WHITE HOUSE INTEREST?

The Journal also learned that at least three senior members of the White House staff have begun looking into the Culebran issue. So, apparently, has Senator Edward Brooke (R-Mass.). Brooke's interest reportedly stems from a conversation he had with Transportation Secretary (and former Massachusetts governor) John Volpe, shortly after Volpe read page proofs of The Journal's 23/26 May Culebra Commentary while he was flying back to the U.S. on May 25 from a brief weekend respite on St. Thomas, 10 miles east of Culebra.

Governor Volpe told The Journal that he was unaware of but would look into allegations of near misses between commercial and general aviation aircraft flying into Culebra and St. Thomas and Navy aircraft engaged in bombing and gunnery operations on the range near Culebra.

Senator Sam Ervin's Subcommittee on Constitutional Rights may also look into the Culebran problem. (Ervin is also a member of the Senate Armed Services Committee.) Previous Supeme Court rulings indicate that restrictions imposed on the islanders' free access to and from their island may violate their rights under the Fifth Amendment. The restrictions stem from a 1941 Executive Order (#8684) which prohibits anyone from entering or leaving the island, or the airspace about it, without explicit prior Navy permission. One such Supreme Court ruling cited similar restrictions imposed on U.S. Japanese citizens impounded on the west coast during WWII and said: "We allowed the government in time of war to exclude citizens from their homes and restrict their freedom of movement only on a showing of the greatest imminent danger to the public safety—[But] the nation was then at war. No such condition presently exists."

A related report (Number 940) filed by the Committee on Naval Affairs, 2nd Session, 64th Congress, said that powers which Congress gave to the President under 18 U.S.C. 96—the authority cited for the 1941 Executive Order on Culebra—to establish defensive sea areas for purposes of national defense "is valid only in times of actual or threatened war."

The President has exercised the expropriation powers under 18 U.S.C. 96 on some 26 different occasions, designating defensive sea areas in Chesapeake Bay (Executive Order #2898), in the Los Angeles-Long Beach Harbor area (#8970), and in New York Harbor (#8978). But all of these designations have since been expressly revoked. Currently, there are only about 10 such defensive sea areas still in effect: besides Culebra, the areas affected include Pearl Harbor, Guam, Honolulu, and Whittier, Alaska.

Some of the Constitutional issues in question include:

Whether the unusual restrictions imposed on the Culebrans—who are U.S. citizens with representation but no vote in Congress—represent a curtailment of their liberty of movement to such an extent as to be prohibited under the Fifth Amendment;

Whether enforcement of the 1941 Executive Order represents a taking of property without prior compensation and without the due process of law also spelled out in the Fifth Amendment; and

Whether Congress specifically intended under 18 U.S.C. 96 for the President to create *permanent* defensive sea frontiers which would remain in force even when a state of actual or threatened war no longer existed.

Culebrans have said they decided to ask the Navy to withdraw entirely from the island after bombardment operations were intensified earlier this year. But CINCLANTFLT spokesmen told the Journal that there has been negligible, if any, change in the pattern or intensity of operations over 1969. On Friday, 22 May, a blackboard in the Navy's observation post on Culebra showed that to date this year, 17,680 target runs had been carried out, compared with a total of 37,500 in all of 1969. The same blackboard showed that in 1969 rockets were fired on 228 days, strafing was conducted 114 days, air-to-ground missiles were fired on 13 days, aerial mines were emplaced on 42 days, and naval gunfire practice was conducted on 123 days. The Navy states that it needs additional land on Culebra because operations will intensify in the future.

When asked by The Journal why they remained quiet for so long about Navy bombardment operations on their island, several Culebrans stated that their previous mayors just "weren't interested" in the issue.

Cordova, in Washington before his meeting with Navy officials, told the Journal that the Navy's investigation came about as a result of the incidents, his request and those of others, and the Journal Commentary.

Cordova called The Journal publicity "more helpful" than anything else he could cite.

CULEBRA, INTERMISSION—THE TARGET SHOOTS BACK—CULEBRANS TESTIFY AT HASC REAL ESTATE SUBCOMMITTEE HEARINGS

(By Clare Lewis and Bruce Cossaboom)

Hearings on the Navy's plans for Culebra were scheduled to begin on Wednesday, 10 June—just as this issue went to press.

In a statement prepared for presentation before the House Armed Services Committee's Real Estate Subcommittee, attorney Richard D. Copaken, counsel for the Municipality of Culebra, said his focus would be twofold:

"1. Is there an acceptable alternative for the Navy training mission now carried out on the Island of Culebra and its neighboring cays?

"2. To whom is the Navy proposal a matter of grave concern? . . ."

In describing his early conversations with Joseph A. Grimes, jr, Special Civilian Assistant to SecNav John Chafee, Copaken says: "I learned that the Navy assumed that only land speculators were dissatisfied with the present level and proposed level of Navy training operations on Culebra and its neighboring cays. Mr. Grimes conceded that his assumption that the vast majority of Culebrans were content with the Navy's present operations and proposal was based on questionable sources of information that are second-hand at best. I explained to Mr. Grimes that Covington & Burling [Copaken's law firm] had an identity of interest with the Navy in ascertaining whether the Navy assumptions were accurate because if they were, Covington & Burling would be obliged to withdraw."

Copaken says, in his statement, that he urged Grimes to check out the situation for himself—to go to Culebra and talk with the islanders, adding that "'Mr. Grimes refused to undertake this inquiry."

In an effort to determine the true sentiments of the majority of Culebrans, Copaken says, his firm sent Thomas C. Jones, Jr., another attorney, to the island.

Jones, in his statement, details the thoroughness with which he attempted to objectify his survey, beginning with his announcement to the crowd gathered at the airport upon his arrival that he "wanted to interview anyone interested in expressing his opinion about the general subject of the relationship between the United States Navy and the Island of Culebra."

In response to his invitation, Jones says, "A large crowd gathered outside the Town Hall and people lined up patiently to be interviewed."

Not satisfied with this approach, and fearing that he might be seeing "only the vocal persons," he extended his interviews to stopping persons at random on the street and interviewing them "in the nearest shady place," and began going house-to-house.

SEARCH FOR OBJECTIVITY

Jones' surveying practices seem to present a model of objectivity: "I attempted in every manner I could conceive of to guarantee that the results of the survey would reflect an accurate and impartial impression of the attitudes of the people of Culebra. Indeed, because the results that I was obtaining showed virtually unanimous opposition to the Navy proposal, I searched out four of the Navy's five, six, or seven employees (the number of Navy employees seems to vary between five and seven and even Admiral Ward was unable to give us the precise number) in order to see whether there was some hidden reservoir of support of the Navy that I had been unable to uncover myself. However, even the Navy employees admitted to me that there was virtually no one in Culebra who supported or would benefit from the Navy plan. Thus, I am personally convinced that if there is any error in the results of my survey it is an error which would tend to exaggerate the support for the Navy proposal rather than the opposition to it."

As a check on his findings, Jones says, he announced the results of his survey to an open town meeting of "approximately 150 Culebrans," explaining how the results had been obtained, and inviting comment and/or criticism. "Not a single complaint was voiced," he adds.

The lopsided results are, in Jones' words, "clear and unequivocal statistics." Of the Culebrans he interviewed, 95% opposed the Navy plan, and approximately 75% wanted the Navy to leave the island altogether.

"'Thus," he concluded, "Mr. Grimes' assertion was completely erroneous, as is any decision which relies on such an assumption."

Having established the Culebrans' attitudes toward the Navy, Jones' statement goes on to detail the effect on the islanders of the Navy's attitudes toward the Culebrans.

"The sketch of the life of a Culebran shows a people who have been abused by the Navy in a particularly devastating and to me unexplainable sense," Jones says. "I refer to the fact that the Navy's warning system with regard to its bombardment and shelling schedules has been absolutely unreliable. Every single fisherman with whom I spoke on this subject said that he had had to flee or turn back as a result of unannounced weapons activity. This inexcusable neglect has clearly added greatly to the anxiety and outright fear which is so apparent."

Culebra's Mayor Ramon Feliciano has come to Washington to testify at the hearings, as the next step in his efforts to improve the quality of life for the Culebrans. According to a statement prepared in conjunction with his testimony before the Subcommittee, "The

constant shelling and the occurrence of accidents which the Navy has denied instilled fear and desperation in the citizens to the extent of fearing for their lives and demanding that the Navy abandon Culebra and leave the Culebrans to live in peace."

WHITE HOUSE DISINTEREST?

Mayor Feliciano has been working toward that end for some time, now. His private letter campaign to enlist Executive Branch support—if not direct intervention—on behalf of Culebra did not meet with much success, although he apparently escalated it from SecNav to the White House itself.

On 19 February, Frank P. Sanders, Assistant SecNav (I&L), replied to Feliciano "on behalf of President Nixon" that the position of the U.S. Government is that Executive Order No. 8684 "must remain in force" and that the pending court action made it "inappropriate to comment further at this time."

"Thank you for expressing your feelings on this subject to the President," Sanders told Feliciano.

Apparently Feliciano had the feeling he hadn't gotten through. On 26 March, the White House received both a telegram and a letter.

On 14 April, another letter to Feliciano "on behalf of the President" arrived but this time from Hugh W. Sloan, Jr., Staff Assistant to the President.

Sloan reiterated the Navy position, essentially, and advised Feliciano that DoD "is reviewing the restrictions imposed by the naval operations to ensure that the civilian inhabitants are allowed a maximum freedom of movement, consistent with safety."

Sloan expressed regret that a personal appointment with the President requested by the Mayor could not be granted, but added "thank you for corresponding with the President."

BIRDLIFE THREATENED?

As the Culebrans' protests reached the U.S. mainland, the Department of Interior apparently began to wonder what effect all this Navy activity was having on its sanctuaries in the area.

Concerned by possible damage to nesting birds at national wildlife refuges on Culebra Island (but mainly on the adjacent small cays) the Department of Interior (Bureau of Sports Fisheries and Wildlife) sent the Chief of its Division of Wildlife Refuges, Robert Scott, and other staff members to Culebra last month to make an on-the-spot reconnaissance of Culebra Island and adjacent cays to determine means for providing greater protection for migratory birds.

Scott told the Journal that his trip produced no "specifics" about injuries or deaths that may have been suffered by birdlife on the island as a result of naval bombardments.

A Navy official indicated, however, that these small islands—never before considered to be prime targets—now face an uncertain future on this score.

They have had an uncertain past as well, according to Culebrans: In May 1968 the Navy launched a massive coordinated air strike against Twin Rocks, one of the bird refuges. "It sounded as if the world were coming to an end," said one of the Culebrans. Thousands of nesting marine birds were killed, said islanders who visited the refuge the next day.

Scott said no one had told him of this incident.

Scott explained that, as a result of his trip and Interior Department concern over the refuges—a concern not previously evidenced, apparently engendered by the current publicity—Interior and Navy have set about working out a "memo of agreement," a joint understanding for modifying and improving present wildlife management practices there.

Scott said nothing had been formalized on this, but it would probably involve having the Navy avoid using the refuges as targets during certain crucial nesting periods or targeting parts of the refuge which Interior had determined to be free of the nests.

Scott cites as a precedent for establishing peaceful Navy Interior coexistence between bull's-eyes and nest eggs on the same island a joint management agreement that now prevails on "No Man's Island" off the coast of Massachusetts.

This agreement maintains the goals of both agencies, Scott said, and he sees nothing "mutually exclusive" about having birds and bombs on the same islands.

Scott explained that in 1909 Theodore Roosevelt dedicated the cays off Culebra and other small outlying islands as national wildlife refuges "superimposed on a prior right" of Naval use.

The only concern on Culebra itself, Scott told The Journal, is for a colony of nesting sooty terns in the northwest impact area.

Scott said the refuges themselves are located on the offshore islands, but that the "exact status of the ownership of the offshore islands is not clear to us."

Scott said the Department's realty people have been instructed to answer the question: "Who owns what?"

Scott said some of the islands are known not to be public property at all, but leased. North Cay, for example, one of the larger offshore islands, was reportedly leased by the Navy from a single individual owner.

There are no wildlife refuges on it, the Navy said, "just someone running some goats."

LAND VALUES VS. HUMAN VALUES

Attorney Thomas Jones apparently has no doubt that at least a portion of the problem is land value. But his investigations have led him to conclude that it is not the "speculators" the Navy points its finger at who are the culprits, but rather the Navy itself. As he says in his statement:

"There is no mystery in the strong opposition of the people of Culebra to the Navy plan. The plan is widely believed to be the penultimate step in the Navy's desire to obtain the entire island; a high-ranking Puerto Rican government official told us that the Navy has wanted to resettle the Culebrans at least since 1960.

"This date corresponds to the time when the Navy began slowly to intensify its military training maneuvers. This intensification reached the point where last year—1969—the Culebra target system was in use day and night for an average of 9½ hours per day from Monday through Saturday and 3½ hours on Sunday. An even greater intensification is planned for this year. The effect of this intensification, naturally enough, has been to decrease the value of the land which the Navy will have to pay for if it acquires additional land. . . .

"Thus, the sketch of a Culebran is the portrait of a man who feels that his present way of life is imminently threatened, a man who feels forced by his sense of self-preservation to cry out."

THE STAGE IS SET

The stage is set for the third—but possibly not the final—act in the Culebra story.

Senator Edward W. Brooke (R-Mass)—who has expressed concern over the Navy's proposal for Culebra—told The Journal that Senate Armed Services Committee Chairman John C. Stennis (D-Miss) has agreed to place a 30-day "hold" on any further Navy plan.

"There is a possibility that hearings may also be held in the Senate at a later date," Brooke told The Journal. The law requires a report to both committees on any proposed real estate action. How thoroughly the background of a given transaction should be explored is at the discretion of each committee. Sources close to SASC told The Journal there are no present plans to hold a Culebra hearing.

MORE HILL CONCERN?

Aside from the Armed Services Committee itself, at least one other member of the House has become involved in the Culebra matter: Representative James Symington (D-Mo) received questions on Culebra from one of his constituents, a Mr. Daniel Kohl, relative to property interests there, but also expressing concern, Symington's office told The Journal, about "a small group of people being exploited."

Feeling that "some important issues are involved," Symington requested—and received—information (based on plans as of 11 May) on the Navy's plans for use of the Atlantic Fleet Weapons Range.

Important issues *are* involved, and important questions being asked. Once again, Congress is faced with a matter of priorities—and it's up to the Navy to explain why its priorities should come first. All the Culebrans want is their own island back.

CULEBRA, ACT III: NAVY ASKED TO ZERO IN ON FACTS; COMMITTEE MAY GO SEE FOR ITSELF

(By Bruce Cossaboom and Ben Schemmer)

A missile of goodwill from the Congress will impact on the embattled island of Culebra in the very near future.

Representative Charles E. Bennett (D-Fla), Chairman of the House Armed Services Real Estate Subcommittee, which is considering the Navy's proposal to acquire more target safety zone land on the Puerto Rican island of Culebra, told The Journal he and possibly other members of the Subcommittee would make a personal visit to the island either this past weekend (at Journal presstime) or this coming weekend.

Bennett said he had been invited by the Culebrans to make the trip and that he was accommodating this request and going "simply to see things on the spot"—to measure the psychological impact of the Navy's proposal on the islanders.

The announcement came about a week after a protracted and often difficult but illuminating hearing on the Navy's twin proposals—to acquire 2,350 acres of land for target practice expansion and to dispose of 680 acres on the southern coastline near Dewey.

A parade of nearly a score of Culebran and Puerto Rican witnesses urged the Subcommittee—sometimes emotionally, sometimes with logic, at times with deference, occasionally antagonistically—to reject the Navy's proposal. The islanders now want the Navy to leave altogether.

The Navy literally stuck by its guns, arguing that Culebra is an indispensable link in the Vieques/Culebra/Roosevelt Roads target complex of the Atlantic Fleet Weapons Range, and that its studies have demonstrated conclusively that nothing comparable is available in the Atlantic Ocean. "Why should we leave?" a high Navy official asked The Journal.

The Culebrans, meanwhile, have filed with the Supreme Court a petition for a writ of certiorari, asking the nation's highest tribunal to invalidate the Executive Order which they claim has virtually strangled their economy at a time when there is no war, actual or threatened.

At the hearing, the possibility of White House involvement in the final decision was raised by Chairman Bennett. The Journal has learned that senior aides at the White House have already taken a keen interest in the controversy, although it has not been formally presented to them (except in letters from Culebrans).

Meanwhile, at Journal presstime, Navy Secretary John Chafee's office confirmed that no request by the Culebrans for a personal meeting with the Secretary has been received by the SecNav's office, although Secretary Chafee is reported to be following the case closely.

Washington attorneys for the municipality of Culebra have been critical of the fact that there has been no face-to-face confrontation between Secretary Chafee and the Culebrans.

A decision to call upon the Commander-in-Chief to be the ultimate arbiter of Culebra's dispute with the Navy—a dispute perhaps now regarded as too hot a political potato for Congress to decide alone—would not be inappropriate.

THAT "FUNNY VALENTINE"

After all, the problem for the Culebrans began in the White House when the late President Franklin D. Roosevelt, on 14 February 1941, signed Executive Order No. 8684—establishing the Culebra Island Naval Defense Sea Area and Culebra Island Naval Air Space Reservation—shutting off air and sea passage into or out of the island except with Navy permission.

It is true that, at the start of the hearings, the Navy announced it was, for the first time, establishing an unrestricted-access sea corridor off the southern tip of the island. But this was seen by some as "nickel and dime relief," especially since many Culebrans regularly violate the requirement to obtain Navy permission by coming and going at will.

The Culebrans want no more interim relief. They want the order rolled back, and/or the Navy to cease use of the island for firing.

"I personally believe this is of such magnitude," Bennett said at the hearing, "that . . . the White House itself ought to be involved in it to a degree. And therefore, I think at the moment that at least an offer to the White House to become involved in this decision is a wise course for the Committee to take.

"We will submit the evidence to whoever will look at it in the White House," Bennett said, "and discuss it with the highest level of our government and try to see if they can resolve it in some manner."

Bennett said also that a Subcommittee review of the Navy's study of possible alternatives to Culebra should occur "before any final decision . . . to see if the White House wants to be involved in it."

The Journal has learned, meanwhile, that certain parties in the White House have already involved themselves in the Culebran problem and that an earlier disposition in some quarters to let the Navy resolve the matter itself has given way to a more involved stance.

WHITE HOUSE OFFER A FEINT?

Sources close to the Culebran protesters, however, tell the Journal they feel Bennett's offer is no more than a procedural feint to allow the Navy to ride out this storm.

They feel the White House position will be simply to let it rest with the Navy and not deal with it "until a crisis arises" (such as a fatal firing incident on the island), or until it become politically embarrassing for the President to continue ignoring it.

There are already the incipient beginnings of a partisan tinge to the Culebran issue, with the interest being taken in the affair by Senator Edward M. Kennedy (D-Mass) and other Senators on the Hill. (There is presumably no partisan angle to the already expressed concern of Republican Senator Edward Brooke, also of Massachusetts.)

Kennedy has recently requested SecNav John Chafee himself to investigate and report on alternative uninhabited sites which would serve Naval training purposes and would permit the return of the entire island to the Commonwealth of Puerto Rico.

Whatever some may allege is the reason for the White House suggestion, a sincere commitment to his duties lies behind Bennett's trip to Culebra. At the hearing, one of the witnesses had expressed the hope that the Chairman would "go there when they are not shooting."

Bennett said he appreciated the invitation, but added, "I am not a traveling Congressman"—a remark he tempered by saying, "If it seems helpful to go there, I would go there."

Despite the witness' warning about not going while shooting is in progress, Bennett told The Journal that he and his colleagues hope to view a demonstration of target shooting while there, and to spend time in Dewey talking with inhabitants and officials.

In a related vein, when Culebra's Mayor Ramon Feliciano told the Subcommittee he and his friends were happy to be in Washington to answer questions, a newsman quipped it was because it was "safer" than their homeland.

THE COURSES OPEN

What courses of action are open to the White House, should it decide to become involved?

It could endorse the Navy's plan wholeheartedly and urge congressional approval. It could advise the Navy to withdraw its acquistion request and intensify its efforts to find possible site alternates.

And, although it seems unlikely at the moment, a stronger course of action could be followed.

If he felt such a course were indicated, the President has the authority to modify the Executive Order even further than the Navy has already done, or revoke it altogether, or issue a new one to take care of the Culebran situation.

But the Culebrans are looking to all three branches of the federal government for help and have gone to the Supreme Court, raising some of the constitutional points:

Whether the unusual restrictions imposed on the Culebrans represent a curtailment (not similarly imposed on known Communists, for example) of their liberty of movement to such an extent as to be prohibited under the Fifth Amendment.

Whether enforcement of the 1941 Executive Order (and whether it should still be considered constitutional—another point at issue) represents a taking of property without prior compensation and without the due process of law, also spelled out in the Fifth Amendment.

The U.S. First Circuit Court of Appeals has already rebuffed the Culebrans in a decision handed down 11 March. But they have now asked the Supreme Court to take the case on a writ of certiorari. No word had come at Journal presstime on Supreme Court acceptance or rejection.

WARTIME MEASURES IN PEACETIME?

The Culebrans' attorneys have told the Supreme Court that the "issues raised by the existence and enforcement of defensive sea area orders against civilians in time of peace are of continuing importance and should be decided by this Court."

"The power to create defensive sea areas both in war time and peace time is constitutional," the Appeals panel has ruled, "and the enforcement of Executive Order 8684 does not constitute either a taking of property without compensation or constitute an unconstitutional restriction of personal liberty . . . .

"In fact," the Court maintained at another point in its decision—indicating perhaps how strongly held its views were—"as long as Puerto Rico remains a part of the U.S., it would probably be unconstitutional for Congress to allow Puerto Rico any say whatever over maritime regulations involving national defense."

Title 18 of the U.S. Code, Section 96, gave the President statutory authority to establish defensive sea areas in both wartime and peacetime, and the President has not abused his discretion in continuing in effect Executive Order No. 8684.

The Court said the government selected the "least drastic means of achieving the congressional objective of safeguarding the national security of the U.S. In any event, this Court cannot and will not, under these circumstances, substitute its judgment for that of the Executive Branch in a matter of this nature."

Legal sources close to the Culebrans concede that it is a "long shot" that the Supreme Court will even agree to review the complaints, much less substitute its judgment for that of the lower court.

They say that if the Executive Order were to be invalidated (or the statute in question be deemed unconstitutional), this would certainly prove a "fatal blow to Navy operations" on Culebra, for it would permit fishing all around the perimeter.

Apparently the unique feature of the Culebrans' case—to the Supreme Court, the President, or whatever legal figure would be disposed to aid them—is the unarguable contention that FDR's "funny valentine" places the residents, as their argument before the appeals body put it, "in a 'legal cocoon,' the penetration of which is subject to the exclusive and unappealable discretion of the controlling military authorities."

Or, as they framed the "question" at another point: "Whether the Executive Branch has statutory authority to maintain on the basis of an executive order issued during World War II, the seas surrounding an entire island inhabited by U.S. citizens as a defensive sea area from which all persons are excluded except as the military permits."

So it would seem that the Culebrans' best avenue for relief would be, not the Navy, the Congress, or the Supreme Court, but the White House.

It is the President whom they must convince that they need their island more than the Navy—even their country—does.

The President may have to weigh in the executive scales two most stubborn quantities—the sentimental patrimony claims (assuming the Court denial of constitutional rights) of a group of people who are truly, in a legally realistic sense, second-class citizens, and the Navy's strategic weapons testing needs in a time every bit as perilous as 1941.

A HOLE IN THE COCOON

The hearings got off to an auspicious start when Assistant SecNav Frank Sanders (Installations and Logistics) announced that the Navy was boring a hole in Culebra's legal cocoon by establishing a free-access sea lane to Dewey and the harbor through which boats may pass without checking with the Navy.

"Additional relaxation of controls consistent with safety may be possible and the Navy will welcome suggestions from the people of Culebra," Sanders said. (For the rest of Sanders' statement, see full text.)

Sanders was followed by a parade of witnesses from Culebra and Puerto Rico (and two Washington lawyers whose statements were quoted in last week's Journal), who detailed in many ways the bad effects they say the shelling has had on the economy and the people of the island.

Chairman Bennett conducted the hearings with the aplomb of a prosecuting attorney for both sides. His seemingly antagonistic stance toward the Culebrans' position the first day—followed the next by incisive and acerbic, almost tongue-in-cheek probing of the Navy's rationale for having all its target practice "just so," came as no surprise to anyone who could see he was playing the devil's advocate role to the hilt.

He constantly reminded the Culebrans that other people in the United States have been forced to give up cherished homeland property and freedom of movement in the name of national defense or to accommodate the irresistible force of eminent military domain.

Bennett said there are several states in which a large percentage of the total land

area is owned by the federal government. He noted that the area for many military reservations has come from land previously owned by private citizens and that people are prohibited from trespassing on many areas. (At least 25 signs on Culebra warn the people: "Propiedad federal, Prohibido el paso." "Federal property. No trespassing.")

In Bennett's home district of Jacksonville, for example (geographically, the largest city in the United States), there are 36,700 acres of Naval installations out of a total of 497,280 acres.

One shore community, Mayport, is now nearly encircled and is much smaller than its original size, Bennett told the Culebrans.

Bennett noted that their objection that Navy planes overfly Culebra with loaded weapons is "not a unique one" and that he did not "know of many cities in the U.S. over which dozens of planes, with loaded weapons, do not fly daily." A bombing range is used by Navy pilots near Jacksonville, but only practice, not live, ammo is dropped over the city.

Bennett asked Culebra Mayor Ramon Feliciano if he were "familiar" with the fact that there are bombing ranges and live ammo fired on many other areas in the United States—very populous areas not too far away, in some cases.

DIFFERENT ORDER OF MAGNITUDE

Richard Copaken, of the Washington law firm of Covington and Burling, which is representing the Culebrans, observed that when you "have naval gunnery fire and bombing and strafing in close proximity to this very small area it is a different order of magnitude of difficulty than larger spread-out areas of the U.S. It is the proximity that I think represents the grave danger and the sense of fear of the Culebrans."

Bennett conceded that the accidents that have occurred "can give rise to this emotional feeling that maybe if it was a Navy officer's child, it wouldn't happen.

"I can understand when you have only small population it becomes more disturbing psychologically because you have nothing else to divert you; there is nothing else happening of any great disturbing nature."

Bennett questioned the Navy closely on the matter of alternatives (see also "If Not Culebra, What?"), and whether floating targets could be used, or rake stations on ships.

Bennett raised the possibility at one point of putting rake stations on ships offshore "which would be trained therefore in operations of this type to their advantage. . . . If we get into combat off some foreign shore we are not going to have all kinds of OP stations on the land," he observed.

"We are not training on a foreign shore," Admiral Moore objected.

NAME OF GAME IS COMBAT TRAIN

"No, I am talking about combat," Bennett rejoined. "After all, the whole thing is to train for combat. So if we get off a foreign nation that we are belligerent with, we are not going to have any OPs sitting around there on land, and so why wouldn't it be a good thing to train people in observing this type of thing?"

"We do train shore gunfire control parties," Captain George W. Gaienne replied. "We also have aircraft spotters to assist. But in the air-to-ground ordnance, observing from a ship introduces another variable, the position of the ship with respect to the target, which makes your plotting of the fall much less precise."

"Well," Bennett answered, "since that is exactly what we need in time of combat, I am not real sold on that sentence in the Admiral's statement."

Here are excerpts from the statements made by the Culebrans or on their behalf:

Jorge L. Cordova, Resident Commissioner in Washington: "Either Culebra's inhabitants are evacuated so that the Navy can use it for its weapons range, or the Navy foregoes using Culebra as a target area. . . . And even the Navy has now been convinced that it should not insist on the evacuation of Culebra.

"The Atlantic Fleet needs a target. It needs some place where intensive firing can be conducted seven days a week. . . . This place is clearly not Martha's Vineyard, nor Nantucket, nor Sea Island. It is equally clear to me that it must not be Culebra."

Fernando Chardon, Secretary of State of the Commonwealth of Puerto Rico: "If, in the opinion of this Committee—which has access to information not available to us—the security of our nation were at stake if the Navy were to eliminate or curtail its present activities in Culebra and move all or the more objectionable targets somewhere else, then our government would reassess its position, since we feel, as United States citizens, that national defense should have top priority. If, on the other hand, it is proven to the satisfaction of this Committee that the requirements of national defense can be satisfied otherwise, then our administration feels that the Navy should entirely eliminate all its activities in Culebra."

Rafael Hernandez Colon, President of the Senate of Puerto Rico: "This prestigious journal [Armed Forces Journal, 23/26 May] made the comment, 'Our hearts are with the United States Navy, but not about Culebra.' This is the basic position of almost everyone who will address this committee."

Dr. Hernan Padilla, Majority Leader of the Puerto Rican House of Representatives: "For more than thirty years the people of Culebra have borne more than their share of the burden of national defense than that borne by American citizens elsewhere."

Anastasio Soto, fisherman, President of the Committee for the Rescue of Culebra: "If this [the Navy's plan] happens, a community of American citizens living in their country in time of peace will be treated like enemies in time of war."

J. Gonzalez, largest businessman on the island: "Since the Navy announced its plan to take more land, business has decreased because even fewer people come to Culebra and building has stopped entirely."

Representative Benny Frankie Cerezo, member of the House of Representatives of Puerto Rico: "Why has such a small island raised such a big issue? . . . Culebra is a symbol of the fight of the humble masses against the military-industrial complex. . . . The Culebra issue is an American one. . . . We are not Vietnamese. We are not Cambodians. We are American citizens. The design of Pentagonism in Culebra cannot triumph."

Jackie Santos, counsel for the Committee for the Rescue of Culebra: "The Navy should make clear to Congress and to the nation its ultimate goals in Culebra. To lease under present conditions is the same as taking the land for the price of a leasehold."

Ruben Berrios Martinez, President of the Puerto Rican Independence Party and Professor of International Law in the University Law School, Rio Piedras, Puerto Rico: "It is impossible to discuss the Culebra affair without understanding and recognizing the colonial status of Puerto Rico . . . the impotence of the Puerto Rican government to deal with the United States Navy from a position of equality."

Sixto Colon Robinson, injured by a gunpowder accident in 1958: "Many Culebrans with potential suits against the Navy, never file any claims because they do not know their rights, nor do they know how to go about filing such claims, and, finally, because there is a belief that the Navy never loses."

Carmelo Feliciano, grade school teacher on the island: "Unlike children in the mainland of Puerto Rico and in the United States, the students in Culebra must attend school in a state of fear and anxiety that does not permit them to function in a normal way."

Claro Feliciano, farmer: "We live in constant danger of being killed while working in our farms. There are many unexploded bombs and shells in private farms."

Ramon Feliciano, Mayor of Culebra: "The Navy must leave Culebra in peace and abandon its intention of continuing to use us as a target so that our Puerto Rican people and the American nation can proclaim that our country is indeed the true protector of democracy."

Joseph Grimes, Special Assistant to SecNav in charge of Culebra, noted at the start of his statement that "Culebra is a political issue in the Commonwealth of Puerto Rico—and one of delicate sensitivity."

The excerpts from the statements above attest to a contrary conclusion, as did Commissioner Cordova, who told Grimes, "It was perhaps an issue. It is no longer an issue. The Navy has been quite successful in uniting Puerto Rico, which was otherwise divided and is still divided politically on many other issues, but not on Culebra."

CULEBRA: ACT III, SCENE 2—NO ISLAND ALTERNATIVE?

HONOLULU FIRM OFFERS TO BID ON BUILDING ONE

(By Bruce Cossaboom)

The Culebran Cauldron cooled down to a simmer this week, but at least four new developments bubbled up in the case of Culebra vs. the U.S. Navy:

(1) A large construction firm which enlarged Pacific islands for the Navy during WWII told the Journal it would be glad to undertake a feasibility study for building an artificial island alternative to Culebra as part of the Atlantic Fleet Weapons Range—if Congress asks it to.

(2) Branded "absolutely unfounded" by Jorge L. Cordova, Puerto Rican Resident Commissioner in Washington—and dismissed by the Navy with a "no comment"—was a *San Juan Star* story citing unattributed "Washington reports" that the Navy and the Puerto Rican government have already arrived at a settlement of the Culebra dispute behind closed doors.

(3) House Armed Services Real Estate Subcommittee Chairman Charles E. Bennett (D-Fla) and at least three other members of his seven-man panel were preparing at Journal presstime, to fly to Culebra for an on-the-spot inspection tour. (Bennett's Subcommittee is currently considering the Navy's acquisition request for additional acreage on Culebra to enlarge existing safety zones for planned expansion of firing range activities.)

(4) A Naval Research official who had been quoted by Richard Copaken (Washington attorney for the municipality of Culebra) during the Subcommittee hearings as saying that floating platforms—another suggested target alternative—are "clearly within the state of the art," now tells the Journal he was quoted somewhat out of context and that "The concept of large floating stable platforms (needed for the Navy's target practice) is fraught with technological problems." This official projected deployment of such a device as falling within the 1985–90 time frame.

ISLAND-BUILDER CONFIDENT

Dillingham Land Corporation of Honolulu (together with Ocean Industries, one of its subsidiaries), a large and diversified land builder and developer, says it feels it could build an island the Navy could use as a target range near Roosevelt Roads if the proper conditions and requirements were met.

"It appears that there are some areas near Culebra where we could do it," company officials told The JOURNAL, "but it would need intensive study. We'd be willing to do a detailed study if the Committee wanted us to," they said, adding that the company would provide its brochure for the Subcom-

mittee's consideration in evaluating possible alternatives.

Dillingham officials said they would be glad to meet with the Navy, take soundings in the Culebra area, try to find suitable shallow banks or rock outcroppings that could be used as a base, and provide a quick answer at reasonable cost.

"We have built islands before," firm officials observed, citing a 75-acre island which the company built (at a cost of $4-million) in the Bahamas to support facilities for the mining of calcium carbonate.

From 1949 to 1946 the company sponsored a partnership of builders which constructed all naval military installations in the Pacific. "For this project," officials noted, "we took many islands that were too small and made them larger, such as Canton Island."

The firm was awarded the Navy "E" for excellence. It claims to have more "island-building experience" than anyone else, with operations in both the Pacific and the Atlantic.

More recently (1956–58) the company rebuilt Midway Island to lengthen the airstrip there, and built a port/airfield facility at Sattahip, Thailand.

Other company officials conceded, however, that the firm has had no mountain-building experience—and the Navy insists that any man-made targets must incorporate contours and relief similar to the features found on Culebra and other real islands.

Copaken introduced the subject of artificial islands in response to the Navy's repeated assertions that there are no natural islands which it regards as viable alternatives.

Navy officials told the House Armed Services Real Estate Subcommittee that, after studying a list of a score or more possible sites, they concluded that there is no alternative to Culebra.

Navy officials told the Journal that Atlantic alternatives from Newfoundland to the Gulf Coast and the Canal Zone had been checked out and "every logical island in the Caribbean examined," but not one of them fits Admiral Moore's six ground rules as does Culebra. ("This area is unique," Admiral Moore said of the Roosevelt Roads/Vieques/Culebra complex. "It fits our desires precisely.")

But Representative Charles E. Bennett (D-Fla), Subcommittee Chairman, apparently regarded unsupported conclusions as inadequate testimony, and asked the Navy to provide the Committee with the detailed documentation of its "no other alternative" position.

After considerable questioning on the subject, Bennett and other Subcommittee members indicated they felt the Navy should go back and study some more.

Bennett gave the Navy its choice between detailing the strong points and weak points of other areas at another adjourned meeting (which Bennett says now is not likely to be held) or to present them administratively with members of the staff. Navy officials at CINCLANTFLT Headquarters said they could not provide The Journal with this information before it is given to Congress.

Navy officials told The Journal that if the House panel rejects their request for approval of the Acquisition Report, they have, in effect, no contingency plan ready to go into operation.

"If the Navy directed you to use another target instead of Culebra," The Journal asked at CINCLANTFLT, "which would you use? What would be the next four or five best places?"

In the event of an adverse ruling, officials said, the Navy would have to "sit down and do some homework, some serious consideration." Alternatives—"As far as we're concerned, there are none." Loss of Culebra, officials said, "would have a significant impact on the training of the Atlantic Fleet."

(Officials also told The Journal the Navy opposes any rearangement of the target complex, any shift in target utilization, any greater increase in the density of operations in target complexes other than Culebra because this would "increase the safety hazard to Navy personnel." As a matter of fact, the casualty ratio of Navymen to Culebrans killed in accidents is ten to one right now.)

Navy officials also said that the idea of floating platforms as targets, although under study by Navy R&D, has not been keyed in specifically in conjunction with Culebra.

SOME OTHER POSSIBILITIES

Here are some of the other Caribbean island possibilities, as discussed during the hearings and in conversations between The Journal and Navy official, with the Navy's assessment as to why they are unsuitable as alternatives.

NORTH CAY

A large island off the Northwest coast of Culebra. It would be "unsafe for a bombing target," the Navy told The Journal, because its necessary safety zone would extend closer to Dewey than the zone radiating from the present targets on Culebrita Island.

MONA ISLAND

A virtually uninhabited island, owned by Puerto Rico, on the other side of the mainland from Roosevelt Roads. It would take a period of years, the Navy said, to set up the necessary surveillance radar installed as on the complex. Its location in the international shipping lanes of Mona Passage would raise questions of international law.

VIEQUES

This island "does not afford two vantage points from which to determine the fall of a shot precisely."

The Navy and Marine Corps already use the island's eastern 2¾ miles for naval gunfire support/aerial close support targets, the next three miles inland for a Marine landing/maneuver area, and Vieques' western end for an inert naval ammo depot. The possibility of moving the depot to Culebra, the Marine maneuver area to the western end of Vieques, and the new targets and expanded safety zones for Walleye to the freed area on the east coast would be unworkable, the Navy told The Journal. The reason: the beaches to which it is proposed to move the Marine manuever area are not suitable for amphibious training, the Marines say.

DESECHEO

An island south of Mona, "worse" than Mona in the drawbacks it presents as an alternative, the Navy said.

EAST PALOMINOS

This island doesn't have enough land mass, the Navy says, lacks suitable air space, and is in a shipping area.

LUIS PENA CAY

This island off the coast of Culebra is already used as a rake station and is too close to Dewey.

The Navy stressed that any alternative would "have to be out of the shipping lanes . . . have to have the proper population density . . . have to be out of air travel lanes."

To move to some other island complex altogether would necessitate the transplantation of the Roosevelt Roads base. Bennett told Navy spokesmen he felt they should "come back and give us intensive research about that general pattern where you could still use Roosevelt Roads."

But if some are still interested in finding an alternate target to replace Culebra in the Atlantic Fleet Weapons Range, others claim that a behind-the-scenes alternative may already have been arrived at.

The *San Juan Star* cites anonymous "Washington reports" to give currency to rumors that the government of Puerto Rico (specifically Governor Luis Ferre) has made an "agreement" or a "deal" with President Nixon, SecNav John Chafee, and Henry Kissinger, the President's adviser on national security, whereby the Navy would make some concessions to the Culebrans, but would continue its operations on the island essentially unaltered.

Commissioner Cordova emphatically denied this report and said that Governor Ferre—though known to be a good friend of the President, socially and politically, and said to have been a heavy campaign contributor in the 1960 election—has not yet talked to the President personally about the Culebran issue.

But this non-visit is actually a sore point for some Culebrans, who insist that Ferre should draw on his political assets in an attempt to exert leverage on the Commander-In-Chief.

Puerto Rican Senate President Rafael Hernandez Colon—a member of the opposing political party—said at a news conference after his return from Washington (as reported in the same *Star* story) that the solution of the Culebra-Navy controversy depends upon the pressures Ferre exerts on the White House on behalf of the island.

CULEBRA: ACT III, SCENE 3—BENNETT PAYS 'TRIBUTE' TO PRESS FOR ITS CULEBRA COVERAGE

(By Bruce Cossaboom)

"No other Americans [in a similar land-taking situation] have ever been given so much attention." *Representative Charles E. Bennett (D-Fla.), Chairman, House Armed Services Real Estate Subcommittee*

A congressional panel has returned from an on-the-spot visit to Culebra with basically the same devil's advocate stance it showed before—not impressed that the Culebrans' case warrants the unique, press-inspired consideration it is said to be getting, but not very convinced, on the other hand, that the Navy really can't find some other target.

Members of the House Armed Services Real Estate Subcommittee, headed by Representative Charles E. Bennett (D-Fla.), returned to Washington last Sunday after a three-day inspection trip to the embattled Puerto Rican island of Culebra, part of the Navy's Atlantic Fleet Weapons Range.

The panel has under advisement a Navy real estate acquisition proposal to take additional land on the small island to use for safety zones for proposed expanded missile activity. The Culebrans are not only opposing this proposal (which came as a substitute for taking the whole island, a plan the Navy earlier backed down on); they now want the Navy to case using the island as a target altogether.

Bennett told The Journal shortly after his return from Culebra that the Subcommittee will probably hold one final hearing to have the Navy explain its objections to other island alternatives.

Bennett also said that the case of Culebra would not stand where it does today if it had not been blown out of all proportion by: (1) the news media; (2) potential tourist developers on Culebra; and (3) far left political groups in Puerto Rico.

Bennett said the panel told the Navy that "even if they have to go to great inconvenience and expense," they should not rule out any "alternative on pure dollars and economic" but should determine whether they can come up with a comparable target. But "that's not clear" at the present, Bennett said.

The Navy thinks it has already exhausted the possibilities: this was made clear in testimony before the House panel on 11 June and in various Journal interviews with Navy officials in Washington and at CINCLANTFLT Headquarters in Norfolk. But the House panel wants to *see* the studies—and what results from the panel's "damn the expense" directive. No specific date has been set for the next hearing, Bennett said.

The panel wants the Navy to answer these questions, Bennett said:

(1) If you feel you can't move elsewhere, why not?

(2) If you can move elsewhere, what will it cost and how much inconvenience is involved?

"We are leaning over backwards in this case," Bennett told The Journal. "I hope we can solve the problems" for both sides in the dispute.

Bennett said he and other Subcommittee members who made the trip held "very extensive consultations—not hearings—with the people" on two separate visits to the island, went to nearby Vieques, flew over most of the suggested island alternatives in the Caribbean (including Mona Island) and the islets off Culebra itself, and were present on the island during what they were told was supposed to be a typical firing—with as much firing as they usually do."

Presumably, Bennett was playing his typical "devil's advocate" role while talking with The Journal about his visit to Culebra. (By one informed reports, this was the *first* time he has ever traveled on Armed Services Committee matters: Bennett has made it clear that he does not enjoy traveling, and his visit to Culebra is a good measure of his determination to give the islanders a full and impartial hearing.)

Asked his impression of the noise level and intensity which the islanders experience—and which he experienced that day—Bennett told The Journal that the actual firing is not as frequent as it would sound from Culebrans' reports to Congress, since much of the time is taken up in studying and plotting the actual shots before and after firing.

"I can understand the problem," Bennett conceded, "but the noise is just barely discernible if you are carrying on a conversation. You have to remain quiet to hear it."

(His statement contrasts with those of islanders who claimed before the House panel on 10 June that the noise is more frequent and more nervewracking, keeps children awake at night, interferes with thier health and education, and—according to Culebra's only doctor—causes an "extraordinary presence of nervous disorders.")

Bennett noted that the Culebrans' problem of land takeover is "not nearly as acute as many places on the U.S. mainland." (When asked for a specific example, however, of one of those "places," much less for a place where firing on a mainland U.S. target creates a comparable problem, Bennett said he did not have time to provide one offhand.)

JACKSONVILLE WORSE OFF?

He did say that more people are being displaced for a new post office in his home city of Jacksonville than live on the entire island of Culebra.

Bennett claimed that the Culebrans are getting much more attention than people in comparable situations usually get. Every national park and urban renewal acquisition involves the same thing, he said, but these property owners get far less publicity.

"No other Americans have ever been given so much attention" (in this kind of situation), he observed.

Bennett complained, indeed that the Culebra case has become "unlike most taking of lands." He said it would probably be no different than other property takeovers except for at least three factors:

(1) The exciting confrontation of the dramatic, beautiful little Caribbean island at war with the U.S. Navy—getting widespread publicity through the "wonderful news media." (If the press had similarly gone to bat for those dispossessed by Everglades National Park, Bennett suggested, there might never have been a park there.)

(2) Pressures for development of high-rise apartments for a tourist attraction—reference to such a possibility was made in some of the Culebrans' own testimony and stressed by Bennett at that time as incompatible with the island's idyllic image. (Bennett may have purposefully overlooked, in a typical devil's advocate role, that on 10 June Culebra's Mayor Ramon Feliciano said he would "have no objection to a directive" from the House Subcommittee "to turn Culebra into a National Park, thereby eliminating" any possible doubt about land speculations. The President of the Puerto Rican Senate assured the House Subcommittee that the Commonwealth's Senate would back Mayor Feliciano on such an offer.)

(3) The existence in Puerto Rico of the *Independistas*, a very "left-wing" (perhaps Communistic, Bennett suggested) splinter party "which seizes on any awkwardness in the government's position" to promote its own causes.

Bennett may have been overstating the case purposefully; during the 10 June hearings before his Subcommittee, leaders from virtually every political party on Puerto Rico testified on behalf of the Culebrans.

When SecNav Special Assistant Joseph A. Grimes, jr., opened his testimony the next day by saying, "Culebra is a political issue in the Commonwealth of Puerto Rico," he was corrected sharply (but politely) by Resident Commissioner Jorge L. Cordova. As Cordova (a non-voting member of the House Armed Services Committee) noted, "Culebra . . . *was* perhaps an issue. It is no longer an issue. The Navy has been quite successful in uniting Puerto Rico, which was otherwise divided and [which] is still divided on many *other* issues; but *not* on Culebra."

Bennett said none of the Culebrans with whom he talked had any positive remarks to make about what the Navy has tried to do in an effort to improve relations with the islanders—including the opening of a free-access sealane in the formerly completely restricted perimeter. (The Navy's Commander Caribbean Sea Frontier appointed a Navy captain to be his "personal representative for community affairs" on Culebra and for Vieques on or about 11 June. Possibly, not enough time has elapsed for this officer's work to take effect. One problem may be that, as of the last report, the Navy still did not have a Spanish-speaking officer on Culebra.)

As an example of the over-exaggerations which Bennett said may have been made in the attempt to describe the harmful effects of the shelling, Bennett cited the case of a species of parrot which is said to have been killed off as a direct result of the shelling. He noted that the bird had been "extinct for a long time." (See box on "The Ecology of Culebra.")

Bennett said that, beyond the resolution of the controversy with the Navy, the island's long-range future is likely to be one of rather rural, undeveloped status, since it is not very large and will never have a very substantial population.

He compared Culebra to the larger, nearby islands of Vieques, which has hospitals, industries, high schools—none of which could Culebra sustain, even if the Navy left the island entirely.

If their land is taken or condemned (there is no mention of "condemnation" in the Navy's current acquisition report before the Committee), "every penny the people have in it will be paid to them," Bennett stressed.

CULEBRANS GATHER SENATORIAL SUPPORT

Another Senator has enlisted on the side of the Culebrans in their battle with the Navy as the rhetorical bombardemnt shifts to the Senate side of Capitol Hill.

While the House Armed Services Real Estate Subcommittee awaits the Navy's presentation of its study of alternatives to Culebra as a part of the Atlantic Fleet Weapons Range, some new voices are joining the chorus of those in House and Senate who have spoken out on behalf of the Culebrans.

Both Massachusetts Senators, Edward Brooke (R) and Edward Kennedy (D), have expressed concern about the matter.

Now New York's junior Republican Senator, Charles E. Goodell, has held a New York City press conference with Puerto Rican leaders (from both the U.S. and the Commonwealth), in which he issued a strongly pro-Culebra statement.

He publicly called on the Senate Armed Services Committee to hold hearings on the Culebra affair.

Goodell also announced formation of a nationally based Save Culebra Committee, made up of Culebran and Puerto Rican leaders in New York and any national dignitaries who might wish to lend their names to the cause.

Goodell's office said one of the functions of the new popular-action group will be to develop "facts on the bad effects of the shelling of the island."

Juan Feliciano, the brother of Culebran Mayor Ramon Feliciano, will be a member of the SCC.

For the past month or so, Goodell's office told The Journal, the Senator has been working "quietly" on behalf of the Culebrans, meeting with Puerto Rican Governor Luis Ferre and other Puerto Rican leaders.

Goodell is said to have "exerted pressure" on the White House, the Navy, and the House Armed Services Committee, but finally decided to bring the mater out into the open, after it became clear to him that "all these options seem to be closed, with the Senate the only path left."

"ALL DOORS SLAMMED"

"Since all of the doors have been slammed in the face of the Culebrans," Goodell said at the New York meeting, "I have suggested that the Senate Armed Services Committee begin an investigation of the Culebra issue and of the Administration's handling of it."

Goodell's office told The Journal that among the Administration witnesses the Senator hopes would be called are Henry Kissinger (the President's National Security Adviser), SecNav John Chafee, and Assistant Secretary of the Navy (I&L) Frank Sanders.

Goodell stressed that he still hoped some good would come from the House Armed Services Real Estate Subcommittee's consideration of the Navy's land acquisition proposal and from Senator Henry Jackson's request to the Navy for a "full report" on the Culebran situation.

But "neither that Subcommittee nor the Navy is disposed to act favorably on the rights of Culebrans," Goodell added.

Goodell's New York speech dwelled on the economic, educational, and ecological consequences of the Navy's shelling on Culebra, and on the Navy's—now abandoned—original plan to take over the entire island.

FULBRIGHT SPEAKING OUT?

Meanwhile, Senator William Fulbright (D-Ark.) reportedly was ready at Journal press-time to make a pro-Culebra speech on the Senate floor. He earlier had written the Navy expressing his concern about the issue and asking supplementary information. He was expected to include the Navy's reply in his floor statement.

And, in a related development, Representative Shirley Chisholm (D-NY) hosted on Tuesday, 7 July, a "caucus" of Congressmen who have now expressed active interest in the Culebra issue. Staff members for seven Senators and six Representatives showed up, in addition to Congresswoman Chisholm herself and Puerto Rico's Commissioner Jorge Cordova, a non-voting member of the House. The meeting was reportedly intended to take an inventory of who was taking what actions, with a view toward further discussions of new initiatives that should be taken on behalf of the Culebrans.

On the Senate side, staffers attended from the offices of Senators Edward W. Brooke (R-Mass), J. W. Fulbright (D-Ark), Charles E. Goodell (R-NY), Henry M. Jackson (D-Wash), Jacob K. Javits (R-NY), Edward M. Kennedy (D-Mass), and Hugh Scott (R-Pa).

Members of the House who were represented included six New York Democrats (A. K. Lowenstein, Mrs. Chisholm, R. L. Ottinger, Ben S. Rosenthal, W. F. Ryan, and J. H. Scheuer) and C. A. Vanik (D-Ohio).

Meanwhile, as reported in last week's Journal, Senator Henry M. Jackson, Chairman of the Interior and Insular Affairs Committee and a senior member of the Armed Services Committee, has asked the Navy for a "full report" on Culebra, but had not received an answer at Journal presstime.

Jackson has also reportedly agreed to let Jorge L. Cordova, Puerto Rico's Resident Commissioner, personally air the Culebrans' case before his Armed Services Military Construction Subcommittee.

The office of Senator Brooke told The Journal (4 July) that Armed Services Committee Chairman John C. Stennis (D-Miss) has now placed an indefinite "hold" (it had been for 30 days) on any Navy action on Culebra until the issue has been resolved "satisfactorily."

Presumably, this means that the Navy's 30 April real estate acquisition request—now pending before the House Armed Services Real Estate Subcommittee headed by Representative Charles E. Bennett (D-Fla)—cannot be acted upon without a counterpart affirmation from the Senate panel.

Culebrans may thus have a second "court of last resort" if the House panel approves the Navy's proposal.—Bruce Cossaboom

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[From the Armed Forces Journal, July 18, 1970]

CULEBRA HEARINGS RECONVENE WITH HOST OF QUESTIONS AT ISSUE

(By Ben Schemmer and Bruce Cossaboom)

Governor Luis Ferre of Puerto Rico, who had been expected momentarily to shed his ambivalent neutrality on the Navy's request to expand its Culebran bombardment range, apparently plans to remain silent until House Armed Services Subcommittee hearings have run their course. Ferre was expected last week to announce that the future of Culebra is "not negotiable" and to ask the Navy to leave the island entirely.

High Administration and several congressional sources told the Journal such a stand by Ferre would have a decisive impact in rallying White House support for the Culebrans. (Ferre reportedly was one of the largest single contributors to President Richard Nixon's 1960 campaign and is said personally to have raised substantial contributions for the President's successful 1968 bid. Ferre also told the Journal weeks ago that he is a close personal friend of Defense Secretary Melvin Laird—but Laird has yet to comment on the Culebra issue.)

Puerto Rico's Resident Commissioner in Washington, Jorge Cordova, told The Journal that he had strongly urged the Governor on Friday, 10 July—when Ferre returned from a trip to Japan and Southeast Asia—to speak out publicly on behalf of the Culebrans. Cordova said he and Ferre had discussed the Culebran issue twice that day. He expressed "surprise" that Ferre had not made the expected statement at a major news conference which Ferre held upon his return to Puerto Rico last Saturday. Cordova expressed his "disappointment" when told that The Journal had been advised at presstime that no new statement would be made by Ferre until hearings before the House Armed Services Real Estate Subcommittee had "run their course."

Ferre's ambivalence on Culebra has been of concern to the islanders and has puzzled officials in Washington, since the Culebra issue has united virtually every political faction in the Commonwealth. Observers here suggest that Governor Ferre stands to lose any political benefits he could rally by speaking out on behalf of the Culebrans if he defers such a stand too long—particularly in view of revelations (Journal 11 July) that he was privy, in late 1968, to details of an agreement made between the Navy and the previous administration on Puerto Rico whereby the Navy would take over the entire island and have the Culebrans resettled. Ferre (and others in his administration who were briefed by the outgoing administration and by the Navy) never advised the Culebrans that such a deal had been made.

DISCUSSIONS "CONFIDENTIAL"

When asked early this week about his part in that agreement, SecNav Special Assistant for Culebra Joseph A. Grimes, jr., would say only, "All of my discussions with the Commonwealth of Puerto Rico have been on a confidential basis . . . We have not divulged anything publicly about those meetings." Grimes admitted, however, that he had met with Governor Ferre and with Commissioner Cordova shortly after Grimes assumed his current Pentagon post in February 1969. He denied that CINCLANTFLT Admiral Ephraim Holmes was present at any meetings with Cordova or Puerto Rican officials, as had been alleged by Cordova in a Journal interview (4 July) when he spelled out the deal on Culebra allegedly agreed to by previous governors of Puerto Rico.

Ferre's new stand on behalf of the Culebran municipality was expected to coincide with resumption of hearings on the Navy's real estate acquisition request for a new easement on the eastern third of Culebra. But Ferre's office told The Journal no such statement should be expected. Dr. Roland Perusse, Special Assistant to the Governor, told The Journal that Ferre felt "it was necessary for the Navy to guarantee the peace, welfare, and happiness of the people on the island, whatever solution is arrived at or taken into consideration." But Perusse also said that Ferre wants to see "the HASC hearings run their course before he intercedes."

The Navy acquisition request is now pending before the House Armed Services Real Estate Subcommittee. At Journal presstime, the subcommittee was to reopen its Culebra hearings on Friday, 17 July.

One of the Subcommittee's major purposes is to have the Navy explain in detail its analyses of possible alternatives for the Culebran bombardment and gunnery range. When the Navy gave the Subcommittee on 11 June a summary of those alternatives, Committee Chairman Charles E. Bennett (D-Fla) cut the Navy off and asked Navy witnesses to do more homework and to return prepared to answer specifics they were unable to discuss at that time. For instance, the Navy had ruled out as an alternative target site the island of Mona, midway between Puerto Rico and Cuba, in part because there was no radar equipment for command and control of the ship and aerial bombardment training. But Navy witnesses were unable then to offer any figures on the cost involved or time needed to set up the required radar and telemetry network. The Subcommittee also asked the Navy to take a new and thorough look at the possibility of using artificial or floating islands as targets, and of using Navy ships for the rake (spotting) stations to score its gunnery/bombing exercises.

SENATOR JACKSON GETS NO NEW DOPE

Navy officials have been unwilling to discuss the results of any such analyses prior to making the data available to the House Armed Services Subcommittee. But no mention whatever of artificial or floating island alternatives was made in the Navy's 7 July reply to Senator Henry M. Jackson (D-Wash) request of 19 June for a full report on the Navy's use of and plans for Culebra. The Navy's reply, signed by Assistant Navy Secretary (I&L) Frank Sanders and made available to The Journal by Senator Jackson's office, provides virtually no new insight on the Culebra issue.

The Navy's reply to Senator Jackson dismissed five nearby alternative target sites on the following grounds:

OTHER ISLANDS CONSIDERED

Mona Island

"1. The island lies in the middle of Mona Passage, a major international waterway with an average daily ship count of 17 ships within a 50 mile radius of the island. The United States is presently engaged in preliminary international negotiations with respect to extending territorial waters from 3 to 12 miles. Fundamental to the U.S. position is that the straits of the world will be left as high seas. Any U.S. proposal to restrict Mona Passage might adversely affect the U.S. negotiating position.

"2. There is a lack of reserved air space since the area is traversed by three international airways with Mona Island a major intersection for reporting purposes.

"3. Western Puerto Rico does not have a command and control facility comparable to that of Roosevelt Roads in the east, therefore, adequate air/surface surveillance and warning is not possible.

"4. The flat topography would make difficult the installation of adequate spotting facilities and profile trackers."

Isla Desecheo

"1. Located 27 miles northeastward of Mona Island and 12 miles westward of Punta Higuera, Desecheo is a small island a mile in diameter. Since it is in the Mona Passage, the same undesirable international waterway aspects associated with Mona Island are present here.

"2. As with Mona Island the lack of reserved air space and command and control facilities is also present.

"3. The size of the island is not sufficient to locate spotting facilities and profile trackers.

"4. The U.S. Department of Health, Education and Welfare and the Puerto Rico Medical School have an agreement for joint use of the island for study purposes."

Isla Palominos

"1. This small privately owned island is located in the Fajardo Roadstead only 6800 yards from the mainland of Puerto Rico. The area is a major recreational waterway and includes a commercial marina on Isla Marina, 750 yards from the mainland. The footprints of the inert Walleye missile fired at Isla Palominos would fall within 500 yards of this marina.

"2. The island does not contain sufficient land mass (1100 x 500 yards) for a target impact area.

"3. There is a lack of suitable reserved air space which will become more severe with the completion of the planned Fajardo commercial airport."

Caya Lobos

"1. This privately owned island is located in the Fajardo Roadstead 5300 yards from the mainland in the same recreational waterway as Isla Palominos. It is a tourist area and contains a small aircraft landing strip.

"2. The footprints of an inert Walleye missile would fall within 300 yards of the mainland and would include Cayo Icacos.

"3. The land mass (600 x 300 yards) is insufficient for a target impact area."

Isla Caja de Muertos

"1. This island is 5 miles off the south central coast of Puerto Rico mainland and 7 miles from the city of Ponce, a major shipping port and center of the sugar refining industry.

"2. There are no command and control facilities to provide surveillance and warning.

"3. The land mass of the island (1½ x ½ miles) is insufficient to locate spotting stations and profile trackers. Additional land in the vicinity would be required."

OTHER DEVELOPMENTS

Other developments have been breaking fast on the Culebra issue:

The New York Times in a lead editorial of 10 July asked: "Can anyone really believe that the only suitable target area in the entire Atlantic Ocean for testing a new generation of guided missiles and glide bombs is a 7,000-acre island off Puerto Rico which 726 Americans call home? . . . It would be a salutary example of what one likes to think the United States is all about if the mightiest Navy in the world now decided on its own to weigh anchor and go elsewhere to explode its new arsenal, leaving 726 islanders in peace and quiet."

The Washington Post in an editorial of 14 July said: "It is time that high level attention be paid to the controversy over Culebra. . . . Repercussions from this use of an inhabited island as a target have spread far beyond Culebra itself. Many Puerto Ricans see in it evidence of a general lack of sensitivity in Washington to commonwealth problems . . . relations between Washington and San Juan are enormously influential in our dealings with the rest of Latin America. Even though the Navy finds Culebra a convenient area for training operations, we simply cannot afford as a nation to get into the posture of putting bombs ahead of people."

A new York film company has shot 10 hours of documentary film on Culebra, including scenes of Navy ships firing against the island (reportedly, the Navy had denied such permission to CBS and NBC news), and plans to distill this footage into a one-hour documentary in time for the HASC hearings and for sale to a nationwide TV network.

WHITE HOUSE INTERESTED?

White House interest in the Culebran issue peaked on July when Presidential Counselor Bryce Harlow visited Puerto Rico for a "routine" Independence Day ceremony. Commissioner Jorge Cordova told the Journal he discussed the Culebra issue then with Harlow (who also serves as Chairman of the White House Excess Property Committee) for 15 to 30 minutes. Cordova said Harlow apparently had not been aware of the Culebra problem "other than as a newspaper or magazine reader." Cordova said also he had not heard from any White House official since (or before) about the Culebra problem—notwithstanding the fact that on 11 June HASC Subcommittee Chairman Charles E. Bennett (D-Fla.) said: "The White House itself ought to be involved . . . at least an offer to the White House to become involved in this decision is a wise course of action for the committee to take. . . . We will submit the evidence to whomever will look at it in the White House and discuss it with the highest level of our government and try to see if they can resolve it in some manner. . . . This is government in the open."

[From the Armed Forces Journal, July 25, 1970]

NAVY CALLS CULEBRA "IRREPLACEABLE"—LAIRD SAYS REEVALUATE

(By Bruce Cossaboom)

The fate of Culebra is still up in the air, as the House Armed Services Real Estate Subcommittee has held its last public hearing on the Navy's study of possible alternatives to Culebra as the "keystone" of the Atlantic Fleet Weapons range.

Subcommittee Chairman Charles E. Bennett (D-Fla.)—at its conclusion—announced that the panel "will have an adjourned meeting at some later date to resolve what we will do about this thing."

But it appears that the hearts of the Subcommittee are with the Navy.

The members did not seriously question at the hearing the Navy's contention that Culebra is "irreplaceable" and that it had investigated "every conceivable alternative" and found none which could be acceptable.

Chairman Bennett did say: "There are just many places in the U.S. where people make sacrifices much greater than the people of Culebra are being asked to make. They should not be asked to make these sacrifices unless the Navy really does need this for the national defense of our country."

And: "It still remains if the Navy really doesn't need this range, the Navy shouldn't have it. And that is the thing we have to decide. We have to decide whether the Navy needs it or not."

The Navy seeks to acquire a new nonhabitation easement on Culebra's eastern trip for safety zones—an easement which would leave about one-third of their island for the Culebrans' use.

If the Subcommittee makes its decision on the basis of the evidence submitted by the Navy at the hearings, it could hardly rule against the Navy.

The adversary proceeding atmosphere which characterized Chairman Bennett's confrontation with both Culebrans and Navy officials at the 10-11 June hearings changed dramatically in the second-round hearing 17 July.

The devil's advocate sounded more like the witness' coach.

THE NAVY'S STATEMENTS

The witness, Joseph A. Grimes, Jr., Special Assistant to the Secretary of the Navy, brought two different statements to the hearing. He read the shorter one—a six-page general discussion of why the Navy needs an Atlantic Range, why the range is located where it is, and why Culebra is an essential part of that range—in open session.

The longer statement—11 pages going into a little more detail on four major alternatives (and dismissing all the rest of the hundreds of islands in the nearby Caribbean basin as "too small" or "too far")—was not read at all by Grimes but was distributed to the Subcommittee members at the start of the hearing. The Journal obtained a copy afterward.

But based on either statement, there was remarkably little questioning on the alternatives by Subcommittee members.

Grimes discussed briefly why Mona, Desecheo, Isla Caja de Muertos, Isla Palominas, Cayo Lobos, and Vieques do not fit the bill—ground that had already been sketchily covered at the first hearing. Nor was Grimes' statement much of an expansion of the "full report" asked of the Navy and received by Senator Henry Jackson (D-Wash) (Journal 18 July).

OVERKILL ON AN ALTERNATIVE

The only new alternative raised and given any attention in the questioning—Virgin Gorda—was tossed out at the outset of the questioning by Chairman Bennett, who noted that it had been suggested by a Journal reader.

Chairman Bennett and witness Grimes teamed up for the better part of five minutes to rule out the Virgin Gorda proposal (some 10 separate objections were raised against it) with much the same data printed in The Journal 18 July ('Journal Alternative Won't Hack It') and already given to Bennett by The Journal.

THE ANSWERS HAVE VARIED

Puerto Rico's Resident Commissioner Jorge Cordova—a nonvoting member of the Subcommittee—did press the Navy for replies to questions asked repeatedly and never more than cursorily answered.

At one point, questioning Grimes, Cordova remarked: "The answers . . . have varied from time to time, Mr. Grimes, that is why I want to clear it up." The remark was specifically addressed to the size of the bombs being dropped in the area and whether they were "live" bombs, but it could equally appropriately have been applied to most of the subjects covered.

