SENATE—*Friday, August 28, 1970*

The Senate met at 8:30 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

The Reverend Ronald Winters, pastor, Mount Pleasant Baptist Church, Floris, Va., offered the following prayer:

Blessed is the nation whose God is the Lord; and the people whom He hath chosen for His own inheritance.—Psalm 33: 12.

O God, our Father, unto Thee we pray. We thank Thee for permitting us to be a part of Thine inheritance. Let every soul be subject unto the higher powers. For there is no power but of God.

Give strength of purpose to these Senators who have been chosen by the people of this Nation. We pray Thee, O God, that they will shoulder their responsibilities with wisdom and justice.

Grant them that greatness of spirit that enables them to be sensitive to the needs of mankind, kindly in thought, and generous in deed. May we remember that Thou, O God, giveth the peace that passeth all understanding through Jesus Christ our Lord. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 28, 1970.

To the Senate:

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

RICHARD B. RUSSELL,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, August 27, 1970, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

EXECUTIVE SESSION

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

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

CORPORATION FOR PUBLIC BROADCASTING

The assistant legislative clerk proceeded to read sundry nominations for the Corporation for Public Broadcasting.

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

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

COMMUNICATIONS SATELLITE CORPORATION

The assistant legislative clerk read the nomination of Rudolph A. Peterson, of California, to be a member of the board of directors of the Communications Satellite Corporation.

The ACTING PRESIDENT pro tempore. Without objection, the nomination will be considered; and, without objection, it is confirmed.

Mr. MANSFIELD. Mr. President, I request that the President be immediately notified of the confirmation of the nominations.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of the following unobjected-to measures on the Senate Calendar: Calendar Nos. 985, 1142, 1143, 1156, and 1157.

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

IRENE SADOWSKA SULLIVAN

The Senate proceeded to consider the bill (S. 1785) for the relief of Irene Sadowska Sullivan, which had been reported from the Committee on the Judiciary with an amendment, on page 2, line 15, after the word "pay," strike out "out of any money in the Treasury not otherwise appropriated," and insert "out of any money now or hereafter deposited in the War Claims Fund,"; so as to make the bill read:

S. 1785

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any provisions of title II of the War Claims Act of 1948, as amended (50 U.S.C., App. 2017–2017p), limiting the period within which claims may be filed thereunder, including section 211 of such Act (50 U.S.C., App. 2017j), the Foreign Claims Settlement Commission of the United States is authorized and directed (1) to receive, consider, and act upon any claims of Irene Sadowska Sullivan, of Scottsdale, Arizona, filed within six months after the date of enactment of this Act, relating to the loss of a tenement building owned by her father, a United States citizen, in Warsaw, Poland, as if such claims had been filed within the time and in the manner provided in such Act, the said Irene Sadowska Sullivan having filed a valid claim relating to such building prior to the date of expiration of the general war claims program, but not having been able to complete her documentation of such claim until after such date; and (2) to certify to the Secretary of the Treasury its determination as to the amount of any award to which the said Irene Sadowska Sullivan would have been entitled on the basis of such claims if they had been filed within the time and in the manner provided in such Act.

SEC. 2. Upon receipt by the Secretary of the Treasury of the certification described in the first section of this Act, the Secretary shall pay, out of any money now or hereafter deposited in the War Claims Fund, to the said Irene Sadowska Sullivan, the amount of any award so certified by the Commission: *Provided,* That no part of the amount appropriated in this Act 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 section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

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. 91–981), explaining the purposes of the measure.

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

PURPOSE OF AMENDMENT

The purpose of the amendment is to cause any funds arising under the bill to be paid properly from the War Claims Fund rather than from the general Treasury.

PURPOSE OF BILL AS AMENDED

The purpose of the bill, as amended, is that notwithstanding any provisions of title II of the War Claims Act of 1948, as amended (50 U.S.C., App. 2017–2017p), limiting the period within which claims may be filed thereunder, including section 211 of such act (50 U.S.C., App. 2017j), the Foreign Claims Settlement Commission of the United States is authorized and directed (1) to receive, consider, and act upon any claims of Irene Sadowska Sullivan of Scottsdale, Ariz., filed within 6 months after the date of enactment of this act, relating to the loss of a tenement building owned by her father, a U.S. citizen, in Warsaw, Poland, as if such claims had been filed within the time and in the manner provided in such act, the said Irene Sadowska Sullivan having filed a valid claim relating to such building prior to the date of expiration of the general war claims program, but not having been able to complete her documentation of such claim until after such date; and (2) to certify to the Secretary of the Treasury its determination as to the amount of any award to which the said Irene Sadowska Sullivan would have been entitled on the basis of such claims if they had been filed within the time and in the manner provided in such act.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The facts of the case as found in the report from the Foreign Claims Settlement Commission are as follows:

Title II of the War Claims Act of 1948, as amended, among other things directed the Foreign Claims Settlement Commission to determine the validity and amount of claims of nationals of the United States for the loss or destruction of, or physical damage to, real property and tangible personal property, located in Poland as well as certain other central European countries, which loss, destruction, or physical damage occurred during the period beginning September 1, 1939, and ending May 8, 1945, as a direct consequence of military operations of war or special measures directed against property because of the enemy or alleged enemy character of the owner, which property was owned by a national of the United States at the time of such loss, damage or destruction. The program was completed on May 17, 1967 in accordance with the statute.

The Commission's records disclose that a claim (No. W-997) was filed by Irene Sadowska Sullivan under title II of the War Claims Act of 1948, as amended (Public Law 87-846), based upon losses of certain household furnishings, clothing, an automobile and an inventory of a fishing equipment business located in Warsaw, Poland, which losses occurred during World War II as a direct consequence of military operations of war.

By a proposed decision dated April 20, 1966, claimant Irene Sadowska Sullivan was granted an award in the amount of $8,556 for the loss of the subject property. Inasmuch as no objections were filed to the award, the decision was entered as the Commission's final decision on May 19, 1966. The award was subsequently certified to the Secretary of the Treasury for payment out of the War Claims Fund and the award was paid in the full amount.

In December 1966, Mrs. Sullivan communicated with the Commission for advice regarding procedures applicable to reopening claims for further consideration for property not previously claimed. She was advised that Commission regulations provided for the reopening of claims for further consideration based upon additional losses. This could be accomplished by filing a petition and appropriate evidence establishing ownership, loss, or destruction, and the value of such property.

A petition to reopen was subsequently filed with the Commission on March 3, 1967, seeking additional compensation for the damage or destruction of a tenement house in Warsaw which had been purchased by claimant's late father. The only evidence submitted with the petition was an affidavit executed by two persons then residing in Poland. After an examination of the affidavit, it was found not to have been of sufficient probative value to warrant the granting of compensation under the statute. Mrs. Sullivan was advised by letter dated May 15, 1967, that her petition to reopen had been denied for the foregoing reason.

The war claims program under title II of the War Claims Act of 1948, as amended, was completed on May 17, 1967, and the Commission's jurisdiction with respect to such claims terminated on that date. In regard to such date, section 211 of the statute reads as follows:

"The Commission shall complete its affairs in connection with the settlement of claims pursuant to this title not later than four years following the enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title."

Legislation granting appropriations for the program was enacted on May 17, 1963. Accordingly, the Commission was required to complete all of its determinations on these claims within a 4-year period from that date.

Subsequent to May 17, 1967, the completion date, Mrs. Sullivan submitted a certificate from official sources in Warsaw which established ownership in the tenement house which was the subject of the petition to reopen her claim. This certificate, however, was not received by the Commission until May 22, 1967, which was, of course, subsequent to the date upon which the statutory authority for the determination of these claims terminated. In case this evidence had been received prior to the completion date, undoubtedly the evidence would have been considered for the purpose of reopening Mrs. Sullivan's claim and possibly granting her an additional amount for the loss or damage to the building.

When certain limitations are fixed for the filing of claims or evidence or the performance of any act, there are inevitably cases in which acts either are not, or cannot, be performed within the time limits prescribed. As an example, under the program administered by the Commission pursuant to the Polish Claims Agreement of 1960 which provided for a settlement of claims arising out of the nationalization or other taking of American-owned property by the Government of Poland, approximately 3,000 claims were denied wholly or in part for failure of claimants to meet the burden of proof in support of such claim prior to the termination of the program on March 31, 1966. In many cases the claimants had as long as five years to obtain and submit evidence but were unable to do so prior to the completion of the program.

These denials were subject of public testimony before the Committee on Foreign Relations in connection with the consideration of legislation in the 89th Congress to extend the Polish claims program for the reason that additional time was required by certain claimants to acquire evidence from the Polish authorities.

Because of the extensive property damage in Poland during World War II, the obliteration of 60 percent of the land records and the removal of many former residents from given areas, the Commission was advised that it was impossible for Polish authorities to furnish some of the evidence or information sought by the claimants. The legislation was not enacted and the claims which had been denied for insufficient evidence remained closed.

Upon completion of the war damage claims program under title II of the War Claims Act of 1948, 7,039 awards had been approved out of a total of 22,605 claims filed. It is estimated that between 3 and 4,000 of these war damage claims were denied in whole or in part because of claimant's failure to furnish evidence in support of their claims prior to the completion of the program on May 17, 1967, including the claim filed by Mrs. Sullivan.

In these claims as well as claims under other programs, the Commission has not been in a position to change its decisions and take favorable action upon receipt of evidence despite the fact that such evidence may have been submitted only a few days after the completion of these programs.

Upon completion of the war damage claims program under title II of the War Claims Act, the Commission had certified awards in the aggregate amount of $340.4 million to the Secretary of the Treasury for payment out of the War Claims Fund which consists of the net proceeds of enemy property vested in the United States under the Trading With the Enemy Act. Only $223.7 million, however, was deposited into the Fund for the payment of the approved awards. Awards based on certain maritime losses and losses by small business concerns were paid in full in accordance with the priority payment procedures as prescribed under the act as well as those awards approved in an amount of $10,000 or less. All awards approved in excess of $10,000 were paid to the extent of $10,000 plus a prorated payment of 61.3 percent of the balance in excess of $10,000, in accordance with these payment procedures. Consequently, the payment of these awards has presently exhausted the money in the War Claims Fund. It is anticipated, however, that additional money may be made available for transfer into the War Claims Fund possibly within the near future.

The objections of the Foreign Claims Settlement Commission are, in the opinion of the committee, successfully answered by a brief submitted by the sponsor which reads as follows:

Relative to private bill S. 1785, which I have introduced for myself and Senator Fannin, I would like to respond to the report filed by the Foreign Claims Settlement Commission by letter of September 22. I strongly disagree with the opinion of the Commission relative to the merits of the case and I concur with the Commission relative to the proper source of funds for payment under the bill.

On April 10, I presented a detailed brief to the committee, including an extensive appendix of documentary proof. The brief establishes that on March 3, 1967, Mrs. Irene Sullivan submitted a formal petition, by registered letter, to the Commission to reopen her claim before the Commission so as to include an award for the destruction of a building in Warsaw which had been owned by her late father. (See exhibit 3A.)

Mrs. Sullivan enclosed with her petition an affidavit made by Mr. and Mrs. Konopka of Warsaw, who had been the family attorneys for approximately 25 years. Their affidavit was sworn to before the U.S. Vice Consul at Warsaw and set forth a specific description of the property, including its address, its ownership, its value, the cause of its destruction, and the page number of the official land mortgage book in which the property was recorded. (See exhibit 3B.)

The brief further establishes that these same two persons had furnished an affidavit which had been accepted by the Commission as proof of Mrs. Sullivan's original claim. Thus, the Commission had already determined that these individuals are competent, reliable witnesses. (See exhibit 1.)

In contrast to the actual facts of the case, the Commission has reported that "The only evidence submitted with the petition was an affidavit executed by two persons then residing in Poland." This bare statement is misleading because it completely conceals the facts that these are the same two persons on whom the Commission had once before relied in granting the original award to Mrs. Sullivan. Also, the Commission's report fails to disclose that the affidavit gave a full, detailed description of the property, including a citation of the page number on which the property was listed in the official land records of the city of Warsaw.

It is my belief in these circumstances, the evidence supplied by Mr. and Mrs. Konopka should have constituted sufficient probative value to support an award to Mrs. Sullivan. At the very least, I believe it then became mandatory for the Commission, should it have had any doubts as to the fact, to inquire whether Mrs. Sullivan possessed any additional evidence.

On April 7, 1967, the Commission did respond to Mrs. Sullivan's petition by asking her to complete and return an affidavit of inheritance. The Commission did not use this occasion to ask for any other supporting evidence of any kind. (See exhibit 4.)

Mrs. Sullivan returned the completed affidavit on April 12, 1967, by registered letter No. 3063, and attached to the affidavit a request that the Commission advise her if any further information or documents would be required. The Commission never did acknowledge her inquiry.

The Commission has failed to inform the committee that Mrs. Sullivan was asked to complete an affidavit of inheritance or that

she sought to be advised if any further evidence would be required. To me, these are significant facts because they prove, first, that the Commission never requested any additional evidence other than the affidavit of inheritance and second, that the Commission had been put on notice by Mrs. Sullivan that she stood ready to give any further verification that might be needed.

The equities in Mrs. Sullivan's case are further buttressed by the fact that at the first occasion when she was informed of the need for new evidence, she sent it almost immediately.

The first time the Commission informed Mrs. Sullivan that her petition did not warrant a new award was on May 15, 1967, 2 days before its authority to consider war claims expired. On May 22, 1967, exactly 1 week later, Mrs. Sullivan furnished new evidence in the form of an official certificate of the Governmental Notary Bureau in Warsaw attesting to the ownership of the property, the destruction thereof as a result of military operations during World War II, and its value. The document verified each fact sworn to by Mr. and Mrs. Konopka, even down to the same page number in the mortgage record books as cited by them. (See exhibits 5, 6A, and 6B.)

Consequently, the facts demonstrate that had the commission given Mrs. Sullivan an opportunity to know of and respond to its questions she could have furnished the appropriate evidence promptly.

Finally, there is no question but that the claim as verified by Mrs. Sullivan was sufficient to justify an award. In reply to my letter of inquiry dated February 19th, Mr. Leonard v. B. Sutton, Chairman of the FCSC, says at page 2:

"Your inquiry of February 19, 1967, poses two questions. First, if the submission by Mrs. Sullivan had been timely, would she have presented the type of claim for which an award would have been made under Public Law 87–846? The answer to this question is in the affirmative."

In summary, I must disagree strongly with the opinion given by the Commission that "there does not appear to be any special extenuating circumstances for singling out Irene Sadowska Sullivan for special relief or that she is more deserving than others to receive such relief."

By the very admission of the Chairman of the Commission, Mrs. Sullivan's claim stated grounds "for which an award would have been made * * *" had the Commission deemed it timely. Certainly this unusual statement alone distinguishes the case from all others and establishes equity in her behalf.

If Mrs. Sullivan's original claim was accepted on the basis of evidence given by the family attorneys, why was evidence from the same people not accepted in the case of her amended claim?

If the Commission had any doubts at all relative to the truth of her claim, why did it not respond to her offer of April 12, 1967, to supply any further information that was necessary?

The fact that they failed to give Mrs. Sullivan any opportunity to meet their reservations about her claim, in the face of her specific request to be allowed to do just that, creates a strong equity in her behalf. This is particularly so in view of her proven ability to supply additional evidence quite promptly.

Thus, several features of the case distinguish it from other instances in which persons failed to submit timely evidence to the Commission. How many other cases exist in which an award "would have been made * * *"? How many other cases are there where the pending claim was supported by detailed evidence offered by the same witnesses whose statement had previously served as the basis for the making of an award?

How many other claimants had formally requested an opportunity to provide additional evidence if this would be required? How many other cases are there in which the claimant did in fact transmit to the Commission additional convincing evidence within less than 1 week from the time the Commission's authority expired?

Obviously, there are no other such cases. For the Commission to assert that the enactment of a private bill in the case will open the door to the passage of 3,000 or 4,000 other such bills is ridiculous. The special circumstances of the case are highly unlikely to be present in any other situation, and I am confident that the bill would not create a precedent for other claimants.

Turning to the second comment presented by the Commission, I wish to state my agreement with the position of the Commission that it is unwise to use unappropriated funds in the Treasury for the payment of war damage claims. In order to correct this aspect of the bill, I suggest that the committee accept an amendment to the bill as follows:

On page 2, lines 15 and 16, strike out", out of any money in the Treasury not otherwise appropriated," and substitute ", out of any money now or hereafter deposited in the War Claims Fund,"

On the basis of these reasons, I respectfully ask that the committee approve the bill with an amendment.

It is the opinion of the committee that this is a proper case to waive the bar, and, accordingly, it is recommended that the bill as amended be favorably enacted.

Attached hereto and made a part hereof are the substantiating papers.

FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES,
Washington, D.C., September 22, 1969.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Further reference is made to your letter of May 1, 1969, requesting a report by the Foreign Claims Settlement Commission on the bill, S. 1785, 91st Congress, for the relief of Irene Sadowska Sullivan.

The bill waives certain time limitations under title II of the War Claims Act of 1948, as amended, and directs the Foreign Claims Settlement Commission to act upon any claim by Irene Sadowska Sullivan of Scottsdale, Ariz., relating to the loss of a tenement building in Warsaw, Poland, and to certify the amount of any award to the Secretary of Treasury for payment in accordance with the statute. Such payment would be made out of any money in the Treasury not otherwise appropriated.

Title II of the War Claims Act of 1948, as amended, among other things, directed the Foreign Claims Settlement Commission to determine the validity and amount of claims of nationals of the United States for the loss or destruction of, or physical damage to, real property and tangible personal property, located in Poland as well as certain other central European countries, which loss, destruction, or physical damage occurred during the period beginning September 1, 1939, and ending May 8, 1945, as a direct consequence of military operations of war or special measures directed against property because of the enemy or alleged enemy character of the owner, which property was owned by a national of the United States at the time of such loss, damage or destruction. The program was completed on May 17, 1967, in accordance with the statute.

The Commission's records disclose that a claim (No. W–997) was filed by Irene Sadowska Sullivan under title II of the War Claims Act of 1948, as amended (Public Law 87–846), based upon losses of certain household furnishings, clothing, an automobile and an inventory of a fishing equipment business located in Warsaw, Poland, which losses occurred during World War II as a direct consequence of military operations of war.

By a proposed decision dated April 20, 1966, claimant Irene Sadowska Sullivan was granted an award in the amount of $8,556.00 for the loss of the subject property. Inasmuch as no objections were filed to the award, the decision was entered as the Commission's Final Decision on May 19, 1966. The award was subsequently certified to the Secretary of Treasury for payment out of the War Claims Fund and the award was paid in the full amount.

In December 1966, Mrs. Sullivan communicated with the Commission for advice regarding procedures applicable to reopening claims for further consideration for property not previously claimed. She was advised that Commission regulations provided for the reopening of claims for further consideration based upon additional losses. This could be accomplished by filing a petition and appropriate evidence establishing ownership, loss or destruction, and the value of such property.

A petition to reopen was subsequently filed with the Commission on March 3, 1967 seeking additional compensation for the damage or destruction of a tenement house in Warsaw which had been purchased by claimant's late father. The only evidence submitted with the petition was an affidavit executed by two persons then residing in Poland. After an examination of the affidavit, it was found not to have been of sufficient probative value to warrant the granting of compensation under the statute. Mrs. Sullivan was advised by letter dated May 15, 1967 that her petition to reopen had been denied for the foregoing reason.

The war claims program under title II of the War Claims Act of 1948, as amended, was completed on May 17, 1967, and the Commission's jurisdiction with respect to such claims terminated on that date. In regard to such date, section 211 of the statute reads as follows:

"The Commission shall complete its affairs in connection with the settlement of claims pursuant to this title not later than 4 years following the enactment of legislation making appropriations to the Commission for payment of administrative expenses incurred in carrying out its functions under this title."

Legislation granting appropriations for the program was enacted on May 17, 1963. Accordingly, the Commission was required to complete all of its determinations on these claims within a 4-year period from that date.

Subsequent to May 17, 1967, the completion date, Mrs. Sullivan submitted a certificate from official sources in Warsaw which established ownership in the tenement house which was the subject of the petition to reopen her claim. This certificate, however, was not received by the Commission until May 22, 1967, which was, of course, subsequent to the date upon which the statutory authority for the determination of these claims terminated. In case this evidence had been received prior to the completion date, undoubtedly the evidence would have been considered for the purpose of reopening Mrs. Sullivan's claim and possibly granting her an additional amount for the loss or damage to the building.

When certain limitations are fixed for the filing of claims or evidence or the performance of any act, there are inevitably cases in which acts either are not, or cannot, be performed within the time limits prescribed. As an example, under the program administered by the Commission pursuant to the Polish Claims Agreements of 1960 which provided for a settlement of claims arising out of

the nationalization or other taking of American-owned property by the Government of Poland, approximately 3,000 claims were denied wholly or in part for failure of claimants to meet the burden of proof in support of such claim prior to the termination of the program on March 31, 1966. In many cases the claimants had as long as 5 years to obtain and submit evidence but were unable to do so prior to the completion of the program.

These denials were subject of public testimony before the Committee on Foreign Relations in connection with the consideration of legislation in the 89th Congress to extend the Polish Claims Program for the reason that additional time was required by certain claimants to acquire evidence from the Polish authorities.

Because of the extensive property damage in Poland during World War II, the obliteration of 60 percent of the land records and the removal of many former residents from given areas, the Commission was advised that it was impossible for Polish authorities to furnish some of the evidence or information sought by the claimants. The legislation was not enacted and the claims which had been denied for insufficient evidence remained closed.

Upon completion of the war damage claims program under title II of the War Claims Act of 1948, 7,039 awards had been approved out of a total of 22,605 claims filed. It is estimated that between 3,000 and 4,000 of these war damage claims were denied in whole or in part because of claimant's failure to furnish evidence in support of their claims prior to the completion of the program on May 17, 1967, including the claim filed by Mrs. Sullivan.

In these claims as well as claims under other programs, the Commission has not been in a position to change its decisions and take favorable action upon receipt of evidence despite the fact that such evidence may have been submitted only a few days after the completion of these programs.

Upon completion of the war damage claims program under title II of the War Claims Act, the Commission had certified awards in the aggregate amount of $340.4 million to the Secretary of the Treasury for payment out of the War Claims Fund which consists of the net proceeds of enemy property vested in the United States under the Trading With the Enemy Act. Only $223.7 million, however, was deposited into the Fund for the payment of the approved awards. Awards based on certain maritime losses and losses by small business concerns were paid in full in accordance with the priority payment procedures as prescribed under the act as well as those awards approved in an amount of $10,000 or less. All awards approved in excess of $10,000 were paid to the extent of $10,000 plus a prorated payment of 61.3 percent of the balance in excess of $10,000, in accordance with these payment procedures. Consequently, the payment of these awards has presently exhausted the money in the War Claims Fund. It is anticipated, however, that additional money may be made available for transfer into the War Claims Fund possibly within the near future.

The bill proposes to pay any award due Mrs. Sullivan out of unappropriated money in the Treasury. Accordingly, it would not affect future payments out of the War Claims Fund.

The Commission is of the opinion that if S. 1785 is enacted, it would be discriminatory to the other claimants who were unable to document their claims prior to the completion date of the program. Moreover, there does not appear to be any special extenuating circumstances for singling out Irene Sadowska Sullivan for special relief or that she is more deserving than others to receive such relief. In the absence of such circumstances and because the Commission is of the opinion that the use of unappropriated funds in the Treasury for the payment of war damage claims would establish a highly undesirable precedent for other unsatisfied claimants under other similar claims programs, it is opposed to the enactment of S. 1785.

Advice has been received from the Bureau of the Budget that there would be no objection to the presentation of this report to your committee.

Sincerely yours,

LEONARD v. B. SUTTON,
Chairman.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., October 21, 1969.

Hon. JAMES O. EASTLAND,
Chairman, Judiciary Committee,
U.S. Senate, Washington, D.C.

DEAR JIM: Relative to private bill S. 1785, which I have introduced for myself and Senator Fannin, I would like to respond to the report filed by the Foreign Claims Settlement Commission by letter of September 22. I strongly disagree with the opinion of the Commission relative to the merits of the case and I concur with the Commission relative to the proper source of funds for payment under the bill.

On April 10, I presented a detailed brief to the committee, including an extensive appendix of documentary proof. The brief establishes that on March 3, 1967, Mrs. Irene Sullivan submitted a formal petition, by registered letter to the Commission to reopen her claim before the Commission so as to include an award for the destruction of a building in Warsaw which had been owned by her late father. (See exhibit 3A.)

Mrs. Sullivan enclosed with her petition an affidavit made by Mr. and Mrs. Konopka of Warsaw, who had been the family attorneys for approximately 25 years. Their affidavit was sworn to before the U.S. Vice Consul at Warsaw and set forth a specific description of the property, including its address, its ownership, its value, the cause of its destruction, and the page number of the official land mortgage book in which the property was recorded. (See exhibit 3B.)

The brief further establishes that these same two persons had furnished an affidavit which had been accepted by the Commission as proof of Mrs. Sullivan's original claim. Thus, the Commission had already determined that these individuals are competent, reliable witnesses. (See exhibit 1.)

In contrast to the actual facts of the case, the Commission has reported that "The only evidence submitted with the petition was an affidavit executed by two persons then residing in Poland." This bare statement is misleading because it completely conceals the facts that these are the same two persons on whom the Commission had once before relied in granting the original award to Mrs. Sullivan. Also, the Commission's report fails to disclosed that the affidavit gave a full, detailed description of the property, including a citation of the page number on which the property was listed in the official land records of the city of Warsaw.

It is my belief that in these circumstances, the evidence supplied by Mr. and Mrs. Konopka should have constituted sufficient probative value to support an award to Mrs. Sullivan. At the very least, I believe it then became mandatory for the Commission, should it have had any doubts as to the fact, to inquire whether Mrs. Sullivan possessed any additional evidence.

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Mrs. Sullivan returned the completed affidavit on April 12, 1967, by registered letter No. 3063, and attached to the affidavit a request that the Commission advise her if any further information or documents would be required. The Commission never did acknowledge her inquiry.

The Commission has failed to inform the committee that Mrs. Sullivan was asked to complete an affidavit of inheritance or that she sought to be advised if any further evidence would be required. To me, these are significant facts because they prove, first, that the Commission never requested any additional evidence other than the affidavit of inheritance and second, that the Commission had been put on notice by Mrs. Sullivan that she stood ready to give any further verification that might be needed.

The equities in Mrs. Sullivan's case are further buttressed by the fact that at the first occasion when she was informed of the need for new evidence, she sent it almost immediately.

The first time the Commission informed Mrs. Sullivan that her petition did not warrant a new award was on May 15, 1967, 2 days before its authority to consider war claims expired. On May 22, 1967, exactly 1 week later, Mrs. Sullivan furnished new evidence in the form of an official certificate of the Governmental Notary Bureau in Warsaw attesting to the ownership of the property, the destruction thereof as a result of military operations during World War II, and its value. The document verified each fact sworn to by Mr. and Mrs. Konopka, even down to the same page number in the mortgage record books as cited by them. (See exhibits 5, 6A, and 6B.)

Consequently, the facts demonstrate that had the Commission given Mrs. Sullivan an opportunity to know of and respond to its questions she could have furnished the appropriate evidence promptly.

Finally, there is no question but that the claim as verified by Mrs. Sullivan was sufficient to justify an award. In reply to my letter of inquiry dated February 19, Mr. Leonard v. B. Sutton, Chairman of the FCSC, says at page 2:

"Your inquiry of February 19, 1967, poses two questions. First, if the submission by Mrs. Sullivan had been timely, would she have presented the type of claim for which an award would have been made under Public Law 87-846. The answer to this question is in the affirmative."

In summary, I must disagree strongly with the opinion given by the Commission that "there does not appear to be any special extenuating circumstances for singling out Irene Sadowska Sullivan for special relief or that she is more deserving than others to receive such relief."

By the very admission of the Chairman of the Commission, Mrs. Sullivan's claim stated grounds "for which an award would have been made . . ." had the Commission deemed it timely. Certainly this unusual statement alone distinguishes the case from all others and establishes equity in her behalf.

If Mrs. Sullivan's original claim was accepted on the basis of evidence given by the family attorneys, why was evidence from the same people not accepted in the case of her amended claim?

If the Commission had any doubts at all relative to the truth of her claim, why did it not respond to her offer of April 12, 1967, to supply any further information that was necessary?

The fact that they failed to give Mrs. Sullivan any opportunity to meet their reservations about her claim, in the face of her specific request to be allowed to do just that, creates a strong equity in her behalf. This is particularly so in view of her proven ability to supply additional evidence quite promptly.

Thus, several features of the case distinguish it from other instances in which persons failed to submit timely evidence to the Commission. How many other cases exist in

which an award "would have been made . . ."? How many other cases are there where the pending claim was supported by detailed evidence offered by the same witnesses whose statement had previously served as the basis for the making of an award? How many other claimants had formally requested an opportunity to provide additional evidence if this would be required? How many other cases are there in which the claimant did in fact transmit to the Commission additional convincing evidence within less than 1 week from the time the Commission's authority expired?

Obviously there are no other such cases. For the Commission to assert that the enactment of a private bill in the case will open the door to the passage of 3 or 4,000 other such bills is ridiculous. The special circumstances of the case are highly unlikely to be present in any other situation, and I am confident that the bill would not create a precedent for other claimants.

Turning to the second comment presented by the Commission, I wish to state my agreement with the position of the Commission that it is unwise to use unappropriated funds in the Treasury for the payment of war damage claims. In order to correct this aspect of the bill, I suggest that the Committee accept an amendment to the bill as follows:

On page 2, lines 15 and 16, strike out ", out of any money now or hereafter deposited in the War Claims Fund,".

On the basis of these reasons, I respectfully ask that the Committee approve the bill with an amendment.

With warmest personal regards,

BARRY GOLDWATER.

U.S. SENATE,
COMMITTEE ON AERONAUTICAL
AND SPACE SCIENCES,
Washington, D.C., April 16, 1969.

HON. JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, D.C.

DEAR JIM: In connection with the private bill, S. 1785, which I introduced on April 14, for the relief of Irene Sadowska Sullivan, I would like to submit for your consideration the following statement of facts which I believe will justify the granting of relief in her case.

I

1. On April 20, 1966, the Foreign Claims Settlement Commission of the United States made an award to Mrs. Sullivan of $8,556 for the loss of certain personal property owned by her in Warsaw, Poland, that had been destroyed as a result of military operations during World War II. The Commission made its findings based upon the affidavits of Mr. and Mrs. Zdzislaw Konopka, the family solicitor, and an itemization by a third individual. (See proposed decision of April 20, 1966, labeled exhibit 1.)

2. By letter of November 28, 1966, Mrs. Sullivan communicated with the Commission to request information on how to reopen her claim so as to include additional property losses based upon the destruction of certain property in Warsaw which was formerly owned by her father, a United States citizen. The Commission acknowledged her letter on November 30, 1966, and advised her that her claim could be reopened by petition to include different losses. (See answer by FCSC dated November 30, 1966, labeled exhibit 2.)

3. On March 3, 1967, Mrs. Sullivan submitted a request, by registered letter, to the Commission to reopen her claim to include additional property in Warsaw. She enclosed with her letter an affidavit made by Mr. and Mrs. Konopka of Warsaw, the same two persons whose former affidavit had been accepted by the Commission as proof of Mrs. Sullivan's original claim. Their new affidavit was sworn to before the United States Vice Consul at Warsaw and presented a specific description of the property, its ownership, its value, and the cause of its destruction. (See letter by Mrs. Sullivan, dated March 3, 1967, labeled exhibit 3A; and see affidavit by Mr. and Mrs. Konopka, dated February 21, 1967, labeled exhibit 3B).

4. On April 7, 1967, the Commission responded to Mrs. Sullivan's request and asked her to complete and return an affidavit of inheritance. No other supporting evidence was requested. She complied with this requirement. (See letter by the Commission, dated April 7, 1967, labeled exhibit 4.)

5. On May 15, 1967, 2 days before the Commission's authority to consider war claims expired, it sent to Mrs. Sullivan its findings that her petition did not warrant the reopening of her claim. The Commission stated that the joint affidavit of the Konopkas was not of sufficient probative value and that there was no proof of her father's naturalization. (See letter by Commission, dated May 15, 1967, labeled exhibit 5.)

6. Immediately upon receipt of the Commission's letter, Mrs. Sullivan submitted new evidence to verify her claim in the form of an official certificate by the Government Notary Bureau in Warsaw, dated February 21, 1967. The description of the property, its value, and its ownership was certified to in this document in exact conformity to the description previously given to the Commission by Mr. and Mrs. Konopka. (See registered letter of Mrs. Sullivan, dated May 22, 1967, labeled exhibit 6A; and see translation of official certificate, dated February 21, 1967, labeled exhibit 6B.)

7. Finally, in July 1967 Mrs. Sullivan submitted to the Commission a statement from the U.S. Immigration and Naturalization Service proving that her father had been naturalized as a U.S. citizen on November 16, 1925. (See letter by INS, dated July 7, 1967, labeled exhibit 7.)

II

The evidence in this case conclusively shows that the facts submitted to the Commission by Mrs. Sullivan in her letter of March 3, 1967, were accurate and would have presented the type of claim for which an award would have been made under the war claims program. The facts are also clear that she submitted her claim at a time when the Commission still had authority to consider such claims.

For some reason, the Commission did not accept her documentation as having sufficient probative value, even though her claim included a sworn affidavit by the family attorney and his wife, Mr. and Mrs. Konopka, whose first affidavit had been accepted by the Commission as appropriate to establish the facts supporting her original claim.

On its face, their affidavit, which referred to the official mortgage book, should have constituted sufficient value to create a reasonable belief that the facts stated therein were true. At the least, the affidavit should have served as sufficient ground for the Commission to learn from Mrs. Sullivan if she had any additional evidence available concerning the property.

But the first notice which the Commission gave to Mrs. Sullivan that there was any doubt about her claim was in its letter of May 15, 1967, 2 days before its authority over such claims expired. The record proves that Mrs. Sullivan could have, and did, respond promptly with appropriate evidence as soon as she knew that there was a need for additional confirmation.

As to the question raised by the Commission concerning the citizenship of her father, it is a fact that this element of her claim could have been confirmed almost immediately by the simple procedure of sending an inquiry by cable or letter to the U.S. Embassy at Warsaw, where her father had been registered as a U.S. citizen. Again, Mrs. Sullivan was able to furnish proof on her own once the question was raised.

III.

In summary, I believe the record in this case establishes definite equities for the granting of relief. Mrs. Sullivan's presentation of facts was honest; she submitted a claim of the type for which an award would be made; her claim was documented by the same reputable individuals whose evidence had previously been accepted by the Commission; she was not provided with any indication that the Commission had any questions about her statement of facts, nor was she given any opportunity to meet the questions raised by the Commission, prior to the expiration of its authority; and her claim was pending before the Commission in an active status on the date its authority ended.

For the above reasons, I submit that Mrs. Sullivan is equitably due the relief provided in this bill and that there are unique circumstances in her case that distinguish it from the other cases where persons were barred by the time limit from submitting their claims.

I respectfully request that the committee approve this bill and do report favorably thereon.

With best wishes,

BARRY GOLDWATER.

RURAL HOUSING LOANS

The Senate proceeded to consider the bill (S. 3330) to authorize rural housing loans to lessees of nonfarm rural land, and for other purposes, which had been reported from the Committee on Banking and Currency with an amendment to strike out all after the enacting clause and insert:

That section 501(b)(2) of the Housing Act of 1949 is amended—

(1) by inserting "sections 502 and 504 of" after "For the purposes of"; and

(2) by striking out "the terms 'owner', 'farm', and 'mortgage' shall be deemed to include, respectively, the lessee of, the land included in" and inserting in lieu thereof "the terms 'owner' and 'mortgage' shall be deemed to include, respectively, the lessee of".

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. 91–129), explaining the purposes of the measure.

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

The purpose of this bill is to authorize the Farmers Home Administration to make rural housing loans under title V of the Housing Act of 1949 to lessees of nonfarm rural land. Under existing law, such loans can be made only to applicants having a leasehold interest in a farm.

This proposal would not be of widespread benefit because of the limited use of leaseholds in most parts of the United States. However, it would be of particular benefit in Puerto Rico and Hawaii where much of the land is not available for outright purchase and is commonly held under lease. The proposed new authority would be particularly helpful in special situations, such as where title to land which is or could be occupied by Indians is held by the tribe. If such land could be occupied by individual Indians on the basis of acceptable assur-

ance that the purpose of the loans would be carried out, the Indians could then qualify for title V assistance.

Two bills were introduced on this matter, S. 3330 by Senator Metcalf, and S. 3755 by Senator Fong. Although the bills were differently worded, they had identical meaning. The committee reported S. 3330 as being the more briefly worded and as being the first bill to be introduced.

The bill as introduced was amended by the committee to clarify its applicability to rural housing loans to individuals and families. This is accomplished by adding a further amendment to section 501(v)(2) of the Housing Act of 1949. The amendment inserts "sections 502 and 504" after "For the purposes of" in section 501(b)(2).

VETERANS HOUSING LOANS

The Senate proceeded to consider the bill (S. 3775) to amend section 1811 of title 38, United States Code, to authorize the Veterans' Administration to make direct loans to any veteran who is determined to be eligible for assistance in acquiring specially adapted housing under chapter 21 of title 38, United States Code, which had been reported from the Committee on Banking and Currency with an amendment on page 1, after line 4, strike out:

"(1) Notwithstanding the provisions of subsections (a), (b), and (c) of this section, the Administrator is authorized to make or enter into a commitment to make a loan to a veteran who is determined to be eligible for the benefits of chapter 21 of this title, to assist such veteran in acquiring a specially adapted housing unit authorized under chapter 21, if the veteran is eligible for loan guaranty benefits under this title and show to the satisfaction of the Administrator that he is unable to obtain a guaranteed loan for such purpose from a private lender. Such loans shall be subject to all provisions of this section except those contained in subsections (b) and (c)."

And, in lieu thereof, insert:

"(1) The Administrator is authorized, without regard to the provisions of subsections (a), (b), and (c) of this section, to make or enter into a commitment to make a loan to any veteran to assist the veteran in acquiring a specially adapted housing unit authorized under chapter 21 of this title, if the veteran is determined to be eligible for the benefits of such chapter 21, and is eligible for loan guaranty benefits under this chapter."

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 section 1811 of title 38, United States Code, is amended by adding after subsection (k) the following new subsection:

"(l) The Administrator is authorized, without regard to the provisions of subsections (a), (b), and (c) of this section, to make or enter into a commitment to make a loan to any veteran to assist the veteran in acquiring a specially adapted housing unit authorized under chapter 21 of this title, if the veteran is determined to be eligible for the benefits of such chapter 21, and is eligible for loan guaranty benefits under this chapter."

SEC. 2. Section 1811(l) (1) of title 38, United States Code, is amended by inserting after "housing credit shortage area," the following: "or in any area for a veteran who is determined to be eligible for assistance in acquiring a specially adapted housing unit under chapter 21 of this title,"

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. 911–130), explaining the purposes of the measure.

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

The purpose of this bill is to authorize the Veterans' Administration to make direct loans to eligible disabled veterans for assistance in acquiring specially adapted housing as defined in chapter 21 of title 38, United States Code.

Chapter 21 contains authority for the Veterans' Administration to provide grants up to 50 percent of cost not to exceed $10,000 for specially adapted housing for eligible disabled veterans, defined as those who are disabled and entitled to compensation under chapter 11 of title 38 and have total service-connected disabilities.

Under the VA direct loan program, loans are made to veterans to finance housing in credit shortage areas and only if there is a showing that the veteran cannot obtain the money from a private lender at a market rate. Under this bill, as amended by the committee, direct loans to finance specially adapted housing could be made to eligible disabled veterans located anywhere in the Nation without regard to the showing that he cannot obtain money from a private lender.

The bill as introduced and recommended by the administration would have required the veteran to show that he was unable to obtain money from a private lender before he would have been eligible for a direct loan. The committee is recommending an amendment to the bill to remove this requirement because it believes that veterans who would benefit from this bill deserve every consideration and should be assured of these benefits without regard to where they live or the availability of other possible sources of credit.

The following excerpt from a letter from Donald E. Johnson, Administrator of the Veterans' Administration, to Hon. John Sparkman, chairman of the Banking and Currency Committee, reflects the views of the committee:

"We believe that these severely handicapped veterans whose disability resulted from service, in recognition of their sacrifices for the Nation, deserve to be insulated against wide fluctuations in the private capital market. The assurance of credit availability for such veterans through direct VA loans is deemed meritorious and would be a meaningful extension of the special housing benefit which has been provided for the group."

CONQUEST OF CANCER

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 675) expressing the sense of the Congress with respect to the conquest of cancer as a national crusade, which had been reported from the Committee on Labor and Public Welfare with amendments on page 2, line 4, after the word "That," insert "it is the sense of"; and in the same line after the word "Congress," strike out "appropriate the funds" and insert "that sufficient funds be appropriated."

The amendments were agreed to.

The concurrent resolution, as amended, was agreed to.

The preamble was agreed to.

WAR RISK INSURANCE

The bill (H.R. 17133) to extend the provisions of title XIII of the Federal Aviation Act of 1958, as amended, relating to war risk insurance 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. 91–1140), explaining the purposes of the measure.

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

H.R. 17133

SUMMARY OF THE BILL

This bill extends the expiration date of section 1312 of title XIII of the Federal Aviation Act to September 7, 1975. Under present law the section expires September 7, 1970.

DISCUSSION

Title XIII of the Federal Aviation Act, as amended, authorizes the Secretary of Transportation, with the approval of the President, to provide premium and nonpremium war risk insurance for the protection of aircraft and of persons and property transported aboard them, and against other liabilities of a kind that insurance would customarily cover, when commercial insurance cannot be obtained on reasonable terms and conditions from U.S. insurance carriers or carriers authorized to conduct business in the United States.

Under title XIII a department or agency of the United States may, with the approval of the President, procure from the Secretary war risk insurance if it enters into an agreement with the Secretary to indemnify him against all losses covered by the insurance provided under the act. This insurance is provided without premiums and is presently provided to air carriers that have contracts with the Department of Defense and the Department of State. The Defense Department believes and the committee concurs that war risk insurance is a vital element in the program to provide airlift requirements for the Vietnam war.

In a letter to the committee, printed in this report, the Department of the Air Force speaking on behalf of DOD said:

"* * * Airlines under contract to MAC (Military Airlift Command) must have some form of protection against war risks if they are to operate into areas like Southeast Asia where damage from hostile action may occur * * *. Through an agreement with the Department of Transportation the Department of Defense has agreed to indemnify the Department of Transportation against all losses covered by such insurance. Because the availability of aviation war risk insurance is essential if the requirements of the Department of Defense for commercial transportation services are to be met, the Department of the Air Force, on behalf of the Department of Defense, supports the proposed legislation * * *."

The premium war risk insurance program is intended to provide coverage for American carriers in addition to what is available to them commercially. The coverage of war risks is necessary because the ordinary aviation insurance policy covers only the usual perils of fire, damage, and other risks, and excepts certain named "war risks" from coverage. Commercial policies usually include a clause or clauses, excluding from coverage any claim for loss or damage occasioned by war, hostilities, insurrection, or acts of foreign enemies, among other explicit situations. The committee believes that U.S. air carriers should not be expected to assume the risk of the loss of their aircraft from such excluded perils and that therefore existing

law should be extended to meet this obligation.

The Congress has extended the war risk insurance program on three previous occasions: (1) for 5 years to June 13, 1961, under Public Law 84–746; (2) for another 5 years to June 13, 1966, under Public Law 87–89; and (3) for another 4 years to September 7, 1970, under Public Law 89–447.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

"TERMINATION OF TITLE

"SEC. 1312. The authority of the Secretary to provide insurance and reinsurance under this title shall expire at the termination of September 7, [1970] *1975*."

COST OF LEGISLATION

There is no way to predict whether or to what extent there may be any costs for the extension of this provision of law. To date, according to the Department of Transportation, only one claim in the amount of $625 has been paid under the nonpremium type of war risk insurance. There is also a pending claim arising out of an incident in Vietnam which is now being litigated. There are also small costs of an administrative nature associated with the program.

Under the premium-type war risk insurance there has never been a claim and it is not possible to determine whether the policy premiums are sufficient to cover any future claims and the administrative costs of the program.

ORDER FOR ADJOURNMENT TO MONDAY, AUGUST 31, 1970, AT 8:30 A.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 8:30 o'clock Monday morning next.

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

ORDER FOR RECOGNITION OF SENATOR ALLEN ON MONDAY AND CONSIDERATION OF MUSKIE AMENDMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday next, immediately following the prayer and the disposition of the reading of the Journal, the able Senator from Alabama (Mr. ALLEN) be recognized for not to exceed 1½ hours, with the understanding that the Muskie amendment will be laid before the Senate and made the pending business at 10 a.m.

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

ORDER FOR ADJOURNMENT FROM MONDAY TO TUESDAY, SEPTEMBER 1, 1970, AT 8:30 A.M.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Monday next, when the Senate completes its business, it stand in adjournment until 8:30 a.m. on Tusday next.

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

ORDER FOR CONSIDERATION OF UNOBJECTED-TO MEASURES ON TUESDAY, SEPTEMBER 1, 1970

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that on Tuesday next, immediately following the prayer and the disposition of the reading of the Journal, the unobjected-to items on the calendar be called, if there be any.

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

ORDER FOR TRANSACTION OF ROUTINE BUSINESS ON TUESDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that until 9 a.m., on Tuesday next, following any callup of unobjected-to items on the legislative calendar, there be a period for the transaction of routine morning business, with statements therein limited to 3 minutes.

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

ORDER FOR CONSIDERATION OF McGOVERN AMENDMENT ON TUESDAY NEXT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that precisely at 9 o'clock a.m. on Tuesday next the McGovern amendment be laid before the Senate and made the pending business.

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

A KNOW-NOTHING APPROACH TO FREE TRADE

Mr. HANSEN. Mr. President, despite the fact that the esteemed chairman of the Ways and Means Committee, WILBUR MILLS, and members of that committee gave great attention to the evidence, witnesses, and the trends in export-import balances before reporting out the President's trade bill, Hendrik S. Houthakker, a member of the Council of Economic Advisers, says that:

> The quota provisions inserted into the President's trade bill are essentially a know-nothing approach to the delicate problems of international economic relations.

I am amazed that Mr. Houthakker would make such a sweeping condemnation of this thoughtfully considered legislation. It is equally shocking that he would impugn the wisdom of such skilled, highly intelligent and respected lawmakers.

Recently Mr. Houthakker delivered an address to the Soybean Processors Association in which he attacked protectionism, particularly in the form of import quotas. He paid special attention to the textile quota legislation as contained in the Mills bill and reported by the House Ways and Means Committee by a vote of 17 to 6.

In order to establish his thesis against quotas and in favor of more liberal trade Mr. Houthakker rewrote some economic history and substituted some myths of his own for those he sought to upset.

In looking over his speech it should be kept in mind to whom his remarks were made. It was to the processors of soybeans. The significance of this is that soybeans and soybean oil have done very well in recent years at exporting to Europe and Japan. At the moment, soybeans and soybean oil represent our No. 1 export, according to the speaker. For this success the growers and processors are, indeed, to be congratulated. Unquestionably, they have done well in making the most of a new product not much produced elsewhere but which has found wide acceptance for a variety of uses, both here and abroad. Full credit should be extended to the industry for its good fortune and enterprise.

However, Mr. Houthakker jumps to several conclusions from this premise. He allows himself to fall under the spell of the old cliche that holds that our export industries pay the highest wages and that, therefore, the workers from the import-vulnerable industries should let imports take their jobs so that these workers might shift to the exporting industries where the wage fields are greener.

Evidently, Mr. Houthakker has not learned that this theory has been rendered obsolete by the developments of recent years.

The steel industry is a high-paying industry. This means, by economic theory, that it is an efficient industry. It was indeed an export industry for years. Then, although it continued to pay high wages, something happened; 1958 was the turning point. From that year on, steel moved into a trade deficit position, and has been there every year since.

What would have happened to the workers in the textile and the shoe industry, where the pay is relatively less, had they been evicted from their jobs by imports and started moving into the steel industry 12 to 15 years ago, while the high-paying steel industry was still in a favorable export position?

The economic adviser, Mr. Houthakker, also mentioned coal as a high-wage industry that does very well today in exporting.

Is he familiar with the history of coal since 1950? At that time, 483,000 coal miners were at work. The industry faced extinction unless it increased its productivity drastically. Oil and gas and imports of residual fuel oil were driving coal out of the market. The coal industry did save itself by the only method open to it; namely, ruthless displacement of miners by machinery. The industry was saved; but at a cost that our economy and our civilization could not tolerate or endure, were the example followed by industry after industry.

By 1968, the number of workers had been reduced to 139,000. This was a loss of well over 300,000. The distress of the Appalachian region as a monument to this epic is too well known to need repeating.

Should the textile and shoe workers, who earned less than the miners, have stepped aside in the late 1950's to make way for imports, which were beginning to come in ever greater vol-

ume, and sought employment in the coal mines, where the wages were so much more attractive? The question answers itself. They would have walked into a morgue.

Thus we see that Mr. Houthakker's prescription would not have worked so well for the lower paid workers in textiles and footwear had they sought a haven in the steel and coal industries, which were among the high-paying industries.

Then there is the automobile industry, also a high-paying field. There was indeed a time when this country was the automobile builder for the world. In recent years, however, the scene has changed vastly. Other countries, notably West Germany and Japan, have, by dint of modern technology, and the advantage of much lower paid factory workers, become highly competitive; and we are now net importers of automobiles. In Japan the average hourly pay is 84 cents and in West Germany $1.81, while the United States pays $3.86 to its factory workers.

Should our textile and shoe workers be willing to retreat before imports and buy tickets to Detroit and go to General Motors, Ford, and Chrysler and say "Here we are. We understand that you are a high-paying industry, therefore highly efficient and therefore also successful at exporting. We come from low-paying, inefficient industries and are sure you will gladly open your doors to us. We will all be glad to join the United Auto Workers. They will surely be glad to see us and to welcome us with open arms"?

But let us not forget about the soybeans. The growers and processors have lucrative foreign outlets. Surely they would have a place for the textile and shoeworkers.

Or would they? How many workers are employed in growing soybeans, and how many in the processing plants? It is unfortunately true that our total farming operations in this country do not employ nearly as many workers as the factories that convert the raw products into a large variety of finished goods.

Today total agricultural employment is only some 4,000,000. For the year of 1969 the employment averaged 3,606,000 according to the Survey of Current Business published by the Department of Commerce. Soybeans and soybean processing cannot account for very many of these; so the textile and shoe workers, after giving up their jobs to imports, might encounter some difficulty finding jobs with the soybean growers and processors.

Mr. Houthakker's thesis falls flat as anyone can see who takes the trouble to track it to its logical conclusion.

He says out of hand that the policy of reciprocal trade in the 1930's served us well and "can continue to serve as well."

Unfortunately, such benefits as the program brought us have run out of steam. Our trade negotiations fell far short of reciprocity. Today nearly all of our manufacturing industries with a few strong exceptions are in a trade deficit. The exceptions are confined to a few industries, such as machinery and transport equipment, including aircraft and computers, and chemicals. By contrast a long line of industries are in a deficit position, such as steel, textiles, footwear, automobiles, typewriters, consumer electronic goods, sewing machines, bicycles, a variety of hardware, watches, glass, pottery, tile, and so forth.

Employment in the trade-deficit industries exceeds that of the export-surplus ones by some 2 million.

The trade trend of the past 5 years can hardly be read as an endorsement of a course or policy that would bring us more of the same. Mr. Houthakker says that there is little truth "in the argument that the negotiations to reduce tariffs during the 1960's have generally worked to our disadvantage." How much more disadvantage can we tolerate without creating the kind of employment crisis that will result if we do not halt the onrush of imports? These not only displace workers but make it impossible for the great number of import-vulnerable industries to hire their share of the millions of new workers who will come on our labor market in the next few years. Can these oncoming armies of new workers all look to the "high-wage" industries to absorb them? Can the steel industry take, not only their proportionate share, but also those who cannot find work in the import-driven industries, that like the coal industry of a few years ago, must strive to displace as many workers as they can in order to remain or become competitive with imports? Can the coal industry come to the rescue, or the aircraft industry? Or the soybean processors or the computer manufacturers?

The outlook is indeed not good for such a consummation. The problem will be difficult enough even if we seek to avoid the capture of our market by keeping imports within reasonable bounds.

Reasonable and flexible import quotas will not only not cripple our trade but will put it on a healthy basis by allowing imports to share in the growth of our market instead of badly disrupting industry after industry.

Mr. Houthakker is so clearly on the wrong track in his reading of our trade trends and the writing on the competitive wall, he should pay a little more attention to the towering facts in the premises, and less to academic economic theory.

Mr. McINTYRE. Mr. President, the distinguished Senator from Wyoming (Mr. HANSEN) has made a number of points this morning which are well worth commenting upon.

To begin with, I would like to compliment him for the method of his analysis of Dr. Houthakker's speech on the trade bill. The Senator has quite properly avoided any recourse to broad, theoretical statements covering the range of cliches about foreign trade and the role of competition in determining which American workers can keep their jobs and which cannot. Instead, the distinguished Senator from Wyoming has discussed the trade bill in terms of the specific industries involved.

For example, the Senator from Wyoming has pointed out in his carefully researched speech that soybean processors enjoy significant advantages over their foreign competition, as a result of which their industry clearly has no need for protection from imports.

On the other hand, as the Senator so correctly points out, workers in the shoe industry face a much different situation. They receive, as he points out, relatively low pay. They are employed, as he so clearly points out, in an industry with a trade deficit. And indeed they are, as he implies, properly deserving of protection from foreign competition which will have the effect of driving large numbers of shoe workers from their jobs. And clearly, the same is true of the textile workers of whom the Senator speaks.

Indeed, Mr. President, I believe that this industry-by-industry approach of the Senator from Wyoming is one which the Senate would be well advised to follow as it considers the trade bill. Many other industries, such as petroleum, which were not mentioned in the Senator's prepared remarks today, are also affected by the bill now in the House of Representatives. I would hope that the case for protection of each of these other industries could also be examined separately along the lines described by the Senator from Wyoming, who has performed a distinct public service by his remarks today.

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

Mr. HANSEN. I yield.

Mr. BELLMON. Mr. President, I congratulate the distinguished Senator from Wyoming for calling the Senate's attention to this statement by Mr. Houthakker, a member of the Council of Economic Advisers. I feel, as the Senator from Wyoming has stated he feels, that this country is in grave danger of having its growth and economy seriously disrupted by competition for our domestic markets by products produced in countries with vastly different economic conditions than we have here.

This is true in many fields, those which the Senator from Wyoming has mentioned as well as others. I am particularly concerned with the situation as far as imported beef is concerned, much of it from countries with vastly cheaper production costs than we have.

Much of this competition is not fair, and can cause serious disruption in agriculture.

But I wish also to comment on a matter involving my personal acquaintance with Dr. Houthakker. For the information of the Senate, I was amazed to hear him say one time, on a radio program in which we both participated, that what happened to agriculture was really of very little consequence, since agriculture accounted for only about 3 percent of the gross national product. I was completely astounded by that remark. It reminded me of the attitude that some take that the foundation of a building really is not of any consequence, because you cannot see very much of it.

The fact is, of course, that if we allow our agriculture to become disrupted or be destroyed, as the policy recommended

by Dr. Houthakker would do, the total economy of the country would be very greatly shaken; in fact, I think it would be totally destroyed, because if we do not have an efficient way of producing the food and fiber our society must have, then certainly the great industrial complexes that have developed around our urban centers cannot continue to exist, because people have to be well fed and able to provide for their own subsistence, and the failure of agriculture, of course, would make it impossible for them to remain productive industrial workers.

I strongly agree with the position the Senator from Wyoming has taken this morning that the carefully worked out bill that has been reported by the House Ways and Means Committee is on the right track, in that it does allow continued expansion of foreign trade by sharing our domestic markets with products from other countries, but at the same time it assures that American workers and American industries are not going to be disrupted by the uncontrolled competition from products that are produced where the total costs are much below those which we face in our own Nation.

I compliment the Senator, and say that I share his views.

Mr. HANSEN. I thank my distinguished colleague.

The ACTING PRESIDENT pro tempore. Is there further morning business?

Mr. BYRD of West Virginia. 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. MANSFIELD. 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.

THE EASTERN AND WESTERN RAILROADS REQUEST FREIGHT RATE INCREASE

Mr. MANSFIELD. Mr. President, the news that the eastern and western railroads are seeking a 15-percent freight rate increase is depressing, saddening, and could be disastrous to the grain producers and growers in Montana as well as to the lumber industry as a whole. After taking a 5-percent rail freight increase only 2 months ago that hiked the per-car cost of shipping by some $60, western lumbermen—I am speaking especially of the lumbermen of Montana—may be at loggerheads soon with a 15-percent increase which they contend—and I agree with them—will further reduce the ability to compete in eastern United States markets.

It appears to me that something must be done. To that end, together with other members of the Montana Congressional Delegation, I have dispatched a letter to the President of the United States asking him to look into this matter, so that the ICC will not give its usual pro forma consideration to this request granting it routinely.

I have directed a letter as well to the chairman of the Committee on Commerce, asking that his committee look into this particular proposal. I am hopeful that something will be done to help the freight rate structure as it exists in Montana, rather to make it more and more difficult by granting these rate increases periodically.

Mr. President, I have said more than enough on this matter up to this time. I have introduced a bill which would seek to place a demurrage rate of $100 a day on freight cars held by railroads not owning them beyond the usual 48-hour limit. I have gotten nowhere with that proposed legislation.

The message apparently was not getting through. So I have made the suggestion that if the ICC cannot deal with the situation, it should be abolished and its activities transferred, in whole or in part, to the Department of Transportation. There, under the Secretaryship of John H. Volpe, I am quite sure that some consideration would be given to this situation which has become a perennial problem.

I am hopeful that this latest increase request coming within less than 2 months after a 5-percent increase, which followed on the heels of a 6-percent increase, will be denied and that the economy of the wheatgrower, and the lumber industry will be preserved and given the kind of protection it needs within this country.

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

Mr. MANSFIELD. I am delighted to yield.

Mr. HANSEN. Mr. President, I compliment the distinguished majority leader for his usual perception in noting turns in events which can pose real economic hardship on our part of the Rocky Mountain west.

I have joined with the distinguished Senator in appealing to the Interstate Commerce Commission for relief from a practice long engaged in by eastern railroads whereby they gobble up the boxcars and the freight cars belonging to western lines and pay only a pittance of what it is costing those lines to have those cars rolling on the tracks, and thereby make it more difficult for our western lines to haul as cheaply as would otherwise be possible these products that are so important and essential to the economy of the States of Montana and Wyoming and all that great livestock, lumber, and grain producing area of the Northwest.

I have not had an opportunity to study—as I assure the distinguished Senator I will be doing—the facets of this most recent order; but I certainly want to join him in saying that I know full well that the increased difficulty that he cites as following in the wake of this increase in rates will be visited upon the lumber industry in my State of Wyoming, also. It will affect our grain growers. In the fall, when we start harvesting sugar beets, I suspect that we will find a recurrence of the kind of beet-car shortage that we have experienced for the last several years.

I assure the distinguished Senator that I will be happy to do anything I can to help alleviate some of these problems and thereby make unnecessary further increases in freight rates.

Mr. MANSFIELD. Mr. President, I am delighted that the distinguished Senator from Wyoming has entered this discussion. As I have said many times, he has been a leader in protecting the interests of our part of the country. What he has said today is very true.

He mentioned the grain producers, the grain growers, the lumber industry, and the sugar beet industry. Sugar beets will be coming to harvest within the next month or so, depending on the weather. This matter will affect that industry quite dramatically. The Senator has also mentioned its effect on the cattle industry as well.

In other words, our part of the country happens to be an orphan so far as freight rate consideration is concerned. We are always on the receiving end of these increases plowed one on top of the other. The process has upset tremendously our economic development. It has imposed an unfair burden upon the people of our part of the Nation, making it more difficult to survive because of the increased costs which follow increased freight rates.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a news story published in the Great Falls, Mont., Tribune of August 24, 1970, entitled "Freight Rate Hike Would Cut Lumbermen's Ability To Compete."

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

A 15-PERCENT INCREASE ON WESTERN RAILROAD SHIPPING: FREIGHT RATE HIKE WOULD CUT LUMBERMEN'S ABILITY TO COMPETE

(By Ralph Pomnichowski)

After taking a 5 per cent rail freight increase only two months ago that hiked the per car cost of shipping by some $60, western lumbermen may be at loggerheads soon with a 15 per cent increase they contend will further reduce the ability to compete in eastern U.S. markets.

It was announced last week in Chicago that eastern and western railroads have agreed to move ahead with a 15 per cent across-the-board freight increase petition to be filed with the Interstate Commerce Commission about Sept. 1.

The St. Regis Forest Products Division in Libby, as well as other western Montana forest products manufacturers, would be affected by a rate hike, said Fred Shinkle, Tacoma, assistant regional transportation manager.

Shinkle pointed out that any increases by rail carriers eventually will be charged to the consumer. Moreover, he said, an increase will put western lumbermen at a further disadvantage of competition with southern U.S. lumber producers, who now pay a lower rate than their western counterparts.

"As a matter of principle, of course, we're against anything that would increase costs," Shinkle said, adding that the entire western industry is united in opposition to the percentage increases.

Percentage increases place an unfair burden on western lumbermen because any increase means a larger dollar charge to them than to the southern producers, Shinkle said. "For instance," he said, "if their rate to New York is $1 and ours is $2, then we increase 12 cents on a 6 per cent increase,

while they increase only 6 cents per hundredweight."

It costs the same to ship lumber to the eastern railroad sector from Tacoma as it does from Libby, Shinkle noted. The sector area is from Indiana east and generally north of the Ohio River, he said.

The last increase of 5 per cent, he said, boosted the per-hundredweight rate from $1.60 to $1.68. Since the average car loading is about 75,000 pounds, the increase amounted to $60 per car.

The Libby plant, he said, ships 20–25 rail cars of lumber per day in addition to 8–10 cars of wood chips bought by the Hoerner-Waldorf plant in Missoula.

As general practice, he said, lumber shipments are sent collect, but the freight cost is reflected in the total cost of the product.

Some St. Regis products are shipped by truck, he said, but truck rates are slightly higher than rail charges and have generally kept pace with rail hikes.

Rail rates are lower in Canada, he pointed out, but not very much has been shipped in that manner by St. Regis.

Southern mills enjoy a basic lower rail rate to the eastern and midwest markets, he said, and within the southern states, western trade influence is nil.

Another facet of the problem, he said, is that competitive materials such as steel, plastic and cement will make further inroads into building preference for wood if the retail price continues to climb for lumber as the result of rail freight price increases.

Freight rates to the midwest and southeast, he said, are lower than for the eastern sector.

He pointed out, the rail rate has increased 27 cents per hundredweight over the past three years. In 1967, the per-car cost of transportation at 75,000 pounds would have been about $1,057. It now is about $1,250 and could grow to almost $1,500 if another increase does amount to 15 per cent.

The most recent increase, Bob Barnes, Libby, traffic manager said, did not increase lumber prices in Montana appreciably. The company's shipments of wood chips to the Missoula area plant, he noted, come under a slightly different rate schedule because the cars go to Missoula via Sandpoint, Idaho, crossing a state line. More lumber and studs are shipped out of state than plywood, he added.

Nationwide, Barnes, said, the lumber market has been slower than usual, partially because of the "tight money" situation that makes it somewhat more difficult for persons to secure new home loans.

The Western Wood Products Association, Portland, which counts St. Regis among its members, issued a letter last May commenting on the differences between consideration shown by Canadian and U.S. rail carriers to the marketing needs of their lumber customers.

WWPA's transportation manager, James G. Manning, said that, "Agreement was reached between representatives of the British Columbia and Alberta forest products industry and the Canadian railroads to publish a new level of rail rates on forest products from all British Columbia and Alberta shipping points to destinations in eastern Canada.

"The published rate . . . from Vancouver, B.C., to Windsor, Ontario, is $1.38 per hundredweight. The comparable U.S. rate from Portland to Detroit . . . is $1.60 per hundredweight on the blanket rate. Our initial reaction to this development of rate reductions in Canada is that it appears the Canadian railroads are more receptive to the needs of their lumber shippers than are the U.S. lines.

"Another feature to be considered in the use of these border (rate) combinations is the Canadian-U.S. currency exchange factor. A shipment billed from British Columbia to Windsor . . . and then re-billed beyond can have the Canadian portion of the freight paid in Canadian funds. The currency rate of exchange then of 7¾ per cent will produce another 10.69 cents per hundredweight saving for the Canadian product.

"The example of rate disparity outlined above," Manning wrote, "illustrates what happens when the U.S. lines continue to seek percentage freight rate increases without any regard to the competitive effect on their shippers. Even more alarming is what is apparently in store for our mills. It is our understanding (last May) that the Canadian lines are very near to approving a new level of rates applying to eastern Canada that will further drastically reduce the present level.

"It will be a sad commentary on U.S. railroad rate-making when the day arrives that lumber producers in the State of Washington, for example, are able to barge or truck shipment to western Canada to obtain a better freight rate to eastern U.S. points than they would have by shipping the entire distance by U.S. lines."

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business?

Mr. BYRD of West Virginia. 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. BYRD of West Virginia. 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.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON VALUE OF PROPERTY, SUPPLIES, AND COMMODITIES PROVIDED BY THE BERLIN MAGISTRAT

A letter from the Assistant Secretary of Defense, reporting, pursuant to law, on the value of property, supplies, and commodities provided by the Berlin Magistrat, for the quarter ended June 30, 1970; to the Committee on Appropriations.

REPORT ON LOCATION, NATURE, AND ESTIMATED COST OF FACILITIES PROJECTS PROPOSED FOR THE AIR FORCE RESERVE

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on the location, nature, and estimated cost of facilities projects proposed for the Air Force Reserve; to the Committee on Armed Services.

PROPOSED LEGISLATION DECLARING THAT CERTAIN FEDERALLY OWNED LAND IS HELD BY THE UNITED STATES IN TRUST FOR CERTAIN INDIANS

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to declare that certain federally owned land is held by the United States in trust for the Lac Courte Oreilles Bank of Lake Superior Chippewa Indians of Wisconsin (with an accompanying paper); to the Committee on Interior and Insular Affairs.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on continuing problems in providing nursing home care and prescribed drugs under the medicaid program in California, Social and Rehabilitation Service, Department of Health, Education, and Welfare, dated August 26, 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 improvements needed in determining graduate education requirements for military officer positions, Department of Defense, dated August 28, 1970 (with an accompanying report); to the Committee on Government Operations.

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

Dwight Dickinson, of Rhode Island, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Republic of Togo;

Charles R. Harley, of Maryland, to be U.S. Alternate Executive Director of the International Monetary Fund;

Emory C. Swank, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to Cambodia;

Nicholas G. Thacher, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Kingdom of Saudi Arabia;

L. Dean Brown, of the District of Columbia, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary to the Hashemite Kingdom of Jordan; and

Artemus E. Weatherbee, of Maine, to be U.S. Director of the Asian Development Bank.

By Mr. JAVITS, from the Committee on Labor and Public Welfare:

Laurence H. Silberman, of Hawaii, to be Under Secretary of Labor (Rept. No. 91–22); and

Peter G. Nash, of New York, to be Solicitor for the Department of Labor.

Mr. STENNIS. Mr. President, from the Committee on Armed Services I report favorably the nominations of two general officers in the Amy and ask that these names be placed on the Executive Calendar.

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

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

Lt. Gen. Frederick Carlton Weyand, Army of the United States (major general, U.S. Army) to be assigned to a position of importance and responsibility designated by the President, in the grade of general; and

Gen. James Karrick Woolnough, Army of the United States (major general, U.S. Army), to be placed on the retired list in the grade of general.

Mr. STENNIS. Mr. President, in addition, I report favorably 1,100 appointments and promotions in the Army in grade of colonel and below; 1,945 appointments and promotions in the Navy in grade of lieutenant commander and below; 4,492 appointments and promotions in the Air Force in grade of major and below; and 106 appointments in the Marine Corps in grade of captain and below. Since these names have already been printed in the CONGRESSIONAL REC-

ORD, in order to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

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

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

Mike VanRollins, and sundry other enlisted personnel, to be ensigns in the Navy: Bruce L. Bosworth, and sundry other Naval Reserve officers, for assignment in the U.S. Navy.;

Joseph V. Virostko, U.S. Navy, retired, to be reappointed from the temporary disability retired list, as a permanent chief warrant officer in the Navy;

James H. King, Jr., Army Reserve Officer Training Corps graduate, for permanent appointment in the Marine Corps;

Leland A. Aber, and sundry other Air Force Officers, for appointment in the Regular Air Force;

Kenneth E. Cook, and sundry other persons for, appointment in the Regular Army;

Joseph Y. Kurata, and sundry other persons, for appointment in the Regular Army of the United States;

Rallin J. Aars, and sundry other officers, for promotion in the Regular Air Force;

William Walter Asbye, and sundry other officers, for promotion in the Navy;

Kevin R. Danehy, and sundry other officers, for appointment in the Marine Corps; and

Lester W. Abrams, and sundry other officers for promotion in the Regular Army of the United Sates.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Commerce without amendment:

H.R. 13716. An act to improve and clarify certain laws affecting the Coast Guard Reserve (Rept. No. 91–1152).

By Mrs. MOSS, from the Committee on Interior and Insular Affairs, with amendments:

S. 3553. A bill to amend the Water Resources Research Act of 1964 to increase the authorization for water resources research and institutes, and for other purposes (Rept. No. 91—1153).

AUTHORITY TO FILE REPORT ON H.R. 18546 NEXT WEEK (S. REPT. NO. 91–1154)

Mr. ELLENDER. Mr. President, from the Committee on Agriculture and Forestry, I report H.R. 18546, with an amendment, and ask unanimous consent to file the report together with minority, supplemental, and individual views next week.

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

BILLS AND A JOINT RESOLUTION INTRODUCED

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

By Mr. CURTIS:

S. 4300. A bill for the relief of Kimura Koshun; to the Committee on the Judiciary.

By Mr. MATHIAS:

S. 4301. A bill for the relief of Fernando Agustin Maldonado; and

S. 4302. A bill for the relief of Sara Elena Rasines de Maldonado; to the Committee on the Judiciary.

By Mr. STEVENS:

S. J. Res. 233. Joint resolution proposing an amendment to the Constitution of the United States with respect to the flag of the United States; to the Committee on the Judiciary.

(The remarks of Mr. STEVENS when he introduced the joint resolution appear below under the appropriate heading.)

SENATE JOINT RESOLUTION 233— INTRODUCTION OF JOINT RESOLUTION RELATING TO PROPOSED AMENDMENT OF THE CONSTITUTION TO PERMIT HONORING AND PROTECTING OUR FLAG

Mr. STEVENS. Mr. President, in recent years we have seen a strange and unparalleled development in this country. The American flag—the symbol of our Nation's heritage and ideals—has been taken over by extremists, utilized for crass commercialism, and worn as clothing. Amid all this the vast majority of loyal Americans have been trying to continue to honor the flag in traditional ways, but we feel, as Time magazine put it, "that their flag has been expropriated."

It is, indeed, a strange situation to find that some citizens of the Republic fear that, if they show pride at seeing our national symbol or if they display it on holidays, they will be indicating that they agree or disagree with a particular present-day policy.

That is not the purpose of our national symbol. The American flag belongs to all of us, and I, for one, would like to see it returned to the people.

I am, therefore, introducing legislation today to authorize a constitutional amendment which will permit the flag to be saluted in our public schools and which will permit Congress to enact laws designed to prevent desecration of the flag.

The amendment is needed because several rulings of the U.S. Supreme Court indicate that desecrating the flag can be an act protected by the first amendment's free expression clause. My amendment will not impinge on free speech since it does not prohibit the expression of any idea or philosophy, but merely allows Congress to prohibit the use of the American flag as part of such an expression.

The amendment is also needed to permit the saluting of the flag in our public schools.

The flag is a cherished national symbol of which we should be proud. It represents, at once, all that we have been and all that we hope to be. It belongs to no group or party, and it should not be identified with any policy or practice. It belongs to all of us, and we should take steps now to see that it always will.

I ask unanimous consent that the full text of my proposed constitutional amendment be printed in the RECORD at this point.

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

The joint resolution (S.J. Res. 233) proposing an amendment to the Constitution of the United States with respect to the flag of the United States, introduced by Mr. STEVENS, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S.J. RES. 233

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building, school, or educational institution which is supported in whole or in part through the expenditure of public funds, to participate voluntarily in the pledge of allegiance to the flag of the United States.

"SEC. 2. Notwithstanding any other provision of this Constitution, the Congress shall have power by appropriate legislation to regulate the display and handling of the flag of the United States and to protect it from desecration.

"SEC. 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress."

ADDITIONAL COSPONSORS OF A BILL

S. 4092

At the request of the Senator from West Virginia (Mr. RANDOLPH) the Senator from New York (Mr. GOODELL), the Senator from Tennessee (Mr. GORE), and the Senator from California (Mr. MURPHY) were added as cosponsors of S. 4092, to establish a Commission on Fuels and Energy to recommend programs and policies intended to insure that U.S. requirements for low-cost energy will be met, and to reconcile environmental quality requirements with future energy needs.

Mr. RANDOLPH. Mr. President, on July 16 when I introduced S. 4092, a bill to establish a Commission on Fuels and Energy, I listed in my remarks the distinguished Senator from Wyoming (Mr. HANSEN) as a cosponsor. This is reflected on page 24636 of the RECORD. However, when the bill was printed Senator HANSEN's name was not on it. His name was inadvertently left off the cosponsorship list submitted with the bill.

I genuinely regret this error because the able Senator from Wyoming was one of the first persons to agree to cosponsor S. 4092. More importantly, he has been an active, knowledgeable and effective participant in the discussions of fuel and energy problems. His efforts have contributed significantly to a better understanding of this vital issue and the need for a national policy on fuels and energy.

Mr. President, I am privileged to ask unanimous consent that at the next printing the name of the distinguished Senator from Wyoming (Mr. HANSEN) be

added as a cosponsor of S. 4092, to establish a Commission on Fuels and Energy to recommend programs and policies intented to insure that U.S. requirements for low-cost energy will be met, and to reconcile environmental quality requirements with future energy needs.

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

SENATE CONCURRENT RESOLUTION 81—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF SENATE HEARINGS ON COPYRIGHT LAW REVISION (S. 597, 90TH CONGRESS)

Mr. McCLELLAN submitted the following concurrent resolution (S. Con. Res. 81) which was referred to the Committee on Rules and Administration:

S. CON. RES. 81

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Committee on the Judiciary two thousand additional copies of Parts 1, 2, 3, 4, and index of the hearings before its Subcommittee on Patents, Trademarks, and Copyrights during the Ninetieth Congress on Copyright Law Revision (S. 597).

ADDITIONAL COSPONSOR OF A CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 80

At the request of the Senator from West Virginia (Mr. BYRD), the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of Senate Concurrent Resolution 80, to establish a joint committee to study the treatment of prisoners of war in Vietnam.

EQUAL RIGHTS FOR MEN AND WOMEN—AMENDMENTS

AMENDMENTS NOS. 864 THROUGH 867

Mr. ERVIN submitted four amendments, intended to be proposed by him, to the joint resolution (H.J. Res. 264) proposing an amendment to the Constitution of the United States relative to equal rights for men and women, which were ordered to lie on the table and to be printed.

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENT AND OTHER PURPOSES—AMENDMENTS

AMENDMENT NO. 868

Mr. FULBRIGHT submitted amendments, intended to be proposed by him, to the bill (H.R. 17123) to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes, which was ordered to lie on the table and to be printed.

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

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 861 TO H.R. 17123

At the request of the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Arkansas (Mr. FULBRIGHT) and the Senator from New York (Mr. JAVITS) were added as cosponsors of amendment No. 861, to H.R. 17123, the military appropriations authorization bill.

AMENDMENT NO. 862 TO H.R. 17123

At the request of the Senator from Rhode Island (Mr. PELL), he was added as a cosponsor of amendment No. 862, to H.R. 17123, the military appropriations authorization bill.

At the request of the Senator from South Dakota (Mr. MCGOVERN), the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of amendment No. 862, to H.R. 17123, the military appropriations authorization bill.

REMOVAL OF NAME OF COSPONSOR FROM AMENDMENT NO. 846, TO H.R. 18546

Mr. WILLIAMS of Delaware. Mr. President, through an inadvertence the Senator from Colorado (Mr. ALLOTT) was added as a cosponsor of amendment No. 846 to H.R. 18546. I ask unanimous consent that the name of the Senator be removed as a cosponsor of the previously listed amendment.

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

ADDITIONAL STATEMENTS OF SENATORS

LONG-TERM DIRECTION OF SOVIET POLICY

Mr. ALLOTT. Mr. President, the question of the long-term direction of Soviet policy continues to be urgently relevant to a number of American policy decisions.

Recently it has been suggested that we pressure Israel to place its confidence in the competence of the United Nations and the good will of the Soviet Union. This suggestion implied an optimistic judgment about the course of Soviet policy.

On the other hand, we have just concluded this year's debate on the ABM system. This debate made clear that the Soviet Union has been increasing its offensive military capabilities. This increase has driven the Soviet economy into increasingly serious difficulty.

This fact has a special relevance to the Soviet-German nonaggression pact which was recently signed in Moscow, and which has yet to be ratified by the German Bundestag.

This pact has been seized upon by some persons as fresh evidence that the Soviet Union is becoming an amicable citizen in the community of nations. I want to suggest that this is not the only possible, and is certainly not the most plausible, interpretation of the pact. I would like to suggest that we evaluate the meaning and desirability of that pact in light of its economic significance. I think the economic aspects of this agreement have not been stressed sufficiently in the press.

As usual, the Soviet economy is experiencing hard times. The only thing unusual about the current situation is that the situation is especially bad. As usual, the Soviet Union is seeking economically advantageous agreements with free nations. This is the background to the recent treaty.

Because I believe that this matter needs to be put into perspective, I should like to recall for the Senate some of the background and ramifications surrounding this treaty.

The Soviet-German treaty renouncing the use of force between the two countries was signed on August 12, just about 10 months after the Social Democrat Government of Chancellor Willy Brandt took office in West Germany. Even its proponents will agree that the treaty was signed under a certain amount of political duress. The new Brandt government was in a hurry to produce the diplomatic breakthroughs promised in the election campaign. Government anxiety was heightened by the fact that new elections are in the offing.

Actually, the nonaggression pact is not a peace treaty in the actual sense, but a bilateral agreement by the European superpower the Soviet Union, and the militarily despondent West Germany, committing both nations not to interfere "by force into each others affairs."

The reason for such an agreement is not clear because West Germany, with its limited military offensive capability, cannot under any stretch of the imagination, be considered a military threat to the Soviet Union either now or in the future.

The Soviet Union, on the other hand, has never been militarily in better condition than it is at the present time. Moreover, the Soviets have never been deterred by a treaty from the intervention into its neighbors' affairs.

The signing of the treaty took place just 1 week short of the anniversary of the 1968 Czechoslovakian invasion. Some political observers in the Christian Democrats Party have charged that this treaty has all of the hallmarks of a "diktate." It was, they say, really dictated by a close friend of Brandt, Egon Bahr, who spent many weeks in Moscow waiting for Andrei Gromyko to have some spare time. Bahr and Gromyko at last met, but the exact nature of their discussions was not made public. When the text of Bahr's arrangements with Gromyko was "leaked" in West Germany through an underground intelligence source, it created a small scale political scandal. Bahr's opponents immediately charged that the arrangement proposed by Bahr would give away West Germany's political trump cards and get nothing in exchange.

The Christian Democrats, as well as leading newspapers and opinion journals in Germany, demanded that Foreign Minister Scheel, a member of West Ger-

many's small but crucial Free Democrats Party, renegotiate the Bahr arrangements. Scheel thus went to Moscow as head of a 19-man delegation and stayed there for 10 days. Unfortunately, the confrontation between Andrei Gromyko, who has been Foreign Minister of one of the two superpowers for the past 13 years, and Scheel, who became Foreign Minister of West Germany just 10 months ago, appears to have been an uneven match. Scheel did not, in actuality, succeed in changing anything in the arrangements originally accepted by Bahr from Gromyko.

The five-point treaty that emerged is a most interesting document. It recognizes the status quo in Europe and strips the western part of Germany of any right to assist those Germans living under Soviet occupation in East Germany. Perhaps it is symbolic that the treaty was signed on the anniversary of the construction of the Berlin Wall. The Wall sealed off East Berlin from West Berlin, while the treaty could have the effect of placing a diplomatic imprimatur on the de facto isolation of East Germany from West Germany. As if to underscore the meaning of the new treaty, a huge delegation of East German officials arrived in Moscow on August 13, the day Willy Brandt departed for home. This delegation, headed by Deputy Prime Minister and Chairman of the State Planning Committee of East Germany, G. Schuerer, were in Moscow to sign the most comprehensive economic agreement ever put into effect between the two countries.

This agreement, called by the Soviet newspaper, Pravda, "the protocol," ties East German industry with the Soviet Union industrial complex for the entire 1971–75 period. It includes 17 interdepartmental agreements and 13 agreements by the industrial ministers of the Soviet Union and East Germany. The practical effect of this arrangement will be to integrate the East German economy into the Soviet economy with nearly all the East German ministries and industries linked directly into Soviet industries and subordinated to the unified Soviet production plan for 1971–75.

The true significance of this parallel development can be appreciated only in light of the fact that the Soviet economy is in serious difficulty. As I mentioned earlier, in an effort to surpass the United States in strategic armaments, the Soviet Union has considerably strained its entire economic structure. The Soviet aircraft industry and its naval forces are also growing much faster than was predicted several years ago. This alarming leap in military hardware production has necessitated considerable readjustment of the whole industrial structure in the U.S.S.R. and placed a very serious strain on the industrial and agricultural segments of the economy.

Mr. President, the strongest economy in Western Europe is that of West Germany. The strongest economy in Eastern Europe is that of East Germany. The combined effect of the Moscow-East German agreement and of the nonaggression pact will be to ease the Soviet Union's economic troubles.

The preamble of the treaty signed by Chancellor Brandt includes a paragraph concerning "extension of economic cooperation." As far as the Soviet Union is concerned, this is the most vital part of the treaty. The Soviet Union needs the West German industrial know-how and equipment to replace that which has been diverted into "sensitive"—their word for military—production. Most of all, however, the Soviets need West German credits. Reports reaching West Germany indicate that the specific amount of credit to be extended by West Germany to the Soviet Union was discussed behind the scenes, but it has never been revealed.

West German Economic Minister Schiller and Finance Minister Moller visit Moscow next month to discuss details of economic cooperation. It is now apparent that this discussion will include West German deliveries of machinery, equipment, pipelines, and so forth, on long-term credit. This arrangement will make it easier for the Soviet Union to continue its arms race with the United States unhindered by the present economic difficulties. Because it is essential for the Soviets to bridge their current economic shortages, the treaty truly comes at a convenient time.

Proof that the economic negotiations and arrangements are important to the Soviets is the fact that some of these arrangements will take effect before the final ratification of the treaty by the West German Parliament. Yet, it is possible that the treaty may run into difficulty in the Bundestag. According to the West German constitution, any treaty concerning settlement of borders requires a two-thirds majority vote of the Bundestag. It now appears that considerable parliamentary maneuvering and complicated political activities will be required to secure the ratification of this treaty.

In an effort to speed ratification, Foreign Minister Scheel attached to the treaty a letter to Soviet Minister Gromyko. This letter, in a very vague form, refers to the national aspirations of the German people. It seems designed to convey the impression that West Germany still has reservations about the finality of the division of Germany. Christian Democrats have charged that this letter amounts to plain political gimmickry. They point out that the Scheel letter is of no de juré consequence since it is a document signed only by himself and not by the Soviet Union. The Soviet papers have chosen to ignore the letter entirely and have not printed it in Pravda or Izvestia or any other paper. Observers have indicated that the letter is meant only to produce some votes in the West German Bundestag and does not in any way alter the permanency of the West German-Soviet agreement for the division of Germany and the abandoning of compatriots in East Germany.

All concerned Americans will watch with interest as the Germans debate this matter which, in its economic aspects, may make it easier for our Soviet enemy to fuel the arms race.

Mr. President, while I have chosen to emphasize the economic aspects of this treaty, I must not conclude before taking note of one way in which it might have a significant effect on the political life of West Germany.

This treaty might cast a shadow over the lives—and political power—of the millions of Germans who were driven from their homelands by the onrushing Red Army at the end of World War II These persons have been exemplary citizens of West Germany. They have been active in the political life of that vibrant new democracy. All the while they have been aware that, in an important sense, they are the only voice of those who could not flee to the West at the end of the war.

The West Germans who settled in the freedom of the West did not abandon those they left behind. They formed vigorous refugee organizations which have been a constant source of embarrassment to the Soviet occupiers of East Germany. It would be a terrible shame if, in order to produce an illusion of amity with the Soviet Union, the West German Government ignores these organizations, or seeks to undermine their stature.

There can be little doubt that the Soviet Union would like this. It is reasonable to expect that they urged this course upon the West German Government. I assume the West German Government will not pay this price to purchase the fragile good humor of the Soviet Union.

Mr. President, I want to share with all Senators two interesting commentaries on this treaty I have been discussing. One is a letter published in the Washington Post of August 20. It was written by Dr. Kurt L. London, professor emeritus of international affairs at George Washington University. The second commentary is an editorial published in the National Review of August 25 and entitled "The Brandt-Brezhnev Pact." I ask unanimous consent that the commentaries be printed in the RECORD.

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

THE MOSCOW-BONN TREATY

If we penetrate the clouds of euphoria which have polluted the political thinking of our government, we can see that the Moscow-Bonn treaty of Aug. 12, gives the Soviets everything they want at this stage of European development. It makes West Germany a third-class power, thereby decreasing the strength of NATO which already has been weakened by France's narrow-minded policy and Senator Mansfield's compaign for reducing the American forces in Germany. The renunciation of forces is the facade behind which the Soviet goal of a European staus quo has been achieved. From the Soviet point of view, this is the first step toward its growing involvement with European affairs, both East *and* West—a Russian version of de Galle's "Europe to the Urals."

The treaty has been signed but must be ratified to come into force. The Soviet "parliament" is no problem; it does what it is told. The Bundestag in Bonn, however, will ratify it only if the Berlin problem is solved, at least to some degree. The Brandt government is committed on this point. Minor gestures will not suffice; Moscow will have to make meaningful concessions, whether East Germany's Ulbricht likes it or not. Previously, there have been no indications that the Soviets would "give" what the Western

powers want most: free access to and from Berlin, easier traffic between East and West Berlin, and the recognition of the economic and political presence of the Federal Republic in West Berlin.

At the forthcoming four-power meeting, the attitude of the Kremlin toward these issues is critical. If Moscow makes concessions, this may indeed usher in a new era of better East-West understanding. If it does not, the treaty may become a dead letter and East-West relations may deteriorate badly. In foreign policy and international politics an "either-or" situation is dangerous. It seems to me that Chancellor Brandt, possibly for domestic reasons, acted far too hastily at a time when, for reasons of their own, the Soviets were quite ready for a new *modus vivendi*. Continuation of his government will depend largely on Soviet concessions regarding Berlin and subsequent ratifications. Should the Soviets renege, the political polarization in the Federal Republic will harden and the Kiesinger forces will have an excellent opportunity to return to office.

At best, the treaty has an uncertain future, and there is no reason for jubilation.

KURT L. LONDON,
Professor Emeritus of International Affairs, George Washington University.

WASHINGTON.

THE BRANDT-BREZHNEV PACT

The news of the initialing of the new German-Soviet treaty by Foreign Ministers Walter Scheel and Andrei Gromyko inevitably awakens strange echoes along the corridors of memory. What are the shades of Ribbentrop and Molotov murmuring as they look over the shoulders of their Minister-successors? Still further back in the darkness, what flickers through the ghostly minds of Adolf Hitler and Joseph Stalin? Did not that protocol of 31 years ago also "pledge both sides to renounce force in settling disputes" and look forward, "through an improvement in bilateral relations," to peace and advancing well-being for all Europe?

But Willy Brandt is no Hitler, and Leonid Brezhnev no Stalin. . . . Let us not skip quite so fast. Brandt is no Nazi, certainly, but he, as Hitler was, is chief of the German Reich. And is it not this same Brezhnev who two short years ago sent his tanks and guns to crush a people who sought in some small degree to order their own lives according to their own notions? (Those tanks rumbling through the streets of Prague wore stars instead of swastikas, but the news photos could otherwise have been of the tanks in the streets of Vienna; or Prague itself, too, thirty years earlier.) Is this not the Brezhnev who, by his doctrine of "limited sovereignty," has proclaimed Communist Russia's imperial suzerainty over all "socialist nations and peoples" wherever situated? What does signing with him a treaty of peace, friendship and mutual good will signify to his colonial subjects?

This new accord, then, is not the first between Germans and Slavs, nor the second. Back of the Pact of 1939 is Rapallo, and on back through the centuries to Roman times a recurrent series, as the Germans—that dynamic, industrious, seemingly unconquerable *volk*—from their position at the strategic center of the European peninsula have swung slowly back and forth from east to west and then to east again. Now once more through the person of a Socialist Chancellor the *drang nach osten* reasserts itself.

"The agreement on which we reached accommodation," Herr Scheel stated, "is oriented toward the future." What is in that future, as Scheel and Brandt sense it, that brought them to Moscow this summer? For one thing, undoubtedly, the vast potential markets of Eastern Europe that have beckoned German industry and technology for generations and that now become more tempting and more necessary than ever as the German and world economies advance to new heights of production. The German government wishes to liquidate or suspend the political obstacles left by the War to economic expansion to the east. In addition, this accord can be seen as an initial move in one more of the perennial German drives to gain the hegemony of Europe, or at any rate of Western Europe. Although Germany has kept in touch with her Western allies, it is Germany that has taken the initiative to break further out of the postwar frame than has been heretofore attempted; Germany, not France, not France and Germany together, not NATO, not Germany and America.

Though this accord "should open a new page in relations between the Soviet Union and the Federal Republic of Germany," Herr Scheel carefully explained, "at the same time, we are striving for better relations between Eastern and Western Europe. From the very outset, we made it clear that for us it is not only a matter of representing the national interest of the Federal Republic of Germany." We Germans, that is to say, are speaking and acting not only for ourselves but for all West Europeans. And not only West Europeans, it would seem: "We want to contribute to the relaxation of tension, which will be to the good of all peoples in Eastern and Western Europe."

Minister Gromyko did not disagree, and carried the picture of the future a frame further: "The Soviet government is convinced that these results are in the interests of . . . expanding the cooperation between our countries and in the interests of further détente in Europe." "Further détente": Gromyko meant the all-European security conference that Moscow, acting in part through Finland, has long been pushing.

To sum up: This future is evidently a post-NATO Europe, a Europe from which the American influence and presence would be limited (Bonn) or eliminated (Moscow).

The long-term aim of the Soviet Union, implicit in the accord, is thus strategically offensive: the progressive isolation and exclusion of the U.S. from Europe, with (whatever the illusions of German Socialists) the consequent extension of Soviet domination over all Europe. Meanwhile, for the nearer term, there are other substantial gains in prospect. The Soviet empire, with its economy of late faltering even more badly than usual, needs the infusions of advanced machines, products and technology that Germany can supply. The Presidium has not forgotten Lenin's dictum that German technology plus Russian space, resources and manpower would rule the world.

And this accord, Moscow believes and hopes, will help complete the process she deems essential but has been unable to complete even after a full generation: the legitimization of her empire. That the empire exists in fact is sufficiently demonstrated whenever a colony or vassal state acts in a manner that breaches the imperial discipline. But in the eyes of the Kremlin the de facto relation is too bare and even precarious. The Kremlin desires that the imperial order—formulated in its political essence as "the Brezhnev doctrine"—should be accepted as legitimate and unchallengeable by the non-Communist world.

Up to now one of the plainest standing challenges to the imperial legitimacy has been West Germany's "Hallstein doctrine," refusing diplomatic recognition to all states that recognize East Germany, thus to all the vassal nations. In signing this new Moscow accord, the German Socialists complete the slow burial of the Hallstein doctrine that began two years ago.

Third, and surely not last in importance: along three major fronts: the European (southwestern), Mideastern (actually, southern), and Far Eastern. Soviet strategy Russia confronts the non-Communist world seeks and must seek to avoid active involvement on two of these fronts, above all on three, simultaneously. By this accord, the Kremlin is getting a German promise of all quiet on the European front, so that attention may be focused on the present and potential troubles on the other two.

All in all, not a bad deal for Brezhnev.

HEALTH PROFESSIONS ASSISTANCE AMENDMENTS OF 1970

Mr. KENNEDY. Mr. President, I am pleased to join in cosponsoring S. 4296, Senator CRANSTON'S proposed Health Professions Assistance Amendments of 1970, which he introduced yesterday. I have long been deeply concerned about the role which the health manpower shortage plays in our national health crisis. I have been equally concerned over the desperate shortage of health professionals from the ethnic and economic substrata of our society.

It is estimated that only slightly more than 2 percent of America's doctors are black. In addition, an estimated 45 percent of medical students today are from families in the upper 10 percent of income groups. This unequal ethnic and economic representation translates into unequal opportunity to enter the health professions. The losers are not only the individuals to whom opportunity is denied, but the community, particularly the poverty community, which might otherwise benefit from the return of its sons and daughters as doctors, dentists, and other health professionals.

I believe that the Federal Government has the responsibility to help medical schools to expand their enrollment. In turn, medical schools must make greater efforts to recruit and assist low income and minority individuals who wish to become doctors.

The bill which Senator CRANSTON has introduced today is a creative and effective response to the needs which must be met. It would provide much needed additional assistance to medical and other health professions schools and to students enrolled at such schools. It would encourage the enrollment of potential health professionals from low income or minority backgrounds. And it would authorize assistance to schools to establish programs to help low income and minority students in the successful completion of their course of study.

It is a pleasure to join with Senator CRANSTON in support of this legislation and the important objectives which it seeks to attain.

STATUS OF REMAINING LEGISLATION

Mr. SCOTT. Mr. President, I wish to commend the majority leader for placing in the RECORD a few days ago a status of legislation still remaining as of August 20, 1970. In looking over the list, I find some items that were initiated by the administration and some that had their origin in the Senate.

I know it will be impossible to complete action on all the legislation still pending, but I would hope that committees could report some of the more necessary bills and that the Senate could

pass as many as possible before we adjourn sine die.

I again commend the majority leader for putting the report in the RECORD so that we may all know the task that still lies ahead.

ARE BASES IN SPAIN WORTH THE COST?

Mr. CHURCH. Mr. President, at extraordinary costs, the U.S. developed a strategic, global deterrent consisting of long-range bombers, intercontinental missiles, and nuclear submarines. Yet, at the same time, the United States retains, at considerable cost, many forward foreign bases, acquired in an earlier period when our weapons lacked intercontinental range. The question arises as to the present value of these bases on foreign soil, when related to the price we pay for them.

Our military bases in Spain are a case in point. Mr. Douglas C. Wilson of the Providence Journal-Bulletin has addressed himself to the question of their current value to us, as compared with what we pay for them. I ask unanimous consent that his cogent article of May 17, 1970, entitled "Are They Worth the Cost?" be printed in the RECORD.

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

ARE THEY WORTH THE COST?

(By Douglas C. Wilson)

WASHINGTON.—This year, once again, the Franco dictatorship in Spain is demanding U.S. payment for the survival of American hostages in that country.

The hostages are military bases on Spanish soil which have lost almost all of their original strategic value for the United States. Despite this loss of value, and despite American liabilities in the bargain, Washington, once again, is paying the piper.

By all odds it is one of the most fatuous set of circumstances in our entire foreign policy.

At issue is the rent which the U.S. government must pay to continue using two major air bases and a nuclear submarine base. The United States spent 42 million dollars to build these and other military installations under terms of an executive agreement with Spain which was signed in 1953.

The original base agreement was reached at a time when American strategists were building a deterrent of overseas air bases to "contain" communism. Manned bombers were our main deterrent, in those days, and in order to be effective they had to be placed within easy striking distance of the Soviet Union.

Then as now, liberals in this country and Europe were sharply critical of Franco's dictatorial regime, the last vestige of fascism on the continent. But American officials felt it necessary to have bases in Spain, so they set aside political scruples and worked out the agreement.

THREE SITES

Airfields were paved at three sites—Moron, Torrejon and Zaragosa—strung diagonally across Spain from southwest to northeast. A 485-mile oil pipeline was built along a similar path from the Atlantic to the Pyrennes. And an Atlantic seaport for the U.S. Navy, equipped with a mile-long breakwater and a 1,000-foot pier, was established above Gibraltar at Rota.

Once regarded as vital links in our global defense line, the airfields are now obsolescent. During a recent period, in fact, Zaragosa was closed down under a caretaker status, and now there are plans to deactivate Moron. The airfields have lost their strategic value if only because we now have perfected methods for refueling bombers in flight. While the bases still provide secondary support to our aircraft, they are no longer essential.

The airfields have lost their value for a more fundamental reason, however: the manned bomber, itself, no longer plays any crucial role in U.S. deterrent strategy. It has been supplanted for many years now by the ICBM and Polaris warheads.

The submarine base at Rota, to be sure, is not so archaic. But the U.S. Navy has gained other footholds in the Mediterranean region since this Spanish port was completed; so even Rota does not have the unique value it had earlier, when it was the only U.S. port in the area.

In spite of these factors, the U.S. military, a jealous proprietor, has been loathe to abandon its outposts. It is always easier to perpetuate the status quo, to protect the vested interest. So the U.S. renewed the agreement with Spain last year and is about to renew it again this year.

2 YEAR PACT

The astonishing part is that Franco has been able to raise the price we pay for this declining investment. Up until September, 1968, the U.S. was paying for the real estate at a rate of 20 million dollars a year. This payment took the form of military assistance.

When the lease expired in that month, the Franco government tried to raise the rent to 35 million dollars for the next five-year period. Washington balked, but the new, two-year agreement, reached last year, was for 55 million dollars in further military assistance, an increase of 37 per cent in the annual rate—plus 35 million dollars more in bank credits.

This new lease, retroactive to 1968, will expire next fall, and the two governments already are negotiating terms which would allow the U.S. to remain at the bases still longer. In a recent joint statement the two governments said they have "made substantial progress" toward an agreement.

This time the payment will be made in the form of economic and cultural assistance, rather than military armaments. No doubt this change is meant to pacify the critics—leaders in Congress like Sen. J. William Fulbright, D–Ark., the chairman of the foreign relations committee—who find "people-to-people programs" far less objectionable than arsenal-to-arsenal programs.

But there is little reason to doubt that the dollar cost may again be increased; and whether the payment is guns or butter, the arrangement is hard to fathom. Indeed, Franco's extortion for the Spanish bases may be the cleverest maneuver since the one carried out by Tom Sawyer, when Tom got the other kids to whitewash the fence, to like the chore, and even to pay him for letting them do it.

GREATER PROFITS

With or without these bases, the Franco government profits from the nuclear shield we help to maintain through NATO. Spain does not belong to NATO. Franco's government has been kept out of this club for 20 years because it takes a unanimous vote of the allies to admit a new member and Franco's despotism is still anathema to some of the European democracies.

Along with being shielded by NATO, however, Franco draws an even greater profit. This comes from the base agreement—a tie with the U.S. which has bolstered Franco's prestige through long years of European disfavor. What's more important, it has strengthened his arm: in 17 years, we have provided the Spanish government with about 65 million dollars worth of military assistance—including Sabre jet fighters, Sidewinder missiles, tanks and anti-tank weapons, artillery pieces, anti-aircraft guns, and U.S. training for the Spanish forces.

The U.S. government has received little in return. First and always, of course, the Spanish bases belong to Spain and not the United States. The agreement reserves for the Spanish government the right to use the bases however it wishes.

The contract doesn't guarantee the same for the United States. Four years ago, when four of our H-bombs were lost off the Spanish coast, the Spanish government said no more American planes carrying nuclear bombs could use the bases. And all the U.S. planes were banned from the airfields during the Arab-Israeli war in 1967. Franco was afraid the Arabs might take offense at them.

With our access subject to sudden cutoffs like these, especially when wars break out, it is hard to see their value at all.

In the 1967 war, Spain regarded our presence on Spanish soil as a liability. Potentially, however, the arrangement has always stood as an even greater liability for the United States.

Townsend Hoopes, who was assistant secretary of defense when the agreement was formed in 1953, wrote 12 years ago that our development of the ICBM and Polaris systems would "render our long-range atomic force independent of forward bases located on foreign soil." He said "the added freedom of action resulting from this development would permit United States diplomacy . . . to eliminate bases where they are no longer needed." He also said it would free us from the "awkward commitments that embarrass our true purposes."

The United States has constantly risked embarrassment in its links with the Franco dictatorship. These ties do not constitute a formal alliance, but they don't need to. This was recognized at the end of 1968. When the chairman of the Joint Chiefs of Staff, Gen. Earle G. Wheeler, assured Franco in a secret memorandum that the Spanish government had the best security guarantee it could want: the presence of U.S. forces on Spanish soil.

DOUBLE LIABILITY

The obvious question is how this military tie with the Franco government might involve us if Spain should become embroiled in open conflict—either at home or abroad.

As it is, Franco and his hand-picked successors are armed with American-supplied weapons, to use against any challenge.

As it is, the Franco government for years has fought political battles ruthlessly, to suppress liberal elements within Spain itself. It has denied basic freedoms by incarcerating political opponents and controlling religious activities.

Such activities make the Franco regime a strange bedfellow for the United States. Yet we have been very obliging; and to safeguard our own dubious investment, we have even sought to curb free expression ourselves. Only a year ago, U.S. authorities directed Americans in Spain to say nothing about Hitler and Nazi Germany, because Franco still thinks kindly of these past associates.

The force of 10,000 American servicemen stationed in Spain was told in the same directive that "talking about Spanish restrictions on Protestant religious activities is not permitted." They were told that references to dictatorship "should be avoided"—that servicemen should "be especially wary of comparisons between dictatorships and freedom."

This, then, is still another price the U.S. has paid to "defend" the free world with these relics of military strategy. It may be the most incalculable and incomprehensible price of all.

WHAT ABOUT SDS AT KENT STATE?

Mr. HANSEN. Mr. President, the testimony that was given to the President's Commission on Campus Unrest during its investigation of the tragedy at Kent

State neglected to present important information toward finding the truth about the causes of the violence.

I refer particularly to the record of activity of Students for a Democratic Society at Kent State University. Such testimony, as best I can determine, is absent from the Commission's initial report. This poses somewhat of a mystery. The fact that there was SDS activity there was clearly brought out in the 1969 Annual Report of the House Committee on Internal Security. Chapter 4 of this document, entitled "SDS Activities at Kent State University, Kent, Ohio," is a report of hearings held on June 24 and 25, 1969, before the committee. Many of the Kent State officials who testified at these hearings have also testified before the Scranton Commission, including Dr. Robert I. White, president of the university.

What the testimony before the Internal Security Committee showed was that there has been an extremely active SDS chapter at Kent State with close ties to the national organization; that the SDS was dedicated to "defeat the system"; and that members of the SDS at Kent State were advocating the use of any means, including guns and explosives, to achieve their objective.

I do not think the Scranton Commission can ignore this documented evidence; but apparently it has been inadequately considered. In my opinion, too much of the search into the causes of violence at Kent State involved a parade of witnesses who unleashed their inflammatory rhetoric on the Commission.

It may be of some interest to the Scranton Commission that it achieved certain publicity for its endeavors in some parts of the Nation's press. As a case in point, I refer to a story published in the Washington Post of August 20.

This story, headlined "Campus Panel Told of Grim Outlook at Kent," was a report of the previous day's hearings. The article was 21 paragraphs long. However, the first six paragraphs were devoted to the testimony of two students who predicted that there may be a war coming at Kent State, that students will be armed and will shoot back if fired upon, that there is a class polarization sweeping the country, and that the United States may be faced with civil war.

It is not until we reach the last four paragraphs of the story that the reader learns the fact that the commander of the Ohio National Guard, Sylvester Del Corso, testified that his troops had been assigned to more than 30 civil disturbances in the past 2½ years and had never harmed anyone until the Kent State incident.

Had a reader reached the next to last paragraph—and most readers probably did not—he would have learned that Chester Williams, campus security director, testified that student demonstrators who burned an ROTC building on the campus 2 days before the shootings were so "vicious looking" that he refused to send his 22-man riot squad up against them.

Finally, in the last paragraph of the story, the reader learns that Glenn Frank, a professor described as highly popular with the Kent State students, said, "Never in my 17 years of teaching have I seen a group as arrogant, as bent on destruction" as the crowd that burned the ROTC building.

Mr. President, I believe the Scranton Commission could have lowered the emphasis on proviolence witnesses and given equal forums to those who can shed light on the real causes of campus unrest.

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:

CAMPUS PANEL TOLD OF GRIM OUTLOOK AT KENT

(By Richard Harwood)

KENT, Ohio, Aug. 19—The Presidential Commission on Campus Unrest was warned today of the possibility of more bloodshed at Kent State University this fall.

"I'm very fearful about things to come at Kent," Robert Pickett told the commission. He is a black alumnus of Kent State who is now a law student at the University of Michigan.

Pickett said the university in certain of its policies—enlarging the campus police force, for example—is "asking for a war, calling for it, praying for it and to a large extent they will get it."

If it comes this fall, he declared, "students will be armed and will shoot back if fired upon."

He warned also of a polarization that is sweeping the country, a polarization of class which pits students and intellectuals against "hard hats."

Another pessimistic witness was Steve Sharoff, a white graduate student in history. A "growing minority of students is prepared for armed conflict," he said. "I feel," he went on, "that we in the United States face civil war if things are not changed soon. And we know who the winner will be. It won't be us."

The commission began hearings here today into the general causes of campus unrest and into the particular events that led to the killing of four Kent State students last May in a confrontation with National Guardsmen.

A state grand jury is preparing to investigate the deaths, a fact that led commission chairman William Scranton to promise that the commission would do nothing to interfere with the grand jury's actions.

Opening witness was the university president, Dr. Robert White, who described the events leading up to the shootings on May 4 and surmised that Kent State had been "targeted" for disruptions by unnamed radicals "interested in either doing some burning or shutting us down."

He had no recommendations for the commission to make to the President but implied that some of his own problems were the result of too many unqualified students at Kent State.

"We have a lot of human debris on this campus," he said, "several thousand students who shouldn't be here and who would be happier and more productive elsewhere."

The commander of the Ohio National Guard, Sylvester Del Corso, was questioned sharply about the weapons issued to guardsmen and the circumstances under which they can be used.

He said he would prefer his men to carry non-lethal weapons, perhaps shotguns loaded with rock salt. Instead they are now armed with M–1 rifles, which were used on May 4, and will be getting M–16 automatic rifles this fall.

He implied that that decision was made by the Pentagon.

He had no coherent explanation as to how the shooting by guardsmen began at Kent State. No sniper has ever been identified, he said; there is no evidence his men had run out of tear gas, and they were never given a command to fire.

In fact, Del Corso said, "I cannot imagine any circumstance under which we would order men to fire."

The only justification for a guardsman firing his weapon, he said, is in self-defense and maybe "an individual decision."

"But throwing a rock," he said, "is not sufficient cause to fire." He said his troops have been assigned to more than 30 civil disturbances in the past 2½ years and have never harmed anyone until the Kent State incident.

The mood and behavior of the students during that period may have been a factor in what occurred, according to two witnesses.

One of them, Chester Williams, the campus security director, said student demonstrators who burned an ROTC building two days before the shooting were so "vicious looking" he declined to send his 22-man riot squad up against them.

Glenn Frank, a professor described as highly popular with the Kent State students, said, "Never in 17 years of teaching have I seen a group as arrogant, as bent on destruction" as the crowd that burned the ROTC building.

CANCER CURE MUST BE A NATIONAL GOAL

Mr. YARBOROUGH. Mr. President, the Wall Street Journal for August 26, 1970, carries an article about what I consider to be a most important goal for the American Nation: finding a cure for cancer.

The article is entitled "National Goal: Curing Cancer by 1976." It describes the resolution I sponsored to create a committee of research and financial authorities who can pull together a program for future research on this disease that will produce a cure.

Three hundred thousand Americans die each year of this scourge. Such a toll is unconscionable in a country so advanced as we are in science and research. A successful American cancer cure would do more for mankind and for American prestige in the world than any military device we could possibly invent.

Ths committee of consultants has already begun work. They are surveying all present cancer research activities. They will weigh them for their progress and signs of success.

The most important part of their work will come when they make their recommendations as to what should be done—what avenues give the greatest hope for success.

These will not be easy decisions. But they will be essential to the focusing of research money and talent on the end of finding the answer to cancer in its many dreaded forms.

I urge Senators and others to read this account of the purpose and progress of the committee, I ask unanimous consent that it be printed in the RECORD.

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

NATIONAL GOAL: CURING CANCER BY 1976

(By Jerry E. Bishop)

NEW YORK.—For the last few years medical researchers, particularly those delving

into the mysteries of cancer, have watched the nation's space program with frustration and envy.

Over a period of seven years the American taxpayer poured $24 billion into landing men on the moon, the most concrete result of which was a few pounds of rocks and soil of interest to a handful of physical scientists. At the same time, cancer scientists, whose researches could ultimately save thousands of lives, have struggled along on, at most about $250 million a year in cancer research funds.

To many cancer researchers this fickleness of the taxpayer has seemed almost incomprehensible. They have searched hard for ways to stir up the same type of public enthusiasm for cancer research as that which opened the Federal coffers for the manned moon landings. A frequently heard plea is that elimination of cancer should be declared a "nation goal," just as President Kennedy, in 1961, declare the moon landing a national goal.

A serious attempt to finally answer this plea is now under way. Its success or failure could change the approach to almost all the nation's disease problems. A little-known committee of scientists and laymen has begun meeting privately, sometimes in Washington, sometimes here in New York. Known as the National Committee of Consultants to Conquer Cancer, it was set up by a Senate resolution, sponsored by Sen. Ralph Yarborough of Texas, and 53 other Senators and given a $250,000 appropriation.

The committee's assignment, in Sen. Yarborough's words, is to "recommend to the Congress and to the American people what must be done to achieve cures for the major forms of cancer by 1976. . . ."

The committee's attention, Mr. Yarborough said, should be directed in particular "toward the creation of a new administrative agency which would guarantee that the conquest of cancer becomes a highly visible national goal."

The committee's 26 members, half of them scientists and half laymen, are as illustrious as the panel is obscure. Among them are venture capitalist Laurance S. Rockefeller, Olin Corp., chairman G. Keith Funston, Steelworkers' Union president I. W. Abel, Nobel-prize-winning geneticist Joshua Lederberg, Boston's famed cancer researcher, Dr. Sidney Farber and Solan-Kettering Institute's vice president, Dr. Joseph Burchenal.

The committee, according to its chairman, Benno Schmidt, a partner of J. H. Whitney & Co., expects to report to Congress by year's end.

The committee's assignment is formidable, for there are some sharp differences between landing men on the moon and conquering cancer.

The moon-landing effort had the drama of a feat that man had speculated about for centuries and the competitiveness of beating the Russians and renewing the American ego. Both of these elements are lacking in the "conquest of cancer." There is, of course, no "cancer race" in the same sense of the "space race." And, as Dr. Farber notes, it wasn't so many years ago that even physicians regarded cancer as an incontestable feature of nature. Only recently, he explains, have doctors begun to express a "restrained optimism" that cancer is a solvable problem.

There is also a more basic difference. At the time the moon effort was begun there was no question that it could be done. The technology was available, and no new scientific discoveries were required.

For instance, not only have rockets been around for centuries, but the ability of a rocket to carry men to the moon had been realized almost three-quarters of a century earlier, "scaling-up" the military rocket to the giant Saturn V was an amazing engineering feat, but basically it wasn't much different than scaling-up the primitive suspension foot bridge to the Golden Gate bridge. There was considerable confidence in Mr. Kennedy's order to reach the moon "by the end of the decade," the only question being what month the moon landing would occur.

By contrast, little is known about cancer. Surgeons and radiotherapists can cure almost all skin cancer, a majority of breast and uterine cancer and varying percentages of other cancers by either excising the malignancies or destroying them. Some cancers can be prevented; elimination of cigaret smoking, for example, should prevent a large portion of the lung cancer deaths.

Beyond this, however, the disease, or diseases, (doctors count scores of different types of cancer) remain much of a mystery. Although to a trained radiologist the appearance and behavior of a cancer cell differ from those of a normal cell, the exact difference and how and why they occur, are largely a mystery. Without such basic knowledge, researchers are more or less stabbing in the dark in developing new methods of treatment of prevention. Such stabs are sometimes successful, often not, and it is impossible to be certain in advance which effort will work and which won't.

When engineers could predict a successful moon landing, the outcome of cancer research is highly unpredictable. The key to the disease may come from a single laborator next month or it may not come until scores of laboratories have been at work for another decade.

It is highly unlikely that any group of experts can promise that cures for major forms of cancer will be achieved within five years even if appropriations for cancer research were unlimited. To do so could raise high hopes among the public and result in a disenchantment, as 1976 rolled around, that might do considerable harm to public support of cancer research in the long run. Yet without such dramatic promises, public enthusiasm for a major "assault" on cancer that the researchers have longed for may be more difficult to arouse.

Some committee members have already indicated that rather than promise cures the group may well propose a master plan to reorganize Government support of cancer research. The master plan would be in operation by 1976, and the only promise would be that it holds the best chance of conquering cancer at some unspecified future time.

This isn't to say there aren't some tantalizing possibilities for bringing cancer under control. The expansion of cancer research over the last 15 years has started to yield some exciting leads. Virologists appear to be only a step or two away from linking viruses with at least leukemia and possibly some other human cancers. A flood of new knowledge about the way the body protects itself against disease is suggesting that it might be possible to direct the body's immune system against cancer cells. Chemists and biochemists are beginning to think they can design drugs that would selectively attack cancer cells. New tests for the early diagnosis of common cancers, such as bowel cancer, are starting to emerge from the laboratory.

But this also makes the cancer problem sharply different from the moon landing. There was only one way to reach the moon—mounting a self-contained, man-carrying capsule on a series of rockets. The "conquest of cancer" probably will require a multitude of approaches.

A vaccine, for example, may be the key to leukemia control but not necessarily for breast cancer. A public education program on the dangers of smoking and air pollution might reverse the rising death rate from lung cancer, while early diagnosis may be the weapon to use against bowel cancer.

Any group sitting down to map out an "all-out assault" on cancer, then, must come to some decisions on allocating money and manpower among a variety of different approaches. By implication, this means setting up a system of priorities, which in medical research is extremely difficult. Should $100 million be thrown into virus research on the possibility that this will produce a leukemia vaccine? Or should the money be plowed into chemical research for a drug that would cure leukemia? How much effort should be devoted to perfecting a method of diagnosing bowel cancer in its early stages as compared to support of basic research in the body's immunity?

Some of the priorities are bound to be wrong. The $100 million of research on leukemia viruses might come to nought while $10 million into anti-cancer drugs might yield a cure for the same disease. And, at any moment, a single scientist may make a key discovery that, if it is to be exploited, would require an immediate reshuffling of priorities, and the transfer of scientists and money from one area of research into the new area.

As Dr. Farber explains, the committee's recommendations be necessity "will be subject to change without notice."

There is no lack of confidence among the committee members that they can come up with a space-age type of program in cancer research. "We think we can design recommendations which, if acted upon, can be used to build a major assault on this disease," says committee chairman Mr. Schmidt.

If the committee is successful it could set a new pattern for Federal support for medical research. There's no reason, for example, why a similar approach couldn't be used for heart disease, which kills twice as many Americans as cancer, against arthritis, or against birth defects.

At the very least, the committee, one way or another, may answer that question that many Americans asked a year ago, when Neil Armstrong stepped on the moon: "If we can land men on the moon why can't we find a cure for cancer?"

POW PROPAGANDA

Mr. GRIFFIN. Mr. President, Hanoi is busily exploiting its harsh and illegal prisoner-of-war policy. Like animal trainers, the North Vietnamese Communists regularly broadcast "interviews" with the men they hold prisoner. These so-called "testimonials" endlessly repeat the same propaganda line:

We are well treated; We receive food and mail from home; Our hosts—as the North Vietnamese like to call themselves—are friendly and humane.

It would be nice if we could believe the glowing reports transmitted by those broadcasts. But every shred of evidence indicates that they represent nothing but blatantly false propaganda.

If our men are treated so well, why does not Hanoi allow international inspection of their prisons?

If they really want Americans to come home, why do they not start by releasing American POW's?

THE STATE OF THE JUDICIARY REPORT

Mr. NELSON. Mr. President, event follows upon event so quickly now that important messages receive media attention one day and are forgotten the next.

Chief Justice Burger's state of the judiciary report to the American Bar Association is a case in point.

Fortunately on September 8, the Washington Evening Star carried a commentary on Justice Burger's speech that was most pertinent. The author of the

commentary, Milton Viorst, made important points that Congress and Chief Justice Burger should seriously consider.

I think it most ironic that at the very time the Chief Justice was suggesting "we should look more to State courts familiar with local conditions and local problems," President Nixon endorsed the report of Russell Train's Council on Environmental Quality recommending stricter Federal laws concerning environmental problems—laws that would be enforced in the Federal courts.

The Chief Justice deserves support for his proposals for improving, reforming, and enlarging facilities of the Federal court system. Congress and the executive branch, however, must push forward to solve those national concerns that otherwise might suffer parochial defeats in State courts.

I ask unanimous consent that Mr. Viorst's column be printed in the RECORD.

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

BURGER'S THEORY WAS OUTDATED DECADES AGO

In his State of the Judiciary address this week, Chief Justice Warren Burger put on an interesting display indeed of what it means to be a "strict constructionist."

It wasn't enough for him to complain of the procedural safeguards incorporated into the law enforcement system by judicial decisions in recent years. With accuracy, he said they increased the burdens on the nation's courts.

He went a step further, however. He had the audacity to tell the Congress what laws it should and should not pass.

Not surprisingly, they are laws conventionally described as "liberal." He did not inveigh against preventive detention, for example. They were laws the Nixon administration doesn't like.

"People speak glibly of putting all the problems of pollution, of crowded cities, of consumer class action and others in the federal courts," he said. "We should look more to state courts familiar with local conditions and local problems."

Such a view is fine in theory—except that it's a theory which has been discredited for decades.

The federal court system—like the federal government itself—has grown not by some grand design, but because the state courts have shown themselves so parochial, so inept, so subject to the political and social control of local vested interests that they have been unable to assure to Americans the justice guaranteed to them under the Constitution.

The Brown case in 1954, and a hundred other civil rights actions, came to the federal courts because state courts had failed to face up honestly to the issues they raised.

The same factor applies to such cases as one man-one vote, the right to counsel and the validity of the state poll tax. The Warren Court did what the state courts would not.

Justice Burger surely knows that air and water pollution is a matter over which local courts have been effectively powerless. Local judges don't take on industries—and if they do, their orders don't get enforced.

It is odd that the chief justice also pointed to "consumer class actions," which would allow consumers as groups to bring suit for damages against frauds. Such legislation is currently under consideration in both the House and Senate.

This legislation has been a special target of the Nixon administration, the National Association of Manufacturers and, for that matter, the American Bar Association, before which Burger delivered his jeremiad.

It is interesting that he chose the bar association, the Gibraltar of "establishment" conservatism, for his State of the Judiciary address. Would the surgeon general report to the American Medical Association? If the chief justice wants to make this an annual message, he should go before Congress, as the President does with the State of the Union.

Indeed, what Justice Burger's entire message reflects is his lack of understanding of the federal court system as a channel through which concerned Americans can fight "within the system" to redress their grievances against the "establishment."

If many young people, both black and white, have become militantly "anti-establishment," many more have refused to join them for the very reason that, in the Brown case and so many others, the federal courts did respond to a need for social justice.

Justice Burger is, of course, correct in saying that the federal judiciary must have more money, more judges and more modern administrative methods. He has, perhaps, overlooked his own powers to assign judges where he sees fit and to reduce the length of court recesses, as a means of speeding up procedures. Yet there is no denying that genuine reform is essential.

Where Justice Burger seems disturbingly insensitive is in the emphasis he puts on efficiency without acknowledging that the first objective of the court system is justice.

In the case "of pollution of crowded cities, of consumer class actions," it is the responsibility of Congress to set the terms of justice. Justice Burger has no right to tell Congress that they cannot be met.

Indeed, the chief justice would have been on stronger ground declaring that the goal of his message was a compassionate court system. Even a "strict constructionist," after all, must know that quick courts are not necessarily the same as good courts.

SCHOOLBUS SAFETY

Mr. KENNEDY. Mr. President, the National Transportation Safety Board this week issued a special study on the "Inadequate Structural Assembly of Schoolbus Bodies" following an investigation into schoolbus accidents. The conclusions of the Safety Board clearly demonstrate that the 19 million schoolchildren who ride buses to and from school are not being provided with the maximum safety consistent with current engineering capabilities.