Apparently SecDef Melvin Laird hasn't been satisfied with the Navy's answers, either. *The San Juan Star* has quoted Governor Luis Ferre's announcement of a telephone conversation he had with Laird: "The Secretary of Defense personally assured me today [15 July] that because of my efforts he has ordered Naval authorities to make an immediate re-evaluation of the Culebra situation." Ferre said Laird had promised to call him upon completion of the study, expected in about a week's time. No announcement of the second call had been made as of Journal presstime.

On another tack, Commissioner Cordova developed an illuminating comparison of the Atlantic and Pacific Fleet Weapons Ranges, with the Pacific range clearly, in Mr. Grimes' estimation, coming in second-best. Apparently no island—or, at least, no *available* island—in the Pacific range offers the "ideal" features the Navy desires on Culebra, and the Navy has had to "make do" with less (a course they reject for the Atlantic range).

THE VIEQUES TRADE-OFF

Grimes' longer statement for the record ruled out one early proposal for an alternative to the expanding Culebra Walleye range simply by misstating it. Puerto Rico Governor Luis Ferre suggested to The Journal on Culebra (23/26 May) that, since the Navy and Marine Corps already use Vieques' eastern 2¾ miles for naval gunfire targets, the next three miles inland for a Marine landing/maneuver area, and Vieques' *western* end for an inert naval ammo depot, the Navy might move the Vieques ammo dump to Culebra, the Marine maneuver area to the *western* end of Vieques, and use the freed area on Vieques' eastern tip for its new Walleye targets.

A CINCLNTFLT spokesman later told The Journal that the big objection to this tradeoff is that the western end of Vieques doesn't have beaches as suitable as those on the island's eastern tip for marine amphibious training.

But Grimes ruled out the Vieques alternative by erroneously restating the proposal. He said: "The eastern end of Vieques has been mentioned as an alternative Walleye target. It has also been suggested that the other targets in the air-to-ground target sub-area to the east of Culebra be moved to the eastern end of Vieques. What these suggestions fail to recognize is that the *eastern* end of Vieques is already one of the three air-to-ground target sub-areas in the Culebra/Vieques complex. Furthermore, the Vieques impact area is more restricted than the two sub-areas near Culebra because safety regulations do not permit simultaneous amphibious landings, artillery fire and air-to-ground ordnance delivery unless these operations are part of a coordinated exercise."

No mention whatever was made of the Vieques-Culebra switch as it was spelled out by Governor Ferre.

THREE KEY ISSUES

The hearing also failed to produce any discussion—much less answers—on three key issues raised by The Journal 18 July:

(1) Where will the Atlantic fleet fire new guided missiles and glide bombs whose "footprints" are larger than the Walleye's or Hobo's—i.e. missiles which cannot be fired on the Culebrita target complex within the Navy's proposed new safety easement on Culebra?

(2) Could the Navy use the targets required for these larger-footprint weapons for the Walleye and Hobo glide bomb training now planned for Culebrita—thus obviating the need for new safety easements on Culebra's eastern peninsula?

(3) Where would the Navy, under its Culebra contingency plan, conduct Atlantic Fleet gunnery and air-to-ground training in the event that Congress or the Supreme Court precludes continued use of—or expanded operations on—Culebra? How much would Atlantic Fleet training really be degraded using such contingency targets, and what would the resulting inefficiency cost, both in dollars and in fleet readiness?

But the biggest unanswered question of all involved something brought up at the first hearing, but never mentioned at the second.

The Subcommittee in early June had asked the Navy to take a new and thorough look at the possibility of using artificial or floating islands as targets, and of using Navy ships for the rake (spotting) stations to score its gunnery/bombing exercises.

An "island builder" offered—by telegram sent at Bennett's suggestion late last week to Navy Secretary John Chafee—to make a feasibility study for an artificial island in the general vicinity of Roosevelt Roads with the necessary mass and contours.

At one point in the 17 July hearing, Grimes made Culebra sound so important as the keystone of the Atlantic Fleet Weapons Range that if it didn't exist it would have to be invented.

But the possibility of "inventing" artificial islands or floating targets and rake stations simply wasn't addressed.

In closing the hearings, Bennett castigated the press, calling much of what has been written about Culebra "distressing" and "inaccurate." Bennett has said he feels the charges against the Navy were not substantiated by what he personally experienced on his visit to Culebra, when the Navy provided him with an opportunity to observe the effects of their firings.

But Commissioner Cordova summed up his feelings on that subject in one last statement before adjournment: "I'm not at all satisfied that on our own short trip to Culebra we received any idea of what may go on there when Culebra is being used as a weapons range. . . . I am far from persuaded from what little we saw and heard that the complaints are necessarily unfounded. I fear that we just didn't have the opportunity to hear what actually goes on."

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

Mr. GOODELL. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. I, too, commend the Senator from New York on what he has done. As I understand, he is offering an amendment to the pending bill; is that correct?

Mr. GOODELL. Yes. I am introducing an amendment today, to be printed. I am not calling it up at this time, because Senator JACKSON'S subcommittee is investigating the matter, and hopefully will be able to persuade the Navy without our passage of this legislation to remove themselves from the island of Culebra.

Mr. PROXMIRE. The thrust of the amendment is that it would remove the Navy from that area, and stop the kind of firing which, as I understand, has resulted in enormous damage to the Culebrans' property and in some deaths; is that correct?

Mr. GOODELL. That is correct. It is not just the thrust; the amendment would prohibit the use of the island of Culebra for either sea or air bombardment purposes or practices by the Navy.

I might say not only have some individuals been killed, but in early June, the Governor of Puerto Rico, Mr. Ferre, was out in his boat nearby, and almost got hit by one of the Navy shells, which landed right near his boat.

I am sure that brought home to the Governor of Puerto Rico rather dramatically the need for some change in this situation. He has been in the forefront of those who are trying to work this thing out and get the island of Culebra given back to the Puerto Rican people and the Culebrans.

These are American citizens, I might point out, whom we are firing around and about.

Mr. PROXMIRE. I congratulate the Senator from New York. It is shocking and scandalous that any human beings, certainly not only American citizens but any human beings, should be endangered and their lives lost by practice firing from our Navy.

It was my understanding, from the experience that I have had in the military—which is limited to 5 years in World War II—that great care was taken in all kinds of practice firing, to make sure there was no possible danger to life or limb of any soldier or sailor or anyone else who could be involved, certainly any civilian.

The fact that this has resulted in death of some persons and a real threat to the life of the Governor of Puerto Rico is most shocking, and I think the Senator from New York has performed great service in bringing this matter to the attention of the Senate.

I hope if there is no satisfactory reconciliation by the Senator from Washington and others, the Senator will press this matter to a vote. I think the Senator from New York should stand up and be counted, unless we can work it out on some kind of negotiated basis.

Mr. GOODELL. I thank the Senator from Wisconsin, and say to him that I do intend to press the issue.

I am offering this amendment today to afford a chance for negotiation. But I think it is time the Congress of the United States acted to meet this problem.

Mr. President, I ask unanimous consent to add as cosponsors of my amendment the Senator from New York (Mr. JAVITS) and the Senator from Iowa (Mr. HUGHES).

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

Mr. GOODELL. I yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I commend my colleague from New York for his thorough, careful, and painstaking analysis of a difficult and emotional subject in connection with Puerto Rico.

I have some personal knowledge of the situation in Culebra. I know of the difficulty that the residents of that island and that area of the Commonwealth have had with this problem. I know of the deep concern that the Governor of Puerto Rico, the distinguished Luis Ferre, has had over this situation.

I also know of the efforts he has made to try to find an alternative to the use of Culebra for these purposes. I commend our colleague from New York for his thorough appraisal of the situation, and join with him in urging that there be an early favorable disposition of this problem, and to support Governor Ferre in his efforts to bring it to a satisfactory conclusion.

Mr. GOODELL. I thank the Senator from Tennessee, and I join him in his comments with reference to the Governor of Puerto Rico. The Governor of Puerto Rico has been patient and persistent on this subject, as have many other leaders in Puerto Rico.

This has been a longstanding problem. It has deeply troubled the people of Puerto Rico as well as the people who reside on the island of Culebra, and I think it has reached the point now where futher negotiations without pressure from Congress will not resolve the matter with the Navy. We have made every kind of approach to the Pentagon and to the Navy Department over a period of years, striving to get them to agree that they should suspend these operations of the Navy. As a practical matter, the net result has been that the Navy is now making a proposal to expand the area they control on the island, adding about one-third of the island.

We have pointed out many difficulties that have occurred—some deaths, shells falling near children swimming at the beaches. It is an intolerable situation, and it must be ended.

Mr. President, I hope that the Senator from Washington (Mr. JACKSON) will be able to work this matter out in the several weeks ahead, because time is running short, and I intend to offer this amendment this year, in this session of Congress, and have Congress face the responsibility one way or another.

Mr. FULBRIGHT subsequently said: Mr. President, I was not in the Chamber when the Senator from New York discussed the matter of the shelling of Culebra, near Puerto Rico. I intend to support his amendment.

The Governor of Puerto Rico called upon me yesterday and described in considerable detail the significance of this matter. The very least our Government should do would be to enter into serious negotiations about giving up the shelling of this important island, which is a part of the Commonwealth of Puerto Rico. Puerto Rico is overpopulated. It is a small island itself and Culebra is smaller. I believe there are only 6,000 acres on the island of Culebra.

I believe that our Navy has been remiss in not seeking to find some alternative to the use of this island, which has nearly 1,000 inhabitants, and to find some alternative for the purpose of practicing its gunfire.

Mr. President, I ask unanimous consent to have printed in the RECORD a telegram from Mr. Rafael Hernandez Colon, President of the Senate of the Commonwealth of Puerto Rico.

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

August 11, 1970.

HON. WILLIAM J. FULBRIGHT,
Senator, U.S. Capitol,
Washington, D.C.

On behalf of the Senate of Puerto Rico, I urge and request your support of an amendment to H.R. 17123 to stop further naval shelling and bombing of the inhabited island of Culebra.

The shelling has produced a human and political problem of the utmost gravity in Culebra and Puerto Rico. Puerto Ricans are unanimous in believing that the shelling should stop, in the interest of the Culebrans and of continued warm relations with the United States. Moreover, there is considerable evidence that superior alternative sites which are uninhabited are available for such shelling which would obviate such a serious human and political problem. I therefore strongly request your support for the proposed addition of a new section 507 being introduced by Senators Goodell and Cranston, which would prohibit use of U.S. military resources for such bombing and shelling.

RAFAEL HERNANDEZ COLON,
President of the Senate,
Commonwealth of Puerto Rico.

Mr. FULBRIGHT. I hope that the Senate will give very serious consideration to Senator GOODELL's amendment.

Mr. CRANSTON. Mr. President, the tiny island of Culebra, located 20 miles east of Puerto Rico, has been subject to periodic shelling and bombardment exercises. The bombing is being done by the U.S. Navy. The people whose lives are being disrupted, and occasionally threatened, by these activities are American citizens. These 726 American citizens have vehemently protested the Navy's activities and I join their protest.

The Navy has stated that conditions on Culebra represent optimum opportunities to simulate wartime operations. For over 30 years the Navy has conducted operations on this island, and at the present time plans are underway to acquire by right of eminent domain another third of the island. This planned acquisition, added to the land the Navy already utilizes, would leave one-third of the island to the inhabitants.

Five thousand sorties were executed last year, and 9,000 are planned for this year. If such operations are deemed essential by the Navy, uninhabited islands in the vicinity are a preferable alternative. Two such islands off the west coast of Puerto Rico are currently available as an alternative to Culebra.

Why must lives be threatened, endangered and disrupted by such dangerous operations when other islands in the area are available? The inhabitants of this tiny island have continued to suffer these many years from the Navy's presence. It it time to alleviate this suffering and terminate the Navy's operations there.

For example, it has been documented that as a result of these operations, the fishing industry has deteriorated, tourism and industrial development have been restricted, and the ecology of the island has suffered adversely. In addition, lives are continually threatened. Not long ago, an errant Navy shell almost killed the Governor of Puerto Rico, who was sunning himself on a boat off Flamingo Beach.

There is no need to document further the disruption which has taken place on that island. Alternative, uninhabited islands in the vicinity exist. They should be utilized.

I am pleased to join my colleague, the Senator from New York (Mr. GOODELL), in cosponsoring the amendment to H.R. 17123 which would terminate the bombardment of Culebra and allow the citizens to live in peace. I urge the adoption of this amendment.

THE NAVY'S CONTINUING USE OF THE ISLAND OF CULEBRA

Mr. KENNEDY. Mr. President, I strongly support the amendment submitted by the Senator from New York (Mr. GOODELL).

On July 14 of this year, I told the Senate that I hoped the Navy would undertake an immediate review of the alternatives to the continued use of the island of Culebra. I said:

> If the Navy does not act in the matter, I believe that the U.S. Congress must.

Unfortunately the Navy has not acted. Although it asserted that it has studied "every conceivable" alternative site to Culebra, it has never made its studies public. And it has admitted that it has not considered the possibility of using manmade islands or contoured floating platforms.

The use of Culebra as a target area has subjected the more than 700 residents of that island to constant noise pollution and constant fear of injury. This alone should convince the Navy to seek an alternative target site. But the Navy policy has an impact far beyond Culebra itself. In Puerto Rico, where relations with the United States are a vital and sensitive issue, the Navy's actions have been criticized by every political force. Continued disregard to Puerto Rican views on Culebra could lead to hostility against all U.S. bases in the Commonwealth, including the $300 million installation at Roosevelt Roads.

I believe, therefore, that Congress must act now. Indeed, I think we should consider going beyond the proposed amendment and study the possibility to establishing a national park on Culebra to perserve the natural condition and beauty of the island.

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 o'clock tomorrow morning.

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

ADDITIONAL PROTOCOL II TO THE TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA, AND A TAX CONVENTION WITH BELGIUM—REMOVAL OF INJUNCTION OF SECRECY

Mr. BYRD of West Virginia. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from Executive H, 91st Congress, second session, additional protocol II to the Treaty of the Prohibition of Nuclear Weapons in Latin America; and Executive I, 91st Congress, second session, a tax convention with Belgium, transmitted to the Senate today by the President of the United States, and that the protocol and convention, together with the President's messages, be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's messages be printed in the RECORD.

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

The messages from the President are as follows:

To the Senate of the United States:

I transmit herewith Additional Protocol II to the Treaty for the Prohibition of Nuclear Weapons in Latin America, with a view to receiving the advice and consent of the Senate to its ratification. The Additional Protocol was signed on behalf of the United States on April 1, 1968.

For the information of the Senate, I transmit also the report by the Secretary of State with respect to the Protocol and a copy of the Treaty to which it relates.

The Treaty for the Prohibition of Nuclear Weapons in Latin America, done at Mexico City February 14, 1967, is the first successful attempt to create a nuclear free zone in a populated region of the world. The Treaty is limited to states located in the Latin American region and is already in force among 16 Latin American nations.

Additional Protocol II is designed for nuclear-weapon states, which are not eligible to sign the Treaty itself. It calls upon them to respect the denuclearized status of Latin America, not to contribute to violation of the Treaty, and not to use or threaten to use nuclear weapons against the Treaty parties.

It is in the best interests of the United States to assume these obligations toward the Latin American countries bound by the Treaty. By creating this nuclear-free zone the nations of Latin America have made an important contribution to peace and security in the Western Hemisphere. Ratification by the United States of Additional Protocol II would not only indicate our support for the Latin American nuclear-free zone but would reinforce our other arms control efforts such as the Non-Proliferation Treaty.

I recommend that the Senate give early and favorable consideration to Additional Protocol II and give its advice and consent to ratification, subject to the statement which accompanies the report of the Secretary of State. That statement, which is similar to the one made by the United States at the time of signature, expresses our understanding concerning territories and territorial claims, transit and transport privileges, non-use of nuclear weapons, and the definition of "nuclear weapons." The statement also reaffirms our willingness to make available nuclear explosion services for peaceful purposes on a nondiscriminatory basis under appropriate international arrangements.

RICHARD NIXON.

THE WHITE HOUSE, *August 13, 1970.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the convention between the United States of America and the Kingdom of Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Brussels on July 9, 1970.

For the information of the Senate, I transmit also the report of the Secretary of State with respect to the convention.

The existing income-tax convention of October 28, 1948 with Belgium, as modified by supplementary conventions of September 9, 1952, and August 22, 1957, and by the protocol of May 21, 1965, would be terminated and replaced by the new convention upon the coming into force of the latter.

In revising the existing convention, as modified, it has been possible to incorporate in a single comprehensive convention provisions which reflect changes in the internal tax laws of the United States and Belgium. The revised convention, while following in general the pattern of bilateral income-tax conventions now in force between the United States and a number of other countries, reflect in particular certain tax treaty policies established in recent revisions of such conventions with France, the Federal Republic of Germany, and the United Kingdom. Moreover, the revised provisions reflect, to the extent that policy and technical considerations permit, the model income-tax convention published by the Organization for Economic Cooperation and Development.

As in the cases of other income-tax conventions of the United States, provisions in the new convention with Belgium that are of special interest include those which relate to commercial and industrial profits, dividends, interest, royalties, and capital gains. The revised provisions regarding social security payments, governmental salaries and similar remuneration, income from teaching and research and other personal services, and exemptions to which students and trainees are entitled should also be of particular interest.

The maximum 15 percent rate of tax at source on dividends, as provided in the existing convention, is retained in the new convention. The 15 percent rate of tax at source on interest, as provided in the existing convention, is retained as a general rule in the new convention, but interest arising from commercial credit or on interbank transactions is exempted from tax. The provision of the existing convention granting an exemption from tax in the source country to royalties derived from sources within one of the countries by a resident of the other country is retained in the new convention.

I recommend that the Senate give early and favorable consideration to the convention.

RICHARD NIXON.

THE WHITE HOUSE, *August 13, 1970.*

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENT AND OTHER PURPOSES

The Senate continued with the consideration of 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.

Mr. McINTYRE. Mr. President, I want to inform Senators, for the distinguished Senator from Massachusetts (Mr. BROOKE) and myself, that we plan to call up amendment No. 821 on the ABM system at an early date. As soon as we can reach agreement as to a proper time, we plan to move promptly to a vote.

In the meantime, I want to set forth again my view that this proposal which my distinguished colleague has submitted and which I have joined at this time with the able Senator from Kentucky (Mr. COOK) in cosponsoring well satisfies the principal objectives of both those inclined to support ABM deployment and those inclined to oppose it.

The amendment itself is extremely simple. It reads:

> Funds authorized pursuant to this Act for the procurement of anti-ballistic missile defenses may be used only for defense of strategic forces deployed at Grand Forks Air Force Base, North Dakota and Malmstrom Air Force Base, Montana.

The amendment leaves intact every dollar recommended by the committee for work on ABM. It authorizes precisely the same rate of production on ABM components. It provides accordingly the full momentum of an on-going ABM program, and of a growing capability to expand the system's deployment should the Strategic Arms Limitation Talks fail.

The amendment grants broad latitude to the Department of Defense to meet the projected threat to our deterrent. It in no way inhibits the technology or the scale of deployment, but requires only that any such deployment take place at the two sites already authorized, Malmstrom Air Force Base and Grank Forks Air Force Base. Thus, the Department can do exactly what a number of experts familiar with the Safeguard system have suggested, namely, establish defense in depth at the first two sites rather than a thinner defense at three or four sites. By installing additional radar and computer capability together with additional interceptors at Malmstrom and Grand Forks, the system can attain a significant improvement in the phase I capability to protect the Minuteman force. The exact manner and degree of this improved capability is left for determination by the Department of Defense. Using existing technology, the Department might choose to deploy one additional missile site radar and related elements to achieve a significant increase in phase I capability at no greater cost than the proposed Whiteman deployment. It might choose to begin installing two missile site radars which would provide virtually the same number of surviving Minuteman as the phase I deployment or it might accelerate work on advanced radars to supplement the first two MSR's scheduled for the phase I sites. The latter option is the one many of us prefer and in the long run might provide substantially superior hard-point capability.

The important point is simple; the concept of defense in depth at the phase I sites would permit the Department of Defense to establish progressively heavier protection for the Minuteman silos in that area. It would go far toward meeting the possible strategic threat of a growing Soviet offense and would clearly authorize sufficient production and deployment momentum to bolster our diplomatic position in SALT.

I would also like to point out that this proposal is the logical culmination of the series of votes we have taken on ABM. Those who supported the Hughes amendment voiced the conclusion that the United States needed only an active program and did not require the proposed deployment of an operational system. Those who voted for the Cooper-Hart amendment expressed their considered judgment that the United States needs nothing beyond phase I deployment which has been authorized; they explicitly indicated that they did not believe phase II as proposed should be installed at this time.

I am sure that all those who supported the Cooper-Hart amendment will recognize that since the majority of the Senate did not share their judgment, this proposal represents a constructive middle ground between stopping the system at phase I and proceeding with the proposed phase II deployment.

As I made clear in announcing my decision to oppose the Cooper-Hart amendment, I have concluded that we do need a dynamic ABM program to support the SALT negotiations; however, my consultations with the American delegation in Vienna have lead me to conclude that intensified work at the phase I sites—short of the full phase II proposal to which the backers of Cooper-Hart objected—will provide ample momentum to support our negotiators.

That is the essence of the Brooke-McIntyre amendment.

The PRESIDING OFFICER (Mr. JORDAN of Idaho). What is the will of the Senate?

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. GOLDWATER. 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. GOLDWATER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. Is an amendment to the present bill pending?

The PRESIDING OFFICER. Nothing but the committee substitute for the bill. The bill is open to amendment.

Mr. GOLDWATER. Would it be in order to ask for third reading?

The PRESIDING OFFICER. Not until the committee substitute is agreed to.

Mr. GOLDWATER. Would it be in order to ask for agreement on the committee substitute?

The PRESIDING OFFICER. The question is on agreeing to the committee substitute.

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. EASTLAND obtained the floor.

Mr. GOLDWATER. Mr. President a parliamentary inquiry.

The PRESIDING OFFICER (Mr. JORDAN of Idaho). The Senator from Arizona will state it.

Mr. GOLDWATER. Is my question still in order?

The PRESIDING OFFICER. The Chair would advise the Senator from Arizona that the Senator from Mississippi has the floor.

Mr. GOLDWATER. I will wait until the Senator has finished.

GRANTING THE CONSENT OF CONGRESS TO STATES OF NEW JERSEY AND NEW YORK FOR CERTAIN AMENDMENTS TO THE WATERFRONT COMMISSION COMPACT—REREFERRAL OF SENATE JOINT RESOLUTION 222 TO COMMITTEE ON COMMERCE

Mr. EASTLAND. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 222 at this time and that it be referred to the Committee on Commerce for a period of 30 days, exclusive of any days on which the Senate is not in session, and shall again be referred to the Committee on the Judiciary for the purposes previously mentioned.

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

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENT AND OTHER PURPOSES

The Senate continued with the consideration of 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.

Mr. GOLDWATER. Mr. President, is my previous question still in order?

The PRESIDING OFFICER (Mr. JORDAN of Idaho). The question is on agreeing to the committee substitute.

Mr. GOLDWATER. Mr. President, I ask for the yeas and nays.

Mr. BYRD of West Virginia and Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD of West Virginia. Mr. President, I may suggest the absence of a quorum, but before I do so, may I say to the Senator from Arizona that he knows full well that the acting majority leader on this side of the aisle does not intend to permit the committee substitute be voted on today, not that I personally am not ready to vote on it, but the Senator from Arizona knows that the situation at the moment is not favorable to such action.

Mr. GOLDWATER. I know the situation very well. I have to say, too, that those of us who live 2,500 miles from here are getting sick and tired of sitting here day after day after day with no action on the bill. I know that there are piles of amendments to the bill and if we have to use this process, we are going to start calling up amendments offered by the other side. I think it makes the Senate look rather ridiculous for Senators to sit here day after day after day and have a vote once a week. This bill has been before the Senate now for going on a month. I have a hunch that if those who are delaying the bill have anything to say about it, we will be on the bill well into the end of September, for political purposes only.

It is necessary that the defense of this country be taken care of. I am perfectly willing to stay here night and day and vote on every one of these amendments, as ridiculous as some of them are. I had no idea that we would ever get away with what I tried to do here, but I did want the opportunity to call the attention of my good friend from West Virginia to the fact that this was beginning to look a little stupid in the eyes of the American people.

I would suggest that the leadership on the Senator's side of the aisle get around to prodding some of the reluctant Senators and have them call up their amendments, or we will start calling them up.

Mr. BYRD of West Virginia. Any Senator on either side may call up an amendment, at any time, this afternoon. There are no restrictions on the calling up of an amendment by any Senator. The Senator knows very well that the leadership on this side of the aisle is ready to go forward with amendments, but Senators are not yet ready for third reading or anything of the sort. The junior Senator from West Virginia is here day after day. I would imagine that I sit in this Chamber as much as does any other Senator. Thus I am quite willing to vote on any amendment, at any time. I, personally, am now willing to have a vote on the committee substitute and final passage of the bill. But the leadership on this side of the aisle and the leadership on the Senator's side of the aisle, I am quite sure, are not ready for that to occur yet, because there are Senators on both sides of the aisle who have amendments yet to be called up.

Mr. GOLDWATER. I can understand that, Mr. President, and I want to compliment the Senator from West Virginia for the careful and industrious way he pays attention to his duties. I do not believe I have ever seen a Senator, in the years that I have served here, who has spent as much time or done as good a job as has the distinguished Senator from West Virginia.

The point I wanted to make by my effort to get some action on this bill is that we are just stalling. It is a political stall. I can see it being taken advantage of in late September with television shows and radio shows. I know that the Senator from West Virginia will not like it any more than I do, but I think we are neglecting the business of the Government. To those Senators on this side of the aisle and on the other side of the aisle, I have to say that I would like to get home, too, but there is something to having to go 2,500 miles rather than just jumping in an airplane and going two States away. I would like to get on with the business of the Senate. I should like to see the Senate end its work sometime this fall so that we can have a little time with our families.

I have been ready to vote since the first day the bill was brought up, but there are amendments that are supposed to be important amendments. We have heard that every single item in the military procurement bill will be challenged. We are ready to answer all challenges. But here we sit, day after day after day, doing nothing. I would hope that the leadership on the Senator's side of the aisle and the leadership on this side of the aisle—I do not happen to be a Member of either of those two groups—would get their heads together and forget that a Presidential election is 2 years away, and that there is an election this fall, and let us get on with the business of the country.

Mr. BYRD of West Virginia. Mr. President, I do not believe that the record should be left unclear here. The Senator from Rhode Island wanted to bring up a conference report a little while ago, and he was willing to vote on it today. He was also willing to vote on it tomorrow. From which side of the aisle did the objections come?

Mr. GOLDWATER. I was not here.

Mr. PROXMIRE. They came from the Republican side of the aisle.

Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. I yield.

Mr. PROXMIRE. The Senator from Massachusetts (Mr. BROOKE) wanted very much to bring up his ABM amendment yesterday right after we voted on the most important amendment that is likely to come before the Senate in a long time. That was done yesterday. Today we had another vote on an amendment.

The Senator from Arizona did not think much of my amendment but I thought it was important and we voted on it.

The Senator from Massachusetts wanted to vote yesterday on his amendment. He was willing to move, and move then. Senators representing the viewpoint of the Senator from Arizona wanted to delay that. We did not agree to a time limitation yesterday. They wanted to put it off. So that has been put off until next Wednesday. Thus, all the fault is not on one side of the aisle by any means.

Mr. GOLDWATER. I am not suggesting that it is, but I might suggest to the Senator from Wisconsin, who has a stack of amendments himself, I understand, why does he not call them up?

Mr. PROXMIRE. I have just finished with one. I have got one here that I am willing to call up. It is right here on my desk and ready to go.

Mr. GOLDWATER. Then let us go to work.

The PRESIDING OFFICER (Mr. JORDAN of Idaho). The Senator from West Virginia has the floor.

Mr. BYRD of West Virginia. Mr. President, I think that I recall—I may be mistaken—but I thought I saw an amendment at the desk sponsored by the distinguished Senator from Arizona (Mr. GOLDWATER). Am I in error?

Mr. GOLDWATER. I have one there, yes.

Mr. BYRD of West Virginia. I thought so. We could consider it.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. JORDAN of Idaho). The Chair, on behalf of the Vice President, pursuant to title 22, United States Code, section 276, appoints the following Senators to attend the Interparliamentary Union Meeting, to be held at The Hague, Holland, October 1–9, 1970: The Senator from Alabama (Mr. SPARKMAN), chairman; the Senator from North Carolina (Mr. JORDAN), the Senator from Texas (Mr. YARBOROUGH), the Senator from Ohio (Mr. YOUNG), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. ALLOTT), the Senator from Idaho (Mr. JORDAN), and the Senator from Oklahoma (Mr. BELLMON).

The Chair, on behalf of the Vice President, pursuant to Public Law 91–332, appoints the following Senators to the National Parks Centennial Commission: The Senator from Washington (Mr. JACKSON), the Senator from Nevada (Mr. BIBLE), the Senator from Arizona (Mr. FANNIN), and the Senator from Wyoming (Mr. HANSEN).

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENT AND OTHER PURPOSES

The Senate continued with the consideration of 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.

Mr. BYRD of West Virginia. Mr. President, the Senator from Arizona (Mr. GOLDWATER) may be assured that an amendment will be called up shortly. It is my understanding that the Senator from New Jersey (Mr. WILLIAMS) is planning to call up an amendment momentarily. I think that there will be action on that amendment this afternoon.

Mr. GRIFFIN. Mr. President, I think that the distinguished Senator from Arizona has performed a very important service today in calling attention to what has been going on. In effect, he has served notice upon the Members of the Senate that we cannot go on and on in this way without expecting some Senator to press for third reading and passage of the bill.

I think the Senator from Arizona is entirely within his rights.

The leadership on this side of the aisle wants to cooperate, on a reasonable basis, as much as we possibly can. But I must say frankly that the primary objective of the leadership on this side of the aisle is to get the bill passed. It is supported by the administration. We do not particularly want any other amendments added to the bill, although some may be supported. We would like to get to third reading as quickly as possible.

Mr. President, with respect to the remarks made by the Senator from Wisconsin, I do not know whether the Senator from Massachusetts could have gotten a time limitation yesterday on his amendment. No request was made on the floor, as I recall. The amendment could have been called up and made the pending business.

It is my understanding that some of the supporters of that amendment were leaving yesterday and did not want a vote at that time. That was my understanding. Perhaps I am mistaken.

I wish the amendment had been called up. Whether there could have been a time limitation agreed upon, I do not know.

Mr. PROXMIRE. Mr. President, it is my understanding that the Senator from Massachusetts was prepared to call up his amendment provided he could get a time limitation.

The feeling of those opposed to the amendment was that they would prefer to debate it for a day or so. Under those circumstances, the Senator from Massachusetts preferred not to call up the amendment.

Mr. GRIFFIN. Of course, that is the choice of any individual Senator.

Mr. PROXMIRE. Mr. President, I would like to point out that with respect to the amendment the Senate just acted on, I was prepared to call up that amendment a long time ago.

The reason why I delayed until today is that we were waiting for the Defense Department to react to the amendment and give us the benefit of their judgment on it so that we would have a chance to analyze and discuss the matter.

Obviously, in that time those who were opposed to the amendment had a chance to develop very effective opposition to it. I do not think that the RECORD should show that those of us who are interested in amending the bill are trying to delay it. We are not.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. BYRD of West Virginia. Mr. President, I yield to the Senator from Delaware.

Mr. WILLIAMS of Delaware. Mr. President, I think that there is a misunderstanding. I think that all Senators want to expedite this matter.

I ask unanimous consent that there be a time limitation of 2 hours on all amendments to the bill.

Mr. BYRD of West Virginia. Mr. President, I am constrained to object.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD of West Virginia. Mr. President, let the RECORD show that the able majority leader on yesterday sought to get a unanimous-consent agreement on the Brooke amendment. However, there were Senators who did not want to enter into an agreement whereby there would be only 1 hour on that important amendment.

I am sure that the leadership on this side of the aisle would like to see action go forward on this bill. The able assistant majority leader certainly will do everything he possibly can and as the presently acting majority leader, in my limited capacity, I will do everything that I can to make progress.

Let it not be said that the fault lies on this side of the aisle. All Senators have a responsibility. I have a responsibility to be here and on the job, and so does every other Senator.

The other day when we sought to get an agreement by which we would vote at a certain time on the ABM amendment, there was an objection from the other side of the aisle which, in the final analysis, culminated in no agreement. That objection was based on a particular Senator's wanting to attend a luncheon. Then other difficulties arose until the proposed agreement fell through.

I think that we have a case here perhaps of the pot calling the kettle black. Suffice it to say, we will have an amendment called up this afternoon by Mr. WILLIAMS of New Jersey, and I hope that there will be other amendments today and tomorrow.

Mr. GOLDWATER. Mr. President, I have counted the amendments at the desk I come up with the figure of 22. From some hasty calculations, which might be inaccurate, based on the rate of calling up amendments in the weeks we have been on the bill, it could well be around Christmas time before we finish.

I will do everything I can to cooperate in my limited way to see that the leadership on both sides get the amendments acted on.

I do not think that is wise for the Senate to be acting as it is, whether it is Republican or Democratic action.

The statement was made that those Senators opposed to the Brooke amendment objected. I do not believe that is absolutely correct. We felt that if the vote were held yesterday we had a very good chance of beating the amendment. We would not have objected. It would have to be a proponent of the amendment.

If this is a case of the pot calling the kettle black, I do not know whether I am the pot or the kettle. It does not matter much to me. I have been called a little bit of everything.

Mr. BYRD of West Virginia. Mr. President, I hasten to assure the distinguished Senator that I did not mean to cast aspersions on any Senator. I would be the last one to do that. The Senator knows of my affection and high regard for him.

Mr. GOLDWATER. There are 22 amendments.

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

Mr. BYRD of West Virginia. I yield.

Mr. KENNEDY. Mr. President, does that include the Hatfield-Goldwater amendment?

Mr. GOLDWATER. The Hatfield-Goldwater amendment with 15 other sponsors, yes. It is there.

Mr. KENNEDY. Is the Senator prepared to call up that amendment?

Mr. GOLDWATER. It is the job of the Senator from Oregon (Mr. HATFIELD) to call it up. He intends to call it up.

We were told that the Brooke amendment would be considered today. We found out this morning that it would not be called up until next Wednesday.

We thought that the Senator from Wisconsin (Mr. PROXMIRE) on the completion of his amendment might bring up one or two other amendments.

We have been expecting amendments to be called up on the floor aimed at certain weapons systems. We are at a loss to understand the delay.

I hope that we can get along with the business of the Senate.

Mr. BYRD of West Virginia. Mr. President, there are amendments at the desk by Senators PERCY, BROOKE, FULBRIGHT, SCOTT, PROXMIRE, MCGOVERN, BAYH, and HUGHES. I counted 18 at the desk earlier today.

So, there are sponsors of amendments on both sides of the aisle. I would like therefore, at this moment to inquire whether any Senator on the other side of the aisle wishes to call up an amendment at this time.

Mr. WILLIAMS of Delaware. Mr. President, we could get amendments called up on one side of the aisle or the other if the leadership would cooperate and say that in 15 minutes we will have third reading if there are no further amendments offered.

I venture to say that Senators would be in the Chamber and amendments would be called up. That statement goes for both sides.

Mr. BYRD of West Virginia. Mr. President, I assure the able Senator from Delaware, who is my friend, that an amendment will be called up this afternoon. The distinguished Senator knows perfectly well that we cannot have third reading within 15 minutes.

THE SITUATION IN THE MIDDLE EAST

Mr. JAVITS. Mr. President, on Sunday last on, "Face the Nation," I tried to explain the situation and answer questions on the problem in the Mideast in the frame of reference as I saw it.

I ask unanimous consent that a transcript of the broadcast be printed at this point in the RECORD.

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

FACE THE NATION—CBS NEWS, AUGUST 9, 1970

HERMAN. Senator Javits, do you have any reason to believe or do you in fact know whether the United States has given any secret assurances to Israel to obtain the relative cease-fire that we now have?

Senator JAVITS. I would hardly call them secret. I think it is very obvious that the United States must have assured Israel that a cease-fire would be effectively policed, and I do not believe that oblique photography by the air forces of both the United Arab Republic and Israel would have been adequate for that purpose. I'm confident that at the very least some assurance was given that both great powers would use satellites or whatever other means they had to be sure it wasn't abused, and, in addition, I believe that the United States must have made it clear to Israel that this would not represent a stoppage or diminution of the military materiel which she must have if she is to survive.

ANNOUNCER. From CBS Washington, in color, Face the Nation, a spontaneous and unrehearsed news interview with Senator Jacob Javits, Republican of New York. Senator Javits will be questioned by CBS News Correspondent Nelson Benton, John Finney of the New York Times, and CBS News Correspondent George Herman.

HERMAN. Senator, you've put that rather more in the negative, the question of arms to Israel, rather than the positive. You said there would be no stoppage. Do you think that we may have given some implicit or direct assurance that there would be a step-up in arms support?

Senator JAVITS. Well, I think—I'm sure that that could be included. It all depends upon the situation Israel faces, both now and at the end of the 90-day truce. It is very significant that neither side has committed itself to arms deliveries or an arms embargo behind the, roughly, 32-mile zone bordering the Suez Canal. And the attrition on Israel in respect of arms could be substantial in view of the fact that unlike the Arab States, she must face commando activity, which indeed has already begun. And one of the real items of delicacy in enforcing the cease-fire has got to be to distinguish between commando attacks and attacks supported, fomented or prompted by the Arab governments concerned.

Now I believe—I genuinely believe that this is a good faith effort. I've begun to believe that. I didn't when we began, on all sides, and therefore I do not believe that this problem will be as difficult as it might otherwise have been in the absence of the feeling that the United States and the Soviet Union really want to work it out, if it can be worked out at all.

FINNEY. Senator, this is an area that you've been intimately involved in over the years, sometimes even in the role of honest broker. Looking ahead here and assuming it is a good faith atmosphere at the present time, what concessions do you envision that Israel is going to have to make to get an agreement?

Senator JAVITS. I believe that the concessions will revolve mainly around territory, the so-called occupied territories, with respect to the '67 war when Israel moved into the Sinai, I think out of sheer survival self-defense—moved into the West Bank, bordering the Jordan, seized the Golon Heights. I think the stickiest problems are not going to be Sinai, because I think there there will be some demilitarization, perhaps with the use of some forces, and this time, interestingly enough, perhaps including as part of the peace-keeping force, U.S. and Soviet forces if both governments are willing, in order to implement the guarantee that it will remain demilitarized. That may also be true about access through the Straits of Tehran, which are critically important to Israel, leading to its Port of Elat, and the problem of transit through the Suez Canal will also have to be dealt with, at least practicably so that Israel is not barred from Suez.

The real problem, if I may just finish, is going to come on the eastern side, that is, the west bank of the Jordan—what's going to happen there where Israel faces a 12-mile waste, which is all she has in the way of area—that's medium artillery range—and the Golon Heights which have been used so strongly against her by the wild Syrians. Now that's going to be quite tough, because Israel cannot make a peace and leave herself so defenseless. And even President Nixon has spoken about defensible borders, notwithstanding the U.S. desire not to irritate that question of borders. And then Jerusalem will be a very, very difficult and probably the most difficult of all.

FINNEY. Senator, you spoke of assurances you think that the government of the United States has given Israel. Conversely, do you think the government of the United States made implied threats to Mrs. Meir's government if Israel did not accede to the peace initiative and did not agree to the cease-fire?

Senator JAVITS. I think the mere relationship of the United States to Israel doesn't represent a threat, but represents something Israel has to think about. The United States is the only country in the world really supporting Israel, France having passed out of the picture, most regrettably and deplorably. So the Israelis, who must have military materiel and who have tremendous economic strains, have simply got to work with the one power which is working with them, and it happens to be the superpower. In addition, this was a very important American initiative. It's very interesting to me that everybody, the USSR, Israel, and the United Arab Republic all in their statements refer to it as the American initiative. Now you could hardly let down a brilliant and a very important diplomatic initiative in terms of the timing by your best ally, which is true of Israel vis-a-vis the United States, without feeling that that is going to make a material difference in the relation between the two countries.

On the contrary, it seems to me the sheer fact was already so overwhelming that I'm sure that the United States had to assure Israel not to be scared, but to really use its best judgment as to what it needed for its own defense. It just worked the other way.

HERMAN. But isn't part of the hard reality of the Middle Eastern situation the fact that the Russians have been trying to make some progress into the Middle East, an area where they have always wanted to be? Now why are they so pleased with this ceasefire? What do they stand to gain out of this American initiative?

Senator JAVITS. The Russians stand to gain more than anybody except Israel. Israel stands to gain a land and survival, though

I believe she would have made it because I believe the United States would have backed her anyhow, in her own self-interest, as we just cannot afford to have the Mediterranean a Russian lake, and soon the NATO countries would have wakened to the same fact of the time-honored axiom of Churchill about the soft underbelly of Europe, which is extremely vulnerable to the Mediterranean. So I believe Israel would have made it, but nonetheless she wants to make it in peace not in war, and this gives—opens the door to that.

Now as to the Soviet Union, she is in the Mediterranean. If there is peace in the Mediterranean, she will have tremendous standing in the Arab countries, she will very likely have free transit, just as we want Israel to have it through the Suez Canel, giving her the opportunities of the Indian Ocean, and we will face Soviet competition, diplomatically, economically, and in every other way—and military—in the Indian Ocean and all over the world. That is not necessarily bad, as this situation in the Mideast has shown, because I doubt that the people in the Arab countries, who are engaged in all of this war and intransigence, could have been restrained otherwise, than by the Soviet Union being strong then. Now the Israelis might have beaten them all hollow, but to carry on 30 or 40 years of war with 50 to 100 million people is not funny by a small nation of two or three million.

And that's the world overview in which we have to look at it, and in which the United States obviously did look at it, in consulting its own national interests. The statement the President made, backed by 71 Senators, on July 1, was, I think, the key to the ability of the United States to bring this off.

HERMAN. I got a little drowned in words there, but what I saw before this was the Russians moving in stronger and stronger. We seem to have sort of overlooked or be forgetting the fact that there was a strong report of Soviet pilots involved in a clash. Now, if they were pushing in so rapidly and in such military fashion, why are they so pleased, as you seem to think, with the American peace initiative?

Senator JAVITS. Because they see the benefit of everything that they've done, including sending pilots in there, as within reach, without the necessity for a dangerous confrontation with the United States in a critically strategic area of the world, and confrontations of that kind they do not wish to invite—they want to avoid—but they are willing to run the risk of them in order to gain big objectives, to wit, an important position in the Middle East.

BENTON. Senator, you dropped a trantalizing suggestion earlier, that perhaps the United States and the Soviet Union would jointly police a demilitarized Sinai. Is this an idea that is being actively discussed between the two governments?

Senator JAVITS. I would say that it is an idea that is abroad. It's been discussed. I'm not privy to the secrets of the two governments, but this time the feeling is that we should have United Nations forces, if there are going to be any peace-keeping forces there, which have some muscle, and which will not disappear when Nasser says go, which is what happened in '67 and brought on the '67 war. Therefore, the possibility of an international force composed of many elements, but including U.S. and Soviet Union elements, cannot be eliminated.

BENTON. Senator, if there were a two-power—the great power forces enforcing the cease-fire, isn't this actually courting confrontation between the two great powers in the Middle East?

Senator JAVITS. Not necessarily. The two powers shared the policing of Berlin, for example, and notwithstanding all our difficulties, including the Wall, the powers have been rather careful not to confront each other there, and when they have actually faced it, they have sidestepped it. But I'm not talking about the two powers policing Sinai. I'm talking about an international force with many components, as international forces have had before, but with the possibility of a U.S. and a Soviet element this time, because the two powers have so staked their prestige on a peace which will be kept. Bear in mind that the Israelis in 1956 and 1957—the end of '56 and early '57—at the request of President Eisenhower, moved back out of Sinai at a time when Nasser could have been snuffed out, and that they did it on the promises of freedom of navigation and assurance of their national integrity and many other things—none of which were kept. So they have learned the hard way that you cannot depend upon a loosely-knit international force of small nations or neutrals, run by the Secretary General from New York who will flee at the first breath, which is what happened in June of 1967.

HERMAN. Senator, with the relative success of this American peace initiative, what becomes of the White House doctrine enunciated to a news gathering some time ago that it is necessary to expel—and I don't think the word "expel" was meant literally—but to expel the Soviet forces from Egypt? Is that no longer a goal?

Senator JAVITS. Well, the White House doctrine, if there is one—there is supposed to have been a report of a particular White House official who used that very unhappy word. He himself said later that it was very unhappy. I don't think there's any—

HERMAN. I'm not insisting on the word, but the idea that the Egyptian—the Russian forces should be maneuvered diplomatically, or however, out of Egypt, is that any longer a goal of ours?

Senator JAVITS. I should say that the United States' goal would want to reduce, or even eliminate, if it could, diplomatically and peacefully, the Russian running of the United Arab Republic, which is what's happening now. They're running the country. Just as they want to eliminate our presence in Viet Nam, that doesn't mean they're going to send an expeditionary force there. These are the legitimate goals of competition between two great powers. It doesn't mean that the result has to be bad or that the result has to be war. But nonetheless, when men play they play to win. And that's—it's the game in great international affairs, and that's all that that spells out into. So I don't give it any sinister connotation at all.

If you ask the Russians about the United States, they would say, sure, we'd like to eliminate American influence from that whole part of the world. So we're the primary power there with influence. I'm not scared of that and I don't think anybody is.

FINNEY. Senator, here you are accepting the Russian alliance in the presence of North Viet Nam and objecting to it with the United Arab Republic. Aren't you getting yourself in a contradictory position here, where you're doveish in Southeast Asia and hawkish in the Middle East?

Senator JAVITS. Well, I'm not accepting a Russian presence in North Viet Nam any more than I'm accepting a Russian presence in the Middle East, but I think the latter part of your question is a very serious one, because it's been bandied about and I thank you for asking it. To wit, can you be doveish in respect to Viet Nam and can you be hawkish in respect to the Middle East, and my answer is decidedly yes. And the reasons are very numerous, but I'll give only two, just to save time. One reason is that the strategic situation is completely different. The United States' fundamental national interest, as defined by the President, as defined by NATO, because we're charged with coming to the rescue of the NATO countries, as defined by our economic and commercial interests with three continents at stake—Europe, Africa and Asia, the crossroads of which is the Middle East—our strategic interest is heavily and deeply involved in the Middle East.

That is unlike Southeast Asia, where the best that Lyndon Johnson could do is to say we're trying to establish the principle of self-determination for small peoples, and will not allow them to be the subject—swallowed up by aggression by a communist-backed state.

Secondly, and very importantly, in the Middle East you've got the whole energy resources of Europe—80 per cent of Europe's oil comes from the Middle East and 90 per cent of that of Japan. So the economic life of the world is at stake, which the Soviet Union, which is now in there in a big way, could hold hostage and succeed in a way which the Soviet Union never dreamed of, in terms of holding the world for ransom. Now we and the rest of the world just can't allow that to happen.

And we don't have a government which is under attack, a government which has to be propped up. In terms of an ally there, we have a tough, durable, effective little Israel which says, give us the stuff and we'll do the job. Now it seems to me that's a hundred per cent different. In addition, having spent 50,000 lives and 250,000 wounded in Viet Nam, in a war which we have fought for five years, it seems to me we've certainly paid the price that any human being could ever ask on earth for what is alleged to be a commitment, which many of us challenge. Whereas in the Middle East, there is no such history. So I just don't think the two are relevant at all.

BENTON. Senator, you were quoted Friday after the cease-fire was announced, cautioning against euphoria about a settlement. And just this morning, Israeli planes have struck back at guerrilla positions after guerrilla fire across the border. Are you indeed, despite all this, pessimistic about any sort of settlement in the Middle East?

Senator JAVITS. I'm realistic. I wouldn't say I'm optimistic or pessimistic. I think it's very tough. I think that Jarring's history doesn't indicate that he has that kind of decisive charisma which is settlement-producing, but nonetheless, I think that the world is now committed—the two great powers are committed—and the Jarring technique of indirect discussions may be the vehicle behind which a settlement can be made. But I'm realistic about the fact, as I said before, that commandos are going to continue to attack, and therefore it will take a high degree of intelligence and selectivity, both by Israel and the United Arab Republic, and by the United States and the Soviet Union, to be sure that somebody just doesn't say, well, the truce has been violated because a rocket landed somewhere in an Israeli encampment on the shore of Suez. It's going to be a tough one, and one can't have euphoria, but I do think that willing shoulders, under what I consider to be an extraordinarily gifted initiative by our Secretary of State, under the President's direction, has brought us to a point where peace may be possible. But euphoria, in a case like this, would mean letting down one's guard, ceasing, perhaps, supply to Israel, and forgetting the fact that it's still a very tough situation.

HERMAN. Do you have a similar division in another field, same kind of division. You talked about one attitude towards Viet Nam, another attitude towards the Middle East. Do you find a similar kind of divided state of affairs in the relationship between the Foreign Relations Committee, of which you're a member, and the President? Is he more frank with the Foreign Relations Committee on say, the Middle East, than he is on Viet Nam?

Senator JAVITS. I would say that the principal problems between the Foreign Relations Committee and the President of the

United States in using the presidency as the symbol, because it's been with the executive department, has been the question of the commitments which the United States has all over the world in terms of military relationships, where we have troops or where we have bases, et cetera. This has been the sticking point. I think it's a serious problem between the two, and I believe that it's considered seriously both by the President and the Foreign Relations Committee, and I am very hopeful that effective measures will be taken to at least heal the—that breach, insofar as the procedure is concerned. We can't make people agree in terms of substance, and it's not essential that they should. But if the relationships and the procedure is improved, there is a greater chance of agreement.

In addition, I believe we're entering, as it were, out of the valley of the shadow, into a brighter day for those relationships, because I think we're on issues upon which there can be greater agreement. For example, the Middle East. You're absolutely right about that. There's a very different attitude toward the Middle East when you get three quarters of the Senate to back so forthright and decisive a policy as the President has uttered in that area, as contrasted with Viet Nam.

FINNEY. You saw the President on Friday, Senator. Did you discuss this problem of relations between the committee and the presidency at that time?

Senator JAVITS. I did discuss the problem, and that's as far as I can go; as you know, the President is the only one who can be quoted. If he says he wants to be quoted, he'll say what he has to say.

BENTON. Was that meeting, Senator, the basis for your hope for what you say will be more effective means of having good relationships between the President and the Foreign Relations—

Senator JAVITS. No, it's not the basis for the hope at all, but it didn't dash my hopes.

HERMAN. Well, you have tried at least twice, that I know of, to bring together the President and the Senate Foreign Relations Committee, without success. Are you now trying a third time?

Senator JAVITS. Well, one doesn't bring together the President of the United States with anybody. I have tried to see if we could develop a better degree of relationship between the Senate Foreign Relations Committee and the Executive Department. I'm still trying. I'm not the only one. Other members of the committee and other senators are just as deeply interested as I am. I am hopeful that we will all be successful. But the President of the United States stands alone, the head of the government, and nobody tries to reconcile him with anybody, but I do believe the relationships between the whole Executive Department and the Foreign Relations Committee—it's a very open secret—can be greatly improved, and I and others are doing our utmost to improve them.

FINNEY. Senator, as you know, there have been recurring reports that Israel has or is about to possess an atomic bomb, and this assessment seems to be shared by the U.S. intelligence community. In view of that, I wonder why do you think we should continue giving Israel F–4 phantom jets, which are capable of carrying an atomic bomb, until Israel signs the nonproliferation treaty?

Senator JAVITS. I believe that the United States has real assurances with respect to the F–4 phantoms and how they will be used, and I am not in any way privy to Israel's secrets as to whether she does or does not have any such bomb. As I am sure you know, she has denied it on many occasions. As to her signing of the nonproliferation treaty, this may very well have been a tactical abstention by her, in view of the tremendous embroilment that she is in with the Arab States, and I think her attitude would be very different, completely different, once you get a reasonably peaceful situation in that area of the world. So my attitude on that would be to suspend judgment, instead of either allowing it to paralyze us, in respect to aid to Israel, or to be overly suspicious of her at this particular time. I have confidence that our authorities are as aware of these rumors as we are, and that they are not inviting a sudden nuclear use by Israel.

FINNEY. What kind of assurances were these?

Senator JAVITS. I couldn't tell you. I don't know, but, as I say, I believe that the United States, being just as knowledgeable about these things as we are, would make some effort to be sure that its Phantoms would never be used for such a purpose.

HERMAN. Senator, you have a vote coming up in the Senate this week—Wednesday, I believe—on the antiballistic missile, the Safeguard system. How do you estimate the chances?

Senator JAVITS. I think the chances are quite good, that the Cooper-Hart amendment, which would strike out new installations of the ABM and leave these to be developed, or some variant thereof—Senator Brooke of Massachusetts has a variant—Senator Hughes of Iowa is proceeding to seek to strike out the whole thing as if it had never been done—some variant of Cooper-Hart, in my judgment, has at least a 50–50 chance to pass, probably the Cooper-Hart amendment itself which seems to have the most support.

BENTON. Senator, isn't there some validity to the administration's contention that the Senate's tipping its hand on further ABM development would indeed weaken this country's position at the arms control talks in Vienna?

Senator JAVITS. The administrataion has made the big point, the use of the ABM as a card in the SALT talks at Vienna, that is, the talks about limiting and controlling nuclear armaments generally. Now, whether or not one agrees with that, the administration is the negotiator, and I think many of us—and I notice the Majority Leader Senator Mansfield seemed to feel that way—Senator Cooper does—and I am in the process of making up my mind about a vote which would otherwise be open and shut to me, to wit, to vote to strike out the whole business as if it had never happened. For that reason—I may not vote that way, or I may—I'm still trying to decide it—but even me, diligent as I have been in opposing the ABM, I've been given pause by this claim. So I think the Cooper-Hart amendment, which I mentioned before, is a compromise. It doesn't seek to strike out what's been done. It just seeks to prevent expansion. So it is a compromise because they really admit that what we opposed before—and incidentally is even more opposable, to coin a word, now because of additional evidence that has come in in the last year that it really isn't a desirable or advisable alternative for the United States.

HERMAN. So how do you figure the vote?

Senator JAVITS. I still figure the vote compounded of two elements, one, the card, the drawing card idea, which the administration is making much of, and two, the fact that the nation having committed itself which should not be aborted, in respect to what's been done already. So I think the Cooper-Hart compromise is the most likely winner, and I think it has at least a 50–50 chance to win.

FINNEY. Senator, you've been critical in the past of the administration on the school desegregation issue. I wonder whether you feel that in recent weeks the administration is getting back on the right track, at least from your perspective on the school desegregation issue?

Senator JAVITS. Not yet, and it seems to me most significant that we are right now in the midst of testimony by Secretary Richardson and the Attorney General is coming up next week, and that the President is sending a special representative, as it were, into black communities in order to see what can be done. What shook the confidence in terms of school desegregation was the going up hill and then down again on the so-called 100 lawyers who were going to go into the South, and the red herring issue that, well, the North is as bad as the South. I'm from the North and I'm from as good a state as there is on civil rights, and I welcome any prosecution, any delegation of the Department of Justice, or anything else that is being done in the South, with respect to any segregation which is unconstitutional and unlawful in my state, in New York, or in any other place in the North, and I'm the author of the $75 million—I tried for $150—to aid just exactly in that process, whether it's North or South. I just believe that the administration should this week be absolutely unequivocal on that subject and prove it. If they prefer litigation to cutting off money, then they've really got to litigate decisively, and the Attorney General has got to pledge himself to that, which I hope he'll do this week, with all the machinery at his command. If they do, the situation and the atmosphere will change.

HERMAN. Thank you very much, Senator Javits, for being with us today on Face the Nation. We'll have a word about next week's guest in a moment.

ANNOUNCER. Today on Face the Nation, Senator Jacob Javits was interviewed by CBS News Correspondent Nelson Benton, John Finney of the New York Times, and CBS News Correspondent George Herman. Next week, John Gardner, Chairman of the National Urban Coalition, and former Secretary of Health, Education and Welfare, who is about to launch a citizens' movement that will attempt to influence and reform political institutions, will Face the Nation.

SALT AND THE ABM "BARGAINING CHIP"

Mr. JAVITS. Mr. President, an important news analysis by Chalmers Roberts was printed in this morning's Washington Post, dealing with the question of ABM as a "bargaining chip" at the SALT negotiations in Vienna—and the significance of the Senate votes on the Cooper-Hart and Hughes amendment in this context. Since this article deals with matters of such great interest to Members of the Senate, in a manner which appears to reflect the thinking of the administration in an authoritative way, I ask unanimous consent that it be printed at this point in the RECORD.

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

[From the Washington Post, Aug. 13, 1970]

ABM VOTE IS SIGNAL TO MOSCOW

(By Chalmers M. Roberts)

The Senate voted yesterday to send a message to Moscow offering a choice of a SALT agreement or of a continuing strategic nuclear arms race.

This was the essence of the 52-to-247 vote rejecting the Cooper-Hart amendment, which would have limited the "momentum" of the American Safeguard ABM program that the Nixon administration has sought as a "bargaining chip" at the SALT talks.

The Vienna phase of those talks will formally end on Friday. Word of that came yesterday after Moscow sent to its delegation the approval of the projected communique. That joint Soviet-American statement will say the two sides have made progress in considering how to curb the major components

of the strategic nuclear arms race and that they will meet again in Helsinki in an effort to reach a formal agreement.

Ironically, the closest thing to a statement of just what is in the administration's mind in pushing the "bargaining chip" argument came on Tuesday from a senator who yesterday voted for both Cooper-Hart and for the Hughes amendment, also defeated, which would have halted all work on Safeguard.

Without revealing his source, Sen. Javits (R-N.Y.) said that "it has been explained to me that the Soviet negotiating team represents a coalition of interests having diverse reasons for wanting a SALT agreement. It is said that the Soviet negotiating coalition is a delicately constructed one and that the element representing the military is the most reluctant and suspicious element.

"The group representing the Soviet Union's military viewpoint is said to be interested primarily in halting the development of an American ABM system. Presumably—using the 'worst case' war-gaming approach—the Soviet strategic planners place a higher efficiency factor on Safeguard's capabilities than our own scientific community does.

"Accordingly, it is contended that the Soviet military component, which is prominently represented in the Soviet negotiating team, might lose interest in achieving a SALT agreement if the Safeguard system is killed off in the Senate. The defection of the Soviet military element could disrupt the delicately constructed Soviet negotiating concensus and thus jeopardize an agreement otherwise desired by other elements of the Soviet hierarchy."

All this, indeed, fits the verdict of those who have patiently labored at the Vienna conference. The Soviet military representatives have clearly been the hard-nosed parties in the Kremlin's delegation. The foreign office and scientific members of the delegation have seemed far more willing to come to terms with the United States.

Much has been written, but little is really known about the power of the Red Army marshals on the decision making by the Politburo, which has no military members. That the marshals have much influence is beyond doubt, but how much is crucial in relation to SALT and a lot of other problems, too.

The American aim is to build a SALT deal around a swap of Safeguard for a ceiling on the massive Soviet SS–9 missiles. So far, the Kremlin has yet to give an OK to limit the SS–9s or at least it has not let the American delegates know whether it has.

There continues to be here a lingering feeling that some Red Army marshals, and perhaps some Kremlin ideologues as well, want to go beyond the rough nuclear parity the Soviet Union now has with the United States and try for out and out superiority.

A recent report by Georgetown University's Center for Strategic and International Studies, raises this question, asking whether a significant element in the Soviet leadership thinks superiority is a feasible goal "and that its achievement will transfer the initiative to Moscow and bring about a reversal of roles between the two global powers."

It is for these reasons that the administration last night was glowing at the defeat of Cooper-Hart and was hoping that Sen. Edward Brooke's amendment also will be defeated.

Thus, if Safeguard comes through Congress unscathed (except for elimination of the anti-Chinese area defense section), the men in the Kremlin will have a couple of months to decide among themselves just how determined the Americans really are in offering either a SALT pack to curb the arms race or an unlimited escalation into a new generation of costly weapons systems.

Mr. JAVITS. Mr. President, it will be noted that the article in question quotes extensively from my floor remarks of August 11. It will also be noted that the article by Mr. Chalmers Roberts characterizes the quotation from my remarks as:

> The closest thing to a statement of just what is in the Administration's mind in pushing the "bargaining chip" argument.

And further says about my quoted remarks:

> All this, indeed, fits the verdict of those who have patiently labored at the Vienna conference.

Within this context, the article characterizes my vote in favor of the Hughes amendment as "ironical."

Mr. President, I wish to use this opportunity to point out the reasons why I voted "aye" on the Hughes amendment. I did so on the criteria of national and budgetary priorities. Strictly within the parameters of the ABM debate, as my previous floor statement makes clear, I favored an accommodation of the "bargaining chip" argument. I believe that this argument was adequately accommodated in the terms of the Cooper-Hart amendment.

My vote for the Hughes amendment was in the context of, and in response to, President Nixon's veto on August 11 of the two important appropriations bills—the independent offices appropriations and the Office of Education appropriation.

The President's veto message refers to these two bills in the context of such language as "a dangerous budget deficit" and "the kind of big spending that would drive up prices or demand higher taxes." Within the parameters of these criteria, Mr. President, I believe that the interests and long-term security of our Nation would be better served by meeting our own needs in housing and education than by further appropriations of billions of dollars for the Safeguard ABM system. The timing and substance of the President's veto message seem to me to imply that Senators must make a choice, as the President himself had in insisting on Safeguard while vetoing housing and education appropriations. My choice would be different. I expressed my view in this regard by voting for the Hughes amendment.

Mr. HANSEN. Mr. President, I would like to observe that perhaps the 2-hour time limitation that had been called for by the distinguished Senator from Delaware was not sufficient. I would like to ask the distinguished Senator from West Virginia if he would be agreeable to a 3-hour limitation on each of these 22 amendments, or however many there may be.

Mr. BYRD of West Virginia. Mr. President, the able assistant majority leader is now present and he may wish to reply, but since the question has been addressed to me I shall respond by saying yes, I am agreeable, but I cannot so speak for my colleagues today.

Mr. HANSEN. Would the Senator speak negatively for them today? Or would the Senator object?

Mr. BYRD of West Virginia. Yes, I would be constrained to object.

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

Mr. HANSEN. I yield.

Mr. KENNEDY. I would be more than delighted, if the Senator would withhold his request for a period of perhaps 1 hour, to permit me to attempt to get in touch with sponsors of the amendments to see if they object; and then I would be glad to support the Senator. I understand the Senator has made reference to a 3-hour limitation on any of the amendments.

Mr. HANSEN. The remaining amendments.

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

Mr. HANSEN. I am happy to yield to the distinguished Senator from Mississippi.

Mr. STENNIS. Mr. President, I have just returned to the Chamber. I would like to be advised what the Senator had proposed. The Senator referred to 2 hours and 3 hours.

Mr. HANSEN. Mr. President, I respond to the Senator by saying that earlier the distinguished Senator from Delaware (Mr. WILLIAMS) had asked if there would be objection to a unanimous-consent request limiting debate on each of the amendments to not more than 2 hours. There was objection to that request. I then posed the question as to whether there would be objection to a 3-hour limitation.

Mr. STENNIS. What amendments was the Senator referring to?

Mr. HANSEN. I was referring to all amendments.

Mr. STENNIS. Mr. President, will the Senator yield to me so that I may make a brief statement on that point?

Mr. HANSEN. I yield.

Mr. STENNIS. I was away from the Chamber solely in an effort to have a little lunch. I had planned to make a statement about the situation as to these amendments. I want to make that statement as the chairman of the committee that reported the bill, the so-called floor manager or floor leader, however one may designate the position.

I could not agree to a 2-hour limitation on all amendments and I could not agree to a 3-hour limitation on all amendments. There is no use to give a lot of reasons but some of the amendments are so far-reaching and important that they are bound to require debate.

One measure would be the McGovern amendment. We have another ABM amendment in prospect. I do not know whether it will be offered or not. I think the key vote on that subject has already occurred. The majority voted for four installations. Anyway, it is here.

I have heard there will be an overall amendment for an across-the-board reduction in the amount authorized. It would not be directed to any particular weapon but would call for a reduction across the board. That is so serious I do not know of anything that would be more injurious to our military program. That would require more than 2 hours or even 3 hours.

Having said that, it is my duty to keep the bill moving. I am very much interested in getting these amendments called up. I think the time has run out when we should have them called up. I am not re-

ferring to the Senator from Wisconsin. He has a lot of ammunition, a lot of amendments. But I think we have taken enough time preliminarily and we should get down to these amendments and make whatever sacrifice is necessary to have them called up.

I hope something can be started to move. The Senator indicated he would attempt to bring this situation to a head. There has already been mentioned to me by the majority leader the prospect of a vote on the ABM sometime next week. That is under consideration.

Mr. HANSEN. Mr. President, I wish to observe that in view of what has been said by the distinguished Senator from Mississippi there would be no point in pursuing the gracious offer of the Senator from Massachusetts earlier to poll those who have amendments to offer. I thank the Senator from Massachusetts for his offer.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Wyoming has the floor.

Mr. HANSEN. I yield.

Mr. BYRD of West Virginia. Could the very able Senator state whether or not his colleagues would be willing to enter into a unanimous-consent agreement that we vote on the equal-time conference report this afternoon, with 3 hours equally divided between the manager of the conference report, the Senator from Rhode Island (Mr. PASTORE), and the able minority leader, or his designee?

Mr. HANSEN. Mr. President, I respond to the Senator by saying that I can speak for no one except myself. I regret that I cannot. The distinguished minority whip is here. Perhaps he can help us.

Mr. BYRD of West Virginia. May I say to the very able minority whip, I had asked the able Senator from Wyoming if we could agree on a time to vote on the conference report which the Senator from Rhode Island sought to have brought up today and voted on. I would suggest we have 3 hours' debate on the conference report, equally divided, with an agreement to vote at, say, 5:30 this afternoon on the adoption of the conference report.

Mr. GRIFFIN. The announcement was made on the floor, as I understand it, by the Senator from Rhode Island that the papers are no longer at the desk and that they have gone to the House. Is that correct?

Mr. BYRD of West Virginia. I am not sure.

Mr. GRIFFIN. I understand the conference report is in the House of Representatives awaiting action.

Mr. BYRD of West Virginia. I am not sure. We would be happy to retrieve the papers if we can have an agreement to vote this afternoon.

Mr. GRIFFIN. Mr. President, I would respond to the Senator by saying that in view of the deep interest in that matter by the conferees on our side, the minority leader, the Senator from Pennsylvania (Mr. SCOTT) and the Senator from Tennessee (Mr. BAKER), I would have to confer with them. After I have had a chance to confer with them, I would be able to give a response to the Senator.

Mr. BYRD of West Virginia. Inasmuch as the able Senator from Arizona (Mr. GOLDWATER) first injected this matter for discussion, I wonder if he would offer his good offices in getting the cooperation of the Senators just mentioned by the able acting Republican leader, because I am sure all Members on both sides of the aisle want to get on with the business, and we are all very strongly against delay.

I see nods in the affirmative on the part of Senators on this side of the aisle. Hence, if we would cooperate and reach an agreement as to when we might vote this afternoon on the conference report, we can complete that business. If one of the aides will contact the Senator from Rhode Island (Mr. PASTORE) we will request that he come to the Chamber if the able leader thinks there is a reasonably good chance that we might vote this afternoon on the conference report.

Mr. GRIFFIN. Mr. President, it is interesting to talk about what we might be able to do on business not pending before the Senate, which is the case in connection with the conference report. It has not been called up by the Senator from Rhode Island. The pending business is the military authorization bill. That is the measure on which we want action and on which we would like to make progress.

Mr. BYRD of West Virginia. Mr. President, would the Senator yield?

Mr. HANSEN. I yield.

Mr. BYRD of West Virginia. Any Senator may call up the conference report. It is not incumbent upon the Senator from Rhode Island to call up the conference report. I would be glad to call it up now, or the able acting majority leader could call it up if we can be assured by the minority of agreement to vote on the conference report this afternoon.

Mr. GOLDWATER. Mr. President, the Senator asked a question. I will respond in the affirmative. I will do all I can to get our minority members to come to the Chamber. I think that first the majority side has to find the Senator from Rhode Island.

Mr. BYRD of West Virginia. There will be no problem so far as the Senator from Rhode Island is concerned if we can enter into an agreement with the minority to vote at 5:30 this afternoon.

Mr. GOLDWATER. As an individual Senator, I have no objection to it. I think 3 hours is probably too long before action, but I will certainly talk to my leader and, in my capacity as a single Senator, I will urge him to get to work on it this afternoon.

Mr. BYRD of West Virginia. Make it 2 hours.

Mr. GOLDWATER. My major interest is in getting the military procurement authorization bill acted on.

Mr. BYRD of West Virginia. I know the Senator's major interest, but I thought the primary motive was to get on with Senate business without delay.

Mr. GOLDWATER. To get on the authorization bill without delay.

Mr. BYRD of West Virginia. But as the Senator knows, conference reports are highly privileged matters and can be brought up at any time.

Mr. GOLDWATER. We have been putting the bill aside for weeks.

Mr. PROXMIRE. Mr. President, it is interesting to hear Senators talk about delay. This year the bill that was deliberately and calculatedly delayed was the Foreign Military Sales Act. Who delayed that Military Sales Act and especially the Cooper-Church amendment to that act? It was delayed by our good friends who are now calling for immediate action on a bill that calls for the spending of $20 billion, I believe the biggest authorization bill we are going to have up for consideration. We have had that bill before us now for 2 weeks. We have already disposed of the principal amendment. Last year it took us 7 weeks to dispose of the amendment on the ABM. This year that has already been acted on.

It seems to me there is a very good prospect of getting this bill disposed of in 3 or 4 weeks.

I know of no Senator—and I have talked to them as much as any other Senator, I think—who has any intention of filibustering the bill.

I understand why the Senator wants action. We all do. I think we have a record so far of reasonable speed in disposing of proposed amendments to the bill.

Mr. GOLDWATER. Mr. President, I want to correct one statement. It will be 3 weeks tomorrow that we started consideration of the bill. I can recall 3 days when we had recesses, in fact 1 day in which we had three recesses, because no Senator was on the floor ready to speak.

Some of us have taken a great deal of time and made a great deal of effort to defend particular parts of the bill. I have the aircraft part to defend. I sit around here twiddling my thumbs ready to oppose amendments about airplanes. They are not called up. That is fine. I think it would be wise not to call them up. But let us decide whether to do it or not.

We have been operating on a comfortable schedule, coming in at about 10 o'clock and adjourning at about 6 o'clock. We talk about everything but the military procurement authorization bill.

My whole interest is in getting action on the military procurement authorization bill and any other legislation which comes along.

I have never objected to disposing of any legislation that is ready for action. I will do everything I can to get the minority leader to agree to that.

Mr. BYRD of West Virginia. I thank the Senator.

Mr. President, now that we have all had our say about delays, and the need for action on the bill, I wonder if we could get on with the consideration of it. The Senator from South Carolina (Mr. THURMOND) is ready to be recognized. May I assure the Senators on the other side of the aisle that the leadership on this side of the aisle is going to do everything possible to encourage Members to call up their amendments. I trust that the leadership on the minority side

will likewise seek cooperation from Members so that Senators will come to the floor and call up their amendments.

PRIVILEGE OF THE FLOOR

Mr. THURMOND. Mr. President, some Senators would like to have on the floor the aides who worked with them on this $20 billion military procurement authorization bill. In view of that fact, I ask unanimous consent that such members of the staff of the Armed Services Committee as may be needed by the members of the committee be granted floor privileges during the consideration of the pending bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The bill is open to amendment.

Several Senators called for third reading.

Mr. MATHIAS. Mr. President, I have been very much interested in listening to the colloquy about who was stalling for time and who was wasting time. It reminds me a little of the story told of a Maryland lawyer who was approached by a prospective client who wanted representation in a criminal case. The lawyer said he would consider the case. What was it all about? Well, the prospective client said he had been accused of stealing; he wanted a lawyer, but he did not have the money. The lawyer said, "Well, we still consider representation in those cases, even without the money. Have you something you can pay in lieu of the fee?" The prospective client said, "Yes, I have a barrel of oysters and six Maryland hams." The lawyer said, "I will take that. What are you accused of stealing?" The client said, "A barrel of oysters and six Maryland hams."

I think that is the kind of circle we have been hearing in the last hour or so.

Mr. BYRD of West Virginia. Mr. President, may I say that the subject of delay came from the Senator's side of the aisle. I would hope that the majority side would certainly be allowed to respond.

Mr. President, unless a Senator has an amendment to be called up at this time, 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.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, inasmuch as no period has yet been set aside today for the transaction of routine morning business, and until such time as an amendment to the pending bill is called up, which I hope will be shortly, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, with a limitation of 3 minutes on statements made therein.

The PRESIDING OFFICER. Is there objection?

Mr. ALLOTT. Mr. President, reserving the right to object, I would like to inquire of the distinguished Senator from West Virginia if he plans on placing a limitation on the time for the transaction of routine morning business.

Otherwise, it seems to me that we might just as well have the acting floor leader for the majority offer a motion to adjourn, and we can all go back to the office and start working.

Mr. BYRD of West Virginia. Mr. President, the Senator's inquiry is an appropriate one. The able Senator from New Jersey is in the Chamber, and will shortly call up his amendment.

Mr. ALLOTT. Mr. President, I withdraw my objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. STENNIS. Mr. President, reserving the right to object, what would the request do?

Mr. BYRD of West Virginia. May I say to the able chairman of the Committee on Armed Services that there has been no period for the transaction of routine morning business today, and in order to accommodate Senators who may have morning business, I just asked that we have a brief period for the transaction of routine business.

Mr. STENNIS. I withdraw my objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

WHAT TO DO ABOUT OIL

Mr. HANSEN. Mr. President, there has been a lot of interest, and well there should be, in the oil situation. We have had a number of studies inaugurated. Some have been completed. Many of the predictions that were made earlier have since been proved to be wrong.

In order that Senators might better understand what is happening today, I ask unanimous consent to have printed in the RECORD an article entitled "What To Do About Oil," written by Ralph de Toledano, and printed in the Montgomery Advertiser of August 7, 1970.

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

IN WASHINGTON—WHAT TO DO ABOUT OIL

(By Ralph de Toledano)

Last December, I wrote in this space: "Six months from now, for all we know, Saudi Arabia, Kuwait, and the other Arab countries may embargo the shipment of oil to the United States—and we will be faced with a drastic shortage that will affect every housewife, every car driver, and much of our industry." And I called for a healthy oil industry in this country to prevent a petroleum blackmail by Arab producers. There were some who wrote to me at the time that I was touting for the domestic oil producers.

What has happened since then? The so-called consumer-minded people won't like to read the facts, or to admit that legislation passed by the Congress under pressure has played into the hands of the Arab producers and is now hurting those industries and individuals that depend on an adequate supply of oil at reasonable prices. The record speaks for itself.

1. The Syrians have refused to allow repairs made to the sabotaged Trans-Arabian pipeline. The line normally carries 475,000 barrels of oil a day.

2. Libya, taken over by a government hostile to the United States, has forced production cutbacks of 550,000 barrels a day—and this is only a beginning.

3. Europe and the United States have had to draw more heavily on crude oil from the Persian Gulf area.

4. Because the Egyptians have kept the Suez Canal closed since 1967, Persian Gulf oil must be shipped south and around the Cape of Good Hope.

5. As a result, the cost of shipping a barrel of oil from the Persian Gulf to the United States east coast has jumped to about $3.30 a barrel. Add the cost of the oil itself, and the total cost comes to roughly $4.55 a barrel. But a barrel of crude from Louisiana producers costs only $3.75 when delivered to the east coast.

6. Middle Eastern oil is therefore not only more expensive than domestic oil, but it has become a pawn in the power politics of the Israeli-Arab conflict. If the American economy is to be riveted to Middle Eastern oil, then we might just as well cash in our chips.

Yet every move in recent months has been to weaken the American oil industry, to discourage new exploration, and to make it economically unsound to develop marginal oil resources in this country.

Under these circumstances, the oil industry might well ask itself: Why spend the estimated $200 billion dollars over the next decade to meet future requirements in this country? And it is a good question. The oil industry has been fighting a losing battle, while "consumer experts" argue that every blow struck at American producers helps the domestic purchaser of oil. If the President vetoes a bill to continue oil import quotas, however, the price of oil and oil products will shoot up in this country, sure as shooting.

I have no particular brief for the oil industry. But I do not care to see it driven to the wall, thereby leaving this country at the tender mercy of Arab oil producers whose prices are higher and whose ideology is anti-American. They can, with the stroke of a pen, cut us off, leaving the American economy crippled.

It should be no great task for the great brains in and out of Congress who rail at American industry to work out a system that will permit the oil industry to develop new sources within the country, to give us self-sufficiency, and yet to keep prices at an equitable level. Certainly, creating a vulnerability that plays into the hands of the Soviet-Arab bloc is no solution.

Oil, of course, is just one facet of a much greater problem. The United States has passed the point where it can count on its industrial know-how to compete with the rest of the world. In textiles, for example, American workers earn $2.43 an hour, whereas in Asia, the wage is 11 cents. Technology cannot cope with this. With oil, with textiles, with any resources in international trade, simplistic answers and ideological shortcuts no longer apply. Oil is vital, and must be seen in that light. The American standard of living is also vital. To apply the formulations of the Thirties to the problems of imports and exports may give such Senators as Edmund Muskie, Edward M. Kennedy and William Proxmire, a heady nostalgic feeling, but it will be the American economy, and the American consumer, that will suffer the hangover.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on improved accounting con-

trol over equipment at the Kennedy Space Center, National Aeronautics and Space Administration, dated August 11, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on construction costs for certain federally financed housing projects increased due to inappropriate minimum wage rate determinations, Department of Labor, dated August 12, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the opportunity for the Coast Guard to reduce cost of vessel construction by not requiring shipbuilders to buy insurance and performance and payment bonds, Department of Transportation, dated August 12, 1970 (with an accompanying report); to the Committee on Government Operations.

REPORT OF ROCHESTER INSTITUTE OF TECHOLOGY

A letter from the Secretary of Health, Education and Welfare, transmitting, pursuant to law, the third annual report of the Rochester Institute of Technology, concerning the establishment and operation of the National Technical Institute for the Deaf, for the year ended December 31, 1969 (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 3129. A bill for the relief of Dr. Pio Albert Pol y Zapata and his wife, Dolores S. Alvarez de Pol (Rept. No. 91–1119).

By Mr. HRUSKA, from the Committee on the Judiciary, with amendments:

H.J. Res. 236. A joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the week of August 1 through August 7 as "National Clown Week" (Rept. No. 91–1120).

By Mr. TYDINGS, from the Committee on the District of Columbia, without amendment:

H.R. 18725. An act to establish a Commission on the Organization of the Government of the District of Columbia and to provide for a Delegate to the House of Representatives from the District of Columbia (Rept. No. 91–1122).

REPORT ENTITLED "REVISION AND CODIFICATION"—REPORT OF A COMMITTEE (S. REPT. No. 91–1121).

Mr. ERVIN, from the Committee on the Judiciary, submitted a report entitled "Revision and Codification," pursuant to S. Res. 51, 91st Congress, first session, which was ordered to be printed.

BILLS INTRODUCED

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

By Mr. HARRIS (for himself, Mr. BAYH, Mr. BIBLE, Mr. HOLLINGS, Mr. INOUYE, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MONTOYA, Mr. PELL, and Mr. YOUNG of Ohio):

S. 4236. A bill designating certain election days as legal public holidays; to the Committee on the Judiciary.

(The remarks of Mr. HARRIS when he introduced the bill appear below under the appropriate heading.)

By Mr. HRUSKA (for himself, and Mr. ALLOTT, and Mr. MUNDT):

S. 4237. A bill for the relief of Harold C. and Vera L. Adler, doing business as the Adler Construction Company; to the Committee on the Judiciary.

(The remarks of Mr. HRUSKA when he introduced the bill appear below under the appropriate heading.)

By Mr. INOUYE (for himself, Mr. CANNON, Mr. GRAVEL, Mr. HARRIS, Mr. HART, Mr. HUGHES, Mr. KENNEDY, Mr. MAGNUSON, Mr. MCGOVERN, Mr. METCALF, Mr. MOSS, Mr. YOUNG of Ohio, and Mr. MCCARTHY):

S. 4238. A bill amending Title 13 of the U.S. Code by authorizing the Secretary of Commerce through the Bureau of the Census to undertake a quadrennial enrollment of those persons to vote in elections of the President and Vice President that meet the qualifications of the various States other than residency: to the Committee on Post Office and Civil Service.

(The remarks of Mr. INOUYE when he introduced the bill appear below under the appropriate heading.)

By Mr. CHURCH (for himself, Mr. JORDAN of Idaho, Mr. MAGNUSON and Mr. JACKSON):

S. 4239. A bill to amend the Act of April 24, 1961, authorizing the use of judgment funds of the Nez Perce Tribe; to the Committee on Interior and Insular Affairs.

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

By Mr. GURNEY:

S. 4240. A bill for the relief of Uhel D. Polly; to the Committee on the Judiciary.

S. 4236—INTRODUCTION OF A BILL DESIGNATING CERTAIN ELECTION DAYS AS LEGAL PUBLIC HOLIDAYS

Mr. HARRIS. Mr. President, the right to vote is the fundamental hallmark of democratic government. Yet, 47 million Americans failed to exercise this privilege in our 1968 Presidential election.

Why is it that the United States—history's greatest democracy—has the lowest democratic participation of any modern nation?

The 47 million Americans who did not vote in 1968 represent an increase of 8 million nonvoters since the 1960 election. This means that the number of nonvoters in the United States is now greater than the total electorates in such democracies as France, England, Italy, West Germany, Canada, and Australia, where voter participation is higher than in our own country.

Let us look at this problem from another perspective. The steady downward trend in voter participation means that the nonvoter has undeniable power in determining the outcome of Presidential elections. In 1968, the nonvoters exceeded by 17 million the total number of people who voted for President Nixon. For every vote separating the two major candidates in that election, there were 150 people who did not vote. In 1960, for every vote separating the major contenders there were 330 people who did not vote. Thus, in all too many of our recent elections, the nonvoters could easily have changed the course of history.

Last year, as chairman of the Democratic National Committee, I appointed a Freedom To Vote Task Force to explore the reasons for this poor record of voter participation and to find ways to remove barriers to the right to vote.

As I said at that time:

If we really believe in democracy in this country, we must assure every citizen's freedom to vote. If we really believe in citizen participation in this country, we must knock down the registration and other barriers which restrict the right to vote.

The task force, headed by former Attorney General Ramsey Clark, unanimously recomended the implementation of a universal voter enrollment plan, establishment of a National Election Commission, and declaration of a National Election Holiday. Their perceptive recommendations can insure that all our citizens will be able to enjoy the right to vote for the President and Vice President of the United States.

The task force noted that the decline of democratic participation holds both a danger and a paradox. The danger is that democratic institutions cannot function effectively or respond promptly to society's needs unless citizens participate in the decisions that affect their daily lives. The paradox is that while millions of citizens, at odds with basic national policies, are struggling for a more active role in public decisionmaking, participation in the electoral process continues to wane.

The fact that 40 percent of the American people failed to vote in the last Presidential election should be taken as a warning sign that our Government is not working well.

When people fully believe in the system, they vote. They participate. They have a stake in Government. But to the nonvoters, their stake is not so apparent. It is our responsibility to make sure they have every opportunity to vote. Their voices must be heard. Their hopes, fears, and the reasons for their alienation must be communicated through the electoral process, not outside of it. They must be able to participate in the decisions which affect their lives so that they may feel a part of the system.

One of the major barriers to citizen participation has been voter registration requirements, which unnecessarily, bar millions of voters in every election. In areas of our country where there are no registration requirements the voter turnout averages 10 to 15 percent higher than in areas where there are restrictions.

State residency requirements in our highly mobile society exclude millions of Americans from voting. Long lines, short hours inaccessible places, and registration periods remote from the date of election, all limit voter participation.

The universal voter enrollment plan can overcome these hurdles. Experience in Canada, South Dakota, Idaho, and parts of California and Washington, shows that such a program can achieve registration of better than 90 percent of the voting age population. This is because the Government, through the National Election Commission, takes an active role in the registration of its citizens.

Today, I am introducing a bill to establish a national holiday on the date of

every Presidential election. A National Election Holiday would help to assure full opportunity for voter participation and would solemnize this important occasion for the exercise of a citizen's responsibilities in a free society.

Twelve West European countries have their elections on Sundays or public holidays, and they all have a larger voter turnout than does the United States. The turnout for our 1968 Presidential election was only 61 percent of the potential electorate, while some democratic nations have turnouts of 80 to 90 percent. I believe the declaration of a public holiday for Presidential elections would lead to greater citizen involvement in our electoral process.

The United States has pioneered in the development of democratic institutions. Our system has proven resilient and responsive to many stresses and strains. As our Nation's 200th birthday approaches, we should declare our Presidential elections a national holiday. The greater participation of our citizens would be a most fitting tribute to the form and stability of our Government.

An observation by President John F. Kennedy highlights the importance of having all our citizens exercise their right to vote:

> Our privilege can be no greater than our obligations. The protection of our rights can endure no longer than the performance of our responsibilities. Each can be neglected only at the peril of the others.

The PRESIDING OFFICER (Mr. McINTYRE). The bill will be received and appropriately referred.

The bill (S. 4236) designating certain election days as legal public holidays, introduced by Mr. HARRIS, for himself and other Senators, was received, read twice by its title and referred to the Committee on the Judiciary.

S. 4237—INTRODUCTION OF A BILL FOR THE RELIEF OF HAROLD C. AND VERA L. ADLER, DOING BUSINESS AS THE ADLER CONSTRUCTION CO., AND SUBMISSION OF RESOLUTION (S. RES. 445) RELATING THERETO

Mr. HRUSKA. Mr. President, for myself, the Senator from Colorado (Mr. ALLOTT) and the Senator from South Dakota (Mr. MUNDT), I introduce for appropriate reference a bill "for the relief of Harold C. and Vera L. Adler, doing business as the Adler Construction Company" and submit a resolution referring this matter to the Chief Commissioner of the Court of Claims.

This matter was first brought to my attention in 1960. At that time I introduced a bill and submitted a resolution similar to those I send forward today (S. 3199 and S. Res. 288, 86th Congress, second session). The case was ultimately referred to the Court of Claims, which accepted reference. Adler was then allowed discovery of Government records relating to his claim. However, in 1962, the Supreme Court decided the cases of *Glidden* v. *Zdanok*, 370 U.S. 530. The Court of Claims interpreted this case as denying that Court the right any longer to entertain congressional reference matters. The case was returned to the Congress in 1962. Nevertheless, the matter was continued on the docket of the Court of Claims under its general jurisdiction and was tried as to the liability issue in 1966 before a commissioner of the Court of claims. The commissioner, and in April of this year, the court, found favorably to Adler and stated that the court was agreeable to Adler's seeking a new congressional reference under the 1966 revision of that statute, 28 United States Code 2509.

It is pursuant to this recommendation of the court and the request of Mr. Adler, that we introduce this bill today. At this point I ask unanimous consent to have printed in the RECORD the text of the bill and the resolution and a synopsis of Adler's claim for relief.

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

The bill (S. 4237) for the relief of Harold C. and Vera L. Adler, doing business as the Adler Construction Co., and resolution (S. Res. 445) relating thereto, were received, the bill was read twice by its title, both bill and resolution were referred to the Committee on the Judiciary, and were ordered to be printed in the RECORD, as follows:

S. 4237

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Adler Construction Company of Littleton, Colorado, the sum of ———. The payment of such sum shall be in full satisfaction of all claims by such company against the United States for compensation for losses sustained by such company in connection with a contract between it and the Department of the Interior, Bureau of Reclamation, providing for certain work on the Pactola Dam project near Rapid City, South Dakota, the United States having failed (a) to fully rectify a mistake in the bid by such company for such work, (b) to allow equitable adjustment to such company for excess costs arising from changed or latent conditions at the site of such work and overruns of quantities connected with such conditions, and (c) to allow equitable adjustment to the contractor for excess costs arising from certain breaches by the United States of such contract, such breaches including, but not limited to, undue acceleration of performance and issuing misleading, erroneous, self-contradictory and conflicting drawings in important respects; *Provided,* That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

S. RES. 445

Resolved, That the bill (S. ——) entitled "A bill for the relief of Harold C. and Vera L. Adler, doing business as the Adler Construction Company" now pending in the State, together with all the accompanying papers, is hereby referred to the chief commissioner of the United States Court of Claims; and the chief commissioner shall proceed with the same in accordance with the provisions of section 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

The synopsis, presented by Mr. HRUSKA, is as follows:

SYNOPSIS

(Providing a brief description of Adler's claims for relief)

Adler bid $3,761,115 in September 1952, in response to the government's invitation for bids on Pactola Dam, a large earth-filled dam project in the Black Hills near Rapid City, South Dakota. His bid was obviously, very low, being 23% under the next low bid ($4,878,468), and 38% under the government's pre-bid estimate ($5,962,341). Suspecting a grave mistake in bid, Adler immediately reviewed his figures, but asked the government to delay award. Adler very promptly advised the government at its supervisory Denver office that he had made a mistake of $621,000, so advising the government before award. Adler stated his bid was not acceptable without a correction to his intended bid, or the erroneous bid must be rejected.

The government, nonetheless, precipitously awarded the contract on October 14, 1952, thereby putting Adler's bid bond of $376,111 in jeopardy. He was told by the government the next day to send proofs of his claimed bid errors of $621,000 to the Contracting Officer who would forward showings to the Comptroller General. The government told Adler that the Comptroller General was the only one who could grant the relief Adler requested. Adler presented his proofs of error about October 20, 1952.

After the proofs were forwarded from the Contracting Officer about October 31, 1952 to the Comptroller General, that government officer held, in a written decision dated November 14, 1952 that the errors had been made as claimed and could be fully corrected.

The government representatives in Denver who received Adler's proofs of error in Denver on October 20, 1952, had (in an internal memorandum dated October 31, 1952 never disclosed to Adler) concluded on their own part that Adler had made the errors as claimed, stated that the award earlier made on October 14, 1952 was not intended to prejudice or foreclose Adler's right to have his bid errors corrected, and stated that if his errors were corrected such would be to the advantage of the government because the resulting contract amount would still be over $500,000 under the next low bid. The Chief of the Bureau of Reclamation and the Administrative Assistant of the Department of Interior agreed with all these conclusions and recommended full correction of bid errors. But this was not revealed to Adler.

On November 17, 1952, a Denver conference was convened by the government, with Adler. He was not given a copy of the Comptroller General's decision. Nor was he told of the internal memorandum of October 31, 1952 or the conclusions of the Chief Assistant of the Department of Interior.

At this November 17, 1952, conference, the government representatives made an about face from their earlier position, telling Adler that "all we can pay" for bid corrections is approximately $485,000, leaving Adler shorted by $136,240 from having his bid corrected to accord with his known intended bid. Government representatives further demanded he must sign an Amendatory Agreement

(which the government had unilaterally conceived and drafter), in which he would agree to be paid less than his known intended bid, or else his bid bond would be taken. This put Adler under the pressure of financial ruin if he did not sign the Amendatory Agreement. There wasn't the slightest consideration for such Amendatory Agreement. The recited consideration that the government was waiving its right to waive the construction contract was in error. There was no construction contract in existence to waive, the award being illegal and the construction contract not signed. The refusal of the government representatives to abide by the decision of the Comptroller General was in violation of the Dockery Act.

Nonetheless, Adler was forced on November 17, 1952 to sign under the unconscionable pressure being applied, while at the same time the government was concealing from him the fact that several government officers, in control of the events, had professed internally that they had no desire to prejudice or foreclose his rights to have his bid fully corrected as beneficial to the government. In short, the negotiating steps taken by the government were carried on in a matrix of deception by the government's representatives and their failure to reveal the truth about existing circumstances and their own intentions earlier declared unilaterally one to another about October 31, 1952. The above circumstances involving the government's unconscionable denial of $136,240, and the unjust taking thereof, constitutes Adler's Claim (a).

His Claim (b) based on encountering radically changed conditions and his Claim (c) for breach of contract are next briefly described.

Once Adler started performance, matters became still worse for Adler by reason of other circumstances which were to develop. Beginning about March 1954 (after construction began in November 1952), Adler had completed all of the scheduled quantity of Item 2 work. Adler began to complain as early as February 1954 as to improper classification of material as Item 2, that should have been classed as Item 3. The on-site construction engineer ignored and "buried" this communication from Adler. There never was a definitive ruling on that.

Also the excavation situation in the main dam area (83% of the whole job) was increasingly appearing to be materially changed from what had been expected. Adler complained repeatedly. (The old version of Article 4 clause was included in this particular contract, requiring the government to discover the situation, as well as calling for notice to be given by the contractor.) Adler made an extended written complaint charging changed conditions and seeking modification of his contract and a large extension of time.

The government failed, and continued to fail, to make any decision or finding as to what was the cause of the increase in volume of excavation in the main dam area (up 261%, or excess and unexpected cubic yardage of excavation so vast that it would take a 50-mile-long-train of gondola cars to move it, and a 77-mile-long-train of excess refill to replace in the embankment. Still other unexpected difficulties began to unfold.

Moreover, these great excess yardages of excavation and refill had to be performed under very complex conditions not expected or represented. For example, the defendant encountered a very rough, step-like and chaotic rockscape over the lower area of the dam foundation. The drawings had not depicted this; instead they depicted this area as relatively smooth.

Even the cutoff trench, depicted in the drawings given to bidders as having a maximum width of 150 feet, had an actual width of 300 feet to 500 feet, and with very irregular margins.

To worsen matters yet further, the depth of actual excavation below the depth of the natural ground surface, was 2 to 3 times that shown on the drawings and specifications. In places, the actual depth of excavation below ground surface was in several places as deep as 48 feet as compared to about 7.5 feet average depth estimated from the drawings originally given the bidders.

In fact, the drawings and specifications were misleading and defective.

All this caused grave difficulties, and grossly increased construction costs to Mr. Adler. Not only was the work made far more expensive, but these difficulties made it impossible to perform the work in the original performance period of about 2¾ years. An entire extra year was required.

Though Adler asked for a time extension, with a particular amount requested on June 15, 1955, the government refused to give him a timely time extension. Instead the government urged and required him to speed up the work, even to continue it into one of the most severe winters in many decades. Thus, the government unduly and wrongfully accelerated the work, at serious loss to Adler. The winter work forced upon Adler in the winter of 1955 to 1956 which was not anticipated in the original contract, was performed at only 55% efficiency, as the Contracting Officer admitted.

The government breached its contract in many ways, including, but not limited to, failure to make a decision (as the contract required) as to whether or not there was a changed condition, and as to whether Adler was entitled to a classification of a large quantity of excavated material as Item 3 (at $1.20 per cu. yd.) instead of Item 2 (at 53c per cu. yd.) It wrongfully and unduly accelerated the work; and the drawings and specifications were misleading and inconsistent. The government was negligent and not rational in the preparation of its estimates of quantities and of conditions yet to be encountered.

It concealed much vital information from Adler; yet at the same time demanding of him that he give a release to any claims he might have based on anything occurring before July 5, 1956, thereby denying him an opportunity for equal bargaining power.

When Adler sought Congressional relief in 1960, Congress adopted a resolution authorizing a Congressional reference to the Court of Claims. The Bureau of Reclamation, on a retrospective review recognized with honor, that it had unconscionably forced, or overreached, Adler as Adler had stated in his "Claim (a)," requesting full rectification of the bid error, the entire correction of which has been denied him by a sum of $136,240 wrongfully taken from him.

As to Adler's "Claims (b) and (c)," the Bureau of Reclamation stated that the Contracting Officer held the belief that these claims were not based on fact. Nonetheless, the Bureau of Reclamation suggested that those two claims should, if in Congress' judgment it thought such as warranted, be referred to the Court of Claims, thereby allowing an independent tribunal to judge whether the claims of changed conditions, and breach of contract for undue acceleration and other breaches, were based on fact.

Congress did make Congressional reference in 1960 of all Adler's Claims (a), (b) and (c).

The Court of Claims, though originally accepting jurisdiction of the Congressional reference aspect of the case in 1960 (along with accepting jurisdiction on the basis of its general jurisdiction), denied jurisdiction after the appearance of the Supreme Court's decision in *Glidden v. Zdanok*, 370 U.S. 530 (1962). That decision cast doubt on the right of the Court of Claims to consider such reference cases if the members of that court were to enjoy the status of a constitutional court, with life terms for its judges.

In a recommended decision of the Commissioner of the Court of Claims, affirmed by the Court on April 17, 1970, the Court concluded, nonetheless, that if the matter were, in fact, before that Court on a Congressional reference, it would hold and recommend that Adler's Claim (a) for the $136,532 not yet paid him to fully rectify his bid error made known before award, be paid by Congress as an equitable obligation of the Government in a non-juridical sense. This was the Court's recommendation irrespective of any releases which Adler might have given to the government, or whether they were valid.

The Commissioner and Court also have now found as a fact that Adler's Claims (b) and (c) based on changed conditions and on undue acceleration and other breaches of contract are based on fact. The Commissioner and the Court made extensive detailed findings clearly establishing that there were radically changed conditions, and very damaging undue acceleration. It found breaches of contract based on the fact that the plans and specifications were misleading and inconsistent. It found that the government did not make an adequate investigation of the subsurface conditions resulting in its scheduled quantities for excavation and refill that were in gross error. It found Adler's costs to perform the work were severely enlarged over that which he had a right to expect from the documents bid upon. By reason of these matters for which the government, not Adler, was responsible, and coupled with the original wrong of the government's unconscionable deprivation of $136,532 of Adler's entitled bid correction, he was mired in a dire financial distress known to the government at the time it demanded from him both a general release on July 6, 1956, and a government form of release on November 20, 1956.

Adler's financial ruin being even deeper in 1956 than it was in 1952 when the government overreached Adler unconscionably for the so-called Amendatory Agreement, it appears clear that Congress should allow an equitable payment in a non-juridical sense for all three of Adler's claims. The original wrong taints all that follows.

S. 4238—INTRODUCTION OF THE UNIVERSAL ENROLLMENT ACT OF 1970

Mr. INOUYE. Mr. President, I introduce, for appropriate reference, legislation to be known as the Universal Enrollment Act. Joining with me as cosponsors of this legislation are Senators CANNON, GRAVEL, HARRIS, HART, HUGHES, KENNEDY, MAGNUSON, MCGOVERN, METCALF, MOSS, YOUNG of Ohio, and MCCARTHY.

This important measure is also being introduced in the House of Representatives today under the principal sponsorship of Representative MORRIS K. UDALL, Democrat, of Arizona. It is my understanding that Congressman UDALL will be placing in the RECORD today an extensive statement outlining the purpose and procedures which this legislation envisions, with a significant volume of supportive data.

My interest in this matter was sparked by my service this past year on the Freedom To Vote Task Force under the able leadership of former Attorney General Ramsey Clark. This proposal is an attempt to reduce in a very significant and meaningful way what we found to be the primary barrier to equal participation within the political system.

By all persons otherwise eligible to vote the procedural difficulty of meeting registration and local residence requirements and the variety of restrictions limiting

absentee voting disenfranchises a most significant segment of the electorate.

It is estimated that present registration laws acted to deny the opportunity to vote to some 6 million Americans who could not meet the necessary residence requirements to vote for President and Vice President in the 1968 election.

It is estimated another 8 million were unable to vote because of inability to get to the poll or to get an absentee ballot to vote that election day despite the fact they were otherwise fully qualified to express their preference and participate in choosing the President and Vice President of our Nation.

This measure is designed to remove totally those barriers to participation.

Further the legislation would provide a universal enrollment plan which would seek out and encourage the enrollment of all otherwise qualified Americans under a National Director of Enrollment, the Director of the Bureau of the Census.

It contains powerful encouragement to the States in the form of a direct grant to those States when enrollment of voters in any congressional district exceeds 90 percent of those eligible.

Further, this legislation would establish a National Enrollment Commission of nine members, including the Secretary of Commerce and the Director of the Bureau of the Census to consult with, and give advice to, the National Director of Enrollment.

For all of us who have a real interest in seeing our political system work, and in encouraging all of our people to work within the system, this measure provides an important means of reducing those impediments currently frustrating that desire.

The PRESIDING OFFICER (Mr. HUGHES). The bill will be received and appropriately referred.

The bill (S. 4238) amending title 13 of the United States Code by authorizing the Secretary of Commerce through the Bureau of the Census to undertake a quadrennial enrollment of those persons to vote in elections of the President and Vice President that meet the qualifications of the various States other than residency, introduced by Mr. INOUYE (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Post Office and Civil Service.

ADDITIONAL COSPONSORS OF BILLS

S. 4050

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Alaska (Mr. STEVENS), I ask unanimous consent that, at the next printing, the name of the Senator from Vermont (Mr. PROUTY) be added as a cosponsor of S. 4050, creating U.S. conservation savings bonds.

The PRESIDING OFFICER (Mr. JORDAN of Idaho). Without objection, it is so ordered.

S. 4197

Mr. GURNEY. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor of S. 4197, to encourage States to establish junked motor vehicle disposal programs, and for other purposes.

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

SENATE RESOLUTION 444—SUBMISSION OF A RESOLUTION RELATING TO THE LEGAL ACCOUNTABILITY OF MEMBERS OF THE ARMED FORCES OF THE UNITED STATES IN COMBAT SITUATIONS

Mr. BELLMON submitted a resolution (S. Res. 444) relating to the legal accountability of members of the Armed Forces of the United States under certain circumstances, which was referred to the Committee on Armed Services.

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

SENATE RESOLUTION 445—RESOLUTION SUBMITTED TO REFER THE BILL (S. 4237) TO THE U.S. COURT OF CLAIMS

Mr. HRUSKA (for himself, Mr. ALLOTT, and Mr. MUNDT) submitted a resolution (S. Res. 445) to refer the bill (S. 4237) entitled "A bill for the relief of Harold C. and Vera L. Adler, doing business as the Adler Construction Co." to the Chief Commissioner of the U.S. Court of Claims for a report thereon, which was referred to the Committee on the Judiciary.

(The remarks of Mr. HRUSKA when he submitted the resolution appear earlier under the appropriate heading.)

SENATE RESOLUTION 446—SUBMISSION OF A RESOLUTION EXPRESSING THE SORROW OF THE U.S. SENATE OVER THE DEATH OF DAN MITRIONE

Mr. BAYH (for himself, Mr. HARTKE, Mr. SCOTT, and Mr. KENNEDY) submitted a resolution (S. Res. 446) expressing the sorrow of the U.S. Senate over the death of Dan Mitrione, which was considered and agreed to.

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

LABOR, HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS BILL, 1971—AMENDMENT

AMENDMENT NO. 837

Mr. TYDINGS submitted an amendment, intended to be proposed by him, to the bill (H.R. 18515) making appropriations for the Department of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1971, and for other purposes, which was referred to the Committee on Appropriations, and ordered to be printed.

(The remarks of Mr. TYDINGS when he submitted the amendment appear below in the RECORD under the appropriate heading.)

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENT—AMENDMENT

AMENDMENT NO. 838

Mr. GOODELL (for himself, Mr. CRANSTON, and Mr. KENNEDY), submitted an amendment, intended to be proposed by them, jointly, 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 and discussion when Mr. GOODELL submitted the amendment appear later in the RECORD under the appropriate heading.)

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1971—AMENDMENT

AMENDMENT NO. 839

Mr. PERCY (for himself, Mr. JAVITS, and Mr. HUGHES) submitted an amendment, intended to be proposed by them, jointly, to the bill (H.R. 17755) making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1971, and for other purposes, which was referred to the Committee on Appropriations and ordered to be printed.

(The remarks of Mr. PERCY when he submitted the amendment appear below under the appropriate heading.)

SOCIAL SECURITY AMENDMENTS OF 1970—AMENDMENTS

AMENDMENT NO. 840

Mr. KENNEDY (for Mr. CANNON) submitted amendments, intended to be proposed by Mr. CANNON, to the bill (H.R. 17550) to amend the Social Security Act to provide increases in benefits, to improve computation methods, and to raise the earnings base under the old-age, survivors, and disability insurance system, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis upon improvements in the operating effectiveness of such programs, and for other purposes, which were referred to the Committee on Finance and ordered to be printed.

(The remarks of Mr. KENNEDY when he submitted the amendments for Mr. CANNON appear later in the RECORD under the appropriate heading.)

LABOR, HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS BILL, 1971—AMENDMENT

AMENDMENT NO. 837

Mr. TYDINGS. Mr. President, I rise today to submit an amendment to H.R. 18515, the Labor-HEW appropriations bill, to financially assist the Department of Health, Education, and Welfare con-

vert Fort Detrick in Frederick, Md., into a much-needed health research center. This amendment to provide $15 million would allow HEW—in particular, the National Institutes of Health—to assume operation of the main research and development areas and adjacent animal facilities located at Fort Detrick, and would permit the creation of 700 new scientific and support positions to fill the employment void being created by the Army's departure.

Last November, following the President's announcement that all offense-related biological warfare activities in this country would be discontinued, the Army declared the biological laboratory mission at Fort Detrick surplus to its needs. At the same time, hope was expressed that HEW would assume control of the facilities being vacated and provide meaningful employment opportunities for the current Detrick staff. The fort's scientific team, carefully assembled over 27 years, is one of the finest in the world. Both for the welfare of the Nation and out of consideration for the loyal members of this team and their families, it is imperative that the enormous expertise and experience of these men and women be directed toward badly needed investigations to advance the state of the Nation's health.

HEW has expressed a strong interest in utilizing the fort's staff and facilities for such a purpose. The final obstacle to actual conversion appears to be a shortage of funds.

NIH officials have informed the Senate Appropriations Labor-HEW Subcommittee that the $15 million proposed in this amendment would permit conversion of the fort to a health research center to provide and permit the immediate creation of 700 new health-research positions for the fort's present staff.

According to the NIH, the new programs at Fort Detrick would include slow virus disease research; animal holding facilities; studies on hepatitis, fungal diseases and latent viruses in animals; tissue culture studies on genetic defects; national dental caries program; broad research on diseases of the eye; production of senescent animals needed in aging research; and the study of cancer-producing and related viruses, viral oncology and chemical carinogenesis.

Mr. President, I ask unanimous consent that a more-detailed breakdown of these new programs be printed in the RECORD at this point.

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

The amendment (No. 837) was referred to the Committee on Appropriations.

The table, presented by Mr. TYDINGS, is as follows:

FORT DETRICK

SUMMARY—ESTIMATED NIH SPACE AND FUND REQUIREMENTS AT FORT DETRICK

[Dollars in thousands]

	Space needed	Square footage	Annual cost				First year cost—Jan. 1–June 30, 1971				
			Personal services		Other costs	Total costs	Personal services		Nonrecurring costs	Other costs	Total costs
			Positions	Amount			Positions	Amount			
NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES											
1. "Slow Virus" Disease Research—Studies on certain animal diseases having apparent counterparts in human infection, in facilities having adequate provision to protect the staff. Investigations will involve naturally occurring slow viral diseases of animals, to ascertain whether these viruses are the cause of certain chronic diseases of man. Scrapie and progressive pneumonia of sheep, Aleutian mink disease, and encephalopathy of mink are the currently known animal diseases in this category. Studies will include isolation and characterization of etiologic agents, the mechanisms of infections, pathologic processes, and immunologic mechanisms. Human specimens from patients with comparable chronic diseases will be included in the studies. Characteristic also of such studies is the need of secure facilities for the long-term holding of experimental animals from rodents to primates.	Building No. 560....	130,155	20	$240	$130	$370	20	$90	$13	$60	$163
2. Hazardous virologic research—Studies on virologic diseases, the agents that are dangerous to the health and lives of the staff and require containment facilities for the holding of experimental animals. The projects selected are those infectious disease studies which have been handicapped or in some cases almost impossible, due to a lack of suitable biohazard containment facilities. Projects will include (1) Hepatitis—the recent discovery of the Australian antigen has stimulated research interest in this important disease; (2) Arboviruses—this large group of viruses includes a number that are highly infectious to man requiring special containment facilities, in addition, comprehensive studies with many strains present problems of preventing cross contamination; (3) Hemmorrhagic fever and other exotic viruses—study of these viruses in segregated suites of laboratory and animal holding facilities will avoid unfortunate fatality experiences such as those with the Machupo, Marburg, and Lassa viruses; and (4) Exotic agents of unknown pathogenicity—newly discovered agents, and usually viruses, are recovered from animals and man which turn out to be more hazardous than anticipated. Ability to study such new agents immediately, safely, and effectively is of utmost importance.	Building No. 539....	96,778	55	660	581	1,241	55	255	55	200	510
3. Other research requiring special facilities—Studies in this area are characterized by their need for facilities that protect the staff from the organism being studied, protect the experiments from contamination, require aerosol and controlled environment equipment, and provide for long-term holding of experimental animals in protected facilities, Studies will include viral respiratory disease research, special research in tuberculosis, and research on antiviral substances including interferon and interferon inducers.	Building No. 376; Building No. 539.	25,000	35	420	400	820	35	150	45	180	375

FORT DETRICK—Continued

SUMMARY—ESTIMATED NIH SPACE AND FUND REQUIREMENTS AT FORT DETRICK—Continued

[Dollars in thousands]

	Space needed	Square footage	Annual cost: Personal services Positions	Annual cost: Personal services Amount	Annual cost: Other costs	Annual cost: Total costs	First year cost—Jan. 1–June 30, 1971: Personal services Positions	First year cost—Jan. 1–June 30, 1971: Personal services Amount	First year cost—Jan. 1–June 30, 1971: Nonrecurring costs	First year cost—Jan. 1–June 30, 1971: Other costs	First year cost—Jan. 1–June 30, 1971: Total costs
4. Supporting—Laboratory direction and administrative support for the above three programs, increased staff in the office of the Institute Director, and the maintenance of the agent, storage and distribution facility.	Building No. 560		10	120	78	198	10	50	10	30	90
Total NIAID programs		251,933	120	1,140	1,189	2,629	120	545	123	470	1,138
NATIONAL INSTITUTE OF NEUROLOGICAL DISEASES AND STROKE											
Relocate the Patuxent Laboratory—with its "slow virus research" program. There are 12 positions and $200,000 in the 1971 budget for this program. No additional funds or positions are being requested.	Laboratory Animal	6,500 7,000									
2. Relocate animal holding facilities—There is $300,000 in the 1971 budget which supports animal holding contracts. The efforts could be moved to Fort Detrick, but only with the provision that the positions would be made available to perform the services. No additional funds are needed at this time.	Laboratory Animal	5,000 17,000	15				15				
3. Epidemiological and infectious disease studies—Studies of the immuno-pathogenesis of subacute sclerosing panencephalitis, multiple sclerosis, and Creutzfeld-Jacob disease, etc., and of the role of simultaneous chronic virus infections in such diseases.	Laboratory Animal	200 3,300	6	72	8	80	6	24	7	4	35
4. Genetic engineering research—Utilizing the tissue culture and fermentation facilities, take over the ongoing Fort Detrick operation. Utilizing the knowledge, skill, and facilities of a group of geneticists and tissue culture specialists now at Detrick, change their direction of research to health-related studies toward the curing of hereditary diseases by genetic transfer.	Building No. 376; Building No. 539.	15,000	14	168	112	280	14	84		76	160
Total NINDS programs		54,000	35	240	120	360	35	108	7	80	195
DIVISION OF BIOLOGICS STANDARDS											
1. Study hepatitis in primates, smallpox and monkey pox, tuberculosis and B.C.G. and other vaccines, fungal diseases, plague and tetanus, cytomegaloviruses, and latent viruses in animals used as the sources of cells for vaccine development. Utilize facilities for large scale tissue culture production. Acquire expertise on problems involving the possibly oncogenic viruses of human beings and the "slow" viruses.	Laboratory Animal Contamination Office Cold storage Also animal center space. Building No. 539.	6,800 6,800 1,000 1,500 4,000	41	492	208	700	41	127	20	78	225
Total DBS		20,100	41	492	208	700	41	127	20	78	225
NATIONAL INSTITUTE OF ARTHRITIS AND METABOLIC DISEASES											
1. Large scale pilot plant production of bacteria and viruses, and from these and from normal animal tissues the isolation of large quantities of pure proteins and nucleic acids (such as DNA, the genetic material).	Building No. 431 Building No. 470 Building No. 472	25,600 37,600 6,500	45	540	540	1,080	45	145	100	215	460
2. Tissue Culture—It is now possible to grow outside the body tissues from patients with diseases of genetic origin. Detrick's facilities are outstanding for this purpose. When these human tissues are grown in the test tube, it is usually possible to pinpoint the exact chemical defect which causes the disease; and these cultures provide a rapid and convenient means of evaluating possible treatments.			15	180	180	360	15	60	50	60	170
Total NIAMD programs		69,700	60	720	720	1,440	60	205	150	275	630
NATIONAL INSTITUTE OF DENTAL RESEARCH											
1. Laboratory research and control activity in support of national caries program—A new laboratory base must be created in support of the National Caries Program. Enlarged microbiological facilities are needed where the identification, characterization and manipulation of microorganisms known or thought to be pathogenic in the caries process can be performed. Large volumes of oral plaque samples can be microbiologically screened. Of equal importance to adequate laboratory support for the National Caries Program would be facilities and resources for biochemical and chemical analyses, especially those relating to trace elements in tooth samples and body fluids. Elimination of dental caries is primary; however, the need to remedy the ravages of dental disease in the existing population is needed. The Detrick primate facilities have great potential for use in screening candidate material for implants.	Building 560	5,000	20	240	340	580	20	108	30	140	277
2. Viral etiology of oral soft tissue lesions—Research relating to the role of viruses in the etiology and pathogenesis of infection. Focused new studies concern (1) the viral etiology of aphthous ulcers of the mouth, and (2) systematic exploration of possible viral etiology of oral tumors, particularly defining the oncogenic impact of derpes simplex.	Building 560	9,000	10	120	200	320	10	52	20	85	157
Total NIDR programs		14,000	30	360	540	900	30	160	50	225	434

	Space needed	Square footage	Annual cost: Personal services Positions	Annual cost: Personal services Amount	Annual cost: Other costs	Annual cost: Total costs	First year cost—Jan. 1–June 30, 1971: Personal services Positions	First year cost—Jan. 1–June 30, 1971: Personal services Amount	First year cost—Jan. 1–June 30, 1971: Nonrecurring costs	First year cost—Jan. 1–June 30, 1971: Other costs	First year cost—Jan. 1–June 30, 1971: Total costs
NATIONAL EYE INSTITUTE											
Laboratory for animal models of diseases of visual system—Simulating a number of diseases of the eye and visual system in experimental animals, study in mechanism of these diseases in animals which have a counterpart in man, including retinitis pigmentosa in C_3H strain mice, galactose cataracts in weanling rats, glaucoma in congenital buphthalmic rabbits, etc. Develop new animal models for other diseases in man such as diabetic retinopathy, retinal detachment, and uveitis.	Animal space building 1021–1040–1043–1049.	3,825	8	$60	$150	$210	8	$20	$18	$65	$10
3. Laboratory for ocular tissue research—Establish a regional distribution point for biological material used in vision research utilizing the large abattoir in Frederick which would result in having available large quantities of purified photopigments and enzymes from ocular tissues.	(2) Cold rooms (2) laboratories building 560.	900	6	68	67	135	6	24	----------	35	59
3. Tissue and organ culture laboratory—Recent advances in growing cornea and retina in tissue culture as well as the organ culture of lens make possible the study of such disease procesess as herpes complex keratitis, retinoblastoma *** cataracts. The availability of *** ocular tissue from the *** in Frederick and the isolation and decontamination facilities at Detrick makes this type of research possible.	(3) Laboratories building 560.	1,350	4	58	47	105	4	24	----------	21	45
. Regional toxicology unit-mechanism and treatment—Establish the first facility in the *** where vision research is being conducted in the broad area of toxicology of air pollutants, household plants, insecticides, herbicides, *** and medicinals. The airosol units and other specialized *** devices for the handling of *** materials *** are available at Detrick for performing this type of research.	(6) Laboratories animal operating room building 560.	2,700 900 450	9	121	195	316	9	55	20	30	155
Total NEI programs		10,125	27	307	459	766	27	123	38	201	362
NATIONAL INSTITUTE OF HUMAN HEALTH AND HUMAN DEVELOPMENT											
1. Gerontological research—Establish a source for senescent animals critical to the goals of the Gerontology Research Center. Such sources are unavailable at this time. The ability to support species other than rats in an outside facility would provide major assistance and permit full activation of the gerontological program.	Building 539	539	6,000	15	111	34	145	15	48	----------	15
Total NICHD programs		6,000	15	111	34	145	15	48	----------	15	68
NATIONAL CANCER INSTITUTE											
1. Engineering and consultation for containment of biohazards—To provide consultation in the effective utilization of facilities, equipment and procedures for containment of biohazards to assure that investigators are following optimal procedures of safety.	Building 560	13,500	21	252	248	500	21	105	30	98	238
2. Tissue culture requirements of cells for optimal virus production.	Joint use of space with NIAMD in buildings 431, 470 and 472.	----------	5	60	90	150	5	16	10	25	50
3. Large scale production of suspect viral tumor agents		----------	+ 18	216	284	500	18	60	30	70	160
4. Purification of viral reagents		----------	+ 15	180	220	400	15	54	30	60	140
Total NCI programs		13,500	59	708	842	1,550	59	235	100	253	588
CENTRAL SUPPORT SERVICES											
1. Research Services—This would include production and long-term holding of animals inoculated with hazardous infectious agents; increased production of bacteriological and tissue culture media; development of new approaches in the detection and containment of bioaerosols, viruses, infectious agents and isotopes; medical library services; medical arts and photography services; and fabrication and maintenance of research equipment.	Shop space in building 1054 plus program space in various buildings listed above.	----------	30	240	760	1,000	30	120	80	380	580
2. Engineering Services—This would include utilities service; building maintenance and alteration; shops service; and grounds and road maintenance.	Same as above	----------	205	1,640	2,540	4,180	205	820	500	1,270	2,590
3. Administrative Services—This would include communications; fire protection and guard service; transportation service; custodial service; supply operations; and property management.	Same as above	----------	65	520	300	820	65	260	40	150	450
Total support services		----------	300	2,400	3,600	6,000	300	1,200	620	1,800	3,620
Subtotal—Operating cost		----------	687	6,778	7,712	14,490	687	2,751	1,108	3,397	7,256
Repair and improvements (buildings and facilities)—This item includes general repair and improvement of a recurring nature such as roofing, painting, laboratory facilities, utility repairs, etc.		----------	----------	----------	500	500	----------	----------	----------	300	----------
Total		439,358 (laboratory space only)	687	6,770	8,212	14,990	687	2,751	1,108	3,697	7.5

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATION BILL, 1971—AMENDMENT

AMENDMENT NO. 839

Mr. PERCY. Mr. President, as each day goes by, it becomes increasingly and dramatically evident that once again we in this Nation face the possibility of a dangerous and inflationary budget deficit. Some predictions run higher than $10 billion.

Faced with this possibility, I am doing what I can to eliminate wasteful Government spending. I have resolved to identify areas where $4 billion could be saved. So far, I have advocated recommended changes that would mean savings of over $1.5 billion.

Today, I will add to the list two more areas in which money could be saved.

The first is the Peace Corps. Since its inception, this body of idealistic and energetic Americans, young and old alike, has shown to the world a face of America that too frequently is lost behind the headlines. Peace Corps volunteers have offered to the people of the less-developed countries the tools by which the people themselves can build their own nations.

Within the operation of the Peace Corps, however, there is a procedure that is superfluous—the full field investigation, or FFI. This is an in-depth investigation of each Peace Corps volunteer who is invited to training prior to an overseas assignment.

Ordinarily, a national agency check and inquiry will suffice for most Government jobs. This check can be made for about $25 per individual. But each full field investigation cost about $480 last year, and will cost an estimated $525 this year. Included in this cost is the normal national agency check.

It just does not make sense to me that some crew members of a nuclear-powered submarine serve after only receiving a national agency check, while a person who will teach agriculture or English requires a full field investigation.

Last year, some 5,400 FFI's were conducted for Peace Corps volunteers at a total cost of nearly $2.6 million. If national agency checks alone had been run, the cost would have been $135,000.

This wasteful and unnecessary practice should not be permitted to continue. Joseph Blatchford, director of the Peace Corps, has indicated a desire to stop this practice, and this year, approximately 20 percent of the FFI's will be eliminated in favor of the national agency checks.

I commend Mr. Blatchford for his initative, but, I would hope that the Congress would act to eliminate all FFI's this year. By eliminating FFI's, and keeping the national agency checks, $2.7 million could be saved, assuming a volume that is the same as last year's. The Peace Corps should move ahead to eliminate this needless cost as soon as is possible.

The other area I would today like to mention in which we could save the taxpayer's money involves the so-called forest highways. Though funds from the highway trust fund are used to build sections of the Interstate System, they are not used to build the connecting parts of highways through public lands. Additional funds must be appropriated from general revenue funds to build the connecting link of road through a public land to join the two sections of the interstate highway. This additional appropriation is especially unnecessary when one takes into account that last year $2 billion from the trust fund was unobligated. This year, $15 million is included in the Department of Transportation bill for the construction of these forest highways. I believe that it is obvious that this is an unnecessary expenditure. The funds could just as easily come out of the trust fund, at a savings to the taxpayers of $15 million for this year.

Therefore, Mr. President, I submit for appropriate reference an amendment to H.R. 17755 which provides for the appropriate funds to be derived from the highway trust fund. I ask unanimous consent that this amendment be printed in the RECORD at this point.

A saving of $15 million may not seem too large when compared to a possible deficit of $10 billion. However, by combining such items, large and small, I have now been able to identify areas where we could save $1.617 billion. Mr. President, I intend to continue to search for areas where excesses have been overlooked, and I invite my colleagues to join me in this effort.

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

The amendment (No. 839) was referred to the Committee on Appropriations, as follows:

AMENDMENT NO. 839

On page 12, line 6, after "expended," insert "and to be derived from the Highway Trust Fund,".

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 765 TO H.R. 17123

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 Tennessee (Mr. BAKER) be added as a cosponsor of his amendment No. 765, to the pending military authorization bill, to create a volunteer military.

The PRESIDING OFFICER (Mr. JORDAN of Idaho). Without objection, it is so ordered.

NOTICE OF HEARING ON SLEEPING BEAR DUNES NATIONAL LAKESHORE

Mr. MANSFIELD. Mr. President, on behalf of the Subcommittee on Parks and Recreation of the Interior Committee, I announce that a public hearing has been scheduled for Wednesday, August 26, on S. 1023, to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes.

All interested Members of Congress and the public are invited to participate in these hearings. It is requested that anyone wishing to appear notify the staff of the Interior Committee. The hearing will begin at 10 a.m. in room 3110, New Senate Office Building.

ADDITIONAL STATEMENTS OF SENATORS

A LITTLE GIRL'S LAST WISH

Mr. MATHIAS. Mr. President, my State, Maryland, is often called America in miniature because of its beautiful ocean beaches on the Eastern Shore, the magnificent Chesapeake Bay and tidewater areas of central Maryland and the majestic mountains in western Maryland. I am proud of all of Maryland's scenery as well as the people who contribute to the traditions of each part of the State.

Recently, a situation was brought to my attention which made me a bit more proud that I am privileged to represent the people of Maryland.

In Little Italy, a section of east Baltimore, Maryland's largest city, not more than six to eight blocks square, the entire community joined together to give a dying neighborhood girl her last wish—a pizza party. Now, Little Italy is not a natural scenic area such as Maryland's mountains or seashore. It is comprised mainly of immaculate rowhouses and sparkling white marble steps which line narrow, asphalt streets and dotted with some of the finest Italian restaurants in the world. But Little Italy's wealth is not the beautiful old homes or its fine restaurants; rather it is her people. It is people like these strong, hardworking, law-abiding citizens of Little Italy who went out of their way to make the last days of a little girl's life happy that reassure me the future of America is bright.

I ask unanimous consent that a column by Seymour Kopf of the Baltimore News American, reporting this event, be printed in the RECORD.

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

MAN ABOUT TOWN

(By Seymour Kopf)

It was Mary Ellen's last party.

Josie went out hours before and bought her a pink dress. Now, at her final party, she wore the dress with a pink, yellow and red corsage.

There were presents all around her, but Mary Ellen seemed to be especially fond of a teddy bear nearby. Her friends from her graduating class at St. Leo's were there, and a slim girl danced only a few feet from her—she danced and danced as if she were propelled by a jet engine.

The people of Little Italy have always believed in Life, and you could see that even the older men and women here now in the basement of St. Leo's The Great Church could not fully understand that 15-year-old Mary Ellen was going to die soon. She seemed healthy until one month after her graduation from St. Leo's. The next thing they heard was that Mary Ellen was going to die.

"Isn't Mary Ellen that lively girl who shopped in our stores and walked down our streets?" the people of Little Italy asked. "What could we do for her? Didn't she once say that having a Pizza Party was the dream

of her life? Why don't we make a Pizza Party—the biggest one ever held in Little Italy—for her?"

And so Little Italy did. There are the talkers and the doers in Baltimore. The people of Little Italy are amongst the doers. Vince Pastore, 43, the Italian food chain co-owner and Mr. and Mrs. Gus and Josie Giorigilli are doers. Vince told Josie—a woman always trying to do good for people—"Buy Mary Ellen a party dress, a pocketbook, and everything—and charge it to me." Vince had never seen Mary Ellen before—he stays in his Lombard St. store—but that's how the people of Little Italy are.

Now the psychedelic rock bands were playing. Two bands came—just fellows who know music getting together. They were splendid—and the drummer was better than Gene Krupa—and they lit up the word "love" in yellow, and in bright red "Mary Ellen."

There were red, blue and yellow balloons on the tables, and the older Italians serving the pizzas, hot dogs, sodas—and everything else Italian and American—came out with funny hats on their heads. One hat had pears, oranges, carrots, lettuce and tomatoes on it. Another hat supported a large movable duck. And there was one with a hen on it. A man came by with a bird cage hat, and made Mary Ellen laugh.

Most of the boys seemed to be bashful—so there were mostly girls dancing on the floor. A few nuns were at the table. They were Mary Ellen's teachers.

Inside St. Leo's large kitchen there was an Italian grandmother helping a man called Carmen—he was too busy to spell out his last name—making more and more pizzas. Carmen is a strong, muscular man, and his pizzas were lined up by the dozens on a long wooden table. "I'm an electrician by trade," he shouted above the din of a busy kitchen. "But I like to make pizzas."

Mary Ellen opened some of the presents—soap she would not use, writing paper she would not use. Her parents were near her at the table. You could see that they tried to be happy on this day. But they sat there looking at Mary Ellen. Sometimes their eyes seemed to stare into nowhere. They did not cry. They did not laugh. You could tell by looking at them that they were plain, good people who did the most they could to raise their daughter, and now she was going to be taken away from them.

Did Mary Ellen know? I don't know. Many of the kids there thought that this was a recovery party for her. They did not know that she would have liked to dance at this—her last party—but she was too weak to. So others danced, and more pizzas came.

The pizzas, the cookies, the cokes came by the hundreds—and it was indeed Little Italy's biggest Pizza Party. As the guests left, they went over to Mary Ellen to say a few words. What could you say to a dying girl? Yet they tried in their own kind ways. And the bands played on until Mary Ellen left. It was her Big Day.

On Thursday—not quite two weeks after the party—I received a telephone call from Vince Pastore. Mary Ellen died. She was going to be buried in her last party dress. . . .

AMERICAN PRISONERS OF WAR

Mr. MURPHY. Mr. President, man's inhumanity to man has been a subject of speculation and philosophical discussion by poets and scientists, by philosophers and statesmen, since the dawn of history. Yet, today—indeed, for the past several years—we have seen daily examples of exactly what that one word, inhumanity, means.

Over 1,400 American men are still held prisoner by the North Vietnamese under conditions that violate the Geneva Convention.

Charles Sumner once said that the age of chivalry had gone and the age of humanity had come. The truth of that statement, Mr. President, has yet to be proven.

THE 1970 AMENDMENTS TO THE 1965 FEDERAL VOTING RIGHTS ACT

Mr. CRANSTON. Mr. President, the 1970 amendments to the 1965 Federal Voting Rights Act will enable many persons from my State to register to vote without harassment.

I am sending a letter to many of my constituents informing them of the change. I ask unanimous consent that the letter be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C.

DEAR FRIEND: California and the nation are faced with complex and diverse problems. I know you will want to be involved in their solutions by voting for those candidates who best represent your point of view.

In order to vote in November you must be registered by September 10th. The 1970 Amendment of the 1965 Federal Voting Rights Act has removed tests as a condition of registration. Therefore the only criteria for you to register in the State of California are for you to be—

21 years old by November 3, 1970;

A California resident for one year by November 3, 1970; and

A County resident for 90 days by November 3, 1970.

Registration information is available at your County Registrar of Voters which can be located in your local phone book under the listings of your County Government Services.

I hope you will want to check the status of your registration by the September 10th deadline and then exercise your franchise in November.

Sincerely,

ALAN CRANSTON.

PRESIDENT NIXON SIGNS VETERANS BILL

Mr. GRIFFIN. Mr. President, yesterday President Nixon signed the veterans disability rate increase bill (S. 3348) which will provide increased compensation payments and dependency allowances for service-disabled veterans.

The legislation provides for an average increase in benefits of about 11 percent for our disabled veterans.

I commend the President for signing the bill, and I ask unanimous consent that the text of a statement by the President be printed in the RECORD.

Mr. DOLE. Mr. President, yesterday President Nixon signed the bill providing for increased aid to disabled veterans.

This bill will significantly increase benefits for veterans with service-connected disabilities and thus reduce the heavy impact inflation has had on their compensation payments in recent years.

The President's statement on the signing of the bill reflects his deep concern for disabled veterans, as well as his concern that the costs of increased benefits to them do not add to the inflationary squeeze facing all our citizens.

I join the Senator from Michigan in asking unanimous consent that the President's statement be printed in the RECORD.

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

STATEMENT BY THE PRESIDENT ON VETERANS COMPENSATION RATE INCREASE

The Veterans Disability Compensation Rate Increase bill (S. 3348), which I am signing today, will increase the compensation payments and dependency allowances for service-disabled veterans. These increases—retroactive to July 1, 1970—will vary with the degree of disability, but we estimate that the average recipient will realize an increase in benefits of about 11 percent. This bill will also make it easier for former prisoners of war to obtain compensation for disabilities arising from their imprisonment.

Although this legislation calls for spending that would be well above the budget for fiscal year 1971, I sign it because I recognize the nation's debt to those who have served in the Armed Forces and its special obligation to those who have been disabled in its service. We must make every effort to fulfill all of our responsibilities to those who have done so much for us.