I can only describe as "shocking" the Safety Board's discovery that at least four different types of schoolbuses exhibited "inadequate and inefficient" body construction. In the accidents studied, the Safety Board concluded that:

Inadequate or inefficient fastening of structures at the roofline and other locations in the rearmost section of the bus substantially contributed to these injuries, one of which was fatal.

The report noted a failure of the design of the bus joints to conform to standard engineering guides and commented:

It would appear that such calculations were not used in connection with the design of the joints in these schoolbuses.

The Board found that far more fasteners are used in the intercity bus than in the schoolbuses studied and also added that:

Board personnel have examined such intercity buses and studied reports of damage to such buses in a number of severe accidents and have not found the type of disintegrative damage and gross separations at fasteners such as that exhibited by school buses.

It is important to note that there are approximately 10 different schoolbus manufacturers who share the annual market of some 30,000 vehicles. Not all of the manufacturers were studied by the Board, and the majority of the buses produced each year may not reflect the inadequacies cited in the current report. However, it should be incumbent upon the National Highway Safety Board of the Department of Transportation to ascertain immediately whether this condition is as widespread as the present study indicates.

Mr. President, I am writing today to the Secretary of Transportation, to the Schoolbus Manufacturers Institute, and to the National Education Association to ask that an immediate study be made into this question.

The Safety Board acknowledges that remedying the inadequate fastening might only affect 0.1 percent of the total national fatality toll. However, I cannot believe that all of the agencies associated with schoolbuses will not share the conclusion of the Board that there is a "unique need for protection of the innocent children who ride schoolbuses, and who are almost totally unable to assure their safety by their own actions."

The Board estimates that the simple act of providing an adequate number of rivets to the joints of the schoolbus will save from 20 to 30 lives each year and will reduce the number of children who are seriously injured.

Mr. President, I believe we would be guilty of the grossest negligence if we did not immediately ask all schoolbus manufacturers to alter their construction methods to reflect the recommendations of the Safety Board.

The Department of Transportation has authority to issue rules to require such changes and I would hope that the Department will act at once in this matter.

I would suggest that the Secretary might take advantage of the offer made last February 11, 1970, by the National Academy of Sciences to assist in a detailed study of schoolbuses. I believe that the resources of the Academy would be particularly appropriate for the task of evaluating the methods used in schoolbus construction.

At the same time, I would urge the Secretary of Transportation to expedite the issuance of rules concerning other aspects of schoolbus safety, many of which have been pending for 3 years.

Eight months ago, I recommended that the Department issue national standards in relation to the construction and operation of schoolbuses to insure minimum standards of safety to all schoolchildren regardless of the State in which they reside. Until these national requirements exist, the accident of residence will mean that one child is afforded less protection when he travels to and from school than a child who resides in a different State.

While I am aware that many of the recommendations I made in January and February are under active review, I

would reemphasize the need for the earliest possible issuance of these regulations. We are at the start of a new school year. The latest statistics show an ever-increasing number of accidents, injuries, and deaths involving schoolbuses. We must act now to reverse that trend.

The recommendations which again I intend to call to the attention of the Department are the following:

First. Performance standards requiring high-back, padded seats.

Second. A 20-G resistant seatbelt for the schoolbus driver.

Third. The prohibition of standees.

Fourth. Rules requiring maintenance and inspection programs specifically geared to schoolbuses.

Fifth. Research to produce a prototype safe schoolbus.

Sixth. A rear emergency exit.

Seventh. Side emergency exit doors.

Eighth. Elimination of interior protrusions—that is, metal stanchions.

Ninth. Standardization of bumper heights.

Tenth. Requirements that States establish standards for qualifications and training of schoolbus drivers based on Federal minimums.

Eleventh. Guidelines to the States for the planning of schoolbus routes and loading zones.

Mr. President, I also want to commend particularly the National Transportation Safety Board for its study "Inadequate Structural Assembly of Schoolbus Bodies." I ask unanimous consent that the study conclusions and the correspondence from the National Academy of Sciences be printed in the RECORD.

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

JANUARY 28, 1970.

Dr. PHILLIP HANDLER,
President National Academy of Sciences, Washington, D.C.

DEAR DR. HANDLER: As noted in the enclosed copy of a letter I sent to the Secretary of Transportation, the Department of Transportation has failed to establish safety standards in the manufacture, operation, maintenance or inspection of school buses.

The safety of the nation's school children is a matter that concerns us greatly and I would like to know if the Academy might be able to suggest minimum safety standards that could immediately be issued. We have been extremely tardy in bringing our knowledge and experience to bear on this question. I would hope that your organization might be able to offer the Department some assistance in this matter.

I look forward to your suggestions on this subject.

With best regards.

Sincerely,

EDWARD M. KENNEDY.

NATIONAL ACADEMY OF SCIENCES,
Washington, D.C., February 11, 1970.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Committee on Labor and Public Welfare, Washington, D.C.

DEAR SENATOR KENNEDY: Thank you for your letter of January 28, enclosing a copy of your correspondence to the Secretary of Transportation concerning safety standards in the manufacture, operation, maintenance and inspection of school buses. No one can fail to be concerned over the loss of life or injury to any individual child who is entrusted to the care of the school system. For this reason the nationwide cooperation of both public and private organizations is essential if we are to reduce the failure in this system of transportation.

As your letter to the Secretary indicated, the Department of Transportation has been working for some time on this question. Their study and the work of other organizations have improved our understanding of the causes of accidents and injuries that occur in the transportation of school children. As an example, the National Conference on School Transportation (administered by the National Education Association) has for many years issued guidelines for school bus equipment and for the selection and training of school bus operators. It is our understanding that the Association has scheduled a meeting for this spring to update these guidelines.

Thus a beginning has been made in developing the necessary information that is needed to formulate national standards and guidelines for improving school bus safety. Unquestionably, we must now move ahead as rapidly as possible in applying this knowledge and experience. In this regard we should not overlook the related safety problems involved in the operation of school transportation systems (i.e., the problems of scheduling, loading and unloading).

The National Academy of Sciences, of course, stands ready to assist and advise the Department of Transportation on the problems outlined in your letter. Our Highway Research Board has recently completed studies in the areas of driver education and ambulance design at the request of the Department and would be pleased to make a detailed study of school buses.

I appreciate your interest in bringing this correspondence to my attention and I have transmitted a copy of my response to the Secretary of Transportation for his information.

Cordially,

PHILIP HANDLER,
President.

SPECIAL STUDY: INADEQUATE STRUCTURAL ASSEMBLY OF SCHOOLBUS BODIES—THE ACCIDENTS AT DECATUR AND HUNTSVILLE, ALABAMA

(Figures referred to not printed in the RECORD)

INTRODUCTION

Indications that the structural assembly of schoolbus bodies might be inadequate were found and reported by the Safety Board in a grade-crossing accident which occurred October 2, 1967, at Waterloo, Nebraska. That accident showed that major elements of the schoolbus body had separated cleanly under crash forces. This separation involved high-crash forces produced by the collision between a train and a schoolbus. The separations occurred where fasteners used to assemble many elements of the schoolbus were few and widely spaced. Because no observations of injuries were made, it was not possible to determine whether the spacing of the fasteners contributed to the four fatalities in that accident. Since that time, the Safety Board has reviewed two additional accident reports in which there is sufficient information to relate certain features of the schoolbus structural fastenings to the injuries.

The first of these accidents occurred at Decatur, Alabama, April 23, 1968, and the second at Huntsville, Alabama, November 19, 1968. These accidents were initially investigated by accident research teams organized to provide both engineering and medical investigation by the Georgia Institute of Technology, under contract to the National Highway Safety Bureau. The group is called the Atlanta Medico-Engineering Research Team.

Actions have already resulted from these two reports in areas not covered by this review. The first accident was followed by the passage of schoolbus inspection legislation by the State of Alabama, and the second accident investigation initiated the recall of a large number of brake master cylinders by the General Motors Corporation. This study is based upon evidence of the two reports, and additional analysis of the evidence, including a thorough inspection of the schoolbus body involved in the Decatur, Alabama, accident by Safety Board personnel.

This study will review the examples of injuries in these accidents, explain how the design of joints and fastenings was involved in the injuries and in structural strength of schoolbuses, and compare schoolbus construction with construction of other types of buses which employ more efficient and complete fastenings. The study relates entirely to the type of schoolbus which is manufactured by attaching a schoolbus body to a truck chassis. No review has been made of the integral-body-and-chassis type of schoolbus which constitutes less than 10 percent of total production. The examples in this study involve different makes and models of schoolbuses. Although there are indications that the problems discussed are widespread, the study has not covered all makes and models of this general type. The study will also discuss the factors of cost, safety benefits, and justice factors in the protection of the child passengers involved. Although the number of fatalities contributed to by inadequate or inefficient structural strength of schoolbuses is a relatively small proportion of the national highway toll, the Board recommendations are consistent with the scope of the problem, the need for just treatment of schoolchildren in schoolbus accidents, and the technical capabilities of the schoolbus manufacturing industry.

INJURIES IN THE DECATUR, ALA., ACCIDENT

The accident at Decatur, Alabama, involved failure of the schoolbus brakes at the top of a long hill, and the inability of the driver to control the bus. The bus ran off the right-hand shoulder of the outside of the turn at the bottom of the hill and into a deep, eroded gully. The forward right-hand upper section of the bus body struck exposed tree roots and rocks and a fencepost, while in a partially overturned condition. The forward part of the upper right-hand portion of the bus was destroyed by rearward impact. Four fatal injuries occurred, two near the collapsed forward portion of the bus structure, two at unknown seat locations. In addition, some seats were torn from the floor, seat cushions were loosened from their normal positions, and a variety of injuries were associated with unrestrained passengers thrown from the left side of the bus to the right side. The motion of schoolbus passengers and the floor attachment failures during collisions of this type are typical. Such factors are under consideration by studies of the National Highway Safety Bureau. Thirty-four injury cases were studied in the Decatur accident.

A predominant source of reported injury was the laceration of child passengers by exposed edges of the bus interior sheet metal, including the ceiling, which were raised and opened by the distortion of the upper right-hand front structure of the bus. This area of the interior is shown in Figure 1. The exposed sharp edges of the sheet metal were raised into shapes similar to the edge of a shovel or a cookie cutter. Lacerations were attributed to contact with these edges in the report of the Atlanta Medico-Engineering Research Team:

"The predominant injury pattern was to the face and scalp, with multiple lacerations, abrasions and contusions. . . . Upon impact the bus evidently received a strong longitudinal and tangential force causing the sheet metal panels on the interior bus ceiling to

open up, exposing the children to sharp metal contact. Evidence indicated that a number of the children were injured by this hazard. . . ."

In addition, Board personnel carefully examined these edges, and found a fragment of blue yarn snagged on one of the edges in a place which was not normally exposed. The most probable source of this fragment of yarn was the clothing of some child in the bus; however, there is no basis for determining whether the snagging occurred during the impact or during rescue operations.

The raising of these sharp edges was made possible by the very wide spacing of the screws which were used to fasten the edges of the sheet metal interior roof panels to each other and to the roof bows. Furthermore, as can be seen in the illustration, the panels are connected to each other and to roof members so that their strength is *potentially* a source of added structural strength of the bus. However, the fastening of the panels serves primarily to attach them to the roof bows as a form of cover. The wide spacing of the fasteners does not permit substantial transfer of the structural loads developed in a crash. Thus the raising of sharp edges between fasteners produces a source for injuries and is also a manifestation of poor capability of the joined steel interior panels and bows to act together in carrying the crash load. There is an implication that the collapse of the bus body might have not been so complete if all the ceiling panel joints had held.

An additional indication of the injury potential of the raised edge is seen in Figure 2. This photograph shows an area rearward of the area shown in Figure 1. Here, near the right of the picture, a panel edge is opened and folded forward. The folding could not have occurred prior to the opening of the panel. The necessary inference is that during the crash some object, either a child or possibly a seat cushion, struck the edge after it had been raised, and with an impact sufficient to fold it forward. To produce this folding, the impact would necessarily have been generally against the edge, the direction most likely to have produced lacerations. The bloodstains on the panel immediately forward (to the left in the picture) of the folded edge may or may not have been associated with injuries due to the edge.

It is concluded that the cause of this predominant class of reported injuries was with the inadequate fastening of the roof panels to the bows. The assembly was inadequate in the sense that it was insufficient to prevent separation of the panels from the bows and the raising of sharp and injurious edges under collision conditions.

Figure 3 shows a separation which occurred between the schoolbus body and the cowl of the truck body to which the schoolbus body was mounted. Schoolbuses of this type are customarily manufactured by bolting the schoolbus body onto a truck chassis frame. In this case, the rearward forces placed upon the upper right front of the bus body structure separated the lower part of the schoolbus body from the cowl. At this point the schoolbus body was attached to the cowl by widely spaced bolts, the holes for which are indicated by arrows in the illustration. The absence of distortion around these holes indicates that the bolts failed. This separation may have increased the amount of rearward deflection of the upper part of the schoolbus body.

FATALITIES AND INJURIES IN HUNTSVILLE, ALA. ACCIDENT

This accident occurred when brakes failed on a schoolbus which was descending a hill. The bus ran off the road to the outside of a right-hand curve. The bus rolled over to the left and the rear portion struck a tree which penetrated the passenger compartment at the last row of seats. Figure 4 shows a rear view of the area of the bus which struck the tree. The photograph was taken after the bus had been turned back upright. The right-hand rear seat in which two children were seated was torn out, and the undamaged seat seen at right is the next section forward. One child seated in the absent seat was killed and another seriously injured. The wreckage in the lower half of the picture consists of the rear wall of the bus, the rear door, the rearmost roof bow. Part of the lower portion of the right wall is also shown, but its shape is better seen in Figure 5.

Figure 4 also shows that the rear section of the bus was separated neatly from the forward section, with very little deformation of the next forward section of the bus. This indicates that the forward section of the bus shared only a little in supporting the forces of impact imposed by the tree. The very wide spacing of rivets on the outer shell of the bus can be seen in this photograph. The wide spacing of rivet holes is indicated on the roof bow. Close observation of the illustration showed that the rivets were pulled through the parent material or had pulled through the edge. The ceiling panel, having been separated at the rivets, is simply hanging down. Note that the door is relatively intact, the glass unbroken.

Analysis of the destructive effect in this photograph indicates that only one of the heavier gauge structural elements ruptured through its main section. All the other destruction which allowed the tree trunk to penetrate and destroy the area of the right rear seat appears to have resulted from separation of joints where they were connected by fasteners.

A view of the right rear of the bus is shown in Figure 5. The straight line of cleavage between the rearmost section and the next forward section is especially evident. The rearmost right sidewall below the window line, still flat and undistorted, has been rotated rearward and downward. Separation occurred along the vertical line of fasteners between the rearmost section and the next forward section.

It is most significant that the two "impact siderails," which are major structural members, are still extending to the rear in their normal position, almost perfectly straight with litle distortion. There are three siderails, showing as black bands in the picture. The upper and lower are still in place. The middle siderail remained attached to the panel, but separated where riveted to the forward section of the siderail. Thus both the sidewall panels and the heavier gauge siderails have been neatly separated with little or no damage other than the breakage of fasteners. The rivets or bolts by which the siderail is attached to the panels and bows are spaced approximately 5 to 6 inches apart.

Figure 5 indicates separation with virtually no distortion of either joined portion and is direct evidence of fastening inadequate to develop the potential strength of the structure. Because the separation occurred, the next forward section of the body was prevented from carrying any of the load of impact with the tree. This localized the effect of the tree's impact, leaving the rearmost section almost alone to resist the impact. Thus it is concluded that the tree penetrated more deeply into the rear section of the bus than would have occurred if the fasteners had been sufficiently complete to transfer a significant portion of the load into the next section. The tree, because of the weakness of the fastenings, merely disassembled and crushed the rearmost section of the bus.

The report of the Atlanta Medical Engineering Research Team said:

"The injuries to the three occupants in the rear seats resulted from contact with either the tree, which entered the passenger compartment, or from undetermined portions of the bus structural frame and skin which were forced into the compartment. . . ."

The Safety Board concludes that inadequate or inefficient fastening of structures at the roofline and other locations in the rearmost section of the bus substantially contributed to these injuries, one of which was fatal.

In defining the fastening of structures, no distinction has been made between the heavier structural frame and the skin. It is evident that the panels would lend substantial strength if they were adequately fastened. If the strength of panels is not employed then it would be necessary to use heavier members to obtain adequate strength in the structure. The separation of structure with little or no distortion indicates that neither approach was employed sufficiently to provide adequate strength.

ADDITIONAL EXAMPLES

Additional examples of the separation of bus structure at joints and the raising of sharp edges capable of inflicting injury in the interior of the bus are shown in the photographs of the appendices. These accident investigations did not include sufficient information to determine the relationship of injuries to the failures in the bus construction; however, these photographs illustrate the variety of the failures. A total of four different makes and models of schoolbuses are involved in the Decatur and Huntsville accidents and in the two examples in the appendices. This indicates that the problems of inadequate assembly are not restricted to any one type of bus, but are fairly widespread.

Figure A is an illustration used in the Board's report of the accident at Waterloo, Nebraska. The right side of the schoolbus is shown and a number of clean separations are visible. For example, the roof is separated in large sections at joints. The sheet steel interior panel at the left is neatly separated and shows no effect of having carried a load whatsoever. This disassembly was a result of snagging engagement of the structure by extremely heavy members on the railroad locomotive involved.

Figure B shows a rear view of the same schoolbus struck by the train. This illustration should be compared with the rear view of the schoolbus which was disintegrated by a tree impact in the Huntsville, Alabama, accident, Figure 4. Figure B shows the same phenomenon of neat separation at joints with little or no distortion of the nearby supporting structure. The left wall interior panel is seen best in Figure A. The corresponding outer panel is also relatively undistorted, and the bus structure is separated cleanly along a vertical line.

Figure B also shows clean separation of floor sections. This bus floor was formed by assembly of a number of transverse sections, each of which carried a pair of seats. The transverse sections are flanged at the front and rear and are joined at the flanges by fasteners. All of the transverse sections rest across the chassis frame of the truck to which the schoolbus body is bolted, and thus vertical stiffness is obtained from the truck frame rails. In this case, the rear floor sections were separated neatly at the flanged joint and there is little or no distortion of the flange, indicating that the fastenings were insufficient to provide mutual support. The separated flange was damaged in a later phase of the accident.

Figure C shows the exterior of a schoolbus which was struck on its right side by an automobile in an accident at Atlanta, Georgia. The bus was deflected from its path and rolled over a highway guardrail which penetrated the top of the bus. The guardrail was somewhat flattened and reduced in height. Separation between the roof panels and upper frame rail has occurred exactly along the line of fasteners. This sep-

aration occurred both forward and rearward of the line of penetration of the guardrail. At the rear separation, an entire corner of the roof panel has been separated.

Figure D shows the interior of the same schoolbus as Figure C. The localized penetration of the roof produced a clean separation between the roof panels and ceiling interior panels and sharp edges are presented in the interior as in the Decatur, Alabama, accident. The illustration shows the sharp edge only on the near side of the separation; however, there would necessarily be another sharp edge in the rear portion.

INADEQUACY OR INEFFICIENCY IN RIVETED JOINT DESIGN

In the foregoing discussion, riveted joints were referred to as "inadequate" when there was an insufficient number of fasteners to prevent the development of sharp edges when the fastened sheets were subjected to crash loads. The technical term for riveted or bolted joints which fail under loads much lower than can be attained by a sufficient number of fasteners is "inefficient." The "efficiency" of a riveted joint is a percentage number, the percentage of the strength achieved by the joint where 100 percent represents the strength of the parent metal. Handbook data[1] for certain kinds of riveted structural joints indicate that efficiencies of 50 to 94 percent can be attained by careful design and construction. The lower values of efficiency are obtained by using a single row of rivets whose spacing is carefully calculated at the optimum. This, however, is low-cost construction. Much higher percentages of efficiency and strength are obtained for such structures as boilers and air compressors by using three or four rows of rivets.

The efficiencies of the joints seen in these illustrations of schoolbus design appear to be very low, indeed. In typical riveted joints, an efficiency of about 60 percent is reached when rivets are spaced at a distance between centers approximating 2½ times the diameter of the rivet. In the examples of schoolbus construction cited, distances between rivets or other fasteners ranged between 4 inches and 10 inches, and no rivet diameters were larger than ⅜ of an inch. Thus, the actual spacing between rivets varied from approximately 10.5 times the rivet diameter to as much as 25 times the rivet diameter. This was sufficient to resist wind and weather, but the joint could contribute little to structural strength.

The efficiency of such joints is subject to calculation and can be maximized. The subject is covered by standard references such as *Mark's Standard Handbook for Engineers*. It would appear that such calculations were not used in connection with the design of the joints in these schoolbuses.

SCHOOLBUS STRUCTURE VERSUS STRUCTURES USED IN INTERCITY AND TRANSIT BUSES

Schoolbus bodies are primarily constructed of steel joined by welding and riveting and bolting and, in some areas, by the use of sheet metal screws. Buses used in regular passenger service such as transit buses or intercity ("over-the-road") buses, are more likely to be constructed of aluminum external sheets formed and riveted to underlying structural members of aluminum or steel. Substantially higher efficiency in riveted structural joints is apparently achieved in these designs.

Figure 6 shows a comparison between a typical city transit bus and one type of schoolbus. More strength of joints is evident in the transit bus in similar structural areas.

Figure 7 shows a comparison of the external surfaces of a typical intercity bus versus the same portion of the body in a typical schoolbus body. As can be seen, far more fasteners are used in the intercity bus. Board personnel have examined such intercity buses and studied reports of damage to such buses in a number of severe accidents and have not found the type of disintegrative damage and gross separations at fasteners such as that exhibited by schoolbuses.

Figure 8 shows a comparison of the external fastenings at the driver's seat location for a transit bus and another type of schoolbus. As before, it is evident that far more rivets are used to fasten the panels in the transit bus structure than in the schoolbus structure.

The economic significance of this fully joined construction is that the total weight of metal employed in the intercity and transit buses is used efficiently to create an integrated structure able to resist impact damage. The schoolbus structures, on the other hand, rely upon steel bows and columns connected to various lengthwise members to which the steel panels of the side, roof, ceiling and interior panels, and side impact rails are attached by riveting or by the use of sheet metal screws. In general, these panels act to keep out weather or hold insulation in place, but do not develop a sufficiently high proportion of the available strength to be regarded as more than covering material. The strength of the panels reduces shake and vibration so long as the relatively few fasteners hold, but contributes little to the ultimate crash strength.

It is to be recognized, of course, that the schoolbus bodies are substantially lighter in total weight than are the intercity or transit bus bodies. Also, schoolbuses typically carry a larger number of passengers in a smaller space than do intercity buses. These considerations do not change the observation that these schoolbus structures are very lightly joined as compared to intercity or transit buses. It would appear that, if anything, the lighter weight of the schoolbuses would require greater efforts to achieve efficient joints and thus employ all the material to resist structural disintegration.

It should also be noted that the Safety Board has not reviewed or studied all of the schoolbus bodies now being manufactured. There may be exceptions to these generalizations as to inadequate and inefficient joint fastenings. Also, it should be noted that some types of collisions may not place stresses on panels and joints of a type which would reveal these problems.

COSTS AND SAFETY BENEFITS OF EFFICIENT SCHOOLBUS STRUCTURES

It appears that the strength of many joints in schoolbus bodies could be increased by factors of three or four simply by increasing the number of rivets or other fasteners used. In many cases, this could be done by drilling additional holes and adding rivets after the schoolbuses have been manufactured. It would appear that between two to five times as many fasteners could be employed, dependent upon the existing degree of fastening.

The cost of labor in assembling schoolbuses would be increased by increasing the number of fastenings; however, that factor might be reduced by employing mechanical methods of placing rivets which might be practical if larger numbers of rivets were used. The weight of the bus would not be significantly increased by the added fasteners. The question is immediately raised as to whether the benefits would be worth the cost and whether these are priority changes in the perspective of the total highway losses.

The question of cost arises because of a unique characteristic of structures which makes it possible to assemble such a vehicle body without employing high-efficiency joints. That characteristic is the fact that almost the maximum degree of stiffness, freedom from vibration, and watertightness can be obtained in a structure with only a fraction of the number of fasteners required to produce maximum protection when a crash impact occurs. Thus, the doubling or tripling of the number of rivets or other fasteners needed in a bus of this type is not a necessity for normal operation, but is required only to obtain crash protection for occupants. The amount of added assembly cost to achieve the increased structural strength is unknown, but it could be estimated by detailed studies. The question is, are the safety benefits worth the increased cost of assembly which would be necessary?

It is evident that the number of lives to be saved annually by such structural changes does not exceed 20 to 30 children. The number of injuries to children prevented is believed to be much larger, but cannot be estimated. However, theoretically it should be possible to determine the total cost of improving the structural construction and to estimate some type of dollar loss to society represented by the lives of the children saved and the injuries prevented. This type of calculation balancing dollar cost against lives of children has not, so far as can be determined, been attempted in the safety field, although cost-benefit evaluations are frequently urged as a form of insurging economy in policy decisions. It might well be that, in this particular case, it could be shown that the cost of saving lives by fully joining schoolbus structures might be relatively high per life saved.

A second question concerning this proposal is what priority it should enjoy as a project of DOT compared to other methods of reducing highway fatalities. The lives potentially savable by stronger schoolbus structure is less than 0.1 percent of the total national fatality toll. Thus it can correctly be said that among the various safety efforts which might be applied by such agencies as the National Highway Safety Bureau, efforts to establish this particular correction would be of low priority.

STRUCTURAL IMPROVEMENT PRIORITY BASED UPON JUSTICE AND EQUITABILITY

If the priority of schoolbus structural improvement is low in terms of the total national needs in which DOT and the National Highway Safety Bureau must function, schoolbus fatality and injury is nevertheless a predominant concern in two areas, the schoolbus manufacturing industry and schoolbus operators and users. In the schoolbus field, the degree of effort for safety has not been traditionally determined by cost/benefit considerations, but by the unique need for protection of the innocent children who ride schoolbuses, and who are almost totally unable to assure their safety by their own actions. Schoolbus riding children are seated within the buses usually because State laws require schooling, the children are not there totally on their own volition. Society has established many regulations for the safety of school children which may appear exaggerated in other fields. For this reason, it appears that the employment of structural assembly methods in schoolbuses which are less efficient than methods used in other types of passenger buses should be considered primarily a question of justice to schoolbus riding children. This consideration of justice, in the Board's view, should override the question of whether the cost of complete assembly could be demonstrated to be less than the dollar value of the lives saved.

A second consideration in the need to attack this problem is a possible deleterious effect on the structural safety of intercity buses and transit buses if inadequate assembly is allowed to persist in the schoolbus field. If schoolbuses are not corrected, might it not also be argued that intercity and transit bus manufacture were justified in re-

[1] Mark's Standard Handbook for Engineers, 1968 Edition.

ducing the efficiency of joint construction? There is an implication that it might be possible to reduce the number of fastenings in intercity buses to a level consistent with freedom from shake and vibration without respect to crash impact performance. If that were done, the phenomena of complete separation of portions of the structure might occur in other types of buses as well as in schoolbuses. It is not clear that such a reduction in strength would even be considered in the other bus fields, but it seems unwise to tolerate the weaknesses in schoolbuses when the strength of other buses is provided voluntarily.

A question of fairness in some competitive operations is also involved. Schoolchildren can be carried on longer distance excursions, including intercity trips, either by schoolbus or by chartered buses of the intercity type. Long distance trips by schoolbus are often authorized by local school boards in the interest of direct cost savings. It costs less to operate a light schoolbus. Schoolbuses are also sometimes used by the military services for other than local services in preference to the intercity type of bus, again on an apparent direct cost saving basis. The schoolbus type of construction, however, does not appear to be designed for continuous high-speed over-the-road service. Most schoolbus usage involves local service, speeds below top highway speeds, and short duration of passenger occupancy. It may be that some schoolbus manufacturers have adopted the methods of minimal joining under the assumption that schoolbus crashes will occur at low speeds. If that is the case, the occupants of schoolbuses exposed to long high-speed travel may be exposed to greater risks than are occupants of typical intercity buses. The generally low fatality rate in typical local schoolbus service may not apply when the same buses are used for intercity service.

CONCLUSIONS

As a result of this study the Safety Board concludes that:

(1) There have been crashes in which the disintegration of the structure of the schoolbus and the lack of mutual support of structural parts are evident. The failure of the structural parts to support each other in crashes has contributed to injury and fatality and is an implied threat in future schoolbus crashes.

(2) Interior panels present exposed sharp edges because the widely spaced and inadequate fastenings at joints fail or allow edges to be raised between fasteners in schoolbus crashes. Such edges are a source of injury to passengers.

(3) The joints employed to join structural members and potential load carrying panels in schoolbuses are often inadequate and "inefficient" in the technical sense because they employ relatively few fasteners and thus do not develop more than a small fraction of the structural strength which is potentially available.

(4) Other types of buses, such as intercity buses and city transit buses, exhibit much more adequate joining of structural load carrying panels than do schoolbuses. This indicates that more adequate fastening of schoolbus structures is technically feasible.

(5) The question whether the increased cost of more adequately fastened schoolbus bodies would be repaid in reduced fatality and injury is difficult to determine; however, the Safety Board believes that adequate joints are necessary in justice to the innocent schoolchildren passengers.

(6) The correction of this problem is not a high priority matter in relation to the total numbers of national highway losses; however, it is an important matter of justice in the field of schoolbus manufacture and operation. Not only is it unfair to children to allow the sources of injury from inadequate joining to continue, it is also undesirable to allow a source of injury to continue in one field (schoolbuses) when it is voluntarily controlled in another field (intercity and transit buses).

RECOMMENDATIONS

The National Transportation Safety Board recommends:

(1) That the National Education Association and the schoolbus manufacturing industry adopt a policy of using fastening methods which inhibit the raising of sharp edges and which provide much greater efficiency of joints to prevent the disintegration of schoolbus bodies. This policy might well be implemented by voluntary specifications adopted by the National Education Association and used by schoolbus purchasers and manufacturers.

(2) That the National Highway Safety Bureau include in its accident research investigations and studies a search for evidence of the nature of schoolbus disintegration and the significance of the disintegration phenomena in injury causation.

(3) That the National Highway Safety Bureau continue its consideration of the recommendation concerning schoolbus safety made by the Safety Board in its report of the grade-crossing accident at Waterloo-Nebraska, which occurred October 2, 1967.

CULEBRA

Mr. SCOTT. Mr. President, the continuing controversy surrounding the U.S. Navy and the island of Culebra, a part of Puerto Rico, is the subject of an analytical report prepared for the Governor of Puerto Rico, by Dr. Robert A. Kilmarx, Georgetown Center for Strategic Studies, and released August 22. Although I am not wed to the specifics of Dr. Kilmarx's analysis, I do support its main thrust of discontinuance of the use of Culebra as a target.

The citizens who live on the tiny island municipality of Culebra have requested the U.S. Navy to terminate its target practice trainig using Culebra as a target for live shells, bombs, and machinegun bullets.

Dr. Kilmarx's analysis is intended to provide independent advice about naval requirements and use of firing ranges at and near the Culebra Island. The conclusions and recommendations of the analysis are qualified as tentative, indicating that future developments could alter them.

It appears that the ultimate resolution of this matter will be the end of naval use of Culebra as a target for shelling and bombardment.

The time schedule for this discontinuance will have to be worked out between the island and the Navy with consideration given to the problems and difficulties of both parties, in addition to the humanistic consideration for the American citizens making their homes on Culebra.

T. D. ALLMAN'S REPORTING

Mr. CHURCH. Mr. President, until he was declared "persona non grata" by the Lon Nol regime in Cambodia, T. D. Allman was a major source for American readers of on-the-spot information about current events in beleaguered Cambodia. His reporting—accurate, candid, balanced, inquiring—was in the best tradition of journalism that the Indochina war has spawned.

Two of his last dispatches from Phnom Penh vividly detail life in war-torn Cambodia. For example, his comments about arms peddling on the local black market bring to light some of the sordidness our military presence in the region has created. Ironically, when the United States threatens to disengage, the dependent profiteers urge Uncle Sam to remain.

I ask unanimous consent that two articles by T. D. Allman be printed in the RECORD.

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

LAL AND BAL LOVE DICK

(By T. D. Allman)

Lal and Bal are two rather plump brothers from Bombay who would appear to make a modest living from a small cloth shop near Phnom Penh's central market. Their shop displays silk, cotton, nylon, underwear, shirts, rain coats and even a few war surplus Eisenhower jackets.

But Lal and Bal, should you wish, can also provide other wares: Would you like to buy a genuine Buddha head stolen from the ruins of Angkor Wat? Or an M-16 rifle peddled by a South Vietnamese MP to buy souvenirs for his family back home? Or perhaps you really want a few tons of rice or salt? Or to change into dollars a few hundred thousand Cambodian riels?

Like dozens of other Indian, Chinese and Cambodian entrepreneurs in Phnom Penh's black market, Lal and Bal are there to help you. They follow the laws of Adam Smith—supply, demand, profits—unpolluted by any contaminants like social responsibility, patriotism or political loyalties.

Like others, these middlesized, middleaged middlemen claim the Cambodian war has hurt business. It does not seem to be hurting too badly. They just bought an apartment house in Hongkong. Lal heartily dislikes Bernie Cornfield. "I lost $75,000 in his business."

"Actually," he says, "things haven't been good since the war started and the VC reduced their buying here. The Vietcong were good businessmen. They paid their bills on time and didn't bargain too hard. In the good old days, a little old Vietnamese lady, dressed in rags, would come in, take out $5,000 from her blouse and change it into riels. The VC, however, preferred mostly to work through the Chinese. You can trust them. I wouldn't know a guy's name, or remember his face, but I would give him a few million riels, and a week later the equivalent in dollars would show up in my bank account in Hong Kong. Mutual confidence is the foundation of all business relationships."

The communists apparently paid hard currency for soft riels to pay for the rice, medicine and other supplies they bought in Cambodia during the days of Prince Sihanouk. "In most countries the communists just come in and take what they want. Sihanouk made them pay for things. That was why the riel was so stable."

According to Bal ready cash was plentiful in Sihanouk's time because of government corruption. "A man would buy a job with the customs and turn a nice profit. Now all these people are out of jobs, or at least trying to looking honest."

Is the new government corrupt?

"They haven't had enough time," answers Lal a little regretfully. "But time heals all wounds as they say."

Despite the war, the communists continue to make some purchases, mostly salt, rice and medicine.

"I've got a little racket going right now I'd love to tell you about," says Bal. "I made 500,000 riels (about $6,000) on it last month. We could even use a journalist in the operation. But I'd better not tell you for a few weeks . . ."

Who are the buyers?

"Our friends in black pyjamas"

Is it legal?

"Is anything worthwhile legal in this life?" demands Bal.

The two brothers do good business in guns thanks to South Vietnamese soldiers. About twice a week, they say, the soldiers come in and sell their weapons.

Who are the biggest purchasers of guns?

"Well, there's a Cambodian," says Lal, "who I bet is in turn selling the guns to s-o-m-e-b-o-d-y." He takes a sip of tea. "He comes in regularly and buys up the market." Interjects Bal: "Last week he bought a pile of guns, and just as he was about to drive away in his sports car, he said, 'Do you have anything else?' So I pulled out this Japanese laughing bag that my kid and brought back from Hongkong. He offered 2,000 riels for it (about $22) if you can believe it. I told him 3,000. He said, 'No, things are tough right now. The VC shot down one of my helicopters over Siemp Reap last week and I lost a whole shipment.'"

"We didn't ask what the shipment was," says Bill, cutting his index fingers across his throat. "We want to stay alive."

On sale at the ferry point of Neak Leong, the most colourful black market, are US mosquito nets and insect repellent, Dutch canned ham, British cigarettes, Vietnamese soap, Portguese sardines, Japanese fruit juice, Chinese cigarette lighters, Russian Vodka and Cambodian girls.

The oddest customer in the black market, however, is the US embassy in Phnom Penh. Recently, according to reliable sources the embassy sent an agent into the market and bought an M-16, for the bargain price of 6,500 riels. This was part of an effort to gather details on the monumental black market drain on US supply facilities in Southeast Asia.

From the door of their shop, Lal and Bal look on the kaleidoscope of Southeast Asian turmoil placidly. "Things aren't going too well now," says Bal. "But I have faith in the Americans. They have brought us prosperity. The Nixon Doctrine and popular opinion may cut down on things a little, but I know America will find a way to stay in Southeast Asia."

NOTES OF A PERSONA NON GRATA

(By T. D. Allman)

There was the Cambodian shoeshine boy who, when asked if he preferred the new government or Prince Sihanouk, replied in perfect French, "I don't discuss politics."

And the Vietnamese, hostess, multilingual in Khmer, Vietnamese, French, Chinese, English and Thai, who was explaining why she carried a *laisser-passer* from the police allowing her to work after curfew. "I belong to a special profession," she said.

In the central market, insects writhe for sale in wicker baskets: they are used to sweeten soups and eaten as casual snacks.

Phnom Penh has a classical ballet, but no taxicabs, an olympic stadium but water that is not safe to drink. Its gardened boulevards are the cleanest and most pleasant in Asia, but more than 50,000 interned Vietnamese civilians must use the Mekong River as a toilet, wash basin and source of drinking water.

Like most Asian cities, the Cambodian capital is new. Traditional Asian life produced rice, war and the occasional royal compound. It took the Europeans, and a wave of Chinese immigration in the 19th century to give Cambodia its first real city since Angkor Wat was sacked in 1353. Historically, the city has three nuclei, only one of them Cambodian. The first is the royal palace, even in republican Cambodian a symbol of the city's primacy and one of the treasures of traditional Khmer architecture with its solid silver pagoda and a graceful stepped gate. It was designed by a Frenchman in the late 19th century. The second is Chinatown. The third is a small artificial hill from which radiate several of Phnom Penh's main boulevards. The city takes its name from the hill. Phnom Penh, in Khmer (the Cambodian language) means hill. Penh was a woman who several hundred years ago decided to build the hill, and top it with a Buddhist temple.

Phnom Penh is bright and bustling in the morning. By noon, the sun has become brilliant, and the government offices, even now, during the war, close down for the day a short time later. Everyone sleeps during the afternoon. Toward five the sun sinks behind a dust bank or a grey monsoon cloud and turns into a yellow orange disk. In either case, the town is diffused with red and orange light, the dying sun reflected in the yellow water paint that covers every French style building absorbed in the red tiles of the city's roofs. This is the time when the whole city seems to be chatting. Europeans on the roof of the Hotel Monorom look out across the flat rice fields to the hills behind. There are, as the saying goes, Communists in those hills, and even much closer. But Phnom Penh now seems less changed by the war that it did two months ago. The ugly anti-Vietnamese posters have come down, the people are less nervous. The Cambodians are replacing the sandbags around the public buildings with smart little guard posts. The evening promises good food, oblivion if you want it, or sex.

After dinner and dancing, the choices are varied: Madame Chum's for opium smoked with friends under a blue light, or pot on the hotel balcony. Some, after a day of war, still want sensation, not numbness. At every corner, the ladies of the night sit in wait. They can ambush you, especially if there are five or six of them and the street ends in a barbed wire barricade. "It was easier just to give in," confessed one European the next morning. And then, if you resist the temptation too well, the cyclo boys will gossip. They are the crows of Phnom Penh. Speaking broken French and English, they hop from the Royale to the Monorom to the Ministry of Information to the briefing to the P. T. T. to Madam Chum's to La Taverne and La Venise. From them you can learn: the sex habits of the last Ambassador of———, the latest black market rate, the name of the chief of Secret Police, what the explosion last night on the other side of town was, that in Phnom Penh one has no secrets, except important ones.

The Street names: some of them have been changed. The Boulevard Norodom Sihanouk is the Boulevard 18 March 1970, the day the Prince was ousted. The Boulevard Mao Tse Tung has become the Avenue de la Liberte. The Cambodian government wanted to rechristen it Nixon Avenue, in thanks for the April 30 invasion, but the low profile prevailed.

The Vietnamese quarter is now filled with Cambodians who have taken over Vietnamese property. There were 250,000 Vietnamese, 250,000 Chinese and only 150,000 Cambodians in Phnom Penh before. Now there are few Vietnamese, except those in prisons and in the camps.

If, for Cambodians dissatisfied with the village, Phnom Penh is a way up, for some foreigners it is simply a way out. Near the insects in the central market, one can buy lotus seeds. Cities, in a way, can be judged by the type of expatriates they attract. Until the war began, Phnom Penh was home for nearly a score of simpering, scraping Europeans, mostly Europeans, who made a living in activities ranging from playing badminton with Prince Sihanouk to smuggling. Most were well known for their kinky sex habits. Swiss bank accounts and an uncanny ability to shift with the prevailing political wind. The most clever have survived, and still work for the government, the rest have taken their sports cars and Swiss bank books and disappeared.

On March 17, 1970, a Western ambassador who had been in Phnom Penh too long, and fallen prey to all its insidious, comfortable, gentle little corruptions looked out of his office window at the immaculate boulevard below. "Things will never change here." he said. "The place is charmed." It can bewitch one, even when the war is 10 kilometers away. One can leave dead children on the ground and half an hour later be eating osso bucco at La Venise where the talk is all about money, France and who is sleeping with whom and find it rather exciting.

Then, reality intrudes, once in a while. It was somehow incredibly more shocking, a few weeks ago, to see a little Chinese girl crushed under the wheels of a car on the gardened Avenue Norodom than to see half a dozen children dead at Takeo. It was so incongruous.

The jungle of war and the jungle of mildew and rotting woods and damp river banks is all around Phnom Penh, pushed back a little every day by the South Vietnamese gunships and American bombers and gallons of yellow water paint and herds of young boys and girls sweeping the streets. The jungle encroaches during the night, and then gets pushed back, like a cuticle, the next morning.

The insects and the dampness and war in the end conquer everything in Cambodia. The Americans are coming, going, everywhere. They have little offices in the Cambodian ministries, and Army officers in civilian clothes wander through the Ministry of Defense. They fill one or two of the recommended restaurants, the only ones wearing short sleeve shirts.

The trains no longer pull out from Phnom Penh station for Battambang and Sihanoukville. There is no place now to go for weekends. The city is isolated in its charm and sophistication.

The isolation, geographically, is new. But Phnom Penh, designed by Frenchmen, built by Vietnamese artisans, operated for a profit by Chinese businessmen, governed by a few Cambodian civil servants, its eyes always more firmly fixed on Paris, Saigon or Peking than on the surrounding provinces from which it draws its wealth, has always been a place apart from those surrounding provinces.

These people, the Phnom Penhoise, are not the stolid, toiling peasants who are the Cambodian nation. Rather, they are animated, rather lazy, dissatisfied. They hated Sihanouk for what he could not give them. They were the core of support for the new government: restless students, low-paid civil servants, the urban underemployed. Now they remain the government's chief source of support, and of potential opposition. But war, if it has ravaged the countryside and left Phnom Penh to gaze more than ever inward on itself, has given the town dwellers a sense of participation. The youths affect guns and fatigues, the students drill, the big merchants give small donations to the Red Cross. In many ways, it is their war, declared out of boredom last March in front of the Vietnamese Communist Embassies.

And for this reason there could be the core of a class war in Cambodia if the Communists were clever enough and nationalism did not intervene: but not the war of capitalist against proletariat, the war of the towns against the countryside.

ARTICLES BY RICHARD WILSON AND SMITH HEMPSTONE

Mr. SCOTT. Mr. President, a recent edition of the Washington Evening Star contains two excellent articles, one by Richard Wilson and one by Smith Hempstone. I ask unanimous consent to have both articles printed in the RECORD.

There being no objection, the articles

were ordered to be printed in the RECORD, as follows:

THAT GREAT GENERATION NEVER WAS LOST

(By Smith Hempstone)

We are, we are told by teen-age philosophers and their sycophants, privileged to be in the presence of a great generation. And, of course, they are right.

We have only to look about to see the faces of that generation which truly can be called great. But you will not find its members on the campuses or among the street people or in narcotics-sustained rural communes. You will find them putting the finishing touches to their careers, bouncing their grandchildren on their knees or—the unlucky ones—incarcerated in old folks' homes by a society which scorns its aged.

One of the characteristics which has distinguished man from other animals long extinct is his capacity to adapt to change. It is this genius which has given him dominion over all the earth and its waters, and thrust his questing spirit to the fringes of outer space.

No generation has shown a greater willingness and capacity to adapt to change, channeling man's exploding knowledge into the conquest of new horizons, than those men and women born in the waning years of the last century and in the first decade of the present century.

These tough-minded Americans fought a grisly world war, kept their balance through the heady years of the 1920s and endured a grinding depression. They knew what it was to be hungry and cold and—because they knew—vowed that it would never happen to their children or their children's children. And it didn't.

When that peace for which so many had died collapsed in the face of a twisted tyranny, they didn't cringe: They went out and, at the cost of much blood and tears, kicked the stuffings out of Mr. Adolf Hitler. And when that nightmare ended, they had the compassion to expend billions of dollars to help their former enemies reconstruct their lands and their lives.

Buffeted by an ideological hurricane, they spurned the easy solutions of fascism on the one hand and communism on the other, believing that, for all its distortions and inequities, democracy remained the one road which free men could travel to a just society.

Born into a world where education was the privilege of the few, they made it the right of the many. They fostered that responsible unionism which has given those who work with their hands a place in our economic sun without parallel in human history, reducing the working day by a third while doubling per capita output.

In the field of health, they virtually eliminated the epidemics of typhus, diphtheria, smallpox, scarlet fever, measles, mumps, polio and tuberculosis which had ravaged their youth, increasing life expectancy by 50 percent. Meanwhile, venereal disease, which had been virtually stamped out, again has become epidemic; and that can hardly be pinned on septuagenarians.

Socially, they clung to and expanded the American dream of an open society which gauges a man's worth by his individual qualities rather than by his accent or antecedents. Inheritors of a legacy of unthinking racism, they moved belatedly, slowly but surely to extend to black Americans whose rights and privileges which are and should be their heritage.

They placed books, music, telephones, radio, television and automobiles, things which—when properly used—enrich the lives of men, within the reach of all. They gave unstintingly to their children and grandchildren, making the present generation of Americans the tallest, healthiest and perhaps the brightest—if not the wisest—in this nation's history.

Having split the atom, they put it to work for the good of mankind, preserving in tumultuous times that fragile nuclear peace upon which the life of the world depends.

Because they were neither angels nor prophets, they made mistakes. They left some tasks unfinished. They began others which might better have been left undone. But in the main, they intended well and they did well, leaving this country and the world better places than they had found them.

If the tantrum tots of today succeed in channeling their inner chaos to construct a more perfect union, they will be building upon the foundation laid by a generation, mistakenly called lost by Gertrude Stein, which never copped out, never stopped trying, never gave up believing.

CRIES OF REPRESSION REFLECT INVERTED LOGIC

(By Richard Wilson)

Repression has now become the favored word for all efforts to restore discipline in a disordered society. Look through the writings of the new and old left, listen to the college presidents and professors, harken to the students and hear the ugly word repression ringing down the centuries as the cruel weapon of the oppressors.

It is repression if a college president calls in the police to restore order when the criminal laws are violated by rioters whose only visible purpose is to disrupt the educational process.

It is repression if Congress passes a law, and the Preident signs it, to hold in jail those deemed by careful judicial process to be imminently likely to commit another crime if released on bail because they have done so before.

It is repression when a vice president speaks out openly expressing the convictions of many millions that the practices of the news media overemphasize and glamorize dissent and disorder.

It is repression when the President of the United States refuses to be swayed by the advice of college presidents that he let student opinion control his policies.

All is repression, in fact, if it is a rejection of the nonnegotiable demands that the nation be reorganized forthwith on the lines desired by the residual legatees of the affluent society who toil not but dislike their prospective inheritance.

The latest gambit is that it is probably true that repression does not exist as an instrument of Washington's policy, but because some of the students and some of the blacks think it exists, their belief is a reality which must be dealt with. Reality or pretense?

A certain number of blacks not long ago pretended to believe that the government of the United States was preparing unused military installations as concentration camps in a studied program to wipe out the Negro race in America.

A distressingly large number of students and professors have "believed" the pretense that the Nixon administration, and particuarly Vice President Agnew, were studying a scheme to call off the 1972 presidential election, presumably for the purpose of converting the country into a dictatorship under Nixon.

The pretense is believed that Nixon, in spite of a civil rights record which in another presidency would have been regarded as activist, is anti-Negro. The record is simply ignored by indulging in polemics on the Nixon-Thurmond political relationship which is, in fact, resulting in the irreversible desegregation of the public school system in the South.

So far as the campuses are concerned, Nixon's policy is the opposite of repression. What he has been trying to get across for the past two years is that the responsibility lies with the university administrations and he will not intervene with the power of the federal government.

It is true that Nixon is attempting to repress crime and, along with a large majority of Congress, has implemented measures which may prove impractical. The nation will find out if they are impractical by the way they are administered in a tryout in one of the major crime areas of the country, the District of Columbia.

Alexander Heard, chancellor of Vanderbilt University, and President James E. Cheek of Howard University apparently wish policy to be based in considerable part on the pretense that repression does exist as an instrument of national policy.

This essentially insincere attitude can be compared to asking a parent to pay attention to the teary remonstrances of a child who feels repressed on being ordered to bed. The way he feels about it is the reality not his need for sleep.

Much of this kind of inverted logic runs through the Heard-Cheek report on campus unrest, but much more in their hurt response to Nixon's rejoinder that they have placed the blame in the wrong place.

The federal government is not running the colleges and universities, and that is a good thing. Messrs. Heard and Cheek are not meeting with much success in their effort to pass their troubles on to Washington. But it is not surprising they tried to do so. Everyone else does.

RESOLUTIONS BY ASSOCIATION FOR EDUCATION IN JOURNALISM

Mr. FULBRIGHT. Mr. President, the Association for Education in Journalism recently held its 53d annual convention at the American University. The AEJ is the major organization of professors and others involved in the teaching of journalism.

Two of the resolutions adopted by the AEJ at this meeting are, I think, of particular interest and significance and I would like to call them to the attention of the Senate and the public.

One resolution, referring to "the current spate of repressive language against the American press," condemns "in the strongest possible terms the infringements on those media freedoms being pursued under the leadership of President Nixon and Vice President AGNEW."

A second resolution condemned the administration for distorting information about the war in Indochina; for attempts to suppress responsible discussion of war in news media; for building secret files on war reporters; and for employing spies impersonating newsmen.

Mr. President, I ask unanimous consent that the text of the resolution on press freedom and an article on the AEJ convention which appeared in Editor and Publisher magazine, August 22, be printed in the RECORD.

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

RESOLUTION ADOPTED BY AEJ

The text of the resolution adopted by the Association for Education in Journalism:

"Whereas the current spate of repressive language against the American Press, led by Vice President Spiro Agnew, constitutes in its intimidation and harassment a direct attack on the freedoms assured under the First Amendment—freedoms of speech, press, petition, and assembly; and,

"Whereas the present wave of repression is formidable for its sources among high officials, and for its pervasiveness at national, state and local levels and across the executive, judicial, and legislative branches; and,

"Whereas similar periods of repression in American history—such as the 1793 Alien and Sedition Law, the abolitionist period, the

years during and just after World War I, and the McCarthy era—can be recalled with general disgust and profound national embarrassment; then be it therefore

"Resolved, that the Association for Education in Journalism reaffirms its faith in the freedoms guaranteed by the First Amendment and it condemns in the strongest possible terms the infringements on those media freedoms being pusued under the leadership of President Nixon and Vice President Agnew."

PRESS INTIMIDATION CONDEMNED: TEACHERS REPRIMAND NIXON AND AGNEW FOR HARASSMENT

Several hundred of the nation's journalism teachers sent President Nixon and Vice President Agnew to the principal's office this week to be reprimanded for bullying the news media.

A formal resolution adopted by the members of the Association for Education in Journalism, in annual meeting in Washington, condemned "in the strongest possible terms" the infringements on First Amendment freedom "being pursued under the leadership" of the White House.

Deploring the spate of repressive language directed at the American press, amounting to intimidation, the educators likened it to the periods of the Alien and Sedition laws in the early days of the republic and the McCarthy era of the 1950s.

The original text of the resolution named only the Vice President but an amendment adding the President to the condemnation carried by an overwhelming voice vote.

WAR NEWS DISTORTED

A second resolution condemned the Administration for distorting information about the war in Indochina; for attempts to suppress responsible discussion of the war in news media; for building secret files on war reporters; and for employing spies impersonating newsmen.

AEJ urged its members to promote discussion and investigation among students in respect to the consequences of the repressive practices on American society.

If they didn't already know it from doing their homework, journalism teachers learned in Washington that there is a wide difference of opinion among members of the press on whether the news media are fulfilling their primary responsibilities to the public.

Much of the time at the 53rd annual AEJ convention at the American University—the first time the group has ever met in the nation's capital—was given to discussion of the criticism of journalism.

TWO SIDES TO CRITICISM

The professors heard Ben Bagdikian, national editor of the *Washington Post* and a well-known "conscience" of the press, call for a more definite policy of allowing editors to select the news, regardless of pressures from radical demonstrators and creators of "pseudo events."

Then Norman E. Isaacs, past president of the American Society of Newspaper Editors, disagreed with Bagdikian's premise and advocated establishment of a press council here similar to the one that keeps tabs on journalistic shortcomings and outrages in Great Britain.

Despite present opposition, Isaacs said, "we may have the beginning of such an institution within four to five years." He has found support for it among many editors and some publishers, but he admitted the creation of a press council may be difficult because of the reluctance of people of stature to assume the task. Isaacs said he had encountered this problem in initiating the idea in Louisville where he has been executive editor of the *Courier Journal* and *Louisville Times* and has conducted a daily "beg your pardon" department where corrections are made promptly, as well as an ombudsman service to handle readers' gripes.

"The Nixon Administration and the Media—Professional Perspectives" was the title of a general session where the teachers became aware quickly that there are two sides to the story of whether the criticism directed at the press is justified.

Some speakers from the press maintained that the Administration had effectively intimidated the news media; others held that the attacks by Vice President Agnew and remarks by President Nixon and some of his intimate advisors were "right on target."

FOREIGN POLICY BRIEFING

The association's gathering began Sunday with 500 attending a State Department reception where a huge "off the record" sign hung overhead. On Wednesday evening the delegates went to the White House for a reception, little more than 24 hours after the President had paid a call on the editors of the *New York News* in New York City in another of his planned visits to news media offices. Herbert Klein, director of communications, greeted about 800 AEJ members and guests in the President's name. He said he was unable to be there.

ERRONEOUS IMPRESSION

Michael Collins, the astronaut who is assistant secretary for affairs, greeted the teachers at the State Department. In his remarks he said there is an erroneous impression abroad of the department being remote, "as if it is a space capsule on the other side of the moon."

The State Department, Collins corrected, is always open to new lines of communication with the public.

Dr. Ray Cline, director of the bureau of intelligence and research, briefed the visitors on the Administration's foreign policy. He said he favored the issuance of visas to journalists to go to North Vietnam, Red China and Albania.

The reporting in the American press, he said, constitutes one of the major sources of information for the State Department.

Asked for his personal opinion on the use of the Attorney General's guidelines for subpoenaing newsmen to obtain information, Cline replied: "I would rather take a reporter to lunch than subpoena his notes, which nobody could read anyway."

In a reminiscent introduction to his formal talk, George Reedy, a White House press secretary in the early days of the Johnson Administration, said he believes that reporting is more accurate and more informative today than in pretelevision days.

A "DELIBERATE" EFFORT

Les Moeller, Iowa University, chaired the panel session where Senator George McGovern of South Dakota, smarting from Vice President Agnew's most recent blast at the Hatfield-McGovern resolution to compel withdrawal of U.S. forces from Indochina, levelled the charge that the Administration has made a "deliberate effort to harass and intimidate the press."

"The President himself," McGovern asserted, "has joined in the attack on the press and on the intelligence of the American public." The Nixon people, he went on, have created a climate of fear, designed to intimidate the media and this is a serious threat to a free society.

The Senator cited Agnew's remark: "To penetrate the cacophony of seditious drivel emanating from the best publicized clowns in our society and their fans in the Fourth Estate, yet, my friends, to penetrate that drivel, we need a cry of alarm, not a whisper."

Then McGovern said, the President claimed that the press, as he saw in Los Angeles, "glorified a man who was guilty, directly or indirectly, of eight murders without reason."

Attorney General Mitchell's announcement he personally will decide on subpoenas to be issued for reporters' notes and unused film and tapes is still another assault against freedom of the press, McGovern declared.

"Part of the Administration attack on the media," the Senator continued, "has been cloaked in criticism of too much concentration of ownership of newspapers and television stations. Those news institutions which have been singled out are those which editorially have been critical of the Administration. Far bigger news conglomerates, which often support the Administration, are exempt from trust-busting."

"ADMITTEDLY ON TARGET"

The Senator's address was followed by a panel moderated by Marquis Childs, *St. Louis Post-Dispatch* columnist, said there is an air of depression in some parts of the country because the news is so horrendous." Many people are so alarmed that they simply do not want to hear these reports and Agnew has contributed to it, he said.

William Eaton, *Chicago Daily News*, said he disagreed that "there is a climate of fear among the press." The Administration's remarks about the press are nothing new, since governments have always made charges of that nature.

James Jackson Kilpatrick, columnist, characterized all the supposed intimidation of the press are pure "humbug." On the contrary, he added, more journalists are trying to demonstrate their independence. In fact, Agnew's remarks were "admirably on target," Kilpatrick said.

James McCartney, Knight Newspapers, asserted that Agnew has created an air of suspicion that greatly worries me," and added: "I would not hesitate to use the phrase incipient fascism."

McCartney also described the difficulties reporters encounter in getting information on military operations and other matters which so frequently are "classified."

CONTACTS WITH EDITORS

Robert Phelps, *New York Times*, said he did not feel newsmen had been intimidated by Agnew's remarks. He described how the Administration is trying to bypass the Washington press corps by sending copies of Presidential speeches to local editors and by developing other contacts, whereas most Presidential press conferences are "very formal."

Jules Witcover, *Los Angeles Times*, said the public had not recognized the scope and effectiveness of Herbert Klein's operations in sending "briefing teams" around the country and in cultivating other ways in order to maintain direct contacts with editors. Agnew, he added, has tended to divide the press into "good guys and bad guys" and in this there is "a danger of creating civil war among the members of the press."

NICHOLAS VON HOFFMAN ON THE SENATE

Mr. PERCY. Mr. President, this morning's Washington Post contains a column of commentary by Mr. Nicholas von Hoffman in which he states that if the Republicans should capture the Senate this fall, the Senate would be turned into "a docile nullity" and that coal miners, welfare mothers, sick people, grocery shopping housewives, Mexican stoop laborers, automobile drivers, and many other kinds of people will lose "the only effective protection they could get at the Federal level." He appears to take delight in referring to one Republican as a "dear, somewhat lost man" and to others as "mediocrities." He goes on to extoll the virtues of Democratic commit-

tee chairmen and subcommittee chairmen.

I find this somewhat amusing and ironical as for years one of Mr. Von Hoffman's prime targets has been the ineffectiveness and blind obeisance of the Senate. Perhaps Mr. Von Hoffman has forgotten that since 1954 the Senate has been controlled by Democrats. One would think by reading his column that the world has been in great shape since 1954 and that the Senate has been the shining light of faith, hope, and freedom in the Western World. Where, oh where, are the columns of yesteryear?

Mr. President, another column has been written in a different publication in May of this year. In May 1970, the Ripon Forum wrote an article comparing present Senate committee chairmanships with what would be the case if the Republicans took control this November. The article concludes that on balance, "the Senate would be led by more progressives than at present if the Republicans are in control." Using its own rating system, the Ripon Forum finds that present committee chairmen obtain an average score of 38; their GOP counterparts receive an average of 48. It contains at least one error, as Senator SCOTT would become chairman of the Committee on Rules and Administration; and we hope for Senator MUNDT's recovery. Mr. Von Hoffman omits mentioning that Senator JAVITS may become chairman of the so-called Hunger Committee.

Mr. President, I ask unanimous consent that the Ripon Forum article be printed in the RECORD.

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

FOR A GOP SENATE

When Senator Harry Byrd Jr. of Virginia left the Democratic Party a few weeks ago, he said that the reason he was not joining the Republicans was that they were too liberal for him. If the Ripon ratings (FORUM, March, 1970) are any indication, leadership of the Senate will pass into more liberal hands if the Republicans win control in November.