I also recognize that the rising cost of living places special burdens on those who depend upon a monthly benefit check for a significant part of their income. This is a point that I have made frequently with respect to Social Security recipients and I believe that it is also true of disabled veterans. Benefits for our two million disabled veterans have lagged behind the rise in the cost of living. This bill will allow them to catch up.

In signing this legislation, I am acceding to an increase of some $218 million in the budget for the current fiscal year. This added money must come by offsetting reductions in other Federal spending programs, if we are to avoid further inflationary pressures.

The President has discretionary authority to make certain administrative reductions in the level of Federal spending. I feel that I must use that authority at this time in order to pay for the increased spending called for in this veterans' bill.

I have ordered spending reductions equalling the $218 million from other Federal programs, including the following:

Medicaid, by changing administrative regulations to reduce certain excessive charges far above the national average imposed by some medical institutions;

GSA, by cutting supply purchases and deferring some Federal construction in areas where unemployment is not a major problem;

Federal land acquisition, by imposing restrictions upon expenditures for this purpose in several areas;

Atomic Energy Commission, by reducing certain planned expenditures.

I have carefully considered the need for these adjustments and I am convinced that they are in the public interest. It would be most regrettable if our efforts to help disabled veterans cope with the cost of living had the effect of aggravating that same problem for other Americans by increasing the Federal deficit. We cannot permit that to occur.

THE SOVIET UNION AND THE INDOCHINA CONFLICT

Mr. McGOVERN. Mr. President, amendment No. 609 to the military procurement authorization bill—the amendment to end the war—may be

brought up in the Senate within the next 2 weeks.

In preparation for the debate, the sponsors believe it is worth while to make available to other Senators, as well as to Members of the House and the public, some of the recent scholarly work which has been done on various aspects of American involvement in Indochina.

In the weeks following the Cambodian action, Prof. Alexander Dallin, a highly respected political scientist at the Russian Institute of Columbia University, prepared an excellent analysis of the impact of the war on Soviet planning and on United States-Soviet relations.

He points out that prior to our build-up in Vietnam beginning in 1964 the Soviet Union had regarded Southeast Asia as a peripheral interest at most. It is apparent that they placed more emphasis on questions including the improvement of relations with the United States than on supporting Hanoi. Even after the bombing of North Vietnam was begun in February of 1969, Professor Dallin notes that the initial Soviet reaction was to intensify its efforts toward peace.

The Chinese, meanwhile, were also reluctant to become involved.

Professor Dallin recalls that after the Soviet Union increased its assistance to North Vietnam:

> China refused to join with the Soviet Union in "united action" in support of Hanoi. While there were some in the Chinese elite who seemed prepared to intervene, the issue was apparently closed when, in his famous September 1965 pronouncement, Lin Piao counseled "self-reliance," implying that the Maoist formula called for do-it-yourself "national liberation wars."

The paper concludes, with respect to recent events in Cambodia, that the effects on Communist powers will be counterproductive:

> It will not bring Hanoi to the bargaining table. It again polarizes the international, as well as the domestic environment, and is bound to reward the extremists and penalize the moderates, both among America's allies and among its adversaries. Though as yet invisible, there is bound to be a price Nixon will have to pay in U.S. relations with the Soviet Union, too.

It seems to me that Professor Dallin's examination has a central bearing on the whole rationale for our involvement in Vietnam. It is exceedingly doubtful whether anyone would have advocated large-scale assistance to the Diem regime and its successors if the war had been perceived as simply a dispute between warring Vietnamese factions. But policymakers have all along seemed determined to believe that the Vietnam conflict represented an attempt by the Soviet Union, China, or both to take over an Asian country and to expand their international domain.

That assertion actually reverses reality, not only in terms of the Chinese and Russians but also in terms of the Vietnamese, who can be expected to resist domination by any country regardless of the political philosophy it represents.

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

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

THE SOVIET UNION AND THE INDOCHINA CONFLICT

(By Alexander Dallin)

To review the Soviet role in Indochina may help, once again, to answer the question which has caused so much unnecessary confusion, in and out of Washington: who precisely is the enemy the United States is fighting in Southeast Asia? Whence comes the dire threat to our national security which alone could justify such a disastrous commitment?

To assert that the Vietnamese Communists are nobody's puppets is scarcely news. With the collapse of "International Communism" as a single, united, and disciplined movement, Hanoi—like other Communist powers and parties—has been able to chart an autonomous course, agreeing with Moscow on some issues and disagreeing on others, shifting its alignment toward Peking and away from it as it deems appropriate, but at no time—any more than North Korea, Rumania, or Cuba—becoming a tool of either Communist superpower. Hanoi's independence has in fact been a source of repeated frustration to both Moscow and Peking; and, notwithstanding the myths, the United States has been fighting neither "Muscovites" nor "the Chinese Reds" in Vietnam—nor that non-existent entity called "International Communism."

For the Soviet Union Southeast Asia was, both before and after the second World War, in the marginal field of peripheral vision. Stalin's interests and priorities lay elsewhere; recent studies have only confirmed that "Moscow not only paid little attention to Communism in Southeast Asia but consistently showed little insight in its grasp of the political situation there."[1] True, in 1948 the Communist parties, there as elsewhere, responded to the Cominform's call for "direct action" and launched a round of insurrections—in Malaya, Burma, Indonesia, and elsewhere—all of which ultimately failed. By 1951–52 Stalin had apparently become reconciled to the prospect of another long stretch of coexistence with the non-Communists who remained in control of the entire crescent, from India to Japan.

It is worth recalling that Stalin was skeptical of the ability of any foreign Communists to come to power without Soviet help. Just as he discouraged Mao Tse-tung from bidding for power—and recognized Chiang Kai-shek until 1949—he doubted the Viet Minh's ability to defeat the French and until 1950 withheld recognition from the Ho Chi Minh regime. Even when North Vietnam became one of the dozen or so *bona fide* Communist states, Moscow failed to extend its network of bilateral military alliances to Hanoi. At the Geneva Conference of 1954, after the French defeat at Dienbienphu, the Soviet and Chinese foreign ministers persuaded Ho Chi Minh to accept the partition of Vietnam, against his better judgment. Moscow countered his objections that this would make the Viet Minh, who had been the only victors on the battlefield, the only losers at the peace table, by arguing that the best prospects for consolidation lay in a division of the country and that any bid for complete takeover was apt to be suicidal, as it might well precipitate "massive retaliation"—retaliation against the Soviet Union, too, Moscow seemed to fear at a time when it was not about to bleed for Hanoi. The Vietnamese comrades would not soon forget this Soviet and Chinese "betrayal."[2]

Their sense of having been tricked was of course reinforced when in 1956 "free elections" were not, as required by the Geneva accords, held in the South—because, as President Eisenhower disarmingly stated, "possibly 80% of the population would have voted for the Communist Ho Chi Minh as their leader."[3] Moscow was unwilling to put itself out on behalf of the extension of the Hanoi regime to the south. In 1957 Khrushchev urged the admission of both Communist North Vietnam and non-Communist South Vietnam as members of the United Nations.

In the Khrushchev era Moscow thus continued to discount the importance of Southeast Asia. This was confirmed by relative Soviet restraint in the Laotian crisis of 1961–62: the Soviet leaders evidently saw no reason for a confrontation with the United States over so secondary a problem area.[4]

Meanwhile the Communist world had come apart at the seams, and Ho Chi Minh—senior in Communist circles to both Mao and Khrushchev—was among the small group of Communist leaders who tried (unsuccessfully) to mediate between Moscow and Peking. This mediating posture reflected Hanoi's perception of self-interest, inasmuch as it stood to benefit from such help as other Communist powers were prepared to provide; but it also echoed the traditional antagonism of Vietnamese and Chinese, which made Hanoi eager to make Moscow a counterweight to Chinese pressures, as well as some ideological elements: while the Soviet Union had the greater authority and resources, the Maoist model of an anti-Western, peasant-based "national liberation war" seemed far more suitable for Vietnam than Khrushchev's ambiguous revisionism.

Thus, without becoming a Chinese client, Ho in 1961–64 found himself inching closer to Peking than to Moscow, which for all intents and purposes seemed to have written off South Vietnam as a marginal target, even if "American policy in Vietnam could only increase Soviet apprehensions."[5] Especially after the Cuban missile crisis, Khrushchev shifted to what he deemed "first things first," an improvement in Soviet-American relations while Sino-Soviet relations rapidly went downhill.

The situation began to change in the winter of 1964–65, thanks largely to two developments: Khrushchev's ouster by the Brezhnev-Kosygin team, in October 1964, and the escalation of American intervention in Vietnam (including the bombing of the North), in February 1965. On the one hand, the new Soviet commitments to North Vietnam were part of a broader Soviet policy to woo all the countries along the perimeter of the Soviet Union, from Turkey and Iran to Pakistan and North Korea—a policy both anti-Chinese and anti-American in design. Indeed, this double purpose of interdiction has remained central to Soviet efforts in Southeast Asia, providing a general guideline but leaving open the question whether the anti-Maoist or anti-American facet receives priority at any given time.

On the other hand, the increased American involvement on the Asian mainland was bound to have a more direct effect on Soviet policy. At first Moscow merely intensified its efforts, begun during the preceding months, to bring the fighting to an end. As the Chinese later revealed, Kosygin (who was in Hanoi when the American bombing began) on his way home sought to convince them of "the need to help the United States 'find a way out of Vietnam.'"[6] But in 1965–66—as has now been amply documented—the Johnson Administration time and again ignored or rebuffed such peace proposals. Very soon Moscow felt obliged to honor its pledges and increase its assistance to North Vietnam, to prove the Chinese wrong, and to protect its own "credibility" as defender of Communist power.

Soviet efforts to maximize their presence on Chinese soil, ostensibly to facilitate the transshipment of goods to Vietnam, understandably aroused Peking's suspicions regarding Moscow's motives. China refused to

Footnotes at end of article.

join with the Soviet Union in "united action" in support of Hanoi.[7] While there were some in the Chinese elite who seemed prepared to intervene, the issue was apparently closed when, in his famous September 1965 pronouncement, Lin Piao counseled "self-reliance," implying that the Maoist formula called for do-it-yourself "national liberation wars." One consequence of this chain of events was the political reorientation of the Ho Chi Minh regime from Peking toward Moscow. From then on, all through the years of the Cultural Revolution, China's role in Southeast Asia was relatively subordinate: this could not fail to please Moscow.

No less important was the effect of the American escalation on the Soviet assessment of U.S. intentions. On the one hand, "the American bombing was putting the Soviet Union on the spot at a time when she could neither completely control nor completely disinterest herself in the fate of the North Vietnamese Communists."[8] On the other, United States action was more broadly important in the context of the esoteric Soviet debate on whether one "can do business" with the Americans. There were those in Moscow who still held that the U.S. was an untrustworthy partner, that by its very nature the American system would be forced to act aggressively, that the imperialist beast could not change its spots. By the early 1960's Khrushchev, on the contrary, had joined those who believed that the United States had no aggressive designs on the Soviet Union; who recognized the overriding urgency of arms-control agreements to minimize the chances of a nuclear showdown; who looked forward to a *détente* that would permit the reallocation of Soviet resources to more productive pursuits; and who probably saw in an improved Soviet-American relationship some vital compensation for the deteriorating Sino-Soviet alliance.

The period prior to the American escalation in Vietnam had indeed seen some real improvement, highlighted by the nuclear test ban treaty. Tacit rules of the game were developing between Washington and Moscow, and each was learning to read the signals from the other with growing sophistication. One such unwritten agreement was that neither side would use force to change the status quo in the other's sphere. Moscow perceived its application in American passivity in the Hungarian revolt; in part, it rationalized its withdrawal of missiles from Cuba on these grounds. This understanding also implied the mutual respecting of "sanctuaries" beyond national frontiers, as had been true in the Greek civil war and in the Korean war, as well as in Soviet efforts to restrain the Chinese Communists from attacking the Off-shore Islands. In this light the Soviet leadership was bound to interpret the American bombing of North Vietnam as a direct and blatant violation of this unwritten accord.[9]

Thus the American involvement—along with the U.S. reaction to various peace proposals—provided telling arguments for, and strengthened the hand of, the militant "anti-imperialist" elements in Moscow who did not believe in the possibility of a Soviet-American *detente*, and who tended to see in Vietnam just another link in the lengthening chain of American efforts to impose its will by force—as in Cuba in 1961, the Dominican Republic in 1962, in Vietnam in 1965 (and, to anticipate, in Cambodia in 1970). As one Soviet official privately summed up the continuing arguments in Moscow, over U.S. intentions, "We have not yet decided whether your actions in Vietnam prove that you are stupid or evil."

The debate has continued to this day; it is easy to imagine its script. In regard to Vietnam, some Soviet analysts found the conflict to be dangerous and detrimental to the Soviet Union; it imposed new strains on Soviet-American relations; it diverted Soviet resources from preferred uses; it impeded arms control agreements; it increased the risks of nuclear escalation; it propelled Moscow away from its own frail "liberalization" policy at home. Others, on the contrary, welcomed the American intrusion in the Vietnamese quagmire, which (they hoped) would produce American frustration and failure in the field, an alienation of America's friends and allies, U.S. neglect of Europe and the Middle East, multiplication of strains within the United States, and perhaps greater American flexibility in reaching agreements with Moscow so as to minimize the costs of the Vietnamese blunder.

For a time, the balance between these two orientations seems to have been fairly close. But in 1966 it tipped against "the worse, the better" crowd, and we can only guess that one of the major reasons was Soviet fear of a conflict with China. Perhaps the best indicator of the Soviet reorientation was the shift from the argument that no Non-Proliferation Treaty could be concluded while the U.S. was fighting in Vietnam, to the view that, whatever American behavior, the need for NPT and similar accords remained paramount.[10]

In this fashion Moscow managed, over the past five years, to improve its relative standing vis-a-vis both Washington and Hanoi—championing North Vietnam's integrity, stepping up Soviet economic and military assistance, but refusing to become directly involved in the fighting, not even sending military "advisers," and not committing itself to the survival or victory of the NLF in the South. But despite "business-like relations" with Washington, there can be no doubt that in the meanwhile the dominant Soviet mood and expectations regarding the United States had decisively changed, away from the rosy hopes of 1963–64.

The Soviet reassessment of American behavior and motives contributed to a harder line—and to a heavy Soviet commitment to a vast strategic-weapons program. To what extent this might have happened anyway, in the absence of an American involvement in Vietnam, we shall never know; in the event, Vietnam was unmistakably a significant input into Soviet recalculations.

Given also the frustrating limits to the Soviet ability to influence Hanoi, Moscow's peace-making initiatives soon dried up. Yet by 1968 Moscow clearly welcomed the suspension of American bombing of the North and the start of the Paris peace talks, and looked forward to an early end of the Vietnamese conflict which now promised to produce neither American nor Chinese hegemony in Southeast Asia. In 1969 the Sino-Soviet conflict became even more severe, with serious border clashes, a build-up of military power, and extravagant rhetoric on both sides. Last winter Soviet officials seemed to be genuinely concerned about modest American initiatives to open up a dialogue with Peking intended to lessen Sino-American tensions: typically, each of the three super-powers fears a coalition of the other two against it. After long hesitation, Moscow committed itself to the Strategic Arms Limitation Talks with the U.S. And Brezhnev broached the possibility of a collective security system in South and Southeast Asia which, under Soviet auspices and with Soviet assistance, would serve to contain China but would, more generally, permit Moscow to play a greater role in the area once both the American retrenchment and the British withdrawal from "East of Suez" became realities (a Soviet scheme that got nowhere fast).[11]

It is against this background that the recent Cambodian crisis must be read. The American move into Cambodia unhinged Soviet assumptions and expectations. It seemed to validate the worst fears and confirm the analysis of the most militant, die-hard, and ideologically-committed. It was bound to weaken Soviet influence in Hanoi and elsewhere in and out of the Communist world. And it permitted the Chinese to stage an unexpected comeback by championing an all-Indochina liberation war under Peking's sponsorship.[12]

Up to a point, the events repeated the trauma of 1965. They undermined, at least temporarily, the arguments of the Soviet experts on the U.S. who had taken the Nixon Administration (almost) at its word; had expected a genuine reduction of U.S. commitments in Southeast Asia; had accepted at face value the Administration's discovery that "international communism" was shattered forever and hence no threat to the U.S.; [13] had concluded that the U.S. was pursuing an essentially rational and predictable policy—a prerequisite for any effective arms-control agreement; and had (some of them) evidently pressed for Soviet-American contacts as if to prove them preferable to improved Sino-American relations. The position of such policy advisers in Moscow—diplomatic, academic, and journalistic—had already become more difficult in the months preceding the Cambodian events. Some analysts saw a peculiar hardening of American attitudes on Vietnam; [14] the ouster of Norodom Sihanouk was put at the door of the CIA; [15] U.S. involvement in Laos was widely reported as becoming more extensive and more overt.

But just as in 1965, the new American "forward" policy did not bring Moscow and Peking together again: for this, the rift was too deep. Just as on that earlier occasion, the crisis evidently obliged Moscow to explore the possibility of "united action" with Peking on behalf of their Indochinese comrades—probably without expectation of success.[16] Once again, the feelers failed, and by mid-May Soviet and Chinese attacks on each other were as bitter as ever.[17]

Unlike 1965, however, the effect of the U.S. initiative was to give Peking a great opening. Moscow suddenly realized that the Chinese had it over a barrel. Having once let Sihanouk proceed from Moscow to Peking, what could the Soviet government do? While Peking sponsored and recognized Sihanouk's exile regime (which some 18 states recognized), Moscow continued to maintain *de jure* relations with the Lon Nol government in Phnom Penh (as well as with the Royal Laotian government in Vietnam).

By following suit and endorsing Sihanouk, it would lend support to a Maoist maneuver; by refusing, it would lay itself open to charges of having "sold out" to the imperialists.

Perhaps the most bothersome ploy, to Moscow, was China's well-advertised sponsorship of the Indochina "peoples' summit" conference on April 24–26, which saw Chou En-lai hosting Prime Minister Pham Van Dong, of North Vietnam; Prince Souphanouvong, for the Pathet Lao; Sihanouk, now leading a Cambodian "united front" of both his former supporters and his former Communist foes; and the heads of the South Vietnam NLF and "Democratic and Peace Alliance." Moscow's influence in all the Indochina capitals was bound to be diminished as a result of its own passivity and the evidence that Peking was now prepared to play a more dynamic role.

While verbally bitter and sharp, Kosygin in his press conference on May 4 foreshadowed no Soviet retaliatory action against the U.S. Moscow was playing for time, wishing to assess the consequences of both American and Chinese initiatives before committing itself any further. No doubt, it was eager to see whether Cambodia was another aberration of American conduct or the harbinger of things to come; whether it would make the U.S. more inflexible or on the contrary more conciliatory elsewhere; whether dialectically the lastest American

Footnotes at end of article.

move would provoke greater counter-pressure for an American disengagement and non-involvement anywhere overseas.

Nor was there much Moscow could see itself doing without costs or risks to itself—perhaps underestimating the costs of inaction just when Washington had underestimated the costs of action. In the long run Moscow no doubt counts on the underlying fragility of the new Peking gambit. It banks on the centuries-old feuds between Vietnamese and Khmers, Vietnamese and Chinese, Cambodians and Thais;[18] on the unreliability of the erratic Sihanouk, who had so often in the past shifted position; on Hanoi's undoubted concern lest the Chinese gain too much leverage in Indochina at this stage. The Soviet leadership thus banks on the tensions both among Asian Communists and among (both Asian and non-Asian) non-Communists. For the present it must step up its aid and replace the weapons and supplies lost by the North Vietnamese, hoping that the Soviet-oriented wing in Hanoi will carry the day; but it may well find itself obliged to take more decisive measures.[19]

Thus far the Soviet Union has reacted with considerable restraint. In large measure this is because it means to keep its powder dry; because it has been uncertain about the meaning of the latest events (or else has been hearing divided counsel—which typically leads to inaction on its part); and because its options are severely circumscribed by its unwillingness to play into Peking's hand; for Moscow has clearly perceived (1) that the only ones to benefit from the American move to date (other than the Saigon regime) have been the Chinese Communists, and (2) that there is indeed reason to doubt the reliability, steadiness, and purpose of the United States.[20]

If, as has been reported (and as he implied in his television address of June 3) the President's calculus in going into Cambodia was in large measure to confer credibility to American threats and warnings, especially in Communist eyes, he has indeed proved his willingness to resort to force. But, predictably, the domestic and foreign reaction has made similar moves more "incredible" in the future. Moreover, by the invasion of Cambodia he has undermined the essential confidence in his oft-professed desire to move U.S. dealings with the Communist powers from confrontation to negotiation. It remains to be seen whether he has also double-crossed his own Administration's efforts to find a modus vivendi with Peking. In any event, he has meanwhile breathed life and credibility into the ludicrous Maoist image of the enemy, providing a better live target than Peking could ever have dreamed.

Were it not for the argument made by the White House, it would be belaboring the obvious to add that Soviet analysts would not have considered the U.S. a "second-rate power" if it had stayed out of Cambodia. Moscow reached no such conclusion when—despite Nixon's eager advice—the U.S. failed to go into Vietnam in 1954; its respect for the U.S. did not go up when it did, in 1965. Nor did the West think the Soviet Union more "second-rate" for failing to invade Yugoslavia after its break with Tito, or Finland and Iran when its designs were frustrated there. We would have thought more, not less, of it had it stayed out of Hungary in 1956 or Czechoslovakia in 1968. De Gaulle suffered no loss of prestige by yielding Algeria—which surely meant more to France than Indochina should to the United States.

Whatever the long-range consequences for the fighting in Indochina, the effects of the Cambodian adventure on the Communist powers are bound to be counterproductive. It will not bring Hanoi to the bargaining table. It again polarizes the international, as well as the domestic, environment, and is bound to reward the extremists and penalize the moderates, both among America's allies and among its adversaries. Though as yet invisible, there is bound to be a price Nixon will have to pay in U.S. relations with the Soviet Union, too.

FOOTNOTES

[1] Leonard Bushkoff, in *Problems of Communism*, Nov.-Dec. 1969, p. 53, reviewing Charles B. McLane, *Soviet Strategies in Southeast Asia* (Princeton, 1966).

[2] See, e.g., Anthony Eden, *Full Circle* (Cassell, 1960), ch. 6; Douglas Pike, *Viet Cong* (MIT, 1966), pp. 52–53; George McT. Kahin and John W. Lewis, eds., *The United States in Vietnam* (Dell, 1969), p. 45; Theodore Draper, *Abuse of Power* (Viking, 1967), pp. 38, 129.

[3] Dwight D. Eisenhower, *Mandate for Change* (Doubleday, 1963), p. 372.

[4] See Roger Hilsman, *To Move a Nation* (Doubleday, 1967); Arthur Lall, *How Communist China Negotiates* (Columbia, 1968); Adam Ulam, *Expansion and Coexistence* (Praeger, 1968), pp. 652–53.

[5] Ulam, p. 701.

[6] Donald S. Zagoria, *Vietnam Triangle* (Pegasus, 1967), pp. 46–53.

[7] The evidence is reviewed in Maury Lisann, "Moscow and the Chinese Power Struggle," *Problems of Communism*, Nov.-Dec. 1969, p. 34.

[8] Ulam, pp. 798–99.

[9] Alexander Dallin, "Moscow and Vietnam," *The New Leader*, May 10, 1965.

[10] See Thomas B. Larson, *Disarmament and Soviet Policy, 1964–1968* (Prentice-Hall, 1969), pp. 59–60, 132; and Zagoria, p. 57ff.

[11] *The New York Times*, Oct. 25, 1969; and Hemen Ray, "Soviet Diplomacy in Asia," *Problems of Communism*, March-April 1970, pp. 46–49.

[12] Until then Hanoi had been suspicious of Peking's advice to concentrate on defensive guerrilla warfare rather than frontal, "main force" war. Meanwhile North Korea had likewise moved closer to Peking again.

[13] In the words of President Nixon's "State of the World" message to Congress, after World War II "we were confronted by a monolithic Communist world. Today, the nature of that world has changed—the power of the individual Communist nations has grown, but international Communist unity has been shattered. Once a unified bloc, its solidarity has been broken. . . . The Marxist dream of international Communist unity has disintegrated." ("United States Foreign Policy for the 1970's: A New Strategy for Peace," February 18, 1970.)

[14] Similar fears were voiced, e.g., by competent non-Communist observers. See Philippe Devillers, "Perspektiven des Vietnam-Konflikts nach dem Tode Ho Chi Minhs," *Europa-Archiv*, 1970, no. 2, pp. 59–70.

[15] E.g., *Pravda*, March 25, 1970.

[16] The day after the American "intrusion," Mao Tse-tung had a "friendly" exchange with Soviet *charge d'affairs* Gankovsky at the May Day celebrations in Peking. Soviet Deputy Foreign Minister Kuznetsov returned to the Chinese capital on May 5, a fact which foreign correspondents in Moscow linked to the Soviet effort to coordinate aid to "neutral and Communist forces in Indochina"—a formula which, if correct, was bound to be unacceptable to Peking. In line with the Kosygin statement of May 4, Radio Moscow in Chinese appealed for "solidarity of all anti-imperialist forces" and called for "united action" in their support. If efforts to reach a new formula for "united action" were indeed made, they appear to have failed, as Sino-Soviet vituperation reverted to earlier levels by May 12–14. One correspondent reported from Vienna that "according to East bloc sources, [the Chinese] have so far rejected all. Soviet proposals—pressed anew after the invasion of Cambodia—seeking Chinese facilities and cooperation for the movement of supplies into Vietnam." (*Christian Science Monitor*, May 22, 1970; see also *ibid.*, May 5 and 19.)

[17] Moscow's detailed rebuttal of the Chinese attack on the Soviet leadership (on the occasion of Lenin's 100th anniversary, on April 21) included the charges that in all recent crises "the Peking leadership has invariably striven . . . to heat up the atmosphere even more, to push the world to war," and that China has invariably refused to act jointly with the "socialist commonwealth" and other "anti-imperialist forces" so as to give "coordinated rebuff to the forces of reaction and aggression"; indeed, that by showing the imperialist that it is not prepared to act together with the Soviet Union, Peking had encouraged the aggressors, as the latest events in Indochina confirmed. ("Lzherevoliutsionery bez maski," *Pravda*, May 18, 1970.)

[18] Moscow may have been heartened by the clever North Vietnamese remark, in an otherwise enthusiastic welcome to Norodom Sihanouk, that the unity and cooperation of the Vietnamese, Khmer, and Lao peoples must take place "on the basis of the principle that the liberation of a country is the undertaking of its own people." (Radio Hanoi, May 25, 1970.)

[19] On May 25, *Izvestia* carried the note which Soviet Ambassador Kudryavtsev delivered to the Phnom Penh government. After reminding the Cambodians that when they were neutral, they had peace, but that their present policy—and, in particular, their cooperation with the Saigon regime—invited civil war, the Soviet government declared that it would "make conclusions for its policy from the direction in which this [Cambodian] situation develops."

[20] One must assume that its fears were strengthened by the Ford Motor Company's rejection of the proposed construction of trucks in the Soviet Union after Secretary Laird opined that it was more expensive and difficult to destroy these trucks on the Ho Chi Minh trail than not to build them in the first place. Moscow is likely to have taken this as an indication of official American thinking about the likely duration of the war in Indochina.

THE GLEN ECHO, MD., RESCUE SQUAD

Mr. MATHIAS. Mr. President, the men of the Glen Echo Rescue Squad have devised a unique system to help save lives in their Western Montgomery County community. On the dashboard of every rescue vehicle in the town is a book containing information on residents who have special medical problems and who may need special treatment or medication.

Recently, this information contributed in saving the life of a boy who was injured in a fall. The report of this incident was carried by the Bethesda-Chevy Chase Tribune in an editorial commending the Glen Echo Fire Department for initiating this vital service.

I, too, wish to commend these concerned servants of the public and ask unanimous consent that the Tribune editorial be printed in the RECORD, so that other fire departments may initiate similar lifesaving services.

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

SAVING A LIFE

Recently the men stationed at the Glen Echo Fire Station went their appointed rounds, did their duty and may very well have saved a life. By their swiftness, efficiency, training and care they showed their worth.

A little boy had been seriously injured in

a terrible fall. The parents of this child credit the "extraordinary service" of the Glen Echo Fire Station with saving him.

The practice of this Fire Station in annually collecting information on invalids, specific health problems, new babies, and any citizen in their jurisdiction that may need special help paid off. It got young Kirk Simon to the hospital within minutes of his fall and started on emergency treatment 15 minutes before his parents could even get there. The hospital had been given valuable information about the youngster, who is asthmatic, and where his doctor could be reached. This special information is kept on the dashboard of every rescue vehicle in the station. It is a practice that other fire stations could take note of.

This week the County Council recognized the service of the Glen Echo firemen. We would like to commend them also. Public servants generally get more brickbats than bouquets. We'd like to take this opportunity to join Kirk's parents in a sincere tribute to Company No. 11 in Glen Echo.

REFORMING MILITARY JUSTICE

Mr. GOODELL. Mr. President, I had my first encounter with military justice as an Air Force JAG lawyer in the Korean war.

I encountered at that time many of the abuses that still exist. One abuse was command interference: when I successfully defended what my superiors considered to be too many cases. I was involuntarily switched to the role of military prosecutor.

Last year, one of my caseworkers brought to my attention some letters regarding San Francisco's Presidio Stockade. I conducted an investigation, together with my colleague Senator CRANSTON. We unearthed scandalous conditions that received nationwide attention: filth, overcrowding, suicides, wanton shootings, vindictive punishments meted to inmates who had protested what was happening to them.

As time went on another abuse came to my attention: The use of military courts to punish servicemen who dissent on the war. A glaring example of this—on which I spoke out—was the prosecution of Roger Priest.

Having become so deeply interested in these and other incidents, I should like at the present moment to state in more general terms the reforms I recommend for the military justice system.

I. THE PROBLEM OF COMMAND INFLUENCE

Perhaps the most pervasive evil in the military justice system is command influence—the warping of the objectivity of the system to suit the real or imagined wishes of the commanding officers.

SELECTION OF THE MILITARY JURY

The commander selects the jury in a military trial—known as "the court" in military parlance.

This procedure has serious disturbing influence.

If the commander wants a conviction he can "stack" the court against the defendant by selecting "right thinking" officers.

It will be easy for him to find "right thinking" officers because they are subordinates, who are dependent upon the commander for assignments, ratings, and promotions. The 1968 law contains language purporting to prohibit this form of influence, but it has proven wholly unenforcible.

Even if the commander sincerely intends to be fair, his authority casts a shadow over the proceedings. Officers he selects for the court are tempted to bend over backward to deliver a verdict which they imagine would please him.

The fundamental vice of the present system is the conflicting roles the commander assumes:

As the convening authority—the person who initiates the charges and the proceeding—he has the role, in effect, of chief prosecutor.

As the person who selects the members of the military jury, he determines who decides the facts.

This is analogous to having the district attorney choose the jury—and having each member of the jury dependent upon that official for his livelihood and prospects of promotion.

These defects are compounded by a provision in the Uniform Code of Military Justice that generally require the members of a military jury to be senior in rank to the defendant.

As originally interpreted, this provision meant all-officer juries. Then a clause was added guaranteeing that upon the request of an enlisted defendant, one-third of the jury should be enlisted men. In practice, however, commanders usually satisfy this requirement by choosing career sergeants—who tend to be, if anything, less sympathetic to low-ranking enlisted defendants.

The objectivity of juries so composed 'tends to be clouded—by the conflict between their desire as ranking military men to preserve discipline and their duty as jurors to decide the case on its merits.

The keystone of Anglo-Saxon jurisprudence—established eight centuries ago—is the randomly selected jury of peers. It is high time that this fundamental guarantee of fair trial be carried over to military trials.

A military jury should be selected in essentially the same manner as a civilian jury—by random selection in a voir dire proceeding.

Specifically, I propose the following procedure: From an installation's roster, a jury-duty list should be randomly chosen by the independent judicial clerk. The men listed should then undergo a question and answer process identical to the civilian voir dire. Each attorney should be able to challenge any potential juror for cause. He also should have as many preemptory challenges as have attorneys in civilian courts—not just one preemptory challenge, as military law now provides.

GRAND JURIES

The commander can exert the same excessive influence in the investigation of the charges as in the selection of the jury.

In military law, there is no grand jury. Instead, the investigation of the charges is made by an officer—usually not a lawyer—who is appointed by the commander.

The investigating officer examines the substance of the charges and then recommends their disposition to the convening authority. However, the convening authority can refuse to accept the recommendations, and force the officer to rewrite them, as happened in the Roger Priest case. Or, as in the Presidio cases, the convening authority can appoint a series of investigating officers until one finally returns the recommendations he desires.

Imagine how we could view a civilian parallel to this procedure: the prosecuting attorney dispenses with the grand jury. Instead, he appoints one of his subordinates, not a lawyer, to investigate. If that subordinate has the temerity to return with a recommendation he does not like, he can tell him to change it or can appoint a more pliable substitute.

The fifth amendment guarantees a grand jury for any capital or infamous crime "except in cases arising in the land or naval forces or in the militia, when in actual service in time of war or public danger". On its face, this would seem to imply that the grand jury requirement applies to military courts, too, except in the time of war or national emergency.

However, the Supreme Court has ruled—once in 1895 and once in 1959—that this requirement does not apply to our Armed Forces. Both rulings indicate that the requirement only applies to the militia.

Although not required under current Supreme Court interpretations, I see no reason why the fundamental procedural safeguard of the grand jury should not apply in military as well as civilian felony cases.

A grand jury list should be randomly chosen from the installation's roster by the independent judicial clerk. No military felony proceeding should be initiated unless the grand jury, after hearing the prosecutor's evidence, determines that the case meets civilian standards of probable cause.

I also recommend the establishment of an independent corps of investigating magistrates for nonfelony cases. These magistrates ought to be independent of the post commander. Their recommendations would be binding on the convening authority—so that if a magistrate finds the charges against an individual are without substance, the commander would have to accept this finding and drop the case.

DEFENSE LAWYERS

The problem of command influence extends to defense lawyers.

If a defendant cannot afford a civilian lawyer, a military lawyer is appointed. He, too, is a subordinate of the commander who convened the court-martial, and dependent upon him for ratings and promotion. This obviously can serve as a deterrent against his conducting an aggressive defense.

Again, the solution lies in creating a corps of military lawyers, independent of the commanding officer.

INDEPENDENT JUDICIAL COMMAND

A fundamental safeguard of the fairness and quality of civilian justice is the independence of the officials responsible for its administration.

This independence must be carried

over to the military. Military judges, the defense lawyers, magistrates, clerks, and court administrators should be members of an independent judicial command.

Each service has a JAG Corps. However, this corps is not truly independent, as its members—with the exception of military judges in general courts-martial—are assigned to individual bases, and are subordinate to the base commanders.

I recommend that the JAG Corps be converted into an Independent Judicial Command—IJC.

The IJC would operate on a circuit system, similar to our Federal circuit court system.

Each circuit would be responsible for deciding cases in defined geographical areas, consisting of several bases.

The IJC would have separate staffs of military judges, defense lawyers, magistrates, clerks and court administrators. These officials would be independent of the base commander. They would be responsible to and evaluated by the circuit IJC and the service IJC commander.

The only judicial officers who would continue to be answerable to the base commander would be the prosecuting officials—the post staff judge advocate and the trial prosecutors.

This system will assure a new professionalism in military justice. It will also assure a new sense of commitment—a corps of men who will devote their full energies delivering justice, not to deferring to the real or imagined wishes of base commanders.

II. PROCEDURAL PROBLEMS

There are several serious procedural flaws in the present military justice system, that must be corrected if justice is to be done in our Armed Forces.

I recommend that the defense have its own right to call any witnesses it wishes. The right effectively to present evidence should not be lost when someone enters the military.

SENTENCING

Where a court-martial is tried by a military judge and jury, the jury both tries the facts and determines the sentence. This is contrary to the practice in civilian courts, where the jury decides guilt or innocence, and the judge passes sentence. The military practice of having juries pass sentence creates the risk that the treatment accorded the convicted defendant will be more of a punitive than a rehabilitative nature.

PRETRIAL DETENTION

Pretrial detention is a concept much in the news today, and has just been adopted—over my opposition—in the District of Columbia crime bill. The Uniform Code of Military Justice provides for pretrial detention "as circumstances may require." This phrase allows such detention with virtually no limiting standards.

One abuse has been that pretrial detention has been unequally applied. Officers are rarely detained, even for grave offenses. Lower-ranking enlisted men are detained, even for AWOL and other minor charges.

The determination of whether or not to detain is ostensibly made by the arresting officer but in actuality by the commanding officer.

I recommend that a general right to bail be established in military criminal proceedings. Pretrial detention should not be the rule—but the unique exception where, according to the most narrowly defined standards, a demonstrable danger exists that the defendant would harm others if released.

CALLING WITNESSES

Essential to conducting a trial in which all sides of the case are heard is the right to call witnesses. It is through witnesses that the accused can establish his guilt. For this reason in a civilian trial, the prosecutor and the defense have the prerogative to call and present their own witnesses.

However, in a court-martial proceeding the defense does not have this prerogative. The prosecutor merely issues a subpena if he desires a witness but if the defense desires a witness, it must ask the prosecutor to issue the subpena. If the prosecutor refuses, the defense can appeal that refusal or conduct its case without the testimony of necessary witnesses.

I therefore recommend that the civilian practice be adopted, giving the judge—rather than the jury—the responsibility of determining sentence.

Moreover, the powers associated with sentencing—such as the granting of probation—should be a function of the military judge, not the commanding officer.

RELEASE PENDING APPEAL

Usually, convicted servicemen begin serving their stockade sentence while they appeal their convictions. If they are exonerated they do not receive credit for time served or any pay forfeited. If the conviction is upheld no credit is given for time spent in pretrial or posttrial confinement.

I recommend that if a defendant is exonerated on appeal, the time he spent in the stockade should be credited toward his date of discharge and all his backpay given to him. If his conviction is upheld on appeal, the time spent should be credited toward the completion of the sentence.

III. STOCKADES

For the past few years, there has been growing evidence of serious abuses in the military prisons.

The movie "The Brig" demonstrated the brutality that is standard fare in a Marine Corps prison. Articles have been written citing intolerable conditions in stockades from Fort Dix to Long Binh. The issue came to a head with the Presidio and Pendleton disclosures last year.

Public outcry led to the appointment of the Special Civilian Committee for the Study of the U.S. Army Confinement System. The committee's report was issued in May 1970. It is very worthwhile; I hope it will not join many other noteworthy commission reports, on an ignored shelf.

GUARDS

Presidio and other incidents revealed that stockade guards are shockingly untrained and ill supervised.

Some of the guards so often demonstrated brutality toward their prisoners that their mental stability was in doubt.

Th Civilian Committee report called in general terms for the Army to take "whatever steps are necessary be taken to insure that personnel are equipped—for the task of supervising and participating in the rehabilitation of Army prisoners."

I recommend these specific steps be taken.

First, guards should be subjected to psychological testing before being assigned to prison duty. Those manifesting mental instability or aggressive tendencies should be excluded.

Second, all guards should receive an intensive training course before being assigned to stockade duty. The worst abuses in Presidio, for example, were attributed to guards who had received no training.

In addition to initial training, there should be on-the-job training provided at each stockade by traveling instruction teams.

Third, guards should be transferred from one stockade to another in a normal rotation of duty. They should also be subject to psychological testing and performance evaluation every 2 years in order to ascertain whether the duty has adversely affected a man's ability to perform competently.

FACILITIES

A shortage of facilities has seriously eroded the quality of military prisons. Overcrowding is common and—in the worse stockades, like Presidio—sanitary facilities and other basic amenities are lacking.

It is imperative that the armed services undertake a major program of stockade modernization and construction.

MENTALLY ILL PRISONERS

Recent investigations show that many military prisoners are mentally unstable, yet only those deemed "psychotic" are removed from stockades. Many of the suicides that occur in the stockades are attributable to this practice of incarcerating those in need of psychiatric help.

I recommend that all prisoners should be given psychological tests before they are interned. Mentally ill patients should not be incarcerated in stockades. They should be subject to commitment to hospitals in a similar manner and with similar procedural safeguards as now obtained for civilian defendants.

INDEPENDENT CORRECTIONAL COMMAND

I recommend the establishment of an Independent Military Correctional Command—IMCC.

The IMCC should administer all military prisons.

It should be directed by trained officers and civilian penologists.

It should make extensive use of trained civilian field personnel to assist in the management of stockades and the supervision of guards.

It should operate a correctional training academy, which would train all stockade personnel. The academy should also be responsible for followup testing and instruction, and develop pilot programs of job training and rehabilitation.

Specialized personnel, such as counsellors, social workers, psychiatrists, and extensive medical services, should be part of the command, and such personnel should be associated with each stockade.

The command should operate independently of local base commanders.

IV. SUBSTANTIVE LAW

In civilian life, the criminal law is chiefly designed to prevent individuals from intentionally injuring others. It is not used to assure the effective performance of an individual's work.

Military law is different. It is designed to preserve military discipline, not merely to safeguard others. Conduct which interferes with effective performance of military duties—disobedience, desertion, and negligence—is therefore made punishable although there is no equivalent crime in civilian life.

Yet, even judged by the standard of preserving discipline, there are some serious flaws in some of the substantive provisions of military law.

VAGUE STATUTES

In military as in civilian law, the Constitution requires that criminal statutes must be sufficiently precise to give individuals an intelligible guide for their conduct.

Two provisions of the Uniform Code of Military Justice are so vague as to be virtually unintelligible.

Article 133 provides that any officer who is convicted of "conduct unbecoming an officer and a gentleman" shall be punished as a court-martial may direct.

Article 134 provides that "all conduct of a nature to bring discredit upon the Armed Forces" is punishable.

The evident purpose of these sections is to proscribe, in some general way, conduct that is inimical to Army discipline.

Elementary fairness—as well as the U.S. Constitution—requires, however, that even statutes designed to preserve discipline be written in a way that is precise enough to place individuals on notice as to what specific activities would violate them.

These catch-all provisions must be repealed.

FREEDOM OF EXPRESSION

Some limitation of expression is required by the exigencies of military life.

Disrespectful behavior that directly interferes with the performance of military duties—such as willful disobedience to an order in the line of duty—is properly in the ambit of military law.

Expressions of personal political belief, however, are clearly beyond the proper reach of military discipline. Political freedoms do not end when a person dons a uniform.

Yet the Code of Military Justice seeks to regulate political expression. One blatant example is Article 88, which makes it punishable for a serviceman to use contemptuous words against the President, Vice President, or Congress.

Provisions of this nature should be dropped from the code.

LEGALITY OF ORDERS

The Code of Military Justice makes the disobedience of "legal" orders punishable.

Yet it makes the murder of civilians or other war crimes punishable notwithstanding the fact that they were perpetrated pursuant to an "illegal" order.

The code makes no attempt to distinguish "legal" from "illegal" orders. Thus it gives virtually no guidance to the soldier in the field, faced with a decision on how to respond to an order to take reprisals against civilians.

It is essential that the code spell out criteria defining the circumstances under which an order is presumptively illegal.

Mr. President, military justice must be real justice—not just the ritualized prelude to punishment.

In uniform as out of uniform, when a man's liberty is at stake, he is entitled to the firmest guarantees of a fair trial under fair laws.

WHY THE BUFFALO RIVER, ARK., SHOULD BECOME A NATIONAL RIVER

Mr. FULBRIGHT. Mr. President, almost a year ago the Senate passed a bill which would make the Buffalo River in Arkansas a national river. The bill still awaits action in the House, although I am hopeful that it will be approved before the conclusion of this session.

More and more people across the country are becoming aware of the attractions of the Buffalo, which the Department of the Interior has called "one of the country's last significant natural rivers."

The Buffalo was the subject of a lengthy article written by Fred P. Graham and published in the New York Times of August 9, and a major article written by Robert F. Jones and published in Sports Illustrated of August 10.

The article in Sports Illustrated, illustrated with a number of color photographs, reports on a float trip on the Buffalo made by artist Thomas Hart Benton and some friends. Mr. Benton is quoted as saying:

If every American could run the Buffalo just once, the way we did today, then I think our rivers would be beyond the reach of trouble.

Mr. Benton has a long acquaintance with the river. Nearly half a century ago in his autography, "An Artist in America," he wrote during a float trip down the Buffalo:

There is something about flowing water that makes for easy views. Down the river is freedom from consequences. All one has to do is jump in a skiff at night and by the morrow be beyond the reach of trouble . . . This is an old and beloved sport of the country.

Both of these articles give a good indication of why the Buffalo should become a national river.

Mr. President, I ask unanimous consent that the New York Times article be printed in the RECORD.

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

DRIFTING DOWN ARKANSAS' RIVERS, BUSINESS BARONS BECOME HUCK FINNS

(By Fred P. Graham)

CALICO ROCK, ARK.—They come from such far-flung points as Santa Barbara and Baltimore—sometimes in expensive private planes—to loll in little, flat-bottomed boats drifting aimlessly down the clean mountain rivers of Arkansas, as their fathers did when hard times made Huck Finning in the Ozarks the only vacation many Arkansans could afford.

Evenings they can be seen lounging in portable captain's chairs on gravel bars along the rivers, mixing their martinis below high stone bluffs.

Some float the rapids and quiet pools in tax-deductible comfort, as professional guides pilot johnboats bearing them and sometimes their business clients downstream on float-fishing safaris. Others navigate their own canoes, stopping occasionally to fish the most promising patches of water or to swim and eat along the deserted shores.

The styles differ, but they are all part of a renaissance in floating the mountain rivers of Arkansas—a renaissance born of nostalgia.

Forty years ago, when the Depression made travel unthinkable, the men of Arkansas discovered two rivers—the narrow, crooked Buffalo and the broad, swift White—in the blunt Ozark mountains, 100 miles due north of Little Rock, and thereby found a Huckleberry Finn style of vacation that was cool, lazy and inexpensive.

FLOATING AND FISHING

For as little as $5, a man could buy an oak-planked scow that would be simply discarded at the end of his voyage. For even less he could rent a johnboat which the owner would later pick up downriver. Drifting along, he could hook enough smallmouth bass, perch, catfish and bullfrogs to eat well, and, of course, he would pay nothing for nights spend on gravelly sandbars.

At the unhurried rate of 15 miles a day, it was a five-day float down the White River from Cotter to Batesville, and about the same down the Buffalo River from Ponca or Pruitt to its junction with the White, and on down to Shipp's Ferry, the first landing downstream.

It was a pleasant way for a man to spend a week with his brothers and cousins (in those days women were never invited but many have recently become avid floaters), and it became an annual event in many Arkansas households.

River-floating has changed since the days of the five-dollar scow. Like change and progress elsewhere, the blessings are mixed.

The simple joys of floating the river have been packaged so efficiently into float-safaris by commercial float-fishing businesses that it has become a part of corporate expense-account entertaining. About a dozen docks in the upper reaches of the White River offer these trips, which make it possible for the untutored vacationer with no skill or equipment to float downstream for up to five days in comfort and safety, with a strong likelihood that he will catch lots of fish.

COMMISSARY AHEAD

Each flat-bottomed johnboat carries two fishermen, who sit in captain's chairs, placed forward and center, and a guide who sits on a wooden thwart in the stern and steers. For each two or three johnboats there is a commissary vessel that chugs ahead with food and camping necessities.

When the floaters round a bend at noon or at dusk, the cook has a big tarpaulin stretched beside a table on one of the numerous gravel bars. An 18-inch skillet is on the fire ready to fry newly-caught fish, and all the trimmings for a sumptuous meal are nearby. Cots are set up for sleeping under the stars.

The commissary-boat setup is flexible, allowing float party groups to be expanded as additional commissary boats and their satellite johnboats are tacked on. Because the gravel bars are often quite long, a fleet of boats can spread out over the river for fishing during the day and gather at one spot for some convivial camping in the evening. So successful have such group outings been that a number of businessmen have taken to float-fishing as a way of entertaining clients. One corporate float trip several years ago included more than 60 guests, and several large businesses send parties each year. An advertising executive from St. Louis floated

the White River 11 times last year, showing clients a good time.

COPING WITH DRINKERS

The presence of high-powered tycoons along the rivers of Arkansas has led to some heavy drinking as well as avid fishing, but the guides are catching on to the tricks of that, too. "Fellow gets too much liquor in him and he'll always try to stand up in the boat," an old hand explained recently. "I just nudge the boat on a rock and he goes over the side. That cold water takes it out of him."

The Hurst Fishing Service in Cotter, with 20 guides, is the largest of the local float-fishing outfitters and the one that handles most of the large parties. But many groups include only two to six fishermen, and there are several outfitters who handle trips of this size, among them the Cotter Trout Dock and Pace and Watson Fishing Services in Flippin and Rose Fishing Service in Norfork.

The cost is $36 per day for each fisherman if there are four or more: $46 per day for three or less. This price includes everything—boat, guide, equipment and food (not drink)—except the price of a fishing permit ($3.50) and the purchase of a few lures that the river fish are known to like.

MIXED BLESSINGS

Most of the modern-day amenities are unarguable improvements over the five-dollar scow, but the outboard motor does detract from some pleasures that came with drifting with the current. Now, a guide may motor upstream several times to drift back through productive stretches of water, or chug downstream through a lean area to reach better waters. This practice increases the chances of catching fish, but it also punctures the sensation of being a part of the river and frightens away wild animals that might otherwise be seen along the banks.

On a recent trip, nevertheless, one fisherman caught sight of beaver, muskrat, red and gray squirrel, mink, whitetail deer, raccoon, and a dozen huge blue heron as they flapped noisily about their nests in a sycamore tree. Also on view were ugly-looking cottonmouth moccasins, leather-back turtles as big around as volleyballs, and huge bullfrogs so imperturbable they could have been shot or gigged with ease.

Of the two Ozarks rivers suitable for float fishing, the White sharply reflects the encroachments of civilization while the Buffalo, at least for the present, is practically unchanged since the first Indian tribes moved into the caves along its bluffs thousands of years ago. The banks of the Buffalo are still so desolate that it is possible to float for days there without seeing anyone except other fishermen. The high bluffs and thick growth along the shore give the area a primeval look, and the water is so rich with life that the state does not trouble to stock it with fish.

It is not a James Dickey-style wild river with perilous rapids, and yet in places the water is swift and tricky enough to make for interesting floating. On a recent day a group of 20 canoes, paddled by young and noisy beginners, approached a chute where the Buffalo narrowed to a width of 10 feet and slid down a steep, 100-foot incline. In the chute, the first canoe swamped and then the others began to pile up on it; in a few moments only three canoes were still upright.

"Considered for size, for completeness, and for wild qualities," says a United States Department of the Interior publication, "the Buffalo is one of this country's last significant natural rivers." The Buffalo has managed to remain unpolluted and unexploited because the region of the Ozarks it traverses is so poor it is almost deserted. But the very remoteness of the river has begun to attract people, and a tug-of-war between commercial interests and conservationists is taking place.

Most of the local people want to leave the river as it is, hoping that it will not attract enough traffic to inspire landowners along the shore to become innkeepers and bartenders. But there have been some signs already that this is wishful thinking. Several years ago a landowner who owned land on both river banks stretched a fence across and tried to charge a toll for each floater who wished to pass. There was some fistfighting and pistol-brandishing before the fence came down.

CONSERVATION OR CONGESTION

To head off commercial exploitation, the United States Department of the Interior wants the Government to purchase generous strips of land along both banks—almost 100,000 acres in all—to preserve the Buffalo as a national river. That would guarantee that the shores would become campsites and not subdivisions, but many local Arkansans fear that by building roads and tourist facilities the Government would invite the congestion that no one wants.

For the present, anyway, floaters have the best of both worlds.

The people who own the shores have not yet figured out entreprenurial schemes that would make it profitable to defile the river, and there is no government to say that you cannot fish, camp, shoot, drink or swim naked wherever you wish.

There is a benign lawlessness along the Buffalo River that is its special charm. A curious squirrel is likely to end up in a skillet, in or out of season, and a fearless beaver may expect to have someone sharpen a round or two near the swimmer's tail. If there are any legal restrictions on where people can camp, they are ignored.

The White River, in contrast, lost its innocence many years ago. It is a broad, swift river, big enough to handle sternwheelers—as it once did.

The river's banks are lined with the same species of sycamore, sweetgum, willow, elm and birch that grow along the Buffalo, but the banks of the White have pastures beyond the thin band of trees.

The important change in the river came about when Bull Shoals Dam near the Missouri line was completed in 1961. Its eight turbines, at the base of the dam, suck the coldest water from the bottom of Bull Shoals Lake and spew an unnaturally chill trout river into the sweaty hills of Arkansas.

The result is an ecological curiosity that combines astounding trout fishing with the vaguely unsettling sensation of floating a river that has been refrigerated by man.

Visitors like to float the White River in the spring or fall, when the river temperature is in the low forties and Arkansas weather is still in the bearable low eighties. But trout can be caught all through the summer in the river, which stays so cold that on most warm days fishermen cast their lures through fog until mid-morning.

The cold water drove out all the indigenous fish except a few smallmouth bass, but it created a river so full of trout that the most fumbling beginner can catch his or her limit—six a day, not counting those you eat—and many of which would be called whoppers in other waters.

The basic fishing method is casting and retrieving large, shiny silver or gold-plated metal lure which is almost half the size of a trout that a Northern fisherman would keep. This lure produces some trout catches that would be big enough to be respectable on a deepsea fishing trip. The record brown trout caught so far from the White weighed 25 pounds and was almost as big around as a wrestler's thigh. The largest rainbow was 15 pounds 3 ounces.

LURING THE RAINBOWS

When the big trout aren't biting, the smaller ones are sought, either by casting large gold spinners or by drifting with the current and trolling worms or artificial caterpillars with spinners. It is not unusual to catch three-pound rainbows by trolling, but the average is between one and two pounds. When all else fails, the White River angler usually swallows his pride, baits his hook with ordinary niblet corn from a can and catches as many 10-inch rainbows as the law allows.

Catching so many trout is unreal, and it is done at the cost of a vague sense of unreality that accompanies the floater down the river. In addition, the water level rises and drops at erratic hours as the turbines run and stop, and campers are occasionally awakened at early hours and sent scrambling to higher ground when the river submerges their gravel bar.

To a man, the river guides prefer to float the Buffalo, yet they appreciate the sure-fire trout fishing of the White, which always sends tourists home satisfied. They lament that some of the nostalgia of river floating has been lost in the changes that have overtaken the White, and they look with apprehension at signs that change is coming to the Buffalo, too.

HOUSE PASSAGE OF EQUAL RIGHTS FOR WOMEN AMENDMENT: FIRST STEP TOWARD RATIFICATION OF POLITICAL RIGHTS OF WOMEN TREATY

Mr. PROXMIRE. Mr. President, House passage of the equal rights of women represents a major milestone in the battle for equal treatment of women. This amendment had been introduced for 47 consecutive years in the House. For 26 years both parties in their political conventions have endorsed it. Finally the House has approved it. It represents a major victory for women's rights advocates and should be a clear signal to the Senate that it is time for positive action on the treaty which will guarantee the political rights of women.

Women have made it increasingly clear in recent months that they will not accept unequal treatment. They refuse to be treated as second-class citizens. Most recently a great deal of attention has been placed on equality in employment. Women are demanding equal pay scales with men and equal advancement opportunities. On every front, women are pressing for the same rights which men enjoy.

Political rights are one of the most important areas in which women deserve the same advantages as men enjoy. It is not enough to merely guarantee women the right to vote. They must be assured of the full panoply of rights which men enjoy in this area. Passage of the Equal Rights for Women Treaty will accomplish this on an international scale.

Action on this treaty is long overdue. Like the amendment to guarantee equal rights for women, it has been bottled up for years. The time has come to take action on it. The passage by the House of the amendment to guarantee equal rights for women should be a clear indication to the Senate that passage of the women's rights treaty is long overdue. Let us move swiftly toward the consideration of this important treaty.

THE ABM VOTE A SIGNAL TO MOSCOW

Mr. PEARSON. Mr. President, yesterday the Senate rejected the Cooper-Hart amendment by a vote of 47 yeas to 52 nays. The amendment would have limited

the "momentum" of the ABM program beyond the limits already placed on its expansion by the Senate Committee on Armed Services. The administration had opposed any further limitation on the expansion of the ABM under the assertion that progress for this program was needed as a "bargaining chip" with the Russians at the SALT talks.

This morning's Washington Post contains what I consider a very good "news analysis" by Post Staff Writer Chalmers Roberts. In his first paragraph, he interprets this Senate vote as sending "a message to Moscow offering a choice of a SALT agreement or of a continuing strategic nuclear arms race." In my opinion, as evidenced by my statement and vote of yesterday on the Cooper-Hart amendment, this is a very thoughtful interpretation.

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

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

ABM VOTE IS SIGNAL TO MOSCOW

(By Chalmers M. Roberts)

The Senate voted yesterday to send a message to Moscow offering a choice of a SALT agreement or of a continuing strategic nuclear arms race.

This was the essence of the 52-to-47 vote rejecting the Cooper-Hart amendment, which would have limited the "momentum" of the American Safeguard ABM program that the Nixon administration has sought as a "bargaining chip" at the SALT talks.

The Vienna phase of those talks will formally end on Friday. Word of that came yesterday after Moscow sent to its delegation the approval of the projected communique. That joint Soviet-American statement will say the two sides have made progress in considering how to curb the major components of the strategic nuclear arms race and that they will meet again in Helsinki in an effort to reach a formal agreement.

Ironically, the closest thing to a statement of just what is in the administration's mind in pushing the "bargaining chip" argument came on Tuesday from a senator who yesterday voted for both Cooper-Hart and for the Hughes amendment, also defeated, which would have halted all work on Safeguard.

Without revealing his source, Sen. Jacob Javits (R-N.Y.) said that "it has been explained to me that the Soviet negotiating team represents a coalition of interests having diverse reasons for wanting a SALT agreement. It is said that the Soviet negotiating coalition is a delicately constructed one and that the element representing the military is the most reluctant and suspicious element.

"The group representing the Soviet Union's military viewpoint is said to be interested primarily in halting the development of an American ABM system. Presumably—using the 'worst case' war-gaming approach—the Soviet strategic planners place a higher efficiency factor on Safeguard's capabilities than our own scientific community does.

"Accordingly, it is contended that the Soviet military component, which is prominently represented in the Soviet negotiating team, might lose interest in achieving a SALT agreement if the Safeguard system is killed off in the Senate. The defection of the Soviet military element could disrupt the delicately constructed Soviet negotiating concensus and thus jeopardize an agreement otherwise desired by other elements of the Soviet hierarchy."

All this, indeed, fits the verdict of those who have patiently labored at the Vienna conference. The Soviet military representatives have clearly been the hard-nosed parties in the Kremlin's delegation. The foreign office and scientific members of the delegation have seemed far more willing to come to terms with the United States.

Much has been written, but little is really known, about the power of the Red Army marshals on the decision making by the Politburo, which has no military members. That the marshals have much influence is beyond doubt, but how much is crucial in relation to SALT and a lot of other problems, too.

The American aim is to build a SALT deal around a swap of Safeguard for a ceiling on the massive Soviet SS-9 missiles. So far, the Kremlin has yet to give an OK to limit the SS-9s or at least it has not let the American delegates know whether it has.

There continues to be here a lingering feeling that some Red Army marshals, and perhaps some Kremlin ideologues as well, want to go beyond the rough nuclear parity the Soviet Union now has with the United States and try for out and out superiority.

A recent report by Georgetown University's Center for Strategic and International Studies raises this question, asking whether a significant element in the Soviet leadership thinks superiority is a feasible goal "and that its achievement will transfer the initiative to Moscow and bring about a reversal of roles between the two global powers."

It is for these reasons that the administration last night was glowing at the defeat of Cooper-Hart and was hoping that Sen. Edward Brooke's amendment also will be defeated.

Thus, if Safeguard comes through Congress unscathed (except for elimination of the anti-Chinese area defense section), the men in the Kremlin will have a couple of months to decide among themselves just how determined the Americans really are in offering either a SALT pact to curb the arms race or an unlimited escalation into a new generation of costly weapons systems.

THE BERLIN WALL

Mr. BAYH. Mr. President, men who covet independence and freedom will always look upon this day with sorrow.

Well do I remember my own feelings of shock when I read, 9 years ago today, of the erection of the Berlin wall. I was dismayed that Germans who lived in the east sector of the city were to suffer greater indignities and more severe privations than was already their lot under the Soviet-dominated government.

The free world was shocked that any government found it necessary to build a wall to keep people in—not to keep intruders out.

No one who has been to Berlin and viewed the wall can leave without a deep feeling of sadness, because we all know there is no such artificial division in the hearts of the people of the two Berlins.

Impregnable as the wall seems to be, however, some East Berliners have managed to escape to freedom. But our hearts go out to the families of the almost 100 who have been shot down in attempted escapes.

Mr. President, we must not forget the people on the other side of the wall. We must not diminish our efforts to help them regain their freedom, so that once again East and West Berliners together can say, "Ich bin ein Berliner."

THE CRITICISM OF VICE PRESIDENT AGNEW

Mr. GURNEY. Mr. President, we have a good deal of extraordinary and shotgun criticism of Vice President AGNEW in recent weeks. Mr. Arthur Schlesinger gave us his outlandish portrait of Vice President AGNEW in the Sunday New York Times several weeks ago. It was a poison-pen piece, but it was at least predictable. Arthur Schlesinger's problem, as Eric Hoffer pointed out some time ago, is that he has to live with himself, and that experience must be a terrible cross to bear.

Of all the unfair and invalid criticism leveled at Vice President AGNEW, the most noteworthy criticism comes from the former Vice President, the Honorable Hubert H. Humphrey. In his March 16, 1970, column, Mr. Humphrey said, for instance:

The Nixon Administration, especially through Vice President Agnew, seems more intent on polarizing the American people. The Vice President is quick to pin labels on others, to use harsh language, ridicule those who do not agree with him.

I am indebted to the National Review for some of Mr. Humphrey's earlier utterances which I shall quote now. We all recall the outrageous conduct of the anarchists who tried to disrupt the Democratic Convention in Chicago 2 years ago this month. During the 1968 campaign, Mr. Humphrey was constantly harassed by these same militants, and he let us know how he felt about these hecklers and malcontents:

Humphrey told the 3,500 persons who remained at the rally that the protesters, most of them young, were "Hitler-types, storm troopers."—Story in the Philadelphia *Bulletin*, September 25, 1968.

Later, as war protesters chanted at the rear of the crowd, Humphrey drew cheers when he criticized "extremists and those who chant as if they learned it by rote, but think not."—Story in the Philadelphia *Bulletin*, September 9, 1968.

Vice President Humphrey told a group of college students today that a lot of antiwar activity is "escapism" by those "who don't want to go out and to work about problems in this country."—AP story in the *New York Times*, August 14, 1968.

The Vice President chose this ultra-conservative state (Utah) yesterday to excoriate the hecklers who have plagued his campaign. He labeled them extremists, followers of Nazi philosophy and enemies of America. . . . Humphrey charged that the antiwar hecklers are part of a disciplined group intent on destroying "our democratic society as we know it." . . . Speaking at a Boston rally . . . he called them "mean anarchists . . . filled with hate, bitterness and bigotry." Article in *Newsday*, October 12, 1968, about Humphrey and his hecklers.

So much for pining labels on "those who do not agree with him."

It is perfectly clear, I think, that Vice President Humphrey was justified in his criticism of these same anarchist elements in 1968. That fact makes his current criticism of Vice President AGNEW that much more unfair and ill-advised. Former Vice President Humphrey has reason to know better, and those of us in the Republican Party who, though differing with him, admire him personally, feel let down by Hubert Humphrey's re-

sort to ad hominem attacks on SPIRO T. AGNEW.

SENATE SHOULD ACT QUICKLY ON EQUAL RIGHTS FOR WOMEN

Mr. McGOVERN. Mr. President, constitutional amendments are a serious business and deserve the serious attention of Congress. Constitutional amendments have served two purposes historically. They have sought to remedy imperfections in our constitutional machinery, as did a recent amendment limiting the successive terms of office to which a President is permitted. And they have been used to guarantee or extend the liberties and rights of our citizens. Of the first type of amendment we have a few examples, thanks to the intelligence and foresight of our constitutional architects. The second type is more familiar. It was the genesis of our Bill of Rights, the instrument by which our black citizens were emancipated, and the means by which half of our population, whom our forebearers ignored in defining full citizenship, were enfranchised. The proposed amendment guaranteeing full equality of rights under the law for women, so ably guided through the House by Representative MARTHA GRIFFITHS, of Michigan, is in the tradition of constitutional amendments seeking to expand and guarantee essential liberties.

It is startling to realize that just 50 years ago, women did not have the right to participate in Federal and most State elections. The United States in 1920 was among the first nations to enfranchise female citizens. Women did not acquire full voting rights in Britain until 1928, and in France until 1945. Today in the most ancient and venerable of republics, Switzerland, women still are denied the right of suffrage.

In 1869 the Woman Suffrage Association was founded by Susan B. Anthony and Elizabeth Cady Stanton to encourage Congress to enact what was to become the 19th amendment. It took that movement 51 years to succeed.

We are now in the 47th year of debate on the corollary amendment to woman suffrage, an amendment guaranteeing women the equal protection of the law. That it should have taken us so long to come to grips with an issue of this importance is inexcusable. The Congresses which lingered 51 years over the original suffrage proposal had at least the excuse of public (in those days mostly male) antipathy. This is an excuse which for us is invalid. For 26 years this proposed amendment has had the consistent support of the platforms of both our major political parties.

Mrs. GRIFFITHS has made a convincing case, which will persuade anyone with lingering doubts about the legal disabilities which handicap women. For my part, I would like to draw your attention to a serious area of discrimination based on sex of which I have special knowledge, the virtual exclusion of women from the councils and conventions of our major political parties. My own Democratic Party has not been free from remission in reconciling policy and performance. The Commission on Party Structure and Delegate Selection, of which I have the privilege to be chairman, discovered in its investigation the disappointing fact that women, although they comprise more than a majority of our Nation's voters, filled only 13 percent of the delegate positions at the 1968 Democratic National Convention. In 10 State delegations women were insufficiently represented to fill the four places traditionally reserved for them on the convention's permanent committees. In one large Democratic delegation only six of 116 places were filled by women. Only one State's delegation was headed by a woman.

Consequently, our Commission adopted as a mandatory party guideline the following:

> The Commission believes that discrimination on the grounds of age or sex is inconsistent with full and meaningful opportunity to participate in the delegate selection process. Therefore, the Commission requires State Parties to eliminate all vestiges of discrimination on these grounds. Furthermore, the Commission requires State Parties to overcome the effects of past discrimination by affirmative steps to encourage representation on the national convention delegation of young people and women in reasonable relationship to their presence in the population of the State.

I am confident that by 1972 this guideline will have been incorporated in the practices of each of our Democratic State parties and perhaps may serve as an example to our distinguished opposition party.

I commend Mrs. GRIFFITHS for the able leadership she has given this long overdue and necessary amendment and urge my Senate colleagues to hasten its passage. The case for equality for women is so clear that we ought to move without any further delay to passing the amendment in the form which was given such overwhelming support in the House.

CRITICISM OF THE FBI

Mr. GURNEY. Mr. President, I ask unanimous consent to have printed in the RECORD an article written by Mr. David Lawrence and published in the Washington Star of August 11, 1970.

As we know, the Federal Bureau of Investigation has been subjected to an unmerciful barrage of criticism from the radicals in our country. The criticism is completely unwarranted and irresponsible, in my judgment. A recent poll indicates that the FBI has diminished in esteem, particularly among easterners, college-educated people, and young people generally. Mr. Lawrence attributes this sorry development to what he calls a smear campaign directed at the Bureau and Director Hoover by youth groups and so-called antiwar groups. If the poll is correct, it is most unfortunate. However, it is well to note that even though this particular poll shows a decline in the "favorable rating," the poll still shows that 71 percent of the American people still—nearly three-fourths—still regard the FBI as first rate.

I associate myself with Mr. Lawrence's statement that the FBI continues to be "the most effective agency related to law enforcement in the world today."

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

FBI THE TARGET OF SMEAR CAMPAIGN

(By David Lawrence)

The Federal Bureau of Investigation is perhaps the most effective agency related to law enforcement in the world today. It is at the same time the victim of more barbs of hate and criticism from the so-called "liberal" group than any other part of the government.

A Gallup poll, therefore, which has just been issued is significant. It shows that the favorable rating of the FBI by the public has declined from 84 percent in December 1965 to 71 percent today. This can be attributed largely to the attitude of the younger respondents, and is doubtless due to the antiwar and youth groups which have made the FBI a special target in their criticisms of the "establishment."

As a matter of fact, the FBI carries on investigative work where there are violations of federal law and crimes across state lines. It simply gathers information and reports findings to the Department of Justice or to state or city agencies which might use them. Many an important criminal has been caught as a result of the data collected by the FBI.

Interestingly enough, the Central Intelligence Agency, which does not operate in this country but investigates certain American interests in foreign countries, is also the object of attack and scorn. It has long been the custom for some of the people who would ignore the law to denounce both the FBI and the CIA and to give the impression, especially to young people, that these agencies are possessed of evil motives and are engaged in improper practices.

But all the prosecuting attorneys and officers who are familiar with what these two agencies do for the federal government in collecting data about criminals and their activities know that, except for the skill of the agents who come up with information that helps to catch and indict many a wrongdoer, a lot of guilty persons would have escaped punishment.

The FBI has a considerable influence on the police systems of this country and plays an important role in the methods of training police officers. It collaborates often with state and city authorities who seek advice and counsel on how to improve law-enforcement agencies.

The change in the Gallup poll ratings from 1965 to 1970 is not really noteworthy except that it indicates the continuing effects of smear tactics. Many of the younger people believe the reports they are hearing about the FBI, even though there is really nothing on which to base them.

The FBI was established in 1908, but it was not until it was reorganized and J. Edgar Hoover became chief of the bureau that the agency began to be a model of efficient operation. The bureau maintains a total abstention from all political affiliations or entanglements, and not only follows closely the instructions given by each attorney general but carries on a good deal of work on its own initiative in order to collect valuable information about crime and subversion in America.

Hoover has been the head of the FBI since 1924. He rarely gives interviews or makes appearances in public. He keeps out of the political controversies of the day. But he is the object of bitter denunciation by groups which have lately been showing defiance of law and order in America.

The FBI gathers information to guide its own agents in being at the right place at the right time in order to catch criminals who are fugitives from justice. It is one of the remarkable achievements of the bureau that, over the years, some of the most dan-

gerous of the criminals may have for a while escaped capture, but in the end found themselves in the hands of the FBI.

The police departments of states and cities have confidence in the FBI, cooperate with it and employ its help in ferreting out criminals, especially those who have fled from their jurisdiction. The FBI does not participate in any of the decisions as to whether a case shall be prosecuted or abandoned, but leaves such matters to the attorney general or the solicitor general to determine.

All this is why the FBI has achieved its reputation for fairness, efficiency and nonpolitical involvement as an information-gathering agency for the federal government.

PRESS STILL SPEAKS OUT AGAINST DISTRICT OF COLUMBIA CRIME BILL

Mr. HART. Mr. President, several weeks ago during debate on the District of Columbia crime bill, those of us opposed to the dangers in that bill were joined by many voices in the Nation's press and other news media.

They emphasized that the rights of all Americans were threatened by the passage of the bill, not only the rights of District residents. Although the bill has now become law, these public voices of concern are not stilled. A recent editorial in the Mining Journal, a leading Michigan newspaper, warns of the danger posed by the bill to all of us, should its provisions be extended throughout the Nation.

The Journal reminds us again that—

If the D.C. Crime Bill were to become a model for the Nation as a whole, the United States would have foresaken some of its precious liberties.

I hope the able Senator from North Carolina (Mr. ERVIN), whose persuasive efforts to defeat the District of Columbia crime bill failed, will draw satisfaction from this proof that his efforts have alerted the country.

Mr. President, I ask unanimous consent that the August 4 editorial of the Marquette Mining Journal be printed in the RECORD.

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

THREAT TO FREEDOMS

"Excessive bail shall not be required," states the Eighth Amendment to the Bill of Rights.

"The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized," states the Fourth Amendment.

Yet the U.S. Senate last week approved (54–33) a bill that denies bail entirely under certain circumstances and allows police to enter homes without knocking. Also provided in the bill is broadening of the wiretapping practices of the government.

The measure is the District of Columbia crime bill, which is aimed at trying to reduce the excessively high crime rate in the nation's capital. The end is salutary, but the means are questionable, to say the least.

The bill provides the jailing of an accused person for up to 60 days before his trial if the judge thinks the defendant's record indicates he might be a crime risk in the interim. In other words, it denies bail completely in some cases. It also provides for "no-knock" entry, permitting law officers to enter a home without identifying themselves if they think the suspect might otherwise destroy evidence or endanger the officers' lives.

The vote on the bill cut across party lines and, the measure found supporters and opponents together at both ends of the political spectrum. Numbered among the supporters, for instance, were several liberal Northern senators, while the principal opponent of the bill was a conservative Southerner.

The Southerner was Sen. Sam J. Ervin Jr., a North Carolina Democrat, who is regarded as the strictest constructionist in the Senate. His description of the D.C. crime bill is something to be savored:

"This . . . is as full of unconstitutional, unjust and unwise provisions as a mangy hound dog is full of fleas . . . a garbage pail of some of the most repressive, nearsighted, intolerant, unfair and vindictive legislation that the Senate has ever been presented . . . an affront to constitutional principles and to the intelligence of the people of the United States."

One does not have to search far to learn why the measure passed. Some of those who voted for the bill could find sanctuary in its provisions for reforming the crowded court system in Washington and for establishing a public defender program. Others undoubtedly were sincerely concerned with the appalling tide of crime in the District. And some must have feared that a negative vote would not have been politically expedient in this election year.

These are all understandable motives, and no one doubts that the heavy incidence of crime in Washington must be checked, but must this be done at the expense of individual freedoms that are guaranteed to Americans in their Constitution? If the D.C. crime bill were to become a model for the nation as a whole, the United States would have forsaken some of its most precious liberties. Fortunately, the bill will be tested in court, where Sen. Ervin's accusation of unconstitutionality should be proven.

REORGANIZATION PLAN NO. 4—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Mr. COTTON. Mr. President, I was surprised to learn that there is some opposition to Reorganization Plan No. 4 which would establish within the Department of Commerce a National Oceanic and Atmospheric Administration—NOAA. The distinguished senior Senator from Washington (Mr. MAGNUSON) chairman of our Committee on Commerce, made an excellent statement in the Chamber yesterday, August 12, refuting many of the charges made against this plan by its opponents. I wish to associate myself with that statement.

I have worked with Senator MAGNUSON for many years on matters concerning the Department of Commerce. I feel as he does that this Department does have the requisite knowledge and expertise and that it is the logical place for NOAA. I shall now add some further comment on this point.

To begin with, as Secretary Stans pointed out, more than 60 percent of the budget and personnel of the Department of Commerce is now utilized for scientific and technical purposes. Units of the Department having a primary scientific and technological mission include not only ESSA, which combines the Weather Bureau and the Coast and Geodetic Survey, but the National Bureau of Standards, the Patent Office, and new responsibilities which have been assigned in the field of telecommunications. This emphasizes the fact that there is present in the Department of Commerce the "solid base of science and technology" that is the "common denominator for accomplishment" stressed by the Stratton Commission, the recommendations of which form the basis of the administration's plan.

It should be clear to even the most casual observer that NOAA was placed in Commerce because the largest of its components, ESSA, is already located in that Department. It is expected that ESSA will comprise 73 percent of NOAA's budget and 83 percent of its personnel. As pointed out by the President in his message of July 9, 1970:

Placing NOAA within the Department of Commerce therefore entails the least dislocation, while also placing it within a department which has traditionally been a center for service activities in the scientific and technological area.

No one could possibly contend that ESSA is not environmentally oriented. In 1965, when President Johnson proposed his plan for the administration, he said the following:

Establishment of the Administration (ESSA) will mark a significant step forward in the continual search by the Federal Government for better ways to meet the needs of the Nation for environmental science services . . . It will mean better services to other Federal departments and agencies—to those that are concerned with the national defense, the exploration of outer space, the management of our mineral and water resources, the protection of the public health against environmental pollution, and the preservation of our wilderness and recreation areas.

No one has contended that ESSA is not performing its assigned functions admirably. In fact, there have been several proposals to increase its responsibilities to include the monitoring of pollution levels around the globe.

In view of these facts, it is difficult to understand why the NOAA proposal is being attacked by environmentalists.

The argument that development and protection functions should not be placed in a single agency will not stand up under a proper examination of the reorganization plan involved.

There will be no basis for conflict between NOAA and the proposed Environmental Protection Agency. The latter is basically intended to be a standard setting and enforcement agency. It is clear from the President's message that with respect to the setting of environmental standards, NOAA would be subordinate to EPA and subject to the Council on Environmental Quality. As stated by the President in his message: NOAA will be expected to maintain continuing and close liaison with the new Environmental Protection Agency and the Council on Environmental Quality as part of an effort to insure that environmental questions are dealt with in their totality and that they benefit from the full range of the government's technical and human resources. To lump NOAA in with the components of EPA would mean that oceanographic problems would continue

to be subordinate to other activities and receive less attention than they deserve.

Environmental quality is everybody's responsibility. As we develop resources for the well-being of all, we must understand what adverse impacts that development will have, and try to avoid those adverse impacts or minimize them. With a long and distinguished background in the development of technology, the Department of Commerce is well equipped to accomplish this. It has demonstrated its concern for environmental matters, and has committed itself to the task of dealing with them effectively.

The plan proposed by the President is a sound one. Those who have been closest to the problem, such as Dr. Julius Stratton, Chairman of the Commission on Marine Science, Engineering, and Resources; Dr. Edward Wenk, former Executive Secretary of the National Council of Marine Resources and Engineering Development; Senator ERNEST HOLLINGS, of South Carolina, chairman of the Commerce Committee's Subcommittee on Oceanography; Senator HOWARD BAKER, of Tennessee, the ranking Republican member of the Subcommittee on Oceanography, and Senator WARREN G. MAGNUSON, chairman of the Committee on Commerce, each endorses the proposal. Surely they would not have done so if there were any genuine basis for the fear that environmental and conservation considerations will be disregarded.

It is certain that after a decade of waiting, this reorganization plan is long overdue. If we are going to have a comprehensive national program for the development and protection of our oceans and atmosphere, this proposal must have our support. I urge Senators to give it their complete and immediate endorsement.

TWO ANNIVERSARIES OF SOVIET TREACHERY

Mr. SMITH of Illinois. Mr. President, I invite the attention of Senators to the two anniversaries of Soviet treachery which fall in this month. More than once the Soviets have suddenly, and under cover of night, slammed the door of freedom closed in the face of a captive people.

Nine years ago, on the morning of August 13, 1961, the world awoke to discover that the "divided" city of Berlin had been further separated by a grim defensive wall, not to keep people out, but to keep hostages in. That crude concrete and cinderblock construction has been replaced by more sophisticated masonry works, barbed wire, watch towers, searchlights, and check points, but it has never, with its antitank barricades turned in on the people of East Berlin, been a "defensive" fortification. To date more than 65 Eastern Germans have given their lives seeking the refuge and freedom of the West over and under the infamous Berlin wall.

Just 2 years ago, during the night of August 20–21 a Soviet-led Warsaw pact invasion of Czechoslovakia attempted to still the feeble stirrings of independence from strict Russian control. In that assault a reported 20 to 70 Czechoslovakians died. The present Prague government has yet to release an official report on the number of victims.

In other areas the "new" government has been more active. The party rolls are being purged of all "traitors" and supporters of the "quiet counterrevolution." The party presidium has reversed itself and now calls the invasion a necessary act. Alexander Dubcek and his allies in reform have been banished from public view or pensioned off to "safe" occupations. The government has been purged and brought into line, but the Interior Ministry, last year, planned heavy guard for government leaders to protect them from any "antisocialist, antiparty, and anti-Soviet" anniversary demonstrations by the people of this captive nation. The date, however, was marked quietly by freedom-loving Czechoslovakians and their supporters around the world as the "Soviet day of shame."

This year ceremonies will again be held to recall the attention of the world to those who died in a vain struggle for freedom and those who are more firmly locked behind the Iron Curtain. I commend the efforts of the Czechoslovak National Council of America to keep alive the dream of freedom and liberty in Czechoslovakia.

CHIEF JUSTICE BURGER'S AMERICAN BAR ASSOCIATION ADDRESS

Mr. McCLELLAN. Mr. President, the extent and intensity of lawlessness and moral decay that pervades our land today are of unprecedented gravity and magnitude. The rapid rise in serious crime and the steady decline in effective law enforcement during the past several years present a most unsavory and forbidding record—a record that is a reproach to our Nation and to our civilization.

Just this week the Federal Bureau of Investigation reported that since 1960 serious crime has risen 148 percent. Violent crime—murder, rape, aggravated assault, and robbery—has risen 130 percent. Stated another way, the risk to each person of becoming a victim of serious crime since 1960 has increased 120 percent. Since 1960 our population has increased but 13 percent while the volume in crime, as I noted above, has increased 148 percent.

Many socioeconomic factors can be identified as causes of crime; such as poverty, overcrowded living conditions, unemployment, lack of education, broken homes, exposure to violence in movies and on television, drug addiction, and many others. These causes do exist in varying degrees, and they should, of course, receive the attention of both Government and society.

Nevertheless, other factors must be included in an overall assessment of what has brought us to our present posture. It was in this context, therefore, that I found instructive the remarks of Chief Justice Burger before the American Bar Association in St. Louis, Mo., on Monday of this week. I have on other occasions suggested that the revolution in criminal law and procedure, accelerated during the years of the Warren court, was leading to a collapse of our judicial machinery. Mr. Justice Burger in his St. Louis speech confirms that judgment. He observed:

> Experienced trial judges note that the actual trial of a criminal case now takes twice as long as it did 10 years ago because of the closer scrutiny we now demand as to such things as confession, identification witnesses and evidence of a seizure by the police, before depriving any person of his freedom.
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> Changes in the law that are part of what we lawyers call the "revolution in criminal justice" which began as far back as the 1930's have brought this about . . .
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> This was graphically illustrated in Washington, D.C. where the guilty plea rate [because of procedural rules] dropped to 65%. In 1940, 3 or 4 judges were able to handle all serious criminal cases. By 1968, 12 judges out of 15 in active service were assigned to the criminal calendar and could barely keep up. Fortunately, few of the federal districts experienced such a drastic change, but to have this occur in the national capital, which ought to be a model, was little short of disaster.
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> There is a widespread public complaint resulting in the news media, in editorials and letters to the editor, that the present system of criminal justice does not deter criminal conduct. That is correct, so far as crimes which trouble most Americans today. Whatever deterrent as may have existed in the past has now virtually vanished as to such crimes.

Mr. President, I am encouraged by the recognition of the Chief Justice of the significance of the direction taken by the Court in the recent past. I am encouraged, too, that it now appears that that direction is reversed. As evidence of this, it is significant to note that during the last term of the Warren court—1968–69—the Court heard and decided 26 appeals in criminal cases. The Government—the prosecution—won only 8 or 31 percent of them; 16 or 69 percent of them were reversed. Quite in contrast, during the first term of the Burger court—1969–70—the Court heard and decided 29 appeals in criminal cases. The Government—the prosecution—won 18 or 62 percent of these. Percentage wise, this represents a 100-percent improvement over the previous years of the Warren court.

This indicates to me that the activism and false liberalism which I think characterizes some of the Court's decisions in the past few years has diminished and that its apparent "search and reverse" policy is now being abandoned. Anyway, this marked improvement gives promise that the judicial pendulum is beginning to swing back toward a better balance of justice as between the rights of the criminal and the protection of society. Let us fervently hope so.

I ask unanimous consent that the text of the Chief Justice's remarks be printed in the RECORD.

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

REMARKS OF WARREN E. BURGER

When President Segal and the Board of Governors of this Association invited me to discuss the problems of the federal courts with you, as leaders of the legal profession, my mind turned at once to one of the great

statements on the problems of the administration of justice. That was Dean Roscoe Pound's famous speech to this Association at your meeting 64 years ago. He said then that the work of the courts in the 20th Century could not be carried on with the methods and machinery of the 19th Century. If you will read Pound's speech, you will see at once that we did not heed his warning, and today, in the final third of this century, we are still trying to operate the courts with fundamentally the same basic methods, procedures and machinery he [Pound] said were not good enough in 1906. In the supermarket age we are like a merchant trying to operate a cracker barrel corner grocery store with the methods and equipment of 1900.

I would not be warranted in coming here today if I spent our very limited time reminding you what is good about our courts, or about the splendid and dedicated judges and others, most of whom are overworked to make the system function. I wish the public could know what you have accomplished first, in the support of public defender programs and now more recently in providing free legal services for people long unrepresented in civil matters. My responsibility today, however, is to say to you frankly—even bluntly—what I think is wrong with our judicial machinery and what can and must be done to correct it in order to make the system of justice fulfill its high purpose.

The changes and improvements we need are long overdue. They will call for a very great effort and they may cost money; but if there are to be higher costs they will still be a small fraction, for example, of the 200 million cost of a C–5A airplane. The entire cost of the Federal Judicial System is 128 million dollars. Military aircraft are obviously essential in this uncertain world, but surely adequate support for the Judicial Branch is also important.

Wall Street experts recently estimated that American citizens and businesses spend more than 2 billion dollars a year on private security and crime control. Aside from the ominous implications of this in a free society, just think what 2 billion dollars could do for public programs to prevent crime and enforce law. That is where such support belongs.

More money and more judges alone is not the real solution. Some of what is wrong is due to the failure to apply the techniques of modern business to the administration or management of the purely mechanical operation of the courts—of modern record keeping, systems planning for handling the movement of cases. Some is also due to antiquated, rigid procedures which not only permit delay but often encourage it.

I am confident that if additional costs arise in the process of making needed changes and improvements in the management of the judicial system, Congress will support the Courts. But judges must demonstrate the needs clearly. Congress is harassed with demands for more appropriations for more and more new programs, each of which is labeled a high priority. We must first show that we are making the best possible use of what we already have and it is here that improved methods and skilled management techniques will count. These will cost relatively little in relation to the whole budget.

You know that in this brief report I can do no more than touch highlights and more detailed treatment of these problems must follow. I hope we can provoke debate—and even controversy—to explore and test what I have to say. With increasing urgency every one of my distinguished predecessors from Chief Justices Taft and Hughes to Chief Justice Earl Warren have pressed these matters, but today I place this burden squarely on you, the leaders of the legal profession, in common with all judges. If the 144,000 lawyers you represent in 1,700 state and local bar associations will act promptly, you will prevent a grave deterioration in the work of the federal courts. And you should remember Justice Vanderbilt's warning that these tasks are "not for the shortwinded."

In the federal courts today the problem areas are essentially in large cities. Here we find in the judicial system no more than a reflection of the complexities created by the population shift to large urban centers. The problems exist where the action is.

In Maine, for example, there is only one federal District Judge and literally not enough for him to do. As a result he has, for 15 years or more, accepted assignments to go to courts all over the country where help was desperately needed. Many judges in the less busy districts have done the same. It is in the large centers that both civil and criminal cases are unreasonably delayed and it is there that the weaknesses of our judicial machinery show up.

How did this situation come about in the face of numerous additional judgeships added by Congress in the past 30 years?

When we look back, we can see three key factors that are important to our discussion:

First, the legal profession—lawyers and judges and Congress, with few exceptions—did not act on Dean Pound's warnings to bring methods, machinery and personnel up to date.

Second, all the problems he warned about have become far more serious by the increase in population from 76 million in 1900 to 205 million in 1970, and with it came the growth of great cities and the increase in the volume of cases.

Third, entirely new kinds of cases have been added because of new laws passed by Congress and decisions of the courts.

In this 20th Century, wars, social upheaval, and the inventiveness of Man have complicated individual lives and society. The automobile, for example, did more than change the courting habits of American youth—it paved the continent with concrete and black top; it created the most mobile society on earth with all its dislocations; it led people from rural areas to crowd the unprepared cities. That same automobile which altered our society also maimed and killed more persons than all the wars combined and brought into the courts thousands of injury and death cases which did not exist in 1900. Today automobile cases are the largest single category of civil cases in the courts.

All this ferment of wars, of increased movement of people, congestion in the cities, and social changes produced dislocations and unrest that contributed to an enormous increase in the rate of crime.

In a free society such as ours these social and economic upheavals tend to wind up on the doorsteps of the courts. Some of this is because of new laws and decisions and some because of a tendency that is unique to America to look to the courts to solve all problems. From time to time Congress adds more judges but the total judicial organization never quite keeps up with the caseload. Two recent statutes alone added thousands of cases relating to commitment of narcotics addicts and the mentally ill. These additions came when civil rights cases, voting cases and prisoner petitions were expanding by the thousands.

Meanwhile criminal cases, once a stable figure in the federal courts, were increasing. The records show that in all federal district courts it now takes twice as long as it did 10 years ago to dispose of criminal cases from indictment to sentence.

To illustrate the changes, consider just a few figures: From 1940 to 1970:

Personal injury cases multiplied 5 times;

Petitions from state prisoners seeking federal habeas corpus relief increased from 89 to over 12,000;

And during this period Congress increased the number of judges by 70%, while the total number of cases filed in the federal district courts nearly doubled.

But the increase in volume of cases is not by any means the whole story. Experienced trial judges note that the actual trial of a criminal case now takes twice as long as it did 10 years ago because of the closer scrutiny we now demand as to such things as confessions, identification witnesses, and evidence seized by the police, before depriving any person of his freedom. These changes represent a deliberate commitment—some by judicial decision, and some by legislation—to values higher than pure efficiency when we are dealing with human liberty.

The impact of all the new factors—and they are many and complex—has been felt in both state and federal courts. A few illustrations as to federal courts may help.

The Criminal Justice Act of 1964 guaranteed a lawyer for criminal defendants—at public expense for the indigent—and along with it appeals at public expense. The Bail Reform Act of 1966 authorized liberal release before trial without the conventional bail bond. Each of these Acts was an improvement on the existing system, but we can now see what was produced by their interaction in a period when crime was increasing at a startling rate. The impact was most noticeable in Washington, D.C., where federal courts handle all felony cases. Defendants, whether guilty or innocent, are human: they love freedom and hate punishment. With a lawyer provided to secure release without the need for a conventional bail bond, most persons indicted (except in capital cases) are released pending trial. We should not be surprised that a defendant on bail exerts a heavy pressure on his court appointed lawyer to postpone the trial as long as possible so as to remain free. These postponements—and sometimes there are a dozen or more—consume the time of judges and court staffs as well as of lawyers. Cases are calendared and reset time after time while witnesses and jurors spend endless hours just waiting.

If trials were promptly held and swiftly completed, and if appeals were heard without delay, this would be less a problem, and debates over preventive detention would probably subside. But these two Acts of Congress came in a period when other forces including decisions of the courts were making trials longer, appeals more frequent and retrials commonplace. We should not be surprised at delay when more and more defendants demand their undoubted Constitutional right to trial by jury because we have provided them with lawyers and other needs at public expense; nor should we be surprised that most convicted persons seek a new trial when the appeal costs them nothing and when failure to take the appeal will cost them freedom. Being human a defendant plays out the line which society has cast him. Lawyers are competitive animals and the American system encourages contention and often rewards delay; no lawyer wants to be called upon to defend the client's charge of incompetence for having failed to exploit all the procedural techniques which we have deliberately made available.

Yet the best defense lawyers know that the defendant's best interests may be served in many cases by disposing of the case on a guilty plea without trial.

A new category of case was added when it was decided that claims of state prisoners testing the validity of a state conviction were to be measured by federal constitutional standards. As a result federal district courts were obliged to review over 12,000 state prisoner petitions last year, as compared with 89 in 1940.

There is a solution for the large mass of state prisoner cases in federal courts—12,000 in the current year. If the states will develop adequate post conviction procedures for their own state prisoners, this problem will largely disappear, and eliminate a major source of

tension and irritation in State-Federal relations.

But there is another factor. It is an elementary fact, historically and statistically, that the system of courts—the number of judges, prosecutors, and of courtrooms—has been based on the premise that approximately 90% of all defendants will plead guilty leaving only 10%, more or less, to be tried. But that premise may no longer be a reliable yardstick of our needs. Changes in the laws that are part of what we lawyers call the "revolution in criminal justice", which began as far back as the 1930's, have brought this about. Anyone who questions these changes must recognize that until recently criminal law was the neglected stepchild of the Law. The consequence of what might seem on its face a small percentage change in the rate of guilty pleas can be tremendous. A reduction from 90% to 80% in guilty pleas requires the assignment of twice the judicial manpower and facilities—judges, court reporters, bailiffs, clerks, jurors and courtrooms. A reduction to 70% trebles this demand.

This was graphically illustrated in Washington, D.C., where the guilty plea rate dropped to 65%. In 1940 3 or 4 judges were able to handle all serious criminal cases. By 1968 12 judges out of 15 in active service were assigned to the criminal calendar and could barely keep up. Fortunately few other federal districts experienced such a drastic change, but to have this occur in the national Capital, which ought to be a model, was little short of disaster.

There is a widespread public complaint reflected in the news media, in editorials and letters to the editor, that the present system of criminal justice does not deter criminal conduct. That is correct, so far as the crimes which trouble most Americans today. Whatever deterrent effect may have existed in the past has now virtually vanished as to such crimes.

If ever the law is to have genuine deterrent effect on the criminal conduct giving us immediate concern, we must make some drastic changes. The most simple and most obvious remedy is to give the courts the manpower and tools—including the prosecutors and defense lawyers—to try criminal cases within 60 days after indictment and let us see what happens. I predict it would sharply reduce the crime rate.

Efficiency must never be the controlling test of criminal justice but the work of the courts can be efficient without jeopardizing basic safeguards. Indeed the delays in trials are often one of the gravest threats to individual rights. Both the accused and the public are entitled to a prompt trial.

The addition of 61 new federal district judgeships by Congress within recent weeks is the result of efforts which began 5 years ago. Since it takes time to fill these important positions and new judges do not reach peak efficiency at once, their full impact will not be felt for a long time. We see therefore that the additional judges, needed in 1965, were not authorized until 1970. We cannot solve our problems by meeting needs 5 or more years after they arise. The time to plan for 1975 and 1980 needs is now, and I hope this can be accomplished, not simply by adding more judges, but by the more efficient use of judicial manpower and greater productivity through improved methods, machinery, management and trained administrative personnel.

Meanwhile, not a week passes without speeches in Congress and elsewhere and editorials demanding new laws—to control pollution, for example, and new laws allowing class actions by consumers to protect the public from greedy and unscrupulous producers and sellers. No one can quarrel with the needs nor can we forget that large numbers of people have been without the protection which only lawyers and courts can give.

The difficulty lies in our tendency to meet new and legitimate demands with new laws which are passed without adequate consideration of the consequences in terms of caseloads. This is dramatically illustrated in the current budget of the Office of Economic Opportunity. Congress has granted that program 58 million dollars for legal services. That 58 million is a sound commitment to an underprotected segment of our people whose rights have suffered because they could not afford a lawyer. Few things rankle in the human breast like a sense of injustice. Whether the problem is large or small in the abstract it is very large to the person afflicted. We should applaud Congress for taking that step. But cases cannot always be settled by lawyers and the burden thus falls on the courts. This allowance for Office of Equal Opportunity legal services is almost half of what is allowed for the operation of all the courts in the federal system. Here again we have an example of a sound program developed without adequate planning for its impact on the courts.

What this all adds up to is that for at least 50 years the federal court system has experienced the combination of steadily increasing burdens while suffering deferred maintenance of the total judicial machinery—and added to that, much of the machinery has long been obsolete. The foresight of Congress in creating the Federal Judicial Center for research and study of court problems 2 years ago is one of the few bright spots in the past 30 years.

Now we must make a choice of priorities. When we want to dance we must provide the musicians and the public may well be called upon to pay something more for the federal judicial system to increase its productivity. But neither costs nor the number of judges can be held down if the caseload is steadily enlarged.

To prepare for this report to you, I asked every federal judge for suggestions. The hundreds of replies reflected a note of frustration and even anguish at the daily management and administrative burdens that drained time and energy from their primary duty to dispose of cases. That was the common denominator and the common complaint. Federal judges are today in somewhat the position of members of Congress a generation ago, before the Reorganization Act which gave adequate staffs to the Members and to the important committee work of the Congress.

The business of litigation is highly complex. To assemble all the necessary individuals is not as simple as TV shows depict. It actually involves the very difficult task of bringing together a judge, 25 or more prospective jurors, lawyers, witnesses, court reporters, bailiffs and others, at the same place at the same time without lost motion. The absence or tardiness of single person will delay the entire process and waste untold time. Countless citizens serving as jurors have been irritated with the inefficiencies of the courts because they find themselves watching TV in the Jurors' Lounge rather than hearing cases in court.

Modern court management calls for careful planning, and definite systems and organization with supervision by trained administrator-managers. We have at least 58 Astronauts capable of flying to the moon, but not that many authentic court administrators to serve all the courts in the state and federal systems. The federal courts need immediately a court executive or administrator for each of the 11 circuits and for every busy federal trial court with more than 6 or 7 judges. We need them to serve as the "traffic managers," in a sense as hospitals have used administrators for 40 years to relieve doctors and nurses of management duties. We are almost half a century behind the medical profession in this respect.

In basic principles, it is indeed essential that we maintain our links with the past and build carefully on those foundations because they are a result of thousands of years of human experience and the evolution of the law. There is great value in stability, predictability and continuity. But the procedures of the law ought to respond more swiftly—as hospitals and doctors, farmers and food distributors have changed their methods. Yet the major procedural change of this Century was the development of the Federal Rules of Civil Procedure a generation ago. Except for those Rules, Thomas Jefferson of Virginia, Alexander Hamilton of New York and John Adams of Massachusetts would need only a quick briefing on modern pleading and the pre-trial procedures in order to step into a federal court today and do very well indeed. We see, therefore, that the judicial processes for resolving cases and controversies have remained essentially static for 200 years. This is not necessarily bad, but when courts are not able to keep up with their work it suggests the need for a hard new look at our procedures.

If the picture I have been painting seems melancholy, I must in fairness touch on a few brighter sides—but sadly there are only a few.

In recent years the ferment stimulated by Roscoe Pound, Vanderbilt of New Jersey, Parker of North Carolina—to name only three now gone—has brought on widespread growth of Judicial Seminars, Institutes and Study Centers that have contributed much. We owe a great debt to my colleague, Justice Tom Clark, who has worked tirelessly on improvements in state and federal courts.

Perhaps one of the most significant developments in a generation is the creation this year—under the leadership of this Association—of the Institute for Court Management at the University of Denver. Here for the first time is a place where court administrators can be trained just as hospital administrators have long been trained in schools of business administration.

Sadly even these bright spots emphasize how painfully slow we are to supply what courts need. The price we are now paying and will pay is partly because judges have been too timid and the bar has been too apathetic to make clear to the public and the Congress the needs of the courts. Apathy, more than opposition, has been the enemy, but I believe the days of apathy are past.

As to the future I can do no more than emphasize that the federal court system is for a limited purpose and lawyers, the Congress and the public must examine carefully each demand they make on that system. People speak glibly of putting all the problems of pollution, of crowded cities of consumer class actions and others in the federal courts. We should look more to state courts familiar with local conditions and local problems.

Let me list some major steps for the future—steps to begin at once:

1. The friction in relations between state and federal courts presents serious problems in both the review of state prisoner petitions and other cases. I strongly urge that in each state there be created a State-Federal Judicial Council to maintain continuing communication on all joint problems. Such a body could properly include a member of the highest state court, the chief judges of the larger state trial courts and the chief judges of the federal district courts. In some states such bodies have already been created on an informal basis.

2. State and federal judges should continue cooperation with the appropriate Committees of the American Bar Association to establish standards of conduct of lawyers and judges that will uphold public confidence in the integrity of the system we serve.

3. We should urgently consider a recommendation to Congress to create a Judiciary Council consisting of perhaps 6 members,

one-third appointed by each of the three branches of government, to act as a coordinating body whose function it would be to report to the Congress, the President and the Judicial Conference on a wide range of matters affecting the judicial branch. This Council could (a) report to Congress the impact of proposed legislation likely to enlarge federal jurisdiction; (b) analyze and report to Congress on studies made by the Judicial Conference and the Federal Judicial Center as to increase or decrease in case loads of particular federal districts; (c) study existing jurisdiction of federal courts with special attention to proper allocation of judicial functions as between state and federal courts; (d) develop and submit to Congress a proposal for creating temporary judgeships to meet urgent needs as they arise (Some state legislatures authorize such appointments based on a formula of population and caseloads in order to adjust promptly to population changes in rapidly developing areas.); (e) study whether there is a present need for three-judge District (trial) Courts and whether there is a present need for federal courts to try automobile collision cases simply because of the coincidence that one driver, for example, lives in Kansas City, Kansas, and the other in Kansas City, Missouri.

4. The entire structure of the administration of bankruptcy and receivership matters should be studied to evaluate whether they could be more efficiently administered in some other way. (Pending studies on this problem should be pressed to conclusion.)

5. Over the years various statutes and decisions of courts have altered many aspects of criminal procedure. Meanwhile some of the states have experimented with innovations and have developed new procedures to improve justice. Since Congress is now considering an entirely new federal criminal code we should soon undertake a comprehensive re-examination of the structure of criminal procedure to establish adequate guidelines reflecting adjustment both to the new code and judicial holdings.

6. The system of criminal justice must be viewed as a process embracing every phase from crime prevention through the correctional system. We can no longer limit our responsibility to providing defense services for the judicial process, yet continue to be miserly with the needs of correctional institutions and probation and parole services.

7. The whole process of appeals must be re-examined. It is cumbersome and costly and it encourages delay. Some courts, notably the overworked 5th Circuit, have developed procedures to screen out frivolous appeals. Finality at some point is indispensable to any rational—and workable—judicial system.

8. We made a wise choice in guaranteeing a lawyer in every serious criminal case, but we must now make certain that lawyers are adequately trained so that the representation is on a high professional basis. It is *professional* representation we promise to give—nothing more—and within accepted standards of conduct. This Association has now provided lawyers for the first time with comprehensive and authoritative standards and it is now up to the courts and the Ba- to make sure they are followed.

I have necessarily left some subjects untouched and others undeveloped, but I hope I have imparted a sense of urgency on the problems and needs of the courts. I hope also I have made my point that it is not simply a matter of more judges but primarily better management, better methods and trained administrative personnel.

A sense of confidence in the courts is essential to maintain the fabric of ordered liberty for a free people. Three things could destroy that confidence and do incalculable damage to society.

One is that people come to believe that inefficiency and delay will drain even a just judgment of its value.

One is that people who have long been exploited come to believe that courts cannot vindicate their legal rights from fraud and over-reaching in the smaller transactions of daily life.

One is that people come to believe that the law—in the larger sense—cannot fulfill its primary function to protect them and their families in their homes and on the public streets.

I have great confidence in our basic system and its foundations, in the dedicated judges and others in the judicial system, and in the lawyers of America. Continuity with change is the genius of the American system and both are essential to fulfill the promise of equal justice under law.

I ask your help to see to it that this is done.

CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK

Mr. MATHIAS. Mr. President, this week I had the pleasure and privilege of testifying before the House Committee on Interior and Insular Affairs in support of legislation to create the Chesapeake and Ohio Canal National Historical Park.

One hundred forty-two years ago, on July 4, 1828, at Great Falls, President John Quincy Adams broke ground for the canal which was envisioned as "a great central chain of union" between the eastern seaboard and the West across the Alleghenies. The canal, extended 184 miles through the Potomac Valley to Cumberland, Md., by 1850, never reached the Ohio Valley, but still carried commerce until 1924 and fostered traditions which still survive.

The canal is now beginning its second career as a historical and recreational resource, a unique national asset which deserves protection and enhancement. The National Park Service estimates that more than 1.5 million people, of all ages, visited some segment of the canal last year, and the potential public use of this property is virtually unlimited. Clearly, now is the time to establish this park, as the first and central strand in enlarging the recreational opportunities of the great Potomac Valley.

I am hopeful that the hearings this week will be followed by prompt congressional action to create the Chesapeake and Ohio Canal National Historical Park this year. It seems appropriate, as we consider the canal's future, to recall its beginnings by re-reading the newspaper accounts of the 1828 groundbreaking ceremonies and President Adams' inspirational address.

I ask unanimous consent to have printed in the RECORD my testimony before the House Interior Committee and the text of a Washington newspaper article published July 7, 1828.

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

TESTIMONY OF SENATOR CHARLES MCC. MATHIAS, JR.

Mr. Chairman, I want to congratulate and thank you for holding these hearings and once again extending your hospitality to the friends of the Chesapeake and Ohio Canal. Your interest in this project has been sustained and essential. I trust that after hearing our testimony you will agree that now is the time and this legislation is the way to create the Chesapeake and Ohio Canal National Historical Park, thus taking a long, important step to preserve the unique natural and historical resources of the Potomac Valley and to fulfill its vast recreational potential.

The wealth of the Potomac Valley has been treasured since colonial days. "Nature has declared in favor of the Potomack," George Washington wrote to Thomas Jefferson; Jefferson himself declared that the view from Harpers Ferry, one of the most spectacular vistas in the nation, was "worth a voyage across the Atlantic." Our history has upheld the vote of nature and the judgment of the founding fathers. The Potomac Valley now harbors the nation's capital, a dynamic metropolitan area and countless cities and towns. Despite many environmental problems, the landscape remains relatively unscarred.

In many ways the Chesapeake and Ohio Canal is the Potomac Valley on a shoestring. It capsules the region's history, its commercial hopes, its enduring natural values and its human appeal. Built between 1828 and 1850, the 184-mile Canal parallels the Potomac from the heart of Washington to Cumberland. Until commercial operations ceased in 1924, the 76 canal locks raised and lowered barges some 600 feet between tidewater and the Alleghenies, following the historic pathway to the West.

At the groundbreaking for the Canal in Georgetown on July 4, 1828, an occasion of great pomp and ceremony, President John Quincy Adams declared:

"The project contemplates a conquest over physical nature, such as has never yet been achieved by man. The wonders of the ancient world, the Pyramids of Egypt, the Colossus of Rhodes, the Temple of Ephesus, the Mausoleum of Artomisia, the Wall of China, sink into insignificance before it—insignificance in the mass and momentum of human labor required for the execution—insignificance in the comparison of the purposes to be accomplished by the work when executed."

In fact, the Canal even today is probably the finest relic of the impressive engineering feats of the nation's canal-building era, with its sturdy locks, its arched masonry aqueducts, and the magnificent Paw Paw Tunnel of over 3000 feet through a mountain. Equally important is the lively culture and colorful lore of the canallers, which survives in such towns as Williamsport and Oldtown, and in being rediscovered and preserved by area historians as a unique slice of our history.

A trip along the C & O Canal today offers a breadth of natural assets unequalled anywhere. The towpath, beginning as an urban oasis a few steps from the streets of Georgetown, proceeds up the valley to the rugged mountain slopes of the Alleghenies. No other park can boast such scenery, wildlife and history so close to millions of Americans, and yet so undisturbed.

For more than three decades, from the end of commercial operations until the mid-1950's, the Canal lay neglected, preserved primarily by the Valley residents who have always been its staunch friends and caretakers. During the past fifteen years, however, the public has rediscovered the Canal with energy and appreciation. According to the National Park Service, over 1.5 million people—hikers, bikers, campers, canoeists, sportsmen and naturalists, of all ages—used some segment of the Canal last year. This total includes 547,144 visitors to Great Falls; 312,011 at Seneca; and 268,549 at Fletcher's Boat House, all on the heavily-used lower end of the Canal. The Boy Scouts have been particularly active and have in fact established a special merit badge for hiking all or parts of the Canal. Since 1967, over 60,000 Scouts have walked or cycled about 1.6 million miles of towpath, and have helped the Park Service build a number of camping areas and picnic grounds.

The potential public use of the Canal is staggering. Preliminary 1970 census returns show that over 5.3 million Americans live in

parts of Maryland, Virginia, West Virginia, Pennsylvania and the District of Columbia within an hour's drive of some segment of the Canal. It has been estimated that the valley is within relatively easy reach for as many as 9 million people now, a total that will grow to 12 million by 1985 and will exceed 15 million by the year 2010.

The Canal now is in no shape to serve even a fraction of these millions. As one hikes along the towpath today, the need for legislative action is evident at every mile. In some areas National Park Service field personnel have worked wonders in providing rudimentary public services within the severe constraints of inadequate funds and very narrow property lines. But at major points of public entry there is a clear need for unobtrusive parking lots, picnic areas, boat ramps, and interpretive programs to educate this generation about 19th-century commerce and engineering. At other points historic aqueducts are crumbling. Old lockhouses stand empty and forlorn. Locks have ceased to work. Where the canal banks and diversion dams have given way, the canal bed is dry and overgrown with trees and underbrush. Even basic maintenance of the towpath is somewhat irregular.

When I first introduced C & O Canal park legislation as a freshman in the House of Representatives in 1961, my objectives were to preserve this historic waterway and to encourage recreational use of it. Now, nine years later, our obligation is to respond to demonstrated public interest and use. Potomac Basin officials and citizens spent much of the 1960's in extensive studies and intensive debate over the future of the valley. Now, as we enter the 1970's, we have reached what I believe to be the predictable consensus that the Chesapeake and Ohio Canal National Historic Park should be established now. It is justified in its own right and it will also serve as the backbone for future recreational efforts and environmental protection in the Potomac Basin.

Mr. Chairman, we cannot afford to wait. If we delay, land prices will soar and open space will shrink under the pressures of the area's population growth, and the Canal could become not a path through the countryside, but a sidewalk through a supermetropolis. Likewise, if we wait until everyone in the Basin agrees on a comprehensive program for the entire Potomac, we will gain more huge piles of paper—but we will lose a park which is within our means and our reach today.

I want to thank Congressman John Saylor, the distinguished ranking minority member of this Committee, for his sustained efforts in behalf of this legislation. I also want to record my thanks to the Secretary of the Interior for endorsing this approach and recognizing that the first step in the Potomac Basin should be along the C & O Canal.

Mr. Chairman, I have reviewed the Interior Department's report and proposed amendments to H.R. 658, and the similar report submitted to the Senate Committee on my own bill, S. 1859. While we are in general accord on the objectives of this legistion and its importance, I would like to submit for your consideration my own thoughts on several points:

1. *Park acreage and means of acquisition.* The Interior Department recommends the acquisition of 15,000 acres beyond the 5,250 now in Federal ownership, for a total of about 20,250 acres. My own legislation (S. 1859) proposes a total park of 15,000 acres. I will leave a precise determination to the wisdom and judgment of your committee. I would recommend, however, two thoughts:

(a) It would seem constructive to authorize a full range of alternatives to fee acquisition of acreage, including acquisition of scenic easements and development rights, and also to make provisions for life tenancy by the present owners of developed properties, leaseback for agricultural purposes, and similar steps. Such provisions are especially appropriate in relation to many sportsmen's clubs and organizations which own lands along the Canal and which have been for many years reliable trustees of the area's resources.

(b) The Federal acquisition plan should give full recognition to the plans of the State of Maryland and local governments for park development in certain areas, such as Fort Frederick. We should encourage maximum coordination, especially since acquisition costs are high and funds are scarce.

2. *Access across the Canal.* Access, both for public utilities and for individuals, has been a perennial problem along the Canal. During the past several years Interior Department personnel have shown an encouraging recognition of the legitimate needs of Maryland communities and citizens. In regard to access across the Canal to the Potomac for public utilities such as water lines, I am pleased that the Interior Department has recommended continuation of the Act of August 1, 1953 (67 Stat. 359). This Act authorized and directed the Secretary to grant perpetual easements for utilities, "subject to such reasonable conditions as are necessary for the protection of the Federal interests." This is a workable approach which guarantees both environmental protection and the access to the Potomac which is absolutely essential to the growth of Western Maryland.

Access for individuals, particularly those who own property between the Canal and the Potomac, has been secured to date through a complicated system of permits which often requires prolonged negotiations but in the main ought to be workable when common sense is employed. If the Committee agrees that arrangements such as leaseback and life tenancy should be available to such landowners, their continuing access to their homes and farms will obviously have to be insured.

3. *Cooperation.* Section 5 of H.R. 658 and a similar section of my bill authorize and direct the Secretary of the Interior to cooperate fully with other Federal agencies, state and local governments, private groups (such as conservation organizations, historical societies and sportsmen's groups) and individuals in a broad range of park-related efforts, including historic restoration and interpretation, recreation, conservation, scenic preservation, and wildlife propagation. Section 5(c) of H.R. 658 further directs the Secretary to take into account comprehensive state and local land use and development plans involving the Canal area, and wherever practicable to coordinate Federal activities with these plans.

To me these provisions are extremely important in establishing a framework for full, candid cooperation among all parties interested in the Canal area. This spirit is essential in administering a park which runs 184 miles through a populated area with many local jurisdictions, many plans for managing regional growth, and enormous non-Federal resources which could be marshalled for the benefit of the Canal. I regret that the Interior Department recommended the deletion of this section, since the general authority cited as a substitute in the departmental report seems to me to be far more limited. I therefore hope you will recommend the retention of section 5.

4. *Advisory Commission.* I am pleased that the Department supports the creation of a 21-member citizens' advisory commission. To maintain communications and cooperation between the park's administrators and its neighbors, however, I would recommend that the commission be made permanent, as proposed in H.R. 658.

5. *Costs.* The park plan offered the Interior Department would require, according to department estimates, almost $19.5 million over five years for land acquisition and long-term development costs of $47 million, of which $25 million would be programmed for the first five years. Land acquisition costs of course are rising rapidly in this region and deferral would be uneconomic. In regard to development, however, your committee may well decide that some reductions are required. I hope that first priority for restoration and development will be given to the most rudimentary public facilities which are clearly required, and to the repair and restoration of the towpath, the Canal bed, aqueducts and other engineering features, and the dams necessary to rewatering long stretches of canal which are now dry and overgrown. It is worth noting that of the $25 million suggested for "development" during the first five years, $14 million—over half the total—is actually programmed for such restoration projects.

In conclusion, I believe that this legislation offers us the opportunity to create a park which will rank among the finest in the nation. The Chesapeake and Ohio Canal National Historical Park will protect irreplaceable natural and historical resources, and will serve the recreational needs of millions. By establishing this park, we will take the first step in insuring that the beauty of the Potomac Basin and the heritage of generations in this valley will be preserved and enhanced.

THE FOURTH OF JULY—BREAKING GROUND UPON THE CANAL, WASHINGTON, MONDAY, JULY 7, 1828

Friday, last, the Fourth of July, the Anniversary of the Declaration of Independence of the United States, was a proud day for the District of Columbia—for the States interested in an open navigation from the Chesapeake to the Lakes, and to the waters of the Mississippi—for the Friends of Internal Improvement everywhere.

On that day, which, by concurrent votes of the President of the Chesapeake and Ohio Canal Company, and the Corporations of Washington, Georgetown, and Alexandria, had been fixed upon for breaking ground upon the line of the Canal, this interesting ceremony took place, in the order prescribed by the Committee of Arrangement, as heretofore published, which was most successfully carried into effect by Gen. Thornton and Col. Stull, Marshals of the Day, and the Aides whom they appointed.

At an early hour, the members of the several Corporations, and those who were invited to accompany them and the President and Directors of the Canal Company on this interesting excursion, began to assemble at Tilley's Hotel, and cordial greetings were exchanged between them. At half past 7 o'clock the President of the United States arrived, escorted by Capt. Turner's and Capt. Tyler's Troops of Cavalry, under the command of Major Stewart, who politely tendered their services on this occasion, which were found highly useful throughout the day.

Amongst the gentlemen composing the Company thus assembled at the invitation of the Committee of Arrangements, were (besides the President of the United States) the Secretaries of the Treasury, War and Navy Departments, Mr. Rush, General Porter, and Mr. Southard; the Postmaster General, Mr. McLean; Senators of the United States, Mr. J. S. Johnston and Mr. Bouligny—and Mr. Washington, Representative in Congress; Mr. Vaughn, the Minister of Great Britain to the United States; Baron Krudener, the Minister of Russia, and Baron Maltitz, Secretary of Legation from the same power; the Chevalier Huygens, Minister from the Netherlands; Baron Stackelberg, Charge d'Affaires from the King of Sweden; Mr. Lisboa, Secretary of Legation from the Emperor of Brazil; Mr. Hersant, Vice Consul General of France—comprising all the Representatives of Foreign Powers at this moment

in the city and able to attend. Among other invited Guests was the Commander of the Army, General Macomb, and General Stuart and Colonel Brooke, Surviving Officers of the Revolutionary Army. (The invitations were necessarily circumscribed within the limits of the accommodation which the boats procured by the Committee of Arrangements were calculated to afford. It was a subject of unmixed regret to the Committee that the same accommodation could not be extended to all, which they were able to provide for a few only. Besides those invited, a great number of the most respectable citizens of the District and adjoining States either accompanied the procession by water, or kept pace with it by land.)

About eight o'clock, the Procession was formed on Bridge-street, and moved on, to the excellent music of the full Band of the Marine Corps, to High Street Wharf, where they embarked in perfect order, as previously arranged, and the boats immediately set forward, amidst the cheers of the crowds which lined the wharves.

The Steam-Boat Surprize, followed by two other Steam-Boats and a line of barges and other boats, led the procession up the Potomac, coursing the wild margin of what was once the Virginia Shore—still bordered, as when it came from the hands of its Maker, with primitive rocks, and crowned with the luxuriant and diversified foliage of its natural forest. A kindly sky shed its refreshing influence over the water, whose surface the West wind gently ruffled. The Sun shone now and then from the clear blue Heavens through fleecy clouds. All Nature seemed to smile upon the scene. Along the road on the Maryland shore, crowds of moving spectators attended the voyage of the boats, and met the procession on landing above the lower termination of the present canal. On leaving the "River of Swans," as it has been lately happily surnamed, a march of a few hundred yards, conducted the Company, in the same order in which they embarked, to the Canal Boats prepared to receive them at the Upper Bridge across the Canal. Seated in these boats, gently gliding along the tranquil stream, like "the Swan through the Summer Sea," the senses of the Company were regaled by a scene at once novel and really enchanting. From the banks of this Canal of more than forty years antiquity there shot up, along its entire course, a variety of the most beautiful native trees, whose branches, interwoven above, would have excluded the rays of the most piercing Sun. Beneath these trees, as far as the eye could penetrate on either side, were seen, in bright luxuriance growing, every species of plant and wild flower recorded in the Potomac Herbal. They looked as if they had never known the footsteps of man, as they refreshed the sight of the voyagers, whilst onward each galley moved.

"By cliff, and copse, and akler tree."

There was a part of this passage, when the music of Moore's sweet song of "The meeting of the Waters," poured its melody on the ear, so as to suspend the labor of the boatmen, and charm to silence every voice. Noiseless, but in crowds, the people moved forward on the bank of the Canal, keeping even pace with the long line of boats, whilst airs, now animated, now plaintive, from the Marine Band, placed in the forward boat, lightened the toil of the walk. As the boats neared the ground destined for the commencement of the Canal, the Procession discovered, posted on the bank, two companies of Riflemen, commanded by Captain Thomas and Captain Haller, scarcely to be distinguished, in their uniform of green, from the trees in which they stood embowered, who paid to the President of the United States, both going and returning, the military honors due to his station. The multitude now visibly increased. Thousands hung upon the overlooking hill to the North, and many climbed the unbrogeous trees bordering the River and the Canal. Perfect order every where prevailed.

On landing from the boats, and reaching the ground (one or two hundred yards West of the line of the present Canal) the Procession moved around it so as to leave a hollow space, in the midst of a mass of People, in the centre of which was the spot marked out by Judge Wright, the Engineer of the Chesapeake and Ohio Canal Company, for the commencement of the work. A moment's pause here occurred, while the spade, destined to commence the work, was selected by the Committee of Arrangements, and the spot for breaking ground was precisely denoted.

At that moment the sun shone out from behind a cloud, and, amidst a silence so intense as to chasten the animation of hope and to hallow the enthusiasm of joy, the Mayor of Georgetown handed to Gen. Mercer, the President of the Chesapeake and Ohio Canal Company, the consecrated instrument, which having received, he stepped forward from the resting column, and, addressed as follows the listening multitude:

"Fellow Citizens: There are moments, in the progress of time, which are the counters of whole ages. There are events, the monuments of which, surviving every other memorial of human existence, eternise the nation to whose history they belong, after all other vestiges of its glory has disappeared from the globe. At such a moment have we now arrived. Such a monument we are now to found."

Turning toward the President of the United States, who stood near him, Mr. M. proceeded:

"Mr. President: On a day hallowed by the fondest recollections, beneath this cheering (may we not humbly trust, auspicious) sky, surrounded by the many thousand spectators who look on us with joyous anticipation; in the presence of the representatives of the most polished nations of the Old and New Worlds; on a spot, where, little more than a century ago, the painted savage held his nightly orgies; at the request of the three cities of the District of Columbia, I present to the chief Magistrate of the most powerful republic on earth, for the most noble purpose that was ever conceived by man, this humble instrument of rural labor, a symbol of the favorite occupation of our countrymen. May the use, to which it is about to be devoted, prove the precursor, to our beloved country, of improved agriculture, of multiplied and diversified arts, of extended commerce and navigation. Combining its social and moral influences with the principles of that happy Constitution, under which you have been called to preside over the American People; may it become a safe-guard of their Liberty and Independence, and a bound of perpetual Union!

"To the ardent wishes of this vast assembly, I unite my fervent prayer to that infinite and awful Being without whose favor all human power is but vanity, that He will crown your labor with His blessing, and our work with immortality."

As soon as he had ended, the President of the United States, to whom Gen. Mercer had presented the spade, stepped forward, and, with an animation of manner and countenance, which showed that his whole heart was in the thing, thus addressed the assembly of his fellow citizens:

"Friends and Fellow Citizens: It is nearly a full century since Berkeley, Bishop of Cloyne, turning towards this fair land which we now inhabit the eyes of a prophet, closed a few lines of poetic inspiration with this memorable prediction:

"Time's noblest Empire is the last:

"A prediction which, to those of us whose lot has been cast by Divine Providence in tnese regions, contains not only a precious promise, but a solemn injunction of duty, since upon our energies, and upon those of our posterity, its fulfillment will depend. For, with reference to what principle could it be, that Berkeley proclaimed this, the last, to be the noblest Empire of Time? It was, as he himself declares, on the transplantation of Learning and the Arts to America. Of learning and the arts: The first four acts—the Empires of the old world, and of former ages—the Assyrian, the Persian, the Grecian, the Roman Empires—were empires of conquest; dominions of man over man. The Empire which his great mind, piercing into the darkness of futurity, foretold in America, was the Empire of Learning and the Arts—the dominion of man over himself, and over physical nature—acquired by the inspirations of genius, and the toils of industry; not watered with the tears of the widow and the orphan; not cemented in the blood of human victims; founded not in discord, but in harmony—of which the only spoils are the imperfections of nature, and the victory achieved is the improvement of the condition of all. Well may this be termed nobler than the empire of conquest, in which man subdues only his fellow man.

"To the accomplishment of this prophecy the first necessary step was the acquisition of the right of self-government by the People of the British Northern American Colonies, achieved by the Declaration of Independence, and its acknowledgment by the British Nation. The second was the union of all these colonies under one General Confederated Government—a task more arduous than that of the preceding separation, but at last effected by the present Constitution of the United States.

"The third step, more arduous still than either or both the others, was that which we, fellow citizens, may now congratulate ourselves, our country, and the world of man that it is taken. It is the adaptation of the powers, physical, moral, and intellectual, of this whole Union, to the improvement of its own condition: of its moral and political condition, by wise and liberal institutions—by the cultivation of the understanding and the heart—by academies, schools, and learned institutes—by the pursuit and patronage of learning and the arts: of its physical condition, by associated labor to improve the bounties, and to supply the deficiencies of nature; to stem the torrent in its course; to level the mountain with the plain; to disarm and fetter the raging surge of the ocean. Undertakings, of which the language I now hold is no exaggerated description, have become happily familiar, not only to the conceptions, but to the enterprise, of our countrymen. That, for the commencement of which we are here assembled, is eminent among the number. The project contemplates a conquest over physical nature, such as has never yet been achieved by man. The wonders of the ancident world, the Pyramids of Egypt, The Colossus of Rhodes, The Temple of Ephesus, the Mausoleum of Artomisia, the Wall of China, sink into insignificance before it—insignificance in the mass and momentum of human labor required for the execution—insignificance in the comparison of the purposes to be accomplished by the work when executed. It is, therefore, a leasing contemplation to those sanguine and patriotic spirits who have so long looked with hope to the completion of this undertaking, that it unites the moral power and resources—first, of numerous individuals—secondly, of the corporate cities of Washington, Georgetown, and Alexandria—thirdly of the great and powerful States of Pennsylvania, Virginia, and Maryland—and lastly, by the subscription authorized at the recent session of Congress, of the whole Union.

"Friends and Fellow Laborers: We are informed by the Holy Oracles of Truth, that, at

the creation of man, male and female, the Lord of the Universe, their maker, blessed them, and said unto them, be fruitful, and multiply, and replenish the Earth and subdue it. To subdue the Earth was, therefore, one of the first duties assigned to man at his creation; and now, in his fallen condition, it remains among the most excellent of his occupations. To subdue the Earth is pre-eminently the purpose of the undertaking, to the accomplishment of which the first stroke of the spade is now to be struck. That it is to be struck by this hand, I invite you to witness—[Here the stroke of the spade]*—and in performing this act, I call upon you all to join me in fervent supplication to Him from whom that primitive injunction came, that he would follow with his blessing this joint effort of our great community to perform his will in the subjugation of the Earth for the improvement of the condition of man. That he would make it one of his chosen instruments for the preservation, prosperity, and perpetuity of our Union. That he would have in his holy keeping all the workmen by whose labors it is to be completed. That their lives and their health may be precious in his sight; and that they may live to see the work of their hands contribute to the comforts and enjoyments of millions of their countrymen.

"Friends and Brethren: Permit me further to say, that I deem the duty, now performed at the request of the President and Directors of the Chesapeake and Ohio Canal Company, and of the District of Columbia, one of the most fortunate incidents of my life. Though not among the functions of my official station, I esteem it as a privilege conferred, upon me by my fellow-citizens of the District. Called, in the performance of my service heretofore as one of the Representatives of my native Commonwealth in the Senate, and now as a member of the Executive Department of the Government, my abode has been among the inhabitants of the District longer than at any other spot upon the earth. In availing myself of this occasion to return to them my thanks for the numberless acts of kindness that I have experienced at their hands, may I be allowed to assign it as a motive operating upon the heart, and superadded to my official obligations, for taking a deep interest in their welfare and prosperity. Among the prospects of futurity which we may indulge the rational hope of seeing realized by this junction of distant waters, that of the auspicious influence which it will exercise over the fortunes of every portion of the District is one upon which my mind dwells with unqualified pleasure. It is my earnest prayer that they may not be disappointed.

"It was observed that the first step towards the accomplishment of the glorious destinies of our country was the Declaration of Independence. That the second was the union of these States under our Federative Government. The third is irrevocably fixed by the act upon the commencement of which we are now engaged. What time more suitable for this operation could have been selected than the Anniversary of our great National Festival? What place more appropriate from whence to proceed, than that which bears the name of Citizen Warrior who led our armies in that eventful contest to the field, and who first presided as the Chief Magistrate of our Union? You know that, of this very undertaking, he was one of the first projectors; and if, in the world of Spirits, the affections of our mortal existence still retain their sway, may we not, without presumption, imagine that he looks down with complacency and delight upon the scene before and around us?

"But, while indulging a sentiment of joyous exultation, at the benefits to be derived from this labor of our friends and neighbors, let us not forget that the spirit of internal improvement is catholic and liberal. We hope and believe that its practical advantages will be extended to every individual in our Union. In praying for the blessing of Heaven upon our task, we ask it with equal zeal and sincerity upon every other similar work in this Confederation; and particularly upon that which, on this same day, and perhaps at this very hour, is commencing from a neighboring City. It is one of the happiest characteristics in the principle of Internal Improvement, that the success of one great enterprise instead of counteracting gives assistance to the execution of another. May they increase and multiply, till in the sublime language of inspiration, every valley shall be exalted, and every mountain and hill shall be made low; the crooked straight; the rough places plain. Thus shall the prediction of the Bishop of Cloyne be converted from prophecy into history, and, in the virtues and fortunes of our posterity, the last shall prove the noblest Empire of Time."

As the President concluded, a national salute was fired by a detachment of United States Artillery posted upon the ground. As soon as the cheering which followed the close of the President's speech had subsided, the Chairman of the Committee of Arrangements delivered the following brief Address:

"In the name of the Committee of Arrangements of the Corporation of the District I tender to the President and Directors of the Canal Company, and to this crowd of gratified spectators, our congratulations on the happy commencement of this great work.

"To the President of the Company, we and the country are indebted for his early, persevering, and successful efforts in the great cause, the triumph of which we have this day assembled to honor; and we cordially respond to those emotions which the occasion is so well calculated to inspire in his breast.

"To the President of the United States we are under obligations for the kindness and cheerfulness with which he accepted our invitation to practically begin the labor, which is to unite, by closer ties of amity and interest, the inhabitants of the borders of the Atlantic, of the margins of the Lakes, and of the rapidly peopling forests and prairies of the interior. In the name of our Corporations, we return our acknowledgements to him for the countenance and aid which this undertaking has constantly received from him.

"To the Director from the State of Pennsylvania, who may be considered in his present relation to us, the Representative not merely of his own State, but of the whole West, we offer our cordial felicitation on the prospect of the early completion of the work which has just now been symbolically begun, and of which he too has been the zealous and efficient advocate.

"To the almost unanimous support of the Senators and Representatives of the Western States, united to that afforded by valuable friends from other States, we, of the Atlantic Shore, greatly owe the aid which Congress has liberally granted to this undertaking. It is our earnest hope, that, in the advantages to be derived from the opening of this great channel of commerce—from the construction of this great central chain of union—the States of the West will find their most sanguine calculations surpassed by the reality, and that, in the result, the whole sisterhood of States will be made sensible of the benign influence of liberal legislation."