Given the Senators who are retiring, as well as probable preferences of those faced with the choice of more than one chairmanship, present Democratic and potential Republican committee chairmen, with their Ripon ratings, are:

Committee	Present chairman	Republican potential
Aeronautics and Space.	Anderson (56)	Curtis (31).
Agriculture	Ellender (31)	Miller (48).
*Appropriations	Russell (22)	Young [N.D.] (29).
*Armed Services	Stennis (15)	Smith [Maine] (41).
Banking and Currency	Sparkman (24)	Tower (29).
Commerce	Magnuson (55)	Cotton (25).
District of Columbia	Tydings (76)	Prouty (50).
*Finance	Long (32)	Bennett (41).
*Foreign Relations	Fulbright (60)	Aiken (82).
Govt. Operations	McClellan (7)	Percy (86).
Interior	Jackson (55)	Allott (31).
*Judiciary	Eastland (9)	Hruska (28).
*Labor and Welfare	Yarborough (58)	Javits (85).
Post Office	McGee (48)	Fong (42).
Public Works	Randolph (45)	Cooper (95).
Rules and Administration.	Jordan [N.C.] (15)	Thurmond (21).

In the Ripon ratings, present committee chairmen obtain an average score of 38; their GOP counterparts receive an average of 48.

As for the top six committees (asterisked), Democrats average 33, Republicans 51. The ADA also rates the six Republicans higher than their Democratic counterparts; the ACA and AFL–CIO rate the Republicans lower.

Therefore a credible argument can be made that on balance, the Senate would be led by more progressives than at present if the Republicans are in control. This gives progressive Republicans all the more reason to concentrate on delivering a GOP majority in the Senate this year.

Mr. PERCY. Mr. President, Von Hoffman states at one point that "unhappily we have to survive the worse to arrive at the better." I agree, only in a different context than he is driving at. I think we will arrive at the better if the Republicans take control of the Senate this fall. In the spirit of fair competition that is the essence of the two-party system, I shall be working with my Republican colleagues this fall if we ever adjourn, to bring about an increase of seven Republican Members in the Senate.

A NEW KIND OF MURDEROUS VIOLENCE

Mr. ALLOTT. Mr. President, this summer is drawing to an end.

It is a measure of the disagreeable nature of the times that we end every summer by trying to decide how terrible the summer has been in terms of violence and disorders. And it is some measure of how bad the times are that many people seem to feel that this has been a "good" summer—relatively speaking.

One frequently hears it said these days that the summer of 1970 has been a "good" summer because there have not been large-scale urban riots. And, of course, the universities have been on vacation, so another source of violent disorder has been relatively quiet.

Mr. President, I think this judgment involves a serious misreading of the nature of the summer that is ending. The fact of the matter is that this has been a summer featuring a new kind of murderous violence.

Mr. President, Columnists Rowland Evans and Robert Novak have discussed this matter with customary clarity, and with proper urgency, in their column in Thursday's edition of the Washington Post. So that all Senators may ponder their important column, I ask unanimous consent that it be printed in the RECORD.

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

THE TERRIBLE SUMMER OF 1970

The two most notable victims of recent racial violence, an Omaha policeman and a Houston black militant, typify the alarming increase in organized urban guerrilla warfare—often directly connected to the Black Panther Party.

Both the Omaha dynamiting and the Houston shootout can be traced to local revolutionary organizations intimately connected with the Black Panthers. Taken together, they help dispel two widely held notions: First, the feeling by liberals that the Panthers, though unpleasant, are not really much to worry about; second, the comforting impression held by politicians generally that we have made it through most of the summer without racial trouble.

In truth, the absence of any Watts-style mass riot has masked the fact that this has been the terrible summer of '70. Instead of headline-producing rioting, the pattern of black militancy has changed to ever better organized urban guerrilla warfare deeply influenced by Black Panther philosophy. Law enforcement experts believe that this year has moved the U.S. far down the road toward white counterguerrilla action and virtual civil war.

For instance, the killing of the Omaha police officer Aug. 17 by a dynamite booby trap was no solitary event but intertwined with Black Panther activity. David L. Rice, charged with conspiracy to commit murder, is a leader of Omaha's National Committee to Combat Fascism—which until a year ago was an official Black Panther chapter.

Moreover, the Aug. 17 tragedy in Omaha was the eighth dynamite bombing in Omaha, Des Moines and Ames, Iowa, since the theft of dynamite from a Des Moines supply company May 5.

Black Panther fingerprints are similarly all over the killing by police of black militant Carl Hampton in Houston July 26. People's Party II founded in Houston by Hampton, aped the Black Panther Party in its ten-point program, its rules, and its adherence to Mao Tsetung's teachings.

Following Black Panther dogma, Hampton stockpiled arms at People's Party II headquarters and directed that "all party members must learn to use and service weapons correctly."

These are not isolated incidents. Black Panther propaganda glorifying the killing of police abounds in Negro ghettoes. Furthermore, authorities believe the Panthers are conveying expert guerrilla instruction from Communist Cuba—including an English-language version of an urban guerrilla manual printed in Cuba which has been circulated throughout Negro neighborhoods (including high schools).

The Cuban manual contains detailed instructions for city street fighting, bomb construction, hijacking airplanes, and—with special recommendation—kidnaping public officials. Only by killing police and other instruments of "repression," it advises, can the terrorist maintain his identity.

Still more ominous are specific blueprints charted by local black guerrilla bands. Earlier this year, Detroit police uncovered plans for recurrent ambush assassinations of police intended to trigger race riots. The document detailed how police could be lured into secluded ghetto areas to be cut down by high-powered sniper rifles—precisely the fate of two Detroit policemen before the document was captured.

The epidemic is worsening. Unlike the centrally directed Communist Party underground, black guerrillas are decentralized and difficult to infiltrate. The hard fact is that police are losing the fight to control them. The terrible summer of 1970 may be followed by escalated black guerrilla war year-around with frightful consequences that nobody today can dare guess.

BLACK PANTHER THREAT

Mr. DOLE. Mr. President, recent killings of a judge near San Francisco, policemen in Omaha and Detroit, and a Houston black militant indicate the serious threat which extremist groups pose to the orderly process of our governmental system.

The summer of 1970 has not witnessed mass rioting, rather the more terrifying specter of organized urban guerrilla warfare. This tactic is basic to the philosophy of the Black Panthers and other revolutionary groups, as evidenced in their teachings and police discoveries of caches of weapons and blueprints for more assassinations.

Mr. President, blind and naive support of organizations like the Black Panther party has become fashionable in some circles today. I would hope that these killings will alert Americans to the very real danger which extremist groups and their revolutionary spokesmen pose to our society.

A column written by Rowland Evans and Robert Novak and published in the Washington Post of August 27, 1970, and an editorial published in the Chicago Tribune of August 17, 1970, draw attention to this threat. I ask unanimous consent that these items be printed in the RECORD.

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

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The epidemic is worsening. Unlike the centrally directed Communist Party underground, black guerrillas are decentralized and difficult to infiltrate. The hard fact is that police are losing the fight to control them. The terrible summer of 1970 may be followed by escalated black guerrilla war year-around with frightful consequences that nobody today can dare guess.

INNOCENT COMMUNISTS AND PANTHERS

The district attorney at San Francisco has confirmed that two guns used recently by three black convicts who fatally shot Judge Harold Haley in an attempt to escape from a courtroom in San Rafael were purchased by Angela Davis. She is a self-proclaimed Communist who has been fired from her teaching job at the University of California at Los Angeles.

The weapons, a carbine and semi-automatic pistol, were smuggled into the courtroom by Jonathan Jackson, 17, who was killed along with a convict defendant and a convict witness. Jackson was Miss Davis' companion-bodyguard and accompanied her when she sought to interview one of Judge Haley's killers and two other San Quentin convicts accused of murdering a prison guard. Her public comments on the accused convicts represented them as martyrs.

Huey P. Newton, a cofounder of the Black Panther Party and its "defense minister," hailed the killers of Judge Haley as "true revolutionaries" and said that young Jackson "would have been my successor" had he not died. Newton was released from prison on bail only a week ago, after the California Supreme Court upheld the reversal of his conviction of shooting an Oakland policeman.

Miss Davis, a philosophy instructor, was dismissed by U.C.L.A.'s board of regents for "extramural activities"—i.e., after-hours Communism. She was supported in her efforts to retain her university post by "liberals" who think that Communists are harmless and that it was unthinkable that she would infect students wtih her radicalism.

The Panthers also have become fashionable with those who toy with radicalism. Most of the Yale student body shut down the university with demonstrations in support of Panthers on trial in New Haven for the murder of a party member they considered to be an informer. The Leonard Bernsteins invited a group of Panthers to their Park Avenue apartment to mix with society's upper crust.

We think that black Communist lady professors who supply guns for murder and Panthers who smuggle them into court or acclaim killings in cold blood are hardly innocents, but these murderous activities don't seem to register wtih those who compose their fan club.

THE ATOM: ITS DANGEROUS AFTERMATH: PART VII—CONVENTIONAL FUELS, THE COMING POWER CRISIS, AND THE ATOM

Mr. CHURCH. Mr. President, in a four-part series entitled "Electricity for the Future," published in the Washington Post, staff writers Morton Mintz, Robert K. Warner, Thomas O'Toole, and John Hanrahan discuss in depth the centralization of control over critical fuel sources in our Nation; our Nation's coming power crisis; and the promise and perils of the atom in meeting our Nation's burgeoning electrical energy needs in the decades ahead.

These gentlemen point out shocking facts which Congress would do well to heed. In the first article, Mr. Mintz and Mr. Warner point out that:

At least 18 oil companies have invested in producing and processing uranium; one key step is entirely controlled by two oil firms. Although the petroleum industry now accounts for only one-sixth of uranium production, it holds 45 percent of all known uranium reserves and makes more than one half the new discoveries.

All of the 25 largest oil companies have natural gas interests, which may be inevitable since gas is usually found with petroleum. At least 11 of the 25 have significant interests in coal as well: The two largest owners of coal reserves are both oil companies, and the petroleum industry as a whole accounts for at least 25 per cent of the nation's coal production.

Six of the ten largest oil companies have interests in every other fuel.

This concentration is occurring at a time when demand for electricity is expected to increase by 50 percent in the next 5 years. One need not have a vivid imagination to realize the consequences to our Nation in the years ahead when this demand is coupled with the fact that ownership of the sources to fulfill it is centralized in the hands of a few corporate giants.

In the second of the series, Thomas O'Toole examines the movement of utility companies toward the use of the atom as a source of energy in the production of electrical power. The rising cost of conventional fuels has made atomic fuel a more attractive commodity. The projected growth curve for atomically produced electrical energy suggested by O'Toole is phenomenal, indicating atomic power will have 20 percent of U.S. markets by 1980, 75 percent by 1990, and 90 percent by the year 2000. The article also discusses the special problems associated with nuclear plant development and concludes with a quote from AEC Commissioner Milton Shaw that "atomic power is the only answer" to meet our increasing electrical power demands.

In the third of the series, O'Toole examines pollution problems associated with atomic plants. Thermal pollution caused by the huge amounts of water necessary to cool a nuclear plant, accident hazard, effluent discharges, and finding a final resting place for radioactive waste materials produced by the plants. When we combine the huge growth curve projected for the role of atomic power with the questions we face with regard to pollution problems, it becomes obvious that more research is needed to make nuclear plants as compatible with our environment as is humanly possible. We cannot afford to make the same mistakes with pollution from atomic fuels that we made with conventional fuels. Atomic power is, after all, an infant science. There is still much we do not understand. Ongoing research in the field of atomic safety is essential

and I, for one, intend to support such programs.

In the final article of the series, John Hanrahan presents a case study of the construction of one atomic plant at Calvert Cliffs, Md.

Mr. President, my brief summary of these four articles cannot possibly cover the wealth of information which they contain. I commend them to the attention of Senators and ask unanimous consent that they be printed in the RECORD.

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

ELECTRICITY FOR THE FUTURE—I: BIG OIL COMPANIES ACQUIRE GRIP ON COMPETING FUELS

(By Morton Mintz and Robert K. Warner)

Since 1965 the nation's largest oil company has become one of the two largest holders of coal reserves. The same corporation, Standard Oil of New Jersey, has also become a principal operator in the newest competitor to coal and oil—uranium, the source of nuclear power.

In the last five years, most of the country's major oil companies have acquired significant holdings in every fuel, a trend that could end effective competition between oil, gas, coal and uranium and result in large increases in the future cost of electricity.

The trend is especially ominous in the uranium industry because nuclear fuel is expected to produce more than half of all electricity by about 1990.

Sen. George D. Aiken (R-Vt.) says:

"There is some group determined to get control of electrical energy in this nation."

At least 18 oil companies have invested in producing and processing uranium; one key step is entirely controlled by two oil firms. Although the petroleum industry now accounts for only one-sixth of uranium production, it holds 45 per cent of all known uranium reserves and makes more than half the new discoveries.

All of the 25 largest oil companies have natural gas interests, which may be inevitable since gas is usually found with petroleum. At least 11 of the 25 have significant interests in coal as well: The two largest owners of coal reserves are both oil companies, and the petroleum industry as a whole accounts for at least 25 per cent of the nation's coal production.

Six of the ten largest oil companies have interests in every other fuel.

The Justice Department's deputy assistant attorney general for antitrust warned last May against the growing concentration.

"While few forms of energy supply are not subject to some type of governmental regulation," Walker B. Comegys told the Senate antitrust subcommittee, "we cannot lightly forgo interfuel competition as the most effective long-term force for consumer protection in the energy field."

National Economic Research Association (NERA), a private consulting firm, compiled data for the Senate antitrust subcommittee showing the penetration of the 25 largest oil companies into other fuel industries.

Nine of the oil companies, some of them already corporate giants, had interests in all the other fuel sources—coal, gas, uranium and shale. They are Standard of New Jersey, second in sales volume among all American industrial corporations; Texaco, eighth in sales; Gulf, tenth; Shell, 16th; Atlantic Richfield, 29th; Continental, 35th; Sun, 47th; Standard of Ohio, 97th; and Ashland, 101st. Not only are such firms buying competitive fuels, but because of their size they are in a strong position to outbid other kinds of industries that wish to venture into the energy field.

"The acquisitions by the oil companies across the energy market spectrum . . . may be viewed as classic horizontal integration on a scale comparable to the formation of the trusts in the latter decades of the nineteenth century," NERA said.

"In short, the oil companies, themselves portraying their activities as efforts at diversification, are in fact systematically acquiring their competition."

This economic concentration is occurring at a time when the Country is entering an era of unprecedented demand for electric power and growing difficulty in satisfying the demand.

Over the next five years, the national demand for electricity is expected to increase by at least nine per cent annually, or more than a 50 per cent increase by 1975. In the 10 Northeastern states and Maryland, power needs are expected to grow even more rapidly.

Should these increases continue beyond 1975, and the Federal Power Commission believes they will the Nation's utilities must more than quadruple their power capacity in the next 20 years.

Opponents of the oil industry's involvement in other fuels say that the increased demand for electricity will give the petroleum industry a strange hold on utilities and on their corporations that depend on energy.

The oil industry has always dominated natural gas, but its penetration of other competing fuels was thin until the mid-1960s.

In September, 1963 Gulf Oil acquired Pittsburgh and Midway, a coal company that accounts for about 2 per cent of national production.

Then, on Oct. 13, 1965 Continental Oil Co. announced a break through: An agreement in principle to buy Consolidation Coal, the largest producer, which alone accounts for about 12 per cent of total coal production.

The Justice Department did not challenge this first giant step by the oil industry into the territory of a rival fuel. The merger was formally completed in October, 1966.

Other acquisitions followed. In January 1968 Occidental Petroleum acquired Island Creek, the third-ranked coal producer, with about 7 per cent of annual output. In August 1968 Standard Oil of Ohio acquired Old Ben, for another two per cent. Today, eight of the ten largest coal companies are owned by oil, mineral or large industrial concerns with interests in the energy field.

In addition, oil companies such as Humble, Jersey Standard's major domestic affiliate, have been spending millions of dollars each year to acquire thousands of acres of coal reserves which they do not mine despite the fact that utilities have been complaining of a serious coal shortage.

The oil companies say that current prices do not provide enough incentive for them to produce coal, and that their coal reserves are long-range investments for the time when they are forced by dwindling oil supplies to artificially convert coal into natural gas and oil.

Oil opponents say that petroleum companies are creating an artificial shortage of coal that will lead simply to higher prices.

The same acquisition trend exists in the nuclear fuel industry. Until 1966, only two oil companies were significant uranium producers. But in 1968, oil companies did 44 per cent of the drilling for uranium exploration and development. In 1969, they did 37 per cent.

S. David Freeman, of the White House Office of Science and Technology, told the Senate antitrust subcommittee last May that as of Jan. 1, 1970, petroleum companies controlled 45 per cent of the known uranium reserves.

NERA described the position of oil companies in the uranium industry as "truly dominant."

Kerr-McGee, an oil company, owns 23 per cent of total uranium milling capacity directly and another 4 per cent through a half-ownership. This capacity exceeds that of any other firm.

Only two companies are in the business of converting "yellow cake," the uranium concentrate that results from milling, into UF6, a compound used in uranium enrichment. One is Kerr-McGee, which has building plans for half the national capacity. The other is Atlantic Richfield.

In the reprocessing field, which involves taking spent nuclear fuel and preparing it for further use, five plants are in existence or under construction. Oil companies own four of them.

There is one crucial step in atomic power that neither oil companies nor any other private enterprise controls. This is the enrichment of uranium by increasing its content of the fissionable isotope U-235. The complicated process is done only by government plants, at a fixed fee. The Nixon administration wishes to raise this fee by about ten per cent.

Members of the Joint Committee on Atomic Energy are resisting this increase but not because they disagree with the need for a specific price change. They object that the administration plan would be part of a new set of pricing guidelines that would be based not on the actual costs of running the plants, but on projections of 1980 costs of running a hypothetical new plant as "a commercial operation."

The Council of Economic Advisors defends the new guidelines, partly because it wants to make sure that the government is not unfairly subsidizing the uranimum industry at the expense of competing fuels.

A Council staff member said that the real costs of enrichment are obscured by the advantages of using risk-free government money, official bans on imports of foreign uranium and federal support of nuclear research.

A recent report by the General Accounting Office may have settled the issue, however, in saying that the proposed guidelines are of doubtful legality. The Joint Committee has reported out a bill that retains the existing criteria. But even if Congress passes it, the President could veto it, leaving the whole matter unsettled—along with the question of the increase's ultimate impact on the cost of electricity.

Today, an even more basic, long-range issue is unsettled.

At present, a crucial step in converting uranium into usable fuels is accomplished at three gigantic government plants in Oak Ridge, Tenn., Paducah, Ky., and Portsmouth, Ohio.

These gaseous diffusion plants were built by the government for $2.3 billion. The government still owns them, although they are operated by private companies, Union Carbide and Goodyear. As a crucial link in the economic chain that establishes the price of nuclear power, these plants and their product have a profound effect on the competitive sources of electricity—coal, oil and gas.

Originally the plants were built to make material for nuclear bombs and they still do. But defense needs have begun to diminish and demands for the same kinds of materials for peaceful nuclear fuel has begun to increase. This demand for nuclear fuel is still relatively small.

The Federal Power Commission estimates that this year nuclear power will provide only 4 per cent of all electricity. Commission figures show that in 1969, coal generated 49 per cent of electricity; natural gas, 23 per cent; and oil, 9 per cent.

Hydro-electric power accounted for 17 per cent, but it is expected to decrease, since most profitable sites of falling water have already been exploited.

But most authorities agree that we are on the threshold of a rapid expansion of the role of uranium in generation of electricity. While in 1970 nuclear reactors produced only

4 per cent of electricity, by 1980 they are expected to produce 29 per cent, and by 1990 about 52 per cent.

There are clear reasons for the expected rise of nuclear power. The demand for power is rising rapidly, both from an expanding population and the dependence of ever-larger numbers of devices run by electricity. If nuclear power does not contribute substantially to these new demands, then the projected use of electricity will have to be reduced and the price of electricity greatly increased.

Another reason to expect more nuclear electricity is the rapid rise in the last two years of the cost of coal and oil.

Rep. Chet Holifield (D-Calif), chairman of the Joint Committee on Atomic Energy, points out that in 1968, power companies paid 28 cents for the quantity of coal needed to produce one million British Thermal Units (BTUs).

In 1969 they paid 30 cents. But last March they had to pay 35 cents and in April 38 cents. A survey by The Washington Post found that some utilities in non-mining areas are now paying about 40 cents per million BTU's, and they expect the price to climb much higher.

Before year's end, Holifield warns, the price of coal may be 50 per cent higher than in 1968. And the requirements of many areas for low-sulfur coal, because of air pollution, pushes the fuel's price still higher.

Thus, whatever changes the status of nuclear fuels will have an important influence on the competitive position of coal and oil.

In the view of some, government involvement in the nuclear industry represents a dilution of private enterprise and unfair competition for coal and oil.

For others who fear a growing monopoly on fuels, the nuclear plants represent the only major fuel installations beyond the control of the present energy entrepreneurs.

President Nixon has announced that he intends to sell the government enrichment plants to private industry "at such time as various national interests will best be served . . ."

The possibility of selling the plants was suggested long before the Nixon administration took office. Four years ago the Atomic Industrial Forum, a nuclear trade association, appointed a committee to study the future of the plants.

The committee was chaired by Kenneth D. Nichols, an AEC general manager during President Eisenhower's first term who has worked in recent years for Gulf Oil, the Mellon family and other concerns.

The group concluded, in June 1968, "It is desirable and feasible for the AEC to transfer its enrichment plants promptly to the private sector."

One of the committee's seven members was not so sure. William M. Capron, then an economist at the Brookings Institution, attached a footnote to the committee's report, expressing doubt that "if these plants are sold, the private market thereby created would operate in a sufficiently competitive manner so as to adequately protect the public interest."

The efficiency of the three gaseous diffusion plants has never been questioned. They are among the largest industrial operations in the world, with a floor space of 640 acres and energy requirements of their own that in 1964 used 4 per cent of the Nation's electricity. If the plants are doing so well, why does the administration want to sell them?

"Sale of these plants could free federal resources for more pressing national uses," the President said last November. "In addition, $2 billion or more is expected to be needed over the next 10–15 years to expand plant capacity to meet increasing commercial demand."

If nuclear generating plants are built as expected, current enrichment capacity will be adequate only until 1978 or shortly thereafter, when new plants, major additions or new technology become mandatory.

Because new facilities take at least six years to build, new projects will have to be started soon to meet needs at the end of the decade. Some officials, such as Atomic Energy Commissioner James T. Ramey, say the new projects should have begun some time ago.

At this point private enterprise has shown little interest in buying the plants.

For some time, the plants have been operating at only 40 per cent of capacity or less, and even at this low level, they have built up a stockpile of enriched uranium that would last the nation's nuclear generators for some 18 months. A purchaser would have to tie up a huge investment for years before the plants would operate near full capacity.

Yet long before the plants approach capacity it will be necessary to start expanding them to meet future needs—a costly venture but a necessary one if the nation's power demands are to be met.

For the past three years, the AEC has been seeking funds for a $407 million "Cascade Improvement Program" that would increase enrichment capacity by about 25 per cent over a six-year period, at the same time, reduce the average cost of enrichment by about ten per cent.

Until this year, the project has been given low priority by the Bureau of the Budget, leading to charges from Sen. Albert Gore (D-Tenn.), a member of the joint committee, that the administration is trying to weaken the plants to help justify their sale.

"What they want to do is turn our nuclear fuel facilities into a shambles by refusing to make improvements," Gore said. "Then they'll say that private enterprise must be brought in to improve things."

A high Budget Bureau official said that the Bureau of the Budget found it "imprudent to build to capacity on estimates alone." He said, however, that the needs for nuclear power are such that a decision probably should be made on support of the Cascade program for the year beginning next July 1.

Even if implemented, the improvement program will add only enough capacity to meet needs for two more years, by current estimates. By 1980, a new $1 billion diffusion plant will be needed—and a decision on whether to build that plant must come by 1974 to insure operation by 1980.

Several members of the Joint Committee have been looking for alternative ways to cut back on the demands for enrichment in order to avoid making such overwhelming expenditures. Among the possibilities:

Licensing a foreign nation or consortium to build and operate its own enrichment plant. Nearly half the work now done in the three U.S. plants is for foreign countries.

Increasing the efficiency with which nuclear fuel is used. For some years the AEC has been doing research on a "fast breeder reactor" that might create great quantities of plutonium—a valuable nuclear fuel not yet feasible for electricity—while burning U 235.

Developing a new "centrifuge process" for enriching uranium that would end total reliance on the gaseous diffusion plants. The centrifuge would entail much smaller capital costs than the diffusion process.

While the huge size of the three diffusion plants limits potential buyers to the very richest corporations, the centrifuge might be purchased and operated by a number of smaller companies. But it, like the fast breeder reactor, is still far from commercial feasibility.

A bipartisan alliance of legislators, many of them members of the Joint Committee on Atomic Energy, fears that if the plants are sold, only the giant oil companies—fortified by such financial advantages as the depletion allowance and import quotas—will have the resources to buy them.

Committee member George L. Aiken, a Vermont Republican, believes that the proposed sale of the plants is a political favor to the petroleum industry.

"The President probably feels indebted to those who helped elect him," Aiken told The Washington Post.

The economic stakes for consumers are huge. Testifying last year before the Joint Committee, Phillip Sporn, retired president of the American Electric Power Co., the nation's largest utility holding company, estimated that private ownership of the plants would cause an increase of as much as 50 per cent in the total cost of nuclear fuel.

The National Rural Electric Cooperative Association said that by the 1980s, when nuclear fuel may account for more than one-third of generated electricity, such an increase would cost the American public $1 billion a year in higher electric bills, and perhaps more, if the fossil fuels raise their prices to take advantage of the reduced competition from nuclear fuel.

Sen. Aiken said that sale of the plants would be "the most advanced step toward private control of the Nation that has ever occurred.

"When you control energy—and oil interests now control coal and are on their way to controlling nuclear fuel—then you control the Nation," Aiken said. "I see this as a very serious threat to political democracy."

Today there are several sources of energy, although their control is quickly consolidating. Some power plants are even designed to switch from coal to oil or natural gas depending on which bids lower on fuel contracts. But many utility companies fear that in the near future, when they shop around for fuel they will find only one store.

Twenty years from now nuclear power—today only an infant in electrical generation—will be a powerful force, providing more than half of all American electricity and therefore creating the competitive yardstick by which other fuels will be sold.

Decisions made in Congress and the White House in the next few years will determine whether it will be a vigorous competitor or a silent partner to the present fuels.

ELECTRICITY FOR THE FUTURE—II: UTILITIES TURN TO THE ATOM AS COST OF FOSSIL FUEL SOARS

(By Thomas O'Toole)

When it comes to generating electricity, King Coal is losing power: the heir apparent is uranium.

The evidence is nowhere more convincing than at the Tennessee Valley Authority. That mammoth electric utility is located in the heart of the nation's coal country, but it is building three of the world's largest atomic power plants.

"The country's private utilities figured if TVA thought the atom could compete with coal," White House energy adviser David Freeman said recently "then by God there must be something to nuclear power after all."

The turn to atomic power comes at a crucial time. In many cities there is already a power shortage and in the next 30 years the national demand is expected to double. At the same time the conventional fuels—coal, oil and gas—are rapidly increasing in cost. Measures against pollution will make them more costly still.

There are only 16 atomic plants generating electricity in the United States now, but 98 additional nuclear power plants are being built or are in the active design stage.

What's more, 80 per cent of these new atomic plants are what utility men call "big" plants able to deliver more than 750,000 kilowatts apiece. Scattered about 27 states and Puerto Rico, these 98 plants

represent an investment of almost $22 billion and an electrical output of almost 90 million kilowatts, which is as much electricity as the entire country generated 15 years ago.

While TVA's decision to go atomic may have triggered it, there is far more to the sudden boom in nuclear power.

First is the fruition of postwar atomic research. The Atomic Energy Commission and the Navy have spent almost $5 billion in the past 20 years to develop nuclear power, and these expenditures have begun to pay off in terms of accumulated experience and understanding.

"We've put nuclear reactors into 98 submarines and we have 17 years experience operating four commercal atomic power plants," said John Simpson, president of Westinghouse Power Systems Co., which has won more than a third of the new atomic orders. "Believe me, it's helped us."

Something that has helped at least as much is the steady rise in the price of coal and oil, the atom's two toughest foes in the struggle for electric power dollars.

While the cost of enriched uranium has barely budged, oil (used in nine per cent of today's U.S. power plants) has risen 50 per cent in price the last five years to about 40 cents per million BTU's of energy, twice that of uranium's.

Many cities have also passed anti-pollution laws requiring utilities to burn only low-surphur oil, which costs more than conventional heating oils that contaminate the air with sulphur dioxide.

"We burn oil in seven of our plants," says Philadelphia Electric Co. "Turning to low-sulphur oil in these plants increases our fuel bill by $10 million a year."

More important is what happened to coal, which heats steam for 58 per cent of the electric power plants in the U.S.

Coal is now scarce, partly because of labor troubles, partly because of productivity declines and partly because of rail car shortages. A survey taken last spring by the Federal Power Commission found coal shortages at more than half the power companies surveyed, including Virginia Electric and Power Co., Chicago's Commonwealth Edison Co. and the Tennessee Valley Authority.

Coal's price is climbing even faster than oil's. Duke Power Co. President W. B. McGuire said recently the utility's coal cost rose from 28 cents per million BTU in 1968 to 30 cents in 1969, to 35 cents last March, to 38 cents a month later and will reach 42 cents before the end of 1970.

"We're in an era of high fuel costs," McGuire told the North Carolina Utilities Commission two months ago, "and we will be until this company can convert to atom-powered fuel."

Despite such strong endorsements, the new atomic power industry is having excruciating growing pains.

One reason is that atomic power has special costs that are getting more expensive every day. It's true that uranium, the nuclear fuel, costs less than coal and oil. But the costs of constructing atomic power plants are almost 50 per cent higher than fossil fuel plant costs.

While general construction costs were climbing 60 per cent in the past five years, atomic power plants were doubling in price, to $220 a kilowatt compared to $160 for plants using coal.

A striking example of escalating atomic costs is the pair of million kilowatt nuclear plants being built at Peach Bottom, Pa., by Philadelphia Electric Co. They will cost $400 million apiece, an unthinkable price 10 years ago.

"There are many reasons for this, including the fact that we spend twice as much time engineering atomic power plants," said Howard M. Winterson, vice president of Combustion Engineering Co., one of the nation's four major atomic equipment suppliers. "Why, we spend $1 million a year on rent for a computer that does nothing but compute specifications for nuclear reactor vessels."

Strikes and shortages of skilled labor aggravate the normal trial-and-error of any new industry. These were made worse by poor planning by electric companies. In one recent 30-month period, utilities overwhelmed the four major suppliers with 60 new orders for nuclear plants. This sudden burden was a major cause of construction delays of atomic power plants, now averaging 11 months.

Exotic materials, precise design requirements, and a new technology sometimes make nightmares of construction plans. Take the case of the Oyster Creek plant of the Jersey Central Power & Light Co. at Tom's River, N.J. Last September it began generating electricity more than two years behind schedule.

To begin with, the plant's 500-ton reactor vessel, or container, was shipped to the Oyster Creek site sooner than expected.

"They stored it in the open salt air like it was a lawn mower," recalls one AEC official. "It's no wonder what happened."

The AEC man claims that the workmen uncrating the reactor vessel bent its intake and exhaust nozzles. This took weeks to correct.

A second delay came about when inspectors found cracks in the welding of all but nine of 137 steel sleeves located where the drive mechanism for the control rods penetrates the pressure vessel. The AEC is convinced the cracks came from the corrosion of sea air. In any case, it took a year to coat the tubes with a more protective alloy.

Next came what one observer called the "case of the vanishing records."

Houston's Alloy Tube & Pipe Corp. had supplied stainless steel pipe for the Oyster Creek plant just before the Texas firm merged with Ohio's Armco Steel Co. In the course of the merger, the records of the pipe's production and testing were either lost or mislaid.

Since the AEC demands rigid testing of all atomic plant parts and documentary proof of the testing, it insisted on records for the pipe. This meant new tests. By this time the piping was already installed at Oyster Creek. So the stainless steel pipes had to be removed and retested, delaying Oyster Creek's start-up another 10 weeks.

The results of delays like these are not soothing for utility men to contemplate. Jersey Central Power & Light, while waiting for Oyster Creek to start producing cheap nuclear power, had to spend $60,000 a day buying power from its neighbors at twice what Oyster Creek power was supposed to cost.

Watching debacles like Oyster Creek from afar, many utilities have either held off on buying atomic plants or have cancelled plans to build them. The AEC admits that so far this year six electric power companies dropped plans for atomic power. The commission expects one or two more to follow suit before the year is out.

Other firms hedged their bets by installing excess fossil fuel capacity while waiting for their nuclear plants to be built.

"We decided we couldn't count on the nuclear plants coming in on time," said Donald C. Cook, president of American Electric Power Co. "None ever had, so we're building enough fossil capacity so that even if they never come in we'll have enough energy. All we want our customers to know is that when they press the switch they'll have enough power."

What worries power experts the most about nuclear plants is their complexity and the overwhelming need to keep them completely safe. These two requirements have forced numerous shutdowns of atomic plants in the last few years.

A typical complex incident occurred a few years ago when nickel-plated silver cadmium control rods in a reactor corroded, flooding the reactor core with contaminating silver from the insides of the rods.

"The plant operator had to scrap $750,000 of core parts," said A. Nelson Tardiff of the AEC's Division of Reactor Development. "The plant was contaminated with silver and the accumulated downtime to effect clean-up amounted to two months."

In 1968, all of the 11 atomic power plants then operating were shut down from time to time for minor repairs. Five of them were closed for a total of 27 months because of major break-downs. The 22,000 kilowatt plant at Elk River, Minn. was shut down in February 1968 because of reactor leakage and was never started up again.

A year ago, 12 plants were in operation and enough troubles were encountered to shut down eight of the plants for a total of more than 30 months. The 50,000 kilowatt La-Crosse Boiling Water Reactor at Genoa, Wisc., had to be closed five times for seven months due to breakdowns.

This year, there are 16 plants in operation and so far there have been three major shutdowns.

Jersey Central's Oyster Creek plant was closed from Apr. 19 to May 22 when the hydraulic seals in the driver mechanism of six control rods failed. Niagara Mohawk's Nine Mile Point plant was closed Mar. 30 by three cracked parts in a furnace and not reopened until July 12.

Most recently, Consolidated Edison's Indian Point plant was closed May 20 by a broken thermal sleeve in a nozzle connection in the primary cooling system and by cracks in a nearby pipe. At the earliest, Con Ed hopes to have the plant back generating power sometime in September.

"We're dealing with an infant technology," says Milton Shaw, director of the AEC's Division of Reactor Development. "I know the utilities assumed that nuclear power brought with it inherent perfection, but this business is a tough one."

It's been very tough on the companies in the business of nuclear supply, the firms that make and deliver the reactor vessels, the nuclear fuel elements, the valves, pipes and turbines that make up an atomic steam supply system.

Fewer than half the firms that started out in the atomic power business are still in. The dropouts include such well-to-do giants as Foster Wheeler Corp., American Machine & Foundry Co. and Allis-Chalmers Mfg. Co.

The main reason such firms have dropped out of nuclear power is the red ink that has bathed the entire industry for the last 15 years.

One firm, Combustion Engineering, figures it has spent $60 million on nuclear research and development, none of which it has recovered through profits. Westinghouse's John Simpson says his firm has spent over $100 million on atomic R. & D., but thinks Westinghouse might turn a profit this year for the first time.

"We'll be the only ones to do so," he says.

General Electric has probably lost the most money on atomic power, but part of its losses might have come from the deals it struck in the early 1960's attempting to launch the atomic industry. By one account, GE lost more than $100 million on the Dresden atomic plants it built for Commonwealth Edison and an estimated $50 million on the Oyster Creek plant it put up for Jersey Central.

The company that has suffered the most in atomic power has been Babcock & Wilcox Co., which a year ago admitted that it was behind schedule on every one of the 28 nuclear pressure vessels it was putting together in its Mount Vernon Ind. works. The resulting losses sank profits too low last year to

cover the dividend. A vice president of the company committed suicide.

Despite the losses and the suffering, the companies that make up the atomic industry see a bright future for nuclear power.

"I think we all feel the future is nuclear," says Combustion Engineering's Howard Winterson. "We've had some discouraging years, but our costs should begin to level off and when that happens atomic power will be in a better over all competitive position than coal and oil."

Westinghouse's John Simpson said a recently completed study of fuel prices has led his company to predict a steady decline in atomic fuel costs to about 17 cents per million BTU by 1980 and a rise in the cost of coal to about 45 cents per million BTU.

Utility experts are also convinced that pollution laws will drive more power companies away from coal and oil, even the relatively clean low-sulphur forms of both. Only last month, Los Angeles County Judge Bernard S. Jefferson turned down a utility's appeal of a Los Angeles County ban on a new oil-fired plant it wanted to build at Playa del Rey.

"We're converting energy and no matter how you do it there's an impact on the environment," says Philadelphia Electric's John Kemper. "We feel the nuclear plant is the cleanest way to do it."

Though it electrifies only about 4 per cent of the power lines in the U.S. today, atomic power is destined to take on an ever larger role in power generation.

The Atomic Energy Commission expects that by 1980 atomic power plants will be generating 180 million kilowatts of electricity in the U.S. Most experts don't think it will get that high, but most of them agree that at least 130 million kilowatts will be nuclear by 1980, which will still be more than 20 per cent of the U.S. total in 10 years.

The AEC also believes that half the new electric power plants being ordered by utilities in 1980 will be nuclear, that 75 per cent of the orders in 1990 will be nuclear and that by the year 2000 nuclear's share of new orders will be 90 per cent.

If this happens, half the electric generating capacity of the country will be nuclear by 1990 and almost 60 per cent by 2000. There will be 450 atomic power plants in the country by 1990 and 950 by the year 2000, generating more than 1.1 billion kilowatts of electricity.

"I don't see how it can turn out any other way," says the AEC's Milton Shaw. "Coal and oil prices are going to keep going up, and there seems no way of getting the sulphur out of them to anybody's satisfaction. Atomic power is the only answer."

ELECTRICITY FOR THE FUTURE—III: BURGEONING ATOMIC PLANTS RUN INTO POLLUTION AWARENESS

(By Thomas O'Toole)

To consumers hungry for cheap electricity, the salvation from blackouts and smog is atomic power plants—graceful, scientific buildings humming quietly in remote locations, unmarred by belching smokestacks and sulphurous fumes.

But to environmental activists, the same nuclear plants are insidious monsters matching in their own quiet way today's pollution from burning coal and oil. At issue is their more subtle pollution from radioactivity and, oddly, hot water.

How this issue is resolved may decide whether the United States can continue to have enough cheap electricity for its growing population and its proliferating washing machines, air conditioners and other electrical appliances.

The issue is far from resolved today.

Of the 55 atomic power plants in the active stage of construction in the U.S. today, 12 have been stopped or blocked from producing power by environmental lawsuits. One reason the other 43 have so far escaped legal action is that they're not far enough along. Long Island Lighting Co. figures legal intervention against its Shoreham plant has now delayed its construction seven months. Consumers Power Co.'s Palisades plant on Lake Michigan has been held up at least that long, and Northern States Power Co.'s Monticello plant outside Minneapolis has been set back almost a year by lawsuits.

LONG TERM THREAT

The inescapable irony is that nuclear power has always been promoted as the "clean" way of making electricity.

Atomic power plants don't belch fly ash and the noxious fumes of sulphur dioxide, nitrogen oxide, carbon monoxide and methane into the atmosphere the way coal, oil or gas-fueled plants do.

But atomic power plants discharge pollutants all their own.

"The fossil fuel plant is a lot dirtier than the nuclear plant," said White House energy adviser David Freeman. "At the same time, it may be that fossil plants are an immediate threat to the environment while nuclear plants represent the longterm threat for the future."

The longterm threat comes from emissions of tiny amounts of radioactivity, none usually dangerous by itself in those quantities. But radioactivity received by humans is cumulative until some day the total may reach the threshold of medical damage, usually cancer. Nuclear plants being built today will be lifetime fixtures on the landscape. Generations of human and animal populations will accumulate their emissions.

The other pollution threat is hot water. All electric generating cores have inner temperatures of about 1,000 degrees and need large quantities of water to cool them. Nuclear plants need 50 per cent more water than fossil fuel plants because, among other reasons, it has no smokestacks to help carry away the heat. The plants take in cool water from a lake or stream and return it much hotter, with effects on marine life that are still being debated.

A one-million kilowatt nuclear plant (the average sized atomic plant being ordered today) discharges half a million gallons of heated waste water every minute. Atomic discharge water is 4 to 5 degrees hotter than fossil discharge.

The Atomic Energy Commission suggests that this so-called "thermal pollution" may do little harm.

In a study being done by the Connecticut Yankee Atomic Power Co., relatively few ill effects have been found in a five-mile stretch of the Connecticut River although every minute the plant discharges 370,000 gallons of water 22.4 degrees warmer than it took in.

The study found that the diatoms that dominated the river plankton disappeared, giving up their role to blue-green algae that thrived in the warmer water.

Catfish entering the discharge canal apparently suffered from a sudden rise in their metabolism and did "not fare as well as those that do not enter" the canal, an effect the study director concluded could "hardly be regarded as calamitous."

In fact, it was pointed out that the warming of the river by the plant drew more insect larvae (beetles, dragonflies, damselflies) to the river bottom and more striped bass to the river at all times of the year.

"In the long run," the study director concluded, the warming of the river "may even prove to be beneficial in one way or another."

The Connecticut River study is one of the few done so far of the effects of thermal pollution on a stream. But critics point out that the Connecticut is a cold-water river, ranging from a winter low of freezing to a summer high of about 86 degrees.

FEW FISH COULD SURVIVE

What of the warm-water rivers and bays of the Southern United States, whose water never freezes and stays above 90 degrees through the heat of a four-month summer? Biologists claim that few fish could survive in water much warmer. Joseph DiNunno, director of the AEC's office of environmental affairs, admits this is one of the problems he's most concerned about.

Another is multiple use of the same body of water by a number of atomic power plants.

"Ten plants on the same lake or river may not hurt you," DiNunno says. "Eleven may not and even twelve may not. But somewhere you'll put in just one more plant and you'll get pushed over the edge."

A survey earlier this month by The Washington Post shows there are two or more nuclear power plants built or being built on at least 25 U.S. waterways.

By 1974, the survey showed, there will be four atomic power plants on the Delaware River, four on the Susquehanna River and four on the Ohio River. There will be five nuclear plants on the Hudson River, five on the Illinois River and six on northern banks of the Mississippi River. Lake Michigan will lead the U.S. in nuclear plants in 1974: It will have nine atomic plants along its shores.

More subtle and potentially more serious than thermal pollution is the threat of contamination of the air and water by the radioactive discharge of nuclear power plants.

TINY TRACES

All nuclear power reactors vent tiny traces of radiation through microscopic cracks in the reactors and through the bombardment of exterior metal parts by neutrons escaping the inner cores.

These small bits of radiation show up mostly as radioactive strontium, cesium, iodine, krypton and tritium. The strontium and cesium escape as miniscule slivers of metal and are usually trapped before they're released to the water outside the plant. While iodine can also be caught, it can also be released as a gas. The krypton is always released as a gas and is allowed to escape through "vent" stacks into the atmosphere above the plant.

Tritium is a radioactive form of hydrogen gas that dissolves instantly in the power plant's cooling water once it escapes from the reactor. Extremely difficult and expensive to separate from the water, it must be discharged into whatever river or lake the coolant was taken from in the first place.

The Atomic Energy Commission says that nuclear plants operating today release iodine, krypton and tritium into the environment that is 1 per cent or less than the allowable limit set by radiation guidelines.

Its critics concede that this is generally true, but complain that this does not tell how much radioactivity the 16 nuclear plants operating in the U.S. today have released in their lifetimes.

THREE IN EXCESS

In a recent study of nine operating nuclear plants, the U.S. Public Health Service found three plants releasing radioactive gases into the air that far exceeded the AEC's "1 per cent" estimates.

For example, Pacific Gas & Electric's Humboldt Bay plant near Eureka, Calif. vented off gaseous radioactive iodine that was 11 per cent of its allowable limit in 1967 and 8 per cent of the limit in 1968. The same plant released almost 900,000 "curies" of radioactive krypton in 1967 and again in 1968, more than half the allowable limits in both years.

While the AEC claims that the almost weightless krypton gas escapes immediately into the upper atmosphere where it can do no harm, skeptics remain unconvinced.

"What happens if the wind isn't blowing up and what happens when it rains?" asks Johns Hopkins University radiologist Edward Radford. "I'll tell you what happens. If the

wind is blowing away from the plant, the krypton goes downwind with it. If it's raining, the krypton adheres to dust particles or raindrops and settles down to earth just like the fallout from an atom bomb test."

Described by most observers as a "middle-of-the-road" critic, Dr. Radford said he almost accepted the idea that krypton was no radiation threat until he saw a public health study on the worldwide growth of nuclear power.

"The Public Health Service estimated," Dr. Radford said, "that if nuclear power grows the way it's expected we would have the maximum permissible concentration of radioactive krypton (half-life 10 years) in the world's atmosphere by the year 2060."

Half-life is the time it takes for half the atoms of a radioactive substance to disintegrate. Then it takes the same amount of time for half the remaining atoms to disintegrate, and so on ad infinitum.

The Public Health Service also measured atomic power plant's leakage of tritium, which is itself a gas but which largely escapes from nuclear plants dissolved in the discharged cooling water.

While still below permissible limits, the amount of tritium discharged by nuclear plants is growing, partly because power production is growing and partly because the plants seem to degrade as they get older.

TRITIUM LEAKS

Con Edison's Indian Point plant on the Hudson River, for example, leaked 125 curies of tritium in 1966, more than twice that a year later and six times that by 1968.

Southern California's San Onofre plant, located less than 5,000 yards from the Western White House at San Clemente, discharged almost 2,400 curies into the Pacific Ocean in 1968, its first full year of operation. So far, no study has been made of subsequent years.

What worries scientists most about tritium leakage is that it's so hard to stop and that once leaked it stays so long (a 12.3 year half-life) and is so difficult to clean up.

"It's not like the other discharges," says Johns Hopkins' Dr. Radford. "You just can't comb tritium out of the air or water once it gets there, and it also combines freely with the hydrogen, oxygen and carbon of every living cell known to medicine."

Tiny traces of radiation released to the air and water, argues the AEC's Joseph DiNunno, don't mean that people are exposed to it, and therein lies another debate about how atomic power strikes the environment.

While it's true that most of the radioactivity released from atomic power plants never gets far from the plant sites, it's also true that a growing number of people live close by.

In studying 21 sites where nuclear plants are being built, the Public Health Service found that more than 1.4 million people live less than 10 miles from the plants' sites, with another 50 million within 50 miles.

These people can come in contact with the radiation released from the plants through their drinking water and food. One of the few studies the Public Health Service has done on that subject was at Commonwealth Edison's Dresden plant.

Strontium 89 was found in snow a half mile from the plant, cesium-137 in corn growing about the same distance away and iodine-131 in the thyroid glands of cattle grazing almost two miles from the plant.

The AEC's Savannah River plant released as much as 100 curies of tritium per day to the air and even more to the river, which led one physicist to wonder what the tritium levels were in a herd of deer living on an island near the plant.

"The deer had tritium throughout their bodies," says Johns Hopkins' Dr. Radford, "even in their DNA," the genetic molecules. "The question is, will this hurt their offspring?"

There is little information about the effect on living creatures of radioactive agents.

One of the few studies of "low-dose" radiation was done by Britain's pioneering Dr. Alice Stewart, who only two months ago published the first results of her 22-year survey of the relation of childhood cancers to X-rays of their mothers while pregnant.

POSSIBILITIES OF ACCIDENTS

Writing in the respected British journal, The Lancet, Dr. Stewart said that she was able to compare 7,649 children who had died of cancer before the age of 10 with 7,649 children who had lived to the age of 10 cancer-free. Both groups of children were matched for sex, age and locale where they grew up. Dr. Stewart found that the rate of fatal cancers went up with the number of times the children had been X-rayed before birth.

"The fetal doses may need to be revised in the light of further evidence," Dr. Stewart said, "but if they are correct we would expect that among one million children exposed shortly before birth to one rad of ionizing radiations, there would be an extra 300 to 800 deaths before the age of 10 years due to radiation-induced cancer."

"One rad" is much more than the five-to-fifteen thousandths of a rad that might be received each year by people living near atomic plants and it is a lot less than the radiation received by victims of the Hiroshima and Nagasaki bomb blasts. But it still lies in the range of what radiologists call "low-dose" effects comparable to the small "fallout" from nuclear power plants.

Critics of nuclear power have also focused on possible accidents in the plants.

Since the nuclear fuel in an atomic power plant cannot come together suddenly, a nuclear explosion in a power plant is not possible.

But there is a remote chance that loss of cooling with abrupt melting of fuel could vent radioactivity outside the plant—more fallout than an atomic explosion.

The AEC has taken elaborate steps to make certain that nothing like this ever happens It insists that each reactor have a second, standby coolant. In addition, automatic controls shut down the reactor immediately when any coolant is lost.

Nevertheless, the AEC requires owners of atomic power plants cover themselves with as much insurance as they can.

The AEC has done what most people believe has been thorough policing of accident possibilities. But is the AEC tough enough?

The question is before the AEC right now, in the application of Long Island Lighting Co. to operate an atomic power plant near the town of Shoreham on the north shore of Long Island. In a recent hearing, it was pointed out that the plant is located 7,500 feet from the launching site of a NIKE missile base and about 3 miles from the end of a runway used by Grumman Aircraft to test experimental planes.

One member of the Lloyd Harbor study group protesting the plant said he was told by a nuclear-safety specialist that the AEC has no experience dealing with nuclear plants near missile bases, nor are there any regulations that cover them. An AEC official says the only thing like a precedent is the nearness (five miles) of Homestead Air Force Base to the Florida Power and Light Co.'s nuclear plant at Turkey Point.

Has the AEC done enough to guard against accidents? The independent Advisory Committee for Reactor Safeguards doesn't think so, and recently complained that "because of funding limitations and other reasons" the AEC has done almost nothing about researching new methods of dealing with ruptures in the primary coolant piping that could bring on partial or complete meltdowns of fuel.

In the face of new fears of thermal pollution, the nuclear power industry has taken some additional steps.

Fifteen utilities building 24 of the 98 nuclear plants now under construction are installing special cooling towers to lower the temperature of discharge water before of discharge water before returning it to the river or lake it came from.

But cooling towers cost anywhere from $8 to $10 million, which utilities are reluctant to add to an atomic power plant that already costs as much as $400 million.

"I personally think," says John Kemper, manager of engineering for Philadelphia Electric Co., which is putting cooling towers in four nuclear plants, "that the public will have to pay for some of this cleanup. We just have to get some rate relief for all this expense."

Many people in the power industry don't think radiation leakage is as big a problem, so they're less willing to do something about it. Others think it is a far more difficult problem than thermal pollution.

One of a few who thinks it might not be too hard to solve is John Simpson, president of Westinghouse Power Co. He says that engineering changes can be made in Westinghouse reactors to cut down liquid radioactive discharges (including tritium) to just about zero. Simpson says such changes would cost no more than $1 million a plant.

Gas discharge such as radioactive krypton might be harder to bring down close to zero.

"You'd need considerably more equipment," says one nuclear expert, "to contain gases like krypton. It might cost you more than the cooling towers for thermal pollution."

It could turn out that the AEC might be forced to reduce radioactive discharges, if for no other reason than the Nixon administration insists on it.

The Department of Health, Education and Welfare has started a two-year study to determine whether the federal guidelines controlling radiation discharge should be made more strict. HEW's Dr. Arthur Wolfe two weeks ago suggested that certain standards would be tightened.

"I'm thinking specifically of iodine-131," Dr. Wolff said. "There is fresh evidence to suggest that the human thyroid gland is two to three times more sensitive to radioactive iodine than we once thought. We may have to adjust our guidelines on iodine releases accordingly."

Many radiologists believe that the federal government must adjust its thinking on radioactivity of all kinds—medical X-rays, emanations from color television sets and the added radiation received by people flying high-altitude jets. Each impact of radiation has some biological influence, though how much is not known precisely.

"There is no threshold to radiation damage, let's understand that," says Johns Hopkins' Dr. Edward Radford. "What's more, we don't understand what latent damage radiation does to cells."

In many ways, atomic power is growing at a difficult time. The public, sensitive about dangerous pollution from its present power plants, is becoming aware that atomic plants may have dangerous pollution of their own.

On the other hand, the country needs more cheap electricity, which nuclear power can provide. Nuclear pollution may be on the way to solution in these early days of the industry instead of waiting for the kind of delayed awareness that happened with coal and oil.

The Advisory Committee on Reactor Safeguards in a letter last year told the AEC to move faster to control radioactive wastes, and one member of the committee said that radiation levels can be reduced to 10 per cent—maybe even 1 per cent—of present levels.

ELECTRICITY FOR THE FUTURE—IV: MARYLAND A-PLANT: BOON OR A MENACE?

(By John Hanrahan)

The nuclear power plant being built at Calvert Cliffs, Md., provides a case study both for those who consider atomic energy the key to the nation's growing power needs and for those who view it as a potential menace.

To the Atomic Energy Commission and many utility companies, such nuclear power plants are a big part of the solution to the electricity shortage that has brought blackouts and brownouts to the Eastern Seaboard in recent years.

C. E. Utermohle, board chairman and president of the Baltimore Gas and Electric Co., says that his firm's $387 million, 1.6-million kilowatt plant will be safe and reliable and will pose no threat to human life or the ecology of Chesapeake Bay.

Utermohle and other supporters of the plant on the Western Shore of the Bay, 45 miles south of Washington, feel that an increasing number of nuclear power plants—in contrast to "fossil fuel" plants using coal, oil or gas—must be built in the near future to cope with the ever-increasing need for electricity.

To the critics, the rapid proliferation of such facilities raises a threat to the environment through release of radiation, heating of waterways and possible accidents. The potential for damage is even higher, the critics contend, when the facility is situated on the Chesapeake Bay, a treasure house of seafood and the provider of millions of hours of recreation annually.

What some critics fear most is that the ten or more nuclear plants projected for the Bay area in the next decade could wreak ecological havoc and endanger future generations. Calvert Cliffs, they think, is a precedent.

But beyond these arguments, common to nuclear power plants around the country, are questions about how the plans moved from the drawing boards to reality. The process, critics and even some supporters of the project say, was carried out so quietly over a period of years that opponents learned about it too late to mount an effective campaign to block the plant or have it relocated.

The company said it picked about 50 possible sites in the early 1960s before settling on Calvert Cliffs.

Jess W. Malcolm, executive director of the nonprofit, conservationist Chesapeake Bay Foundation, Inc., says that there were at least 30 separate actions involved in the decision-making process by federal and state agencies to clear the way for the Calvert Cliffs plant. Seldom, he says, were citizens' views seriously sought.

"In short, the decision to permit a nuclear power plant to operate on Chesapeake Bay is being made in a series of minor decisions, suggesting de facto approval of the facility at every step of the way," Malcolm says. "All of these steps were taken when, in fact, the basic question of whether a nuclear plant that would use Chesapeake Bay waters should be constructed at Calvert Cliffs was never asked."

HEARINGS IN 1969

Dr. Edward P. Radford, professor of environmental medicine at John Hopkins University, is among the scores of people who have criticized the events in the decision-making process.

He notes that in May of 1969, the AEC began hearings on Baltimore Gas and Electric's application for a construction permit.

Although opponents regarded this as the key hearing in blocking the plant, the AEC pointed out that the law governing such proceedings prohibited presentation of testimony regarding the choice of plant location, thermal effects on marine life in the Bay, power line location and the relationship between the size of the plant and the actual power needs of the area to be served.

Testimony was therefore limited strictly to matters regarding actual plant construction.

Radford says it subsequently developed that witnesses were not permitted to challenge the standards for the release of radioactive materials to the environment. The hearing was "pure window dressing," Radford contends.

The next hearing was before the Maryland Public Service Commission in July, 1969. The question was whether a new Maryland law, which became effective July 1, 1968, was applicable to the Calvert Cliffs plant. The new law gave the PSC the right to approve power plant location and operating plans for such plants on which construction had not begun.

At this hearing, less than two months after it had testified before the Atomic Energy Commission for a permit for construction which theoretically had not yet begun, Baltimore Gas and Electric argued before the PSC that it had, in fact, begun construction a year earlier.

The regulatory agencies paid little heed to the apparent contradiction in testimony. The AEC granted the construction permit; the PSC said that the new law did not apply to the Calvert Cliffs plant.

The Maryland Academy of Sciences, a nonprofit organization which receives some state funds, issued a report last winter calling the plant "an acceptable risk" when looked upon as "an experimental tool." The academy report also urged a moratorium on additional nuclear power plants on the bay until environmental studies are made, but efforts by some legislators last winter to impose such a moratorium and to block the Calvert Cliffs plant failed miserably.

The final state permit, for use of the waters of the bay to cool the plant's generators, was granted last spring.

Maryland's director of water resources attached strict restrictions on, among other things, the radiation that would be discharged into the bay. But a Baltimore Gas and Electric spokesman noted that a similiar case in Minnesota is being challenged on grounds that only the AEC can set radiation standards, and said that Maryland's tougher restrictions for Calvert Cliffs "would be null and void" if the court rules in the AEC's favor.

The water use permit issued by Maryland limits the permissable radioactivity level in liquid discharges to 1 per cent of what AEC allows.

Dr. Neil Solomon, Maryland's health director, say the AEC would permit too high a release of radioactive tritium from the plant and possibly "cause unacceptable concentrations in shellfish in the waters receiving the discharge."

Also, Solomon says, Baltimore Gas and Electric must register the plant "as a potential air pollution source" because it will emit radioactive isotopes to the atmosphere. The company contends the amount to be released will be so insignificant as to pose no hazard.

COMPANY'S RESPONSE

As to the frequent citizens' charges that the company kept the proposed Calvert Cliffs plant shrouded in secrecy until it was too late to mount effective opposition, Baltimore Gas and Electric Co. responds that all of its actions have been taken openly and with accompanying publicity.

"I believe that Baltimore Gas and Electric is quite open in its planning about power plant sites," says company president Utermohle.

"More than 3½ years ago, in mid-1966, we publicly requested rezoning of our Calvert County property as the possible location of a nuclear power plant. The Associated Press carried a story on the event.

"About a year after that, in May, 1967, we held the largest news conference in the history of the company to announce specific plans for the project to the public and to answer any and all questions which might arise. . . .

"It was almost a year later that we finally began site preparation and excavation. Yet no clear opposition appeared until the year after that—1969—during the final stages of our application for an AEC nuclear construction permit."

For Maryland, at least, Calvert Cliffs is the guinea pig for the nuclear power industry. Supporters of the project, such as William W. Eaton, chairman of a task force appointed by Gov. Marvin Mandel, foresee a threefold to eightfold increase in the power needs of the Chesapeake Bay region by the year 2000.

SIX PLANTS EXPECTED

According to 10-year plans filed by the utility companies with the Maryland Public Service Commission last winter, at least six nuclear power plants are likely to be built in Maryland in the next 10 years in addition to the Calvert Cliffs facility.

Baltimore Gas and Electric Co. has said it would make a determination sometime this year as to the type of 1.6 million kilowatt plants—nuclear or fossil—that it will build at Bush River off Chesapeake Bay rd. north of Baltimore. Completion would come in 1979.

The Potomac Edison Co. filed plans for a 650,000 kilowatt plant to be located either at Point of Rocks, Md., or Grafton, W. Va., or Washington, Pa.

The company notes, in documents filed with the Public Service Commission, that if nuclear energy is used, the plant will have to be at least 1.1 million kilowatts. At any rate, the company says, construction is to be completed in 1978.

ANOTHER CONTROVERSY

Recently, another storm of controversy developed over the Potomac Electric Power Co.'s plans to build either two nuclear or fossil fuel plants on the Potomac River at Sandy Point in Charles County. Plans call for each unit to be 1,050,000 kilowatts, with completion in 1977 and 1979, respectively.

Still being kept under wraps by Pepco is another planned 1 million kilowatt plant. According to company plans filed with the Public Service Commission, the site and type of fuel for the plant have not yet been determined. Construction is scheduled to begin in January 1971 and be completed by January 1978, but the public has yet to be apprised of the specific plans.