When the Chairman had concluded—

Mr. Stewart, (the Director referred to above) after returning his thanks to the Committee from the three Corporations of the District, for the flattering terms in which they had noticed him in the address delivered by their Chairman, begged to avail himself of this occasion, to tender also his grateful acknowledgments to the Stockholders now present for the distinguished and unexpected honor they had conferred on him, by calling him from a distant residence, to a seat at the Board of Directors. He had, however, to regret that, owing to his very limited experience, he could bring to the Board little more than his hearty good will, and an ardent desire to do every thing in his power to give energy to the prosecution of this great work to a speedy and successful termination—a work preeminently national in all its aspects, commenced, as had been well remarked by the President of the Company, under the most cheering auspices, by the hands of the Chief Magistrate of the greatest Republic on earth, and in the presence of the official Representatives of several of the most refined and powerful nations of Europe.

"Designated by you, gentleman, (said Mr. S.) as the representative of the Western States, on this occasion I may venture t' tender you their thanks for the just tribut you have paid to the liberal and magnanimous spirit by which they have been governed. I need not say that the people of the West take a deep and lively interest in the success of this great enterprise. They have spoken their sentiments by much higher authority, by their immediate Representatives in Congress; for, in eight of the nine Western States there was but one vote against the liberal appropriation granted at the last session to this object, and to which we are so greatly indebted for the gratification we all experience on this glorious and joyful occasion.

"Looking, as we do, in the West, with intense interest to the accomplishment of this great object, it would be unjust, on this occasion, to withhold the expression of our obligations to our brethren of the East, for their liberal support: for, in eight of the Eastern States, likewise, there were but eight votes in the House against this appropriation. Our obligations, however, are confined to no section; they belong to the whole Union. Justly regarding this as an object eminently national, the Representatives from all portions of our country, influenced by a liberal and enlightened policy, extended to it a generous support. This liberality, however, was not confined to this object alone, but extended largely and freely to others—to Tennessee, to Ohio, to Pennsylvania.

"You have very justly, gentlemen, described this as 'a great central chain of union between the Atlantic and Western States.' I am happy, however, in the conviction that there are other and stronger ties which bind us together—ties of a higher and nobler origin—ties 'not made with hands,' but found in the hearts, in the affectionate attachment, in the patriotic devotion of the People of the Government and Union of the States. These are the bonds of the Union, after all, to which we must look, and on which we must rely; these are the bonds which we are called on by every patriotic feeling to cherish, to strengthen, and in-

*Attending this action was an incident which produced a greater sensation than any other that occurred during the day. The spade which the President held struck a root which prevented its penetrating the earth. Not deterred by trifing obstacles from doing what he had deliberately resolved to perform, Mr. Adams tried again, with no better success. Thus foiled, he threw down the spade, hastily stripped off and laid aside his coat, and went seriously *to work*. The multitude around, and on the hills and trees, who could not *hear*, because of their distance from the open space, but could *see* and understand, observing this action, raised a loud and unanimous cheering, which continued for some time after Mr. Adams had mastered the difficulty.

crease. Every attempt, no matter from what quarter it may come, to dissolve these bonds, weaken these ties, which bind the People to the Union, to the Constitution, and laws of their country, should, as it must, meet the indignant reputation of every true patriot. For, should this Union be destroyed, what becomes of this fair land, with all its cheering prospects? Where will persecuted liberty longer look for an Asylum? Where will the patriot turn his eyes for safety? What becomes of *our bright example* to the friends of freedom throughout the World? Extinguished forever.

"But I will dismiss this reflection as inappropriate to the occasion, as an event beyond the reach of anticipation, to which we should never look but to avoid it.

"I present you, gentlemen, and all present, the congratulations of the West on this occasion; and permit me to express the hope that we will be able to complete the work, now so happily begun, in the three years from this day; and, by a union and co-operation with our friends at Baltimore, when the two works become united on the Potomac River, with a common object and a common interest, may we not indulge the hope that the day is not distant when we shall again assemble, at the summit level, to celebrate an event still more glorious than this—the mingling of the waters of the Chesapeake and Ohio; when we may truly exclaim, without the spirit of prophecy.

"Art's noblest, greatest triumph, is her last."

These addresses being concluded, the Spade was taken, and sods of earth dug in succession by the President of the Canal Company, the Mayors of Washington, Georgetown, and Alexandria, the Secretaries of the Treasury, War and Navy, the Postmaster General, the Commander of the Army, the Revolutionary Officers present, the Directors of the Canal Company, and then by a great number of other persons.

After a few moments of repose, the Procession again formed, and returned to the boat, and by the way of the Canal back to the tide water, where they reembarked on board the Steam Boats.

A cold collation was then partaken of on board the boats, with a relish sharpened by exercise, and by the gratification, free from the least particle of alloy, which the whole excursion and the incidents of the day had afforded to all.

At the table on the deck of the Surprize, the President of the United States, being called upon for a toast, gave the following:

"The Chesapeake and Ohio Canal.—Perseverance!"

The President of the Canal Company, on being called upon for a sentiment, gave the following:

"The Constitution of the United States—The offspring of mutual concession, may it be preserved by mutual forbearance!"

The Secretary of the Treasury, being also called on for a Toast, gave the following, which only spoke the universal feeling:

"The Chesapeake and Ohio Canal—May its completion be as productive of public benefits, as its commencement has been of social pleasures."

By the time the steam boats had arrived opposite to Georgetown; and after lying in the stream a few minutes, proceeded down the river, and swept up to Davidson's wharf, in the city, where most of the passengers were landed, at about half past 2 o'clock, and the Company dispersed to their respective homes, with the kindest feelings in themselves and to one another.

Thus ended the most delightful commemoration of this eventful day that we have ever witnessed, and thus auspiciously was begun the work upon the Chesapeake and Ohio Canal.

ROCKFORD SPEAKS ON NATIONAL SECURITY

Mr. SMITH of Illinois. Mr. President, the Rockford Register-Republic recently conducted a national security issues poll. I submit the final tabulation for the consideration of the Senate. On the basis of nearly 1,000 replies, I consider this a representative sampling of the Rockford area's views on national security issues.

I commend the Register-Republic for its enterprise not only in keeping itself informed on local public opinion, but also for enabling elected officials to gage more accurately the public sentiment.

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

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

NATIONAL SECURITY ISSUES POLL RESULTS

	Agree	Disagree	Undecided
1. The Safeguard Anti-Ballistic Missile Defense System (ABM) is necessary for the defense of the United States	712	122	84
2. The United States should maintain military strength greater than that of the Soviet Union and Red China	746	116	56
3. Communists and other revolutionaries should be permitted to teach in tax-supported educational institutions	58	836	19
4. Communists and other revolutionaries should be permitted to hold sensitive positions in defense facilities	10	885	20
5. The United States should have a national objective of victory in the cold war	693	144	83
6. The United States needs a "Freedom Academy" to train leaders for new forms of non-military conflict	454	199	262
7. The United States should help the people of Czechoslovakia, Hungary, Cuba, and other captive nations in their struggle for freedom	476	276	164
8. The United States should have a national objective of victory in Vietnam	644	194	67
9. The United States should give economic aid to foreign governments even if they are Communist or pro-Communist	61	816	40
10. The United States should extend diplomatic recognition to Red China	265	578	74

Here are the final tabulations of replies to the 10 questions in the National Security Issues Poll conducted by The Register-Republic during the week of July 20–25.

The final tabulation is being published in order that respondents to the poll may ascertain how others who participated answered the 10 questions.

Just under 1,000 ballots were received. Only 24 declined to sign their names, as requested by the American Security Council, originator of the public opinion survey. The Register-Republic will send only the results of the poll—not any names or addresses—to the ASC.

Signed ballots were requested to prevent any effort to "pack" the ballot box.

The answers, we believe, provide a representative cross-section of public opinion in the Rockford area on major national security issues.

COMMENTS ON THE C–5A PROGRAM

Mr. GOLDWATER. Mr. President, in my last discussion of the current business before the Senate, the Armed Forces authorization bill, I stated that I would comment further on the report on military spending by Members of Congress for peace through law, so today I would like to discuss what is unfortunately one of the most controversial pieces of equipment that we are asking authorization for. I use the term "unfortunately" because this airplane is sorely needed for transporting the Army of the future. The truth is that desired reductions in the force level of the Army cannot be accomplished without this airplane because the Army of the 1980's is being planned on the ability to rapidly transport itself to any part of the world. Before discussing the airplane itself, I would like to engage now in comments on the C–5A section of the report I have previously mentioned.

Four categories of commentary, critical of the C–5A program, are identifiable in the report on military spending. These categories pertain to: First, the basic requirement for the C–5A; second, the performance of the aircraft relative to changes in specification requirements; third, operating costs; fourth, acquisition costs and the financial problems of the contractor. Each of these areas of criticism will be addressed. First, the comments relative to the need for the C–5A.

In this regard, a particularly misleading statement is made in the report on military spending; namely, that the reasons for buying the currently planned C–5A force are obscure. Even the most superficial examination of the legislative history of the airlift program reveals the fact that the Congress has for many years pressed upon the Defense Department the urgent need for a major expansion in our military airlift capacity. Therefore, congressional initiative as well as efforts within the Department of Defense provided the initial impetus toward the achievement of that objective.

With regard to the C–5A requirement, itself, the authors of the report are apparently aware that it grew out of a series of airlift studies conducted during the early 1960's, which culminated in September 1964 with a joint Army-Air Force study called AIRTRANS—1970's. It was from this last mentioned study that the specific requirement for six squadrons of C–5A's—96 U.E. aircraft—emerged. And, it was this program which was presented to the Congress in tentative form in early 1965, and reaffirmed in its final form in early 1966.

There are several points to be kept in mind with regard to this requirement. First, the decision to buy six squadrons of C–5A's was accompanied by a decision to reduce the planned C–141 force from 20 to 13 squadrons—later increased to

14 squadrons. This was done to achieve a better balance within the total airlift force, which in the 1970's was to consist principally of C–5A's, C–141's and the Civil Reserve Air Fleet—CRAF. The C–5A's were to carry primarily the larger, bulkier items of equipment which no other aircraft could carry. The C–141's were to carry primarily the smaller, denser items of equipment and general cargo and passengers. The CRAF were carried to carry primarily passengers, and the lighter items of equipment and general cargo.

Thus, the principal reason for buying the C–5A was not "its prospective cost-effectiveness as a mode of transportation," or "as a rugged assault-type transport operating at the FEBA," that is, the forward edge of the battle area. The principal reason for buying the C–5A was its outsize cargo capacity. Cost-effectiveness was important, and the C–5A even at the higher acquisition cost will still be a good buy, providing it is bought in reasonable numbers. Its pure operating cost, excluding amortization of the cost of the aircraft, will still be approximately half that of the C–141 on a comparable ton-mile basis. That was another reason why the number of C–141 squadrons was reduced when it was decided to buy the C–5A. The C–5A was designed to land at "support area airfields," characterized by short, lightly paved runways and austere cargo handling facilities. This capability is important to reduce congestion at major terminals and to deliver forces close to the area in which they are required. This capability will still be available when needed.

Also in the context of the basic need for the aircraft, it can be seen that the requirement for six squadrons of C–5A's, formulated in the mid-1960's, was always related to a requirement for "fast deployment" sealift. Even as late as January 1969 Secretary of Defense Clifford described the desired airlift/sealift capability as follows:

> 6 C–5A squadrons, 14 C–141 squadrons and 30 FDL ships; prepositioned materiel in Europe and in the Pacific; a Civil Reserve Air Fleet (CRAF) equal to 465 B–707/DC–8s; and the equivalent of 460 typical commercial cargo ships.

The fact that the basic General Purpose Forces strategy has been changed from "2½ wars" to "1½ wars" does have some bearing on the airlift requirement. But it should be noted that the Congress has refused to approve the FDL program, leaving the full weight of the quick response lift requirement on the airlift. In late 1969, during the course of the fiscal year 1971 budget review, Secretary of Defense Laird decided to hold the C–5A force at four squadrons and the total buy at 81 aircraft. He did so because of the tight budgetary constraints, the rising cost of the C–5A, and the overall reappraisal of defense requirements. Accordingly, there is nothing inconsistent in the JCS position, still validating a six-squadron C–5A requirement.

It has been well understood for many years among informed Members of Congress that the first 30 days of a limited war in Europe or Asia would be the most critical. The quick response lift requirement has always been related to that premise. Accordingly, there is a very great premium on an ability to get our forces to the scene of action during that critical period. For example, in the case of a war in Europe, a typical reinforcement of our forces there might consist of 300,000 men, 105,000 tons of bulk cargo, and 66,000 tons of outsize cargo. With 97 C–5A's in operational units, plus all of the C–141's and 75 percent of the CRAF aircraft, this reinforcement can be moved to Europe in 20 days, fully ready for combat. With 70 C–5A's, the number expected to be available for operating units from a total buy of 81, this reinforcement could be moved to Europe in 28 days. Thus, it is perfectly clear why the JCS still validates a requirement for 120—that is, 96-unit equipment—C–5A's, and why the Defense Department still insists that a total of at least 81 aircraft should be bought.

The second major area of criticism contained in the report on military spending relates to the performance capability of the aircraft.

The report lists 12 specification changes which were originally compiled in a report prepared by the Office of the Secretary of the Air Force during a comprehensive analysis of the C–5A program. This report, appropriately entitled "Review of the C–5A Program," represents an authoritative documentation of the background of the C–5 program from its inception through June 1969, Philip N. Whittaker, Assistant Secretary of the Air Force for Installations and Logistics, was charged with the responsibility of conducting this review. In fulfilling his charter, Secretary Whittaker attempted to achieve the highest feasible degree of objectivity and impartiality. He relied upon expert military judgment and the considered opinions of a civilian advisory council, consisting of four persons outside the Air Force having no previous involvement with the C–5A, but possessing extensive experience in aeronautical research and development.

The Whittaker report, as it is commonly called, in addition to complete coverage of the program, contained specific answers to allegations that certain revisions of detailed specifications by the Air Force impacted adversely on the performance characteristic of the aircraft. However, the report on military spending dismisses this thorough investigation with flavored words rather than dealing directly with the substantive findings. The report adds nothing new to the prior allegations and fails even to present the readers with the substantive summary findings, relevant to the list of 12 specification changes. These are contained in the following extract from the Whittaker report:

> There have been 46 design and performance changes to date. None of these changes degraded the mission specification performance requirements, e.g., payload/range, takeoff and landing distance, or cruise speed. Nor did these changes reduce the safety factors below those standards associated with other USAF aircraft performing similar missions.

Referring to these changes in specifications, an ad hoc committee of the Air Force Scientific Advisory Board also concluded that:

> Thus, no net change of performance results, and it is concluded that the Air Force has *not* granted specification deviations which have reduced the flight-performance requirements of the C–5A airplane.

It certainly appears that conclusive statements of that nature, from groups possessing such a high level of technical expertise, should suffice as adequate refutation of the out of context commentary on C–5 performance which is contained in the report on military spending.

In respect to the cost aspects of the C–5A program, the report on military spending is useful in voicing the concern over cost growth within the program. However, the authors of the report should have been more precise in their use of summary data comparing the costs associated with the April 1965 estimates versus the October 1968 estimate. For example, the report on military spending lists $293 million as "AFLC investment." This figure represents cost estimates for initial spares only. The comparable amount in the summary table listing the October 1968 estimate should have been $483 million rather than the $968 million used in the report on military spending. Mistakes of this magnitude, whether intentional or labeled an oversight, tend to cast doubt as to the validity of the other data.

Likewise, the report on military spending devotes considerable space to a discussion of increased operating costs of the C–5A, when development and production costs are amortized over a given life expectancy. Any computation of operating cost, which includes amortized costs of the system, must incorporate assumptions on several factors. However, the items having prime impact on the computation are the assumptions relative to daily utilization rate and life expectancy. For example, the costs per ton mile used in the report on military spending were based on a life expectancy of 10 years. Changing the assumed life expectancy to 20 years would obviously produce a proportionate reduction in the operating costs.

However, the critical item relative to operating costs is the fact that the C–5A was procured to satisfy a need for such an aircraft during wartime conditions. The availability of this aircraft for peacetime operations is merely an added benefit of the procurement decision. Consequently, the issue of amortizing development and production costs is not germane to the computation of operating costs for the C–5, unless it is also considered appropriate to apply comparable amortization data to the operating costs of other weapon systems.

The fourth major area of critical commentary contained in the report on military spending is focused on the acquisition costs of the aircraft and the finan-

cial problems of the contractor. To examine these topics in the proper context, it is essential to understand the impact of potential alternatives which the Congress could employ in acting upon the fiscal year 1971 budget request. The Air Force has requested $544.4 million in procurement funds for the C–5A program. Of this amount, $344.4 million is required for prior year unfunded production obligations. Of this amount, $296.0 million is for the prime contractor, Lockheed. Failure to appropriate the $344.4 million requested for fiscal year 1971 would, in accordance with the present Lockheed contract, soon halt payments to the contractor. Because of Lockheed's critical position, the contractor would in all probability have no choice but to stop production should these payments cease.

Assuming the $344.4 million is approved, about 30 airplanes will have been delivered by the end of December 1970. Shortly thereafter, it is estimated that Lockheed's portion of the $344.4 million will have been exhausted and additional funding will be required to continue production.

This additional funding is reflected in the $200 million in contingency funds, also contained in the budget request and recommended for approval by the Senate Committee on Armed Services. If the $200 million is not approved, and the program is terminated after having received only 30 aircraft, the average unit program cost will be approximately $125 million per aircraft. This is the unit program cost which prorates all R. & D., production, initial spares and direct C–5A military construction costs over the 30 aircraft. If, however, a total of 81 aircraft are produced, the average unit program cost will be approximately $56 million. However, and this is the crucial point, the incremental cost of the 51 aircraft that we could get from funding the total program, beyond the $344.4 million in this request, would be about $16 million each. In other words, after the $344.4 million owed under the contract is authorized, additional funds of about $800 million will be required for 51 additional aircraft. This results in an average cost of about $16 million per aircraft.

The $200 million in contingency funds contained in this request represents the initial increment of the estimated $800 million. The report on military spending rightfully expresses concern about the intended use of this $200 million. However, it should be absolutely clear that the potential use of these funds is adequately safeguarded by the restrictive language in the authorization bill, as reported by the Senate Committee on Armed Services. This language provides that the $200 million will not be obligated until the Secretary of Defense has presented an expenditure plan to the Congress, for approval by the Committees on Armed Services of both the House and Senate. Additionally, the language in the bill provides strict statutory guidelines to insure that the $200 million will only be used for the C–5A program and not directed to other Lockheed programs. The concern expressed on this subject in the report on military spending is well taken, and the Congress and the Air Force are taking adequate steps to insure that the procurement process for military equipment does not result in a relief program for the aerospace industry.

Mr. President, having commented on what I believe are the errors and false assumptions of the report from the Committee for Peace Through Law, I would now like to discuss the C–5A itself.

THE AIR FORCE C–5A

A. DESCRIPTION

The C–5A is a high wing, low-to-the-ground fuselage, heavy cargo transport aircraft in the 765,000 pound gross weight class. It is powered by four large high-bypass turbofan jet engines and can fly at a normal cruise speed of mach 0.77 at an altitude of more than 30,000 feet fully loaded. Its cargo compartment provides about 33,500 cubic feet of usable space and a floor area of 2,750 square feet. The level cargo area—excluding the fore and after integral ramps—is 121.1 feet by 19 feet. The maximum ceiling height of 13.5 feet extends the length of the fuselage, except for 3 feet on each side which tapers down to a minimum of 9.5 feet. The cargo floor is stressed to bear 300 pounds per square foot throughout the level area and 400 pounds per square foot in the center strip to accommodate heavy vehicles weighing up to 80 tons. Large 13.5 by 19.0 feet openings and integral ramps fore and aft permit drive-through loading and unloading of both wheeled and tracked vehicles.

In point-to-point service, the C–5A is designed to carry a 265,000 pound payload 2,500 nautical miles or a 100,000 pound payload 5,800 nautical miles. These ranges can be further extended by in-flight refueling. It is also designed to land—over 50-foot obstacles—on a 4,000-foot runway with a payload of 100,000 pounds and enough fuel on board for a return trip of 1,000 nautical miles.

For aerial delivery, the C–5A can carry a payload of up to 200,000 pounds. The rear cargo door can be opened in flight to permit a series of air drops of up to 50,000 pounds each.

The unique landing gear on the C–5A has been specifically designed to permit the aircraft to operate into forward airfields. For example, the gear can be swivelled 20° to the right or left to permit cross wind landings at airfields with a single runway. The large number of wheels—four main gear with six wheels each and one nose gear with four wheels—for a total of 28—and the ability to deflate the tires in flight permit the C–5A to land on lightly paved runways. The "kneeling" feature, that is, the ability to partially retract the gear, permits the cargo floor of the aircraft to be lowered to truck bed height. Finally, each set of main gear can be retracted independently under the aircraft's own power so that the tires can be changed without having to jack up the airplane.

In addition to a double crew totaling 16 men, the C–5A can accommodate about 75 passengers in the rear, upper deck compartment. Thus, operating and maintenance crews, as well as cargo handlers, can be carried with the equipment in a ready-to-go condition.

B. PURPOSE

The C–5A is primarily designed to carry outsize items of military equipment—tanks, self-propelled artillery, assault helicopters, et cetera—which are too heavy and/or too large to be carried by any other type of aircraft, military or civilian, available to the Defense Department. In this respect, the C–5A will complement rather than compete with other elements of the strategic airlift force, including the Civil Reserve Air Fleet—(CRAF). In concert with the other elements of the force, the C–5A will enable the Defense Establishment, for the first time in its history, to airlift even a mechanized or armored division overseas complete with virtually all of its heavy equipment in a ready-to-go condition.

The C–5A will be used predominately for deployment and logistics support airlift to the more rearward areas. However, when tonnage requirements justify and the risk is acceptable, the C–5A may also be employed for airlift directly to forward areas. The aircraft is specifically designed to operate in and out of forward airfields, which typically have short runways and austere cargo handling facilities. This capability not only helps reduce congestion at the major airports in the combat theater, and the need to unload and reload the cargo but also permits the delivery of major items of equipment closer to the scene of action.

As noted earlier, the C–5A is also designed for the long range, accurate delivery of large quantities of supplies and equipment by airdrop. This capability could be of critical importance in many types of combat situations where no other means of logistics support are available or feasible.

C. THE NEED

The need for airlift is directly related to our national strategy, which requires that we be prepared to help defend the territories of other nations with whom we have mutual defense agreements, or whose defense is vital to our own national security interests. Although the commitments and obligations assumed by the Nation in support of that strategy are not directly translatable into precisely defined and measurable force requirements and deployment schedules, we know from past experience that the ability to respond promptly to threats against our allies or our national interests can serve to deter aggression, or prevent small conflicts from expanding into larger ones.

There are essentially two major ways in which such a rapid response capability can be provided. The first is to maintain large general purpose forces stationed around the globe near all potential trouble spots. The second is to maintain a central reserve of highly ready forces in the United States, supported by a lift capability sufficient to deploy them promptly to wherever they might be needed.

Falling somewhere in between is a third, partial solution—preposition-

ing of major items of equipment overseas, near the most likely trouble spots. We have such stocks of prepositioned equipment in Western Europe and in the western reaches of the Pacific. But this method, particularly in distant parts of the world, has a number of disadvantages: equipment requirements are increased; facilities and personnel must be provided overseas to care for the equipment; and, if the attack occurs elsewhere, the equipment would have to be moved or other equipment would have to be provided from the United States. And, of course, there is always the possibility that the storage site could be overrun before our troops arrive.

In any event, it is clear from what has been said in President Nixon's foreign policy report to the Congress in February that the trend in the future will favor the second choice: maintenance of a central reserve. But, it is also clear from what the President has said that we will continue to honor our commitments to our allies and defend our national interests wherever they may be threatened. Consequently, the ability to deploy our general purpose forces rapidly will be even more important in the future than it has been in the past.

President Nixon's decision to tailor our peacetime general purpose forces to a "1½ war" instead of a "2½ war" contingency, will not significantly alter our rapid deployment requirements. We have never had enough airlift or sealift capacity to meet the early movement requirements of even one major war, for example, in Europe, and at the same time assist our allies against non-Chinese threats in Asia and contend with a military contingency elsewhere in the world. Furthermore, the new strategy requires us to be prepared to deal with a major war in either Europe of Asia. This means, in particular, we must be prepared to move large forces rapidly between Europe and Asia, as well as from the United States.

The principal rapid response lift capability available to the United States today consists of several hundred transport aircraft operated by the Military Airlift Command—MAC—plus several hundred commercial airliners which can be made available in an emergency through the Civil Reserve Air Fleet—CRAF—program.

The bulk of the long-range MAC capacity is presently provided by a force of 14 C–141 squadrons, with a total of 234 operational aircraft. This fleet can carry 2,100 tons per day from the United States to Europe on a sustained basis. While the C–141 cannot accommodate many important types of wheeled and tracked vehicles in a combat ready condition, it can carry the lighter and smaller items of equipment as well as bulk cargo and passengers.

The CRAF, which by 1972 should number some 325 large commercial airliners, including the new Boeing 747 jumbo jets, would be able to carry 5,500 tons of troops and cargo per day from the United States to Europe on a sustained basis. But even the largest of the CRAF aircraft—for example, the 747—would not be able to carry the bulkier items of ground force equipment because of the limited dimensions of their cabin doors and, in some cases, the cabins themselves. The 747, for example, has a cargo door opening 12 feet wide. However, only 8.7 feet of this width has a clearance of as much as 8.1 feet. The C–5A has two openings each 19 feet wide and 13.5 feet high. Furthermore, most CRAF aircraft require long, well paved, heavy runways, and specialized ground handling equipment, and, therefore, cannot operate into forward airfields. The main cargo deck of the 747, for example, is more than 16 feet above the ground. Accordingly, these aircraft would be restricted to the carriage of passengers, bulk supplies, and the smaller equipment items, to and from major airfields.

Notwithstanding the impressive carrying capacity of the C–141 fleet and CRAF, they still cannot deliver an Army division overseas complete with all of its major equipment. As shown in the following table, only the C–5A can do that.

PERCENTAGE OF EQUIPMENT BY WEIGHT IN EACH TYPE ARMY DIVISION (DIVISION BASE PLUS MANEUVER BATTALIONS) THAT IS AIR TRANSPORTABLE BY TYPE OF AIRCRAFT

Type division	Type aircraft			
	C–5	C–141	747 [1]	707/DC–8
Armored	100	52	34	4
Mechanized	100	59	37	4
Infantry	100	74	60	6
Airborne	100	97	89	25
Airmobile [2]	100	93	81	28

[1] Figures for the DC–10 or L–1011 would be roughly comparable.
[2] Figures do not include 6 Mohawk OV–1 aircraft.

Although the C–141 and the 747 can carry a large portion of the equipment required for an airborne or airmobile division, they cannot do so in the case of the other types of divisions. And, it should be borne in mind that the items which these aircraft cannot carry, but which the C–5A can, provide a major part of the combat power of these other types of divisions. This point is well illustrated in the following table.

SIGNIFICANT ITEMS OF EQUIPMENT WHICH ONLY THE C–5A CAN CARRY

Item [1]	Total number of each item per division				
	Armored	Mechanized	Infantry	Airborne	Airmobile
Howitzer, self propelled, 8" 26.5 tons	12	12	4		
Howitzer, self propelled, 155 mm., 22.2 tons	54	54			
Tank, combat, 105 mm., 48.5 tons	324	216	54		
Tank, combat 76 mm., 22.3 tons	27	27	27		
Combat engineer vehicle, 54 tons	8	8	4		
Tank recovery vehicle:					
24.2 tons	43	48	16	5	5
53.8 tons	37	27	10		
UH1D helicopter, 2.1 tons	10	10	35	35	176
CH47A helicopter, 7.9 tons					48

[1] All tonnage figures are in short tons.

It should be noted that only the C–5A can carry the UH–1D and CH–47A helicopters, which are the backbone of the airmobile division even though they represent only a small part of the total weight of the division's equipment.

Thus, it is clear that the full value of the C–141 fleet and CRAF in the overseas movement of major ground forces units cannot be realized without at least a certain minimum number of C–5A's in the airlift forces.

Calculations have been made to determine the number of C–5A's required to balance properly the capacities provided by the C–141 fleet and CRAF. For this purpose, it was assumed that about 75 percent of the CRAF cargo and convertible-to-cargo aircraft would be available for overseas deployments—about 160 aircraft in 1972—in addition to the 234 C–141's. On that basis, about 95 C–5A's would be required to balance the capacities provided by the C–141 fleet and CRAF in deploying armored divisions, and about 84 C–5A's would be required in deploying mechanized divisions. Putting it another way, with a force of about 95 C–5A's, plus the 160 CRAF aircraft and the 234 C–141's, an armored division could be airlifted to Europe, complete with virtually all of its heavy equipment, every 7½ days.

This was one of the parameters used in arriving at the six squadron program—96 aircraft in operational units—originally proposed for the C–5A. With a total buy of 81 aircraft—the presently authorized number—only about 70 would be available for the operational units. Consequently, more than 7½ days would be required to deploy an armored division to Europe since the rate of deployment would have to be paced to the capacity of the C–5A force. But even so, we would still have a very significant rapid response capability, particularly for the deployment of the lighter types of divisions—infantry, airborne, and airmobile. The 70 C–5A's could carry about 2,800 tons per day to Europe on a sustained basis, considerably more than the C–141 fleet.

Another even more significant parameter used in sizing the C–5A fleet was our NATO commitment. As matters now stand, even with several U.S. divisions and additional prepositioned equipment in Europe, we still need a very substantial airlift capacity to just come near matching the Warsaw Pact mobilization capability, particularly during the very critical period M+15 to M+30 days. The originally proposed C–5A buy of 120 aircraft would have provided the capability to substantially balance the U.S.-NATO force buildup rate with that of the Warsaw Pact. The current proposal of 81 production aircraft leaves us with some deficit but with a substantial gain over the situation without any C–5A's. Reductions below 81 would seriously erode

our continued ability to underwrite deterrence in Central Europe.

For example, if we were to reinforce our NATO allies in an initial defense of Western Europe with an additional force of 300,000 men, 105,000 tons of bulk cargo and 66,000 tons of outsize cargo, 97 C–5A's would be required to close the force in a balanced manner. The deployment would take 20 days.

With fewer C–5A's than the number needed for balance, the outsize cargo would be delayed with a corresponding delay in attaining effectiveness of the combat units. In the above example, reducing the number of C–5A's to only 70 U.E. aircraft—81 production—would increase the time to complete the delivery of the outsize cargo to 28 days and would not allow us to fully exploit the utility of our existing airlift resources; that is, CRAF and C–141's.

Any further reduction in the number of C–5A's available would obviously erode if not destroy our deterrent posture. For example: 48 C–5A's would take 41 days; 28 C–5A's would take 69 days, and 16 C–5A's would take 121 days. Clearly, these long deployment times would not establish any meaningful remote presence and would not underwrite our deterrence.

The nature and magnitude of future military contingencies is, of course, not within our power to control. The United States, however, has adopted a general strategy of deterrence—of conventional as well as nuclear attack—and we seek to provide forces to underwrite this strategy. The deployment described above is typical of the deployments which are considered necessary to achieve this deterrence in NATO.

Another factor taken into account in establishing the preferred composition of our airlift fleet as a whole was the favorable operating efficiency of the C–5A. With a ton mile per day capacity about four times greater than the C–141, its annual operating cost is only about 80 percent greater. In other words, the operating cost of the C–5A on a comparable capacity basis would be approximately half that of the C–141. It was for this reason that the C–141 program was cut back from the originally planned 20 squadrons to the current level of 14 squadrons, once it was decided to produce and deploy the C–5A. In fact, if a further increase in the strategic airlift capacity is desired, over and above the level now planned, the C–5A would still be the best buy even at current prices.

Moreover, the present Air Force fleet of outsize cargo aircraft, the C–124's and a few C–133's, is old and costly to operate and maintain. The C–124's have already been phased out of the active force into the reserves and the C–133's will be phased out during the next few years. And, as noted earlier, the C–141 fleet cannot carry the larger items of ground force equipment. Thus, there is really no other practical alternative to the procurement of at least 81 C–5A's if this Nation is to have the ability to rapidly deploy its general purpose forces overseas when required.

D. TECHNICAL STATUS

The C–5A was originally envisioned as a state-of-the-art aircraft, ideally suited to the total package procurement approach. In fact, the successful bidder, Lockheed, referred to it as a "scaled-up" version of the C–141. No particular problems were anticipated in either its development or production.

Subsequent events have shown these assessments to be overly optimistic. While it is true that the C–5A development did not require a major breakthrough in aircraft technology, it did require an extremely refined design to achieve the high performance goals provided in the contract. The additional effort required to perfect the design was one of the principal sources of the subsequent delays and a contributing factor to the cost overruns. Engineering manhours alone turned out to be double the number originally estimated by the contractor.

For example, to meet the highly demanding short takeoff and landing goal, Lockheed had to add about 600 square feet to the area of the wing. This change increased the weight of the aircraft, thereby necessitating a redesign of the airframe. The redesign succeeded in reducing weight but unfortunately increased the drag to the point where the range/payload goal could not be met. To cope with this combined weight/drag problem, Lockheed undertook a further, more comprehensive, redesign of the airframe. Additionally, Lockheed expanded their use of lightweight materials, such as beryllium and titanium, and advanced manufacturing techniques, such as honeycomb construction and chemical milling.

These changes not only increased the cost of development, but even more important, they also increased the cost of production. The late release of engineering drawings caused a great deal of overtime work and out-of-station installation, both in the prime contractor and subcontractor plants. The advanced manufacturing methods not only created a requirement for new production equipment and tooling and the extensive retraining of production workers, but also increased production man-hours, scrap, and rework.

Notwithstanding all of these problems, first flight was achieved in the month scheduled, and the empty weight of the aircraft was within 1 percent of the contracted weight of about 320,000 pounds. This is a remarkably small increase when compared with the 6 to 8 percent weight growth experienced with other cargo aircraft.

The C–5A is now in flight test and production. As of early June 1970, 15 aircraft were flying. Eight were being used in the flight test program by the contractor and the Air Force, six in the MAC Training Wing and one had been delivered to the operational wing at Charleston Air Force Base, S.C. The 15 aircraft had already accumulated more than 4,200 flying hours, of which more than 900 were flown by MAC. MAC pilots report that the aircraft handles very well, particularly in landing.

On the basis of the test results to date, the Air Force has concluded that the aircraft essentially meets all of its performance goals—speed, range, altitude, load carrying capacity and short takeoff and landing capabilities. However, some technical problems still remain to be resolved. These fall under three main headings—landing gear, avionics, and the wing structure.

The difficulties being encountered with the landing gear are those normally experienced in any development program which pushes the state of the art. As noted earlier, the C–5A landing gear marks a major advance. Because of all of the tasks it is required to perform, it is understandably more complex than the gear used on other transport aircraft. Even so, the basic design has proved to be sound. The difficulties encountered are all of a type which can be corrected in time.

About 75 percent of the avionics installed in the C–5A is of a new design. Consequently, it is not surprising to encounter development problems in this area as well. Because of the demanding tasks laid on the C–5A design—navigating to forward airfields in all kinds of weather with little or no help from the ground, air dropping large amounts of suppiles and equipment in formation without the help of ground beacons, and so forth—it is equipped with a variety of avionic subsystems. The integration of these subsystems into a properly functioning whole has been the most important source of the problems encountered. While an extensive development and testing program is still ahead of us, the technical experts see no insurmountable obstacles to achievement of the specification requirements.

Potentially, the most serious technical problem encountered to date concerns the structural integrity of the wings. In July 1969, the full scale static test article developed a large crack in the wing structure. The cause of the crack was soon traced to a local stress concentration and a fix in the form of 11 reinforcement fittings for each wing was designed. These fittings are to be fastened to the main joints of the wing, 11 for each side, for a total of 22 fittings.

In January 1970, however, small cracks were found in both the left and right wings of aircraft No. 3, which was then being prepared for the installation of the reinforcement fittings. This particular aircraft had been used in the flight test program and had accumulated 293 flying hours. More important, in the course of the specialized test program it had been subjected to loads and stresses substantially greater than would be encountered in normal operations.

A careful analysis of the problem by both contractor and Air Force engineers led to the conclusion that the cracks in the aircraft No. 3 and the crack in the static test were similar in nature and origin, and that the fix devised for the latter would also correct the problem encountered in the former. Accordingly, fixes are now being installed in the aircraft already produced, and these same fixes will be installed in the production line

beginning with the 14th production aircraft. The 15th production of aircraft was delivered to the first MAC operational squadron on June 6, 1970.

Meanwhile, the test program is being monitored very closely. The present full scale static test article, with the wing fixes incorporated, has been tested to 120 percent of the design load limit. The normal load limit expected in the actual operation of the aircraft is 100 percent, but testing to 150 percent of the design limit is necessary—and is normal practice—to provide a factor of safety against unusual and unforeseen loads and stresses. Further testing will continue not only with the static test article, but also with the full scale fatigue test article and the flight test aircraft. If the test results indicate that additional measures are needed to alleviate excessive stresses on the wing and prolong its useful life, several techniques are available. For example, a load distribution control system could be installed. This system would automatically activate the ailerons in such a way as to shift the center of lift inboard, thereby maintaining the desired lift with less bending of the wing and, therefore, less stress on the wing structure. Similar devices have been studied by the Air Force for many years, and are installed in several aircraft.

Although the C–5A wings are highly stressed and require great care in their manufacture and assembly, the damage tolerant design concept makes the danger of a structural failure in flight quite remote. The static and fatigue tests will lead the operational fleet by many months in terms of equivalent flying hours. Consequently, there will be ample warning of any further difficulties which might endanger the structural integrity of the aircraft, and sufficient time for corrective action.

Earlier this year, a special ad hoc committee of the Air Force Scientific Advisory Board was appointed to study the C–5A wing structure. Later, the scope of these investigations was expanded to include a review of the avionics and the landing gear as well as the performance of the aircraft.

The Secretary of the Air Force received the results of these analyses in mid-June 1970. In the performance category, the study committee reported that—

> The flight performance of the C–5A meets the guarantees of the contract within the accuracy limitations of good flight-test measurements.

Likewise, the gear was judged to be of sound design and construction. The subcommittee on avionics reported that there is a "good prospect that a versatile and comprehensive navigation, flight control, and landing capability will be achieved." The subcommittee investigating the wing structure felt that a useful compromise between aircraft usage and aircraft longevity could be attained. Such a compromise would require some constraints on the peacetime usage of the aircraft, so as to insure that all facets of the wartime mission can be completely and effectively executed.

E. THE PROPOSED PROGRAM

Inasmuch as the history of the C–5A program through June 1969 has already been described in great detail in the "Air Force Review of the C–5A Program," dated July 24, 1969, this paper will deal mainly with the program changes which have taken place subsequently.

At the time that review was made, the officially approved C–5A program was still six squadrons with a total of 96 operational aircraft. To equip these squadrons and provide for flight test, training, support and attrition replacement, the total approved buy was set at 120 aircraft, including 5 for R.D.T. & E.

The initial buy, however, was limited to 53 production aircraft plus the 5 for R.D.T. & E., for a total of 58. This quantity was designated as "Run A" in the contract with Lockheed. Two additional quantities were also specified in the contract as procurement options—57 aircraft as "Run B" and 85 aircraft as "Run C". The expiration date of the "Run B" option was January 31, 1969.

By late 1968, it had become clear that the cost of the C–5A program would substantially exceed the original estimate. The total program cost to the Government for 120 aircraft was estimated at about $3,370 million at the time the contracts were signed with Lockheed and General Electric in October 1965—excluding spare engines and including only $283 million for initial aircraft spares. By October 1968, the estimate had risen to $4,831 million—including spare engines and $483 million for initial aircraft spares.

In view of this substantial increase in cost, Secretary of Defense Clifford decided to exercise the "Run B" option before it expired, but with the proviso that the Government's liability would be limited to $48.8 million for long leadtime items, plus a contingent liability in the event of termination. In the fiscal year 1970 appropriation, 23 additional aircraft were authorized, bringing the cumulative total to 81 aircraft authorized, sufficient to equip and support a full four-squadron force. Separate decisions were to be made later on the equipping of the fifth and sixth squadrons.

In late 1969, during the course of the fiscal year 1971 budget review, Secretary of Defense Laird decided to hold the C–5A force at four squadrons and the total buy at 81 aircraft. He did so because of the tight budgetary constraints, the rising costs of the C–5A and the overall reappraisal of defense requirements. The total program cost to the Government of the 81 aircraft, assuming the Air Force's interpretation of the contract with Lockheed prevailed on all disputed points, was estimated at about $3,827 million—including a small amount for military construction uniquely related to the C–5A. Since the Congress had already provided about $3,404 million for the C–5A through fiscal year 1970, the balance of $423.6 million was included in the fiscal year 1971 budget request.

However, it was recognized at the time the fiscal year 1971 budget was prepared that some serious problems still remained to be resolved in the C–5A program. These included the structural problem with the wing, the difficulties with the avionics, the dispute with Lockheed on the repricing formula and other contractual details, and the inability of Lockheed to meet the current delivery schedule. To deal with these contractual uncertainties, a contingency fund of $200 million was also included in the fiscal year 1971 budget request, bringing the total for the C–5A program to $623.6 million.

In May 1970 the Secretary of the Air Force informed the Congress that even if the Government's interpretation of the Lockheed contract prevails the 81 aircraft program will cost about $4.0 billion. This figure reflects additional cost analysis to further refine the estimates prepared for the fiscal year 1971 budget.

But regardless of what the total cost to the Government may turn out to be when the contractual dispute is finally resolved, it is now clear that without the availability of the $200 million requested for contingencies, Lockheed will not be able to finance the C–5A program beyond the end of this calendar year. The Government would then have to terminate the contract under very uncertain conditions, without knowing what it would get for its very large investment in the C–5A program. The Air Force has no stake in the contractor's present corporate structure or management. The Air Force's only concern is in maintaining an entity in existence which has the means to produce the goods for which it has contracted. Accordingly, it appears prudent to take those actions which are the minimum essential to insure an orderly continuation of the program.

In any event, contingency funds would not be expended until the Congress has been fully advised of the plan for their expenditure. Furthermore, expenditure of these funds would be controlled and managed by the Air Force to pay allowable expenses incurred by the prime contracor in direct association with the C–5A program.

The Department of Defense has recently decided to accept the Lockheed request to reduce the production rate to two aircraft per month. Under the revised schedule the 81 aircraft would be delivered in early 1973.

The Air Force's own best estimate of the final cost to produce these 81 aircraft, including initial spares, aerospace ground equipment, and so forth, based on the revised production schedule, is $4.6 billion. It is not yet clear how much of this will be funded by the Government. Including the $200 million contingency, some $4 billion will have been funded through fiscal year 1971.

Although much higher in cost than initially planned, the C–5A provides the major link between strategic airlift requirements and the capability to fulfill those requirements. Considering its unique capabilities and overall operating efficiency, the C–5A is still a good investment.

Mr. President, Dr. Robert Seamans, Jr., Secretary of the Air Force, asked the U.S. Air Force's Scientific Advisory Board to make a complete study of the C–5 and

report back to the Air Force its findings. This ad hoc committee was chaired by Dr. Raymond Bisplinghoff. This report covers completely all of the reported weaknesses of the airplane and points out how they can be overcome.

I have personally visited Edwards Air Force Base and spoken with the Air Force test crew of the characteristics of the airplane and what problems they had discovered. They, like anyone who has flown the airplane, including myself, had nothing but praise for it. In fact, testing has proceeded so well that the program is ahead of schedule. There is full knowledge of what must be done to alleviate the wing problem which, frankly, is one of stiffness just inboard the aileron; but instead of condemning this, the manufacturer should be praised for having built a wing of this strength. I believe that all Members of Congress should have the opportunity to read the relatively short report of the ad hoc committee I mentioned earlier, so I ask unanimous consent that it be printed in its entirety at this point in my remarks.

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

REPORT OF THE USAF SCIENTIFIC ADVISORY BOARD AD HOC COMMITTEE ON THE C–5A

This report discusses the limitations of a major strategic support system. Reproduction in whole or in part is prohibited without the express permission of the Office of the Secretary of the Air Force.

MEMBERSHIP

Name and affiliation:

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Dr. Alfred J. Eggers, Jr. (Vice Chairman), Headquarters, NASA.

Brig. Gen. Carroll H. Bolender (General Officer Participant), Headquarters USAF.

Col. Harold A. Steiner (Secretary), Headquarters USAF.

Subcommittee on avionics

Mr. David McColl (Subcommittee Chairman), Aerospace Corporation.

Mr. James P. Andersen, NASA Electronics Research Center.

Mr. George W. Church, Bendix Aerospace Electronics Company.

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Mr. Waldemar Breuhaus (Subcommittee Chairman), Cornell Aeronautical Laboratories, Inc.

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Mr. William T. Hamilton, The Boeing Company.

Subcommittee on wing structure

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Dr. Hassel C. Schjelderup (Liaison from SAB F–111 Committee), McDonnell-Douglas Corporation.

I. INTRODUCTION

This is the report of a technical committee. Financial and contractual arrangements involving the Lockheed Company, its vendors and the Department of Defense were neither investigated nor discussed.

On 11 February 1970, Dr. Robert C. Seamans, Jr., Secretary of the Air Force, asked the USAF Scientific Advisory Board to conduct a study of the C–5A wing structure (Annex A). The SAB Steering Committee approved the task and an Ad Hoc Committee was formed under the chairmanship of Dr. Raymond L. Bisplinghoff. The Committee met initially at the Lockheed-Georgia Company on 21–22 February 1970.

On 23 February 1970, Dr. Bisplinghoff and Colonel Steiner orally reported the Committee's preliminary findings to Mr. Grant Hansen, Assistant Secretary of the Air Force for Research and Development. During the discussion Mr. Hansen reported that Secretary Seamans would like Dr. Bisplinghoff to expand the scope of study to include a review of the C–5A avionics and performance. Dr. Bisplinghoff agreed and a C–5A Committee was structured into three Ad Hoc Subcommittees on C–5A avionics, performance and wing structure, chaired by Mr. David McColl, Mr. Waldemar Breuhaus, and Mr. Herbert Hardrath, respectively.

On 4 May 1970, Dr. Bisplinghoff and the three Sub-committee chairmen gave an oral interim report to the Secretary. During the discussion that followed this briefing, Dr. Seamans asked the SAB to form an additional subcommittee to review the C–5A landing gear. Dr. Bisplinghoff agreed to do so and appointed Dr. Eldon E. Kordes as chairman.

During this exercise, Dr. Bisplinghoff retained his position as Chairman of the C–5A Ad Hoc Committee and served as ex-officio member of each of the four Subcommittees.

The Subcommittee chairmen and members and their affiliations are listed in the preliminaries section of this report. Task statements for each Subcommittee are included as Annex B. A chronological list of activities of the Committee is included as Annex C.

Performance summary

II. SUMMARY OF SUBCOMMITTEE REPORTS

The members of the Performance Subcommittee met at the Lockheed Georgia Company on 14 and 15 March 1970. During this meeting a final Subcommittee Task Statement was formulated and adopted. The Subcommittee was briefed by technical representatives of Lockheed Georgia, General Electric, the C–5A SPO, and the Air Force Flight Test Center relative to the measured flight performance of the C–5A. Documentation describing the performance characteristics was also received, and discussions were held between the members of the Subcommittee and technical representatives of the aforementioned organizations.

On the basis of the data received, it appears that the flight performance of the C–5A meets the guarantees of the contract within the accuracy limitations of good flight-test measurements. There are slight deficiencies of range when all other specified quantities of the various guaranteed missions are met, but these deficiencies lie within the uncertainty band of flight-test measurements. These conclusions apply at the current weight of the airplane. If the empty weight of the airplane should be increased there will be an inevitable degradation of the performance of the airplane. The decrease of range with weight increase is approximately 25 nautical miles per 1000 pounds of Operating Weight Empty. Likewise, should the aerodynamic configuration of the airplane be modified, the range will change approximately 25 nautical miles for each count of drag change ($\Delta C_D = .0001$).

The Subcommittee received information describing change actions which have applied to the C–5A contract and concludes that these change actions have not reduced the flight-performance requirements which Lockheed has been required to meet.

Landing gear summary

In the process of evaluating the status of the C–5A landing gear systems, the two-day review held at the Lockheed Georgia Company was divided into the general areas of design and testing, materials and processes, electronic subsystems, operation, malfunction, and assessment of engineering changes. During the review, a tour of the airplane was made by the Subcommittee members to observe firsthand the operation of the landing gear system. Demonstrations were conducted on gear retraction and extension and on the kneeling operation. Examples of aircraft towing were also observed.

It is the opinion of the Subcommittee that the design of the landing gear system is based on good engineering principles backed by adequate tests and is basically sound. The design has included backup or alternate component provisions for emergency operation of the gear. The system has suffered from development problems, but these problems are not likely to cause a major accident if proper emergency procedures are followed.

Many of the problems that have occurred with the landing gear can be directly related to the large number of components required to meet all the landing and ground-handling requirements of the aircraft. It is essential that correct procedures be established, documented, and made available to train crews in proper procedures.

The Subcommittee also recommends that, from time to time, an aircraft with all production changes incorporated be assigned for a program of landing gear system testing and evaluations to insure satisfactory operation under service use conditions.

Avionics summary

The Subcommittee believes that, with a reasonable amount of additional work, the majority of the Air Force's needs can be met and, given a sound improvement program, there is a good prospect that a versatile and comprehensive navigation, flight control and landing capability will be achieved.

It is clear that all specified electronic functions will not be available in fleet aircraft for a considerable time to come. Some test programs, such as that on the automatic flight-control system, will not be complete for almost a year. However, a very useful performance can still be obtained from early aircraft. In particular, the MAC basic airlift mission and training which on past experience in the C–141 has used nearly 90% of all flight-hours, can be met adequately with a limited complement of electronics. Such capability can be provided much sooner than the difficult all-weather low-altitude cargo

drop, and terrain-following modes of flight. Operational all-weather landing at poor quality airfields will also take longer to attain.

Of the many avionic subsystems in the aircraft, only two have experienced difficulties to a degree that make it doubtful that the aircraft could perform the most straightforward transport mission satisfactorily unless some changes are made. These two subsystems are the Multimode Radar (MMR) and the Inertial Doppler Navigation Equipment (IDNE).

Major recommendations on these subsystems are made as follows:

1. Reconfigure the present triple redundant pitch, roll and heading sensor assemblies from two Attitude Heading Reference Units (AHRU's) and one Inertial Measurement Unit (IMU) to an assembly consisting of three AHRU's. The IMU should be retained solely for navigation purposes.

2. Provide triple redundancy for fail-operational pitch, roll and heading information fed to cockpit displays.

3. Substitute a state-of-the-art weather and mapping radar for the MMR to accomplish the transport mission.

4. Operate with the above radar alone until adequate reliability and performance for the other modes has been demonstrated by one (or both) radars of the MMR.

A number of detailed engineering improvements have been assessed and are discussed in the avionic report that follows. These improvements are important and should also be pursued.

Wing structure summary

The Wing Structure Subcommittee met on four separate occasions. Discussions were held with and data gathered from the Lockheed Georgia Company, the C–5A SPO and MAC personnel on the varied aspects of the structural integrity of the wing.

Static tests of the C–5A wing have progressed to the point where 80% of the design ultimate strength has been demonstrated. On the other hand, the full-scale fatigue test article has accumulated only 1500 simulated hours of life. Hence, a definitive assessment of fatigue life is not possible at this time. Strain measurements have identified regions of high stress which are suspect for static strength and fatigue life. Therefore, the Subcommittee believes that additional modifications to the wing structure in conjunction with other measures will be required in order to provide an operationally useful vehicle. Foremost amongst these measures is a program for tracking the usage of each individual C–5A aircraft by means of load recorders. In this way the inspection intervals can be adjusted and remaining life monitored. Next, a determined effort should be made to accelerate all tests so that most of the problems can be identified in the laboratory rather than in service. A second fatigue test of a C–5 wing is strongly recommended. Finally, the Air Force must choose one of several viable proposals which will enable the wing to more easily meet its static strength requirements. One of these is the load distribution control system.

Appropriate implementation of these recommendations should lead to a useful compromise between aircraft usage and longevity.

III. REPORT OF THE SUBCOMMITTEE ON C–5A PERFORMANCE

Guaranteed flight performance

The flight-performance guarantees of the C–5A are contained in 14 different specified flight missions and several other individual requirements.

The 14 missions consist of different combinations of payload, range, cruising speed, cruise altitude, takeoff distance, and (for several missions) a requirement for intermediate landing and return to original base without refueling. The latter cases contain landing requirements at the intermediate point, and the return flight is made at a different takeoff weight than is the outbound leg.

Individual flight-performance guarantees include (1) takeoff distance with no payload but sufficient fuel to make good a specified range; (2) one-engine-out-rate-of-climb at a specified takeoff load; (3) landing distance on an alternate runway-surface material at the midpoint of the resupply missions; and (4) cruising speed capability at the cruising altitude.

It is worthy of note that the Air Force SOR which predated the contract definition contained two specified missions rather than the 14 which are presently specified. These two missions are contained within the present 14, but one of these permitted a 7% longer takeoff distance than is presently required and the other permitted 9% less payload than is presently required. Thus, although there can be no doubt that the existing contract guarantees arose from the represented capability of the C–5A at the time of contract signing—these guarantees—both in number and in overall flight performance—represent an increase over the original Air Force requirements.

Actual performance

When the 14 flight missions are computed on the basis of the flight test data, the calibrated performance of the actual engines, and with a required increase of fuel flow rate which is 5% above the calibrated value, all guaranteed performance requirements are met or slightly exceeded except range. In the majority of the flight missions there is a slight deficiency of range. The maximum value of the deficiency is 2.6% of the specified range. In addition, all non-mission (individual) flight performance guarantees are met.

The Subcommittee was supplied with plots of flight test data for such quantities as thrust, fuel flow, drag coefficient, maximum lift coefficient, and specific range. These results are the basis for the calculation of mission performance. The scatter of the individual points indicates that the flight tests were performed with as high a degree of precision as can be reasonably expected. In general, the scatter band of the flight test data was about ±3% from the mean, with slightly less dispersion for thrust and fuel flow and slightly more dispersion for specific range. It was learned that there was no disagreement between Lockheed Flight Test and Air Force Flight Test Center personnel with regard to the acceptability and the accuracy of the flight test data.

On the basis of the foregoing it is concluded that technically there is a slight deficiency in the range of the C–5A airplane for certain of its flight missions. However, the maximum magnitude of this deficiency is within the accuracy limitations of flight testing and the deficiency should not be considered to be significant within practical terms.

Change actions

The Subcommittee has received from the Chief Systems Engineer of the C–5A SPO the numbers, titles, and brief summaries of the 46 change actions which were deemed to possibly have modified the design and performance requirements which Lockheed was obligated to meet. These 46 actions had been screened from a total of 3,445 change actions which had been accumulated by the C–5A contract through June 1969. The screening had been performed by personnel of the C–5A SPO, and we were informed by the C–5A Chiefs Systems Engineer that he had personally spot-checked a number of changes which had been placed in other categories than Performance/Design and had not found any of these that should have been placed in this latter category.

Of the 46 change actions which were screened as Performance/Design changes, only one is related in any way to performance. This is "CCN 649, ECP 260, Redesign of C–5A Empennage Bullet Fairing." This change permits an increase of Operating Weight Empty if a revised aerodynamic fairing is developed for the tail of the airplane. The resultant reduction of drag produces an increase of range which cancels the decrease of range which would result from the weight increase. Thus no net change of performance results, and it is concluded that the Air Force has *not* granted specification deviations which have reduced the flight-performance requirements of the C–5A airplane.

Engine operation

Lockheed has made further analysis of the Arnold Engineering Development Center (AEDC) engine calibration data. They state that corrections are required for static pressure and airflow conditions within the AEDC J–1 test cell and that, when these corrections are made, the specific fuel consumption of the engines is about 3% higher than is obtained without these corrections. They further state that the SFC values no longer meet contract requirements. Lockheed has submitted its analysis to General Electric and to the Air Force, but these organizations have not yet commented on the proposed correction. The nature of the data submitted to the Subcommittee is such that the Subcommittee can have no opinion on the validity of the proposed correction. The Subcommittee can only comment that the proposed correction can have no effect upon the performance of the complete airplane, but rather it can only influence the allocation of deficiencies between engine and airframe.

One other possible problem area of engine operation was described to the Subcommittee. This is a characteristic called "EPR droop", which consists of a slow variation of thrust and Turbine Inlet Temperature (due to thermal transients) for some time after the initial setting of the takeoff value of Engine Pressure Ratio (EPR). This is not a direct contract-guarantee item between the Air Force and Lockheed, although Lockheed has set requirements for General Electric as a part of the interface documents which exist between these two organizations. General Electric is investigating corrective action. The Subcommittee does not believe that this is a substantial problem and since it does not directly enter into guaranteed performance, it is not discussed further in this report.

IV. REPORT OF THE SUBCOMMITTEE ON C–5A LANDING GEAR

Discussion

Mechanical design.—The overall mechanical design of the gear system is considered to be straightforward and adequate in light of the design requirements that were necessary for the mission of this large aircraft. The design of almost all the gear components except the shock strut piston were governed by the ground-handling conditions, including the kneeling operation. The total number of components is unusually large because the runway flotation requirements dictated the use of four main landing gear with six wheels, tires, and brakes on each. Further complexity is caused by the need to rotate and fold the triangular shaped bogies and store them within a minimum space without infringing on the cargo compartment. In addition, the requirements for kneeling, steering, and crosswind positioning of all gears result in still more mechanisms and controls than on any previous cargo aircraft. The requirements for redundancy in operation and control systems appear to have been met adequately except for the retraction-extension reduction unit and drive shaft assembly on each gear and the speed changer box on the nose gear. However, these speed reduction as-

semblies have been shown to be highly reliable from simulated service tests results.

All the preceding operational conditions combine to result in the complexity mentioned but are considered necessary for this aircraft. It follows that a proportionally large number of development problems and malfunctions will be encountered during the first phases of the flight-test program. However, the added complexity allows for operational features and safety not previously available, such as individual gear jacking for field repair of gear parts, lifting of two main bogies for ease of towing, and capability of landing on three main gear as a result of landing load margins.

Mechanical testing.—The overall testing of mechanical systems is considered to be straightforward and adequate. Strength, fatigue, and environmental tests were considered to be representative of the conditions recognized during the design. The unusual requirements for kneeling and steering of all gear under remote-site conditions added complexity and unknowns to the simulated test conditions. Although the mechanical testing program is invaluable in the proof of the strength and operation of the gear system, it is impossible to foresee and simulate all possible conditions. Thus a large number of malfunctions could be expected early in the flight-test program. All known failures of load-carrying members of the gear occurred during the simulated laboratory tests.

Materials and processes.—From the data presented, it has been concluded that there are no known serious materials or processing problems in the landing gear. The designers placed reliance on well-characterized, readily available materials as of 1965, and the 300M VAR (vacuum arc remelting) steel was a better choice for the major structural components than the air-melted 4340 steel or H–11 steel used on other aircraft.

The vacuum arc remelting reduces inclusion contents, which leads to better impact toughness and presumably improved fatigue life. The aluminum alloy of 7075 is a good, high strength alloy with satisfactory properties. The brakes represent one innovative change in that beryllium is used as a heat sink material. Although this is the first extensive use of beryllium for this purpose, no malfunctions have been reported, and any structural problems with the beryllium that might occur in the future would not be expected to result in any danger to the aircraft.

From the standpoint of quality control, it appears that heavy reliance is placed on reports of the suppliers and subcontractors. Criticism can be directed at the lack of any toughness requirement in the purchase specification. Transverse reduction of area, while useful, is not an adequate measure of the ability of a material to resist brittle, catastrophic failure. Some better measure of toughness, such as Charpy V-notch impact energy or possibly fracture toughness, should be considered. Greater reliance should be placed on the properties after fabrication and heat treatment, rather than on the properties of the incoming billets.

The aircraft landing gear, utilizing steels at the 280 ksi to 300 ksi ultimate strength range, represent the most extensive use of high strength steels in massive section sizes at this strength range. As such, they are particularly sensitive to flaws in the initial steel, such as large inclusions or forging defects, as well as defects that may be introduced later by tooling or impact by flying objects during landing, which may lead to subsequent failure. Other time-dependents phenomena may occur from hydrogen embrittlement or stress corrosion, since the gear are exposed to a range of humidity conditions, including exposure to salt water at ocean-side runways. Although no such problems have yet been encountered with the C–5A, and surprisingly few with other aircraft utilizing steels at this strength level, such failures are to be expected, and careful maintenance and monitoring of the highly stressed components is recommended. Protection of parts by the usual methods of platings and coatings has been provided. A superficial assessment of the results of Lockheed's stress analysis shows that the design is satisfactory.

The choice of the 300M VAR steel for the landing gear, made in 1965, took into account some of the early problems with maraging steel and the 9 Ni–4 Co steel. Many of these problems have now been overcome so that either of these materials would be an excellent choice at this time. Both of these steels can be obtained at the desired strength level with greater toughness than the 300M steel now being used. On a straight design basis the margin of safety that can be obtained with these higher toughness steels would warrant their consideration should future problems occur with the 300M steel application of the C–5A.

Electronic subsystems.—Satisfactory performance of the kneeling operation, crosswind landing with steering and castering of the main landing gear, anti-skid braking, and gear extension and retraction depends on satisfactory performance of all the electronic subsystems. Although the electronic subsystems appear to be based on the state-of-the-art and standard practices, problems have occurred in the logic applied to function monitoring and in design and mounting of proximity sensors. These sensors provide the necessary signals to the electronic systems that control the sequences of operation. Forty-seven proximity sensors are used for sensing the position of gear components, doors, and locks.

Mechanization of all servo control and on-off command circuits uses conventional semiconductor techniques. Problems that have occurred are in the logic applied to function monitoring, in quality control of proximity sensor design, and in their mounting tolerances. Work is in progress to cure these development troubles and to retrofit improved units. This action should eliminate deficiencies which in the past have resulted in incorrect landing gear indications in flight and malfunctions in gear retraction.

The system design provides for mechanical override and bypass control of hydraulic control valves so that a single electronics fault alone cannot completely immobilize the gear. Lockheed personnel reported that a detailed fault analysis has been made of the electronic subsystems to prove that no command signals originating therein will result in any dangerous gear malfunction.

Malfunction reports were examined and gave no indication of difficulties in the electronic subsystems beyond those already mentioned. It should be emphasized, however, that the full flight-test program of the crosswind landing mode has not yet started. This is scheduled for June 1970 and C–5A's are now operated with wheels set in line with the fuselage for landing. Furthermore, electronic monitoring of the kneeling sequencing and interlocks has still to be incorporated. These matters in no way inhibit current aircraft operations, but the added safety and ease of the electronic control and monitoring are most desirable for operational use. Hence, testing and incorporation of this capability should proceed.

Malfunctions and engineering changes.—During the review of the history of malfunctions, it was brought out that because of problems with vendors the landing gear systems on aircraft 0001 through 0008 are not representative of production hardware. Aircraft 0009 through 0014 have been delivered to MAC and are being operated from Altus Air Force Base. As a result of the high rate of malfunction during the early part of the flight-test program, Lockheed appointed a special task force team and the C–5A SPO created a special task force team to look into these problems. As a result of this effort, 54 ECP's have been issued on the landing gear system; four of these are still under negotiation and three have been cancelled. These engineering changes are being incorporated into production and being retrofitted to other aircraft. Aircraft 0018 has been designed as the landing gear evaluation airplane and will have 23 of the proposed ECP's incorporated. This aircraft is scheduled to complete this program by early fall of 1970.

Since the C–5A flights at Altus Air Force Base are considered to be the most typical of expected service, the bulk of the malfunction and corrective action review covered the Altus operation. From January through May 18, 1970, this operation reported 811.9 flying hours in 256 flights with 1803 landings, 364 to full stop. Of these flying hours, 418 hours in 140 flights with 791 landings (195 to full stop) occurred between April 8 and May 18, 1970. The reported trend in the landing gear system failure was 0.09 subsystem failures per flight hour in January 1970, which has reduced to 0.03 subsystem failures per flight hour by April 1970.

Many of the reported "squawks" or malfunctions have been attributed to improper service, rigging, or operating procedure. Improvement, clarification and rapid updating of the handbook would do much toward solving these problems.

The Subcommittee studied all expected failure modes of the landing gear system that could lead to a major accident during landing and evaluated the available means for avoidance of and recovery from the malfunction. It was determined that, except for double or triple failures within major subsystems, means of recovery and satisfactory landing gear extension could be accomplished. However, in many cases, the proper recovery procedures are not simple or straightforward and could not be accomplished by the flight crew unless they had been thoroughly trained in the use of emergency procedures.

Conclusions and recommendations

It is the opinion of the Subcommittee that the design of the landing gear system is based on good engineering principles backed by adequate tests and is basically sound. The system has suffered from development problems, too many of which have been carried into flight tests, but these problems are not likely to cause a major accident if proper emergency procedures are followed.

The designers have placed reliance on well-characterized, readily available materials. Effects of embrittlement, corrosion, and impact damage on the life of components from the 300M steel material could not be assessed; however, "usual practice" protection is provided. It should be emphasized that inspection procedures and programs are necessary to insure that the protection is effective and remains intact under service use.

The electronic subsystems are conventional semiconductor circuits which should be reliable. Most problems have occurred in the logic and in use of proximity sensors. All known or anticipated problems are being studied by Lockheed for corrective action, and the planned action should eliminate deficiencies and improve reliability. Rapid solutions to the sensor problems are essential for satisfactory operation.