Although these are the only power plant plans currently on file with the Public Service Commission that could use nuclear fuel, additional proposals may be expected in the years to come. As the governors' task force stated:

"Arbitrarily, it can be assumed that half the electric generating plants in the Chesapeake Bay Region in the year 2000 will be nuclear. In this case the increased demand for power during the next three decades in the Bay region . . . could mean building five more 3000-megawatt nuclear power plants in the Chesapeake Bay region, i.e. about 10 more Calvert Cliffs plants."

The Chesapeake Environmental Protection Association, along with other environment and conservation groups, has expressed the view that much of the planning for future power needs constitutes a self-fulfilling prophecy.

The organization expressed it this way in a news release last Spring:

"Estimates of future power needs are based on an estimated increase in population as well as an increase in consumption per person. This is a statistical extrapolation which, if accepted as a goal, can be made to come true.

"The costs of attaining such a goal have not, however, been calculated. Would a

ruined environment make life not worth the candle? Or would we be better off with candles?"

To CEPA and many other concerned environment groups, "present plans for increased power capacity by the use of nuclear energy should be halted and restudied in the light of what the real need for power may be and how much, if any, of the remaining environmental quality we can trade for it and still survive."

Earlier this month, the AEC turned down still another proposal by opponents of Calvert Cliffs to halt construction.

Before the plant will be allowed to operate, the AEC said, the company will be required to submit a plan detailing the environmental impact of the facility. By that time, with close to $400 million spent, no one seriously believes the AEC would refuse an operating permit.

Perhaps, Chairman Edmund Muskie (D-Maine) of the Senate air and water pollution subcommittee said recently, Maryland and the nation learned something from Calvert Cliffs and can be on guard to see that such future plants are not established facts of life before citizen concern is aroused.

At Calvert Cliffs, Muskie said, the plant built up such a "momentum" that the state and its concerned citizens "were foreclosed . . . from taking sufficient steps" to regulate it.

So the utilities, the citizens and the state government will be watching the Calvert Cliffs plant in the years to come.

If the plant, in the words of Hugh Hunter, chief engineer of the Maryland Public Service Commission, "proves to be a good citizen" and not a hazard to the bay and human life, then nuclear power plants can be expected to spring up all over the state.

"The utility companies are laying back right now, watching what happens at Calvert Cliffs," Hunter says. "If this plant is a success, then there's little question that you're going to see many more such plants built in this state in the years to come."

TERRORIST KIDNAPING MOVEMENTS ABROAD

Mr. ALLOTT. Mr. President, on Monday, August 24, 1970, the distinguished junior Senator from West Virginia (Mr. BYRD) submitted Senate Resolution 454. I assure the Senator of my full support for this wise measure and urge all Senators to give it their prompt and total support.

The resolution is responsive to a new and odious tactic currently in fashion among radical terrorists in various parts of the world. This is the tactic of seizing innocent aliens in a foreign nation and holding them hostage for the achievement of radical political goals in that foreign nation.

This tactic has been refined to a barbarous perfection in recent months. The favorite targets of these mad and cowardly kidnapers are Americans. The most recent outrages have been committed in Uruguay, where the Tupamaros terrorist movement is struggling to win with terror what it cannot win through legitimate political practices.

Twice these political brigands have seized Americans, threatening to murder them if the Uruguayan Government refused to release the leftwing terrorists it has succeeded in putting behind bars. One American—Daniel Mitrione—has already been murdered by the Tupamaros.

As we speak here, Mr. President, another American and a Brazilian are being held by the Tupamaros. The American is Dr. Claude L. Fly from Fort Collins, Colo. Dr. Fly is a dedicated public servant who has been sharing his agricultural expertise with the Uruguayan Government.

The Uruguayan Government is making every effort to rescue Dr. Fly. Our own State Department is cooperating in every way possible. We all pray they will be successful.

What we can do here and now, Mr. President, is to try to minimize the likelihood of such terrorist activities in the future. Senate Resolution 454 calls upon the President to initiate bilateral and, where appropriate, multilateral agreements binding the signatory nations to do all they can to protect American personnel from such terrorists and to prosecute them vigorously when they are apprehended.

In addition, the resolution provides that signatory nations would institute extradition arrangements and other procedures that would frustrate the terrorist goal of getting released comrades to safety in other nations.

Mr. President, I command the distinguished senior Senator from West Virginia for submitting this timely and humane resolution. I urge its swift adoption.

PRESIDENT NIXON REVIVES L. B. J.'S PET "GIVEAWAY"

Mr. WILLIAMS of Delaware. Mr. President, today's Washington Daily News contains an article entitled "Nixon Quietly Revives L. B. J.'s Pet Giveaway'," written by Dan Thomasson.

In the article, Mr. Thomasson suggests that a "multimillion-dollar giveaway" that had been approved in the closing days of the Johnson administration and canceled in the early days of the Nixon administration has now been revived.

As one who was highly critical of this project, I sincerely hope that this report is in error; however, to be sure I am asking the departments for more details and may have some comments on this later.

I ask unanimous consent that Mr. Thomasson's article and my comments on the same project, as made in the Senate on October 30, 1969, be printed in the RECORD.

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

NIXON QUIETLY REVIVES L. B. J.'S PET "GIVEAWAY"

(By Dan Thomasson)

President Nixon—prodded by former President Lyndon B. Johnson—quietly has revived a pet LBJ project in Austin, Tex., despite charges it is a "multi-million-dollar giveaway."

Top congressional sources said today an angry Mr. Johnson urged Mr. Nixon to resurrect the project which involves more than $7 million in Federal Housing Administration (FHA) grants and loans and transfer of 26.5 acres of federal land to a group of Mr. Johnson's personal friends and business associates.

The project, rushed thru in the last days of the Johnson administration, was killed by the Nixon administration last year after congressional critics questioned its legality.

The Health, Education and Welfare Department confirmed today it had withdrawn its contest of the land transaction with the Austin Geriatrics Center, Inc., a nonprofit organization which plans to use the land and loans to set up a 168-bed nursing home and 250-unit housing complex for the elderly.

100 PER CENT FINANCING

And the Housing and Urban Development (HUD) Department conceded it has worked out a new 100 per cent federal financing deal with the Austin organization. The organizers include J. C. Kellam, manager of radio and TV properties owned by Mr. Johnson's family in Austin; Frank C. Erwin Jr., Austin attorney and longtime Johnson friend, and Roy A. Butler, Austin auto dealer and TV station owner who also has been a close ally of Mr. Johnson's.

The congressional sources said Mr. Johnson, infuriated by the Nixon administration's rejection of the project, pointedly reminded Mr. Nixon that he (Johnson) was supporting the President's policy on Vietnam and Southeast Asia.

"Lyndon considered this sort of a hometown monument to his administration," the congressional source said. "And he didn't like it at all when Nixon axed it."

FISH HATCHERY

The land involved had been a fish hatchery which the Interior Department declared surplus and transferred to HEW, in December, 1968, little more than a month before Mr. Johnson was to leave office. HEW, in turn, deeded it to the Texas group over strenuous objections of some HEW officials.

But in October, 1969, the Nixon administration demanded the land be returned to HEW on grounds the Texas group did not have the proper tax-exempt status, a technical move designed to stop the transaction.

A HEW spokesman said today, however, that this problem has been ironed out and the deed to Austin Geriatrics has been confirmed. Altho the land originally had been appraised at $2 million, its value was set at $640,000 in deeding it over at no cost to the Texas group.

The original deal called for the Texas group to get loans and grants totaling around $9 million from the FHA, HEW, and HUD to put up the geriatrics complex. To finance the 10 per cent down-payment required for FHA mortgage guarantees, the group was permitted to pledge the land it had received free from HEW.

In August of last year, HUD Secretary George W. Romney personally ordered FHA officials not to give the Texas group a 60-day extension on the mortgage commitments. And in September, 1969, a review revealed the commitments "were not feasible" and the project was killed.

In January of this year, however, a month after Mr. Johnson visited Mr. Nixon in the White House, the Texas group contacted FHA and was told it could submit new applications. On May 7, Austin Geriatrics submitted two new applications and on July 8, San Antonio FHA officials said the new plan was feasible.

STATEMENT OF SENATOR JOHN J. WILLIAMS

Mr. President, today I call attention to a highly questionable transaction wherein real estate with a real value of over $2 million was given away in the last 90 days of the Johnson Administration.

Between October 21, 1968, and January 20, 1969, a group of Texans, Mr. J. C. Kellum, Mr. Roy A. Butler, and Mr. Frank C. Erwin, Jr., formed a nonprofit corporation and then received a free gift from the Government of 26½ acres of choice real estate in the center of Austin, Texas. A low value of $642,000 was used, but actually this valuation was far too low since in the Government files

at that same time was an earlier appraisal which showed a valuation on this same land of over $2 million. As if that were not enough, in addition to receiving this gift of land this same group was approved for large cash grants from the Department of Health, Education, and Welfare and for Federal Housing Administration loans totaling over $8 million to build a nursing home and apartments on this same project. F.H.A. loans are not supposed to be for more than 90 per cent of the construction cost. To provide the necessary 10 per cent down payment the group pledged as collateral the land which the government had just given them plus the proceeds of three cash grants awarded them by H.E.W. totaling nearly a half million dollars. This meant that the group would have no money invested in the $10 million project.

The files indicate that these liberal transactions were arranged upon orders from the White House, and official approval was given by the Secretary of Health, Education, and Welfare, who overrode the strenuous objections of subordinates who recognized this deal as a land grab in which the interests of the Government were not being properly protected.

I shall review the chronology of these transactions and let the record speak for itself.

First the President developed the idea of establishing a geriatric center in Austin, Texas. The project was originally supposed to have the sponsorship of the University of Texas; but the University soon withdrew and then a group of individuals formed a so-called nonprofit organization and proceeded with the plans.

On October 29, 1968, there was a special meeting at the White House to discuss this project. Present were Mr. M. Nimetz, Special Assistant to Mr. J. Gaither, representing the President; Dr. Thomas McCarthy, National Center for Health Services, Research and Development; Mr. H. R. Moskof, President, Committee of Urban Housing; Mr. T. Ray Ogden and Mr. C. L. Tilley, of Brooks, Barr, Graeber and White, of the Washington and Austin offices, respectively; Mr. A. H. Dilly, Vice Chancellor for Health Affairs, University of Texas, Austin; Mr. A. D. Grezzo, Chief, Elderly Nursing Homes and Medical Facilities Branch, F.H.A.; and Mr. J. A. Cunningham and Dr. Milton L. Bankoff, both of Division of Medical Care Administration, Public Heatlh Service.

The purpose of this meeting was to develop a definitive program in response to the President's request for a new and innovative nursing home for Austin, Texas, as soon as possible.

The representatives of the University of Texas expressed their desire to cooperate completely with the President; however, they insisted on a permanent well-built building which would be operated according to high standards.

In view of the local bed situation (1,500 nursing home beds in Austin, which has a population of 200,000 and a new medicenter of 225 beds) and the low amount of financial reimbursement under current Texas regulations it was decided at this meeting that the maximum building size should be 250 beds for the nursing home.

The National Medical Association Foundation (N.M.A.F.) program was discussed in depth, and it was decided to use the N.M.A.F. plan of a continuum of care with construction of a nursing home to be followed by construction of housing for the well-elderly as rapidly as possible. Both were to be included in the master plan for the site which was to be approved as soon as possible so that construction could be begun by December 25, 1968.

The group at the October 29 meeting was told that 26 acres of federal land then being used as a fish hatchery and located five minutes east of the center of Austin, Texas, was available. That was prime land and had been valued at $2 per square foot, or over $2 million, but later when transferred this valuation was arbitrarily reduced to $642,000. There appears to be no justification for this lower appraisal.

After much discussion at this October 29 meeting this federal site was chosen. Significantly as of the date this property (consisting of 2 tracts—one of 5.79 acres and one of 20.704 acres) was selected it had not even been declared surplus, nor had the Texas group filed their organization papers.

Two weeks later, on November 15, 1968, the 20.704 acres plus an easement of .390 acres, for a total of 21.094, was conveniently reported as excess to the needs of the Interior Department, and four days later, on November 19, 1968, it was declared surplus. This property was not screened for use by the other federal agencies as is required by the law.

Meanwhile a new group took over. On this same date, November 19, 1968, the Austin Geriatrics Center, Inc., was formed under the Texas Nonprofit Corporation Act with directors and incorporators as follows:

Directors.—Frank C. Erwin, Jr., Roy A. Butler, J. C. Kellam.

Incorporators.—Burnell Waldrep, Richard C. Gibson, William R. Long.

On November 20, 1968, Mr. Sol Elson, Director of Surplus Property, sent a memorandum to Mr. Donald F. Simpson, Assistant Secretary for Administration, giving a status report on the surplus property situation and raising questions which needed to be answered in order to meet time tables set by his superiors (namely, to get this transaction cleared before January 20, 1969). In this memorandum Mr. Elson outlined their problem as follows:

1. They had not yet received an application, so they didn't know what the proposed program was.

2. They had no knowledge regarding the nature of the corporation that was to get the property or its financial ability.

They assumed it would be eligible as a nonprofit organization. Since the construction was going to be fully subsidized by the federal government and since the operation might have to be subsidized Mr. Elson felt serious doubt might exist as to the financial feasibility of the project unless there were a pledge for underwriting continuing long-term operations by some financially responsible organization. He requested additional information so that they could meet the Administration's wishes.

On November 22, 1968, their application was filed and sent to Mr. Sam G. Wynn, Regional Representative, Office of Surplus Property Utilization, H.E.W.

On November 26, 1968, the remaining 5.79 acres were reported as excess to the needs of the Interior Department, and the following day, November 27, 1968, Mr. Donald Simpson, Assistant Secretary of H.E.W., gave Secretary Wilbur Cohen a report promising that the property would be ready for delivery by December 11, but Mr. Simpson raised a question as to whether publicity of the transaction would be appropriate.

On November 29, 1968, the 5.79 acres, which on November 26 had been declared excess to the needs of the Interior Department, was officially declared surplus. Again there was no screening of other federal agencies as to its possible use.

On December 6, 1968, Secretary Cohen advised the President that as of December 2, 1968, the 26.5 acres had been officially declared surplus by the General Services Administration, that it had been assigned to H.E.W. for disposal, and that he would be ready to deliver the deed to the Austin group on December 10, 1968, at 2:00 P.M.

On December 10, 1968, the signed deed was delivered to the Texas group with a provision therein for a right of reverter for thirty years if:

1. The property was not used continuously for health and health research purposes in accordance with the application and "the supplement thereto."

2. The Center sells, rents, encumbers, or transfers the property without the consent of H.E.W.

3. The Center fails to report yearly to H.E.W.

4. The Center violates the Civil Rights Act.

The Texas group did have one problem regarding its ability to pledge the property as collateral to obtain financing from the F.H.A. This was soon resolved by the execution of a Consent Agreement on January 10, 1969, which allowed them to use this property, which was costing them nothing, as collateral for an $8 million low interest government loan.

The plan was for the Center to build a large facility, which meant a large loan and a fair amount of equity money. This could be difficult for the Center from a practical standpoint. From a technical standpoint H.E.W. had the right to revert if the Center mortgaged without first obtaining the Department's consent; however, if the Center could comply and had private financing without F.H.A. help it could be difficult to refuse such consent.

Assuming the Department of H.E.W. refused to consent it would be possible for the Center to abrogate the condition subsequently by paying to the Department $642,000 the low GSA appraised figure.

While $642,000 was the appraisal figure used for the transfer of the property to the Texas group, actually at the time of the transfer the agency files showed that earlier the same land had been appraised at well over $2 million. I found no basis for the lower valuation except to make this giveaway transaction appear less odorous.

As mentioned earlier, in addition to the free land this Texas group needed some cash. They were applying for $8.5 million in loans, and the Government required that they furnish ten per cent collateral.

The land they had received as a gift, while actually worth $2.2 million, had been accepted at a low appraisal of $642,000 and therefore would not cover the required ten per cent. (The Government loans are supposed to be for only ninety per cent of the construction costs.)

Again H.E.W. came to the rescue. On January 8, 1969, Mr. Thomas McCarthy, the Deputy Director of the National Center for Health Services Research and Development, wrote the Chief of the Contract Branch requesting that a contract he awarded the Center in the amount of $150,000 with a 12-month period of performance. Mr. McCarthy claimed that the Center had unique, important, and predominate capabilities to do the work they sought to undertake and that therefore it was impractical to secure competition by formal advertising. I suppose what he really meant was that only 12 days remained before the Administration would be out of office and that they did not have time for competitive bids.

On the following day, January 9, 1969, the Center was invited to submit a proposal, which was done on January 10 by Mr. Frank C. Erwin, Jr., President of the Center. The total estimated cost was $150,000, and Articles of the Center were attached indicating it to be a nonprofit corporation incorporated on November 19, 1968.

On January 13, 1969, Mr. William W. Brownholtz, Chief, Cost Advisory Branch, Office of Financial Management, submitted to the Chief of Contract Operation Section, Procurement Division, Health Services and Mental Health Administration (H.S.M.H.A.) an adverse report recommending against giving this contract to the Center. He com-

mented that the contract was to be a cost reimbursement type and that the organization was not ongoing and had not established an adequate accounting system to implement the contract. He also noted that the contract contemplated charging many overhead costs to the contract program. This naturally would be inappropriate if the Center also carried on activities unrelated to the Contract Program as they would have the benefit of overhead cost payments made through the contract. He felt the Center should file a security bond.

On January 14, 1969, Mr. Samuel J. Dick, Contracting Officer, likewise submitted an adverse pre-award onsite evaluation. Some of the points raised in this report were as follows:

1. The Center had no legal domicile, but Mr. Erwin suggested that his office address in Austin be used.

2. The Center had no assets other than the property deeded to them by the Federal Government.

3. F.H.A. mortgage negotiations had not been concluded, but the Center hoped to break ground by January 23, 1969, and commence construction in February. The Center therefore did not have facilities to perform the contract and would not have them until the nursing home was built.

4. The Center did not have an administrative staff or employees. Mr. Ervin was to select an administrative staff and a Director of Research, and the Center hoped to obtain consultants.

5. The Center did not have an adequate accounting system or controls to administer a government contract.

6. The Center did not have financial capacity or other resources to perform the contract, nor had it demonstrated the ability to obtain such financing. The Center felt advance payments would be necessary for operating capital.

7. The Center had no prior contracts or experience.

8. The contract contemplated was for one year, which was not within the ability of the Center, and it hoped a 2- to 3-year contract would be considered.

In this report of January 14, 1969, it is clear that Mr. Dick felt that the Center did not meet the standards of the Federal Procurement Regulations and recommended that the contract not be awarded.

On January 15, 1969, the following day, a synopsis was published in the Commerce Business Daily indicating that the Center was the sole source for the program by reason of its unique plans and capabilities and that there therefore would be no competition.

On that same day, January 15, 1969, Mr. J. Keesler, Chief, Procurement Branch Office of Procurement and Material Management, H.S.M.H.A., wrote a memorandum to the Deputy Administrator attaching Mr. Dick's memorandum of January 14. He reviewed the file with Mr. Weiner, Office of the General Counsel, and Mr. William Brownholtz, Office of Financial Management, and pointed out that they all agreed that the contract should not be awarded to this Texas group.

But White House pressure was on, and no attention was paid to any of these adverse reports.

On January 17, 1969, H.E.W. signed the contract in the amount of $150,000.

Three days later, January 20, 1969, a government-guaranteed loan in the amount of $2,283,800 was approved for the 168-bed nursing home with the San Antonio Insuring Office issuing a commitment under Section 232 (Project No. 115-43011-NP).

This loan application carried the notation that the closing requirements of about $227,000 would be cared for by H.E.W. grants.

On January 20, 1969, (the same day) a second government-guaranteed loan for $6,350,000 was approved under Section 236 for a 363-unit project designed for elderly with 20 per cent rent supplement units (Project No. 115-44008-NP-SUP).

In addition to the gift of land, this group during the same 90-day period received approval of a series of grants: From H.E.W. $150,000; and from H.U.D. $298,582 interest reduction payment (Section 236) and $58,779 in rent subsidies.

These advance cash grants and the free land received from H.E.W. were the only security advanced as representing the sponsors' ten per cent security for the $8.5-million government loan.

Thus here we have the government, in cash grants and free land, furnishing collateral for their own loans.

Mr. President, an examination of this transaction clearly shows that the free gift of this land and the approval of these cash grants and these $8.5 million in loans were obviously political decisions, and as the result of this last-minute scramble to get just one more grab from the Federal Treasury the taxpayers stand to lose millions.

To illustrate just how bold this deal was I call attention to a memo signed by Secretary Cohen on January 16, 1969, just four days before leaving office.

On January 15 two adverse reports had been received, recommending against the approval of the H.E.W. grants and the transfer of this land to this Texas group.

On January 16, 1969, Secretary Wilbur J. Cohen dictated a memorandum for the file indicating that he had personally reviewed the files, that he knew Mr. Frank Erwin, one of the directors of the Texas group, to be a man of integrity, and that he personally had discussed the project with the officials of the University of Texas who had assured him of their support of the Center. Based on said assurances he was approving the project. There is a hand-written note in the Department files on a route slip, which states:

1. Sign all three copies.

2. Sign memorandum for the record saying you reviewed, etc., and therefore approve the project.

3. Ship whole package to Lewis, and we will get a man on a plane to Texas to get them to sign before January 20.

Mr. President, I question not only the propriety but the legality of this multi-million dollar giveaway transaction wherein all rules governing the disposition of government property were ignored. Grants were made and loans were approved for this group in a manner which underscores bureaucratic contempt for the American taxpayers. This transaction cannot remain unchallenged.

I am today requesting the Department of Justice to investigate this transaction and take whatever steps are necessary to protect the interests of the Government and to recover this property. Meanwhile I am suggesting that all government agencies which approved any grants or loans to this group stop all disbursements until the Department of Justice has had an opportunity to act.

THE RIGHT TO READ

Mr. PERCY. Mr. President, the ability to read is, of course, critical for those who wish to become full and active members of our society. Unfortunately, it is increasingly apparent that too many students are not adequately acquiring this most basic skill.

In recognition of this fact, President Nixon has endorsed the right to read as a national goal for the 1970's and he has indicated that the achievement of this goal will require a national effort to develop new curricula and new methods and to better apply the many methods and programs that already exist.

An article by Mr. Lew F. Palmer, Jr. which recently appeared in the Chicago Daily News clearly and succinctly indicates the wisdom of the President's action. Mr. Palmer not only highlights the problem but reports on the activities of an organization, the Reading Foundation, which appears to have developed a successful method of overcoming the cultural disadvantages of the poor in teaching them how to read.

Mr. President, because I believe that Senators may benefit from Mr. Palmer's article, I ask unanimous consent that it be printed in the RECORD.

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

SCHOOLS NEEDN'T BE THAT BAD

A federal study commission has reported that one student of every seven has trouble reading, with some barely learning to read at all.

According to the American Assn. of Junior Colleges, one-third to one-half of new students need remedial instruction before they can work toward a four-year degree.

An education expert in Tampa says boys and girls there are graduating from high school with reading abilities of "small children."

Recent reports from the Chicago Board of Education show that the average pupil entering first grade had an above-average IQ. By the time they "progressed" to upper grades, they were below national reading norms.

The ability to read, of course, has an overwhelming relationship to the ability to progress in all phases of the educational process. It is interesting to note also that poor reading skills are directly correlated with antisocial behavior.

A committee from the Health, Education and Welfare Department reports that about 75 per cent of all juvenile delinquents are significantly retarded in reading.

This same committee discovered that of 10,000 young offenders in federal prisons, 90 per cent had reading problems in school.

It is ironic that the federal study commission on reading made its dismal report about a month after U.S. astronauts landed on the moon, for education experts estimate that a crash program to teach every American boy and girl to read adequately would cost as much as it took to get those footprints on the moon.

No such expenditure is under discussion now and if it were our system of priorities are such that it would not stand a ghost of a chance of becoming reality.

Until the American educational establishment discovers ways to solve this extraordinary problem and until the federal government decides that it is just as important to teach kids to read as it is to make moon trips, something must be done to keep the situation from getting worse.

Officials at the Reading Foundation in Chicago are convinced they have found a way to overcome reading deficiencies. The plan is called Optimation and the primary objective is to increase immediate comprehension and long-run retention of all materials read.

Actually, it is a rapid reading course and Robert B. Ayres, the foundation president says he has proof that "increasing the rat of reading results in increased and fast understanding of the material."

He says Optimation has been "highly s cessful" with business executives and f fessionals. It has now been tested in sch even among so-called disadvantaged dren, with remarkable success.

A course given at Christian Action try in Chicago saw one student leap

reading rate of 166 words a minute to 27,000. The class average was 12,220. Class comprehension increased from 50 to 53 per cent.

At Holy Angels Catholic school in Chicago, eighth graders participated in 24 hours of class instruction and 22 hours of home practice. Ayres reported that at the beginning of the course, the class' average reading speed was 141 words a minute with 40 per cent comprehension.

"The class average at the conclusion of the course was 5,615 words a minute," Ayres said, "and 58 per cent comprehension. The gain in reading efficiency (reading rate multiplied by comprehension) was 5,815 per cent."

After similar results were obtained at Ocean Hill-Brownsville Demonstration School District in Brooklyn—one of the rare community-controlled school districts in the country—Rhody A. McCoy, unit administrator, wrote Ayres:

"In the beginning, I was apprehensive about the program results that now are very evident in all three pilot classes you have conducted. The constructive, positive attitude that the students display is beautiful.

"If they continue with this new attitude, they can't help but be successful in life."

McCoy listed these "reactions we have had about your course: Students are more confident . . . It has made it possible for the teacher to do a better job now that the students are more receptive and capable of getting through sufficient material to make their classes more meaningful . . .

"Parents . . . report a complete change in reading habits with many who did not read books before now reading four or five a week and more."

The big question, then, is why public school systems are not making use of Optimation? Obviously something is terribly wrong with our present systems of teaching reading. New approaches are desperately needed. Innovation and experimentation are essential.

THE McGOVERN-HATFIELD AMENDMENT

Mr. ALLOTT. Mr. President, I am pleased to be able to share with the Senate today a most informative and cogent document pertaining to the McGovern-Hatfield amendment.

I have been fortunate to receive a memorandum which is a comprehensive discussion of the delusive theories which underlie the amendment. This memorandum was drafted for me by Prof. William H. Roberts, director of the Institute of International Law and Relations at the Catholic University of America, in Washington, D.C.

So that all Senators may profit from the thinking of this distinguished scholar, I ask unanimous consent that his memorandum be printed in the RECORD.

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

MEMORANDUM REGARDING THE PROPOSED MCGOVERN-HATFIELD AMENDMENT TO THE MILITARY PROCUREMENT AUTHORIZATION ACT (H.R. 17123)

INTRODUCTION

1. In his address of April 30, 1970,[1] the President announced his decision that "the time has come for action" in regard to the Cambodian bases and sanctuaries of the enemy forces. This presidential decision was based on the following findings of fact and conclusions:

a. "For the past five years . . . North Vietnam has occupied military sanctuaries all along the Cambodian frontier with South Vietnam. Some of these extend up to 20 miles into Cambodia. They are used for hit-and-run attacks on Americans and South Vietnamese forces in South Vietnam.

"These Communist-occupied territories contain major base camps, training sites, logistic facilities, weapons and ammunition factories, air strips and prisoner of war compounds."

b. "In contrast to our policy, the enemy in the past two weeks has stepped up his guerrilla actions and he is concentrating his main attacks on our forces and those of South Vietnam."

c. "If this effort succeeds, Cambodia would become a vast enemy staging area and springboard for attacks on South Vietnam along 600 miles of frontier—and a refuge where enemy troops could return from combat without fear of retaliation.

"North Vietnamese men and supplies could then be poured into that country, jeopardizing not only the lives of our own men but the people of South Vietnam as well."

d. "The areas in which these [i.e., U.S.-South Vietnamese] attacks will be launched are completely occupied and controlled by North Vietnamese forces."

e. "I have concluded that the actions of the enemy in the last 10 days clearly endanger the lives of Americans who are in Vietnam now and would constitute an unacceptable risk to those who will be there after our withdrawal of 150,000.

"To protect our men who are in Vietnam and to guarantee the continued success of our withdrawal and Vietnamization program, I have concluded the time has come for action." The purpose of the orders to be issued pursuant to the President's determination ". . . is not to occupy the areas. Once the enemy forces are driven out of these sanctuaries and their military supplies destroyed, we will withdraw."

2. Clearly, the findings and the determination as well as the purpose of the actions announced in the President's address of April 30, 1970, are incidental to the fact that American forces have been engaged in military operations in Vietnam for several years. Therefore, the President's decision is a military one which was made in his capacity as Commander-in-Chief of the Armed Forces. This conclusion is strongly emphasized by the fact that the purpose of the action, as stated by the President, is exclusively a military and not a political one.

3. The sequence of events following the President's announcement of April 30, 1970, namely the various amendments offered in the Senate to pending legislation, specifically the so-called McGovern-Hatfield Amendment to the Military Procurement Authorization Act (H.R. 17123) were clearly introduced in response to the President's aforementioned address. Consequently, the amendments, and specifically their operational clauses would, if enacted, impose in effect and of necessity serious limitations and restraints on the President's constitutional powers as Chief Executive, who is solely charged with the conduct of the foreign relations of the United States (hereinafter "foreign relations power"), and as Commander-in-Chief of the Armed Forces (hereinafter "Command power"). Clearly, statements made in the course of the debate on these amendments and even proposed amendments to their preambles, specifically statements, etc., to the effect that the proposed amendments, e.g., the proposed McGovern-Hatfield Amendment are not intended to interfere with the aforementioned presidential powers, contradict the operational clauses of these amendments because they do, in fact, constitute interference with the President's aforementioned authority.

4. This memorandum will attempt to analyze specifically the proposed McGovern-Hatfield Amendment under the following headings: I. The powers of the Executive; II. Interrelations Between the Foreign Relations and the Command Powers of the President; III. The Foreign Relations Power of the President; IV. The Command Powers of the President; V. Limitations on Congressional Interference with the President's Foreign Relations and Command Powers; and VI. Substance and Contents of the President's Command Powers as Determined by International Law.

Clearly, the proposed McGovern-Hatfield Amendment has a much wider scope than the Cooper-Church Amendment to the Foreign Military Sales Act (H.R. 15628), as passed by the Senate. Therefore, the former does not only include and cover the policy and provisions of the Cooper-Church Amendment but it is, in fact, a far more ambitious and farther-reaching projection of the policies which have found expression in the latter, as passed by the Senate. Occasional references to the aforesaid Amendment are, therefore, equally applicable to the proposed McGovern-Hatfield Amendment, and will simply serve the purpose of exploring all its ramifications.

I—The powers of the executive

It is well established that constitutional practice has been firmly based on the doctrine of executive power as originally stated by Alexander Hamilton. He said that:

"The general doctrine of our constitution then is, that the *executive power* of the nation is vested in the President, subject only to the *exceptions* and qualifications, which are expressed in the instrument."[2]

Thomas Jefferson did not only support Hamilton's aforementioned doctrine but expressed it in ever more explicit terms when he said that:

"The executive . . . possessing the rights of self-government from nature, cannot be controlled in the exercise of them but by a law, passed in the form of the Constitution."[3]

The prevailing constitutional doctrine was aptly summarized in the following words of the Solicitor of the Department of State when he said:

". . . where, by the terms of the constitution the national government is vested with control over a certain *sphere of action*, that portion of the field is the president's which is executive in character. . . ."[4]

II—Interrelations between the foreign relations and the command powers of the President

It is well established that the conduct of the foreign relations of the United States has been solely vested in the President.[5] One of the leading academic authorities on the Constitution, Edward S. Corwin, spoke in this connection of ". . . the President's monopoly of the function of international intercourse and his constitutional independence in the performance of that function."[6] In addition, the Constitution makes the President expressly the Commander-in-Chief of the Armed Forces.[7]

The fact that the President's foreign relations and command powers are closely interrelated to each other has been recognized since Hamilton wrote that the executive department was ". . . the organ of intercourse between the nation and foreign nations" and that it was "charged with command and disposition of the public force."[8] He, then, arrived at the conclusion that:

". . . it belongs to the 'executive power' to do whatever else [except a declaration of war] the law of nations, co-operating with the treaties of the country, enjoin in the intercourse of the United States with foreign powers."[9]

John Marshall, when a member of the House of Representatives, spoke of the interrelations between the aforementioned two powers of the President when he said that:

Footnotes at end of article.

"The president is the sole organ of the nation in its external relations. . . . He possesses the whole Executive power. He holds and directs the force of the nation. Of consequence, any act to be performed by the force of the nation is to be performed through him." [10]

Similarly, Monroe, in his capacity as Secretary of War, advised Congress that "The power of command was vested in the President primarily for the purpose of giving him that control over military and naval operations which is a necessary attribute of the executive branch." [11]

Justice Nelson, sitting as Circuit Justice and speaking for the court, epitomized the interconnection between the foreign relations and command powers of the President in the following words:

"For this purpose the whole Executive power is placed in his [the President's] hands . . . and different departments of government have been organized, through which this power may be most conveniently executed *whether by negotiation or by force.*" [12] (Emphasis added.)

The reasons behind this combination of foreign relations and command powers in the hands of the President were aptly stated by Justice Sutherland when he said for the Court that:

". . . he [the President], not Congress, has the better opportunity of knowing the conditions which prevail in foreign countries, and especially is this true in time of war." [13]

III.—The President's foreign relations powers

Constitutional doctrine, Congress, as well as the executive and judicial branches of the Government, have consistently maintained that the power to conduct the foreign relations of the United States (foreign relations power), with the exception *expressly* stated in the Constitution, is solely vested in the President. Alexander Hamilton emphasized this point when he said that "the legislative department is not the organ of intercourse between the United States and foreign nations." [14]

Again, Jefferson emphasized Hamilton's point of view when he said that:

"The transaction of business with foreign nations is Executive altogether . . . except as to such portions of it as are specially submitted to the Senate. Exceptions are to be construed strictly." [15]

As early as 1816, the Senate Foreign Relations Committee in a report to the Senate warned against congressional interference with the President's exclusive powers in the foreign relations field on the ground that such interference was bound ". . . to impair the best security for the national safety." [16]

In 1897, the Senate Foreign Relations Committee made a thorough investigation of the question of presidential powers in the foreign policy field in connection with the question of the recognition of Cuba's independence. The Committee arrived at the following conclusions:

"The executive branch is the sole mouth piece of the nation in communication with foreign sovereignties. . . . In the department of international law, therefore, properly speaking, a congressional recognition of belligerency or independence would be a nullity." [17]

About a decade later, Senator Spooner of the Foreign Relations Committee said in the Senate:

"The Senate has nothing whatever to do with. . . the conduct of our foreign intercourse and relations save the exercise of the one constitutional function of advice and consent which the Constitution requires. . . . From the foundation of the Government it has been conceded in practice and in theory that the Constitution vests the power of negotiation and the various phases—and they are multifarious—of the conduct of our foreign relations exclusively in the President. And . . . he does not exercise that constitutional power, nor can he be made to do it, under the tutelage or guardianship of the Senate or of the House or of the Senate and House combined." [18]

Similarly, the executive branch stated its position clearly in a memorandum of the Solicitor of the Department of State when he said:

"In all cases the President could direct and control, but in the 'Presidential' Department he could determine *what should be done, as well as how it should be done.*" [19] (Memorandum's emphasis.)

The Supreme Court emphasized in *United States* v. *Curtiss-Wright Corp.*, the fact that:

"Not only is the federal power over external affairs in origin and essential character different from that over internal affairs, but participation in the exercise of the power is significantly limited. In this vast external realm . . . the President alone has the power to speak or listen as a representative of the nation. . . . [H]e alone negotiates. Into the field of negotiations the Senate cannot intrude and Congress itself is powerless to invade it." [20]

The Supreme Court then elaborated upon the nature of the President's foreign relations power by referring to it as:

". . . the very delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations. . . ." [21]

IV.—The powers of the President as Commander-in-Chief

In Federalist Paper No. 74, Alexander Hamilton stated the constitutional doctrine regarding the President's powers as Commander-in-Chief clearly when he said:

"Even those of them which have, in other respects, coupled the chief magistrate with a council, have for the most part concentrated the military authority in him alone. Of all the cares or concerns of government, the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand. The direction of war implies the direction of common strength; and the power of directing and employing the common strength, forms a usual and essential part in the definition of executive authority."

This doctrine was re-affirmed by the Supreme Court in a case arising out of the occupation of Tampico in the Mexican War. Chief Justice Taney, for the Court said:

"As commander-in-chief, he [the President] is authorized to direct the movements of the naval and military forces placed by law at his command and to employ them in the manner he may deem most effectual to harass and conquer and subdue the enemy." [22]

In 1860, Francis Lieber summarized the doctrine in his *Remarks on Army Regulations*. In connection with his elaboration of the President's exclusive power to direct military movements, Lieber said that the war powers of Congress did not give ". . . it, command the Army. Here the constitutional power of the President as Commander-in-Chief is exclusive." [23]

The following words of Senator O. H. Browning in the 1862 Senate debate between him and Senator Sumner state convincingly and clearly the reasons for the presidential command powers and the danger inherent in the attempt to interfere with them. In the Senate debate of June 25, 1862, Senator Browning said:

"And now, I again ask whether it is seriously contended that Congress has either the right or the power to judge of and determine upon any of them [i.e., military necessities] a month in advance of its occurrence? Whatever the seeming necessity be now, when the month has elapsed it may no longer exist.

"These necessities can be determined only by the military commander and to him the Constitution has entrusted the prerogative of judging them. When the Constitution made the President 'Commander-in-Chief of the Army and Navy of the United States' it clothed him with all the incidental powers necessary to a full, faithful and efficient performance of the duties of that high office; and to decide what are military necessities, and to devise and execute the requisite measure to meet them, is one of these incidents. It is not a legislative but an executive function, and Congress has nothing to do with it. . . . Nor can Congress control him in the command of the Army, for, if it can, then he is not Commander-in-Chief, and the assertion of the Constitution to that effect is a falsehood. And whenever Congress assumes control of the Army in the field, it usurps the powers of a coordinate department of government, destroys the checks and balances provided for the safety of the people, and subverts the Constitution.

"Congress is to raise and regulate the Army; when raised and regulated, the President is to have the supreme command and direction.

"He [the President] is as supreme in his sphere as the legislative department is in its sphere; and in the performance of his duties, he cannot, without abnegation of his authority, submit to the control of either Congress or the people." [24]

Several days later, on June 27, 1862, Senator Browning said in elaboration of this point:

"When we are engaged in war, and it [the army] is in the field marshalled for strife, I deny that Congress . . . has any power to say to the President, do this or do that . . . advance today and retreat tomorrow." [25]

This doctrine was upheld by the Supreme Court in the *Prize* cases where it said that "He [the President] must determine what degree of force the crisis demands." [26]

The scope of the command powers of the President over the armed forces in the field has to be understood in terms of the relationship between ends and appropriate means. Alexander Hamilton referred to this problem where he said that:

"The means ought to be proportioned to the end; the persons from whose agency the attainment of any end is expected, ought to possess the means by which it has to be attained." [27]

Once United States forces are involved in military operations against enemy forces, the President as Commander-in-Chief is constitutionally required ". . . to use all means calculated to weaken the enemy and to bring the struggle to a successful conclusion." [28]

In *Durand* v. *Hollins, supra,* Justice Nelson, for the court, said that the question whether it had been the duty of the President to interpose by force for the protection of American citizens in Greytown, Nicaragua, was a question of public policy ". . . which belonged to the executive to determine and his decision is final and conclusive." [29] The Court then held that the two principal means for conducting foreign relations were negotiation or force.

In *Lichter* v. *United States,* the Supreme Court quoted from an address by former Chief Justice Charles Evans Hughes that "The power to wage war is the power to wage war successfully." In elaborating upon the aforesaid statement the Court, then, held that ". . . the primary implication of a war power that it should be an *effective power to wage war successfully.*" [30] (Emphasis added.)

In *United States* v. *Hirabayashi,* the District Court [31] pointed out that:

"The Constitution of the United States was intended by the fathers who framed it to be able to cope with war emergencies. This nation came into being as a result of a successful war. The Constitution was written shortly

Footnotes at end of article.

thereafter and at a time when its framers had every reason, by virtue of their experience and in the light of then world conditions, to expect that this nation be confronted by war in the future."

In the same case [*United States* v. *Hirabayashi*] the Supreme Court held that the war power of the national government which includes the President's command powers over armed forces in the field ". . . extends to every matter and activity so related to war as substantially to affect its conduct and progress. The power is not restricted to the winning of victories in the field and the repulse of the enemy forces. It embraces every phase of the national defense, *including the protection of war materials and the members of the armed forces from injury and from dangers which attend the rise, the execution and progress of war. . . .*" (Emphasis added.)

Consequently, the Supreme Court concluded that the war powers, which include the Presidential command powers, provide a wide scope "for the exercise of judgment and discretion in determining the nature and extent of the threatened injury and danger and in the selection of the means for resisting it."[32] The constitutional doctrine and practice were aptly summarized in the following words:

"The President in time of war has entire control of the movements of the army and navy. Congress has, under the Constitution, the sole power to raise and support armies . . .; but after the forces have been provided and war has begun, the President may order them anywhere he will for the purpose of carrying the war to a successful conclusion.

* * * * *

". . . in time of war the authority of the President is recognized as being absolute as to where the war is to be conducted whether . . . to carry on an offensive war in the enemy territory, in the territory of an ally, or perhaps even in the territory of a neutral.

* * * * *

"Just as the President decides when and where troops should be employed in time of war, so he alone likewise determine how the forces should be used, for what purposes, the manner and extent of their participation in compaigns and the *time of the withdrawal.*"[33] (Emphasis added.)

V.—Limitations on congressional interference with the President's foreign relations and command powers

Already in 1789, the problem of congressional interference with the powers vested in the President and the dangers inherent in such interference were clearly visualized and precisely stated in the following words:

"He [Roger Sherman] seems to think . . . that the power of displacing from office is subject to legislative discretion; because, having a right to create, it may limit or modify as it thinks proper. . . . [W]hen I consider that the Constitution clearly intended to maintain a marked distinction between the Legislative, Executive and Judicial powers of Government; and when I consider that if the Legislature has a power, such as is contended for [*i.e.*, the power to make provisions for removal of officers appointed with the consent of the Senate], they may subject and transfer at discretion powers from one department of our Government to another; they may, on principle, exclude the Presidents altogether from exercising any authority . . . they may vest it in the whole Congress; or they may reserve it to be exercised by this House. When I consider the consequences of this doctrine and compare them with the true principles of the Constitution, I own that I cannot subscribe to it. . . ."[34]

President Taft stated clearly and precisely the narrow limits of permissible congressional interference with the President's foreign relations and command powers when he said:

"Two principles, limiting congressional interference with the Executive powers are clear. First, Congress may not exercise any of the powers vested in the President, and second, it may not prevent or obstruct the use of means given him by the Constitution for the exercise of those powers."[35]

Similarly, a distinguished former American ambassador to Germany who had been a life-long student of international affairs said that:

". . . . the contention that one department of the government may in any way coerce another is a repudiation of the very purpose of the division of power and would result in the destruction of that freedom under law which the Constitution aims to establish."[36]

The Supreme Court has consistently held that the powers of Congress to interfere with the foreign relations and command powers of the President are strictly and narrowly limited. In 1914, the Supreme Court held that:

"It is settled beyond dispute that the Constitution is not self destructive. In other words, that the powers which it confers on the one hand, it does not take immediately away with the other."[37]

In the inter-war period, the Supreme Court reaffirmed the well-established constitutional practice and doctrine that:

". . . he [the President], not Congress, has the better opportunity of knowing the conditions which prevail in foreign countries and especially is this true in time of war.

"This consideration discloses the unwisdom of requiring Congress in this field of governmental power [*i.e.*, federal powers in the field of external affairs] to lay down narrowly definite standards by which the President is to be governed. As we said in *Mackenzie* v. *Hare*, 239 U.S. 299, 311, 'we should hesitate long before limiting or embarrassing such power' . . . ."[38]

Twelve years later, *i.e.*, after the end of World War II, the Supreme Court held again in *Lichter* v. *United States* that:

". . . the primary implication of a war power is that it should be an effective power to wage the war successfully. Thus, while the constitutional structure and controls of our Government are our guides equally in war and in peace, *they must be read with the realistic purpose of the entire instrument in mind.*" (Emphasis added.)[39]

Finally, in 1958 the Supreme Court approached the same problem from a slightly different angle when it said:

"The restrictions confining Congress in the exercise of any of the powers expressly delegated to it in the Constitution apply with equal vigor when that body seeks to regulate our relations with foreign nations. *Since Congress may not act arbitrarily, a rational means must exist between the content of a specific power in Congress and the acts of Congress in carrying that power into* execution. More simply stated, *the means . . . must be reasonably related to the act*—here regulation of foreign affairs." (Emphasis added.)[40]

Doctrine and practice were aptly summarized when the court held in *Palmer* v. *United States Civil Service Commission that*:

"The Congress of the United States under the separation of powers in the federal Constitution cannot require the President of the United States to surrender any of his executive powder [sic]".[41]

President Kennedy relied on the same well-established constitutional practice and doctrine when he said in a letter to the then Chairman of the House Armed Services Committee, the Honorable Carl Vinson, in connection with the RS–70 debate that:

"Each branch of the Government has a responsibility to 'preserve, protect and defend' the Constitution and the clear separation of legislative and executive powers it requires. I must, therefore, insist upon the full powers and discretions essential to the faithful execution of my responsibilities as President and Commander-in-Chief, under Article II, Sections 2 and 3 of the Constitution.

"Additionally, implicit in the Constitution, of course, is the intent that a spirit of comity govern relations between the executive and legislative. And while this makes unwise, *if not impossible any legislative effort to 'direct' the Executive on matters within the latter's jurisdiction . . .*" (Emphasis added.)[42]

VI.—Substance and contents of the President's command powers determined by international law

The decision of the President "to clean out major sanctuaries on the Cambodian-Vietnamese border" is incidental to the state of war existing in Vietnam in which the United States Armed Forces have been involved for several years. The aforesaid decision is, therefore clearly based on the powers vested in the President as Commander-in-Chief of the Armed Forces and as "Executive of the Law of Nations."

As stated heretofore, Chief Justice Taney said for the Court in 1850:

"His [the President's] duty and his power are purely military. As Commander in Chief, he is authorized to direct the movements of the naval and military forces placed, by law at his command. . . ."[43]

In this connection, Attorney General Cushing said in 1855:

"So he [the President], and he alone is the supreme commander in chief of the Army and Navy. . . . That is a power constitutionally inherent in the person of the President."[44]

It is well established that the findings and determinations made by the President in his capacity as Commander-in-Chief are definite and final. The Supreme Court held already in 1827 that:

"We are all of opinion, that the authority to decide whether the exigency [i.e., the President's authority to call the militia into federal service] has arisen belongs exclusively to the President, and that his decision is conclusive upon all other persons."[45]

Specifically in regard to armed forces in the field, the constitutional practice and doctrine concerning the command power of the President has been authoritatively stated in the following words:

"As against an enemy in the field the President possesses all the powers which are accorded by International Law to any supreme commander."[46]

Since the substance and the contents of the powers of the President as Commander-in-Chief of the armed forces in the field are determined by international law, the President is under a constitutional obligation to see to it that international law is faithfully executed because the "take care" clause of Article II, Section 3 of the Constitution does not only apply to municipal but also to international law. In this connection, Alexander Hamilton stated already the well-established and generally accepted doctrine when he said:

"The Executive is charged with the execution of all laws, the law of nations, as well as the municipal, by which the former are recognized and adopted.

"The President is the constitutional Executor of the laws. Our treaties and the laws of nations form a part of the law of the land. He, who is to execute the laws, must first judge for himself or their meaning."[47]

Although the Constitution makes the President Commander-in-Chief of the armed forces, the substance and the contents of the command powers are, as heretofore stated, determined by international law. The United

Footnotes at end of article.

States Army Field Manual, The Law of Land Warfare (FM 27–10 (1956), hereinafter "Field Manual") is the principal source for ". . . authoritative guidance . . . on the customary and treaty law applicable to the conduct of warfare on land and the relationships between belligerents and neutral states."[48] The provisions of the Field Manual have "evidentiary value insofar as they bear upon questions of custom and practice."[49]

In his determination, announced on April 30, 1970, the President had to be guided by the customary law of war which ". . . applies to all cases of declared war or any other armed conflict which may arise between the United States and other nations."[50] Therefore, the President was under a constitutional obligation to apply the customary international law of land warfare in any international armed conflict regardless of whether war had been declared or not.

"As the customary law of war applies to cases of international armed conflict . . . a declaration of war is not an essential condition of the application of this body of law."[51]

In his findings announced on April 20, 1970, the President stated that the enemy had:

". . . occupied military sanctuaries. . . . They are used for hit-and-run attacks on American and South Vietnamese forces in South Vietnam.

"These communist-occupied territories contain major base camps, training sites, logistic facilities. . . ."

Therefore, by using Cambodian territory actively, *i.e.*, for the purpose of attack, and passively as sanctuaries, the enemy had, by its own action, and, as will be shown hereinafter, in violation of international law, extended the theatre of war into Cambodia and/or had made Cambodia a base of operations. In such a contingency, the injured party, *i.e.*, the other belligerent, may legally resort to remedial actions one of which are reprisals.[52] The President, as Commander-in-Chief, was under an obligation to initiate such reprisals because ". . . the safety of the troops required immediate action. . . ."[53]

A leading and generally recognized Swedish authority on the law of war and neutrality states that:

"Reprisals are always designed to meet unlawful acts already performed by the enemy, and they aim at putting an end to the situation which has thus arisen or at relieving the danger of later infringements."[54]

In fact, Castren says:

"Reprisals belong to that small class of measures which enable warfare to be kept within legal limits and they may thus be said to be a kind of *sanction* for the laws of war." (Author's emphasis.)[55]

Therefore, the provisions of the proposed McGovern-Hatfield Amendment are an obvious interference with the President's exclusive powers as Commander-in-Chief on the ground that they attempt to limit, restrict and restrain the supreme commander's discretion to select the optimum means of reprisal which are called for by concrete situations in the field as they develop. Clearly, and particularly if reprisal action has to be taken in the territory of a neutral country, it is preferable to enable the local forces of the neutral to participate to the maximum of their capability in effective reprisal actions and specifically by deploying its own forces. If such an opportunity exists, it is the supreme commander's duty to make maximum use of it and to limit the involvement of his armed forces to the degree necessary to initiate and, possibly at a later date, to support the local forces. Any other action on the part of the supreme commander would be inconsistent with the governing principle of economy of force which is one of the fundamental strategic principles by which a supreme commander has to be guided. Inaction or insufficient action along these lines is bound to subject the supreme commander to justifiable criticism for his failure to make use of all available means for adequate reprisal.

Specifically, sub-sections (b) and (c) of the proposed McGovern-Hatfield Amendment would, in effect, attempt to restrain the Commander-in-Chief's discretion to select adequate reprisal measures enabling Cambodia and Laos to take themselves, in due course, "unitary or repressive action of their own."[56] Obviously, the policy which finds expression in the proposed Amendment would force the aforementioned countries, and, specifically, at this time Cambodia, to "bear a passive part in the necessary suppression of courses which are fatal to . . . freedom. . . ."[57] One of the principal duties of a neutral state is to prevent the entry of armed forces of a belligerent power. Therefore, the Field Manual restates verbatim the rule of Hague Convention, V, 1907, Article 1, when it provides that "The territory of Neutral Powers is inviolable."[58] From this follows that "an unauthorized entry into the territory of a neutral state is prohibited."[59] Inability of the neutral power to prevent violations of its territory vests in the other belligerent the *right* to attack enemy forces there.

"Should the neutral State be unable, or fail for any reason, to prevent violations of its neutrality by the troops of one belligerent entering or passing through its territory, the other belligerent may be justified in attacking the enemy forces on this territory."[60]

Specifically, this is the case when the neutral territory is turned into a base of operations and, even more so, if it is turned into a theatre of war.[61] American practice developed in both World Wars continues to be well-established, namely to consider "territory occupied by an enemy power . . . on a par with enemy territory."[62] Clearly, this is to an every greater degree the case if neutral territory is not only occupied but is actively and passively used for the enemy's military operations. If the neutral power is unable to prevent the enemy from carrying out military operations, the duties of a neutral under international law—

". . . are violated whenever an expedition, organized on neutral soil for the purpose of engaging in military operations against a belligerent state, is permitted to depart from the neutral's domain and in consequence causes injury to that State."[63]

In such a contingency, the enemy by his own action has extended the theatre of operations to neutral territory by making it a stopping point for its own military or paramilitary operations or expeditions.[64] Clearly, the injured belligerent has the right and supreme commander has the duty, to take appropriate reprisal actions.

This doctrine is supported by the award of the Greco-German Mixed Arbitral Tribunal in *Coenca Brothers* v. *Germany*.[65] There the Tribunal said:

"In general, Germany was entitled to conduct military operations against neutral Greek territories occupied by allied troops. The occupation of Salonica by the Allies in the autumn of 1915 constituted a violation of Greek neutrality. The question whether the Greek Government protested against the occupation . . . was irrelevant. In any case, the occupation constituted an unlawful act as far as Germany was concerned and justified the latter in conducting on Greek territory the necessary measures of warfare."

Similarly, the French Conseil des Prises ruled in The Anna Maria[66] that:

"Moreover, the presence of German and Italian forces, and the series of war-like actions committed by them in the waters and on the territory of Tunis, had made these waters and that territory a theatre of operations where the right of capture could be exercised."

The same considerations apply if the enemy uses neutral territory as a base of operations, i.e., as sanctuaries where its strength can be augmented. A base of operations has been aptly defined as:

". . . a place where, contrary to international law, a belligerent may augment his strength to wage war more effectively against his enemy, as by recruiting, fitting out expeditions, taking refuge there, and . . . disseminating military information, or performing other acts of a like character."[67]

It is uncontradicted that the establishment of sanctuaries brings

". . . the neutral country . . . under the common military definition of a base of operations; it becomes the territory 'from which an army or a naval force draws its resources and reinforcements, that from which it sets forth on an offensive expedition, and in which it finds a refuge at need.'"[68]

Incidentally, the United States applies this doctrine to the use of its own territory as a base of operations. In this connection, Attorney General Robert Kennedy stated with reference to the neutrality laws of the United States on April 20, 1961 that:

"What the law does prohibit is a group organized as a military expedition from departing from the United States to take action as a military force against a nation with whom the United States is at peace."[69]

CONCLUSION

On the aforementioned grounds, it is submitted that the proposed McGovern–Hatfield Amendment to the Military Procurement Authorization Act (H.R. 17123), if passed, would—if accepted by the President—constitute an interference with the foreign relations and command powers *exclusively* vested in the President in his respective capacities as Chief Executive and as Commander-in-Chief of the United States Armed Forces.

Since the substance and the contents of the President's command powers over the armed forces in the field are determined by international law, as authoritatively stated in the United States Army Field Manual, the Law of Land Warfare, the proposed Amendment would also, if passed, constitute an interference with the rights and duties vested by international law in any supreme commander of armed forces in the field. Thus, the proposed McGovern-Hatfield Amendment would, if passed, constitute an attempt to abrogate or change unilaterally norms and rules of international law. Clearly this would effectively undermine the credibility of the United States which, as Rome and Britain in times past, has probably the greatest interest in protecting and developing generally accepted principles and rules governing international conduct in peace as well as in war.

FOOTNOTES

[1] Cong. Rec. 13838–9 (1970).

[2] 7 Works of Alexander Hamilton 81 (J. C. Hamilton ed., 1851) [Hereinafter "Hamilton, Works"].

[3] 5 Writings of Thomas Jefferson 272 (Ford ed., 1898) [Hereinafter "Jefferson, Writings"].

[4] Memorandum of the Solicitor of the Department of State, October 1, 1930, in connection with Sen. Res. 253. 71st Cong., 2d sess., as quoted in 4 Hackworth, Digest of International Law 643 (1942).

[5] Constitution, Art. II, sec. 2, cl. 2 and 3.

[6] Corwin, The President: Office and Powers 188 (1962).

[7] Constitution, Art. II, sec. 2, cl. 1.

[8] 7 Hamilton, Works, supra, at 79–80.

[9] Ibid., at 84.

[10] 2 Benton Abridgments of the Debates of Congress 466–467 (1861). See also Annals of Cong., 6th Cong., col. 613, as quoted in *United States* v. *Curtiss-Wright*, 299 U.S. 304, 319 (1936).

[11] American State Papers, Military Affairs I, at 606.

[12] *Durand* v. *Hollins*, 8 Fed. Cas. 111, 112 C.C. S.D. N.Y., (1860).

[13] *United States* v. *Curtiss-Wright*, supra, at 320.
[14] 7 Hamilton, Works, supra, at 79.
[15] 5 Jefferson, Writings, supra, at 161–162.
[16] 8 U.S. Sen., Reports, Committee on Foreign Relations 24 (1816) as quoted in *United States* v. *Curtiss-Wright*, supra, at 319.
[17] Sen. Doc. No. 56, 54th Cong., 2d sess. 20–22 (1897).
[18] 40 Cong. Rec., pt. 2, 1418–1419 (1906) as quoted in 5 Hackworth, supra, 28–30.
[19] Memorandum of October 1, 1930, supra, as quoted in 4 Hackworth, supra, at 644.
[20] *United States* v. *Curtiss-Wright*, supra, at 319.
[21] Ibid., at 320.
[22] *Fleming* v. *Page*, 9 How. 603, 614 (1850).
[23] Lieber, Remarks on Army Regulations 18.
[24] Cong. Globe, 37th Cong., 2d sess., at 2919–2120 (1862).
[25] Ibid., at 2970.
[26] *Prize Cases*, 2 Bl. 635, 670 (1863).
[27] The Federalist, No. 23.
[28] 3 Willoughby, The Constitution of the United States, section 1033, as quoted in *Ebel* v. *Drum*, 52 F. Supp. 189, 194 (D.C. D. Mass. 1943).
[29] *Durand* v. *Hollins*, supra, at 112.
[30] *Lichter* v. *United States*, 334 U.S. 742, 782 (1948).
[31] *United States* v. *Hirabayashi*, 46 F. Supp. 657, 662 (D.C. W.D. Washington, N.D., 1942).
[32] *United States* v. *Hirabayashi*, 320 U.S. 81, 93 (1942). See also *Brown* v. *Wright*, 137 F 2d 487, 489 (4 Cir., 1943).
[33] Berdahl, "War Powers of the Executive in the United States," 9 University of Illinois Studies in the Social Sciences 1, 121–122 (1920).
[34] Annals of Cong., 495, 496 ( ), as quoted in *Myers* v. *United States*, 272 U.S. 52, 125 (1926).
[35] Taft, Our Chief Magistrate and His Powers 126 (1916).
[36] Hill, Present Problems in Foreign Policy 163 (1919).
[37] *Billings* v. *United States*, 232 U.S. 261, 282 (1914).
[38] *United States* v. *Curtiss-Wright*, supra, at 321, 322.
[39] *Lichter* v. *United States*, supra, at 782.
[40] *Perez* v. *Brownell*, 356 U.S. 44, 58 (1958).
[41] *Palmer* v. *U.S. Civil Service Commission*, 191 F. Supp. 495, 511 (D.C. S.D. Illinois, S.D. 1961); reversed on other grounds, 297 F 2d 450 (7 Cir., 1962); cert. den. 369 U.S. 849 (1962). See also *United States* v. *Carrollo*, 3 F. Supp. 3, 7 (D.C. W.D. Missouri, W.D. 1939); *Lutcher S.A. Cellulose* v. *Inter-American Development Bank*, 253 F. Supp. 570 (D.C. D.C. 1966).
[42] 108 Con. Rec. 4694 (1962).
[43] *Fleming* v. *Page*, supra, 614.
[44] 7 Ops. Atty. Gen. 453, 464–465 (1855).
[45] *Martin* v. *Mott*, 12 Wheat. 19, 30 (1827).
[46] Sen. Doc. No. 39; 88th Cong., 1st session 452 (1964).
[47] 7 Hamilton, Works, supra at 84.
[48] United States Army Field Manual, The Law of Land Warfare, FM 27–10 (1956) (hereinafter "Field Manual"), sec. 1.
[49] Ibid.
[50] Ibid, sec. 8(b).
[51] Ibid, sec. 9.
[52] Ibid, sec. 495.
[53] Ibid.
[54] Castern, The Present Law of War and Neutrality 69 (1954).
[55] Ibid.
[56] 5 Lloyds Reports of Prize Cases 393 (1915–1924).
[57] Ibid.
[58] Field Manual, supra, sec. 515(a).
[59] Ibid., sec. 515(b).
[60] Ibid., sec. 520.
[61] Lauterpacht, Oppenheim's International Law 656 (1952). See also Starke, An Introduction to International Law 44 (1963).
[62] Castren, supra, 110. See also 10 Whiteman, Digest of International Law 96 (1968).
[63] 3 Hyde, International Law, Chiefly as Interpreted by the United States, 2253–54 (1945), as quoted in 11 Whiteman, supra 230 (1968).
[64] Castren, supra, at 70.
[65] Annual Digest of Public International Law Cases, No. 389 (1927–28).
[66] Annual Digest of Public International Law Cases, No. 174 (1946).
[67] Greenspan, The Modern Law of Land Warfare, 542 (1959).
[68] Hall, A Treatise on International Law 723–724 (1924).
[69] 11 Whiteman, supra, 231.

NEW SUPPORT FOR RATIFICATION OF POLITICAL RIGHTS FOR WOMEN TREATY

Mr. PROXMIRE. Mr. President, in the past 2 days I have discussed the need for organized political action on the part of women to secure permanent guarantees of their rights. Today I shall ask to have printed in the RECORD a letter I received from the Women's International League for Peace and Freedom which endorses ratification of the Political Rights for Women Convention. This is the type of action which is needed if the Senate is to act on this treaty. The Senate will not act on this treaty unless women make their views known to their Senators. I encourage women to organize themselves in order that effective pressure can be exerted on the Senate.

As evidence that women are now demanding action on this treaty, I ask unanimous consent that the resolution and the accompanying letter from the Women's International League for Peace and Freedom be printed in the RECORD.

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

RATIFICATION OF U.N. CONVENTION ON POLITICAL RIGHTS FOR WOMEN

To: Senator J. William Fulbright, Chairman, Senate Foreign Relations Committee; all members of the Senate Foreign Relations Committee; Secretary of State William P. Rogers; U.S. Representative to the United Nations Charles W. Yost.

The United States Section of the Women's International League for Peace and Freedom, in Annual Meeting at Waukesha, Wisconsin, June 10–14, 1970, demands that the U.N. Convention on Political Rights for Women, tabled in the Senate Foreign Relations Committee since 1967, be reported out by the Committee and ratified by the Senate without further delay.

WOMEN'S INTERNATIONAL LEAGUE FOR PEACE AND FREEDOM,
Washington, D.C., July 27, 1970.

DEAR SENATOR: The Women's International League for Peace and Freedom has been in favor of the U.N. Convention on Political Rights for Women since this convention was adopted by the General Assembly in December 1952. It provides:

(1) that women shall be entitled to vote in all elections on equal terms with men, without discrimination.

(2) that women shall be eligible for election to all publicly elected bodies established by national law on equal terms with men, without discrimination.

(3) that women shall be entitled to hold public office and exercise all public functions established by national law on equal terms with men, without discrimination.

Sixty-five nations have ratified this convention but the U.S. has not acted on it. This convention was transmitted to the Senate in 1963. Hearings were held but the convention has been tabled since 1967 in the Senate Foreign Relations Committee.

The Women's International League finds it inexcusable that the U.S. has delayed ratifying this convention for seventeen years especially since the U.S. claims to be the defender of democracy and human rights in the world. We urge ratification without further delay.

I enclose the Resolution on the Ratification of the U.N. Convention on the Political Rights for Women adopted by the U.S. Section of the Women's International League for Peace and Freedom at its Annual Meeting in Waukesha, Wisconsin, June 10–14, 1970.

Sincerely,

PATRICIA A. SAMUEL,
Legislative Director.

ECONOMIC PROGRESS

Mr. DOLE. Mr. President, we hear much talk today about the need to reorder priorities in this country. But while the critics have been talking, President Nixon has been taking action.

When he assumed office, the President inherited an economy which was overheated by constantly escalating war and defense expenditures. Irresponsible spending had left us a hyperinflated economy.

The President has effected dramatic changes in our defense spending. He has consistently reduced defense outlays to the point that mid-1971 expenditures will be almost back to the 1965 level. Since the 1971 economy is much larger than that of 1965, this is indeed a substantial reduction.

Shifting from the overheated wartime economy that the President inherited to a peacetime program of responsible spending, requires cooperation from the Congress and the American people.

Vice President AGNEW, in the Washington Post of August 16, 1970, outlined the progress which has been made and the assistance which is needed to stabilize our peacetime economy. I ask unanimous consent that the Vice President's article be printed in the RECORD.

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

THE MYTH THAT WE ARE IN A RECESSION
(By SPIRO T. AGNEW)

I welcome this opportunity to make some observations about economic developments and policy that I don't believe have been getting through to the public in most recent newspaper commentary.

To understand what is now going on in our economy, it is important that we realize our economic system is having to make not one but two major adjustments simultaneously. It is having to adjust to a major decline in defense spending while it is also cooling off from a long inflationary overheating that had become increasingly dangerous.

The adjustment in defense spending is a far greater force on the economy than many people realize. From 1968 to mid-1970 defense spending has been reduced over $12 billion (in terms of this year's prices), and by mid-1971 the reductions will approach $20 billion.

Now this is a massive reduction, even in our large economy. It means that defense outlays in real terms by mid-1971 will be almost back to the 1965 level. Since the economy in 1971 will be larger than in 1965, this obviously means that defense will be receiving in substantially smaller share of our

total output than in 1965 before the previous administration escalated the Vietnam conflict.

This is a massive re-ordering of priorities. While some have been busy orating about the need for this, the President has been busy doing something about it.

These shifts, of course, cause some painful dislocations. They mean jobs and careers terminated in defense plants and defense laboratories. Such reductions tend to hit selected professions and skills and regions of the country far harder than reductions in general budget outlays, whose effects would be spread more evenly.

These problems were foreseen and would have been less painful if the Congress had acted more promptly on administration proposals—in some cases made over a year ago—for expanding and strengthening the unemployment compensation system, for more extensive and effective manpower training programs, and for a revolutionary new approach to family assistance.

Early this year the President also sent to Congress legislation to stimulate housing, and its earlier enactment would have augmented job opportunities in our lumber producing states, which have had to bear more than their share of reduced defense employment. The President recognized early that both rational economic policy and simple humanity required programs to soften the transition problems of those who would be affected by reduced defense spending.

The economy has also had to face the transition from complex and tangled problems created by the inflationary overheating that ran unrestrained after 1965. Interest rates began to soar in 1968 as people, fearful of inflation, turned away from bonds and mortgages.

The stock market and its institutions were whip-sawed in a tragic way—forced to overexpand as the inflation caused a frenzy of buying, then forced into a painful contraction as the market inevitably receded from the stratosphere. This was all doubly tragic because many small savers were lured into stock purchases, and housing declined as normal savings flowing into savings and loan associations and other thrift institutions dried up.

The problems posed for economic policy by this double-layered adjustment were formidable. A strategy of policy had to be devised that would cool off the economy but keep within tolerable limits the adverse effect on output, incomes, and employment.

How did we succeed? Far better than the prose often proffered to us might imply.

Suppose, for a change, we skip the rhetoric and simply examine facts.

First, the myth that we are in a recession. The current adjustment is clearly far less severe than that of 1960–61, the mildest postwar adjustment that economists have called a recession. It is closer to, but slightly more severe than, the 1966–67 adjustment, which has not been decreed to be a recession.

It is now about 6 months since this adjustment began, and industrial production has declined 1.5 per cent in that 6-month period. In the comparable period during 1966–67 the decline was only slightly smaller, 1.2 per cent. For 1960–61, however, the corresponding decline was 4.1 per cent (and for 1957–58, 11.9 percent).

The picture would be broadly similar for such other general monthly measures of the economy as personal income or employment. So we are hardly in a recession.

Next, the problem of inflation. There has, of course been progress against inflation. The rates of increase in the wholesale price index and the commodity segment of the consumer price index quit accelerating last year, and the rate of increase has actually been slowing this year. On this the facts are clear.

Americans are not, of course, a patient people. Making progress has been hard going. That had to be expected. The results of severely mismanaged economic policies for three years after 1965 could not be expected to disappear overnight. Our critics conveniently forget that the Democrats occupied the White House in the postwar period's mildest recession, and even after four years the unemployment rate still registered 5 per cent in early 1965.

Next, the budget. Mr. Rowen stated in this column recently that "a sense of panic is sweeping the Nixon administration" about the budget. That was a rather extravagant statement. The budget remains under control. But it will be difficult to keep it that way if Congress doesn't get off the election year spending binge it seems to be yielding to and join the administration in an effort to keep spending under firm control.

For the current fiscal year, outlays will remain well below the receipts that the tax system can generate at reasonably full employment. The President established this as a guiding rule because it makes economic sense. We don't want to return to the conditions of 1966 to 1968, when outlays overshot the revenue-producing capacity of the tax system at full employment by annual amounts up to $25 billion.

In summary, the economic outlook is good and should improve further if Congress will cooperate with the President. We have these favorable indications:

Federal Reserve policies clearly became moderately expansionist about 6 months ago, and if experience is any guide, this action will eventually exert its diffused effects on the economy.

Consumer spending is strong—as has been demonstrated by the rebound of auto sales to a 9¼-million rate.

After-tax incomes rose about $5 billion this quarter because of tax changes alone, and the abnormally high savings rate suggests that spending has not even yet fully adjusted to higher after-tax incomes.

Our foreign trade has strengthened dramatically from a negligible merchandise surplus at the $0.9 billion annual rate a year ago to a $4.0 billion rate in the second quarter this year.

Housing is perking up, as starts rise and mortgage money becomes more available. Inventories are generally well in line with sales.

Indeed, except for growing evidence that the super boom in capital goods is waning, the hard facts about prospects are on the plus side. And that super boom was part of the highly overheated and strained inflationary economy.

We have problems. A double transition such as this one couldn't be painless or instant. Americans, however, are realists. They will not be talked into a direction not indicated by basic facts. Fortunately, the facts are now going our way.

FUNDS IMPROPERLY PAID TO ORGANIZERS OF CHICAGO RIOTS

Mr. WILLIAMS of Delaware. Mr. President, the Wilmington Morning News of August 11, 1970, contains an article entitled "Illinois Report Hits Students," written by Mr. Henry J. Taylor.

The article calls attention to the fact that the Illinois Crime Commission has found that $192,000 in Federal funds and $85,000 in Carnegie Foundation funds were paid to organizers of the riots in the Chicago area.

Apparently these Government funds were distributed under a grant by the Office of Economic Opportunity.

Such use of Government money is an insult to the intelligence of the American taxpayers, and the Government officials responsible should be fired.

I ask unanimous consent that the article be printed in the RECORD. At the same time, I suggest that the Appropriations Committee and the Senate keep this in mind when we act on the appropriations for this agency.

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

ILLINOIS REPORT HITS STUDENTS

(By Henry J. Taylor)

The Illinois Crime Investigation Commission, noting the convicted Chicago Seven riot instigators, now finds that $192,000 in federal funds and $85,000 in Carnegie Foundation funds were paid the organizers of the riots. The money was channeled through a thing called the Chicago Student Health Organization, nice as you please. And who would know it?

The Office of Economic Opportunity (the official name for the "Poverty War") likewise gave a subsidiary of the so-called Institute for Policy Studies in Washington, D.C., $193,313 when the institute was subsidizing the rioters and providing bail for them. Moreover, the American Civil Liberties Union has contributed funds to the rioters.

The Illinois commission confirms that the Ford Foundation fed money into a TV blasphemy ("Report on Iron Mountain") which pitched at our youth a fictional war and then anonymously ridiculed the United States and our fighting men in Vietnam in scathing critisim.

The commission finds that many chapters of Students for a Democratic Society across our country are supported by grants from the same colleges and universities they attack, bomb and try to burn down.

It also notes that of the 284 rioters arrested with the Chicago Seven the largest single contingent (nine) from any university community outside Chicago was from Kent State University in Ohio. Shouldn't this fact be included in the hearings about the subsequent tragic Kent killings?

The commission finds clear evidence that the appalling increase in youth crime is directly related to the increased lack of good home influence, parental respect, etc. Well, TV is the third parent in our homes. Millions of our youth from their childhood ages spend more time at the feet of this third parent, TV, than they do in school.

They're too seldom watching lessons in integrity, honesty, courage, generosity, patriotism or respect for parental duty—the lessons of civilized society. Countless brainwashed, unhappy children are being conditioned to expect violence and seek violence while the networks pocket the cash.

"Only unstable children will be adversely affected by TV," say some psychiatrists and the moguls of the fast-buck money-making machines known as CBS, NBC, and ABC. Well the commission asks, what child is born "stable"? What, if not the frequent sights and sounds of violence, will make him unstable?

How can the TV moguls conceivably argue that countless millions of impressionable youth can see criminal and violent actions all of their young lives and not expect that they will turn to violence and even to crime for fun?

With our youth being given constant lessons in criminal actions, they are performing the villainy they're taught.

Meanwhile, likewise cashing in on and further encouraging campus violence and revolution as a whole, greedy movie producers are concocting such vicious blasphemies as the picture called, "Getting Straight." In it students destroy a university and then blow kisses to each other across the flaming cam-

pus. In "If . . ." another campus is joyfully burned.

The movie version of infamous Chicago Seven Abbie Hoffman's highly profitable book, "Revolution for the Hell of It," is now scheduled for production. Or have you seen "The Strawberry Statement"? It's playing nationwide at neighborhood movie theaters. It is a similar blast at American institutions. All these and others like them exploit revolution in our country and exploit young bloodshed.

The Illinois Crime Investigation Commission quotes the declaration of the Chicago Seven at the opening of their trial on Sept. 24, 1969: "The battles for social change are not going to be won in the courtroom but on the campuses and in the streets." It is encouraging to read, at long last, a perceiving, thorough and documented report that calls a spade a spade.

AID FOR DISASTER VICTIMS OF HURRICANE CELIA; OFFICE OF EMERGENCY PREPAREDNESS FAILS VICTIMS

Mr. YARBOROUGH. Mr. President, I was shocked to learn yesterday that the U.S. Government is providing substandard housing for victims of Hurricane Celia. The Office of Emergency Preparedness made a decision in Corpus Christi, Tex., to issue trailers for temporary housing to families without sewage connections or septic tanks, provided they can use their own outdoor toilet facilities.

This is a giant step backward. In passing the Disaster Relief Act of 1960, Congress recognized the need of people left homeless by a natural disaster and authorized the Federal Government to provide dwelling accommodations for such persons. It carries an implied responsibility that dwellings provided by the Federal Government be adequate, regardless of the previous economic status of the disaster victim.

I am alarmed that the OEP has implemented such a callous and restrictive interpretation which circumvents the intent of Congress in providing relief for victims of a natural disaster.

I have urged the Director of the Office of Emergency Preparedness, Gen. George A. Lincoln, to reconsider this interpretation.

Mr. President, I ask unanimous consent that my letter of August 27, 1970, to General Lincoln on this subject be printed in the RECORD.

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

AUGUST 27, 1970.

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

DEAR GENERAL LINCOLN: As you know, a great part of the devastation caused by Hurricane Celia took place in the rural areas surrounding the City of Corpus Christi. The Department of HUD estimates that two-thirds of the trailers they will furnish as temporary shelters will be located outside Corpus Christi. Most of this rural area does not have sewage systems and consequently most of the poor use outdoor privies.

During the first few days after the disaster, HUD representatives notified applicants for temporary housing that costs for construction of septic tanks would be reimbursed for applicants that did not have other adequate drainage facilities. Subsequently, this aid was withdrawn and applicants had to construct their own septic tanks before temporary shelter would be made available on their private lots. As of last Sunday, August 23, the HUD waived its requirements for septic tanks. Now, families with outdoor privies may be issued a trailer, provided they can continue to use their own outdoor toilet facilities. Ostensibly, if their privy was demolished, a family would still not be able to obtain temporary shelter from HUD.

I do not believe Congress intended its disaster relief bill to be interpreted in this restrictive manner. Housing which requires a family to use an outdoor toilet is not adequate housing. Section 1715.11(a)(4) of your regulations state that expenses for preparing the site and for the installation of utilities are reimbursable by the Federal government. These expenses should include whatever is necessary to insure that the housing provided by the Federal government is adequate, and should specifically include construction of septic tanks to replace outdoor toilets.

I understand that this decision was made under the pressure of the disaster after a hurried evaluation of Congressional intent. I urge you to reconsider the decision which is limiting your assistance and denying it to those persons who need it the most.

Sincerely,

RALPH W. YARBOROUGH.

CAMBODIA OPERATION RECEIVES UNFAIR CRITICISM

Mr. DOLE. Mr. President, President Nixon has withdrawn American forces from Cambodia as promised, and even ahead of the deadline he had established. Yet the President continues to receive criticism for that operation.

Amidst all the noise from those who advocate America shrinking from her responsibilities, the President acted decisively in Cambodia. He outlined limited specific objectives, achieved them, and withdrew as promised.

An article written by James J. Kilpatrick was published in the Washington Evening Star of August 6, 1970. It perceptively examines the Cambodian operation and the unfair response of some Americans to the President's action. I ask unanimous consent that Mr. Kilpatrick's article be printed in the RECORD.

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

"SUCCESS" IN CAMBODIA VENTURE WINS NO ACCLAIM

(By James J. Kilpatrick)

A month has passed since the cutting-out operation in Cambodia came to an end. By all the usual criteria for judging presidential decisions, this successful venture ought to be winning acclaim. Yet the President continues to suffer denunciation for his action in Cambodia—and it is a terrible symptom of the national sickness that this should be so.

How is one to define this sickness? Part of it is blurred vision: We look at communism, but do not see it clearly. Part of it is an impediment in hearing: Certain voices—the voices of students, the voices of dissenters—register in our heads with disproportionate volume. But the signs point most sadly to a kind of wasting disease.

"It is a matter of will," Frank J. Johnson has written, "and we no longer have it."

Johnson is foreign editor of the American Security Council's Washington Report. Last month he delivered himself of a somber epitaph to the declining greatness of our country. Johnson is not an extremist; he is a scholar and a thinker. He merits an attentive hearing when he concludes that "the tide of history has begun to run against us, and the day of our world preeminence is over."

Listen to Johnson for a moment: "The internal convulsion which beset Rome in the First Century B.C. did so with her external frontiers at least secure so that she could afford the luxury of domestic strife and still survive. We are not so fortunate. Our Time of Troubles has come upon us in the midst of, and in part because of, a titanic world conflict for the political destiny of all mankind. A large segment of our population seems entirely to have lost sight of what is at stake. We are turning inward and contending against each other, either unmindful or uncaring about the holocaust which our withdrawal from power and responsibility will unleash upon the world and upon ourselves."

Everywhere that one looks, as Johnson remarks, one sees a fretful isolationism growing. In the press, in the Congress, in the universities, the "cop out" counsel swells: Get out of Vietnam. Call the troops home from Europe and Korea. Cancel a scheduled aircraft carrier. Reduce the role of the Joint Chiefs of Staff. Cut the funds for weapons research. Downgrade the anti-ballistic missile system.

It is all part of the same myopia, the same tiredness. Great powers must act as great powers. So President Nixon acted in Cambodia—boldly, decisively, responsibly. He said his action would not enlarge the war; and it has not. He said that destruction of the Communist arms depots would enhance the safety of our remaining forces; and there is every reason to believe this is true. He promised to withdraw the expedition by June 30; and he fulfilled that promise.

Tactically, strategically, psychologically, the Cambodian venture was sound. Yet much of what might have been gained by this stroke of arms has been lost to the strident clamor of immature students and professional liberals who shun the whole concept of power. They want no part of greatness—not if greatness demands cold steel. Let us therefore ridicule "the generals" and "the admirals," and let us make love, not war.

It is all very tempting. But this should be understood. If the United States abdicates its inherited responsibility for defending and preserving Western values, those values are done for. No one else remains to defend them. We must look down the road, in this event, to a twilight of abdication and a long night of tyranny.

For it is just as Johnson says: Willy-nilly, order will be kept. Power vacuums will be filled. In one fashion or another, while we are making love the Communist empire will be waging war. Its purpose never alters. Nixon understands this; but there must be times, in the midst of Washington's cricket chorus, when he wonders in despair if he understands this alone.

THE WOODLAWN SOCIAL SERVICES CENTER

Mr. PERCY. Mr. President, individuals who receive public assistance face a number of problems in obtaining certain elementary social services. In some cases, they cannot afford the cost of these services and they are not eligible to receive them free or at reduced cost. In other cases, even where they are eligible to receive these services as part of the assistance they receive, they are all too often not informed of their eligibility. If they are eligible and they do seek the services, frequently they find that the services are in fact inadequate, inappropriate, or misdirected. Finally, even when appropriate

and adequate services are available, they often can be obtained only after a number of demeaning, conflicting, or senseless regulations are overcome.

These and other problems have caused the school of social services administration at the University of Chicago, with the cooperation of the State of Illinois, to establish the Woodlawn Social Services Center. This center serves two purposes. First, the center makes a number of high quality social services available at a central location to all residents of the Woodlawn area regardless of income. Second, the center serves as an educational tool to train generalist social workers who will be able to perform the functions of a worker trained in casework, community organization, or group work.

Mr. President, Dean Harold Richman of the school of social services administration at the University of Chicago recently explained the concepts behind and the operation of the Woodlawn Social Services Center to the Women's Board of the University of Chicago. Because I believe that the Woodlawn Service Center is a unique institution which is attempting to find solutions to one of our more important social problems, I ask unanimous consent that Dean Richman's remarks be printed in the RECORD.

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

THE WOODLAWN SOCIAL SERVICES CENTER

(Presentation to the women's board by Dean Harold A. Richman, May 18, 1970)

Welcome to SSA. I want to thank Mrs. Ranney and Mrs. Heineman for giving me the chance to talk with you about the Woodlawn Service Program, a project in which you have taken such a deep and generous interest. Later on this morning, you will see the new building, which should be ready for occupancy by July 1st. I hope that my description of the concerns and business of the Center will help you to envision the uses to which it will be put by the Service Program staff, this School, and the people of Woodlawn.

The story of the Center begins with the people and problems of Woodlawn. We are now sitting on the edge of a community that is virtually all black and where at least one out of every four families lives below the poverty level, which is $3300 per year for a family of four. About 25 percent of Woodlawn's people receive welfare. The infant mortality rate is 45 per 1000 live births, and in East Woodlawn 54 per 1000, compared with the national level of 24 per 1000. Unemployment runs three times higher than the national level. Housing is very poor. At least half of it is classified as dilapidated, deteriorating, or lacking in the basic facilities necessary for health and decency. Old housing is being torn down faster than new housing is being built. Despite these conditions, rents in Woodlawn are higher than in more desirable areas of the city.

But statistics dehumanize and they don't help us to understand the living dimensions of the problem. For that, we have to turn to what these abstract numbers mean to the people who live there and to how the community, through its services, has responded to these people or, more accurately, failed to respond to them.

There is the blind couple with two young sighted children. Because their mother cannot see to gauge how much food they are eating, the children are undernourished. Because she is afraid of what her oldest child might get into, the mother keeps him immobile in a feeding chair most of the day. There has been no day care or homemaker service available in Woodlawn for this family, which wants, needs and deserves to stay together.

A teen-age boy in a welfare family was accidentally shot in the foot and taken to Jackson Park Hospital. His mother immediately joined him there, but when she produced her public aid medical care, the hospital told her they couldn't treat the boy. After a lengthy argument, she took her son to Billings where he was given first aid treatment, but was told after the card was shown that there was no surgical bed available. It was suggested that she take her son to Cook County Hospital. Wishing to avoid County Hospital, she then took her son to Michael Reese where the same scene was replayed. Finally, the next day, they went to Cook County where the boy was treated although the doctors said it was too late to remove the bullet, an uncomplicated procedure which should have been done immediately.

A child was referred to the school social work unit by her teacher because of disruptive behavior in her fifth-grade classroom. Although the social worker's statement described the teacher as "a disturbed person" who "engaged in very bizarre behavior," it was the child and her family who were treated as the problems and given counseling. The next school year, with a new teacher, the child proceeded to do extremely well in school. No attempt was made to deal with the teacher.

A welfare mother who needed new housing for her family managed to locate a suitable apartment, but was in danger of losing her claim to it unless the landlord received her deposit check. The check, which had been processed and to which she was entitled, was withheld by the welfare agency because the woman had "cussed out" the worker the week before and the worker was "very angry with her."

A family with thirteen children, numerous extreme problems ranging from the birth of illegitimate twins to a daughter, to serious health deficiencies, and a mother totally overwhelmed by the situation, was receiving visits from four different public agencies. Despite four agencies' involvement, the family received only one-third of its entitlement to public assistance, one child who had been seriously injured in an accident was still untreated, the other children could not attend school for lack of clothes, and the entire family continued to live in dangerous housing.

These cases are not particularly dramatic or extreme as life in Woodlawn goes, but they demonstrate yet another problem that is not ordinarily included in the statistical catalog of the pathology of poverty—the failure of the existing services to help people.

Services fail in a number of ways.

First, there are simply not enough of any kind of service to go around.

Second, as the incident of the hospitals shows, some services are just not available to poor black people. Almost all black emergency cases in Chicago are referred to Cook County Hospital, where the average emergency room wait is two hours and the treatment is often inadequate and always impersonal.

Third, many of the services are simply inappropriate and misdirected. For lack of what is needed, the Woodlawn residents get what there is—for the most part too little and too late of what someone else decides they need. As in the case of the child's difficulties with her fifth-grade teacher, the service is too often directed at changing the client, not improving the conditions in the service or in the system it represents. Small wonder that services are often greeted with hostility and resentment by residents.

Fourth, the services are often coercive and punitive as in the case of the withheld housing check. Thus, with some justification, what are called service agencies are often perceived as enemy ground.

Fifth, services are piecemeal and fragmented. When a multi-problem family has to deal with four workers from different agencies, each concerned with a small part of the problem, the family is confused and additionally burdened with the task of putting together the services available to it. It is left to the family, which is hardly equipped for this role, to reconcile the inconsistencies in advice and the often contradictory demands of theoretically cooperating agencies.

Sixth, the agencies, not the clients, define needs for service and rate the success or failure of their efforts. If these efforts fail, they are traditionally explained in two ways: the lack of adequate resources to deliver the services properly or the innate inadequacy of the clients. Very little scrutiny has been directed at the nature and quality of the service systems themselves.

The poor state of social service systems like Woodlawn's are a matter of great concern to SSA. For this School's job is not limited to producing social workers to fill jobs in social services as they are; in educating true professionals, we also, as a school, must work continually on the range of social problems and the institutions by which society tries to meet these problems.

In initiating the Social Services Center project, the School has hoped to create both a resource for Woodlawn and an educational setting which would allow us to examine and experiment, and perhaps improve, the systems in which our graduates would work.

We have been joined in this effort by the State of Illinois, which has made Woodlawn an experimental area for improvements in the delivery and management of social services over which the State has jurisdiction—a jurisdiction which includes all services permitted under public aid, child welfare, vocational rehabilitation, family services, employment services and mental health programs. The Social Services Center will serve as the headquarters for this experimental service program in Woodlawn.

The service program will be guided by several basic premises:

First, the provision of services will be separated from the provision of cash assistance. Clearly, to a welfare recipient, the greatest need is the need for cash. Public aid does not begin to provide support that meet even minimal family needs. This is deplorable and Federal legislation to correct that inequity is now in process. But where the same system provides both cash and service, the lines between need for money and need for help are blurred. Services tend to be emphasized in public aid in an attempt to make up for the deficiency of money; and conversely, monetary help seems to the client to hinge on his willingness to submit services. By separating the two functions and making public aid an independent financial transaction, two things come about; services are not regarded as coercive and thus can be sought out by people—whether they receive assistance or not—as wanted and needed; and family cash needs can be assessed, as is proper, independent of the often punitive judgments about the quality and character of people's private lives.

Services will be offered in one setting—the Social Services Center. A separate office, physically removed from the service program, will handle requests for financial help. These requests will be handled in a businesslike manner. Instead of the currently exhaustive, case-by-case investigation, eligibility will be determined by a declaration by the applicant of his needs. A sample of declarations will be periodically examined for accuracy just as is the practice with income tax returns.

Second, services will be available, insofar as possible, to all residents of Woodlawn—simply on the basis of residence in the area,

not on determination of financial need. People at all income levels, not just the poor, can and should benefit from public services—day care, homemaker help, counseling, skill training services and the like. The Woodlawn Service Program's goal is to serve all of Woodlawn.

Third, use of the Service Program should be totally voluntary; no one *must* use the Service Program, not even public aid recipients. Services that are imposed or are limited to the poor are generally poorly run, poorly regarded, and poorly used. But services open for people by their own choice must be good services—or they will not survive.

And fourth, the services should be of the highest quality possible. The State's resources, the School's educational program, the University's reserves of knowledge, and the willingness of voluntary agencies to work with this program, should all help to contribute to achieving quality service for Woodlawn.

Admirable as these basic tenets are, they will not be simple to translate into reality. However, the State's plan for operating the Woodlawn Service Program should greatly ease the very complicated task of bringing many different services together around the interests and needs of the community.

Administrative authority over all State service programs in Woodlawn will be vested in the program director, Mr. Clinton McKay. This authority will permit him to draw freely on State resources as well as to make contracts and agreements with other public and private agencies for purchase of services needed in the community but not available under State jurisdiction.

This "project manager" approach has several important virtues: the piecemeal nature of the present system can be overcome; the inconsistent requirements and conflicting criteria of existing services can be reconciled; and, not least of all, there will be one person who is accountable for providing quality services and answerable to the community for grievances.

The Program proposes to operate on two basic principles: one, that the client himself knows what he needs and two, that the program's job is to get the client what he needs or else have a good reason why it cannot.

As to the services themselves, I would like to describe briefly some of the major elements in the projected program:

First, the Early Childhood Development Center.

The early childhood program will provide comprehensive nurturing, health, and educational services for pre-school children during that portion of the day when it cannot be provided at home by parents. Due to the necessarily limited facilities of the Center building and the distance of this facility from some parts of Woodlawn, the programs will be provided in a number of other settings as well: outposts in existing structures; mobile units; and in group and individual day care homes. Among the services to be offered under its rubric are: links with other health, educational and social services; emergency short-term care; pre- and post-school care for children whose parents work beyond school hours; individual arrangements for 24-hour care; and a summer program for young school-age children. In addition, the Center will serve as a facility for training community residents in preschool teaching, child welfare, food preparation, and service and secretarial and clerical tasks, and homemaker services.

A second major interest of Woodlawn residents is health care. Given the extreme inadequacy of available health services to the people of Woodlawn, the high priority of health services is not surprising. In keeping with the focus on integrated, comprehensive services, the resources that the State can bring to this program, and the desires of the Woodlawn community, we are currently engaged in discussion with City and State authorities about cooperating in the planning, organizing and financing of a truly comprehensive, prepaid health program.

A third important area of concern is employment. The program will offer the gamut of employment services to the people of Woodlawn—access to manpower, recruitment, placement and job training program. In addition, it plans to operate its own training programs for employees of the service program. It is the hope that the Woodlawn Service Program will ultimately recruit and train 90 percent of its staff directly from the community.

Other services the program intends to offer are: consumer education and protection; vocational and social rehabilitation of the handicapped; housing services; adoption and services to unmarried parents; cultural programs; recreation; special programs for youth and the elderly; liaison with educational institutions; new community correctional services; and new community mental health facilities and services.

This has been a necessarily skeletal description of the Woodlawn Service Program—just enough to outline its community-based philosophy and its commitment to a spectrum of services easily accessible to community residents. I hope you will feel free to question us more closely on its plans later on.

Now let me turn to the School's educational investment in this program.

The School's experimental program within the Social Services Center is to educate students to be generalist social workers who will be able to deal with the complex and multiple problems people in a community like Woodlawn experience. A generalist worker is one who can work on a range of problems at a variety of levels with a repertoire of different methods for the benefit of a particular family or individual. Instead of four workers fragmenting responsibility for the woman with thirteen children and a host of problems, a generalist would be competent to deal with the range of what that family needs. That is not the way it is now.

Typically, there are three major tracks of study in schools of social work: casework, which is primarily work with individuals around personal problems; group work, which is the working out of shared problems between similarly troubled or situated individuals through the medium of small groups; and community organization, which means creating a sense of unity and involving community residents in developing and operating programs to remedy social problems widely experienced in a community.

The generalist student is interested in knowing about elements of all three kinds of practice—and recognizes that, especially in places such as Woodlawn, professionals can be more effective and useful for their clients if they have access to a variety of approaches for problem-solving and if they can follow through on a problem beyond the boundaries that current agency distinctions and professional methods impose.

Let's take an example. Several of our generalist students placed in the public aid office worked with mothers of retarded school-age children. There are only two public residential treatment facilities for such children in Illinois, both down State, and there are no provisions, despite legal requirements, in Woodlawn public schools, for classes for retarded children. Students helped the mothers to make what arrangements were possible for their children, but they worked on the problem in other ways as well. In the home, families were helped to adjust to and to understand the difficulties of life with retarded children. Through the Maternal and Infant Welfare Station, it was discovered that there were 123 such children in Woodlawn. The clinic agreed to contact and interview the mothers of each of these children—and the clinic's para-professional staff were trained by the student workers for these visits. The visitors brought along with them applications for mothers to complete and return to Woodlawn schools requesting that special classes be made available. While this had been possible all along, few mothers had known about or had been encouraged or informed that such an option was open. The mothers were also organized into groups to share their problems, anxieties and concerns about their retarded children. This experience was regarded as extremely supportive. In addition, the generalist students and mothers have worked with the schools as they have moved forward to make arrangements for special classes for the children.

Our students were able to deal with this difficult problem at all levels as it affected individual mothers, their retarded children, and the rest of the family; as it affected groups of people with a common problem; and as it was reflected in the community through its responsibility to make provision for this special need.

Our generalist students will do their practical field work in Woodlawn under the direct aegis of the Woodlawn Service Program as it goes into operations. We have here, I think, a happy marriage: a new generalist social work student learning his work in a new generalist service program.

Our greatest hope is that this joint effort will produce something of great value for the Woodlawn community. Most assuredly this effort has been and will continue to be of great significance for the School. For we are a profession trying to renew ourselves.

The staggering social problems of the past decade have revealed failings in our existing institutions and our methods for coping with social needs. Our institutions and methods have not kept pace with the challenges imposed on them, as a look at Woodlawn's present social service system clearly demonstrates. We must examine how this has happened and lead in the effort to find better ideas and better ways.

A facility like the Social Services Center is essential to this process. Its importance to the community is reason enough for having it; but beyond that, it is crucial to a profession trying to find its role, and essential as a link between the academic community and one part of the society whose plight the academic community must learn to understand—and through this understanding—to help.

STEPS WHICH LEAD TO PEACE

Mr. DOLE. Mr. President, within the past few weeks steps have been taken in several areas, all of which lead to peace. Most prominent are the cease-fire and the talks in the Middle East. Although there is a long way to go before peace between the Arabs and the Israelis is a reality, we have at least begun.

In addition to the Middle East are the Bonn-Moscow treaty, the SALT talks, and the gradual winding down of the Vietnam war.

The Mideast situation is specifically commented upon in the Seattle Post-Intelligencer's editorial entitled "Cooling Mideast" and generally in the Drummonds' column entitled "Don't Look Now, But Peace Is Right Around the Corner." I commend them to the Senate and ask unanimous consent that they be printed in the RECORD.

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

[From the Seattle (Wash.) Post-Intelligencer, Aug. 5, 1970]

COOLING MIDEAST

A super-sized gold star has been earned by the Nixon administration, and especially by Secretary of State William P. Rogers, for their altogether remarkable achievement in the Middle East. Even the most bitter critics of the President cannot diminish the accomplishment.

Getting Egypt and Jordan to agree with Israel on anything is a feat of diplomacy which borders on the incredible. Getting them to agree to start talks on arrangements for a cease-fire and a possibly permanent peace settlement borders on the miraculous.

For 22 years, ever since the founding of Israel, the area has been a cauldron of bubbling hate. Three wars solved nothing except to escalate the violence which only last week threatened to erupt into a confrontation of the two major world powers.

Now, for the moment at least, this ultimate danger has been eased—and it is United States initiative which is responsible. For the moment it is unimportant to think of the risks we have taken; of the possibility of treachery by the Soviet-Arab axis, or of the regrettable arm-twisting we have applied to our Israeli allies.

It also is useless to consider that the hatred continues; that the Arab-Israeli mess is still as prickly as a barrel full or porcupines, and that peace in the Middle East is still a remote ideal.

What is all important is that a potential breakthrough to sanity has been scored—a breakthrough which President Nixon described in these words:

"We do not underestimate the difficulties which still lie ahead. We still have a long way to go before achieving the results we hope to achieve.

"But in a situation where a year and a half ago there seemed to be no hope, there now at least is some hope."

That says it.

DON'T LOOK NOW, BUT PEACE IS RIGHT AROUND THE CORNER

(By Roscoe and Geoffrey Drummond)

WASHINGTON.—It's no mirage; it's real: A more peaceful and stable world is coming into being.

Many moves are being made in many places at the same time that hold great promise. No one has to shy from being an optimist.

The building blocks of peace are actually beginning to be laid: (1) In the Middle East, (2) in the new Bonn-Moscow treaty, (3) in improved relations between Eastern and Western Europe, (4) in U.S.-Soviet nuclear arms control, (5) in including Britain in the European Common Market, (6) and there are even glimmering signs of a settlement of the Indochina war.

These events are developing with breathtaking rapidity. Only when put in a pattern does their significance fully emerge.

The whole peace picture is greater than its separate parts. And each separate part is a large building block in itself.

The Middle East—Is peace near? Not for sure, but it may come faster than many think. The principal adversaries have started on the road to settlement. If either side had thought that continued fighting was in its interest, it would never have accepted the Rogers proposals and especially the 90-day truce.

There is evidence that the Soviet Union wants to get out of what it got into in risking such a perilous confrontation with the United States. Moscow pressed the Arabs to accept, and Washington pressed the Israelis to accept. For the first time the Big Four Powers are taking substantially the same line. The ingredients of compromise are visible.

Europe—Until Willy Brandt became chancellor last year no West German government ever thought it worthwhile to say to the Soviet Union, let's settle some things. Brandt said just that and he meant let's clean up the unfinished business of World War II. He found the Soviets unexpectedly responsive.

The pessimists said nothing would come of it or that it would take many months. A nonaggression treaty was completed in less than two weeks. West Germany accepted long-disputed frontiers. Brandt went to Moscow to sign it and to talk with Premier Alexis Kosygin about better access to West Berlin and trade and credit for the Soviets.

This treaty will almost certainly bring fuller contact between the Eastern European Communist states and Western Europe to the benefit of both. It is a riskful decision for the Soviets who must feel the need to decrease tensions with Western Europe as it faces rising tensions with Red China.

Federation—The negotiations to bring Britain into the Common Market are proceeding slowly but productively. Gaullist nationalism is on the wane in France and the way things are now going some form of European political federation is not to be dismissed.

Arms Race—The U.S. and the USSR seem ready to make real progress to temper down the nuclear arms race.

Indochina—The Soviet Union is reported to be urging a political settlement of the war in Laos and as telling Hanoi that it will not increase its military aid. This may be the precursor to a Soviet move to prod the peace negotiations in Paris.

But whatever happens in Paris, our information is that President Nixon has already decided to step up the pace of U.S. troop withdrawal in the next few months. The war may not be over, but it will not be long before it will be primarily South Vietnam's war.

If anyone had predicted these tremendous events even two months ago, he would have been branded a crackpot by most of the experts.

Not now.

OIL IMPORT QUOTAS AND MEAT IMPORT QUOTAS

Mr. JAVITS. Mr. President, last Friday, when I spoke in the Senate on trade matters, it was agreed that the distinguished Senator from Wyoming (Mr. HANSEN) would have the opportunity to address himself to my remarks in the RECORD and that I, in turn, would have the opportunity to address myself to his remarks. I should now like to respond to the remarks made by Senator HANSEN on August 21 and appearing at page 29675 of the RECORD, on the subject of oil import quotas and meat import quotas.

OIL IMPORT QUOTAS

I shall comment first on the Senator's statement that he cannot understand why Senators from large consuming States such as New York continue their "advocacy of unlimited imports of oil." Mr. President, no one from New York or any other large consuming State that I know of has been advocating practically unlimited imports of oil. What we have urged is a liberalization of existing rigid oil import controls.

There is simply no good reason for the severe limitations now placed on imports from secure Western Hemisphere oil supply sources such as Canada and Venezuela. The Cabinet Task Force on Oil Import Control found that increasing imports from Canada and Venezuela would in no way endanger our national security, and national security, of course, the only legal basis for an oil import control program. Nor is anyone advocating that we become heavily dependent on Eastern Hemisphere oil supplies. The Senator from Wyoming and other Senators maintain that the Cabinet task force recommendations would lead to a flood of imports from the Middle East. This is simply not so; I would refer the Senator to paragraph 337 on page 98 of the Task Force Report which states:

> It remains possible that Eastern Hemisphere imports, considered less secure than those from the Western Hemisphere, might increase unexpectedly despite the high proposed tariff barrier. To guard against this possibility we propose establishment of an absolute maximum for tariff-restricted Eastern Hemisphere oil imports equal to 10% of domestic demand.

I do not know how it can be stated more clearly. I would hope that the Senator from Wyoming and other Senators will in the future direct their remarks to what we and the Cabinet task force are advocating and not set up the straw man of dependence on the Middle East.

As for understanding why we urge liberalization, I ask the Senate's understanding that constituents in our States and, indeed, in an ever-growing number of States across the Nation are weary of subsidizing one of the most profitable industries in the country—the oil industry. In fact, it is surprising to me that we have not heard more from consumers as I have heard from consumers in my State. One wonders whether they know how much the overprotection of the oil industry through the oil import program is costing each citizen. For example, the Cabinet task force pegged the per capita cost in Wyoming at $57 per head. That was the highest per capita cost of any State in the Union and some $33 higher per capita than the national average.

In his statement, the able Senator from Wyoming said that the $5 billion savings to U.S. consumers that would result from lifting oil import restrictions has now "evaporated" and that it now costs some 75 cents a barrel more to buy foreign oil delivered to east coast ports than the delivered cost of U.S. domestic crude. Certainly, it is clear that the industry has itself put out a number of theoretical statements about the high cost of foreign oil. Actually, the facts are very different, and I should like to take this opportunity to set the record straight. First, there is little or no oil coming into this country from abroad at a higher price than domestic crude oil. Hardly a barrel. And if any person has proof that such high priced imports are arriving at our ports, I would like to see the bills of lading or other documentation. Theoretical exercises under which an unnamed company pays a high spot freight rate to move Middle East crude around Africa to the east coast are simply academic speculation. It is not happening that way. The big oil companies who bring in the major share of foreign crude oil do not arrange for freight in the spot market. They move

about half of their oil on tankers which they own. Thus, the only freight cost they pay is the actual cost of operating those vessels. Moreover, most of the rest of their freight requirements are covered by long term charter, involving periods of anywhere from 2 to 20 years. These rates are fixed and are not determined by today's high spot levels. So foreign crude oil is indeed still flowing to the United States at a delivered cost of anywhere between $1.25 and $1.50 per barrel lower than the delivered cost of domestic crude oil, and no hypothetical example can change those facts. And imports into the United States of crude oil and products are higher now than they were a year ago.

Next, I should like to turn to the Senator's assertion that the $2 price for residual fuel oil used by our power companies, hospitals, schools, apartment houses, and other large users has now doubled in price because of "the Middle East situation."

Actually, the shortage of heavy residual fuel is worldwide, and the dramatic price changes he referred to occurred before the rupture in the pipeline in Syria and before Libya cut back oil production. These situations are simply not related. The shortage of heavy fuel is caused, pure and simple, by the oil companies miscalculations of the growth in demand for this product in the United States and in Western Europe and Japan. Besides, our imports of residual fuel come largely from the Caribbean area, with a small balance from Europe. They do not come from the Middle East.

The Senator wonders how I can blame the U.S. industry for the shortage of heavy fuel and how I can blame the quota system when, in fact, heavy fuel can be imported without quotas. What happens, Mr. President, is that oil quotas insulate U.S. oil prices from world price trends. The domestic industry is protected from competition from abroad. This scheme, together with State prorationing, which protects the domestic industries from competition here at home, enables the oil industry to go happily along, taxing the consumer with artificially high prices.

Among the many oil products, some are obviously more valuable—and more profitable—than others. In recognition of this, ever since World War II, oil companies have been cutting back on the production of heavy fuel oil, the least profitable product, and maximizing the production of the most profitable product—gasoline.

Thus, the liberalization of residual fuel quotas did not cause our dependency on foreign heavy fuel. In fact, we were forced to lift limits on heavy fuel because the domestic refining industry simply did not make enough of the product to cover our needs. The same forces—the distortion caused by the oil import program—operated to create a shortage just this year in the Midwest which finally resulted in some imports of heavy fuel into district II—when electric companies and others from that region found they simply could not buy from domestic sources enough heavy fuel oil to meet their demands.

There is talk about the 80 percent dependency on foreign heavy fuel on the east coast. Did the Senator ever ask himself why? The reason is painfully clear. The oil industry has been simply unwilling to cover our heavy fuel needs here at home and has systematically squeezed out heavy fuel production in favor of more profitable products.

Mr. President, it seems obvious that we must have substantially greater imports of No. 2 fuel oil and find a way to create incentives to get some low sulphur heavy fuel No. 6 oil refining capacity built here in the U.S. east coast. On the west coast, there is already an incentive program under which a refiner receives one barrel of import rights for each barrel of low sulphur fuel products. A foreign trade zone refinery has also been approved on the west coast. Yet on the east coast, where the need is far greater, we have no such programs. We are the ones who have to pay the artificially high prices resulting from this program. Our prices are at the highest in the world. I note that the Senator cited some statistics from a Washington newspaper showing that European gasoline prices are higher than ours. What he did not mention was that European governments rely to a far greater extent than the United States on revenue from taxes on fuel. I should like to ask the Senator what the price of gasoline in Europe is, excluding these taxes, as compared with U.S. prices, excluding taxes. I can tell him the wholesale price for all oil products in Europe reflects world market prices; and those prices are far lower than our prices.

The Senator from Wyoming says:

The oil companies and a number of us in Congress have warned for several years that increasing dependence on foreign sources was hazardous.

If the Senator will recall, the northeastern Senators and Governors warned about an impending residual fuel oil shortage 2 years ago. We had a plan for building additional refining capacity on the east coast to provide substantial additional quantities of low-sulfur residual fuel oil. Naturally, the oil industry opposed it. That refinery could have been in operation this winter, but it was scuttled—scuttled perhaps by the same people who claim they warned of a shortage. So it is not the events of recent months that are to blame for our present crisis, but the opposition of the oil industry itself.

MEAT IMPORT QUOTAS

Turning briefly to the question of beef imports, I ask unanimous consent that Governor Rockefeller's recommendation of July 11 to the President on this matter be printed in the RECORD.

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

MEMORANDUM

To: The President.
From: Nelson A. Rockefeller.
Subject: Beef Imports.

I. PURPOSE

The purpose of this memorandum is to present background information and recommendations on a forthcoming decision that directly affects:

A. The consumers of New York and other states in their day-to-day battle against inflation and the rising cost of living.

B. Trade with other nations of the Western Hemisphere, and consequently, the economic progress of the people of the other nations in the Hemisphere.

II. BACKGROUND

A. *U.S. Consumption:* The consumption of beef in the U.S. is currently 22.1 billion pounds a year, up by 6.9 billion pounds, or 46%, in the last ten years. In that period, per capita consumption has gone up from 85.0 pounds per person to 110.5 pounds per person yearly. The U.S. Agriculture Department estimates that total beef consumption in the U.S. will increase next year about 635 million pounds, or 3%.

B. *U.S. Prices:* The price of beef is steadily increasing—at a rate that is higher than the overall cost of living.

1. *Table beef.* The wholesale price of "choice" beef in Chicago in 1960 was 26.24 cents per pound, and now it is 31.56 cents per pound, an increase of 20%. But retail beef prices went up much more in this period. The price of rib roast in one New York City grocery chain increased from 99 cents per pound in 1960 to $1.49 per pound in 1970, an increase of 50%. According to the Bureau of Labor Statistics, the price of hamburger in the New York/Northeastern New Jersey area increased from 49.1 cents per pound in 1960 to 87.9 cents per pound in 1970. This was a price rise of 79%.

2. *Manufacturing beef.* These grades of beef are used in frozen dinners and canned meat products for the lower income consumer market; and the cost of this manufacturing beef has gone up more, proportionately, than higher grades of table beef. For example, the wholesale price of the "canner" grade of beef in Chicago in 1960 was 13.28¢ per pound; in 1970 the price is 20.37¢ per pound, an increase of 53%—as against a 20% increase for "choice" beef.

One reason is that the consumption of precooked beef products has gone up rapidly, but the United States does not now produce in sufficient quantities the supplies of these second grades of beef. Our supplies used to come from milk cows after they had reached an age where they were retired from service. Today, our cow population is half of what it used to be. Simultaneously, U.S. cattlemen have concentrated on producing the higher grades of table beef.

C. *Sources of Supply:*

1. *Domestic.* Ten years ago the United States was producing 17.8 billion pounds of beef annually—about 95% of total consumption. In 1969 the U.S. produced 21.8 billion pounds of beef, about 93% of consumption.

2. *Imports.* Of the 1.35 billion pounds of fresh and frozen beef imported into the U.S. in 1969, Australia shipped in about 50%, New Zealand about 20%, and all of the eight Western Hemisphere countries permitted to ship fresh or frozen beef to the U.S. about 18%.

Of the 1.2 billion pounds of pre-cooked beef imported into the U.S. in 1968 (latest figures available), Argentina shipped 11% and Uruguay 5.6%. This Argentine beef accounted for 40% of Argentina's exports to the U.S.; cooked beef represented 13% of Uruguay's exports to the U.S. As you know, Congress deliberately omitted from the 1964 Meat Import Act any quota or restriction on pre-cooked beef, and subsequent testimony before Congress does not show that there has been a serious adverse effect on U.S. cattle industry. Nevertheless, there was introduced into Congress last year a bill that would restrict cooked beef.

III. RECOMMENDATIONS

In my report to you on the Presidential Mission to the Western Hemisphere actions, I emphasized that all nations of this Hemisphere see agriculture as the productive force

for raising their standards of living, creating employment opportunities, and generating foreign exchange and capital for economic and social development.

In that report I recommended that the United States allocate a major part of future growth in its agricultural consumption to the other nations of the Western Hemisphere.

I also proposed, in view of the widespread malnutrition and the grave shortage of protein for expectant mothers and infants, that the U.S. should provide leadership in a Hemisphere-wide nutrition program.

In view of the continuing increases in the cost of living in New York and other states, in recognition of your continuing objective to hold down inflation, and in pursuance of your goal of expanding trade with the other Hemisphere nations, I offer these recommendations:

A. That the United States continue to increase quotas of fresh and frozen beef imports.

B. That the U.S. Agriculture Department, in allocating shares of the annual increase of fresh and frozen beef, provide for an overall increase of 2% yearly for the Western Hemisphere countries, until the Western Hemisphere share reaches 25% of all U.S. beef imports. This increase would be allotted to each nation involved by a formula based on exports to the U.S. for the past three years, plus a bonus for any country that increased its domestic per capita beef consumption during the previous decade.

Such a bonus would help to reverse a trend evident in some Central American countries—selling beef to the U.S. at higher prices and reducing domestic per capita consumption of beef.

C. That your Administration strongly recommend to Congress that there be no change in present regulations permitting pre-cooked meat to enter the U.S.

COMPENSATION FOR INNOCENT VICTIMS OF CRIMINAL ACTS: SHOWING CONCERN FOR THE FORGOTTEN VICTIMS OF OUR VIOLENT SOCIETY

Mr. YARBOROUGH. Mr. President, the Wall Street Journal of August 26, 1970, contains an article entitled "Aiding the Innocent," written by Mr. W. Stewart Pinkerton, Jr., which describes the plans of compensation for innocent victims of criminal acts that are in force in New York, California, Hawaii, Maryland, and Massachusetts and also points out that a task force of the National Commission of Causes and Prevention of Violence will recommend the establishment of a Federal compensation program. As the author of the first Federal innocent victims compensation bill to be introduced in Congress, I am gratified that more and more attention is being focused on the urgent need for this type of legislation.

For many years, the control of crime was considered to be solely a State function. However, as crime increased and became more mobile in recent years, the Federal Government has assumed a more active role in the whole area of criminal law. This is evidenced by the passage of the Omnibus Crime Control and Safe Streets Act and the recent District of Columbia crime bill, which are crime prevention measures, and the Economic Opportunity Act which is directed at the eradication of the causes of crime.

Despite the growing involvement of the Federal Government in the problems of crime in America, very little attention has been given to the needs and problems of the innocent victims of criminal acts. On the contrary, there has been a general attitude among both State and Federal officials that the compensation of victims of criminal acts for their losses should be left to private sources such as insurance. It is obvious to anyone who has even had any contact with criminal law and victims of crime that government, both State and Federal, has an affirmative duty not only to protect its citizens from criminals and criminal acts, but also to compensate the innocent victims of such violence.

As Mr. Pinkerton states in his article:

> Legal authorities and law enforcement officials say the trend reflects concern over rising violence and the dawning conviction that society is obliged to help its victims. "We're dealing with what used to be the forgotten man," says Mr. Van Rensselaer of the New York board. J. Edgar Hoover, director of the FBI, expressed similar sentiments in a report last year when he said: "Certainly under the rule of law those who abide by the law should have protection equal to that of those who break the law."

Based on a lifetime of experience as a trial lawyer, a State District Judge, and a legislator, I recognize the compelling need for a Government program to protect these innocent victims. The great tragedy in America is that so many victims of criminal acts are themselves poor and disadvantaged people who cannot afford insurance. These people are completely without any source of compensation for their injuries and damages. To compound this unjust situation, it is often the case that the police protection of poor people from crime is very inadequate.

For these reasons, I introduced in June of 1965 the first Federal innocent victims compensation act ever to be presented to Congress. At the time I introduced the bill—then S. 2155—no State had such a compensation plan. At that time, the only countries in the world that provided compensation to victims of criminal acts were New Zealand, which enacted the first such plan in 1963, and England, which enacted its plan in 1964. My purpose in introducing this bill was to establish a plan of compensation applicable to all Federal areas, including the District of Columbia, which would serve as a model for the States. Although Congress has not passed my bill, despite the fact that I have introduced it in each Congress since 1965, I am gratified that at least five States have adopted this idea and have enacted innocent victims compensation laws. These States and the date of their laws are: California, 1968; Hawaii, 1968; Maryland, 1969; Massachusetts, 1968; and New York, 1969.

In addition, the Canadian Provinces of Saskatchewan and Newfoundland and the Australian States of New South Wales and Queensland have enacted innocent victims compensation since 1965. Furthermore, the State legislatures of Illinois, New Jersey, and Pennsylvania are considering such legislation.

At the beginning of the 91st Congress, I again introduced my bill, now S. 9. In addition to S. 9, I also introduced in this Congress, S. 2936, which is similar to S. 9 except it only applies to the District of Columbia. I firmly believe that the District of Columbia with its alarming crime problem and its vast poverty would provide one of the best testing grounds for this type of legislation in America. The District of Columbia Committee held hearings on S. 2936 in December of 1969. At these hearings, my bill received the strong support from such authorities on criminal justice as: Representative ABNER J. MIKVA, of Illinois; Dean Page Keeton of the University of Texas School of Law; Prof. Gilbert Geis of the School of Criminal Justice, State University of New York; and Prof. Norval Morris, professor of law and criminology, director, Center for Studies in Criminal Justice, University of Chicago.

This proposal has also gained support of former U.S. Supreme Court Justice and Ambassador to the United Nations Arthur J. Goldberg.

A common thread of logic ran through all of the testimony in favor of this bill and that is that government, both State and Federal, have assumed the duty of protecting the people from criminal acts. Our citizens pay taxes for this protection and when they are injured as a result of criminal conduct, then government has failed in its duty and thus should compensate the victim. In my judgment, an even more compelling justification for such a plan of compensation is that the victim of a criminal act has no effective remedy at law. As Dean Keeton, one of America's greatest professors of law, so accurately stated during the hearings on S. 2936:

> Even in the rare case where a person is injured by a solvent criminal, the government's dealing with the offender often forecloses or interferes with the possibility of civil recovery. The government's interest in arresting and imprisoning him prevents him from earning money that could compensate the victim. Furthermore, "one effect of requiring the accused to employ his available funds to pay the costs of his defense may be to exhaust or limit the funds from which the victim may recover in a civil suit for the damages against the accused."
>
> Thus, not only is the right of civil recovery limited by the nature of the criminal, but the government often takes an active role in diminishing what little possibility of recovery may have existed. The interests of society in punishment, deterrence, and rehabilitation interfere with the interests of the victim.

The Committee on the District of Columbia favorably reported S. 2936 as a part of S. 2601, the District of Columbia crime bill, and it was passed unanimously by the Senate. Unfortunately, this important program was lost in conference.

Mr. President, the time has come for Congress to decide whether or not it intends to actually do anything to help the innocent people who are being maimed and injured daily by criminals in all parts of the country, including the Nation's Capital. We have seen in the last few years a revolution in the area of criminal justice. We have seen the passage of strong Federal law enforcement measures. However, the victim, the person who crys out for assistance from his government, still is neglected.

The proposals embodied in my bills,

S. 9 and S. 2936, are not revolutionary or unreasonable. Rather the system of compensation that I propose is as sound and logical as workmen's compensation. Under my bills, there would be created a Violent Crimes Commission, composed of members appointed by the President, whose function would be to determine: First whether the alleged victim was truly innocent; and, second, how much, if any, compensation he is entitled to. Compensation would be awarded only for injuries or death resulting from such violent crimes as arson, assault, murder, rape and other sex crimes, robbery, mayhem, kidnaping, manslaughter, and other crimes of force against the person. No compensation would be awarded solely for crimes against property which did not involve some physical injury. The limit of compensation to any victim would be $25,000.

Although compensation of innocent victims of crime is not a new idea, it does represent a legislative experiment in a new phase of criminal law. As has been the case throughout history, there are always those who are hesitant to experiment with a new system or program or even a new idea. However, as Justice Brandeis once said:

If we would guide by light of reason, we must let our minds be bold.

Mr. President, this is a time for bold action. This is a time for Congress to demonstrate to the people of America that it is as interested in the problems and suffering of victims of criminal acts as it is in protecting rights of accused criminals. Therefore, I urge my colleagues on the Judiciary and District of Columbia Committees to report S. 9 and S. 2936 to the Senate so that by record vote the American people can see if we are interested in aiding innocent victims of criminal acts.

Mr. President, for the benefit of Senators who have not had the opportunity to study this matter, I ask unanimous consent that the following documents be printed at this point in the RECORD:

First, copies of S. 9 and S. 2936;

Second, the article entitled "Aiding the Innocent," written by W. Stewart Pinkerton, Jr., and published in the Wall Street Journal of Wednesday, August 26, 1970; and

Third, an article entitled "The Battle for a Federal Violent Crimes Compensation Act: The Genesis of S. 9," which I authored, and which appears in 43 Southern California Law Review 93 (1970).

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

S. 9

A bill to provide for the compensation of persons injured by certain criminal acts

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

TITLE I—SHORT TITLE AND DEFINITIONS

SHORT TITLE

SEC. 101. This Act may be cited as the "Criminal Injuries Compensation Act of 1969".

DEFINITIONS

SEC. 102. As used in this Act—

(1) The term "child" means an unmarried person who is under eighteen years of age and includes a stepchild or an adopted child;

(2) The term "Commission" means the Violent Crimes Compensation Commission established by this Act;

(3) The term "dependents" means those who were wholly or partially dependent upon his income at the time of his death or would have been so dependent but for the incapacity due to the injury from which the death resulted and shall include the child of such victim born after his death;

(4) The term "personal injury" means actual bodily harm and includes pregnancy and mental or nervous shock;

(5) The term "relative" means his spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sister, or spouse's parents;

(6) The term "victim" means a person who is injured or killed by an act or omission of any other person which is within the description of any of the offenses specified in section 302 of this Act.

TITLE II—ESTABLISHMENT OF VIOLENT CRIMES COMPENSATION COMMISSION

VIOLENT CRIMES COMPENSATION COMMISSION

SEC. 201. (a) There is established a Violent Crimes Compensation Commission which shall be composed of three members to be appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office. The President shall designate one of the members of the Commission who has been a member of the bar of a Federal court or of the highest court of a State for at least eight years as Chairman.

(b) No member of the Commission shall engage in any other business, vocation, or employment.