Many of the problems that have occurred with the landing gear can be directly related to the large number of components required to meet all the landing and groundhandling requirements of the aircraft. The design has included adequate backup or alternate component provisions for emergency operation of the gear except for the single speed-reduction unit in the retraction and extension system of each gear and the single speed-changer unit of the nose gear retraction-extension and kneeling system. Although these single unit items have successfully passed extensive service life tests, the

Subcommittee recommends that a thorough study be made to insure that a failure in these speed-reduction units, particularly the nose gear units, will not lead to a major accident.

System development during flight test has delayed the documenting of proper rigging and maintenance procedures for use by service crews. The Subcommittee is deeply concerned with this slow documentation of critical procedures for rigging and servicing the landing gear system. It is essential that correct procedures be established, documented, and made available to service crews who are responsible for proper operation of the aircraft. Adequate, up-to-date procedure training for service crews and emergency training for flight crews are necessary for the safe operation of the landing gear system.

The review of engineering design changes showed that these changes are considered adequate to remove the major deficiencies but that production changes and retrofits are scheduled over an extended time. The Subcommittee recommends that, from time to time, an aircraft with all production changes incorporated be assigned for a program of landing gear system testing and evaluations to insure satisfactory operation under service use conditions.

V. REPORT OF THE SUBCOMMITTEE ON C–5A AVIONICS

General observations

The Subcommittee, in reviewing the overall avionics systems concepts and the subsystem implementations, has received presentations giving Air Force (MAC) statements of requirements. Four of the major subsystem contractors have been visited by one or more members of the Subcommittee for detailed discussions and equipment performance appraisal, and the prime contractor, Lockheed, has been visited twice.

The total avionics installation on the C–5A is more extensive by far than any on a current cargo aircraft, and is comparable in sophistication to the avionics in an advanced fighting aircraft such as the F–111. There are 38 avionic systems with 239 replaceable units in the C–5A. The Subcommittee has been informed that 75% of the electronics are new and specifically developed for this aircraft. As configured, many systems are highly interdependent. Single functions frequently require several interlocking electronic systems each of which must work satisfactorily. As a result, progressive introduction of capabilities is not simple. The reliability of certain functions tends to be reduced.

Inertial doppler navigational equipment (IDNE)

This equipment includes, in addition to the Inertial Measuring Unit (IMU) and the doppler radar, a main and auxiliary digital computer, a main and auxiliary signal converter, a power supply, a control panel and display panel. The group of equipment supplies the high quality navigation information needed to complete a cargo air drop mission. Reduced accuracy navigation is available in the event of failure of individual units. Limited redundancy for improved reliability is supplied by the main auxiliary computer/data converter.

Status

The IDNE in limited testing has demonstrated on a number of flights a capability for a navigation accuracy better than required by equipment specifications, verifying the inherent high quality of the inertial instruments. In-flight IMU alignment has also been demonstrated.

Computer performance, both hardware and software, has been excellent. While a few operational modes such as terminal navigation and celestial fix-taking remain to be checked out, results to date give every indication that this will be completed in the near future. Subsystem unreliability is the main cause for concern for the IDNE. The primary problems have been in the IMU and the doppler radar.

An IMU change package was incorporated in mid 1969, based on results of quality, development, flight, and reliability tests to that date.

Doppler radar problems identified to date have included interference from the Multimode Radar, and uncertainty in doppler velocity determination due to a seventy foot line carrying the low-level velocity signal from the doppler back to the data processor. In addition an antenna mechanical resonance is driven by a coinciding airframe resonance leading to major gear train wear.

Adequacy of Development/Improvement Program

The problems with the IMU derive from using a relatively new approach to stabilizing the inertial instruments. This is done by mounting them in a ball floated in an external supporting sphere.

New techniques for communicating with the platform electronics and instruments have had to be developed. Due to concurrency of development and production, new manufacturing and testing techniques had to be developed and used while design changes were still being incorporated in the system.

The contractor has had problems with such things as developing a good process for plating the interior of the supporting ball so the plating would not flake off in the electrically insulated suspension fluid and lead to power or communication failures. Fabrication processes for novel items such as the subassembly which determines the relative azimuth angle of the floated ball with respect to the support ball within a few minutes of arc were difficult to bring to maturity. This led to a number of minor interruptions in the sensor output requiring computer software workarounds to avoid false equipment failure alarms.

Fixes for significant doppler unit problems identified to date are straightforward with the exception of working at high flight altitudes over very low sea states. The latter problem is common to all doppler radars. No unusual difficulties are foreseen in correcting the main problems, and current actions appear to be adequate.

Conclusions and Recommendations on the IDNE

While IDNE navigation accuracy should be satisfactory in all respects the IMU reliability is and will remain a problem for some time. As a result, *it is recommended* that avionics system mechanization be revised so the IMU is neither a dispatch item[1] nor safety-of-flight item. The addition of a third Attitude and Heading Reference Unit (AHRU) will allow this change to be made, and this is recommended in the appropriate sections of this report.

Improvements in the IMU may in time increase its reliability to the point where even the most difficult missions can be completed with a high probability of success. A continuing product improvement program for the IMU *is recommended.*

In the event the present IMU does not achieve an acceptable reliability level, alternatives are available. Taking advantage of the inherent flexibility of the digital computers in the IDNE an alternate IMU now in production using conventional gimbals can be substituted for the present IMU.

Lockheed has already carried out an exercise to show the feasibility of this action. It is recommended that Lockheed monitor IMU reliability improvements closely. The Air Force should be prepared to make a change if it becomes apparent that IMU performance will be the limiting factor in enabling the C–5A to carry out its assigned missions.

The design changes to improve reliability and performance in the Doppler Unit are commended and should be followed vigorously. Many of these fixes have already been defined and no unusual difficulty is foreseen in making the Doppler Unit a satisfactory piece of equipment.

Automatic flight control system

Status.—The automatic flight control system is an extremely complex integration of partially redundant hardware which is intended to perform a very large number of functions. As a system it includes the aircraft dynamics and serves as an intermediary coupler between the aircraft and much of the avionics equipment in automatic modes. The six major subsystems, associated avionics systems, and redundancy levels are listed below.

Subsystem	Redundancy level	Associated system elements
Pilot assistance cable servo (PACS)	Single	Airframe primary controls.
Lateral and directional stability augmentor systems (SAS).	Triple (fail operational)	Inertial measurement (IMU) of IDNE; attitude and heading reference units (AHRU) of instrument system. Central air data computers (CADC).
Longitudinal stability augmentor system (SAS)	do	
Autopilot	Dual input	SAS, CADC's.
Control wheel steering, cruise autopilot modes, attitude (pitch and roll) hold, altitude hold, heading select and hold, pitch and turn control.	Single	SAS, CADC's.
Navigational modes, en route navigation	Single	Radio (VOR, TACAN), inertial doppler AHRU (heading).
Terminal navigation		Multimode Radar Inertial Doppler.
Critical automatic modes	Part dual part triple (fail operational).	
Automatic approach		Glideslope and localizer receivers, radar altimeters.
Autoland		Radar altimeters.
Go-around Terrain following	Single	Multimode radar.
Automatic throttle system	do	

The pilot assist cable servo (PACS) and the lateral and directional stability augmentation system (SAS) are fundamental parts of the aircraft, being required during manual flight. Accordingly, they have status as "dispatch" items. Certain of the other systems have "dispatch" status if the mission is to include particular operations, e.g., the longitudinal stability augmentation system is needed if any autopilot mode is to be used, autoland is needed if the flight plan includes a Category III landing, etc.

The hardware is packaged in 18 Line Replaceable Units (LRU), 13 being different. A major redesign to simplify, to improve reliability, and to ease manufacture has been

[1] Dispatch item. An item that should be operating satisfactorily before an airplane is released or "dispatched" to flight status.

in process for over a year. The new, so-called "B" systems are being delivered and on-station installation and/or retrofit is proceeding. However, flight testing of many of the functions has just begun, and a further retrofit involving all subsystems but not necessarily all LRU's will be required. This will primarily involve substitution of modified LRU's, although some aircraft wiring and equipment mounting provisions will, no doubt, also be affected.

As presently configured, the "B" autopilot units include the full system, with all modes (designated the B1 system). However, the system is inhibited to operate only the PACS, SAS, and cruise autopilot functions. The cruise autopilot functions are limited, by placard, to the 200–280 knots range for reasons of structural safety.

The problem here is the classical one of limiting the autopilot servo output so that a hardover failure when operating with aft c.g. near the critical mach number (i.e., the most sensitive airframe configuration) will not cause structural damage, while still permitting sufficient output to maneuver the aircraft when it is operating at forward c.g.'s (the least sensitive configuration).

This "g" limiting function is currently performed by torque limiting, although not without associated problems with both servo command limiting and pilot override functions. The present autopilot servo includes a torque limiting clutch which permits an overshoot in torque when confronted with a step command. Consequently the pilot override clutch slip setting is now adjusted to handle both override and torque limiting functions. This clutch requires an eighteen-day inspection cycle to insure that its limit remains properly set. Further complicating the servo problem at present is a lack of such positive disconnect.

These fundamentally mechanical problems are being tackled by improving the present design and investigating alternate servos. Further, the "g" limiting function has, as a result of recent analysis and flight test results, been configured using the longitudinal SAS. This system will utilize a triple redundant fail-operational combination of acceleration and pitch rate signals through the SAS to the inboard elevators. This means of "g" limiting is made feasible because the pitch SAS is totally independent of the autopilot pitch axis and is, therefore, not affected by failures which might produce an autopilot hardover.

Adequacy of Development/Improvement Program

In terms of the total automatic flight control system capability the simulation and flight test program is still in early stages. As there are no unusual difficulties foreseen and since little new technology is involved, the long-term prognosis for the future of the automatic flight control system is good. Its total potential will, of course, be dependent on that of other avionics (radar altimeter MMR, INS, etc.) associated with the basic flight control equipment in more complex functions along with careful execution of the planned flight-test program.

Recommendations on AFCS

The quite complex lateral/directional SAS has some features which can be faulted from a service and repair standpoint. The most notable of these stems from the need for a triple redundant bank angle signal. One of the signals is currently acquired from the inertial measurement unit (IMU) of the inertial doppler system, while the other two come from the two attitude and heading reference units (AHRU). Not only does the platform-derived roll angle sometimes differ momentarily from that of the AHRU's, causing a nuisance tripout, but the current reliability of the IMU is low. Because the lateral SAS is needed for manual flight, this makes the IMU a critical dispatch item even on missions where inertial doppler is not otherwise required. To reduce IMU removals, to improve the maintainability, and to improve flight safety, the Subcommittee recommends the replacement of the IMU by another AHRU for flight control purposes. The additional AHRU can also be used to improve the reliability and fail safety of the instrument system, including the flight director.

The lateral/directional SAS is now required for flight safety not because of its effects on flying qualities, but because it provides for emergency rudder trim. As presently constituted this means all parts of the SAS must be functioning; this means the AHRU's, IMU, and all six rate gyros be operating. If the inputs from this complex of sensors could be switched out of the rudder SAS servo while keeping a rudder trim signal (and the SAS servo) active, the emergency rudder trim function would have a far-higher integrity and far better dispatch reliability. Consequently, the Subcommittee *recommends* that this modification be seriously considered.

Radar altimeter

Status

There are two radar altimeters operating in slightly different frequency bands in each aircraft. Their use is for category IIA and IIIA landings, and as a safety check in terrain avoidance. Due to the size of the aircraft, the antennas are mounted close to the main wheels. Output is fed to cockpit instruments and to the autopilot. Accuracy called for (and delivered under almost all conditions) is high not more than 2 ft error up to 100 ft altitude and 2% maximum error from 100 to 5000 ft.

The design, fabrication and reliability is generally satisfactory, although the early production units require a modification (local temperature control of a critical component group) to achieve the specified altitude accuracy over the full temperature range.

Adequacy of Development/Improvement Programs

The current program to incorporate the temperature fix appears adequate and should be pursued.

Conclusions and Recommendations on the Radar Altimeter

The equipment is now reported to be performing well in all vital respects. Hence, no recommendation is made other than to continue the corrective actions already in progress, and to apply design changes to all units.

Attitude and heading reference unit (AHRU)

Status

Two AHRU assemblies are provided in the C–5A at present. Each contains a vertical gyro to provide pitch and roll information and a directional gyro to provide heading information. Each AHRU in turn drives a flight director display in the cockpit, one for the pilot, the other for the co-pilot.

Additionally, the outputs of the AHRU are at present compared with the Inertial Measurement Unit (IMU) to provide fail operational signals to the automatic flight control system.

Approximately 60 systems have been delivered. The best estimate of actual Mean Time Between Repair (MTBR) is 530 hours when total running time is accounted for. The system has not yet passed the exacting reliability demonstration test, but it has passed the stringent MIL STD. 810A humidity test.

Of malfunctions which have occurred, it is presently thought that a number may have been caused by rough handling somewhere between the contractor's plant and the aircraft. Packing may not have been adequate. Other sources of failure such as mass shifts, failures of slip rings, torquers and switches, have been identified and corrective action is in hand.

Adequacy of Development/Improvement Programs

Both the prime contractor and the USAF representatives have reported that the subcontractor has been very responsive to all reliability problems associated with his equipment. Cooperative efforts by all parties are under way to improve the handling of the unit so as to eliminate damaged bearings. As the program matures it is expected that aircraft wiring errors and power supply perturbations will disappear. In-house development efforts at the subcontractor are under way to eliminate the source of gyro drift rate. The technology is not difficult. The subcontractor is one of the leaders in the field.

Conclusions and Recommendations on the AHRU

Although the AHRU systems have not as yet demonstrated the required reliability it is felt that achieving the required reliability should be straightforward if sufficient attention to detail is applied. The Subcommittee believes sufficient corrective actions are being taken on the AHRU itself.

However, a system level change is *recommended*. A third AHRU should be incorporated to perform functionally the same as the other two but in place of the IMU. The IMU would then perform only the navigation function. The reason for this change is to substitute a relatively simple and cheap system in place of a costly, complex and, presumably, less reliable unit into a function which has to operate in order for the aircraft to be dispatched. (All three sources of bank, roll, and heading information must be working to dispatch the aircraft as presently configured).

If this recommendation is adopted, the Subcommittee further *recommends* that the third AHRU be used to improve the reliability and/or fail safety of the attitude and heading display in the cockpit. The detail implementation of this can be left to Lockheed's discretion. Two possibilities are to install a third flight director display in the cockpit where the three displays could be visually cross checked or to switch out automatically a malfunctioned AHRU from the display and switch in the standby AHRU system with appropriate warning signals to the pilots.

Multimode radar

Status

The multimode radar (MMR) consists of an X-band multifunction radar and a K_u-band multifunction radar. Each radar accommodates seven operating modes while its display system accommodates an eighth mode of station keeping (which is performed by a separate equipment not considered part of the MMR). The seven modes consist of high and low altitude mapping, contour mapping, weather mapping, terrain following, terrain avoidance, radar approach and beacon operation. The equipment to accomplish the various modes is for the most part common in each radar and as a result the modes are highly interdependent, although redundancy exists between the two radars for the most part. The two radar antennas are mounted on a common roll stabilized yoke, one above, and the other below, the roll axis. For terrain following and contour mapping each radar contains a phase interferometer system. This consists of a horizontal array of pairs of horns which is used to make a phase comparison in elevation of the received signals. This technique requires that microwave components and some receiver elements be mounted on the back of each of the two dish type antennas. These features have produced a relatively heavy and complex antenna assembly for each radar. Some difficulty has been experienced in getting a good

antenna for ground mapping, because part of the dish had been clipped to accommodate the interferometer array. A modification of the feed has recently been devised to compensate for this deficiency.

From experience to date, the principal concerns are as follows: (1) low reliability, (2) an antenna pattern in the mapping modes that necessitates modifications as mentioned previously, (3) gearing problems in the antenna drive and stabilization assemblies and (4) a "solid state" modulator that has not been operating reliably. There may be a continuing problem in either radar in getting the more frequently used weather and mapping portions to perform as reliably as desired even though these are relatively simple modes. There is insufficient information at present to assess accurately the performance of the contour mapping and terrain following modes of operation.

Overall there are other detailed problems in passing qualification tests particularly these relating to electromagnetic interference (EMI).

Adequacy of Development/Improvement Program

The method of correcting antenna pattern deficiencies with a feed modification appears to be reasonable. With the proper use of sensitivity time control (STC) in the receiver, the modification should provide an adequate solution.

The program for the solid state modulator involves further qualification, particularly in regard to its components. Satisfactory performance is made difficult by the relatively small volume of this unit.

Judgment must be reserved on the overall outlook for the Multimode Radar because there remains much engineering to improve the hardware reliability.

Conclusions and Recommendations on the MMR

It is concluded that the normal airlift (logistics) mission can be compromised by a radar configuration that is tailored to the more demanding low-altitude cargo drop and category III landing missions. Radar state-of-the-art can permit the functions of weather and mapping required for the transport mission to be accomplished with a high degree of reliability. To provide a satisfactory weather and mapping radar capability at the earliest operational time, *it is recommended* that a contemporary weather and mapping radar be procured as a substitute for the current radar(s). Several "on-the-shelf" weather (and mapping) radars are available for selection. Some of these models contain redundant standby transmitters and receivers.

It is further recommended that the capability for terrain following, contour mapping, and precision approach required by the more demanding, but seldom used, missions be phased in at such time as these capabilities can be demonstrated conclusively with adequate reliability. If one (or both) of the two MMR radars can demonstrate adequate reliability for these modes, the other could possibly be eliminated.

Madar

Status

The term MADAR is an acronym for *M*alfunction *D*etection, *A*nalysis, and *R*ecording Subsystem. It is a new and interesting combination of several principles. The purpose is to test, wherever reasonable, the inner functioning of many items of avionics and other systems, to provide light alarm displays of malfunctions when they occur, to record the details of the occurrence in printout for flight and ground use and to record on magnetic tape for subsequent ground maintenance and record purposes. It also has diagnostic data recorded on film to aid in flight diagnosis of faults.

While not all functions of all equipments can be monitored by MADAR, intelligent application of the system has made this a valuable item for test, checkout, and maintenance.

The design concept appears sound. The hardware implementation is satisfactory with the exception of some difficulties with the mechanical drive and with dust in the film projector used in fault diagnosis. This unit uses 575 ft. of film and provides access to as many as 10,000 miniature film frames in less than 20 seconds.

The Subcommittee looked into two other points of concern and received good response to both. With any equipment of this type there is always the fear that the device may feed back into unwanted signals or voltage line equipment, thereby causing malfunction. It appears that this point has been very carefully borne in mind throughout development and adequate buffering is provided. No "active" tests are made since these also might interfere with line functioning of vital equipment being monitored.

The second point is the adequacy of testing, since it cannot in practice be made comprehensive in all instances. A surprisingly large number of functions are nevertheless monitored satisfactorily. A total of 1894 line replaceable units out of 3175 candidates have been monitored.

Adequacy of Development/Improvement Programs

There is now little required by way of improvement programs beyond the continuing update of software which seems to be progressing well. Fixes for the mechanical difficulties previously reported (unsatisfactory film drive and dust problems) are in progress and should be successful.

Conclusions

The outlook that this equipment will be reliable and meet its specification has been greatly improved by the energetic and intelligent work by Lockheed to make the pioneering MADAR development fully successful. No special recommendation is made by the committee.

VI. REPORT OF THE SUBCOMMITTEE ON THE C–5A WING STRUCTURE

General background

The Subcommittee investigating the C–5A wing structure was asked specifically to evaluate the adequacy of modifications to the wing and the test procedures for validating the structure, and to assess the long-term outlook for the wing structure.

The original C–5A contract specified a number of key performance requirements as well as the operating weight. In general, as shown by the report of the Subcommittee on Performance, the C–5A meets these requirements.

After the weight was fixed, some normal growth occurred and some rather major changes to the aerodynamic configuration were found to be necessary to meet lift and drag requirements. The aerodynamic changes alone added about 14,000 pounds to the structural weight and dictated compensating structural weight reductions in other areas to stay within the specified gross weight.

In order to meet the low structural weight requirement, Lockheed has employed stresses at higher levels than are normally used in other aircraft. For example, the lower skin of the C–5A wing structure is designed to 1-g operating stresses one-third higher than those in the C–141, which uses the same material. Thus, in order to meet the fatigue life requirements, the quality level of the design details in the C–5A must be significantly better than have been attained in the past.

Two of the C–5A structural integrity requirements are concerned with static strength and fatigue life. The static requirement is satisfied if the airplane can sustain without failure the one time occurrences of a small number of critical loading conditions. The locus of these conditions, together with a factor of safety of 1.5, define flight envelopes within which the airplane can be safely operated. A very simplified measure of the safe flight envelopes is provided by the limit load factor of 2.5 g, i.e., any flight operation which produces no more than 2.5 g's (payload $\leq$220,000 lbs) is considered as a condition for safe operation.

The fatigue requirement is satisfied if the structure can sustain, without damage, the many repeated applications of normal operating stresses which the airplane would experience in its specified lifetime of 30,000 hours. A factor of safety (or scatter factor as it is called) of 4 is specified and hence the validation of the fatigue life requires carrying the full scale fatigue test to 4 lifetimes (120,000 hours). The normal operating stresses are defined in terms of missions (training, airlift, etc.), mission segments (takeoff, cruise, etc.), payload, fuel weight, and other parameters.

Static strength

Deficiencies in the static strength of the wing were uncovered by the failure of the full-scale static test article in July 1969. Modifications intended to correct these deficiencies have been validated by component tests but the final proof must await completion of the static test program. These tests of components of the reinforced wing reached ultimate load, but several areas of high stress were identified and further were corroborated by measurements made on the full-scale static test.

Two other factors contribute to the present concern for the static strength of the wing: (a) Measurements made on the static tests have shown the chordwise stress distributions to be considerably different from those which were used for design. (b) The tension allowable stresses used by Lockheed for design have not been attained in the component tests. The Subcommittee is concerned that the static test of the reinforced wing may not reach its ultimate strength goals.

Lockheed plans to conduct the remaining static tests of the airframe under a series of progressively higher load levels to reduce the risk of failure for a given test condition. The Subcommittee agrees that this procedure will yield the most information obtainable from a single static test article for defining the capability of the present structure. However, the procedure delays the final proof of static strength.

Because the present configuration of the wing structure is unlikely to reach all of its ultimate static design points, several alternative actions have been explored. They are:

1. Employ a load distribution control system which reduces the stresses in the wing by redistributing the external aerodynamic loads on the wing. This can be accomplished by (a) an active system which deflects the ailerons symmetrically in response to accelerometers located in the wing, (b) a semi-passive system which, in effect, uprigs the ailerons as a function of air speed, and (c) a semi-passive system as in (b) but which operates for only a few combinations of gross weight and payload.

2. Accept a reduction in allowable load factor. The extent will depend upon the strength level attained by the static test article. Presently, the static test results show at least a 2-g (limit) capability.

3. Accept a reduction in payload and gross weight.

All of these approaches appear to offer reasonable solutions to the static strength problems. The passive load distribution control systems entail increased drag and

an attendant reduction in performance. However, some improvement in fatigue life is expected if the passive system is used. The reductions in allowable load factor, and in payload and gross weight must be assessed against the restrictions in the operational usage of the airplane. The Air Force is in the best position to evaluate the tradeoffs among these choices after all data are available.

Fatigue life

The high average operating stress levels have raised serious doubts that the wing can meet its design goal of 4 lifetimes (120,000 hours). Strain measurements have identified some of the more critical regions. For example, the rear spar and the mid beam at W. S. 120 are two areas that have high local stresses and, therefore, have high risk of early fatigue failures. In fact, the component simulating the modified structure in the rear spar at W. S. 120 failed after 23,000 flight hours had been simulated. (The goal for this component test was 180,000 hours.)

The failure occurred in the spar web at the edge of the modification introduced to correct the static deficiency found in July 1969. (It should be recognized that modifications made to improve static strength may adversely affect fatigue life.) As a result, an additional doubler and stiffener have been designed and installed in the component. The test will be continued to assess the adequacy of the new modification before a decision is made to retrofit the fleet. If all goes well this decision should be made about the end of July 1970. Although these component tests have considerable value in determining the fatigue adequacy of the structural modifications, final judgment must be withheld until the airplane fatigue test is completed.

The Subcommittee believes that additional structural modifications will be required. The particular stations where these modifications will be required can be identified only by continued fatigue testing of the complete wing structure. The fatigue test is scheduled to complete the first of four required lifetimes about the end of 1970. The Subcommittee urges that this test be accelerated to provide this urgently needed information as soon as possible.

Aircraft usage

At the Subcommittee's request, MAC and the SPO have updated the planned usage of the C–5A. A preliminary assessment indicates the fatigue severity of the updated usage to be essentially equivalent to that of the one used in design. The increased rate of accumulating fatigue damage in some missions is balanced by decreased rates in others. Parametric analyses are planned which will help the operating commands assess the impact of particular usage patterns and help program usage for the best compromise between productivity and longevity.

Because individual aircraft life is critically dependent upon the actual usage, the Subcommittee strongly recommends that a flight load monitoring program be instituted for this aircraft. The Air Force has proposed an Individual Aircraft Fatigue Tracking Program for the C–5A. However, the program apparently will not be implemented for some time because of unavailability of suitable recorders. In view of the urgent need for such data on the C–5A, the Subcommittee recommends that presently available recorders be installed immediately on fleet aircraft as an interim measure.

Conclusions and recommendations

The modifications introduced to correct the deficiency uncovered in the static test failure in July 1969 have been shown to be statically adequate by component tests. Final validation of this aspect must await the successful completion of the full-scale static test program.

However, one disturbing feature is that the modification to the rear beam at W. S. 120 has introduced stress concentrations which produced an early component fatigue failure. Thus, at this time, the fatigue capabilities of the modifications are still in doubt.

The wing structure has been designed to be damage tolerant. This feature improves safety because flaws and fatigue cracks will grow to detectable size before catastrophic failure occurs. However, fatigue cracks are likely to develop because of high stress levels, and thus, each aircraft requires frequent and careful inspections. Additionally, it is the consensus of the Subcommittee that further engineering changes are likely to be needed to correct deficiencies not yet located.

The impact of retrofits on operations can be reduced if problems are discovered as early as possible. Thus, the Subcommittee recommends consideration of the following:

1. Accelerate the static and fatigue tests by combining loading conditions into fewer envelope conditions for the static test, and into fewer combinations of payload, fuel and gross weights. Also the intervals between inspections for the cyclic test could be increased.

2. Commence a second fatigue test on another complete wing as soon as possible. This test should proceed at the highest possible cyclic rate to identify other potential weaknesses in the structures. A significant lead time to start a second test is recognized, but the test should provide valuable new information and expedite the evaluation of further changes when needed.

3. Implement an interim load monitoring program on fleet aircraft immediately.

4. Accelerate the parametric analysis of fatigue damage due to usage patterns. According to the present schedule this analysis will be accomplished by September 1971, a date which the Subcommittee believes should be advanced to be of maximum benefit to usage planners.

ANNEX A

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., February 14, 1970.

Dean COURTLAND D. PERKINS,
Chairman,
USAF Scientific Advisory Board.

DEAR COURT: I would appreciate having the Scientific Advisory Board conduct a study of the C–5 structure. Initially, the committee should concentrate on the problems that have occurred in the wing structure, considering all structural materials and aerodynamic aspects of the failures that have occurred and the reinforcement planned for installation in all airplanes. Specifically, advice and recommendations are needed on: a) the available information on the static test failures to determine if the conclusions as to the cause of the failures are supported by a thorough and comprehensive engineering analysis, b) the adequacy of the proposed reinforcements, c) the presently planned component and full scale test program to validate the adequacy of the wing fix, and d) the need for the proposed stiffener for the front and rear spar web.

On the basis of the questions raised in items a through d, above, the Scientific Advisory Board should submit recommendations regarding the continuation of the proposed retrofit program, the need for additional component/full scale testing, and the desirability of additional analysis/test of other wing areas that may be suspect from a design load standpoint.

I have asked Doctor Ray L. Bisplinghoff, MIT and Doctor Alfred J. Eggers, NASA, to serve as Chairman and Vice Chairman, respectively. Both have agreed.

I know you are aware of the significance and urgency of this project. The retrofit program is currently underway and the first airplane will be completed by the end of March. A report is desired as early as possible to minimize disruption if the presently planned program is found to be inadequate.

Because of the urgency, I would like to be kept informed of the progress of this review by the submission of interim reports.

Sincerely,

BOB.

ANNEX B

TASK STATEMENT—PERFORMANCE SUBCOMMITTEE

Subject: C–5A Performance.

Problem: It is alleged that the range of the C–5A does not meet guaranteed values when other required items of performance are met during the defined mission for which the overall performance of the airplane is guaranteed. Further allegations have been made that the Air Force has granted many specifications deviations which have reduced performance requirements.

Assistance desired: The USAF Scientific Advisory Board is requested to advise the Secretary of the Air Force and the Chief of Staff on the overall performance of the C–5A as predicted by test results to date and as it relates to the performance requirements of the contract. Specifically, the Committee will:

1. Analyze the specification deviations/waivers that have been granted to determine if flight performance requirements have been reduced. Comments regarding empty weight and structural integrity will not be included as a part of this task statement.

2. Determine from available test data whether the flight performance guarantees will be met.

On the basis of their review, the Committee is requested to submit its conclusions regarding the degree to which the C–5A will meet contractually required flight-performance guarantees.

TASK STATEMENT—LANDING GEAR SUBCOMMITTEE

Subject: C–5A Landing Gear.

Problem: Malfunctions of the C–5A landing gear have been occurring at an unacceptably high rate in all functional modes—extension, retracting, crosswind steering and kneeling.

Assistance desired: The USAF Scientific Advisory Board is requested to review the C–5A landing gear and advise the Secretary of the Air Force and the Chief of Staff of the actions necessary to improve the reliability of the system. Specifically the committee should:

1 Review the malfunctions that have occurred to date to determine what conclusions can be reached regarding the probable causes of these malfunctions.

2 Evaluate the landing gear system design and assess the possibility of the occurrence of a catastrophic failure (a failure which would result in major damage to the aircraft).

3. Determine the adequacy and timeliness of the program underway by the contractor to improve system reliability.

4. On the basis of items 1 through 3, submit recommendations for additional actions and/or acceleration of the existing improvement program that may be required to provide a reliable system that will minimize the possibility of a major accident occurring due to landing gear malfunctions.

TASK STATEMENT—AVIONICS SUBCOMMITTEE

Subject: C–5A Avionics.

Problem: Major problems with various avionics subsystems have resulted in operating restrictions that seriously limit the C–5A use in any but the most straightforward MAC "Channel traffic" type cargo mission.

Assistance desired: The ad hoc committee of the Scientific Advisory Board is requested to conduct a review of the C–5A avionics subsystems focusing their attention on the areas where problems have been identified and the corrective actions that are being taken. The committee will advise the Secretary of the Air Force and the Chief of Staff on the status of the avionics program, the adequacy of the development/improvement programs and the outlook and methods for achieving contractually required performance.

The committee will pay particular attention to the following avionics subsystems which have experienced difficulties during qualification/flight testing:

1. Multi-mode Radar.
2. Attitude and Heading Reference Unit.
3. Inertial Doppler Navigation System.
4. Automatic Flight Control System.
5. MADAR.
6. Radar Altimeter.

TASK STATEMENT—WING STRUCTURE SUBCOMMITTEE

Subject: C–5A Wing Structure.

Problem: To conduct a study of the C–5A wing structure, considering all structural materials and aerodynamic aspects of the failures that have occurred and the reinforcement planned for installation in all airplanes.

Assistance desired: The USAF Scientific Advisory Board has been requested to advise the Secretary of the Air Force and the Chief of Staff on the adequacy of the structural reinforcements currently being installed on the C–5A wing. The retrofit program is currently underway and the first airplane will be completed by the end of March. A report is desired as early as possible to minimize disruption if the presently planned program is found to be inadequate. Specifically, the committee will:

1. Review the available information on the static test article failure that occurred in July 1969 and the recently discovered wing center section cracks on airplane No. 3 to determine if the conclusions as to the causes of the failures are supported by a thorough and comprehensive engineering analysis.
2. Evaluate the adequacy of the proposed reinforcements at Wing Stations 120 and 577.
3. Review the presently planned component and full scale test programs to determine if they will provide sufficient test data to validate the adequacy of the wing fix.
4. Evaluate the need for the proposed T section stiffener being considered for the front and rear spar web.
5. On the basis of items 1 through 4, submit recommendations regarding continuation of the proposed retrofit program, the need for additional component/full scale testing, and the desirability of additional analysis/test of other wing areas that may be suspect from a design load standpoint as they may be exposed in the course of reviewing this particular problem.

ANNEX C

CHRONOLOGICAL LIST OF ACTIVITIES OF THE C–5A COMMITTEE

Date, subcommittee or subcommittee representative(s), and meeting site:

21–22 February 1970, Wing Structure, Lockheed-Georgia.

14–15 March 1970, Wing Structure, Lockheed-Georgia.

14–15 March 1970, Performance, Lockheed-Georgia.

9–10 April 1970, Avionics, Lockheed-Georgia.

22 April 1970, Avionics, Nortronics, Palos Verdes, Calif.

29 April 1970, Avionics, Honeywell, Minneapolis, Minn.

2–3 May 1970, Wing Structure, Avionics, Performance, Lockheed-Georgia.

4 May 1970, Chairman and Subcommittee Chairmen, Oral Briefing to Secretary of the Air Force, Pentagon.

12 May 1970, Avionics, Norden, Norwalk, Connecticut.

21–22 May 1970, Landing Gear, Lockheed-Georgia.

25 May 1970, Avionics, Aerospace Corp., Los Angeles, Calif.

5 June 1970, Avionics, Lear-Siegler, Grand Rapids, Mich.

8–9 June 1970, Avionics, Pentagon.

10 June 1970, Wing Structure, Pentagon.

11 June 1970, Subcommittee Chairmen, Pentagon.

12 June 1970, Chairman and Subcommittee Chairmen, Oral Briefing to Secretary of the Air Force, Pentagon.

Meeting statistics bearing on this report including all times, dates, places, a listing of persons in attendance and purposes therefor, together with their affiliations and material reviewed and discussed, are available in the SAB Secretariat offices for review by authorized persons or agencies.

HAROLD A. STEINER,
Colonel, USAF, Assistant Executive Secretary, USAF Scientific Advisory Board.

AMENDMENT TO END THE WAR: ECONOMICS

Mr. HATFIELD. Mr. President, I invite the attention of Senators to the second in a series of articles that I am placing in the RECORD on various aspects of American involvement in Southeast Asia. The article, entitled "How the War in Indochina Is Being Paid for by the American Public: An Economic Comparison of the Periods Before and After Escalation," was written by economist Charles J. Cicchetti for the Congress of Young Professionals for Political Action. The Congress of Young Professionals for Political Action, incorporated in May of 1970, is a group of young professionals—doctors, lawyers, businessmen, teachers, engineers, social workers—dedicated to involvement in the political process out of their conviction that U.S. military involvement in Indochina must be brought to an end. The organization is presently involved in a variety of educational projects directed toward passage of such legislative measures as Senate amendment No. 609 to the Military Procurement Authorization Act, and has future plans geared toward a much broader spectrum of political activity and involvement.

Mr. Cicchetti's research into the economic repercussions of our involvement in Southeast Asia brings to light the very direct economic effect that this war has on every public sector of the Nation.

I ask unanimous consent that Mr. Cicchetti's clear and concise study of the economic effects of the war in Indochina be printed in the RECORD.

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

HOW THE WAR IN INDOCHINA IS BEING PAID FOR BY THE AMERICAN PUBLIC: AN ECONOMIC COMPARISON OF THE PERIODS BEFORE AND AFTER ESCALATION

(By Charles J. Cicchetti)

INTRODUCTION

During popular wars the people of a country can be expected to "rally around the flag" and "pull in their belts" to support the actions of their government against a common foe or menace. An example of such a war was World War II. During such conflicts the President can be expected to ask the Congress to pass war taxes and to encourage the citizens to purchase war bonds. If the costs of the war still exceed revenues, the President will pay for the war by using deficit financing.

One predictable side effect of deficit financing when the economy is running at near full employment is to cause a rapid increase in prices of those consumer goods which are being produced during the war years. If the war is a popular war the President and the Congress are likely to pass laws which will institute a system of wage-price controls and price rationing to control the inflationary impact of deficit financing. That the present war in Indochina is not a popular war can be determined by the fact that no American President has asked the Congress for war taxes.[1]

The war has been financed instead by carrying large budget deficits during the period of escalation as shown in Table 1.

TABLE I

[In billions]

Year	Budgetary cost of the war in Indochina (incremental outlays)	Budget deficit
1965	$0.1	$1.6
1966	6.0	3.8
1967	18.0	8.7
1968	23.0	25.2
1969	22.0	[1] 3.2
1970	17.0	[1] 1.8

[1] Surplus.

Note: All figures are in current billions of dollars.

The inflation which most economists predicted would follow was allowed to go unchecked by failing to institute proper wage and price controls, as would have been possible during a popular war. Instead of controls, each administration has been using various combinations of fiscal and monetary adjustment without placing the full blame for the present state of the economy on the war, which no President has asked the Congress and the American people to fully finance and support.

The effect of trying to conduct a war and hide the full costs has been the creation of a situation where unemployment is approaching the old 1960 level of 5% nationally with regional and minority group levels much higher. Industrial production and corporate profits are down, the stock market is in a major slump; yet prices continue to increase at nearly a 6% annual rate and interest rates are at their highest levels in over 100 years. With the contradictory economic conditions of a war, recession, inflation, and stock market slump, the costs of the war to all Americans staggers the minds of rational men.

The supporters of the McGovern-Hatfield Amendment proposes several simple premises related to the above discussion. First, the war in Indo China is not a popular war and has never been fully supported by the American people. Second, the costs of this unpopular war have affected many if not all segments of our society and many of the effects have been hidden. Third, as all economic indicators show, most of the critical parameters are growing worse as this war drags on. Therefore, the costs are rising exponentially rather than becoming less as the President's budget would indicate. Finally, the burden of ending this war must be shared by the members of Congress who allowed an unpopular was to be conducted; and therefore, the Congress should vote to either end the war or make the continued costs of the war explicit rather than hidden.

[1] Even the surtax of the late 1960's which President Johnson proposed and later President Nixon endorsed, was presented to the American people as a fiscal device to control inflation, not as a tax to pay for the war which was the direct cause of this inflation.

THE HIDDEN COSTS OF THE WAR IN INDO CHINA

The escalation of the war in Vietnam began in 1965 as the incremental budget figures for the period 1965 to 1970 in Table 1 indicate. The groundwork for our present economic state was also laid in 1965. The conditions of our present economy are critically related to our increasing involvement in Indo China. Accordingly, the causal relationship between the war and our present economic conditions in various segments of the country can be determined by comparing the manner in which a set of key economic indicators changed from 1960 to 1965 with the way these same parameters changed during the years 1965 to 1970.

A. The consumer and producer

During the period before escalation, the advance in consumer prices averaged less than one percent per year or 5.2% for the entire 1960 to 1965 period, as shown in Table 2. This compares with an advance of 23% during the 1965 to 1970 period, which matched our increased involvement in Indo China. Not only were gods more expensive in 1970, but the index of all industrial production advanced at only about one-half the rate it advanced in the early 1960's before the escalation. These latter figures suggest the reason why the official language has dropped the "we can have both more guns and butter" claim.

Perhaps the greatest myth related to this war is the feeling that big business has prospered during the war. After a very rapid advance of some 12 percent per year in current dollars before escalation, business profits actually fell during the period between 1965 and 1970. Workers, who had realized nearly an 11% increase in real purchasing power during the early 1960's had to settle for an advance of less than 2% during the heightened war years.

With the rising of food prices, it might be assumed that farmers are gaining as this war continues. Nothing could be more incorrect, as shown in Table 2. Farmers, who remained at the same parity level after the 1960 to 1965 period of economic growth, will have realized a deterioration in their parity position of some 6% by the end of 1970.

TABLE II.—THE COST OF THE WAR TO THE AMERICAN CONSUMER AND PRODUCER

[Percent changes for the entire period]

	Period, 1960–65	Period, 1965–70
Index of all consumer prices	+5.2	+23.0
Index of all industrial production	+32.0	+17.6
Total corporate profits after taxes (current dollars)	+71.0	−4.1
Weekly wages in real dollars for nonagricultural sector	+10.5	+1.85
Farmers parity position (actual)	−3.8	−6.5
Farmers parity position after direct Government subsidy	0	−6.1

Note: All figures are based upon official data prepared for the Joint Economic Committee of the Congress by the Council of Economic Advisers. The latest publications (July 1970) have been used.

B. Real weekly wages

In Table 3 the effect of the war on real purchasing power for three classes of nonagricultural labor (manufacturing, construction and retail) are shown. All sectors realized significant gains in purchasing power during the early 1960's. This increased purchasing power of labor was further increased during this period by both a tax cut and a decline in the costs of consumer credit and home mortgages. During the period of escalation, only construction workers matched their earlier gains and all workers suffered a tax increase and increased interest costs for consumer credit and home mortgages.

TABLE III.—REAL WEEKLY WAGES IN SELECTED INDUSTRIES

[Percent changes for the entire period]

	Period, 1960–65	Period, 1965–70
All nonagricultural industries	+10.5	+1.85
Manufacturing	+12.4	+1.6
Construction	+14.6	+15.8
Retail	+8.9	+1.6

Note: All data are based on official JEC statistics.

C. Unemployment

With the change in administrations, the burden of the fight against inflation and deficit financing of the war in Indo China was placed squarely on the shoulders of the American working man. In 1960 there were nearly 4 million workers unemployed, or 5.6% of the civilian labor force. During the period of economic growth of the Kennedy/Johnson years, this unemployment was reduced gradually to 2.8 million unemployed, or 3.5% of the civilian labor force in 1968, and a rate of about 1.5% for married men with a wife and family to support.

One of the reasons for the continued inflation during the Johnson years was decision on the part of the Democrats that it was either morally or politically better to finance the war with spiralling prices as the side effect rather than unemployment. The Nixon Administration perhaps in response to a different set of political forces has reversed this policy in response to declining corporate profits and a slumping stock market. The result of the changing policy and the concomitant uncertainty and apprehensions created in various segments of the economy is that the number of workers out of work has been increased by 1.2 million to about 4 million and the percent unemployment has been hovering close to 5%. The stock market continues to remain in a slump and business profits are still down. The political transition which the President claims is a natural side effect of changing back to a peacetime economy has created the worst of both worlds, as the economy now suffers from both inflating prices and a recession in employment.

D. The housing market

In Table 4 two key indicators of the availability of housing are shown. During the early Kennedy-Johnson years new housing starts increased by nearly 20% and the percentage drop in mortgage rates was over 10% of the 1960 level. During the heightened war years (1965–70) both of the housing indicators moved in the wrong direction. New housing starts fell off by nearly 13% and the percentage increase in mortgage rates was 67% to an all-time high for FHA rates. The ability of young people to purchase houses has been further compounded with the required cash down payments for conventional mortgages reaching 30% of the principal in some areas of the country in early 1970.

TABLE IV.—THE EFFECT OF THE WAR ON THE HOUSING MARKET

[Percent changes for the entire period]

	Period, 1960–65	Period, 1965–70
New housing starts	+19.8	−12.8
FHA mortgage rates	−11.3	+67.0

Note: All figures are based upon official JEC statistics.

D. The securities and finance market

The old precept of using the stock market as a "hedge against inflation" was another principle which was relegated to the forgotten myth category by the war in Indo China. As shown in Table 5, the stock prices, which advanced by about 10% per year during the early 1960's, showed a decline during the period of our increasing involvement in Southeast Asia.

The interest on prime commercial paper is another area where the comparison of these two periods shows a remarkable difference. The soaring interest rates of the escalation period are a prime indication that consumers buying on credit and firms financing new investment must pay much more in 1970 to borrow money. Most of this increase (about two-thirds) coming during the first year and one-half of the Nixon Administration.

TABLE V.—THE EFFECT OF THE WAR ON THE SECURITIES AND MONEY MARKET

[Percent changes for the entire period]

	Period, 1960–65	Period, 1965–70
Prime commercial paper (interest rates)	+13.7	+87.5
Stock market prices	+58.0	−14.3

Note: All figures are based upon official JEC statistics.

E. The elderly

If one group of our population seems to be suffering even more than others from the present economic conditions, it is the elderly of this country. With rising prices and generally fixed retirement incomes the effect of inflation is a double cross to bear for the elderly. This group also has the greatest concentration of poverty and the greatest need for medical care. With medical costs rising by approximately 12% per year recently, the elderly are bearing the costs of this war far in excess of any possible benefits they may be receiving.

SUMMARY AND CONCLUSION

In this paper there has not been a discussion of the moral or immoral consequences of the war in Indo China, of the thousands of lives and casualties suffered by Americans and inflicted by them on the people of Indo China. There has not been a discussion of the deep divisions at home that have resulted from this war and the uncertainty caused by the draft among young people between the ages of 18 and 26 to fight in a war they feel is wrong and immoral.

All of the above facts, to be sure, are very important reasons for ending the war, and even may have economic consequences. However, the war, whether it is opposed because it is immoral or supported because it involves our national interest, is costing all Americans from the rich stockholder to the poor black a great deal in terms of where we might have been today if we never had become involved in this war. The tasks of redressing our social injustices at home and providing a better life for all Americans, which we began from 1960 to 1965 and could have continued if we avoided the war in Indo China should no longer be postponed.

The hopes for the economic future are grim and the war continues. As the months go by the sorry state of the economy continues to worsen. In spite of reduced outlays for the war and troop withdrawals, every major economic indicator discussed in this paper is in a poorer position since Nixon took office as President, as compared with the last years of the Johnson Administration. Some of this is certainly inherited, as the war was inherited. More is probably due to a shifting of a greater burden for fighting the inflation produced by the war on to labor.

With a budget deficit expected in 1971 and an even bigger deficit expected in 1972, we can expect the economy to weaken even more. The Congress must come to realize these extraordinary hidden costs of foregone opportunities and economic instability, being suf-

fered by all Americans and outlined in this paper, and move to either end the war or to go to the American people and ask for the funds to support to continue this foolhardy and unpopular venture. The prospects for the latter support are probably close to zero, which is why no President has proposed sweeping economic reforms to conduct this war and why the economy is presently in such a sorry state.

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

MESSAGE FROM THE HOUSE— ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 3102. An act to amend section 4 of the Fish and Wildlife Act of 1956, as amended, to extend the term during which the Secretary of the Interior can make fisheries loans under the Act, and for other purposes; and

H.R. 14956. An act to extend for 3 years the period during which certain dyeing and tanning materials may be imported free of duty.

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENT AND OTHER PURPOSES

The PRESIDING OFFICER (Mr. JORDAN of Idaho). The Chair lays before the Senate the unfinished business, which the clerk will state.

The assistant legislative clerk read as follows:

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.

AMENDMENT NO. 793

Mr. WILLIAMS of New Jersey. Mr. President, I call up my amendment No. 793 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. The Senator from New Jersey (Mr. WILLIAMS), for himself and others, proposes an amendment (No. 793) as follows:

On page 15, line 7, strike out "10,000" and insert in lieu thereof "15,000".

Mr. WILLIAMS of New Jersey. Mr. President, I offer this amendment for myself, the Senator from Maine (Mr. MUSKIE) and the Senator from Indiana (Mr. HARTKE).

Mr. President, this amendment to the Military Procurement Authorization bill is quite simple. It takes the Senate Committee figure of 10,000 officers and men for the Coast Guard Selected Reserve and increases it to 15,000—the approximate present strength of the Reserves.

The figure of 10,000, reported by the Committee, represents, as I understand it, a tentative figure. During hearings, testimony was not forthcoming in time to support a definite figure. However, testimony before the Transportation Appropriations Subcommittee, chaired by the distinguished floor manager of the pending bill, Senator STENNIS, demonstrated the necessity for the higher figure.

For this reason, I am hopeful of enlisting the support of members of both Committees as well as that of all Senators whose States have benefited in many ways from the excellent work of the Coast Guard and its Reserves during severe emergency and disaster situations.

I understand legislation is being drafted which will not detract from the defense mobilization capability of the Selected Reserves, but will augment, through training and peace time mobilization, their quick-response capability in natural disasters, dangerous ecological threats, and other emergencies we know the country will experience.

I believe channeling disciplined and trained personnel into environmental surveillance and emergency disaster aid is the kind of additional role we all would like to see for the Selected Reserves. This controlled transformation of an essentially military reserve force into a conservation factor, demonstrates the commitment of the Congress to improving the quality and safety of life for all Americans.

Mr. President, authorization of 15,000 is lower than the 16,590 added on the floor of the House by a large majority. This personnel ceiling will represent a total cost of $25.9 million. Surely, this investment is small in comparison with the undoubted benefits to be realized during times of national disaster or severe ecological threat.

Mr. President, my feelings about military spending vis-a-vis shortchanging severe domestic needs in housing, help for the aged, medical research and care, and education, are quite well known. My record on these issues will stand scrutiny next to that of any Senator. The question might logically be raised as to why I am now authoring an amendment that provides authorization for increased funds for the Coast Guard Reserves.

The answer to that question is as easily understood as the amendment itself. Among the greatest threats America and, indeed, the whole world faces are those of total environmental pollution—threats to the air we breathe, to the water we drink, to the food we eat, to the higher atmosphere that protects us, to the peace and quiet that restores a natural awareness of ourselves and the beauty that surrounds us. All these most basic threads in the fabric of our lives are being eroded by a multitude of disruptive, devouring and, unless checked, fatal combination of agents.

The Congress has begun to meet its responsibilities in these areas and has passed legislation calling for the abatement and eventual halting of this potentially fatal escalation of man's poisoning the world we inhabit. Part of this total antipollution arsenal is the Water Quality Improvement Act of 1970.

This legislation designates the responsibility for ecological surveillance to the Secretary of Interior and the Secretary of Transportation. Each Secretary has jurisdiction for pollution prevention and control in his own areas—the Secretary of the Interior on inland areas and the Secretary of Transportation for navigable waterways and coastal areas. The Secretary of Transportation has delegated actual operational functioning for his areas to the Coast Guard.

Mr. President, I asked unanimous consent to have printed in the RECORD at this point in my remarks the following items: First, Executive Order 11548, explaining the various delegations of authority contained in the Water Quality Improvement Act of 1970; second, a summary of the Coast Guard's pollution and surveillance functions; third, an outline of presently expanding Coast Guard missions; and fourth, appendixes A, B, C, and D of Maritime Environmental Protection Activities of the U.S. Coast Guard. These appendixes explain the various explicit national and international responsibilities of the Coast Guard contained in the Water Quality Improvement Act of 1970, plus a cost breakdown of programs for fiscal year 1970 through fiscal year 1972.

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

DELELGATION FUNCTIONS OF THE PRESIDENT UNDER THE FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED

By virtue of the authority vested in me by the Federal Water Pollution Control Act (62 Stat. 1155, as amended, 33 U.S.C. 466 et seq.) as amended by the Water Quality Improvement Act of 1970 (Public Law 91-224, approved April 3, 1970), hereinafter referred to as the Act, by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SEC. 1. Delegations to the Secretary of the Interior. There is hereby delegated to the Secretary of the Interior responsibility and authority:

(a) to carry out the provisions of subsection (1) (2) of section 5 of the Act, relating to the study and investigation of methods to control the release of pesticides into the environment, including the preparation of a report on such investigation for submission by the President to the Congress;

(b) in consultation with the Secretary of Transportation, to carry out the provisions of subsections (b) (2) and (b) (3) of section 11 of the Act, referring to the determination of those quantities of oil the discharge of which, at such times, location of circumstances, and conditions, will be harmful to the public health or welfare of the United States and those which will not be harmful.

(c) to carry out the provisions of subsection (c) (28) (C) of section 11 of the Act, relating to identification of dispersants and other chemicals to be used;

(d) to carry out the provisions of subsection (c) of section 11 of the Act, relating to determinations of imminent and substantial threat because of actual or threatened discharge of oil, and relating to securing relief necessary to abate such actual or threatened discharges through court action;

(e) in consultation with the Secretary of Transportation, to carry out the provisions of subsection (j)(1)(C) of section 11 of the Act, relating to procedures, methods, and requirements for equipment to prevent discharges of oil from nontransportation-related onshore and offshore facilities;

(f) to carry out the provisions of subsection (a)(1) of section 12 of the Act, relating to the designation of hazardous substances, other than oil which when discharged into or upon the navigable waters of the United States or adjoining shorelines or waters of the contiguous zone, present an imminent and substantial danger to public health or welfare;

(g) in consultation with the Secretary of Transportation, to carry out the provisions of subsection (a)(2) of section 12 of the Act, relating to the establishment of recommended methods for the removal of hazardous substances within the meaning of subsection (a)(1) of section 12 of the Act.

SEC. 2. Delegations to the Secretary of Transportation. There is hereby delegated to the Secretary of Transportation responsibility and authority.

(a) in consultation with the Secretary of the Interior, to carry out the provisions of subsection (j)(1)(C) of section 11 of the Act, relating to procedures, methods and requirements for equipment to prevent discharges of oil from vessels and transportation-related onshore and offshore facilities;

(b) to carry out the provisions of subsection (j)(1)(D) of section 11 of the Act, relating to the inspection of vessels carrying cargoes of oil and the inspection of such cargoes;

(c) to administer the revolving fund established pursuant to subsection (k) of section 11 of the Act;

(d) to carry out the provisions of subsection (m) of section 11 of the Act, relating to the boarding and inspection of vessels, the arrest of persons violating the said section 11, and the execution of warrants or other process;

(e) in consultation with the Secretary of the Interior, to carry out the provisions of subsection (g) of section 12 of the Act, including the preparation of a report for submission by the President to the Congress.

SEC. 3. Delegations to the Federal Maritime Commission. (a) There is hereby delegated to the Federal Maritime Commission responsibility and authority.

(1) to carry out the provisions of subsection (p)(1) of section 11 of the Act, relating to the issuance of regulations governing evidence of financial responsibility for vessels to meet liability to the United States.

(2) to carry out the provisions of subsection (p)(2) of section 11 of the Act, relating to the administration of the said subsection (p).

(b) Without derogating from any action heretofore taken thereunder, the letter of the President to the Chairman of the Federal Maritime Commission dated June 2, 1970 (35 F.R. 8631), is hereby superseded.

SEC. 4. Delegation to the Council on Environmental Quality. (a) There is hereby delegated to the Council of Environmental Quality the responsibility and authority to carry out the provisions of subsection (c)(2) of section 11 of the Act, providing for the preparation, publication, revision or amendment of a National Contingency Plan for the removal of oil (hereinafter referred to as the National Contingency Plan.)

(b) Without derogating from any action heretofore taken thereunder, the letter of the President to the Chairman of the Council on Environmental Quality dated May 26, 1970 (35 F.R. 8423), is hereby superseded.

SEC. 5. Other delegations. (a) There is hereby delegated to the Secretary of the Interior and to the Secretary of Transportation, respectively, in and for the waters and areas assigned to each in section 306.2 of the National Contingency Plan (35 F.R. 8511) responsibility and authority.

(1) to carry out the provisions of subsection (c)(1) of section 11 of the Act, relating to the removal of oil discharged into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the United States;

(2) to carry out the provisions of subsection (d) of section 11 of the Act, relating to the coordination and direction of removal or elimination of the threat of oil discharges, and the removal and destruction of vessels;

(3) to carry out the provisions of subsection (j)(1)(A) of section 11 of the Act, relating to methods and procedures for the removal of discharged oil;

(4) to carry out the provisions of subsection (j)(1)(B) of section 11 of the Act, relating to criteria for the development and implementation of local and regional oil removal contingency plans;

(5) to carry out the provisions of subsection (d) of section 12 of the Act, relating to the removal of discharged hazardous substances.

(b) The civil penalty authority of section 11(j)(2) of the Act shall be exercised by the Secretary of the Interior and the Secretary of Transportation for the enforcement of the respective regulations issued by each pursuant to delegations in this order.

SEC. 6. *Agency to Receive Notices of Discharges of Oil or Hazardous Substances.* The Coast Guard is hereby designated the "appropriate agency" for the purpose of receiving the notice of discharge of oil required by subsection (b)(4) of section 11 of the Act and for the purpose of receiving the notice of discharge of any hazardous substance required by subsection (c) of section 12 of the Act. The Commandant of the Coast Guard shall issue regulations implementing this designation.

SEC. 7. *Redelegation authority.* Secretaries of Departments and heads of agencies are hereby authorized to redelegate within their respective departments or agencies the responsibilities and authority delegated to them by this order, subject to the requirements of 3 U.S.C. 301.

SEC. 8. *Regulation.* Authority to carry out any of the foregoing responsibilities includes the authority to issue necessary implementing regulations.

SEC. 9. *Reorganization Plan No. 3 of 1970.* Upon the taking effect of Reorganization Plan No. 3 of 1970, the responsibility and authority conferred upon the Secretary of Interior by this order, including the authority conferred by reason of his designation in the National Contingency Plan, and including the responsibility to consult with other officers, shall vest in the Administrator of the Environmental Protection Agency: *Provided*, that the Administrator shall thereafter consult with the Secretary of the Interior regarding the responsibility and authority delegated by section 1(a) of this order and officers who by this order are required to consult with the Secretary of Interior shall consult with the Administrator of the Environmental Protection Agency.

RICHARD NIXON.

THE WHITE HOUSE, *July 20, 1970.*

COAST GUARD POLLUTION CONTROL FUNCTIONS

The Coast Guard has been concerned with and involved to some degree with pollution control efforts for many years. Under our general maritime law enforcement functions, we are responsible for the enforcement of various Federal laws on the high seas and in U.S. waters. These Federal laws include specific anti-pollution statutes such as the Refuse Act of 1899, the Oil Pollution Act of 1961, and the Water Quality Improvement Act of 1970 (PL 91-224). All of these involve activities of the Coast Guard. However, it was not until 1968 that a project was undertaken to assemble the various elements into one program. The first step was the creation in January 1969 of a separate Maritime Pollution Control Branch. A new program was established and elements of other programs were incorporated into it. The new program, based on existing legislation and interagency agreement, has been developed anticipating the enactment of additional pending legislation, which became reality with the signing of PL 91-224.

The Coast Guard's preventive activities include: regulatory measures aimed at prevention of spills from vessels, development and utilization of equipment to prevent spills from grounded and otherwise damaged tankers, prevention of pollution by shore facilities, formulation and enforcement of vessel sewage regulations, public education and international cooperation. We also have plans for offshore terminal regulations and are interested in vessel air pollution and the disposal of waste on the high seas. In addition, major Coast Guard programs, including Aids to Navigation, Bridge Administration, Commercial Vessel Safety, Port Safety, and Boating Safety, while primarily safety-oriented, obviously result in pollution prevention through the reduction of maritime casualties.

Coast Guard detection and response activities include: detection and surveillance of pollutant spills, investigation of pollution incidents, development and utilization of more efficient and effective cleanup methods. The National Oil and Hazardous Materials Contingency Plan is implemented by the National Response Center, pollution strike forces and administration of the Revolving Fund.

In a major effort to gain a more thorough understanding of the actual dangers presented by various pollutants, the Coast Guard carries on various pollution base line monitoring programs and also incorporates pollution research and monitoring into the Oceanographic, Ocean Station and Polar Scientific Operations programs.

The Coast Guard has traditionally emphasized cooperation with other government agencies in the national interest. This has been especially important in the pollution control field and will continue with the added thrust of the anticipated creation of EPA and NOAA. We are also aware of the Navy's willingness to provide resources for assisting in the national maritime environmental protection effort, and we are interested in arranging a cooperative allocation of responsibilities with them so as to make efficient use of all available resources.

EXAMPLES OF COAST GUARD MISSIONS WHICH ARE PRESENTLY UNDERGOING EXPANSION

1. Oceanography—Federal agencies (including DOD) as well as the business and academic communities are generating an ever-increasing demand for information concerning the physical characteristics and behavior of the oceans. Many Coast Guard vessels now assist in gathering oceanographic data in addition to performing other duties. Three Coast Guard cutters are now assigned the primary duty of conducting oceanographic surveys.

2. Aids to Navigation—Increased commercial and recreational traffic in our harbors and waterways is resulting in increased demand for facilities to aid in conducting the mariner safely to his destination. New methods of radar monitoring, harbor traffic control and obstruction marking are being evaluated with a view to reducing navigational hazards.

3. SAR—The Search and Rescue workload, particularly in connection with recreational boating, grows heavier from year to year. Education and enforcement activities must grow apace. Presently developing approaches in this area are grant in aid programs to state governments to bolster state boating safety

programs, the development and establishment at the Federal level of minimum safety standards for boats and related equipment, and the implementation of pilot programs to precisely measure the effect of Coast Guard efforts in boating safety, so that resources may be allocated to cost-beneficial programs.

4. Marine Environmental Protection Activities—The Water Quality Improvement Act of 1970 (PL 91–224) expands the Coast Guard's regulatory authority in the prevention of marine pollution through the discharge of oil into the navigable waters of the U.S. or the waters of the contiguous zone. It directed the formulation of a contingency plan to provide for the establishment of a strike force and a system of surveillance and notice which was published by the President in June 1970. The plan specifies that the strike force shall be furnished by the Coast Guard. In Executive Order 11548 the President delegated the following authority and responsibilities to SECTRANS, who is in turn expected to redelegate them to the Coast Guard:

(a) Regulatory authority to prevent discharges of oil from vessels or transportation-related on shore or offshore facilities.

(b) Regulatory authority governing inspection of oil carrying cargo vessels.

(c) Administration of the revolving fund established to pay for government clean-up of spills of oil or other hazardous materials.

(d) Enforcement authority in the boarding and inspection of vessels and facilities for which we have regulatory responsibility.

(e) Authority to clean up spills in the coastal area which are not properly cleaned up by the spillers.

(f) Direction of efforts to remove a substantial threat of oil spillage in coastal area including destruction of a vessel if necessary.

It is in this mission area, as well as in the occurrence of natural disasters such as hurricanes and floods, that peacetime employment of the Coast Guard Selected Reserve appears most useful. Episodes of this nature would be typified by a short term requirement for manpower in excess of that normally available to the active duty Coast Guard in a specific area. Moreover, the additional manpower required must be trained in Coast Guard operating methods and must be available on short notice. The Selected Reserve in many cases would be the sole source of additional manpower meeting these criteria:

(a) Location—The Selected Reserve is an organized force already located at or near all major port/port complex sites and, therefore, ideally situated to provide support under the direction of cognizant active duty commands.

(b) Training—Port security units contain, in addition to port security/port safety skills, personnel trained in fire fighting, damage control, pump operations, boat operations, communications and law enforcement. With specific respect to oil pollution, the port security training curriculum presently used includes knowledge of Federal statutes, investigative procedures, collection of evidence, sampling and the reporting of violations.

(c) Availability—the Selected Reserve constitutes the Coast Guards's early response Reserve force for military mobilization. This quick response capability would be equally important to and available for domestic emergency.

APPENDIX A—SUMMARY OF SECTIONS 11, 12, AND 13 OF THE WATER QUALITY IMPROVEMENT ACT OF 1970 (PL 91–224)

On 3 April 1970 the President signed into law PL 91–224, the Water Quality Improvement Act of 1970. Under the terms of this Act the Congress declared it to be the policy of the U.S. that there should be no discharges of oil into or upon the navigable waters of the U.S. or the contiguous zone. Such discharges in harmful quantities are prohibited, except in certain enumerated cases. Any person in charge of a vessel or facility who has knowledge of a discharge of a harmful quantity of oil caused by that vessel or facility shall report it; failure to report subjects the violator to a criminal penalty of not more than $10,000 or imprisonment for not more than one year, or both. Any owner or operator who knowingly discharges a harmful quantity of oil subjects himself to a civil penalty of not more than $10,000 for each offense.

Within 60 days the President was required to prepare and publish a National Contingency Plan, which was required to include, among other things, (a) establishment or designation of a strike force and (b) a system of surveillance and notice, both of direct Coast Guard concern.

Whenever a marine disaster on U.S. navigable waters causes a substantial pollution threat because of a discharge, or an imminent discharge, of large quantities of oil from a vessel, the President was authorized to take control and remove and, if necessary, destroy the vessel.

The owner or operator of any vessel from which oil is discharged is liable with some exceptions for the actual cost of removal of such oil in amounts not to exceed $100 per gross registered ton or $14,000,000, whichever is lesser. The owner or operator of an onshore or offshore facility is similarly liable in an amount not to exceed $8,000,000. The law authorizes a revolving fund in the treasury not to exceed $35,000,000 to meet the costs of government cleanup and response operations.

As soon as practical the President must issue regulations: (a) establishing methods and procedures for removal of discharged oil; (b) establishing procedures and methods and requirements to prevent discharges of oil; and (c) governing the inspection of vessels carrying cargoes of oil in order to reduce the likelihood of discharges. Any operator who fails or refuses to comply with these regulations shall be liable to a penalty of not more than $5,000 for each violation. To enforce these provisions, law officers are empowered to board and inspect vessels, arrest violators, and execute warrants.

The law also contains a separate section on control of hazardous polluting substances, which calls for the development and promulgation of regulations designating as hazardous polluting substances other than oil elements and compounds which when discharged in any quantity present an imminent and substantial danger to the public health and welfare. The law also provides for cleanup and the establishment of recommended methods for the removal of such substances.