(c) The Chairman and one other member of the Commission shall constitute a quorum, except as provided in section 205(b); and where opinion is divided and only one other member is present, the opinion of the Chairman shall prevail.

(d) The Commission shall have an official seal.

TERMS AND COMPENSATION OF MEMBERS

SEC. 202. (a) The term of office of each member of the Commission taking office after December 31, 1969, shall be eight years, except that (1) the terms of office of the members first taking office after December 31, 1969, shall expire as designated by the President at the time of the appointment, one at the end of four years, one at the end of six years, and one at the end of eight years, after December 31, 1969; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the terms for which his predecessor was appointed shall be appointed for the remainder of such term.

(b) Each member of the Commission shall be eligible for reappointment.

(c) A vacancy in the Commission shall not affect its powers.

(d) Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(e) Each member of the Commission shall be compensated at the rate prescribed for level IV of the Federal Executive Salary Schedule of the Federal Executive Salary Act of 1964 except the Chairman who shall be compensated at the rate prescribed for level III of such schedule.

ATTORNEYS, EXAMINERS, AND EMPLOYEES OF THE COMMISSION; EXPENSES

SEC. 203. (a) The Commission is authorized to appoint such officers, attorneys, examiners, and other experts as may be necessary for carrying out its functions under this Act, and the Commission may, subject to the civil service laws, appoint such other officers and employees as are necessary and fix their compensation in accordance with the Classification Act of 1949.

(b) All expenses of the Commission, including all necessary traveling and subsistence expenses of the Commission outside the District of Columbia incurred by the members or employees of the Commission under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Commission or by any individual it designates for that purpose.

PRINCIPAL OFFICE

SEC. 204. (a) The principal office of the Commission shall be in or near the District of Columbia, but the Commission or any duly authorized representative may exercise any or all of its powers in any place.

(b) The Commission shall maintain an office for the service of process and papers within the District of Columbia.

POWERS AND DUTIES OF THE COMMISSION

SEC. 205. (a) Upon request made to the Commission after the filing of an application under the provisions of this Act, the Commission or its duly authorized representative shall have a hearing on such application, shall fix a time and place for such hearing, and shall cause notice thereof to be given to the applicant.

(b) For the purpose of carrying out the provisions of this Act, the Commission, or any member thereof, or its duly authorized representative, may hold such hearings, sit and act at such times and places, and take such testimony as the Commission or such member may deem advisable. Any member of the Commission may administer oaths, or affirmations to witnesses appearing before the Commission or before such member. The Commission shall have such powers of subpena and compulsion of attendance and production of documents as are conferred upon the Securities and Exchange Commission by subsection (c) of section 18 of the Act of August 26, 1935, and the provisions of subsection (d) of such section shall be applicable to all persons summoned by subpena or otherwise to attend or testify or produce such documents as are described therein before the Commission, except that no subpena shall be issued except under the signature of the Chairman, and application to any court for aid in enforcing such subpena may be made only by said Chairman. Subpenas shall be served by any person designated by the said Chairman.

(c) In any case in which the person entitled to make an application is a child, the application may be made on his behalf by any person acting as his parent or guardian. In any case in which the person entitled to make an application is mentally defective, the application may be made on his behalf by his guardian or such other individual authorized to administer his estate.

(d) Where any application is made to the Commission under this Act, the applicant, and any attorney assisting the Commission, shall be entitled to appear and be heard.

(e) Any other person may appear and be heard who satisfies the Commission that he has a substantial interest in the proceedings.

(f) Where under this Act any person is entitled to appear and be heard by the Commission, that person may appear in person or by his attorney.

(g) Every person appearing under the preceding subsect'ons of this section shall have the right to produce evidence and to cross-examine witnesses.

(h) The Commission or its duly authorized representative may receive in evidence any statement, document, information, or matter that may in the opinion of the Commission contribute to its functions under this Act, whether or not such statement, document, information, or matter would be admissible in a court of law, except that any evidence introduced by or on behalf of the person or persons charged with causing the injury or death of the victim, any request for a stay of the Commission's action

and the fact of any award granted by the Commission shall not be admissible against such person or persons in any prosecution for such injury or death.

(i) If any person has been convicted of any offense with respect to an act or omission on which a claim under this Act is based, proof of that conviction shall, unless an appeal against the conviction or a petition for a rehearing or certiorari in respect of the charge is pending or a new trial or rehearing has been ordered, be taken as conclusive evidence that the offense has been committed.

(j) Except as otherwise provided in this Act, the Administrative Procedure Act shall apply to the proceedings of the Commission.

ATTORNEY'S FEES

SEC. 206. The Commission shall publish regulations providing that an attorney shall, at the conclusion of proceedings under this Act, file with the agency the amount of fee charged in connection with his services rendered in such proceedings.

(b) After the fee information is filed by an attorney under (a) above, the Commission may determine, in accordance with such published rules or regulations as it may provide, that such fee charged is excessive. If, after notice to the attorney of this determination, the Commission and the attorney fail to agree upon a fee, the Commission may, within ninety days after the receipt of the information required by (a) above, petition the United States district court in the district in which the attorney maintains an office, and the court shall determine a reasonable fee for the services rendered by the attorney.

(c) Any attorney who charges, demands, receives, or collects for services rendered in connection with any proceedings under this Act any amount in excess of that allowed under this section, if any compensation is paid, shall be fined not more than $2,000 or imprisoned not more than one year, or both.

FINALITY OF DECISION

SEC. 207. The orders and decisions of the Commission shall be reviewable on appeal, except that no trial de novo of the facts determined by the Commission shall be allowed.

REGULATIONS

SEC. 208. In the performance of its functions, the Commission is authorized to make, promulgate, issue, rescind, and amend rules and regulations prescribing the procedures to be followed in the filing of applications and the proceedings under this Act, and such other matters as the Commission deems appropriate.

TITLE III—AWARD AND PAYMENT OF COMPENSATION

AWARDING COMPENSATION

SEC. 301. (a) In any case in which a person is injured or killed by any act or omission of any other person which is within the description of the offenses listed in section 302 of this Act, the Commission may, in its discretion, upon an application, order the payment of compensation in accordance with the provisions of this Act, if such act or omission occurs—

(1) within the "special maritime and territorial jurisdiction of the United States" as defined in section 7 of title 18 of the United States Code; or

(2) within the District of Columbia.

(b) The Commission may order the payment of compensation—

(1) to or on behalf of the injured person; or

(2) in the case of the personal injury of the victim, where the compensation is for pecuniary loss suffered or expenses incurred by any person responsible for the maintenance of the victim, to that person; or

(3) in the case of the death of the victim, to or for the benefit of the dependents or closest relative of the deceased victim, or any one or more of such dependents.

(c) For the purposes of this Act, a person shall be deemed to have intended an act or omission notwithstanding that by reason of age, insanity, drunkenness, or otherwise he was legally incapable of forming a criminal intent.

(d) In determining whether to make an order under this section, or the amount of any award, the Commission may consider any circumstances it determines to be relevant, including the behavior of the victim which directly or indirectly contributed to his injury or death, unless such injury or death resulted from the victim's lawful attempt to prevent the commission of a crime or to apprehend an offender.

(e) No order may be made under this section unless the Commission, supported by

(1) such an act or omission did occur; and

(2) the injury or death resulted from such act or omission.

(f) An order may be made under this section whether or not any person is prosecuted or convicted of any offense arising out of such act or omission, or if such act or omission is the subject of any other legal action. Upon application from the Attorney General or the person or persons alleged to have caused the injury or death, the Commission shall suspend proceedings under this Act until such application is withdrawn or until a prosecution for an offense arising out of such act or omission is no longer pending or imminent. The Commission may suspend proceedings in the interest of justice if a civil action arising from such act or omission is pending or imminent.

(g) Upon certification by the Commission, the Secretary of the Treasury shall pay to the person named in such order the amount specified therein.

OFFENSES TO WHICH THIS ACT APPLIES

SEC. 302. The Commission may order the payment of compensation in accordance with the provisions of this Act for personal injury or death which resulted from offenses in the following categories:

(1) assault with intent to kill, rob, rape, or poison;
(2) assault with intent to commit mayhem;
(3) assault with a dangerous weapon;
(4) assault;
(5) mayhem;
(6) malicious disfiguring;
(7) threats to do bodily harm;
(8) lewd, indecent, or obscene acts;
(9) indecent act with children;
(10) arson;
(11) kidnaping;
(12) robbery;
(13) murder;
(14) manslaughter, voluntary;
(15) attempted murder;
(16) rape;
(17) attempted rape;
(18) or other crimes involving force to the person.

NATURE OF THE COMPENSATION

SEC. 303. The Commission may order the payment of compensation under this Act for—

(a) expenses actually and reasonably incurred as a result of the personal injury or death of the victim;

(b) loss of earning power as a result of total or partial incapacity of such victim;

(c) pecuniary loss to the dependents of the deceased victim;

(d) pain and suffering of the victim; and

(e) any other pecuniary loss resulting from the personal injury or death of the victim which the Commission determines to be reasonable.

LIMITATIONS UPON AWARDING COMPENSATION

SEC. 304. (a) No order for the payment of compensation shall be made under section 301 of this Act unless the application has been made within two years after the date of the personal injury or death.

(b) No compensation shall be awarded under this Act to or on behalf of any victim in an amount in excess of $25,000.

(c) No compensation shall be awarded if the victim was at the time of the personal injury or death of the victim living with the offender as his wife or her husband or in situations when the Commission at its discretion feels unjust enrichment to or on behalf of the offender would result.

TERMS OF THE ORDER

SEC. 305. (a) Except as otherwise provided in this section, any order for the payment of compensation under this Act may be made on such terms as the Commission deems appropriate.

(b) The Commission shall deduct from any payments awarded under section 301 of this Act any payments received by the victim or by any of his dependents from the offender or from any person on behalf of the offender, or from the United States (except those received under this Act), a State or any of its subdivisions, for personal injury or death compensable under this Act, but only to the extent that the sum of such payments and any award under this Act are in excess of the total compensable injuries suffered by the victim as determined by the Commission.

(c) The Commission may at any time, on its own motion or on the application of the Attorney General, or of the victim or his dependents, or of the offender, vary any order for the payment of compensation made under this Act in such manner as the Commission thinks fit, whether as to terms of the order or by increasing or decreasing the amount of the award or otherwise.

TITLE IV—RECOVERY OF COMPENSATION

RECOVERY FROM OFFENDER

SEC. 401. (a) Whenever any person is convicted of an offense and an order for the payment of compensation is or has been made under this Act for a personal injury or death resulting from the act or omission constituting such offense, the Commission may institute an action against such person for the recovery of the whole or any specified part of such compensation in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action.

(b) Process of the district court for any judicial district in any action under this section may be served in any other judicial district by the United States marshal thereof. Whenever it appears to the court in which any action under this section is pending that other parties should be brought before the court in such action, the court may cause such other parties to be summoned from any judicial district of the United States.

(c) An order for the payment of compensation under this Act shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death.

TITLE V—MISCELLANEOUS

REPORTS TO CONGRESS

SEC. 501. The Commission shall transmit to the President and to the Congress annually a report of its activities under this Act including the name of each applicant, a brief description of the facts in each case, and the amount, if any, of compensation awarded.

PENALTIES

SEC. 502. The provisions of section 1001 of title 18 of the United States Code shall apply to any application, statement, document, or

information presented to the Commission under this Act.

APPROPRIATIONS

SEC. 503. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 504. This Act shall take effect on January 1, 1970.

S. 2936

A bill to provide for the compensation of persons injured by certain criminal acts in the District of Columbia

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

TITLE I—SHORT TITLE AND DEFINITIONS

SHORT TITLE

SEC. 101. This Act may be cited as the "District of Columbia Criminal Injuries Compensation Act".

DEFINITIONS

SEC. 102. As used in this Act—

(1) the term "child" means an unmarried person who is under eighteen years of age and includes a stepchild, an adopted child;

(2) the term "Commission" means the District of Columbia Violent Crimes Compensation Commission established by this Act;

(3) the term "dependents" means those who were wholly or partially dependent upon his income at the time of his death or would have been so dependent but for the incapacity due to the injury from which the death resulted and shall include the child of such victim born after his death;

(4) the term "personal injury" means actual bodily harm and includes pregnancy and mental or nervous shock;

(5) the term "relative" means the spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, or half sister of the victim; and

(6) the term "victim" means a person who is injured or killed by any act or omission of any other person which is within the description of any of the offenses specified in section 302 of this Act.

TITLE II—ESTABLISHMENT OF VIOLENT CRIMES COMPENSATION COMMISSION

VIOLENT CRIMES COMPENSATION COMMISSION

SEC. 201. (a) There is established a District of Columbia Violent Crimes Compensation Commission which shall be composed of three members to be appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office. The President shall designate one of the members of the Commission who has been a member of the bar of a Federal court or of the highest court of a State for at least eight years as Chairman.

(b) No member of the Commission shall engage in any other business, vocation, or employment.

(c) The Chairman and one other member of the Commission shall constitute a quorum, except as provided in section 205(b); and where opinion is divided and only one other member is present, the opinion of the Chairman shall prevail.

(d) The Commission shall have an official seal.

TERMS AND COMPENSATION OF MEMBERS

SEC. 202. (a) The term of office of each member of the Commission taking office after December 31, 1969, shall be eight years, except that (1) the terms of office of the members first taking office after December 31, 1969, shall expire as designated by the President at the time of the appointment, one at the end of four years, one at the end of six years, and one at the end of eight years, after December 31, 1969; and (2) any member appointed to fill a vacancy occurring prior to the expiration of the terms for which his predecessor was appointed shall be appointed for the remainder of such term.

(b) Each member of the Commission shall be eligible for reappointment.

(c) A vacancy in the Commission shall not affect its powers.

(d) Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(e) Each member of the Commission shall be compensated at the rate prescribed for level IV under subsection 5315 of title 5, United States Code, except the Chairman who shall be compensated at the rate prescribed for level III under section 5314 of such title.

ATTORNEYS, EXAMINERS, AND EMPLOYEES OF THE COMMISSION; EXPENSES

SEC. 203. (a) The Commission is authorized to appoint and fix the compensation of such officers, attorneys, examiners, experts, and other employees as may be necessary for carrying out its functions under this Act.

(b) All expenses of the Commission, including all necessary traveling and subsistence expenses of the Commission incurred by the members or employees of the Commission under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Commission or by any individual it designates for that purpose.

PRINCIPAL OFFICE

SEC. 204. The principal office of the Commission shall be in the District of Columbia, but the Commission or any duly authorized representative may exercise any or all of its powers in any place.

POWERS AND PROCEDURES OF THE COMMISSION

SEC. 205. (a) Upon request made to the Commission after the filing of an application under the provisions of this Act, the Commission or its duly authorized representative shall have a hearing on such application, shall fix a time and place for such hearing, and shall cause notice thereof to be given to the applicant.

(b) For the purpose of carrying out the provisions of this Act, the Commission, or any member thereof, or its duly authorized representative, may hold such hearings, sit and act at such times and places, and take such testimony as the Commission or such member may deem advisable. Any member of the Commission may administer oaths, or affirmations to witnesses appearing before the Commission or before such member. The Commission shall have such powers of subpena and compulsion of attendance and production of documents as are conferred upon the Securities and Exchange Commission by subsection (c) of section 18 of the Act of August 26, 1935, and the provisions of subsection (d) of such section shall be applicable to all persons summoned by subpena or otherwise to attend or testify or produce such documents as are described therein before the Commission, except that no subpena shall be issued except under the signature of the Chairman, and application to any court for aid in enforcing such subpena may be made only by said Chairman. Subpenas shall be served by any person designated by the said Chairman.

(c) In any case in which the person entitled to make an application is a child, the application may be made on his behalf by any person acting as his parent or guardian. In any case in which the person entitled to make an application is mentally defective, the application may be made on his behalf by his guardian or such other individual authorized to administer his estate.

(d) Where any application is made to the Commission under this Act, the applicant, and any attorney assisting the Commission, shall be entitled to appear and be heard.

(e) Any other person may appear and be heard who satisfies the Commission that he has a substantial interest in the proceedings.

(f) Where under this Act any person is entitled to appear and be heard by the Commission, that person may appear in person or by his attorney.

(g) Every person appearing under the preceding subsections of this section shall have the right to produce evidence and to cross-examine witnesses.

(h) The Commission or its duly authorized representative may receive in evidence any statement, document, information, or matter that may in the opinion of the Commission contribute to its functions under this Act, whether or not such statement, document, information, or matter would be admissible in a court of law, except that any evidence introduced by or on behalf of the person or persons charged with causing the injury or death of the victim, any request for a stay of the Commission's action, and the fact of any award granted by the Commission shall not be admissible against such person or persons in any prosecution for such injury or death.

(i) If any person has been convicted of any offense with respect to an act or omission on which a claim under this Act is based, proof of that conviction shall, unless an appeal against the conviction or a petition for a rehearing or certiorari in respect of the charge is pending or a new trial or rehearing has been ordered, be taken as conclusive evidence that the offense has been committed.

(j) Except as otherwise provided in this Act, the provisions of subchapter II of chapter 5 and chapter 7 of title 5, United States Code shall apply to the proceedings of the Commission.

ATTORNEYS' FEES

SEC. 206. (a) The Commission shall publish regulations providing that an attorney shall, at the conclusion of proceedings under this Act, file with the agency a statement of the amount of fee charged in connection with his services rendered in such proceedings.

(b) After the fee information is filed by an attorney under (a) above, the Commission may determine, in accordance with such published rules or regulation as it may provide, that such fee charged is excessive. If, after notice to the attorney of this determination, the Commission and the attorney fail to agree upon a fee, the Commission may, within ninety days after the receipt of the information required by (a) above, petition the United States district court in the district in which the attorney maintains an office, and the court shall determine a reasonable fee for the services rendered by the attorney.

(c) Any attorney who charges, demands, receives, or collects for services rendered in connection with any proceedings under this Act any amount in excess of that allowed under this section, if any compensation is paid, shall be fined not more than $2,000 or imprisoned not more than one year, or both.

FINALITY OF DECISION

SEC. 207. The orders and decisions of the Commission shall be reviewable on appeal, except that no trial de novo of the facts determined by the Commission shall be allowed.

REGULATIONS

SEC. 208. In the performance of its functions, the Commission is authorized to make, promulgate, issue, rescind, and amend rules and regulations prescribing the procedures to be followed in the filing of applications and the proceedings under this Act, and such other matters as the Commission deems appropriate.

TITLE III—AWARD AND PAYMENT OF COMPENSATION

AWARDING COMPENSATION

SEC. 301. (a) In any case in which a person is injured or killed by any act or omission of any other person which is within the description of the offenses listed in section 302 of this Act, the Commission may, in its discretion, upon an application, order the payment of compensation in accordance with the provisions of this Act, if such Act or omission occors within the District of Columbia.

(b) The Commission may order the payment of compensation—

(1) to or on behalf of the injured person; or

(2) in the case of the personal injury of the victim, where the compensation if for pecuniary loss suffered or expenses incurred by any person responsible for the maintenance of the victim to that person; or

(3) in the case of the death of the victim, to or for the benefit of the dependents or closest relative of the deceased victim, or any one or more of such dependents.

(c) For the purposes of this Act, a person shall be deemed to have intended an act or omission notwithstanding that by reason of age, insanity, drunkenness, or otherwise he was legally incapable of forming a criminal intent.

(d) In determining whether to make an order under this section, or the amount of any award, the Commission may consider any circumstances it determines to be relevant, including the behavior of the victim which directly or indirectly contributed to his injury or death, unless such injury or death resulted from the victim's lawful attempt to prevent the commission of a crime or to apprehend an offender.

(e) No order may be made under this section unless the Commission, supported by substantial evidence, finds that—

(1) such an act or omission did occur; and

(2) the injury or death resulted from such act or omission.

(f) An order may be made under this section whether or not any person is prosecuted or convicted of any offense arising out of such act or omission, or if such act or omission is the subject of any other legal action. Upon application from the Attorney General or the person or persons alleged to have caused the injury or death, the Commission shall suspend proceedings under this Act until such application is withdrawn or until a prosecution for an offense arising out of such act or omission is no longer pending or imminent. The Commission may suspend proceedings in the interest of justice if a civil action arising from such act or omission is pending or imminent.

(g) Upon certification by the Commission, the Commissioner of the District of Columbia shall pay to the person named in such order the amount specified therein.

OFFENSES TO WHICH THIS ACT APPLIES

SEC. 302. The Commission may order the payment of compensation in accordance with the provisions of this Act for personal injury or death which resulted from the following offenses:

(1) arson (D.C. Code, sec. 22–401);

(2) assault (D.C. Code, secs. 22–503, 504);

(3) assault with intent to kill, rob, or rape, and attempt to poison (D.C. Code, sec 22–501);

(4) assault with intent to commit mayhem or with dangerous weapon (D.C. Code, sec. 22–502);

(5) indecent act with children (D.C. Code, sec. 22–3501);

(6) kidnaping (D.C. Code, sec. 22–2101);

(7) lewd, indecent or obscene acts (D.C. Code, sec. 22–1112);

(8) manslaughter (D.C. Code, sec. 22–2405);

(9) murder (D.C. Code, secs. 22–2401, 2402, 2403);

(10) negligent homicide (D.C. Code, sec. 40–606);

(11) rape (D.C. Code, sec. 22–2801);

(12) robbery (D.C. Code, sec. 22–2901);

(13) unauthorized use of vehicles (D.C. Code, sec. 22–2204);

(14) or other crimes involving force to the person.

NATURE OF THE COMPENSATION

SEC. 303. The Commission may order the payment of compensation under this Act for—

(a) expenses actually and reasonably incurred as a result of the personal injury or death of the victim;

(b) loss of earning power as a result of total or partial incapacity of such victim;

(c) pecuniary loss to the dependents of the deceased victim;

(d) pain and suffering of the victim; and

(e) any other pecuniary loss resulting from the personal injury or death of the victim which the Commission determines to be reasonable.

LIMITATIONS UPON AWARDING COMPENSATION

SEC. 304. (a) No order for the payment of compensation shall be made under section 301 of this Act unless the application has been made within two years after the date of the personal injury or death.

(b) No compensation shall be awarded under this Act to or on behalf of any victim in an amount in excess of $25,000.

(c) No compensation shall be awarded if the victim was at the time of the personal injury or death of the victim living with the offender as his wife or her husband or in situations when the Commission at its discretion feels unjust enrichment to or on behalf of the offender would result.

TERMS OF THE ORDER

SEC. 305. (a) Except as otherwise provided in this section, any order for the payment of compensation under this Act may be made on such terms as the Commission deems appropriate.

(b) The Commission shall deduct from any payments awarded under section 301 of this Act any payments received by the victim or by any of his dependents from the offender or from any person on behalf of the offender, or from the United States (except those received under this Act), a State or any of its subdivisions, for personal injury or death compensable under this Act, but only to the extent that the sum of such payments and any award under this Act are in excess of the total compensable injuries suffered by the victim as determined by the Commission.

(c) The Commission may at any time, on its own motion or on the application of the Attorney General, or of the victim or his dependents, or of the offender, vary any order for the payment of compensation made under this Act in such manner as the Commission thinks fit, whether as to terms of the order or by increasing or decreasing the amount of the award or otherwise.

TITLE IV—RECOVERY OF COMPENSATION

RECOVERY FROM OFFENDER

SEC. 401. (a) Whenever any person is convicted of an offense and an order for the payment of compensation is or has been made under this Act for a personal injury or death resulting from the act or omission constituting such offense, the Commission may institute an action against such person for the recovery of the whole or any specified part of such compensation in the district court of the United States for any judicial district in which such person resides or is found. Such court shall have jurisdiction to hear, determine, and render judgment in any such action.

(b) Process of the district court for any judicial district in any action under this section may be served in any other judicial district of the United States by the United States marshal thereof. Whenever it appears to the court in which any action under this section is pending that other parties should be brought before the court in such action, the court may cause such other parties to be summoned from any judicial district of the United States.

(c) An order for the payment of compensation under this Act shall not affect the right of any person to recover damages from any other person by a civil action for the injury or death.

TITLE V—MISCELLANEOUS

REPORTS TO THE CONGRESS

SEC. 501. The Commission shall transmit to the President and to the Congress annually a report of its activities under this Act including the name of each applicant, a brief description of the facts in each case, and the amount, if any, of compensation awarded.

PENALTIES

SEC. 502. The provisions of section 1001 of title 18 of the United States Code shall apply to any application, statement, document, or information presented to the Commission under this Act.

APPROPRIATIONS

SEC. 503. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 504. This Act shall take effect on January 1, 1970.

[From the Wall Street Journal, Aug. 26, 1970]

AIDING THE INNOCENT: MORE STATES AWARD CASH COMPENSATION TO VICTIMS OF CRIME—MEDICAL COSTS, INCOME LOSS ARE DEFRAYED—TASK FORCE TO URGE A NATIONAL EFFORT—A MUGGED TAILOR FINDS HELP

(By W. Stewart Pinkerton, Jr.)

NEW YORK.—As the 67-year-old tailor was preparing to close his little shop on the West Side, a man entered, savagely beat and stabbed him, and took his money. It was not an uncommon crime in the city—and for the tailor, as for many crime victims, it was financial disaster.

Disabled for eight months, he ran up medical bills that far outstripped his insurance. While he was recovering, his shop burned down. Shorn of assets and deeply in debt, the tailor turned to the Crime Victims Compensation Board, a New York State body set up three years ago to aid the targets of violent crime.

The board considered his plight and awarded him $3,133. Of that total, $2,266 was for payment of unreimbursed medical expenses and the remaining $867 for loss of earnings (the latter could have been much higher, but the tailor, who was old enough to collect Social Security, chose to do so and the board took that income into account).

As recently as four years ago, neither the tailor nor any other crime victim in the U.S. could have expected any such public aid; society was more intent on catching criminals than helping the unfortunates they prey on. Since then, however, New York, California, Hawaii, Maryland and Massachusetts have all begun to offer compensation to hard-pressed crime victims, and have paid out about $1.8 million to roughly 1,000 claimants so far.

A SPREADING MOVEMENT

Considering the incidence of violent crime, the amount seems small. Those involved in the programs say that's because they've received little public notice so far, not because benefits are insignificant or limited to a tiny percentage of victims. "The public just

doesn't know much about these programs," says Stanley Van Rensselaer, chairman of the New York State compensation board.

That may change as the idea spreads. Other states, including Pennsylvania, Illinois and New Jersey, are considering legislation that would lead to the compensation of crime victims. And a task force of the National Commission on the Causes and Prevention of Violence will recommend in a report to be published next week, that a Federal program be established.

Legal authorities and law enforcement officials say the trend reflects concern over rising violence, and the dawning conviction that society is obligated to help its victims. "We're dealing with what used to be the forgotten man," says Mr. Van Rensselaer of the New York board. J. Edgar Hoover, director of the FBI, expressed similar sentiments in a report last year when he said: "Certainly under the rule of law those who abide by the law should have protection equal to that of those who break the law."

LITTLE RECOURSE

The idea of compensation for crime victims isn't new. Ancient Babylonian codes specified that the government should replace the lost goods of a robbery victim if the thief escaped with them. Over the centuries, however, the concept faded in favor of a system that viewed crime as an offense against society and not the individual. So victims were left with little recourse except to file civil suits against criminals, a thoroughly unsatisfactory course most of the time; few criminals have any resources worth talking about, and many are never apprehended in the first place.

New Zealand is credited with reviving the idea and establishing the first modern compensation plan in 1963. New York's program, considered one of the most effective in this country, got considerable impetus from the 1965 murder of Arthur Collins, who was stabbed to death while trying to stop another man from molesting two women on a subway. The incident got much publicity, and the New York City Council voted to pay Mr. Collins' widow $4,200 a year for life. Shortly afterward, Gov. Nelson Rockefeller appointed a committee that framed the state's present compensation program.

New York and the other states don't pay anything for casualty losses—a pickpocket's theft of a wallet stuffed with cash, say, or the burglary of a TV set from an apartment. Their programs all are designed to compensate victims for loss of income and unreimbursed medical expenses resulting from criminal violence. Beyond this, the administration of the programs and their benefits vary widely.

DIFFERING PROCEDURES

New York uses a three-man board of attorneys who rule on claims investigated by staff members, and will pay up to $15,000 for loss of income. In Massachusetts, victims file claims in the state court, which refers them to the attorney general's office for investigation; a judge makes the final award, which can be up to $10,000 for loss of income.

Maryland, which has a board similar to New York's, has the highest allowable payout—$45,000 for permanent total disability. Awards are made according to a carefully defined schedule of benefits spelled out in the state's workmen's compensation law; total disability of one leg resulting from criminal assault, for example, works out to $9,400.

To qualify for help under state programs, a victim generally is required to report the crime promptly to the police. Also he can't have contributed to his own injury; the New York board recently turned down a claim by one man who sought out a prostitute in a bar and was later mugged in a hotel room by her accomplice.

In New York, Massachusetts and Maryland, a claimant has to prove he has incurred at least $100 in unreimbursed medical expenses or has lost at least two weeks work due to his injuries. New York, Maryland and California require that the applicant be facing serious financial hardship—a requirement that some legal experts contend smacks of welfarism and is alien to the whole idea of compensation.

"If you're hit by an auto, your compensation isn't based on financial need," says Abraham Goldstein, dean of the Yale University law school, who argues that it shouldn't be any different when you're assaulted by a thug. Herbert Sigurdson, an associate professor in the University of Southern California's school of public administration, agrees. "Compensation should be a right," he says. "Hardship should have nothing to do with it."

But the states that do have such requirements often interpret financial hardship pretty liberally. A 64-year-old New York construction worker, for example, recently was paid on a $115 claim he made for unreimbursed medical expenses arising from a mugging—even though he had $700 in savings and earned $8,000 a year. Says Mr. Van Rensselaer, the compensation board chairman: "He works for a company with a mandatory retirement age of 65, and he's 64. He has a wife to support and has all he can do to stay above water. In this case, $115 was a hardship."

Hawaii has what is considered a particularly liberal program. There is no hardship requirement, and victims can even collect for "mental anguish" suffered as a result of criminal attack. Last year one woman who was robbed and raped in her home was awarded $108 for medical fees and $2,200 for pain, suffering and mental shock.

Not all of the programs have operated smoothly. California's had to be removed from the jurisdiction of the state's social welfare department in 1967 because administrators had been applying the rigid standards used for welfare eligibility to people who applied for compensation as crime victims; few were actually being helped. Responsibility is now shared by the Board of Control, an agency that handles claims against the state, and the California attorney general's office, which investigates them.

However, this year is the first for which the California legislature has appropriated funds to provide additional staffing for the program, at the beginning of the year there were 236 cases backed up, waiting for processing. Though the California program started in 1967, as did New York's, only 159 awards totaling about $180,000 were made by the Golden State through 1969; New York paid out $1.4 million to 630 claimants.

[From the Southern California Law Review]

THE BATTLE FOR A FEDERAL VIOLENT CRIMES COMPENSATION ACT: THE GENESIS OF S. 9

(By RALPH W. YARBOROUGH)

(NOTE.—The response of American jurisdictions to the need for violence victim compensation has been sporadic. United States Senator Ralph Yarborough has been in the vanguard of those advocating a comprehensive federal policy. In this article the Senator renews his call for a national victim compensation program and explains his latest proposed legislation.)

INTRODUCTION

Within the American federal system prevention of crime has traditionally been the province of the state governments. The increasing sophistication and expanded scope of criminal activity, which frequently crosses state jurisdictional boundaries, have prompted an increasing federal commitment to the prevention of crime [1] and the eradication of its causes.[2] The failure of both the state and federal governments to stem this increase in violent crimes,[3] and a sense of indignation at a system of criminal law which seems to be more concerned with the rights of the criminal than the loss of his victim, have led to a growing conviction that the government is morally—if not legally—obliged to provide compensation to victims of violence.

While several foreign jurisdictions [4] and a small minority of American state legislatures [5] have enacted statutes to effectuate this purpose, the persistent efforts of myself and other national legislators have not resulted in a similar commitment at the federal level in this country. This article will be devoted to a brief examination of the rationale for existing violence victim compensation programs and an analysis of legislation which I have introduced, and which is now pending before Congress, to illustrate how that program would meet the pressing need for a federal violence victim compensation law.

EXISTING PROGRAMS

State compensation to victims of crime is not a new concept. While the authors of precursors to modern plans were probably motivated more by a desire to encourage commerce than by sympathy for the victim, the concept of governmental responsibility to those injured by anti-social acts proscribed by the state can be seen in embryonic form in ancient laws. Hammurabi's Code, for example, provided that:

"Section 22. If a man has committed robbery and is caught, that man shall be put to death.

"Section 23. If a robber is not caught, the man who has been robbed shall formally declare whatever he had lost before a god, and the city and the mayor in whose territory or district the robbery has been committed shall replace whatever he has lost for him.

"Section 24. If (it is) the life (of the owner that is lost), the city or the mayor shall pay one maneh of silver to his kinsfolk." [6]

The concept of state liability for criminal depredations was forcefully reasserted in *Arms of the Law*,[7] published in 1951. The author, Margery Fry, underwent a thought transition which parallels the evolution of modern theories of victim compensation. Miss Fry, an English social reformer and magistrate, initially advocated compensation by the criminal because of the obvious deterrent effect of such liability.[8] Ultimately, however, she shifted her focus from deterrence of the criminal to compensation of his victim. She argued that government compensation to victims of violence was a logical extention of an enlightened social policy which already provided transfer payments for the majority of social dislocations occasioned by modern life in industrial society.[9]

"In our modern systems of collective responsibility for sickness and injury, we have evolved a machinery for assuring compensation which could well be extended to injuries criminally caused, affording equal benefits to the man who falls from a ladder at work and the man whose enemy pushed the ladder from under him at home. . . . The logical way of providing for criminally inflicted injuries would be to tax every adult citizen . . . to cover a risk to which each is exposed. . . . The State which forbids our going armed in self-defence cannot disown all responsibility for its occasional failure to protect." [10]

The first official response to Miss Fry's proposals came two years later in a White Paper entitled *Penal Practice in a Changing Society*.[11] Its author suggested that any fundamental reexamination of penal methods must include not only the obligations of society and the offender to one another, but

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Footnotes at end of article.

also the responsibility of both to the victims of crime. The White Paper specifically agreed with Miss Fry's views that society is primarily obligated to the victims of crime, not only because of its failure to protect him from anti-social behavior, but also because only society has the resources to insure effective compensation.[12] The Working Party, subsequently constituted to study the feasibility of a compensation scheme, rejected the proposition that the state is legally obliged to provide such support.[13] In a report entitled *Compensation for Victims of Crimes of Violence*,[14] the Party concluded:

"The proposition that the State has a duty to protect its members from unlawful violence and that if it fails to do so it should pay compensation seems to us to be both fallacious and dangerous. Fallacious, because we do not believe that the State has an absolute duty to protect every citizen all the time against other citizens: there is a distinction between compensation for the consequences of civil riot, which the force of law and order may be expected to prevent, and compensation for injury by individual acts of personal violence, which can never be entirely prevented. It is true that . . . the public generally are prohibited from carrying weapons to protect themselves, but it does not follow that the State has assumed the duty of protecting them everywhere and in all circumstances; the most it has done is to create an assumption that it will provide a general condition of civil peace.[15]

The Party went on, however, to acknowledge a moral obligation to those without remedy at law for losses occasioned by anti-social conduct.

"The public does, however, feel a sense of responsibility for and sympathy with the innocent victim, and it is right that this feeling should find practical expression in the provision of compensation on behalf of the community.[16]

On the basis of this recommendation the English Compensation for Victims of Crimes of Violence Scheme became operational.[17]

While agitation for a compensation plan began in England before it began in New Zealand, the latter was the first to enact such a program into law.[18] Ironically, there was no great public outcry for a compensation plan in New Zealand; it was advocated primarily to quell opposition to penal reform which, for its supposed generosity toward lawbreakers, had outraged the populace.[19] During the debate on the Criminal Injuries Compensation Act in the New Zealand Parliament, the program was justified in terms of the community's duty to those who suffer from criminal violence.[20] Just as industry has the duty to compensate its injured workers, it was argued, so should the community accept a special responsibility towards its constituents injured by criminal acts.[21] Given the advanced state of social legislation in New Zealand, such a program was readily acceptable as a natural extension of the welfare concept into a new realm.[22]

When the Australian state of New South Wales enacted similar legislation several years later,[23] the government's attitude toward such a measure was explicit—any compensation awarded pursuant to the legislation was given out of grace rather than as a matter of legal right.[24] Speaking about the bill in the Legislative Assembly, the Attorney General stated:

"By this measure the State is not assuming legal liability but it is recognizing—most offenders being men of straw as honorable members know—the need to make some provision for the victims of offenders as a matter of grace in proper circumstances.[25]

In 1967 the Canadian provinces of Saskatchewan [26] and Newfoundland [27] both adopted compensation programs very similar to the New Zealand Act. The strong influence of the other commonwealth jurisdictions was reflected in the Saskatchewan Attorney General's proposal to the General Assembly:

"[I]n 1964, the New Zealand Government introduced what this Government feels to be a very progressive measure. The same measure is presently in operation in that this measure is being very well received by the public in both countries. I refer to the plan of both the United Kingdom and New Zealand whereby compensation is payable to innocent persons who have suffered physical injuries as a result of certain criminal acts or omissions, and whereby compensation is payable to dependents of innocent persons who have been killed as a result of certain criminal acts or omissions. There has been a recognition in recent years for a program of this kind because of an increase in the crimes of violence in the society in which we live. The law as it presently exists is inadequate in many cases, as well as legal remedy is worthless because of the lack of assets of the offender is unknown. The loss of the breadwinner either permanently or temporarily is recognized to cause extreme hardships in many cases. It is primarily to remove this hardship in deserving cases that we propose at this session to introduce a Bill in this House to provide for the payment of compensation in the event of certain injuries or deaths caused by criminal acts or omissions." [28]

Only five jurisdictions [29] within the United States have adopted compensation programs for victims of violence. California's statute, enacted shortly after England's and New Zealand's programs became operative, was the first of its kind in this country.[30] There are several aspects of the California measure which are unique. No compensation board was created to administer the program. Virtually all other programs have created a small (typically 3–5 member) board to adjudicate an applicant's right to compensation and amount of award. In California, these functions were given to the State Board of Control,[31] specific criteria for administering the program were left to the Board.[32] The statute makes financial need a prerequisite to compensation.[33] All of these factors cast the program in the light of "welfare"—something which other jurisdictions have avoided.

The New York program [34] does not limit compensation to those "in need," but rather recognizes that those who are victims of criminal acts are by definition, in need and should be compensated.

"The legislature recognizes that many innocent persons suffered personal physical injury or death as a result of criminal acts. Such persons or their dependents may thereby suffer disability, incur financial hardships, or become dependent upon public assistance. The legislature finds and determines that there is a need for government financial assistance for such victims of crime. Accordingly, it is the legislature's intent that aid, care and support be provided by the State, as a matter of grace, for such victims of crime." [35]

It should be noted, however, that pains were taken to make it clear that the obligation of the State to compensate is moral rather than legal.

The Preamble to the Maryland compensation statute [36] similarly restricts the grounds upon which the duty of compensation is assumed by the state:

"The legislature recognizes that many persons suffer personal physical injury or death as a result of criminal acts or in their efforts to prevent crime or apprehend persons committing or attempting to commit crimes. Such persons or their dependents may thereby suffer disability, incur financial hardships or become dependent upon public assistance. The legislature finds and determines that there is a need for governmental financial assistance for such victims of crime. Accordingly, it is the legislature's intent that aid, care and support be provided by the State, as a matter of moral responsibility, for such victims of crime." [37]

In Massachusetts,[38] the special Legislatve Committee found that the commonwealth "owes" compensation to those of its citizens it fails to protect from crime.[39] General popular support for the compensation plan was grounded in the belief, (similar to that held in New Zealand),[40] that victims should be as much a subject of concern as are criminals.[41]

PROPOSALS FOR A FEDERAL COMPENSATION PROGRAM

Two conclusions can be drawn from the above discussion of compensation programs. First, as long as the effects of crime continue to dislocate members of society, and as long as society continues to assume the task of preventing anti-social behavior, society will continue to owe some obligation (be it moral or legal) to the victims of crime. Second, the need for such programs in the United States—a need which can be measured by the high and ever-increasing crime rates—is not being met by the few state-administered compensation plans. Though existing schemes are to be lauded both for their intent and effect, too few of our states have passed such legislation. Many of our citizens are deprived of the obvious benefits a compensation plan can provide solely because they reside in the "wrong" state. The federal government, in my opinion, has the obligation to step in and fill the void in protecting the welfare of these citizens.

On June 17, 1965, I introduced the first victim compensation legislation in Congress.[42] I have reintroduced comparable legislation in each Congress since that time.[43] The present version of that bill, S. 9, is now pending before the Senate Committee on the Judiciary. In addition to a federal compensation program, I recently introduced similar legislation applicable to the District of Columbia.[44] The remarks I made on the floor of the Senate at that time summarize my reasons for introducing the above legislation: [45]

"[We] must see crime in terms of a three-part equation: The conditions of life that produce a criminal act, the criminal act itself, and the victim's loss. At the moment, our major resources center upon the act of the criminal. Surely we owe as much assistance and concern to the victim of a violent crime as we do to his attacker.

"Society's responsibility to the victims of crimes of violence is directly related to society's dereliction in fulfilling its responsibilities for preserving law and order within the society. Unlike an earlier time in our history when citizens bore arms and largely were responsible for their own protection, various laws, institutions and mores within today's societal structure exist as a pledge that society will provide protection. When society fails in its assumed duty to protect its citizens, society ought to have the responsibility of compensating the innocent victim for his personal pain and injury." [46]

The major features of my bill to establish a federal compensation program, the Criminal Injuries Compensation Act, are based on the best aspects of the English and New Zealand programs.

A. Jurisdictional scope of S. 9

The Criminal Injuries Compensation Act [47] would seek to prevent economic dislocation of the victims of crime by making financial provision for injuries suffered by them. Injury to, or loss of, property is not compensable under the Act. Further, the Act is applicable only to injuries incurred within the special maritime and territorial jurisdiction of the United States,[48] including the District of Columbia.[49]

B. Administration of the act

The bill would create a Federal Violent Crimes Compensation Commission, a three-

Footnotes at end of article.

man tribunal appointed by the President for 8-year staggered terms.[50] The Chairman, who must be a member of the bar of a federal court, or of the highest court of a state for at least eight years prior to appointment,[51] would be designated by the President. Commission members would not be permitted to engage in any other business, vocation or employment.[52] The Commission may appoint necessary officers, attorneys, and employees, and fix their compensation.[53] Members, who are eligible for reappointment, may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. The principal office of the Committee would be in or near the District of Columbia, but Commission powers could be exercised by an authorized representative in any place.[54]

It is the Commission's function and duty to examine the evidence presented to it to determine both the innocence of the victim [55] and the amount of the award. The authority of the Commission to award compensation is not dependent on the prosecution or conviction of the accused for the offensive giving rise to the injury.[56] The Commission may, however, upon application of the Attorney General or the person or persons alleged to have caused the injury or death, suspend proceedings until such application is withdrawn, or until a prosecution for an offense arising out of such act or omission is no longer pending or imminent. The Commission may also suspend proceedings in the interest of justice if a civil action arising from such act or omission is pending or imminent.[57]

The Commission has wide discretion both in granting awards and attorneys' fees,[58] and in determining whether in fact an injury occurred, whether it was caused by a criminal act, whether there exists a relationship between victim and criminal which would prevent compensation, and whether the victim should bear some share of the responsibility for the injury. While appeal to the courts would be allowed,[59] no trial de novo may be had on the merits.[60]

C. Criteria for compensation

The Act provides for compensation in cases where any person is injured or killed by an act or omission within the description of offenses contained in the Bill.[61] "Injury" includes actual bodily harm, pregnancy, and mental or nervous shock.[62] While "victim" is defined as one immediately injured by the criminal act.[63] provision is made in the Act for payment to dependents and close relatives when the immediate victim dies as a result of the injury.[64] In a sense, therefore, compensation is made to consequential or indirect victims.

One somewhat unique feature of S. 9 is that criminal intent is expressly excluded from consideration. "A person shall be deemed to have intended an act or omission not withstanding that by reason of age, insanity, drunkenness, or otherwise he was legally incapable of forming a criminal intent." [65] The only findings essential to the award are that the act or omission complained of did occur, and that injury or death resulted therefrom.

D. Compensation and limitations on its payment

The payment of compensation under the Act may be ordered for:

(a) expenses actually and reasonably incurred as a result of the injury or death of the victim;

(b) loss of earning power as a result of total or partial incapacity of such victim;

(c) pecuniary loss to the dependents of the deceased victim;

(d) pain and suffering of the victim; and

(e) any other pecuniary loss resulting from the personal injury or death of the victim which (is determined) to be reasonable.[66]

Compensation can be made to three categories of persons:

(1) to or on behalf of the injured persons; or

(2) in the case of the personal injury of the victim, where the compensation is for pecuniary loss suffered or expenses incurred by any person responsible for the maintenance of the victim, to that person; or

(3) in the case of death of the victim, to or for the benefit of the dependents or closest relation of the deceased victim, or any one or more of such dependents.[67]

All monetary awards are made in lump sum payments.[68] While this method has been criticized on the ground that a lump sum payment accurately anticipate future expenses, it does serve the beneficial purpose of encouraging those who are away from work to return as quickly as possible.[69] Compensation is limited to twenty-five thousand dollars.[70]

Discretion can be exercised in denying compensation in cases where it is felt that "unjust enrichment to or on behalf of the offender would result." [71] An absolute bar to the right of compensation under the Act is an interspousal relationship between victim and criminal:

"No Compensation shall be awarded if the victim was at the time of the personal injury or death of the victim living with the offender as his wife or her husband." [72]

A large portion of violent crime in America occurs in the home between relatives, and especially between husbands and wives. Not only is there a great possibility of collusion in these cases, but such behavior is hard to detect via investigation. Such investigation, further, would be expensive and time consuming; to require such a degree of care on the part of the decision-maker would divert funds from the primary functions of the Act. For that reason, and for convenience of deciding such matters, we advocate that there be no investigation in those cases where the probability of collusion and unjust enrichment is highest. While this formulation suffers from the defect of all per se rules in that it may lead to injustice in some instances, the per se rule would insure that in most cases the limited funds available will not be dissipated by collusive claims.

Also relevant to the question of compensation is the responsibility of the victim.[73] While there is no absolute bar to compensation for "contributory" behavior, the decision maker may consider the fault of the victim in determining the proper award. Of course the victim would never be considered at fault where injury or death resulted from the victim's lawful attempt to prevent the commission of a crime or to apprehend an offender.[74]

The victim should not receive double benefits or be better off financially by reason of the crime than he would otherwise have been. In assessing the amount of compensation to be paid, "any payment received by the victim, or by any of his dependents, from the offender, or from any person on behalf of the offender, or from the United States (except those received under this bill), a State or any of its subdivisions for personal injury or death compensable under this Act, shall be deducted from the award, but only to the extent that the sum of such payments and any awards under this Act are in excess of the total compensable injuries suffered by the victim. . . .[75]" While the bill also provides for the recovery by the government from the offender, it is probable that the proportion of costs actually recouped in this way will be small.[76]

CONCLUSION

Our society expends billions of dollars every year in the detection and prevention of crime. The tacit focus of many social welfare programs is the elimination of conditions which breed crime. Once the criminal is apprehended he is subjected to a very sophisticated (and expensive) process designed not only to isolate him from society for the duration of his sentence, but to rehabilitate him for the day of his release. Yet nowhere in this pervasive and complex social institution is provision made for compensation to the victim of violent crimes. Inasmuch as the victim's assailant is usually a "man of straw" any legal right which the victim may have to recover from him is largely illusory. The moral obligation of the national government to this forgotten man is at least as compelling as the obligation which has been recognized to victims of other societal ills. Unemployment insurance, for example, is a concomitant of the modern industrial state's responsibility for control of the economy. Detection and prevention of crime are among the most elementary duties of the State. Where the state has failed in its obligation to protect its citizens from anti-social conduct it should rightfully assume responsibility for compensating the victim.

FOOTNOTES

* United States Senator from Texas.

[1] *E.g.*, Omnibus Crime Control and Safe Streets Act of 1968, 18 U.S.C. § 921 (Supp. 1968):

"DECLARATIONS AND PURPOSE

"Congress finds that the high incidence of crime in the United States threatens the peace, security, and general welfare of the Nation and its citizens. To prevent crime and to insure the greater safety of the people, law enforcement efforts must be better coordinated, intensified, and made more effective at all levels of government.

"Congress finds further that crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively.

"It is therefore the declared policy of the Congress to assist State and local governments in strengthening and improving law enforcement at every level by national assistance. It is the purpose of this title to (1) encourage States and units of general local government to prepare and adopt comprehensive plans based upon their evaluation of State and local problems of law enforcement; (2) authorize grants to States and units of local government in order to improve and strengthen law enforcement; and (3) encourage research and development; directed toward the improvement of law enforcement and the development of new methods for the prevention and reduction of crime and the detection and apprehension of criminals."

Another indication of such concern is manifested in creation by President Johnson of the National Commission on the Causes and Prevention of Violence. Exec. Order No. 11412, 3 C.F.R. 114 (Supp. 1968).

[2] *E.g.*, Economic Opportunity Act of 1964, 42 U.S.C. § 2701 (1964). The House Report cited crime and juvenile delinquency as some of the indirect costs of poverty in America. H.R. Rep. No. 1458, 88th Cong., 2d Sess. 2 (1964).

[3] *E.g.*, Lamborn, *Remedies for the Victims of Crime*, 43 S. CAL. L. REV. 22 & nn. 1–2 (1970).

[4] New Zealand, England, New South Wales and Queensland in Australia, and Saskatchewan and New Foundland in Canada.

[5] California, Hawaii, Maryland, Massachusetts and New York.

[6] 2 G. DRIVER, THE BABYLONIAN LAWS 21 (1955).

[7] M. FRY, ARMS OF THE LAW (1951).

[8] *Id.* at 126.

[9] Fry, *Justice For Victims*, The Observer (London), July 7, 1957, at 8, col. 2, reprinted in 8 J. PUB. L. 191 (1959).

[10] *Roundtable*, 8 J. PUB. L. 191, 192–93 (1959).

[11] LAW REFORM COMMITTEE, CMND. No. 645 (1959).

[12] *Id.* at 7.

[13] LAW REFORM COMMITTEE, CMND. No. 1406, at 6 (1961).

[14] *Id.*

[15] *Id.* at 7.

[16] *Id. passim.*

[17] There is no statute governing the Scheme.

[18] THE ENGLISH COMPENSATION SCHEME FOR VICTIMS OF CRIMES OF VIOLENCE, LAW REFORM COMMITTEE, CMND. No. 2323 (1964) became effective August 1, 1964. New Zealand's Criminal Injuries Compensation Act, 1963, No. 134 of 1963 (N.Z.) became effective January 1, 1964; it was subsequently amended by Criminal Injuries Compensation Amendment Acts, 1966, No. 22 of 1966 (N.Z.); No. 67 of 1967 (N.Z.).

[19] Weeks, *The New Zealand Criminal Injuries Compensation Scheme,* 43 S. CAL. L. REV. 107 & n. 4 (1970).

[20] 330 PARL. DEB. NOS. 1965–68 (N.Z.) (1963).

[21] Cameron, *The New Zealand Criminal Compensation Act,* 1963, 16 U. TORONTO L.J. 177, 180 (1965).

[22] Weeks, *supra* note 19.

[23] Criminal Injuries Compensation Act, 1967, No. 14 of 1967 (N.S.W.) effective January 1, 1968.

[24] *See* Chappell, *Compensating Australian Victims of Violent Crime,* 41 AUSTL. L.J. 3, 6 (1967); Chappell, *The Emergence of Australian Schemes to Compensate Victims of Crime,* 43 S. CAL. L. REV. 73–74 & nn. 17–18 (1970).

[25] Chappell, *supra* note 24, at 6.

[26] The Criminal Injuries Compensation Act, 1967, No. 84 of 1967 (Sask.); as amended by No. 16 of 1968 (Sask.). This statute became effective on September 1, 1967. *See* Eremko, *Compensation of Criminal Injuries in Saskatchewan,* 19 U. TORONTO L.J. 263, 264 (1969).

[27] Criminal Injuries Compensation Act, 1968, No. 26 of 1968 (New F.) The Newfoundland Compensation program became effective on May 23, 1968.

[28] 1967 PARL. DEB. 246, 251–54 (Sask.).

[29] *See* note 5 *supra.*

[30] Victims of Crime Act, CAL. GOV'T. CODE §§ 13960–66 (West Supp. 1968).

[31] *Id.* §§ 13962–63.

[32] *Id.* § 13963. The articulated justification for the California statute reveals the welfare bias: ". . . that it serves public purpose, and is of benefit to the state, to indemnify those needy residents of the State of California who are victims of crimes committed in the State of California, and those needy domiciliaries of California who are injured as a consequence of an act committed while temporarily in another State of jurisdiction where such act, if committed in California, would have been a public offense, for the injuries suffered as a result of the commission of the crimes." *Id.* § 13960. One unintended result of justifying a compensation system in terms of welfare, is that the procedures established to administer such a program tend to be more lax than those under a scheme where compensation is stated to be a legal right of the recipient. Shank, *Aid to Victims of Violent Crimes in California,* 43 S. CAL. L. REV. 85, 89 & n. 17 (1970).

[33] CAL. GOV'T. CODE § 13963 (West Supp. 1968).

[34] Crime Victims Compensation Board Act, N.Y. EXEC. LAW §§ 620–25 (McKinney Supp. 1969). This Act was approved August 1, 1966.

[35] *Id.* § 620.

[36] Criminal Injuries Compensation Act, MD. ANN. CODE art. 26A §§ 17 (1969).

[37] *Id.*

[38] MASS. GEN. LAWS ch. 258A (1968).

[39] Floyd, *Massachusetts Plan to Aid Victims of Crime,* 48 BOST. U. L. REV. 360, 362 (1968).

[40] *See* note 21 *supra* and accompanying text.

[41] Attorney General Richardson remarked: In the past, we have spent millions for the apprehension and rehabilitation of criminals, but not one cent for their victims. Floyd, *supra* note 39, at 362.

[42] S. 2166, 89th Cong. 1st Sess. (1965). For a description of this legislation, *see* Yarborough, *S. 2155 of the Eighty-Ninth Congress—The Criminal Injuries Compensation Act,* 50 MINN. L. REV. 255 (1965).

[43] S. 646, 90th Cong. 1st Sess. (1967); S. 9, 91st Cong. 1st Sess. (1969).

[44] S. 2936, 91st Cong. 1st Sess. (1969).

[45] While none of the pending Congressional bills contains a statement of legislative intent or policy, the authors have, from time to time, generally advanced the arguments of Margery Fry (*see* text accompanying notes 9–11 *supra*), and those of the Honorable Arthur J. Goldberg, former Associate Justice of the United States Supreme Court, and later Ambassador to the United Nations, who is an outspoken proponent of such a program in this country. *See, e.g.,* Goldberg, *Equality and Government Action,* 39 N.Y.U.L. REV. 205, 224 (1964): "The victim of a robbery or an assault has been denied the 'protection' of the laws in a very real sense, and society should assume some responsibility for making him whole." *See also* Goldberg, *Preface to Symposium on Compensation for Victims of Violence,* 43 S. CAL. L. REV. 1 (1970).

[46] CONGRESSIONAL RECORD, vol. 115, pt. 19, p. 26270 (remarks of Senator Ralph W. Yarborough introducing a Bill to Create a District of Columbia Violent Crime Compensation Commission).

[47] S. 9, 91st Cong., 1st Sess. (1969) [hereinafter all undesignated citations to Sections are to Sections in this Bill].

[48] Section 301(1). That term is fully defined in 18 U.S.C. § 7 (1964).

[49] Section 301(2).

[50] The President appoints with the advice and consent of the Senate. Section 201(a).

[51] *Id.*

[52] Section 201(b).

[53] Section 203(a). Such compensation shall be determined in accordance with the Classification Act of 1949, 5 U.S.C. §§ 5101–15 (1964). *Id.*

[54] Section 204(a). The Chairman and one other member constitutes a quorum, and should opinions differ at such a meeting, the Chairman's opinion will prevail.

[55] Sections 301(d), 305(a).

[56] One of the criticisms of the New South Wales scheme, for example, is that the interests of the victim and the criminal are basically conflicting. *See* Chappell, *supra* note 24, at 74 & nn. 17–18. While the determination of any trial would have an effect on a subsequent compensation proceeding (*see e.g.,* § 204(i) which provides that a criminal conviction with respect to a claim under the Act shall be taken as conclusive evidence that the offense has been committed) there is no requirement that the criminal be tried or convicted before compensation can be awarded.

[57] Section 301(f). The reasons for this provision are twofold. First, by § 305(b) the Commission may deduct from any compensation award an amount equal to compensation for the same injuries from other sources. The Commission may also institute a civil action against an offender for recovery of funds used to compensate his victim. It is reasonable, therefore, to await the results of any pending civil action between victim and offender from an efficiency point of view. It is also equitable, for reasons of justice among the parties, not to place the stamp of approval on the plaintiff's case in that proceeding by providing a collateral determination of liability for the consideration of court and jury. While it is the function of the Commission to compensate for injuries caused by violent behavior, they are not a judicial agency, and such matters as burdens of proof and admissibility of evidence are at variance with many common law rules. It would be unfair to the parties to allow a governmental body's seal of approval to be placed on the side of one of the parties' cases.

[58] The granting of Attorneys' fees is dealt with in § 206.

[59] Section 207. An earlier version of this Act. § 2155. 89th Cong., 1st Sess. (1965), was criticized by Professor Robert Childres for failing to provide any appeal, as is normally the case in administrative decisions in this country. Childres. *Compensation for Criminally Inflicted Personal Injuries.* 50 MINN. L. REV. 271, 277 (1965). The criticism was well taken, and in this latest version of the Bill, Commission determinations are appealable to the federal district courts. The efficiency value in administrative agencies, however, is maximized by denying courts the right to a de novo review.

[60] Section 207.

[61] Section 302. Those offenses, §§ 302(1)-(18) are assault with intent to kill, rob, rape, or poison; assault with intent to commit mayhem; assault with a dangerous weapon; assault; mayhem; malicious disfiguring, threats to do bodily harm; lewd, indecent, or obscene acts, indecent acts with children; arson; kidnapping, robbery; murder; manslaughter, voluntary; attempted murder; rape, attempted rape; or other crimes involving force to the person.

[62] Section 102(4).

[63] Section 102(6).

[64] Section 301(b) (1)-(3).

[65] Section 301(c). This feature of the Bill (and others which will be discussed *infra*) indicates that its sole concern is with the victim, and the problem caused him by virtue of the criminal act. For reasons not relevant here, certain acts are rendered noncriminal by the law; this does not mean that society has not the obligations to prevent such behavior, but rather that we have decided not to punish the offender. Instead, he is rehabilitated in a fashion suited to his individual characteristics. It is clear, however, that the harm has been done to the victim, and cannot be undone by that rehabilitation. Therefore, compensation is needed.

[66] Section 303(a)-(e).

[67] Section 201(b)(1)–(3).

[68] Section 301(g).

[69] *See* note 17 *supra.*

[70] Section 304(b).

[71] Section 304(c).

[72] *Id.* A two year statute of limitations which begins to run when the injury occurs, also operates as an absolute bar. Section 304(a).

[73] Section 301(d): "In determining whether to make an order under this section, or the amount of any award, the (decision maker) may consider any circumstances it determines to be relevant, including the behavior of the victim which directly or indirectly contributed to his injury or death. . . ."

[74] *Id.*: "[The Commission may reduce the award for contributory acts of the victim] unless such injury or death resulted from the victim's lawful attempt to prevent the commission of a crime or to apprehend an offender."

[75] Section 305(b).

[76] *Cf.* Lamborn, *supra* note 3, at 37–39 & nn. 71–77.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that morning business be closed and that amendment No. 861 be laid before the Senate and made the pending business.

AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PROCUREMENT AND OTHER PURPOSES

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair

lays before the Senate the unfinished business, which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 17123) to authorize appropriations during the fiscal year 1971 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selective Reserve of each Reserve component of the Armed Forces, and for other purposes.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. Under the previous order, amendment No. 861, offered by the distinguished Senator from Wisconsin (Mr. PROXMIRE), is now the pending business. The clerk will state the amendment.

The legislative clerk read as follows:

At the end of the bill add a new section as follows:

SEC. 508. (a) Notwithstanding any other provision of law, the aggregate amount that may be expended for Department of Defense—Military Functions for the fiscal year ending June 30, 1971, shall not exceed $66,000,000,000.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time consumed for the quorum call be charged equally against both sides.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EAGLETON. 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.