There is also a section on the control of sewage from vessels. This calls for the Coast Guard to promulgate regulations governing the design, construction, installation, and operation of marine sanitation devices. Equipment and regulations will become effective for new vessels two years after promulgation, and for existing vessels, five years after promulgation.

APPENDIX B—PRESIDENTIAL DELEGATIONS UNDER PUBLIC LAW 91–224

On 20 July 1970 the President issued Executive Order 11548 delegating to several Federal agencies the responsibilities and authorities assigned to him by the Federal Water Pollution Control Act (33 USC 466 et seq.) as amended by the Water Quality Improvement Act of 1970 (PL 91–224), which became law as of April 3. The following functions were delegated to the Secretary of Transportation, and it is anticipated that he in turn will delegate all or most of them to the Coast Guard:

1. Issuance and enforcement of regulations establishing procedures, methods, and requirements for equipment to prevent discharges of oil from vessels and transportation-related onshore and offshore facilities. (Parallel responsibility for non-transportation-related onshore and offshore facilities was assigned to the Secretary of the Interior, and the two Secretaries are required to consult with each other on these regulations).

2. Issuance and enforcement of regulations governing the inspection of vessels carrying oil cargoes in order to reduce the likelihood of oil discharges.

3. Administration of the revolving fund established to pay for government cleanup of spills of oil and hazardous substances and for other purposes.

4. Enforcement of the new law by boarding and inspecting vessels in U.S. navigable waters or the contiguous zone, arresting violators, and executing warrants or other legal processes.

5. Preparation of a report to Congress, in consultation with the Secretary of the Interior, on the need for legislation imposing liability for cleaning up spills of hazardous substances other than oil, and study of methods of preventing such spills, penalties, and recovery of government cleanup costs.

This Executive Order also designated the Coast Guard as the appropriate agency to receive the immediate notice of a spill of oil or a hazardous substance which the law requires a spiller to give. The Commandant was authorized to issue regulations implementing this designation.

In addition, in the areas where the Coast Guard is responsible for providing on-scene commanders for polluting spills under the National Oil and Hazardous Materials Pollution Contingency Plan the Secretary of Transportation was assigned the following responsibilities and authorities:

1. Cleanup of spills of oil and other hazardous substances which are not properly cleaned up by the spillers.

2. Direction of efforts to remove a substantial threat of oil spillage created by a marine disaster, including destruction of a vessel if necessary.

3. Issuance and enforcement of regulations establishing methods and procedures for cleanup of spilled oil.

4. Issuance and enforcement of regulations establishing criteria for the development and implementation of local and regional oil spill contingency plans.

All of these functions are in addition to those which the Act itself assigns specifically to the Coast Guard. Included in this category are assessment of civil penalties of up to $10,000 for oil spills and a variety of duties relating to control of pollution by sewage from vessels.

The Executive Order also assigned certain functions to the Secretary of Interior. Briefly, he was given responsibility for defining the quantities of spilled oil which are harmful and hence illegal under the Act, for determining what chemical dispersants may be used to clean up oil spills under the National Contingency Plan, for removing a threat of an oil spill from an onshore or offshore facility, for issuing and enforcing regulations to prevent oil spills from non-transportation-related facilities, and for designating hazardous materials other than oil and recommend methods of cleaning them up when they are spilled. These responsibilities and those conferred on the Secretary of the Interior by the National Contingency Plan will be transferred to the Administrator of the Environmental Protection Agency when Reorganization Plan No. 3 of 1970 takes effect. This reorganization plan is presently under review by Congress and would transfer FWQA to the new agency.

The Federal Maritime Commission was given responsibility and authority for issuing regulations governing the required evidence of vessels' financial responsibility to meet their maximum possible liability for government cleanup costs.

Finally, the Council on Environmental Quality was assigned responsibility and authority for preparation, publication, and revision or amendment of a National Contingency Plan for the removal of spilled oil.

APPENDIX C—SUMMARY OF PROGRAM BUDGETS

The FY70 figures below represent the actual budget for that year. The FY71 figures comprise the basic budget request, already submitted to Congress, plus a supplemental request which has been submitted to the Office of Management and Budget but has not yet been approved by them. The FY72 figures represent the forecast stage budget submitted by the Coast Guard to the Department of Transportation, plus an estimate of the additional operating funds which will be required if the FY71 supplemental request is approved. All figures are approximate. Coast Guard programs which have little or no impact on environmental quality are not listed.

[In millions of dollars]

Program	Fiscal year— 1970	1971	1972
Aids to navigation	63.8	66.4	72.8
Bridge administration	9.9	.7	11.5
Commercial vessel safety	18.6	22.6	22.8
Port safety	17.5	24.7	19.2
Boating safety	6.5	9.1	10.8
Oceanographic activities	12.7	26.0	33.8
Ocean stations	36.3	28.9	86.7
Polar operations, science	5.5	5.7	6.0
Total for supporting programs	170.8	180.1	263.6
Maritime environmental protection	6.5	21.9	34.0
Total	177.3	202.0	297.6

APPENDIX D—SUMMARY AND IMPLEMENTATION OF SECTIONS OF THE PRESIDENTIAL MESSAGE OF MAY 20, 1970

On 20 May 1970 the President sent a message to the Congress entitled "Marine Pollution from Oil Spills." This message outlined a ten-point program to reduce oil pollution from vessels. Plans for implementing the parts of the program which were assigned to the Secretary of Transportation and the Coast Guard are summarized below:

Section 1. *International Conventions*—This section concerns the submission to the Senate of:

(a) An international convention on civil liability for oil pollution damage and an international convention relating to intervention on the high seas in case of oil pollution casualties.

(b) An amendment to the existing International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended; and

(c) A declaration of support particularly to the efforts of NATO's Committee on the Challenges of Modern Society concerning a planned oil spill conference in Brussels in November 1970.

The two conventions referred to under (a) will require implementing legislation, and at the request of the Department of State the Coast Guard is already engaged in drafting such legislation. In connection with the amendment to the present convention referred to in subparagraph (b), the Coast Guard is also drafting legislation to be submitted to the Congress which will bring into effect for American vessels the provisions of the proposed amendment in anticipation of later action by other nations. As to subparagraph (c), the Coast Guard has furnished, along with the Marine Science Council, one of the two members of the Steering Committee established to develop the agenda for the fall conference. Captain F. D. Heyward, Chief, Law Enforcement Division, Office of Operations, served at the two working meetings held for that purpose.

Section 2. *International Standards for Ship Construction and Operation*—As drafted, the section instructed the Secretary of State to seek effective international action to prescribe standards for the construction and operation of tankers. The responsibility for development of such standards nationally is assigned by statute to the Coast Guard. In the belief that there was no intention to derogate from this responsibility, the Coast Guard is continuing to perform the supporting role in the international field which it has performed in the past. Plans for the next IMCO subcommittee on ship design are going forward. The Coast Guard is further prepared to work closely with Department of Commerce personnel in developing specific technical standards or criteria which could form the basis for the desired international action.

Section 3. *Ports and Waterways Safety Act*—This section covers proposed legislation drafted by the Coast Guard and forwarded to the Congress by the President which will provide permanent broad authority for the issuing of regulations necessary for the control of ship movement and operations, as well as for the supervision of cargo movements at the ship-shore interface. Two bills, H.R. 17830 and S. 3918, have been introduced and referred to appropriate committees in the House of Representatives and the Senate. Hearings on H.R. 17830 were initiated by the House Merchant Marine and Fisheries Committee on 22 July. Although the bill addresses itself to safety requirements in general, it will provide an additional weapon in the Coast Guard arsenal to insure that adequate measures are taken to prevent pollution by oil as well as by other pollutants.

Section 4. *Increased Surveillance*—This section calls for a program of increased surveillance and enforcement by the Coast Guard to detect violators of oil pollution laws and regulations, including a call for citizen participation in detecting and reporting spills to the Coast Guard. The Coast Guard's FY 71 supplemental appropriations request includes funding for additional personnel, equipment, and aircraft for this purpose. A *Commandant Instruction* directing the organization of public reporting systems is in final draft. An extensive R&D program is under way, aimed at developing remote electronic sensors; when completed, this program will materially increase our ability to detect violators. Additional enforcement personnel have been requested for selected port areas throughout the country.

Section 5. *Harbor Advisory Radar Systems*—This section calls for the establishment of harbor advisory radar systems at major U.S. ports to aid in ship traffic control in congested waterways. There is already a prototype system in San Francisco. Monies for systems for Houston and New York are requested in the FY 71 supplemental appropriations request; the systems should be in operation by the end of CY 72.

Section 6. *Research and Development: Emergency Oil Transfer and Storage Systems*—This section covers the accelerated program of research and development on oil containment and cleanup including development and subsequent establishment of an emergency Air-Deliverable Anti-Pollution Transfer System (ADAPTS) on each coast to permit the off-loading of oil from stranded tankers. Prototype testing of the ADAPTS will be completed this summer; two sets are on order in the FY 71 budget (including the amendment), one each for the east and west coasts. An additional set is being requested for FY 72 for the Gulf coast (this system may be relocated to Alaska if required).

Section 7. *Cooperation of Private Industry and Port Authorities*—Coordination of the effort to accomplish this section has been assigned to the Secretary of Commerce with the assistance of the Secretaries of Interior and Transportation. The reception facilities referred to are derived from the requirements of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954. This Convention has been implemented in this country by the Oil Pollution Act of 1961, which is administered and enforced by the Coast Guard. In order to insure the accomplishment of the aims of section 7, we have undertaken a survey of reception facilities now available throughout the country. With this information in hand, this Department is prepared to help identify the needs of various port areas and to do its part in assisting the implementation of section 7.

Section 10. *Financing Cleanup Operations*—This section covers the establishment of a $35-million revolving fund to finance cleanup operations in the event of oil spills, as provided in the Water Quality Improvement Act of 1970. Regulations for administering the fund have been drafted by the Coast Guard, as has a proclamation declaring the existence of a contiguous zone. The FY 71 supplemental appropriations request includes money for the fund.

It is anticipated that the implementation of the various sections will be accomplished within the following time periods:

Section 1:

(a) IMCO Conventions—December 1972.

(b) Oil Pollution Convention Amendments—July 1972.

(c) CCMS Oil Spill Conference—November 1970.

Section 2: (a) Ship Construction Standards—December 1972.

Section 3: (a) Port and Waterways Safety Act—July 1971.

Section 4: (a) Increased Surveillance—February 1971.

Section 5: (a) Harbor Advisory Radar Systems (two port areas)—December 1972.

Section 6: (a) Air-Deliverable Anti-Pollution Transfer Systems—December 1972.

Section 7: (a) Port Reception Facilities (determination of needs)—July 1971.

Section 10: (a) Revolving Fund—December 1970.

It should be noted that implementation of the assigned sections is dependent on some basic assumptions, including:

1. The fiscal year 71 supplemental appropriations request will be approved. (Slippage in this approval will result in slippage of fund-dependent items by the same amount of time as budget action slips beyond August 1, 1970.)

2. The Senate will give prompt advice and consent to the pending amendment to the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended; and implementing legislation will be passed in the first session of the 92nd Congress.

Mr. WILLIAMS of New Jersey. Mr. President, it is quite clear that the Coast Guard is now carrying out large and expanding programs in ecological surveillance. Their responsibilities are clearly both changing and expanding. However, as insertion No. 3 makes clear, personnel for major disaster assistance and for pollution control and clean-up must come from individuals who are trained in the proper methods. The outline says:

It is in this mission area, as well as in the occurence of natural disasters such as hurricane and floods, that peacetime employment of the Coast Guard Selected Reserve

appears most useful. Episodes of this nature would be typified by a short term requirement for manpower in excess of that normally available to the active duty Coast Guard in a specific area.

Moreover, the additional manpower required must be trained in Coast Guard operating methods and must be available on short notice. The Selected Reserve in many cases would be the sole source of additional manpower meeting these criteria.

These criteria, Mr. President are: Location, training, and availability.

A look at the dollar totals being spent on some of the weapons systems we are now considering leaves a man absolutely aghast. ABM, Poseidon, C–5A, F–111A, nuclear frigates—all will be costing us this year, at least $20 billion, and if past is indeed prolog, billions more than this figure.

The total cost for the Coast Guard Selected Reserves, who will be trained and available to meet emergencies we know will come, is $25.9 million. The cost of this investment is so comparatively small when looked at in relation to a Camille, or a Santa Barbara Channel, or a Celia, or a *Torrey Canyon*.

Mr. President, we all know the magnificent services rendered by the Coast Guard and its Reserves during various natural and ecological disasters. There is not a Senator here whose State has not directly or indirectly been aided by their continuing to carry out their missions.

Passage of this amendment serves both national security and environmental protection. We have an established force to police enforcement of our environmental protection laws. Let us provide it with the resources to do that job for us all.

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

Mr. WILLIAMS of New Jersey. I am happy to yield to the Senator from Maine.

Mr. MUSKIE. As the Senator knows, I agreed to cosponsor this amendment because of my appreciation of the additional responsibilities that have been given to the Coast Guard under the Water Quality Improvement Act, which was signed into law in April of this year. The provisions of that act with which the Senate is most directly connected are the provisions designed to impose liability for the cost of cleanup of oil spills. There are other ecological responsibilities with which the Coast Guard will be concerned.

One of the great frustrations about the oil spillage problem is that, although the Water Quality Improvement Act imposes absolute liability for the cost of cleanup, once a spill occurs, in many cases the damage that develops is irreversible.

A second problem that is involved—one in which the Coast Guard could, I think, exercise some useful responsibility and action—is in protecting against the navigational hazards that can result in oil spills. The 1970 law, the Water Quality Improvement Act, imposes absolute liability except where a spill is solely the result of an act of God, for example, or an act of war. In these cases, liability is lifted. These are the areas within which the Coast Guard could usefully operate.

One of the reasons why many of our laws dealing with environmental protection and improvement have not been as effective as they might be is the manpower shortage. And this obtains across the board. The manpower ceilings imposed during the last year or two have directly limited and inhibited environmental improvement agencies from doing the job which the Congress has given them to do.

Here, in connection with ecological hazards on the oceans and the shorelines—an area within which the Coast Guard has developed expertise and traditions and know-how—there is a manpower problem. It seems to me that the Senator's amendment is directed to it. I am not sure as to the numbers, but I do know that we need more manpower to do this ecological job, and it is for that reason that I supported the Senator's amendment.

This is an authorization bill. The numbers can be worked out. The responsibilities can be worked out. But I think it would be useful for the Senate to give this evidence of its conviction that we need to attack the manpower problem in dealing with ecological problems as well as the money problem or other related problems.

I am happy to support the Senator's amendment, and I congratulate him for offering it.

Mr. WILLIAMS of New Jersey. The support of the Senator from Maine is most significant, and of course it is greatly appreciated by me.

I am sure that this area is one in which the Coast Guard, with its training and background, can have a highly beneficial effect on a massive problem. As the Senator has said, sufficient personnel is not available to meet troublesome situations in ecology on the water.

Mr. MUSKIE. One of the great oil spills which have triggered this great public concern about the dangers from oil was the *Torrey Canyon* disaster. That was related to navigational hazards, either the product of negligence of the ship and its operators, or natural hazards. I would not attempt here to make a legal judgment as to which, but it was in the area of navigational hazards, an area within which the Coast Guard operates.

It sems to me, in accordance with the mandate which we imposed upon the Coast Guard in the act signed by the President into law in April of this year, that we must be sensitive to the additional burdens that the Coast Guard now has in this field. That is the problem to which the Senator's amendment is addressed.

Mr. WILLIAMS of New Jersey. I thank the Senator from Maine.

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

Mr. WILLIAMS of New Jersey. I yield.

Mr. GOLDWATER. Mr. President, I want to congratulate the Senator from New Jersey for having offered his amendment. I think it is a needed amendment.

I was in complete disagreement with the head of the budget when they suggested cutting out the Reserve of the Coast Guard. We seem to forget in this country that the Coast Guard is part of our armed services, and it is a voluntary organization which has performed a very valuable job for many, many years.

I probably have closer acquaintanceship with this organization than many other Members of this body, because I happen to have a boat, and I use it, and I depend upon these people, both Active and Reserve. The work that the reservists have done throughout the country, in almost every State, has been a great contribution to boat safety.

The Senator may not realize it, but the State of Arizona has the largest per capita boat population of any State in the Nation. When I think of the good work these reservists have done there in organizing boat squadrons and power squadrons and teaching boat safety to us desert rats, who do not know what good water looks like, let alone boats, I think we should be encouraging the Coast Guard rather than discouraging them.

I am happy to support the Senator's amendment, and I hope that the chairman, in his wisdom, would carefully consider it.

Mr. WILLIAMS of New Jersey. I certainly appreciate the important contribution and support of the Senator from Arizona.

It does, of course, come as news to some of us in the coastal areas that boating is such a major activity in Arizona.

Is Lake Havasu in Arizona?

Mr. GOLDWATER. Lake Havasu is on the Colorado River. Of course, California lays claim to any water near it, so part of the lake is in California, the part west of the threadline of the river.

The boating comes about because of manmade lakes. We have five within an hour's drive of the capital city of Phoenix. We have several others in other places in the State.

When I talk about the per capita boat population, I am not talking about yachts. I am talking about 14-, 16-, and 18-foot boats with outboard motors. On Friday afternoon, one can fly over Phoenix, and every road leading to a lake is bumper to bumper with families and their little boats.

The Coast Guard Reserves are the ones who voluntarily give their time to teaching boat sailing.

Mr. WILLIAMS of New Jersey. For one who has had rare occasion to go to Arizona, I will have to correct my impression. I thought it was pretty much high and dry.

Mr. GOLDWATER. I might say that it is both high and dry. Where I live, we average approximately 7 inches of rain a year. We get as much as 40 inches in some parts of the State. The elevation of the State runs from 150 feet above sea level to more than 12,000 feet above sea level. It is a dry State, but we have lived by learning how to conserve water and learning how to fend off California as she constantly borrowed our water.

Mr. WILLIAMS of New Jersey. It seems to me that what we are trying to do by my amendment is to restore personnel level for the Coast Guard Reserve so that trained men can be available should the interior of the country

be stricken by any emergency that threatens or has actually occurred.

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

Mr. WILLIAMS of New Jersey. I yield.

Mr. STENNIS. Mr. President, I believe the case for the amendment has been overproved already.

I am glad the Senator has offered this amendment. I am going to give my reasons, and I am going to recommend to the Senate that the amendment be agreed to. I do want to give the reasons, a little background, if the Senator will yield to me.

Mr. PROXMIRE. Mr. President, will the Senator yield for a question before he yields to the Senator from Mississippi?

Mr. WILLIAMS of New Jersey. Yes.

Mr. PROXMIRE. I would like to know if the Senator has any estimate of the cost involved.

Mr. WILLIAMS of New Jersey. The total personnel cost for this Reserve will be $25.9 million for 15,000.

Mr. PROXMIRE. That is the annual cost?

Mr. WILLIAMS of New Jersey. Yes.

Mr. PROXMIRE. I thank the Senator.

Mr. WILLIAMS of New Jersey. I would say, before yielding the floor and looking forward to the statement by the Senator from Mississippi, that I was encouraged to develop the amendment right from the start by the able floor manager of the bill, the Senator from Mississippi, and I very much appreciate his cooperation.

Mr. STENNIS. Mr. President, as I said, I am going to recommend that the Senator's amendment be agreed to, and now wish to give its background.

For fiscal 1971, the Budget Bureau sought no authorizing legislation for the strength of the Coast Guard Reserve. In other words, they dropped it, and that dropped the money out except over in the Transportation bill they did request $10 million to accomplish the phaseout of the Coast Guard Reserve program. The law with reference to that sets the manpower strength of the Coast Guard Reserve. The appropriations for it are in the Department of Transportation. I happen to be chairman of that subcommittee. The Senator from Colorado is a valuable member of it also. I learned for the first time the details about the Coast Guard, when I became chairman of the appropriations subcommittee and I have never been more impressed with an organization which I found in its manpower to have talent and dedication, which made careful use of the expenditures of the dollars entrusted to it. I also found a very fine group of young men in the training schools, young men of talent—some of them high school graduates and some of them beyond that. They were all young men of purpose and resourcefulness, and they worked hard. I was tremendously pleased with what I learned. Their commissioned and noncommissioned officers are very high in morale.

I was shocked when I learned that these reserves had been left out altogether, but I found one factor that had a bearing on it; namely, the reserves have not been called up in a long time for any kind of special duty.

Mr. President, the law should be expanded and more activities delineated in the law so that these men could be called up for some kind of special service. Something along that line will be forthcoming, I am sure, before long.

However, when we marked up the bill, we did not have any testimony before us as to actual need, but if we were going to continue the Coast Guard we had to put in 10,000 as a token figure, as the Senator suggested, with the idea of getting proof. Since that time the Transportation Subcommittee has developed the facts with reference to the program and to the need for a definite response. The testimony shows the need for a minimum of 15,000 men. That is the testimony the Armed Services Committee was expecting but did not have when it marked up the bill.

Thus, it is in keeping with that situation that, as chairman of the committee, I can recommend to the Senate that the amendment be agreed to.

The estimated cost is right about the figure already quoted, a little over $25 million. It is already $10 million in the Department of Transportation bill this year, but that was for the phaseout which will not happen if Congress intervenes. So it will be about $15 million over the budget if the Appropriations Committee allows that item. I do not know where we can make a better investment in trained manpower, in training for emergencies, in training for most anything, in training for more and more activities that are being placed upon them by law. The reserves I have come in contact with have been extraordinary men, a real asset to the Federal Government and the people of this country, particularly in the fields for which they might be called.

I hope that we can expand the law in keeping with their new duties and expand the purposes for which they can be called.

Thus, Mr. President, I recommend adoption of the pending amendment.

The PRESIDING OFFICER (Mr. SAXBE). The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. KENNEDY. 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

Mr. PROXMIRE. Mr. President, I call up my amendment No. 816 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. At the end of the bill insert a new section, as follows:

SEC. 507. 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 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 do not take place and that 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 involved 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 packaged 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, the purpose of the amendment that I have called up is to put into effect the so-called fly-before-you-buy recommendation of the Fitzhugh Commission, a so-called blue ribbon commission which has made its report to the Secretary of Defense.

It is also the principle that has been enunciated by the Secretary of Defense this year and last year. Last year he called it the milestone principle. This year he has called it the fly before you buy.

Fly before you buy is a very sound notion that before we move into the production of a weapons system it should be thoroughly tested so that the defects

have been corrected and so that we may know how much the production cost is likely to be and so that the leadtime would be reduced and the performance would be adequate.

Everyone agrees on the wisdom of the principle. The Secretary of Defense, I think, has made a fine contribution toward better procurement in the future by stating that he intends to pursue this policy.

The difficulty, however, is although defense has announced that policy of fly before you buy, they depart from it on a number of important and substantial procurements. So what the amendment tries to do here is to require that whenever there is a departure from this principle, the Defense Department reports to the appropriate committees—that is, the Armed Services Committees and the Appropriations Committees of the House and Senate—as to the reasons why they are not following this principle of testing before moving into production, or the so-called fly before you buy.

Mr. President, I have been very critical of the Fitzhugh Commission, its membership, and the procurement portion of the report of the Fitzhugh Commission.

I made a speech in the Senate recently detailing my criticisms and objections to those portions of the report dealing with overruns, procurement, and weapons system buying.

This recommendation in the report is, I think, a wise one. 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 the statement would be involved only when a request was made to authorize or fund production of the weapons.

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 prototype 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 exception, 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 through 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.

Mr. President, let me add that the Fitzhugh Commission consisted of 15 members, two of whom dropped out. Of the remaining 13 members, a substantial number—I believe seven—were either top executives or very important officials of defense contracting firms. These are people who are very sympathetic with the problems of defense contractors and who also have long and substantial practical experience in dealing with defense contracts.

They feel that this kind of principle should be put into effect, but that it should be put into effect in terms of specific recommendations which I have written into my amendment. This exploratory or advance development of selected subsystems should take place independently.

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 protoyptes 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.

That is, providing a much higher performance than is required by contemplated combat conditions.

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 wish to give some examples of weapons where it appears "fly before you buy" has not been used.

M60AI TANK

There has been a lot of trouble with tanks. What about the M60AI tank? It is in production at about 30 a month. More money is asked for—page 23, report. But improvements are needed. Should we not get a completed prototype, fully tested and workable, before we continue production?

MBT–70

What about this tank? Do we have one or two prototypes fully tested and which really work? I noted that we are asked for $41 million for "advanced production engineering" in addition to R. & D. funds—page 24.

Is it not a fundamental principle that we should build one or two of these weapons first and fully test them before moving into production? At least, is that not the fundamental meaning of "fly before you buy"? But, under the tank programs, it appears that we have been moving into production while the tanks are still not fully tested, and unworkable? Should we not apply fly before we buy to the tanks?

AX

What about the AX—the close air support aircraft? The report states—page 24—that $27.9 million is requested to initiate development. Has it been fully tested? How many prototypes were there?

TOW MISSILE

Report, pages 25–26—Does the TOW really work? We are authorizing $113 million for production. Is it not a duplication of the Shillelagh? Why is it needed now? But, particularly, how can we go ahead and comply with the principle that the Secretary of Defense has enunciated, which Americans have been told we are putting into effect in our Defense Department, of "test before you buy" or "fly before you buy," when we are asked to authorize $113 million for production, when we are not assured that this missile works?

F–15 AIR FORCE FIGHTER

Apparently there is $370 million for R. & D. for the F–15 in this bill. But it will apparently be operational in the mid-1970's. How many planes are there under the R. & D. portion? Will we really have one or two prototypes fully tested before it becomes operational? Or are we just moving ahead with a large number of R. & D. planes in the hope that we will get the bugs out later?

Of course, that is another question. We certainly do not want to get into the position of saying that we are only going to have research and development and then find that the prototype concept has been extended to such a point that we are actually producing many planes as prototypes because this is the one way we can justify going into production before we finish testing. It is true that we have to have some prototypes, but they should be one or two or three and not an indefinite number.

If we have an indefinite number, we are then not following the fly-before-you-buy principle, but are going into production before we have tested the equipment.

F–14 NAVY FIGHTER

Here is a real question. Apparently we are building some 26 of the F–14's while we are testing. What about the fly before we buy policy here? Page 27, report. A third of the money is for R. & D. Two-thirds is for production of 26 F–14A aircraft. Should not we produce a few prototypes, fully tested and fully workable, before rushing into production?

What about other programs?

B–1 BOMBER

Here is an example of fly before you buy, but it is not intended to build seven planes? Why are not two or three enough? The XB–70 was stopped after two were produced. Why do we need seven B–1's to test it?

S–3A CARRIER-BASED ANTISUBMARINE AIRCRAFT

How many of these are we asked to fund for production? Have they been tested? Do they work? Are we moving into production before adequate testing? Does the fly-before-you-buy principle apply here?

MISSILES: CONDOR, MAVERICK, AND SPARROW F

I note that the committee is cutting back on funds for these programs because they need additional research and development. I commend the committee heartily on that action. But why did not

the Pentagon apply the fly-before-you-buy policy here? I am pleased that the committee is doing this, even though the Pentagon recommended them.

CHAPARRAL, IMPROVED HAWK, LANCE

These three missiles are apparently new or newly developed. Has there been a fly-before-you-buy policy on these? Pages 43–44.

SPARROW AIR-TO-AIR MISSILE

I note on page 46 of the committee report that the committee recommends a reduction in the funds for the AIM–7F on grounds that we need additional development before a significant buildup in production.

That looks as if the Navy asked for production funds before it had been fully tested. The committee refused to go along. I commend the committee. Did the Navy fly that one before it urged Congress to buy it?

SIDEWINDER

What about Sidewinder? The committee report—page 47—says it has an expanded acquisition mode plus new solid state electronics for greater reliability and repairability. That sounds as if it did not work very well in the past. Was it fully tested first?

PHOENIX AIR-TO-AIR

We are asked to authorize $101 million for procurement. But we are also asked for $8.5 million in R. & D. Have we had workable prototypes fully tested? From the report it looks like they are still testing.

STANDARD MISSILES

According to the report—page 47—these replace Tartar and Terrier. Is the money for procurement or for R. & D.? Has Standard been fully tested? Does it meet the fly-before-you-buy principle?

SUBROC

Does it work? Is the money for procurement or for testing? Does it really work?

CONDOR (NAVY)

The committee is knocking out $28.9 million in procurement money because this weapon needs more research and development. Did the Navy ask for the procurement money before it was fully tested? What about fly before you buy for Condor? Apparently the Navy Department did not do that. I commend the committee for its action.

SHIPS

We have a vast new shipbuilding program. Many of them are under a "system contract" with companies designing them and building them without completing prototypes.

What about the destroyers—DD 963? Do we build prototypes there? We authorize $459 million for six ships. Why not build one prototype first?

LHA (GENERAL PURPOSE ASSAULT SHIP)

We fund two and go for leadtime on two more. According to the table on page 59 of the report, it appears that eight are authorized. What about fly before we buy the LHA?

DLG

What about the DLG guided missile frigate? Last year we authorized one and go for four more this year. Has the one been fully tested? Does it work?

MSO MINESWEEPERS

What about the MSO minesweeper? We approved 10 last year and five more this year. Has prototype been built and fully tested?

These are some of the examples from the report which indicate that in some instances the committee seems to be going ahead and providing production money even though tests have not been completed. It seems there are numerous cases in which the Department has requested production funds where the committee has wisely and ably stepped in and said the production money will not be available until testing is completed.

I commend the committee under those circumstances, but the Defense Department has not been following the policy which it has enunciated, and that is that the Congress, the Armed Services Committees and the Appropriations Committees, should be notified in advance before they depart from the "fly-before-you-buy" principle.

AMENDMENT NO. 789

Mr. SCOTT. Mr. President, I send to the desk an amendment and ask that the clerk state it.

The PRESIDING OFFICER. An amendment is already pending.

Mr. SCOTT. Mr. President, will the Senator from Wisconsin agree that his amendment may be temporarily laid aside so that I may bring one up, as to which I understand there is no contest?

Mr. PROXMIRE. Yes, with the understanding that my amendment will become the pending business immediately after the amendment of the Senator from Pennsylvania is disposed of.

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

The clerk will state the amendment of the Senator from Pennsylvania.

The legislative clerk proceeded to read the amendment.

Mr. SCOTT. Mr. President, I ask unanimous consent that the reading of the remainder of the amendment be dispensed with.

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

Amendment No. 789 is as follows:

AMENDMENT No. 789

Forces, and for other purposes:

At the end of the bill, insert the following new section

"SEC. 507. It is the sense of the Congress that—

"(1) any department or agency of the United States Government making appointments in the competitive service should, in filing vacant positions within such department or agency, give priority consideration to employees holding career appointments in the competitive service who are being displaced from their present positions in the Department of Defense or other department or agency as the result of reductions in force;

"(2) the heads of each such department and agency should implement, to the fullest extent practicable, the memorandum of the President, dated April 24, 1970, requiring that 'each department and agency must accept responsibility for assuring that qualified displaced employees are given full and sympathetic consideration when vacancies are filled'; and

"(3) the heads of each such department and agency should cooperate fully with the United States Civil Service Commission in carrying out the Commission's displaced employee program, which is designed to insure priority treatment of displaced Government employees."

DAN MITRIONE

Mr. SCOTT. Mr. President, I yield to the distinguished Senator from Indiana (Mr. BAYH) without losing my right to the floor.

Mr. BAYH. Mr. President, I appreciate the courtesy of the distinguished minority leader.

Mr. President, for myself and on behalf of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Pennsylvania (Mr. SCOTT) I submit a resolution in tribute to Dan Mitrione, of Richmond, Ind., whose long and distinguished career of public service to his city, his State, and his Nation has ended so tragically while he was serving abroad.

His life was full of meaning and purpose.

His death, in contrast, was senseless and a contradiction of the very principles for which he lived and worked.

The final chapter has been written. We can now only share in the appreciation of his life and in the common prayer that his death will rekindle within the hearts and minds of all mankind a greater understanding of the value of human life.

For those of us who knew him, his death has an even greater personal meaning.

I ask unanimous consent that the resolution be immediately considered.

The PRESIDING OFFICER. The resolution will be stated by title.

The LEGISLATIVE CLERK. A resolution (S. Res. 446) expressing the sorrow of the U.S. Senate over the death of Dan Mitrione.

The PRESIDING OFFICER. The question is on proceeding to the consideration of the resolution.

There being no objection, the resolution was considered and unanimously agreed to, as follows:

S. RES. 446

Resolved, That the Senate express its sincere sorrow over the untimely death of Dan Mitrione of Richmond, Indiana, while loyally serving as an employee of the United States Department of State in Montevideo, Uruguay.

Resolved further, That the Secretary of the Senate communicate a copy of this resolution to the family of the deceased.

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENT AND OTHER PURPOSES

The Senate resumed the consideration of 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 Se-

lected Reserve of each Reserve component of the Armed Forces, and for other purposes.

Mr. SCOTT. Mr. President, if I may have the attention of the Senator from Mississippi, the amendment now pending and which, thanks to the Senator from Wisconsin (Mr. PROXMIRE), I have now offered, is known as the job assistance amendment. This amendment, I believe, should not give us any reason for dissent.

As President Nixon has emphasized, we are moving from a wartime economy to a peacetime economy. This shift in national priorities is unquestionably in the interest of the country as a whole. We must remember, however, the cases of individual citizens whose jobs may be eliminated in this process.

In March, the elimination of 58,600 positions in the Department of Defense was announced. The vast majority of the people displaced by this reduction in force were career civil servants. Future reductions will also involve career employees. To seek new jobs poses a tremendous hardship to these people. Similarly, the Federal Government can ill afford to lose their skills and experience.

The amendment I am introducing would affirm the sense of the Congress to be that Government departments and agencies, when filling vacancies, give priority consideration to Federal career employees who have been displaced from positions eliminated in the Department of Defense or other departments or agencies as the result of reductions in force.

My amendment would also declare the sense of the Congress to be that departments and agencies should comply fully with the Presidential memorandum of April 24, 1970, and with the displaced employee program of the U.S. Civil Service Commission, both aimed at effecting priority consideration for displaced employees.

Sufficient normal vacancies occur each year to permit the Government to absorb qualified displaced persons who want to continue in the Federal service. All that is required is a conscientious effort by departments and agencies to place these persons. The Congress should lend its voice to the efforts of the executive branch and the civil service to insure that this task is accomplished.

I ask unanimous consent that a letter to me from Carl W. Clewlow, Deputy Assistant Secretary of Defense, under date of August 10, 1970, be printed in the RECORD.

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

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., August 10, 1970.

Hon. HUGH SCOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCOTT: This is in reply to your letter of July 30, 1970, concerning the amendment you have introduced to H.R. 17123 to require priority hiring treatment for Federal employees displaced by reduction in force.

As you know we are making every effort to ease the adverse impact on individual employees of current civilian manpower reductions in the Department of Defense. To the maximum extent possible voluntary attrition is being used to accomplish reductions. Where such attrition alone is not sufficient, additional steps are taken, such as utilizing the Defense Department Priority Placement Program to make employment offers to qualified displaced employees for vacancies arising in the Department which must be filled, restricting the filling of most vacancies by permanent appointment in order to stockpile vacancies for displaced career employees, and referring displaced career employees for placement consideration in vacancies arising in other Federal departments and agencies through the Civil Service Commission's Displaced Employee Program (DEP).

We are of the opinion that the DEP and the efforts within the Executive Department to help displaced career employees find other jobs, reinforced and supported by the President's memorandum of April 24, 1970, urging other Federal departments and agencies to give priority consideration to displaced career employees when filling vacancies, will produce maximum results without legislative action. However, we have no objection to the amendment if the Senate believes it will assist us in our efforts.

Sincerely,

CARL W. CLEWLOW,
Deputy Assistant Secretary of Defense (Civilian Personnel Policy).

Mr. STENNIS. Mr. President, in response to the remarks of the Senator from Pennsylvania addressed to me, as a matter of fact, this is a sense-of-the-Congress resolution, so to speak. Is it not?

Mr. SCOTT. It has that effect.

Mr. STENNIS. It is also in keeping with a memorandum by the President on April 24, 1970, urging consideration of the people that were displaced.

I think it is a commendable amendment. It does not in any way change the civil service laws, as I understand. It is a recognition of hardship that has come to certain people as a result of necessary changes not only in military programs but in others. It expresses a very strong sentiment here that they be given consideration and calls upon the heads of departments and agencies to cooperate fully with the U.S. Civil Service Commission.

I think that the Senator has made a contribution in spelling this matter out so clearly and forcefully, that it will do good and will serve the Government as well as individuals with a solid basis for action, and also that it will prompt agency heads to live up to the requirement which the Senator has so well spelled out.

Mr. SCOTT. I am very grateful to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. DOMINICK. Mr. President, it is my understanding that we are dealing with amendment No. 789. Is that correct?

Mr. SCOTT. Yes.

Mr. DOMINICK. I have no objection.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 789.

The amendment was agreed to.

Mr. BYRD of West Virginia. Mr. President, does the Senate now continue to consider the Proxmire amendment?

The PRESIDING OFFICER. The Senate will now revert to the consideration of amendment No. 816 of the Senator from Wisconsin (Mr. PROXMIRE).

AMENDMENT NO. 816—UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I have discussed a time to vote on this amendment with the able minority leader, and it is my understanding that the manager of the bill and the author of the amendment are willing to vote at 3 on Monday afternoon next, the time on the amendment to begin running at 12 noon, and the time to be equally divided between the manager of the bill (Mr. STENNIS) and the author of the amendment (Mr. PROXMIRE).

Mr. SCOTT. Mr. President, I have heard no objection to this proposal whatever.

Mr. BYRD of West Virginia. So I propound the proposal in the form of a unanimous-consent request.

Mr. STENNIS. Mr. President, reserving the right to object—and I shall not object—this amendment offered by the Senator from Wisconsin would have a very far-reaching effect. If it becomes a part of the law of the land—without hearings, without evaluation of the impact of these words, and without a lot of definitions written into it—I think, with all deference, it would almost create havoc. So I think it ought to be thoroughly understood and fully debated, and that is the reason why I advised against trying to rush to a vote on it this afternoon. I believe great harm could be done.

I intend to make some remarks about it this afternoon, and to discuss it fully tomorrow for the RECORD, so that any Senator or his staff who cares to may pursue it; and I certainly hope they will.

I would be delighted to see us get to a vote on it at 3 o'clock Monday afternoon, however. That would allow 3 hours of debate on Monday, at which I hope the attendance of Senators will be far above average.

So I have no objection to the request of the Senator from West Virginia.

The PRESIDING OFFICER. Is the Chair's understanding correct that the time is to be equally divided between the manager of the bill and the Senator from Wisconsin?

Mr. BYRD of West Virginia. That is correct.

Mr. STENNIS. Beginning at 12 noon on Monday.

Mr. BYRD of West Virginia. Mr. President, perhaps the able assistant majority leader, who is now in the Chamber, would like to indicate at what time on Monday the Senate will convene; because if time starts running at noon on the agreement, I assume the able assistant majority leader would intend that the Senate come in at 10 o'clock or 11 o'clock on Monday morning.

Mr. KENNEDY. Mr. President, we will take that into account. We will designate the time tomorrow for coming in on Monday. We will see what requests are made of the leadership tomorrow, but we will certainy be mindful when we set the meeting time for Monday of this 3-hour request, so that there will be the full 3 hours available for debate, to be divided as designated in the unanimous-consent request.

The PRESIDING OFFICER. Is there objection to the request of the Senator

from West Virginia? The Chair hears none, and it is so ordered.

The unanimous-consent agreement was subsequently reduced to writing, as follows:

Ordered, That the Senate proceed to vote at 3 o'clock p.m., Monday, August 17, 1970, on the pending amendment by Mr. PROXMIRE (No. 816) to H.R. 17123, the military procurement authorization bill, with the time between 12 noon and 3 p.m. to be equally divided and controlled by the Senator from Wisconsin (Mr. PROXMIRE) and the Senator from Mississippi (Mr. STENNIS).

Mr. DOMINICK. Mr. President, I shall not take long at this time, because I am frank to admit that I have not had time to assimilate all the problems this amendment would bring about. But I think it is worthwhile to point out some of them which occur right off the bat, so the record will not go unchallenged in the form it was left by the Senator from Wisconsin.

This amendment, if adopted, would prohibit us from passing any bill until the Defense Department has made this massive report, because it is stated in the amendment that no funds may even be authorized for weapons systems until these reports have been delivered to the various committees.

Here we are, already in the third week of debating this bill, and all of a sudden an amendment comes up which has the effect of saying we are not going to be able to go forward at all until the Defense Department has taken these steps.

The second thing is the question of what is a weapons system. There are all kinds of definitions of what a weapons system is, but in the current terminology, at least, an aircraft is considered a weapons system. We have in this bill authorizations for purchases of additional 87's, F-4's, and a variety of other aircraft which are already in the production system, and which have been produced for a long time and are highly acceptable in the eyes of the service. The idea of having the Defense Department create a separate report, with 12 subheads, as to what must be reported on, before we can even authorize the production of more aircraft of types that have already been proven, seems to me to be of no help to either the defense of the country or the efficient operation of the Defense Department.

The distinguished Senator from Wisconsin also represented that the action of the Senate yesterday in the process of maintaining the phase II portion of the ABM was a deviation from the so-called fly-before-you-buy system. I am frank to admit that when you have a system of this kind, which we are now trying to develop and test on site by 1974 or 1975, if we have to wait until that length of time before we go forward with any other, it is perfectly apparent to me that, once again, all we would be doing would be preventing ourselves from having a defensive weapon which is probably necessary for the safety of the United States.

As I said, I am not going to speak long at this time, but just from a cursory reading of the amendment, if it were adopted and put into the law, and passed the conference—which I do not think it ever would, but suppose it did—I think it would substantially nullify the ability of our committee, which has been given jurisdiction by the Senate to try to authorize the necessary weaponry that we need for the defense of 200 million Americans; and I think that would be a tragic mistake.

Mr. BYRD of West Virginia. 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. STENNIS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. STENNIS. Mr. President, as I said before, I think this is a very far-reaching amendment. I know it is, and I believe that virtually all members of the Armed Services Committee that have dealt with this problem for any appreciable time would agree that it is far reaching.

I think they would agree further that many of these points are worthy of further consideration and development, but that the enactment of anything into hard law in this field should be done only after the most careful consideration of the application: how it would hinder, if in any way, these weapons programs; what obstacles it would put in the path of any phase of our development; and what the time lag would be in carrying them out.

Definitions would have to be supplied for words and terms, and everything that is going to be enacted into law spelled out very carefully. That would require hearings with competent examiners and competent witnesses, and it would require phrasing by experienced drafters of legislation. Nothing short of that should be written into law on this subject matter.

With all deference, Mr. President, this amendment has some catch phrases. This idea, for example, of "fly before you buy"—that is a slogan, like "look before you leap," and is just about as uncertain as to what it means.

Those matters cannot be written into the firmness of regulatory law or requirements of legislation, much less when the main clause in it says that they shall not spend any of the money authorized here until all these things are done. It reads:

No funds may be authorized or appropriated to or for the use of the armed forces of the United States for the production of weapons systems until the Secretary of Defense—

That is another tying up of all this money. I think that clause covers existing appropriations and past appropriations and future appropriations, also. That would be permanent law for weapons systems. That is why I said it could not be hastily voted on.

I call it to the attention of all members of the Armed Services Committee and specifically request them to apply themselves to the problem presented by this amendment and to take part in the debate, in a frank analysis of what it would mean.

The recommendations made by the Fitzhugh panel—the ink is hardly dry on them—are made by men most of whom have not had to deal directly with the problem that is represented here, with which the Secretary of Defense would have to deal.

Some of these practices are insisted on and followed now by the Armed Services Committee and by the Defense Department. I, personally, favor virtually every one of them as a general policy. But I certainly do not favor trying to write them into law.

Mr. President, I have a few remarks now of a more formal nature which I will make, and that will conclude my remarks for today.

I do not propose at this time to discuss the Panel itself or to get into the merits of its findings. I refer to the President's blue ribbon Defense Panel chaired by Mr. Fitzhugh.

It is obvious to me that the Panel's report will require serious and detailed study and analyses before the policies recommended by it are considered and implemented. This is one of the primary points that we must consider before we vote on Senator PROXMIRE's amendment. It takes a recommendation from a Panel study, which the Defense Department has not yet considered fully, and proposes to escalate this recommendation into a legislative reporting requirement. This hardly comports with the Senator's prior view that the Fitzhugh report would not "inspire faith" in procurement recommendations.

The Panel report suggests that a "new development policy for weapon systems and other hardware should be formulated and promulgated to cause the reduction of technical risks through demonstrated hardware before full-scale development, and to provide the needed flexibility in acquisition strategies." The report goes on to recommend that this new policy should encompass certain conditions which, taken word for word from the report, are proposed in Senator PROXMIRE's amendment.

I say, Mr. President, that there are good purposes here; but these words are just taken from a panel report and put into this amendment, word for word and sentence for sentence, in places.

Mr. President, I will discuss one or two of these conditions that the Senator's amendment would require a report on the degree of compliance. One is that "that elements of the systems or subsystems do not include 'gold plating'." I believe that I have a general understanding of what is referred to as "gold plating" on a weapon system. It is sometimes referred to as "value engineering." However, I am not at all sure that my interpretation would be the same as the Senator from Wisconsin. As a matter of fact, I am not sure that what is considered "gold plating" by me or the Senator would also be considered "gold plating" by the pilot that has to fly the airplane or the tanker that has to ride the tank into battle. I am sure that we all want to eliminate the costs of these weapon programs, but I believe that we have to be sure first what we are eliminating is, in fact, "gold plating."

Another matter which would be re-

quired is "that the type of contract selected is the most appropriate for development and the assessment of the technical risks involved in the weapon system." Again, Mr. President, I ask who is to make the judgment that this condition has been met and the degree to which the condition has been met. Will the judgment of the Defense officials be accepted by all who will be asked to review the report?

At the very beginning it is inferred that this amendment is to be applicable to all weapon systems. Here is another ambiguity. A weapon system is not defined and we on the floor of the Senate are asked to judge the parameters of that term. Does the amendment mean to cover every relative low dollar weapon system in the inventory of the Defense Department? If this is the case, there would be countless reports covering systems ranging from guns and bombs to tanks and planes. On the other hand, without a clear definition of weapon systems we cannot be sure of what reports would be required.

I am not just trying to find fault. I think the report as a whole is constructive, particularly as to procurement. But this matter is just not cooked and boiled and concentrated and defined—these recommendations are not—and it is nowhere near ready for presentation on the floor of the Senate for enactment into a solid law.

I believe, Mr. President, and I am sure that each Member of the Senate shares this belief, that when we are asked to pass on major legislation, it must be as clear and definite as possible, so that the people who are required to implement the legislation can do so with a clear understanding of what is intended. This is certainly not the case with this amendment. The examples of ambiguities in this amendment which I have discussed make it evident that the amendment is not clear or definite as to its purpose or meaning. The technical terms used in this amendment, such as "gold plating," "formal contract definition," "long-term level of effort," as well as the intent of certain entire sections in this amendment, are of sufficient ambiguity to warrant detailed study and possible hearings to be held in an effort to get a clear understanding of the meaning and substance of these terms and conditions before this body can be expected to act on legislation of this nature.

It is my understanding, Mr. President, that the Department of Defense is currently studying the issues in the Defense Panel study report and has plans to implement many of the policy suggestions included in the report. One of the main thrusts of their current analyses, however, is to relate the Panel suggestions into clear and meaningful language that is capable of implementation.

From the day after this Panel report came out, we have had a member or members of our committee staff studying it, outlining it for the committee, defining many of its terms, defining what practices they are referring to, and getting this matter into such condition that it can really be considered by the Armed Services Committee. I do not believe that a single member of that committee would dare try to come to the floor of the Senate, with this matter in its present form, and try to give a full meaning to all the recommendations, much less say that we have here, just taken out of this Panel report, items that we want the Senate to enact. I emphasize that. I have studied it somewhat, and I do not yet have enough knowledge that I would try to explain it to members of the Armed Services Committee, men who are versed in these items and have a background of knowledge with reference to these weapons.

Still, without any recommendation of a committee, without one iota of testimony, without any hearings, without any report of an experienced staff, without anything, the Senate is asked to pass this document into a form which, if not checked by the other body or the President in a veto, will become the law of the land, applying to every weapon system we have. It is unthinkable, Mr. President, that we would seriously consider doing such a thing, and that is the prime reason why I insist that it not be taken up hastily.

I am sure, Mr. President, that if the Senator desires a report on various conditions of selected weapon system procurements, such a report can be obtained without legislation. I had no trouble establishing a reporting system on selected programs that advises the Armed Services Committee quarterly of the status of the programs. This was done without legislation, and as I have recently noted, the reporting system is considered useful even to the Senator from Wisconsin.

I, therefore, urge the Senate to reject this amendment, not only as unnecessary for legislation but unclear and indefinite as to meaning and substance.

Mr. President, I have tried to make clear the vast undertaking of this amendment, laudable as are the purposes of the Senator from Wisconsin.

I want to refer to one item he mentioned about the F–14. That is the new plane for the Navy. He said that we were going into production too rapidly and that there should be a slowdown for more research and development. I think that was a good comment and a good criticism. That was one case where the committee consciously and intentionally violated its own general rule on holding back production of airplanes and other weapons.

The reason was that we went on year after year after year researching and developing and producing the old TFX Navy for years, which never did work, and finally we got so far behind, insofar as the Navy planes were concerned, that Congress finally took every last one of them out of the budget, refused the money, and authorized an appropriation for research and development on a new plane, the F–14. It is somewhat of a rush job, based solely on the need which I have already described. But that is a high exception in the concept of the Armed Services Committee and, I think, the Department of Defense now.

Thus, the work of the panel will be considered by the committee, by the House committee, and I am sure also by the Department of Defense, as to whether its work should be adopted. Otherwise, we not only destroy the program, but set back the Department of Defense, and ourselves, if we try to grind this all into sausage meat and run it through the mill before any committee experts or evaluators have had an opportunity to make a hard and firm recommendation to the Senate. The only recommendation we have now is the individual recommendation and the composite work of the panel.

Mr. President, I yield the floor.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House of Representatives having proceeded to reconsider the bill (H.R. 16916) entitled "An Act making appropriations for the Office of Education for the fiscal year ending June 30, 1971, and for other purposes," returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. 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. GURNEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. KENNEDY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection it is so ordered.

ORDER FOR RECOGNITION OF SENATOR YOUNG OF OHIO AND SENATOR BAYH TOMORROW

Mr. KENNEDY. Mr. President, I ask unanimous consent that, following disposition of the Journal on tomorrow, the distinguished Senator from Ohio (Mr. YOUNG) be recognized for a period of not to exceed 15 minutes; and that the distinguished Senator from Indiana (Mr. BAYH) be recognized for not to exceed 45 minutes; and, following the remarks of the distinguished Senator from Indiana (Mr. BAYH), that there be a brief period for the transaction of routine morning business, following which, the Senate will return to the unfinished business.

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

CALL OF THE CALENDAR TOMORROW

Mr. KENNEDY. Mr. President, I should like to amend the unanimous-consent request to ask unanimous consent that, following the disposition of the Journal, and prior to the time the distinguished Senator from Ohio (Mr. YOUNG) is recognized, the Senate proceed to the consideration of unobjected to items on the calendar, and that the calendar call be disposed of prior to the recognition of the distinguished Senator from Ohio (Mr. YOUNG).

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

Mr. KENNEDY. Mr. President, my understanding is that the point was made earlier today that the unobjected-to items on the calendar, hopefully, in terms of good Senate procedure, would be considered prior to the recognition of Senators to speak under special orders. I think the point was well taken. We are trying to accord the unanimous consent request to take that into consideration.

Let me say to my good friend from Michigan, if that is not specifically what was requested at the opening of the Senate, we will try to make whatever additional adjustments we can.

Mr. GRIFFIN. Mr. President, whether or not that meets the point made early today by the distinguished Senator from Delaware (Mr. WILLIAMS), I am not altogether sure; but, in any event, it does not prejudice his rights in any way, and I appreciate the statement by the Senator from Massachusetts.

S. 4239—INTRODUCTION OF A BILL TO AUTHORIZE USE OF NEZ PERCE JUDGMENT FUNDS

Mr. CHURCH. Mr. President, I introduce for appropriate reference on behalf of myself and my colleague from Idaho, Mr. JORDAN, and the Senators from Washington (Mr. MAGNUSON and Mr. JACKSON) a bill to amend the act of April 24, 1961, authorizing the use of judgment funds of the Nez Perce Tribe.

The Indian Claims Commission recently entered a judgment in Docket No. 179, awarding $1,119,077 to the Nez Perces. That judgment has become final and funds to pay it have now been appropriated by the last Supplemental Appropriations Act for the fiscal year 1970. In order for the funds to become available to members of the Tribe, legislation is necessary.

Mr. President, I hope that the Senate gives early approval to this bill.

Mr. President, I am joined in the introduction of this bill by my colleague (Mr. JORDAN) who also has a statement to make at this time.

Mr. JORDAN of Idaho. Mr. President, I am glad to join my colleague from Idaho (Mr. CHURCH) in introducing the bill to amend the act of April 24, 1961, authorizing the use of judgment funds of the Nez Perce Tribe.

Since this judgment by the Indian Claims Commission has become final, and funds have been appropriated through the last Supplemental Appropriations Act for the fiscal year 1970, I think we should move as quickly as possible to make these funds available to the tribe.

The Nez Perces reside on both their Idaho reservation and on the Colville Reservation in the State of Washington. A division of judgment has already been provided through Public Law 87–24, which directs that the Idaho tribe will receive 86.6 percent of the proceeds, and the Washington members 13.4 percent.

Mr. President, I also hope that the Senate can get early action on this bill.

The PRESIDING OFFICER (Mr. SAXBE). The bill will be received and appropriately referred.

The bill (S. 4239) to amend the act of April 24, 1961, authorizing the use of judgment funds of the Nez Perce Tribe, introduced by Mr. CHURCH (for himself, Mr. JORDAN of Idaho, Mr. MAGNUSON, and Mr. JACKSON), was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

VETO OF APPROPRIATIONS FOR EDUCATION, 1971

Mr. KENNEDY. Mr. President, I ask unanimous consent that the veto message on H.R. 16916, appropriations for education, 1971, be held at the desk for future consideration.

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

THE SOCIAL SECURITY AMENDMENTS OF 1970

AMENDMENT NO. 840

Mr. KENNEDY. Mr. President, on behalf of the distinguished Senator from Nevada (Mr. CANNON), I submit an amendment to H.R. 17550, the House-passed Social Security Amendments of 1970, which is now pending before the Senate Finance Committee. I ask unanimous consent that the amendment and some brief remarks prepared by the Senator from Nevada be printed at this point in the RECORD in accordance with his request.

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

The amendment (No. 840), which reads as follows, was referred to the Committee on Finance:

On page 39, line 8, strike out "$166.66⅔" and insert in lieu thereof "$208.33⅓".

On page 39, line 12, strike out "$166.66⅔" and insert in lieu thereof "$208.33⅓".

On page 39, line 19, strike out "$166.66⅔" and insert in lieu thereof "$208.33⅓".

On page 40, line 13, strike out "$166.66⅔" and insert in lieu thereof "$208.33⅓".

The statement of Senator CANNON is as follows:

Mr. CANNON. Mr. President, I rise at this time to submit an amendment to H.R. 17550, the House-passed social security amendments of 1970 which is now before the Senate Finance Committee. I ask unanimous consent for the printing in today's RECORD of my amendment in order that my colleagues may review this proposal. Rather than waiting for the social security bill to reach the Senate floor, I am offering my amendment at this time so that the finance committee may study this proposal along with the other alternatives under consideration. Essentially, I am sponsoring an amendment which would increase the amount of earnings a social security recipient could receive before reduction of benefits. I propose to exempt $208.00 per month from benefit reduction. The House passed bill permits $2,000 a year of earned income, I propose $2,500.

Our retired citizens, perhaps more than others, are suffering from the pains of inflation and recession. My proposal will help ease the economic crisis for retired people and encourage many talented retirees to seek work that will supplement their pension income.

ADJOURNMENT

Mr. KENNEDY. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and (at 4 o'clock and 10 minutes p.m.) the Senate adjourned until tomorrow, Friday, August 14, 1970, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate August 13, 1970:

NATIONAL SCIENCE FOUNDATION

Raymond L. Bisplinghoff, of Massachusetts, to be Deputy Director of the National Science Foundation. (New Position)

IN THE MARINE CORPS

To the Senate of the United States

The following-named officers of the Marine Corps for permanent appointment to the grade of captain:

Kevin R. Danehy
Leroy B. Evans
Stephen R. McComb

The following-named officers of the Marine Corps for permanent appointment to the grade of first lieutenant:

James P. Byrnes
Edgar M. Campbell

The following-named officers of the Marine Corps for temporary appointment to the grade of first lieutenant:

Donald L. Abblitt
John C. Adams
Timothy M. Atkinson
Edward J. Baker
Rignal W. Baldwin, IV
Gary W. Barnes
Michael V. Bergamini
Jeffrey S. Beyer
Dennis G. Bolton
David F. Boulden
James J. Cain
Edmond R. Casey
Stephen B. Casey
Lusty L. Cebula
Gary W. Collenborne
John D. Counselman, Jr.
Daniel R. Dame
Gilbert H. Davis
Terence A. Davis
Orland O. Defrates, Jr.
Donald V. Demikis
John C. Dowell
Charles C. Emmons
Paul R. Fields
Thomas A. Flaherty
Leonard S. Foster
John D. Frew
David M. Gally
Dennis T. Gaudio
Lawrence R. Getter
David S. Goble
Alfred O. Goellner
David E. Gordon
Francis P. Hagan
Michael B. Harrison
Edward G. Hayen, II
Donald L. Hensley
Christopher R. Hickey
Stephen M. Hill
Kennon D. Hines, Jr.
Herbert S. Holland, III
Lonnie A. Howerton
Jan U. Jansen
Floyd T. Johnson
Bruce B. Johnston
Robert E. Jones
William K. Jones, Jr.
Kevin P. Judkins
George Kazonich
Paul V. Kelly
George S. Keys
Frank N. Kibler
Pierce R. King
Thomas E. Lakin
Jack D. Larson
Timothy B. Levan
Gregory K. Manary
Steven E. Martin
Frederick McConnell, II
Ray M. McCormick

John F. McGuire, III
Peter T. Metzger
Dennis R. Miller
Alex G. Mitkevich
Roy E. Moffit, Jr.
David L. Moody
Ronald V. Murray
Richard Myers, III
William C. Neasham
Richard E. Nelson
James H. Patterson
Paul L. Persinger, Jr.
Jackson S. Pharris, II
Terry R. Phelps
Stephen E. Potter
James P. Rathbun, Jr.
Robert W. Rathbun
Joseph F. Riley, III
Raymond W. S. Schellinger
Walter P. Schortmann
Richard R. Schwabe
Harvey W. Senter
John D. Slattum
Danuel L. Smith
Terry A. Smith
John D. Stokes
William G. Strohlein
Thomas G. Tomkowiak
Joseph E. Tommaney
Samuel S. Trant
Neal W. Vanhouten, Jr.
Bill W. Vaughn
David A. Wellman
Charles N. Wells
William J. Wesley
Rufus T. Williams, Jr.
William T. Williams
Robert C. Wooten
Donald W. Workman
Charles W. Wright
Glenwood H. Yopp, Jr.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 13, 1970:

DEPARTMENT OF DEFENSE

J. Fred Buzhardt, Jr., of South Carolina, to be General Counsel of the Department of Defense.

U.S. ATTORNEY

George Beall, of Maryland, to be U.S. attorney for the District of Maryland for the term of 4 years.

U.S. MARSHALS

Marshall F. Rousseau, of Texas, to be U.S. marshal for the southern district of Texas for a term of 4 years.

Jose A. Lopez, of Puerto Rico, to be U.S. marshal for the district of Puerto Rico for the term of 4 years.

Edward S. King, of New York, to be U.S. marshal for the western district of New York for the term of 4 years.

Charles W. Koval, of Pennsylvania, to be U.S. marshal for the western district of Pennsylvania for the term of 4 years.

Juan C. San Agustin, of Guam, to be U.S. marshal for the District of Guam for the term of 4 years.

Johnny M. Towns, of Alabama, to be U.S. marshal for the northern district of Alabama for the term of 4 years.

HOUSE OF REPRESENTATIVES—*Thursday, August 13, 1970*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Let integrity and uprightness preserve me; for I wait on Thee.—Psalm 25: 21.

O God and Father of us all, who art a strong tower of defense to all who keep faith with Thee, We Thy children come before Thee in gratitude for Thy steadfast love and Thy enduring truth. In Thee alone is our hope and in Thee alone is the strength of our Nation.

In our restlessness may we know the peace of Thy presence, in our fears the faithfulness of Thy spirit and in our uncertainties the certainty of Thy creative love. May our little efforts for good be supported by the greatness of Thy power and the goodness of Thy grace.

We remember in Thy presence all those bound to us by the ties of family, friendship, and the fellowship of working together; all who work for our country at home and abroad; all who serve in our Armed Forces and for our prisoners of war. Give to us such a depth of social vision and such a width of social concern that we shall seek the release of the captives, the end of war, and the coming of peace.

In the spirit of Him who sought the good of all mankind, we pray. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday were read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the amendments of the House to the bill of the Senate of the following title:

S. 3102. An act to amend section 4 of the Fish and Wildlife Act of 1956, as amended, to extend the term during which the Secretary of the Interior can make fisheries loans under the act.

The message also announced that the Vice President, pursuant to Public Law 91–354, appointed Mr. BURDICK and Mr. COOK to the Commission on the Bankruptcy Laws of the United States.

TRIBUTE TO VINCE LOMBARDI

(Mr. MURPHY of New York asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. MURPHY of New York. Mr. Speaker, Vince Thomas Lombardi is a Brooklyn-born New Yorker who epitomizes the advent of the golden millennium of professional football; the tough but humble taskmaster, emperor of the Green Bay Packers and now, the coach who made the Washington Redskins a winner in his first year at their helm.

Much has been recorded about this loquacious man, called by many a "living legend," but who, in fact, combines Puritan ethic and a Catholic boyhood with a belief in two-fisted American salesmanship and the Knute Rockne school of evangelism—a very mortal man.

Whatever it takes to become a successful football coach, however, Lombardi has. He inspires spartan pride, discipline, and determination in his players.

Lombardi says:

I'm a religious man. I've got a great deal of faith in God, a great deal of dependency on God. I don't think I'd do anything without that dependency. We don't pray to win. I do think we pray to play the best we can to keep us free from injury. And the prayer we say after the game is one of thanksgiving.

This then, Mr. Speaker, is the man I pay tribute to today.

The Green Bay job came to Lombardi when he was 45, and it gave him his first taste of real power. But the toughness was instilled by his father, Harry, an immigrant Italian meatcutter who settled first in Bensonhurst, Brooklyn, and later raised his family in Sheepshead Bay.

Lombardi was an all-star fullback at St. Francis Prep, but switched to guard when he played for Fordham, then one of the great citadels of collegiate football. As a 5-foot-10, 170-pound guard who flouted the odds, he convinced himself he could become one of the famed "Seven Blocks of Granite," and did, naturally, in 1934, 1935, and 1936.

Making up in ferocity what he lacked in poundage, Lombardi played with disregard for injuries that has become legendary. Lombardi says in his own book, "Run for Daylight":

No one is ever hurt. Hurt is in your mind.

But in one Fordham game, Lombardi was repeatedly jabbed in the mouth by an opposing tackle. He did not falter on a single play, but it later took 30 stitches to close the cuts inside his mouth.

Lombardi still likes to quip:

When I got home that night I certainly was hurting in my mind.

Of course, Lombardi got his grounding in the dividends that can be reaped from sacrifice for a goal, respect for authority and commitment to duty from another master, Col. Earl "Red" Blaik, at West Point—the man he admits had the single greatest influence on his life.

Lombardi worked 6 years—1948–54—under Red Blaik at the Point and no doubt this is where he picked up his military bearing and organizational genius which runs on military precision.

I know, for Mr. Lombardi was my coach when I was privileged to play on the great Army teams of that era.

But just before his association with the equally legendary Blaik, Lombardi was a high school coach at St. Cecelia's in Englewood, N.J. There he got an understanding of the kid inside the man as a chemistry teacher and coach, and gained a small measure of fame by taking his teams through 36 games without a defeat. Yet, in 8 years there—1938–46—he never made more than $3,500 annually. He returned to Fordham briefly, acting as freshman coach in 1947.

With Blaik's assistance, Lombardi was signed as an offensive line coach by the New York Giants in 1954. He was slated to become head coach when Jim Lee Howell retired, but Green Bay grabbed him and in 1959 Vince Lombardi had his own football team. The rest is history.

Packer teams coached by Lombardi won 141 games, lost 39 and tied four. This amazing .783 record gave Green Bay five National Football League championships—three of them in a row—plus victory in both the 1967 and 1968 Super Bowl games. As Art Modell, president of the NFL and owner of the Cleveland Browns said over those victories:

This is for quotation and all caps: Vince Lombardi is without a doubt the greatest coach in the history of professional football.

But after a year of personal purgatory—retirement from the coaching ranks, he relinquished his general manager post at Green Bay last year to come—lock, stock, and legend—to accept full responsibility for the Washington Redskins, a fun-loving group that last won an NFL championship in 1942, had a dismal 126–190–15 record since then, including an indifferent 5–9 performance on the eve of Lombardi's arrival.