Mr. PROXMIRE. Mr. President, I yield to the distinguished Senator from Missouri such time as he may require.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized.

THE MBT–70 TANK

Mr. EAGLETON. Mr. President, Deputy Secretary of Defense David Packard said recently:

Frankly, in defense procurement we have a real mess.

I concur wholeheartedly.

Speaking at the Armed Forces Management Association dinner last week, Secretary Packard continued:

The lesson that comes through loud and clear here is we should buy *only* what we need—not systems you or anyone else thinks they can develop to do something that doesn't need to be done. The Defense Department has been led down the garden path for years on sophisticated systems that you promised would do all kinds of things for some optimistic cost. Too frequently we have been wrong in listening to you, and more frequently you have been unable to deliver on either of these promises—what it would do or what it would cost. And we in the past have sometimes been guilty of over-optimism on our cost estimates and over-demanding in our requirements. We share the blame together, but the mistakes of the past cannot be repeated if we are to provide for the Nation's defenses in today's climate of a critical public and a critical Congress.

Last year, I questioned a weapons system which could well be the prototype for Secretary Packard's criticism—the MBT–70.

When the technology necessary to make a quantum jump in tanks became available, the Department of Defense was all too willing to be led down the "garden path." Low cost and high performance were promises that contractors and the Pentagon made but never kept.

Justified by the larger number of admittedly inferior Russian tanks in Europe, the MBT–70 was originally to cost less than $300,000 per unit. But its price rose steadily. Any many of the original technical innovations were dropped.

Initial research and development costs have jumped 525 percent, and the cost for the total project has risen to over $8 billion.

In 1969, while the Department of the Army based its decision to continue development on the unrealistically low figure of $520,000 per unit, the real cost had risen to almost $850,000.

Last year, during the debate on the military procurement bill, I asked for a GAO study of the MBT–70.

The GAO, using a per unit figure lower than the present one, raised serious questions about the tank. The GAO concluded:

The need for and role of the complex, large, expensive tank in future warfare would appear to warrant assessment.

The full GAO report was very useful and, in my opinion, highly critical. It cast doubts over the future role of tanks in general, and especially one as expensive and complex as the MBT–70. Although marked "secret," there is an interesting discussion of the role of the tank beginning on page 24 of that report. I commend it to my colleagues' careful attention.

The GAO study also discussed an interesting intelligence estimate which, in my opinion, casts doubts on the future magnitude of the threat—and the need for an MBT–70 to meet it.

Finally, the study summarized an OASD(SA) study of the MBT–70's cost effectiveness and came to conclusions—all classified "secret." Obviously, skyrocketing costs and the MBT–70's degraded capability greatly alter any original calculations of cost effectiveness. This year, even Secretary Packard noted:

Some of the cost-effectiveness analysis indicated that we could achieve capability with a larger number of less capable tanks.

Meanwhile, as our planners have been lured onward by new tank technology, little serious thought has been given to the implications for the role of the tank of parallel advances in antitank weaponry.

So, as a result of the process Secretary Packard so accurately described, the United States will either purchase, at our present level of tank expenditures, fewer expensive and complicated tanks in the face of increasingly effective antitank weapons, or, at far greater cost, a greatly upgraded tank force in an age where the tank is becoming more vulnerable.

But, despite these classic mistakes, the MBT rumbles on.

We now find this great "dream tank" will be delivered more than half a decade late, provide less capability than promised, cost at least 2½ times the original estimate, and face a threat that has not substantially been upgraded.

The Armed Services Committee has earmarked $77 million for further research and development and advance production engineering on the MBT–70 in fiscal year 1971.

I would like to point out that these funds do not commit the tank to production. The committee is aware of the problems and has promised "continued review toward elimination of marginal features and reduction in cost." Further, the committee notes that "In addition, reliability and maintainability is of critical importance and should be emphasized in the development effort."

I share Secretary Packard's hope that the past will not be a guide to the future. And I believe that hope can be partially realized by a careful second look at the MBT–70 before it finally rolls off the production line.

I want to say that although there are some sections of this bill with which I disagree, I believe that the committee's overall efforts are highly deserving of praise.

After all, this bill represents the most difficult decisions which must be made with respect to our military preparedness. It authorizes all our research and development efforts as well as 75 to 85 percent of all procurement for 1971. The committee must deal with myriad long leadtime items and the ever-present threat of new and destabilizing technical breakthroughs by our adversaries. Whereas it takes only 6 months at most to recruit, train, and deploy manpower effectively, research and development once foregone, and stretchouts or cancellations once made, are almost impossible to recover from rapidly. Therefore, cuts in this bill have to be made far more cautiously than in other sections of the DOD budget.

Yet even with these responsibilities the committee, under the able leadership of the Senator from Mississippi (Mr. STENNIS), has managed to prune $1.329 billion from the Pentagon's $20.237 billion request.

And the committee altered the House-passed version by:

Reducing new obligational authority by $334.8 million.

Deleting $688.8 million for five naval vessels added by the House, lead items for the CVAN–70, the improved Hawk missile, the international fighter, and the M60A1E2.

Reducing R. & D. on the B–1, the Cheyenne helicopter, and the SAM–D by a total of $82.6 million.

Deleting $59.3 million for areawide ABM site preparation, Project Mallard and SCAD.

Reducing the advanced ballistic missile defense program and the rebasing program for Minuteman by $47 million.

As the committee states:

The bill as recommended by the Committee in terms of procurement and research

and development funding has been reduced by $1.329 billion or 6% below the House and 6.7% below the Department of Defense request which was described as "rock bottom" when submitted.

I believe that represents a commendable achievement.

But these reductions only cover $20 billion—albeit the most difficult part—of a $71.2 billion Pentagon budget.

Congress can do more. And I believe the Proxmire-Mathias overall spending ceiling is the way to do it. For while the Department of Defense should be able to set priorities within the limits of their expertise, only Congress is charged with maintaining a broader view of the Nation's needs. And today our needs are many.

With a $10 billion or more Federal deficit predicted for fiscal 1971, and urgent nonmilitary needs to be met, Congress should decide where cuts are made in the total Federal budget.

We must provide for the common defense. And we are.

We must remain stronger than Russia. And we will.

The Armed Services Committee has provided guidance for an overall spending limitation by cutting almost 7 percent from the most crucial and difficult part of the DOD rock bottom budget request. The Proxmire-Mathias amendment merely applies this standard to overall DOD spending for fiscal 1971.

There are many examples where the Pentagon could save the approximately $4 billion dollars that the Proxmire-Mathias amendment would recover from the rest of the DOD budget.

For instance, Admiral Rickover testified that up to $2 billion per year could be saved by the single step of instituting uniform accounting procedures.

And while the committee may hesitate unilaterally to reduce or cancel Pentagon programs such as the MBT–70, the B–1 and the F–14, the Department of Defense, faced with a budget restriction, might take another look at them.

Numerous cuts have been suggested by the MCPL report, by Robert Benson, formerly of the office of the Comptroller of the Department of Defense, by Mr. William W. Kaufmann, former consultant to Secretary of Defense McNamara now with the Brookings Institute and by others.

Our present force structure is predicated on our ability to fight the initial premobilization stages of two large and one small war: a war in Europe in response to an attack on NATO by the Warsaw pact; a war in Asia in response to a Chinese attack; and a minor war in the Western Hemisphere against an unspecified enemy—all at the same time.

Considerable savings would accrue, however, if the Nixon doctrine were implemented. According to the former Director of the Bureau of the Budget, Charles L. Schultze:

> One alternative to returning to this type of force structure is to adapt the armed forces and the military budget to a literal interpretation of the "Guam Doctrine." If we truly accept the fact that the United States is no longer prepared to intervene on the ground in a large way in Asia, then those forces in the baseline structure earmarked for that contingency could be sharply reduced. Should we adopt a military posture consistent with this change in our overseas policy, some $10 billion per year could be saved in the military budget. We could eliminate: six Army divisions, three wings of tactical aircraft, six attack carrier task forces, and a significant part of our anti-submarine and amphibious forces in the Pacific. Such a reduction would still leave the U.S. with two Marine divisions, six fighter bomber air wings, and three attack carriers earmarked for service in an Asian emergency. In addition, a reasonable re-evaluation of how we deploy our carriers might release one or two of the Atlantic-based carriers for Pacific service. In short, a military force structure consistent with the apparent foreign policy thrust of the Guam Doctrine could release $10 billion a year . . .

Ten billion dollars—the amount of our projected deficit for fiscal year 1971.

Mr. Schultze's is but one suggestion. The final technical decisions will and should rest with the Department of Defense—within a rational funding level set by the Congress.

The administration has talked a great deal about shifting some of our tax dollars from military uses to investments in human resources. Unfortunately the shift to date is largely an illusion, accomplished by fiscal sleight of hand.

For instance, on July 18, the President said, and I quote:

> Let us set the record straight. We have changed our national priorities. In the budget I proposed for fiscal 1971, spending for defense is exceeded by spending for human resources for the first time in 20 years. . . . It calls for spending 37 per cent for defense and 41 per cent for human resources programs.

This is nonsense. What the fiscal 1971 budget actually shows is the growth of Federal trust funds—for self-supporting programs such as social security—which have, since fiscal 1969, been lumped together with Federal operating funds in an all-inclusive device known as the "unified budget."

While it is true that under the unified budget "human resources" programs account for 41 percent of total outlays, a closer look reveals that $48.7 billion of the $82 billion—a whopping 59 percent—budgeted for human resources are in fact outlays from trust funds.

These billions are not "Federal funds" spent at the discretion of the Federal Government. They are merely held in trust by the Government for specific trust funds—social security, medicare, unemployment insurance, and others—but under the unified budget are reflected as spending for "human resources."

While the unified budget may provide a more precise accounting of inflow and outflow, a "Federal funds" budget, comparable to the old administrative budget, more clearly illustrates the policy decisions and priorities of the Federal Government.

Mr. President, I ask unanimous consent that there be printed at this point in my remarks a functional breakdown of Federal funds outlays for fiscal 1971 as proposed in the President's budget.

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

FEDERAL FUNDS OUTLAYS BY FUNCTION, FISCAL 1971, AS PROPOSED IN THE PRESIDENT'S BUDGET

[In millions of dollars]

Function	Amount	Percent of total
National defense	$73,615	47.51
International affairs and finance	3,589	2.32
Space research and technology	3,400	2.19
Human resources	33,221	21.44
Education and manpower	8,129	5.25
Health	8,318	5.37
Income security	8,556	5.52
Veterans benefits and services	8,218	5.30
Physical resources	16,123	10.41
Agriculture and rural development	5,364	3.46
Natural resources	2,503	1.62
Commerce and transportation	4,475	2.89
Community development and housing	3,781	2.44
Interest	17,799	11.49
General Government	4,407	2.84
Other	2,782	1.80
Total Federal funds budget outlays	154,936	100.00

Mr. EAGLETON. Mr. President, this clearly shows that there has been no change in our national priorities.

National defense outlays, 47.5 percent of the total, continue to be more than twice those for any other budget category or group of categories. Human resources account for only 21.4 percent of outlays.

Of every tax dollar collected from the American people, the 1971 budget would allocate 50 cents for defense and space, 5 cents for health programs, 3 cents for education, about 2 cents for housing and urban renewal, 2 cents for job training, 1½ cents for all natural resource programs, including water pollution control, 1 cent for food and nutrition, and about one-fifth of 1 cent for mass transportation.

In one way, however, the 1971 budget tells us a lot about the administration's real priorities. Despite all the rhetoric about ending the war, about the transition from a wartime to a peacetime economy, about changing priorities, this administration has chosen not to reveal to the American people what reduction, if any, there will be this year in the cost of the war—or wars—in Southeast Asia. And if we are not told the cost of the war it will be exceedingly difficult for the Congress and the Nation to ascertain the amount of any "peace dividend" available as the war is deescalated.

Mr. President, the question of our national priorities is the single most important and encompassing issue that will be before the American people in this decade.

It is not just a matter of "more for my people and less for yours." It is a question of the goals and the future of a nation.

A change in priorities is not accomplished simply by juggling convenient groups of budget items. Nor is it effected by subtracting X billions of dollars from the military budget and hoping it will be divided among Y number of domestic programs—although I believe this is clearly and urgently in the national interest.

The redirection of our priorities must

be of a more profound nature. It requires first that we free ourselves of certain illusions—the illusion that our national honor is at stake somewhere in the jungles of Southeast Asia—the illusion that national progress lies in the way of repeated space spectaculars and bigger and better sonic booms—the illusion that the defense budget is sacrosanct and that more Pentagon money means more national security.

Only when we see these illusions for what they are, and not before, will the Federal Government and the Nation be capable of changing its priorities. Only then will it be possible to make a national commitment of attention, will, energy, and resources to meet the needs of the American people—for education, health care, jobs, housing, low-cost public transportation, crime control, and an environment conducive to human life.

In closing, Mr. President, I want to make it clear that I commend the President for the small shift in his 1971 budget from military to domestic spending. However, this is not enough. By passing the Proxmire-Mathias amendment Congress can improve upon the President's efforts, as it did last year by cutting the defense appropriation $5.6 billion.

But we should not delude ourselves. This is but a start. The monumental work of reordering our national priorities lies ahead of us.

The best judgment and efforts, and many difficult decisions, will be required of each of us if we are to eventually discover that our progress, our security, and our national honor lies in the strength of our own society and in the quality of the lives of our own people.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from Missouri for an excellent statement.

Mr. STENNIS. Mr. President, will the Senator yield me 1 minute, on my time?

Mr. PROXMIRE. I yield.

Mr. STENNIS. Mr. President, will the Senator yield, on my time?

Mr. EAGLETON. I am pleased to.

Mr. STENNIS. Mr. President, I yield myself 3 minutes.

For major parts of his speech and remarks, I want to agree with and commend highly the Senator from Missouri. I believe he is coming around mighty fast. The deeper he gets into the military budget and all, he modifies his views. I believe he has modified his views somewhat on the modern battle tank, which we discussed so much last year, something I was concerned about before I became chairman.

I wish we could stop spending money on these modern weapons, which cost so much, and cost more and more each year. The trouble is that we cannot stop the other side from building antitank weapons. If we could do that, we would get along with our old tanks; but as long as they are going forward with modern electronics, with which the Senator is familiar, we cannot drag our feet. We are caught in that dilemma on many weapons.

It is easy to talk in generalities, but it is hard to get down to the nub of things and reducing these expenditures rapidly. For instance, the 1971 budget has $21 billion in it for military personnel. That is for food, pay, travel, clothes, and items of that kind. Those expenditures will come down only when we reduce the number of men in the military; and we want that to come about as rapidly as possible.

For retired military personnel, there is an amount of $3.1 billion. We cannot reduce that except by changing the law. That is $3.1 billion.

In this budget there is an item of $19.5 billion for operation and maintenance. That is for general operation and maintenance of all the facilities—gasoline, oil, grease and things that make the wheels roll. That amount can be reduced as we reduce the personnel. They run right along together in this shooting war.

Our country comes first, but we have our commitments that we just do not want to turn our back on. We do not want to spurn our word once given.

Procurement plus some other items is really what we are debating about—$19 billion. For research and development, which the Senator emphasizes, it is $7.3 billion. He stated the matter better than I could. Once that time is gone——

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

Mr. STENNIS. Mr. President, I will yield 2 minutes to the Senator so he can reply.

Mr. EAGLETON. I thank the Senator from Mississippi. I shall take only 1 minute of those 2 minutes.

The Senator is undoubtedly correct that the business of cutting the military budget, with its certain built-in, unavoidable costs, is a very difficult process. I tried to make clear, and I think the Senator understood that from my remarks, that I was not trying to oversimplify the problem involved in trying to cut the budget. It is the same difficulty Secretary Richardson faces in HEW when he is looking at the education budget. He knows, as we know, that there is great need to expand the education budget, whether guidance counseling, technical education, or many other important programs. He has to make some very tough judgments on what the overall Federal budget can afford to spend for the education budget.

And when we have a projected $10 billion national deficit, every department head, defense included, should do some belt tightening.

As I stated in my speech, I commend the Senator from Mississippi and the Armed Services Committee. I think they did the most thorough job in the history of the country in trying to prune the defense budget. I think the Senator from Wisconsin, the Senator from Maryland, and I are trying to give the Department of Defense assistance. I think the Senator is moving in the right direction, by cutting R. & D. and procurement by almost 7 percent and cutting Federal spending. We are helping him attain that goal.

I thank the Senator.

Mr. PROXMIRE. Mr. President, I yield 20 minutes to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I thank the Senator from Wisconsin for yielding me time. I congratulate him for his continued effort in the field of Government economy. No place is it more important than in the area of defense spending, because, whatever differences there may be between us, on the question of how we are going to have a strong America we all agree on the goal. The Senator from Wisconsin has been leading the Senate, the Congress, and the country in the effort to have a stronger America by pointing out the dangers to the economy which have existed in recent years.

A STRONG AMERICA

But I would like to come to recent weeks, Mr. President, because recent weeks have brought ominous reports to those of us who believe that the United States must maintain a position of unchallengeable military strength. In the nuclear age, only a strong America can ensure a safe world. Yet it appears that the United States itself is pursuing policies that are putting our national security into increasing jeopardy. And if the United States is in danger, so is the global balance of military power that has preserved peace among the great powers since World War II.

In the past, the chief dangers to our national security have come from failure to respond adequately to threats from beyond our shores. Before Pearl Harbor, our woefully sluggish mobilization may have encouraged German and Japanese aggression. After World War II, our precipitate demobilization may have encouraged the Berlin blockade and Korean aggression. Then, in the technological realm, we based our defense on bombers long after the Soviet Union had secretly decided to emphasize intercontinental missiles. The result was the the shocking surprise of Sputnik at a time when the military was still chiefly concerned with an illusory "bomber gap."

These discomfiting experiences have created a new determination in the United States to assure our military and technological supremacy. The result today is different from any of the dangers we have faced in the past. We find ourselves excessively prepared for a wide range of impending threats, and yet poorly prepared for the long term maintenance of our security.

Contrary to some reports, we find we have superiority over the Soviet Union in every important category of current military strength, including strategic weaponry. The Soviet Union has deployed a number of relatively primitive ABM's around Moscow, connected to huge and extremely vulnerable radars. But Phase I of the much more sophisticated Safeguard program, already under construction as authorized by Congress, will soon give us a much larger number of deployed interceptors.

In any case, ABM's play a much greater role in defense budgets than in national defense. In more important areas, our Polaris and Poseidon programs give the United States far more and better sea based missile launchers, and our Strategic Air Command affords us a large and unchallenged lead in intercontinental

bombers. Although we are marginally behind in numbers of land based missiles, our lead in MIRV technology—multiple independently targetable warheads—gives us the capability swiftly to acquire a decisive edge even here—in the unlikely event our other retaliatory systems fall in jeopardy. Overall, our strategic lead is now about 3 to 1 in deliverable warheads, even without considering our widely dispersed tactical nuclear capability, also available for attack on the Soviet mainland if necessary.

It is said that with their SS–9's the Soviet Union can deliver greater total megatonnage. But this overkill measure is irrelevant, unless we suppose that our enemy would find some strange gratification in bombing bomb craters—or boiling the sea—and irradiating the world.

In fact, our current strategic position is unchallengeable and invulnerable at least for the next decade. We cannot improve it by adding to it with current technology. That course will only waste our resources and promote the dangerous militarization of Soviet society already described by columnist Joseph Alsop. At the same time, we would exacerbate the real danger to a strong America, the real threat to our national security.

This real danger does not come from strategic inferiority or lack of military preparation. It comes from the condition of American society, particularly as it affects science and education. The writings of historian Arnold Toynbee on the empires of the past have shown that most great nations have fallen not from external attack but from internal dissolution. Although I do not believe that we are suffering a terminal social crisis, our current problems direly affect our future national security.

Dr. John Foster, the Pentagon's Director of Research and Engineering, declared in a recent speech:

> The Soviet Union is now about to seize world technological leadership from the United States.

He cites Soviet expenditures on research and development increasing at a rate of between 10 and 13 percent a year. His appraisal comes in ominous contrast to his observation only last year that "there are no areas at present where we know the Soviet Union is ahead" in technology. It appears that the Soviet gains have been occurring at the same time as U.S. cutbacks in scientific research and education.

Dr. Foster's prediction thus is most disturbing in what it suggests about our recent defense policies. The impending shift in technological leadership—if it occurs—will come desipte an overwhelming U.S. edge in total military spending. With an economy nearly twice as large as the Soviet Union's, the United States has been spending 50 to 100 percent more on defense. Yet we have allowed the Soviet Union to move toward the lead in the one really crucial area—in the words of Dr. Foster, to threaten to "seize world technological leadership." Foster says we are already in a position in which "despite our best efforts, we must expect more Russian firsts and fewer American firsts in the next 5 to 10 years because of the current Soviet momentum."

When one considers the great advantage the United States has maintained in total defense spending, this Soviet achievement in the most crucial realm bespeaks an inexcusable misjudgment in American priorities which, of course, goes back over a period of years to the Kennedy and Johnson administrations.

Where has all the money gone? Much of it, of course, has gone to Vietnam. But even outside of Vietnam and outside of other ground mobilization, the United States has spent far more in defense than the Soviet Union over the last decade. Only in recent years, when the U.S. lead became so overwhelming as to portend a first strike capability, did the Soviet Union approach the United States in strategic spending. But the U.S. excess in strategic spending did not increase our security over the long run. It only increased Soviet spending.

Far too much of our money, moreover, was spent procuring and deploying present technology—even if it was not needed in terms of current threats. Apart from some $28 billion spent on missile systems that were not deployed, billions were spent on repeatedly replacing our land-based missiles with new models as soon as they were developed—from successive forms of Atlases and Titans to Minutemen I, II, and III. We have spent many billions maintaining our surface naval fleet at World War II levels—and protecting it with expensive but sometimes ineffective new defenses—despite the increasing vulnerability of all surface systems to Soviet submarines, missiles, and other offensive weapons. Over $15 billion has been spent on air defense against the minimal Soviet bomber threat.

I could, of course, continue the sad catalog of obsolescent weapons technology we have procured in our resolve to deploy every novelty we develop, in response to every possible threat, regardless of our overall superiority. Suffice it to say that the total of unnecessary spending is in the range of hundreds of billions of dollars.

Meanwhile the Soviet Union has perplexed us by its failure to keep pace. As Foster has said:

> Soviet military hardware frequently has not reflected the most advanced state of the art in the U.S.S.R.

The Soviet Union has concentrated on "proven technology" and "robust, relatively simple equipment," Foster reports.

Richard Wilson described the contrast in the Washington Star of August 3 in a column on the administration's blue ribbon panel on the Pentagon, headed by Gilbert W. Fitzhugh, chairman of the Board of Metropolitan Life Insurance Co. The Fitzhugh recommendations and their favorable reception in the administration are the most promising development in years in the area of defense policies. Wilson wrote:

> Under the McNamara system the United States followed a general pattern of visualizing the weapons it wanted and, without prototypes as in the case of TFX—the faultily operational F–111—creating it. The testing was done by agencies already committed on the scale of billions of dollars to the success of the weapon and thus loath to recognize its failure. The Russians are satisfied with weapons that work but are not things of beauty and technical marvels of the Buck Rogers age. But under the American system the thing has to look like a Cadillac of the 22d Century.

While the Soviet Union was saving money with its Volkswagen procurement policies, we now know from Foster that it was also investing in research and scientific education to assure its future strength, while the United States was cutting back.

The political philosophy of Marxism-Leninism has long held the belief that overspending on armaments will be one of the key factors in what is seen as the ultimate downfall of the West. Former Premier Khrushchev of the Soviet Union, describing this in a discussion of what he called the "general crisis of capitalism," said:

> An integral trait of the aggressive imperialist policy and economy is the gigantic increase of militarism, this cancerous growth of contemporary capitalist society.

Whether or not we accept this argument, there is little question that our adversaries in the global political situation welcome every dollar of our national budget which is siphoned off from other, economically productive fields into the dead end of surplus military hardware.

Let us look at the figures which illustrate the comparison in military spending. Total military spending by the United States in the last fiscal year is estimated at $78 billion to $79 billion. The budget request for the current year is more than $71 billion, a figure, I think, which compares favorably in large measure, due to the work of the Senate and of the efforts of the distinguished chairman of the Armed Services Committee, the Senator from Mississippi, and we want to help him do even better this year. But even if the pending amendment is adopted, we would spend $66 billion this year.

What does the Soviet Union spend on its military operations? The highly respected Institute for Strategic Studies estimates that last year the Soviets spent the equivalent of $42 billion in U.S. purchasing power to maintain its military program.

In Indochina alone, U.S. military spending in recent years has approached $30 billion. But the combined Soviet-Chinese military input into the Indochina war is estimated by responsible U.S. officials at barely $1 billion a year at its peak in 1967 and at not more than $500 million in the years since then.

Our adversaries cite as a philosophical truism that we will spend ourselves into oblivion, and look at what we are doing: spending more than one and one-half times as much as overall defense operations and up to 30 times as much in our one theater of active conflict, an area which is of questionable importance to the true vital interest of the United States.

We are faced today with a new defense budget. In view of Dr. Foster's alarms, I must admit I am disturbed to discover that there is little change in the

old pattern. The Pentagon continues to propose excessive spending on current and impending technology, some of it relatively ineffective or untested, even though our overall position of superiority is unchallenged in the short run. We have been asked for money for ABM, Minuteman III, a new intercontinental bomber, new destroyers, and attack aircraft carriers. A detailed critique of these and other requested programs has been prepared by the Committee on Military Spending of Members of Congress for Peace Through Law. I served on the committee and I recommend its findings, albeit with personal reservations on some points.

Cutting a defense budget is not a job to be done with a dull, blunt instrument. It is a job to be done with care, judgment, and foresight. It is probably more of an art than a science.

Failure to recognize this fact is probably one of the reasons the efforts made to date in reducing defense costs have reacted unfavorably to overall security considerations and may cause some understandable concern. We have attempted to reduce total dollar cost without altering our pattern of operation. As a result, we pour billions into obsolescing hardware items and into peripheral engagement in Vietnam, but neglect the very bedrock security factors upon which security depends. We might instead practice the doctrine of "fly before you buy" and produce limited numbers of prototypes before we place orders for procurement in the billion-dollar category.

While we continue on the course we have followed to date, our basic defense industrial base has been allowed to slow down. By the estimate of a responsible industrial association, it is now 46 percent idle, and Defense Department Comptroller Moot confirms that it is about 30 percent idle. These figures have particular significance in the light of Dr. Foster's warning.

It is a little like the farmer who foregoes the purchase of next year's seed in order to gather this year's tares.

The Senate Armed Services Committee is to be commended for wisely rejecting some of the Pentagon requests. But at this time of crisis, when our technical lead is in jeopardy, we cannot afford to continue such expenditure on unnecessary or marginally useful systems. We must stabilize our economy and increase our investment in the educational and scientific programs on which our future security will be founded. Our future security will be based on current activity not at our missile sites but in our classrooms—and our educational system is now in crisis.

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

Mr. PROXMIRE. I yield 5 minutes to the Senator from Maryland.

Mr. MATHIAS. I thank the Senator for giving me time to conclude my remarks.

President Eisenhower was perhaps our wisest recent President on matters of national security. He kept the country strong and our society stable. Our deterrent is still essentially based on programs researched and developed during his administration while he resisted pressures to deploy unnecessary systems. I would like to quote his words:

> No matter how much we spend for arms, there is no safety in arms alone. Our security is the total product of our economic, intellectual, moral, and military strengths . . .
>
> Let me elaborate on this great truth . . . It happens that defense is a field in which I have had varied experience over a lifetime, and if I have learned anything, it is that there is no way in which a country can satisfy the craving for absolute security—but it easily can bankrupt itself, morally and economically, in attempting to reach that illusory goal through arms alone. The Military Establishment, not productive of itself, necessarily must feed on the energy, productivity and brainpower of the country, and if it takes too much, our total strength declines.

I cannot improve on General Eisenhower's prophetic words. I can only say that they describe our current condition. And they dictate the kind of "severe scrutiny of the defense budget" for which another great Republican, Robert A. Taft, appealed in his last public speech. Such "severe scrutiny," I believe, would result in a cut at least as great as that currently contemplated. I urge such a cut solemnly, in the interests of national security and domestic peace.

It is not an easy decision for any member of Congress to advocate a curb on government spending when such a decision involves the vital area of national defense. But I do so in the strong conviction that the amendment which has been sponsored by the distinguished Senator from Wisconsin and myself is responsible in its substance and is made mandatory by the current economic situation.

The citizens of the United States and their elected representatives in Congress can no longer ignore the implications of the fiscal situation we face. Despite a few hopeful signs, inflation is literally eating the Nation out of house and home. It is imperative that we review our priorities in light of this daily menace to our national and individual economic situations. We must act swiftly and decisively to restore fiscal order.

I speak of the eroding forces of inflation in general and the needless waste of defense funds in particular. The President is fighting inflation on a broad front. He is acutely aware of the need for economy. His recent veto of the education appropriations bill, although unpopular, was the only responsible course he had in calling the question of overall Federal spending levels to the attention of Congress and the Nation. Unfortunately, the Congress did not heed the warning flag he raised and overrode the veto.

In addition to this action, we have seen recently the commitment to continue an outdated farm subsidy program, the commitment to advance a premature antiballastic missile system and other, similar massive allocations of Federal funds. It now appears that the hoped-for surplus of $1.3 billion in our national budget for the current year is disintegrating into a projected $10 billion to $15 billion deficit. If we are to win the war against inflation, we must come to the defense of our economy now. We must stop this faceless thief—inflation—which steals from the pocketbook of every American family. Until we control this slide, no amount of money, however large, will achieve its original purpose and, in fact, may only provide further fuel to the fires of inflation.

Such considerations gain added meaning when Deputy Secretary of Defense David Packard confirms publicly—as he did last week—what many of us have suspected about military procurement process for a long time. As Mr. Packard put it, "We have a real mess on our hands." And, in a commendably blunt speech, he acknowledged that the Defense Department is suffering from a long-building crisis of "bad management." Rather than more people and more supervision, he said, the Defense Department requires fewer people and a more concerted, economic approach to spending.

This is precisely what the pending amendment will do. It will save money and encourage more efficient management. Inasmuch as military spending is essentially nonproductive and inflationary by nature, we simply cannot afford the expenditure of a single dollar beyond our minimal needs. The Senate Armed Services Committee realized this when it cut nearly 7 percent from the military procurement authorization bill. The pending amendment would cut about 7.1 percent from all military spending.

There are numerous precedents for Congress to legislate a general cut in spending for a particular department and to allow the administrators of the department involved to determine where to apply the cuts. As recently as February 27, the Senate adopted an amendment offered by the distinguished Senator from New Hampshire (Mr. COTTON) to cut by 2 percent spending by agencies covered in the appropriation bill for the Health, Education, and Welfare Departments.

This amendment, which would limit overall military spending this year to $66 billion, would leave to the President and the Defense Department the decisions as to where to impose spending cuts. Many Members of the Senate, in debate on the pending bill and on other occasions, have pointed to specific areas where they felt cuts could be made. This amendment would leave the decision on cuts up to the executive agencies which in the past have opposed specific cuts on the ground that only the Pentagon knew where they should be made.

I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a copy of a memorandum entitled "The Proxmire-Mathias Amendment To Limit Fiscal Year 1971 Military Spending to $66 Billion," which summarizes what this amendment would do and why it must be adopted as a responsible approach to the problems which confront us.

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

(See exhibit 1.)

Mr. MATHIAS. Mr. President, in making these cuts, moreover, I recommend that the Pentagon take special effort to assure that scientific and other technical manpower are not permanently lost to

our national security programs. Over the last few years, our defense procurement programs have been cut by a total of nearly one-third without close attention to the long-term effects. Our future mobilization base has been jeopardized. It is crucial that current retrenchments—like current expenditures—be designed with our long-term security in mind. Conversion of our defense industry for peaceful purposes should not be considered as a part time concern. Conversion is a necessary instrument of intelligent defense planning, preserving our mobilization base for a future crisis.

In the future our defense spending should be maintained at a relatively steady and balanced level. We should not allow uncertain new appraisals of Soviet intentions and capabilities to panic us into erratic splurges of investment in untested systems. A balanced approach would prevent literal crash programs for new aircraft—and titanic new efforts in shipbuilding—that bring public disillusionment and abrupt retrenchment.

The Soviet Union has long lagged far behind us in the arms race; its economy cannot permit maintenance of long-term defense spending competitive with ours without major social strains. By inducing the U.S.S.R. to increase its proportionate commitment to defense, we will only enhance the power of militarists in Soviet society.

The only area where it is important for the United States to retain a general advantage is in science and technology. The ultimate commentary on our defense policies in recent years is their failure to provide for leadership in this crucial realm, while entailing levels of expenditure far beyond the reach of our competitors in every other area.

We must have a strong America. I believe that a program combining retrenchment in current defense spending with conversion of industry rather than dissolution of it represents our best long-term hope for peace and prosperity.

EXHIBIT 1

THE PROXMIRE-MATHIAS AMENDMENT TO LIMIT FISCAL YEAR 1971 MILITARY SPENDING TO $66 BILLION

LANGUAGE OF THE AMENDMENT

The Amendment reads:

At the end of the bill add a new section as follows:

Sec. 508(a) Notwithstanding any other provision of law, the aggregate amount that may be expended for Department of Defense—Military Functions for the fiscal year ending June 30, 1971, shall not exceed $66,000,000,000."

WHAT IT DOES

The outlays proposed in the President's budget for Department of Defense—Military Functions are $71.2 billion. It includes almost all military spending except 1) foreign military assistance, 2) military spending by the Atomic Energy Commission, and 3) some defense related activities such as stockpiling, and selective service.

The Amendment limits spending. It puts a ceiling of $66 billion on military spending.

It cuts approximately 7 percent below the amount proposed in the budget. This is almost the same percentage the Senate Armed Services Committee reduced the 20.5 billion Military Authorization bill.

WHO DETERMINES WHERE TO CUT

The Amendment leaves the specific determination of where to cut, to the President and the Defense Department. Members of the Senate have pointed to specific areas where cuts could take place. But the precise cuts are left to the Executive Departments who in the past have opposed specific cuts on the ground that only the Pentagon knew where they should be made.

PRECEDENTS FOR GENERAL CUTS OR LIMITATIONS ON SPENDING

There are numerous precedents for general cuts or limitations on spending for both military and civilian programs.

On June 29, 1970, Senator Williams (R.-Del.) offered an Amendment to place a ceiling on fiscal year 1971 spending.

On February 27, 1970, Senator Cotton (R.-N.H.) proposed a 2 percent cut in the HEW-Labor bill.

On April 19, 1968, Senator Williams (R.-Del.) proposed a 3 percent reduction in the military procurement authorization bill.

On April 18, 1968, Senator Hart (D.-Mich.) proposed a $500 million cut in military research and development.

One or another of these general cuts and limitations have been supported by a large proportion of the Members of the Senate.

WHERE CUTS COULD BE MADE

While the amendment does not propose any specific areas where cuts should be made, a thoroughly documented case has been made for cuts of $10 to $14 billion. Among those areas are:

Procurement.—The overruns on 38 major weapons systems, according to the General Accounting Office, amount to $23 billion.

As Secretary Packard said "Frankly . . . in Defense Procurement, we have a real mess on our hands. . . ."

And Mr. Gilbert Fitzhugh, on the release of his report, said in a press conference, "Defense Department's policies have contributed to serious cost overruns, schedule slippage and performance deficiencies."

Overseas bases.—We now have some 429 major and almost 3,000 minor bases scattered in 30 countries throughout the world, many of which are no longer necessary.

New one-plus war strategy.—The shift from a two plus war strategy to a one-plus war strategy should, according to former Budget Director Charles Schultze, mean a $14 billion cut. While the Pentagon has announced the new policy, no reductions have yet occurred.

Uniform accounting.—According to Admiral Rickover, instituting the Uniform Accounting Procedures—just signed into law—should save up to $2 billion.

Manpower.—Troop withdrawals from Vietnam and a general reduction in manpower to the pre-Vietnam level of 2.5 million should bring large savings.

Weapons.—Specific weapon systems could be cut, lengthened in time for delivery, or kept in the research and development stage. Among these are the MBT–70 tank, the B–1 bomber, duplication in the anti-submarine warfare program, and the number of carriers.

Others.—Savings could be made in the amounts spent on public relations at the Pentagon, on food procurement, in the rotation and leave policies of the forces outside Vietnam and combat.

ARGUMENTS FOR THE $66 BILLION CEILING

(1) In light of our burgeoning domestic needs—schools, health, anti-pollution, to name only a few, we must shift priorities from the military to the civilian sectors.

(2) The prospective $10 to $15 billion budget deficit means that no substantial amounts will be available to meet these needs unless a major reduction is made in military spending.

(3) The Education and HEW Appropriations bills were vetoed on grounds of excessive spending. In the battle against inflation, stringent guidelines must be extended to all areas of government spending.

(4) Military spending is non-productive. We should not spend a single dollar more for it than is absolutely needed. A shift from military to needed civilian spending will satisfy pent up needs, be less inflationary, and be far more productive.

Mr. STENNIS. Mr. President, I yield myself 20 minutes on the bill.

The PRESIDING OFFICER (Mr. NELSON). The Senator from Mississippi is recognized for 20 minutes.

Mr. STENNIS. Mr. President, let me say at the beginning that I wish all Senators could be here this morning. We are having a good discussion on both sides. I consider the vote on this amendment to be highly important. It will be a vital vote. If the amendment should be agreed to, it would be, with all deference to its authors, throwing into the junk heap some of the heretofore well considered, reliable and essential guidelines and procedures of our committee work.

The amendment seeks to anticipate appropriation bills that will come up later, in bills that cannot be put together until this bill now under debate is passed. It tries to anticipate all these matters in a rather general way, but in an effective way, if it should become law, it would put a cap on total spending which again, with all respect, I think would be artificial and would cause chaos and confusion and downright danger and harm. To get out of the situation it would take us into, it would cost far more money than the orderly and effective procedure we are under now, and would systematically reduce the military budget, at the same time we were protecting our security and living up to our commitments.

I have mentioned it once this morning, but I point out again the items that go to make up the 1971 budget.

The first item is military personnel, which includes the pay, food, and the travel which go with our military uniformed personnel—$21 billion.

The only way to reduce that, and we are reducing it gradually and rather rapidly, is to reduce our personnel, which is something we cannot do. It is like pruning a peach tree.

The next item is retirement of military personnel—$3.194 billion.

The only way to reduce that would be to change the law, and I have not seen any bills introduced to reduce that money.

Operation maintenance. That is for gas, oil, grease, and things that make the wheels turn—$19 billion.

That, of course, is tied directly to personnel. The cost is coming down. But we cannot just take off the brakes and let everything run downhill because we have other priorities—I have some priorities myself. The item for operation maintenance just mentioned is $2.5 billion down from the last fiscal year.

Just that item alone, procurement, that is the bill we really have up here, which is what is all that is before the Senate except for the amendments. That is the part of the bill which was already honed

and dissected and put back together with a reduction of $1.3 billion.

We appreciate the compliments about having done that but, at the same time, they are turning right around and telling us now that here is something we have not had a chance to pass on and they know more about it than we do. Of course, this is not a matter of personalities.

We have in the bill $19.3 billion, which is now before the Senate, and there has been no disposition on the part of the Senate to change any of the figures we have in the bill proper, that $19.3 billion.

Research, test and evaluation—$7.3 billion. That is the one the Senator from New Hampshire (Mr. McINTYRE) will speak on in a few minutes. That is down considerably and it has been brought down systematically. The Senator from Missouri speaking against the bill and for this amendment said this morning that it represents time that cannot be recalled.

I shall not belabor these items further which have been brought in and contested by this amendment. There is no bill before us on it. The Appropriations Committee has not made any recommendation yet.

Mr. President, I have a "defense budget cutback facts" statement in my hand and ask unanimous consent that it be printed in the RECORD.

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

DEFENSE BUDGET CUTBACK FACTS

Defense spending in FY 1971 is 34.6% of the Federal budget total—the lowest percentage since FY 1950, before the Korean War.

Defense spending in FY 1971 amounts to 7% of the Gross National Product (GNP)—the lowest per cent since FY 1951.

From prewar (FY 1964) to FY 1971, Defense spending is up $21 billion; other Federal agency spending is up $64.9 billion.

From 1969 to 1971, Defense spending drops by $6.9 billion; other Federal agencies increase by $24.6 billion.

Defense spending was $50.8 billion in prewar FY 1964, $78 billion in FY 1968, and $78.7 billion in FY 1969, compared to $71.8 billion in FY 1971— down $6.9 billion from FY 1969 and down $5.2 billion from FY 1970.

Very large pay increases have been provided by the Congress over these years, and increases in the general price level have added 23.2% to the cost of weapons and other Defense purchases since prewar FY 1964.

If FY 1971 pay rates and price levels had been in effect throughout, spending would have been $66.8 billion in 1964, $89.1 billion in 1968 and $86.7 billion in 1969, compared to $71.8 billion in 1971.

Therefore, after allowing for inflation (largely pay increases) Defense spending in FY 1971 (including war costs) is $5 billion or 7% above prewar 1964. Most of the Defense spending increase is due to inflation.

On the same basis (dollars of constant buying power) Defense spending peaked at $89.1 billion in FY 1968, and is down by $17.3 billion (20%) in FY 1971.

There were 2,685,000 military personnel on active duty in prewar June 1964. This peaked at 3,547,000 in June 1968, and is estimated at 2,908,000 for June 1971. 862,000 military personnel were added from 1964 to 1968, and 639,000 are being cut from that peak by 1971. June 1971 strength will be 223,000 (8%) above June 1964. Most of the wartime buildup has been removed.

Civilian employment was 1,035,000 in June 1964, 1,287,000 in June 1968, and is estimated at 1,145,000 in June 1971. 252,000 civilians were added from 1964 to 1968, and 142,000 are cut from that peak by 1971. June 1971 employment is 110,000 (10%) above June 1964. Most of the wartime buildup has been removed.

From prewar 1964 to 1968, Defense-related employment in industry increased by 1.7 million jobs. From 1968 to 1971, industry jobs will fall by 1.3 million, removing most of the wartime buildup.

From the 1968 wartime peak to 1971, Defense cuts amount to $17.3 billion in constant dollars, and over 2 million jobs—781,000 military personnel and direct-hire civilians, and 1.3 million jobs in industry.

In constant dollars (FY 1971 prices) Defense outlays for procurement, construction, and RDT&E were $30.5 billion in FY 1964 and peaked a $40.1 billion in FY 1968, compared to $28 billion in FY 1971. That is, Defense spending for investment and RDT&E drops $12.1 billion (30%) from the wartime peak, and is $2.5 billion (8%) *below* the prewar level.

Procurement spending in constant dollars, including war costs, is 2% below prewar 1964; RDT&E is down 16%; and construction down 10%.

For procurement, construction, and RDT&E, the FY 1971 program, war costs and all, is the lowest since FY 1964. If special war costs are set aside, this is the lowest budget since the 1950's.

The 1971 Defense budget has been cut back to near the prewar level, while war costs continue to be significant. FY 1971 Defense spending is *up $5 billion* from prewar FY 1964, in constant dollars. Incremental war spending in FY 1971 is *more than twice* that amount. The difference represents cutbacks in baseline programs from the prewar level.

Mr. STENNIS. Mr. President, let me make some brief comments on some of the items on this matter. One item, based on these facts, is that 2.6 million military personnel were on active duty in prewar June 1964. I will just use round numbers here. The peak was 4.5 million men in June 1968. It is estimated to be 2.9 million men for June 1971.

Thus, 862,000 men were added from 1964 to 1968 and 639,000 men will be cut from that peak by 1971.

In other words, there was a buildup because of the war, but by the end of this budget year we will have most of that whittled way back down to a more reasonable figure. So that the 1971 strength at the end of this budget year will be 223,000 men, 8 percent above June of 1964. Most of the wartime buildup will have been removed.

On this idea of civilian employment—and that involves tremendous cost—civilian employment was 1,035,000 in June 1964. It was 1,287,000 in June 1968. It is estimated at 1.145 million in June 1971. The 250,000 civilians were added from 1964 to 1968. That is at the peak of its strength. And 140,000 were cut back by 1971. June 1971, the figure will be 10 percent above that for 1964.

So most of the wartime buildup here has already been removed.

My point is that we cannot include a great many more reductions here because the wartime strength has been absorbed from prewar 1964 to 1968.

Defense-related employment increased by 1.47 million jobs from 1968 to 1971. Those jobs will fall to 1.3 million, removing most of the wartime buildup.

So, when we talk about wars hopefully ending and the costs coming down, we can see that that matter has been already worked on and the water has been squeezed out. We are at or approaching almost the level of prewar costs.

I favor coming down below what it is now. However, these things have to be done in an orderly way. They are being done and they must be done in an orderly way.

Another thing that sheds light on the subject is constant dollars, fiscal year 1971 prices; defense outlays for procurement, construction, research and development, and engineering were $30.5 billion in fiscal year 1964. It peaked to $40 billion in fiscal year 1968, compared to $28 billion in fiscal year 1971. That is this fiscal year we are talking about, fiscal year 1971. That is defense spending for construction, research, and development, engineering. It dropped $12.1 billion, or 30 percent, from the wartime peak and is $2.5 million or 8 percent below the prewar level.

Those things illustrate that so far as the costs due to the war is concerned, the luxuries of the budget have been cleared out, cleaned up, and eliminated faster than the war is being eliminated. And those are the reductions that we insisted be made. The committee did that. The Defense Department does not write this bill up any more than our grandchildren write it up. We get information from them, and we have men on the staff capable of evaluating what they say on most every subject in the bill.

That is why it has not been subjected to attack on these individual items. It has been picked to pieces and put back together by men who knew the subject matter and we had reason and grounds for our action.

I want to emphasize that. I was impressed here that the Senator from Georgia (Mr. RUSSELL), the chairman of the Appropriations Committee, long time chairman of the Armed Services Committee, and a long time member of the Appropriations Committee—from the early 1930's—was so impressed with what this amendment would do that he had two very able, competent men on his staff prepare a memorandum.

The Senator from Georgia was moved to send that memorandum out to every member of the committee. I had it printed in the RECORD yesterday afternoon. I think that we will hear from some of these members. There was a time, I believe, when it would have been sent to all members of the committee.

It sets out the enormous impact of the amendment, far beyond the full realization of some of those who propose it in such good faith. I refer to that memorandum now. We will discuss it some later as things develop.

I have information here that our staff has prepared in anticipation of this or any other amendment that might be drawn. I think it is well for these figures to be challenged. They are enormous.

I get concerned. I am concerned all the time. The Defense Department knows where my corns are. They know that this personnel matter hurts my corns all the time. I want them to do even more about a reduction, but I know that

we cannot go in there and eliminate men, either military men or civilian employees.

I know that we have these various weapons. We can stop making them as far as our side is concerned. But we cannot stop the other side from making more weapons and more modern weapons.

We can stop building tanks, but we cannot stop the other side from building antitank weapons and using all the technological improvements, including modern electronics.

We have to weigh these things. The defense budget for 1971 is $71.3 billion. This would be compared with the revised Nixon budget of $74.9 billion and the Johnson budget for fiscal year 1970 of $82.9 billion.

If the factor of inflation is replaced—and this is a major point—in terms of 1964 dollars, the budget for fiscal year 1971 would be only $54.6 billion as compared to the $50.8 billion budget for fiscal year 1964. In other words, when we go back to the 1964 dollars, we find that we are running less than $4 billion above the 1964 budget which was a period before the war buildup. The war is not over yet. The annual budget has increased by two times.

We have put the square and compass on these figures from every conceivable angle, and have got substantially the same result. This bears out what I have been saying; namely, that most of the cost of the war, due to inflation and the increase due to the war buildup, has been taken out, even though the war is still going on. Defense outlays for military functions are projected to drop more than $5.3 billion from fiscal 1970 to fiscal 1971—from $76.5 billion to $71.2 billion. The fiscal 1971 budget has been characterized as a transition budget. The weapons systems being funded are mainly those currently in being except for the ABM.

We have some weapons coming along later, such as the F–14 and the F–15. I do not want to mislead anyone. They are going to be super in cost because they are super in modernity. I think they will be the best weapons in the world in their field. If we are not exactly meeting that test, we must meet it.

Despite the fact that 682,000 fewer people will be on the defense payroll, military and civilian, by June 1971, compared with June 30, 1969, the entire Department of Defense payroll cost—that is, active military, civilian, and retired personnel—will increase by $400 million, from $35.4 billion to $35.8 billion. This shows the effect of inflation and also the mounting cost of military retired pay, which now costs about $3.2 billion annually.

We can do nothing about this under present law. It will be necessary to change the law, but, as I say, no one proposes to do that.

As compared to June 30, 1969, the net reduction in personnel counting DOD military and civilian and defense products industries on June 30, 1970, will be 526,000 and on June 30, 1971, will be 1,026,000. This is a conservative figure since there could be an even greater impact on the defense industries.

The fiscal year 1971 defense budget is close to the prewar, peacetime levels—much closer than many people realize. We studied this matter and do this before the bill was ever filed. Military manpower, for example, is forecast at 2,908,000 for June 30, 1971. That is an 8-percent increase above the level of $2,685,000 at June 30, 1964. And it is less than 4 percent above the $2,808,000 we had on June 30, 1962, another peacetime year. Unless there is some kind of setback we are going to reduce that further.

Never before have we seen such cutbacks in the military while fighting continues. Military manpower is dropping 639,000 from the peak reached in 1968; civilian employment by 142,000; and defense jobs in industry are dropping over 1 million from 1968 to 1971.

REMOVAL OF MISCONCEPTION

Mr. President, I want to remove a widespread misconception that relates to the defense dollar and what has occurred since 1964 with respect to the defense budget as a whole.

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

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

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

Mr. STENNIS. Mr. President, contrary to popular belief, the Defense proportion of the total Federal budget is decreasing. From fiscal year 1964 to fiscal year 1968, total Government spending rose by 50 percent and I might add that in the President's budget forecast another increase of 12 percent is projected by the end of fiscal year 1971. In other words, from fiscal year 1964 through fiscal year 1971, total Government spending will have increased by 62 percent.

That is unthinkable, but true.

On the other hand the expenditures of the Department of Defense from fiscal year 1964 through fiscal year 1971 are expected to increase by 41 percent as compared to 62 percent for the Government as a whole. Dollarwise defense spending in fiscal year 1964 was $50.8 billion compared to $71.8 billion for fiscal year 1971.

In summary, Mr. President, from fiscal year 1964 through fiscal year 1971, discounting inflation and pay increases, over 90 percent of the increase in Federal spending has gone to nondefense Federal agencies.

I was surprised at those figures myself but they are borne out and they do stand up.

Mr. President, in summary these figures show definite progress and definite goals, and they show that we are well on our way. All of this has been done despite the fact the war is continuing.

Mr. President, I reserve the unused part of my 3 minutes.

Mr. McINTYRE. Mr. President, will the Senator yield to me for 12 minutes?

Mr. STENNIS. Mr. President, I yield to the chairman of our Subcommittee on Research, Development, Testing, and Evaluation, the Senator from New Hampshire (Mr. McINTYRE), who has done a tremendous amount of effective work and who has filed a fine report.

Mr. McINTYRE. Mr. President, I must voice my opposition to the amendment now pending before us.

I have no quarrel with the amendment's basic goal—a reduction of our overall military expenditures. I have worked long and hard this year myself toward that very goal.

And I will continue to pursue it in the future. For military expenditures are too often nonproductive in nature. They detract from our capability to meet urgent domestic needs. And they add to the budgetary deficit which now looms large before us.

So I oppose the present amendment, Mr. President, not out of hostility to its purpose, but from a deep conviction that it is an improper means for reaching our common end.

Consider for a moment what this amendment would entail.

Two months of the fiscal year have already passed, and 10 months remain. In that remaining time, we must complete Senate and Conferee action on this authorization, and then undertake House, Senate, and conference action on each of the three appropriation bills involved.

And sometime in that process, if this amendment is adopted, we would pass to the Department of Defense the job of cutting spending by $5.2 billion in the months that remain of the fiscal year.

It is important to remember that this amendment is directed to spending—checks issued. Not authorizations, appropriations, or obligations. Not new contracts. It is directed to spending.

Now with respect to Defense spending the 1971 defense budget is divided almost evenly between payroll and purchases. About $35.8 billion is for payroll, and $35.4 billion for purchase of goods and services, for a total of $71.2 billion.

Let us consider the payroll part first. Let us suppose that the Department is forced to achieve $3 billion of the $5.2 billion cut by manpower cutbacks. The total payroll for 1 month is about $3 billion, and there are 10 months remaining in the fiscal year. This means that the Department would have to cut the average number of employees by 10 percent for the remainder of the year—in addition to the personnel cuts already planned.

But this would be a 10-percent cut only if it could be effected immediately—on September 1. This of course is impossible. Decisions must be made as to which jobs are to be abolished. Personnel must then be given notice. Account must be taken that military induction, enlistment, and reenlistment actions are already in process. It takes time before personnel accessions can be further reduced and separations increased, above the plan—and this is the only way to get the payroll down.

If the Department began promptly, the payroll cuts would begin to show up in January 1971, at the earliest, and manpower would then be progressively reduced each month through June 1971.

We would then be saving from 1 to 6 months of budgeted pay for each person separated. And these savings would be offset to some extent by increased separation payments and other costs.

The result is that, if we are to save $3 billion in Defense payroll spending starting now, we would have to cut Defense manpower by about 30 percent below the budgeted level as of June 30, 1971—a further cut of about 1.2 million personnel.

Mr. President, I agree that we should achieve manpower reductions wherever possible. But we are already doing just that. The Defense Department has already budgeted a reduction of 311,000 men—about 6 or 7 percent—for fiscal 1971. And the Appropriations Committees will determine, after a careful and detailed analysis, whether additional reductions are possible. Undoubtedly there will be still further reductions next year.

This is the manner in which manpower reductions should be achieved, not by amendments like the one before us. Just consider the implications, Mr. President, of a 30-percent manpower reduction over the next 10 months.

Now let us look at the other half of the Defense spending picture—the $35.4 billion for the purchase of goods and contractual services.

It is a simple fact of life—which this amendment ignores—that contracts are entered into several months before money is actually spent. Well over half of fiscal 1971 spending will result from contracts entered into last fiscal year—before July 1970. When additional contracts entered into during the past 2 months are considered, it becomes clear that close to three-fourths of this year's purchase spending is already under contract.

As a maximum, then, there will be about $9 billion in fiscal year 1971 spending from contracts to be let after September 1, 1970. If we are to reduce this spending by $2.2 billion—the remainder of the $5.2 billion cut—a 25-percent cutback would be involved. But the process could not be begun immediately. Decisions would have to be made as to where the cuts were to be effected. And, in the meantime, the clock would continue to run so that an increasingly large share of the 1971 spending would be committed—leaving the Department with a 50-percent cutback problem, or worse.

And these areas where the cuts would have to be applied often involve items of high priority, where the Department's discretion is limited. They involve such items as food, medical supplies, and fuel for aircraft and ships—items with relatively short lead times.

Given the magnitude of the cut required, the sole criterion in all these actions by the Department would have to be the spending rate—how fast the particular kind of program spends out. Not how badly the item is needed. Not long-run economy.

Consider the manner in which our priorities might be distorted. It might not be possible for example to cut spending for procurement of aircraft and ships, because this is covered by contracts already in existence. It might be necessary therefore to reduce contracts for such items as ship and aircraft fuel, thereby taking purchased ships and aircraft off station.

It will also be necessary to abandon some needed programs, and to delay others—all at much higher long-run costs—in order to minimize current spending.

This will contribute neither to economy nor to national security. It would be ironic—but not surprising—if the advocates of this spending cut later led the chorus of pious horror over the uneconomical actions sure to result.

Mr. President, we have heard a great deal about the need to be more realistic in allocating resources in terms of priorities and the need to instill better management of public affairs. Nothing could be more destructive of these ends than the spending cut that is proposed here. We have heard a great deal about the need for more congressional and public awareness of relative costs and relative priorities, and more congressional control over military and foreign affairs, and a more informed approach to budgeting and policymaking. Consider the contrast between this objective and the present proposal. I do not know what the Department of Defense would have to do to accommodate a $5.2 billion expenditure slash this late in the game. No one in this Chamber knows. Indeed, neither the President nor the Pentagon could tell us, because they do not know either.

We have heard that the Defense budget must be cut because Defense management is bad—but the remedy proposed here would not be good management. We have heard that congressional oversight must be strengthened—but the remedy proposed here would involve transfer to the executive of some $10 to $15 billion in current program decisions, entirely apart from the established procedures for congressional oversight.

The proposed amendment is unworkable and unsound.

It would produce consequences that none of us can begin to understand. This amendment should be roundly defeated.

I yield back the remainder of my time.

Mr. STENNIS. Mr. President, I thank the Senator very much. Certain Senators expect to be here. There is a very urgent and important meeting of the Committee on Agriculture and Forestry, for one.

I ask unanimous consent that we may, on divided time, have a quorum call.

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

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

Mr. PROXMIRE. I yield 5 minutes to the Senator from Oklahoma.

Mr. HARRIS. Mr. President, I rise to support the amendment offered by the distinguished Senator from Wisconsin (Mr. PROXMIRE) and the distinguished Senator from Maryland (Mr. MATHIAS), an amendment of which I am also a sponsor.

Mr. President, some years ago, in a very well-meaning effort, the then Secretary of Defense instituted a new program called PPBS—Planning Programing Budgeting System—a program for making up the Defense Department budget—a program that later spread throughout the Government—the central idea of which was that there ought to be a much more logical and rational way to make up the Federal defense budget than had been used in the past.

The idea was that we should not continue the old way of making up the defense budget, which started with a decision in the upper levels of the Government as to how much the maximum defense expenditure would be, and then a decision within the Defense Department to divide out that maximum among the various services.

It was said, with some justification, that that was not the right way to go about it, that, instead, the defense budget should be prepared from the bottom up on a cost-effectiveness basis, and that, based upon the decisions of need and the security of the country and how those needs might be met and that security might best be protected, the budget would be compiled.

On balance, that would seem to be a much better system for making up a defense budget, and I am certain that those who proposed it and who helped to carry it out had in mind that it would result—since it would operate on a more rational basis, and Congress would have access to the basic reasoning and facts which had gone into that budgetary process—in a lowered defense budget, or at least in greater restriction on increases in the defense budget.

But, Mr. President, as we have seen in recent years, that did not prove to be the result. Since I have been in the Senate—and that has been only about 7 years—we have seen the budget of the Defense Department increase enormously in amount, and that cannot be attributed entirely to the Vietnam war, though, of course, that war accounts for a portion of the increased cost.

Beginning last year, led by the excellent work of the distinguished Senator from Wisconsin (Mr. PROXMIRE) and others, the Senate has begun to give the same kind of scrutiny to defense expenditures and requests for defense expenditures that it gives to other kinds of expenditures and requests.

I think it is time that we put an upward limit on defense budgets from time to time, and that is the purpose of the amendment now before us. I do not think that logic and rationality alone in making up the defense budget can be said to have been such an overwhelming success, and, therefore, I think it is time we revert to one aspect of what may not have been such a totally bad system after all—simply saying that we think $66 billion, as this amendment would provide, or whatever figure may be chosen from year to year, is as much as we can afford to spend this year, in consideration of national security, other needs, our gross national product and Federal revenues in general.

I say that, Mr. President, because with defense expenditures we have had a different kind of attitude than we have had

about other kinds of expenditures. We have been willing to take all sorts of risks in the field of health; we have been willing to take all sorts of risks in the fields of education, housing, crime, pollution and all the other myriad problems which afflict us in growing degrees these days; and yet our budgetary process in regard to defense seems primarily to have been built upon the premise that we could accept only zero risks in that field.

We should not say that we will accept only zero risks in that field, and then say we will accept whatever risks may be involved in the mounting problems of education, housing, health, crime, pollution, and all of the other domestic problems which we face.

What I am saying, Mr. President, is this: I think it is time—though it is almost a cliche to say it these days—that we reorder our priorities in this country. For while it is almost a cliche to say it, it has not become a trite thing to do. We have made very little progress toward actually reordering our priorities in fact.

But if we are going to face up to the fact that there are still, in this country, the richest country in the world, 25 million people or more who live in poverty and despair; that there are at least 11 million substandard and overcrowded housing units in the United States today; that more than 60 million of our citizens are not served with any kind of sewer system; that the shortage of doctors for our elderly and veterans and poor people is really approaching a national disgrace; that one out of 50 Americans cannot get a doctor today under almost any kind of circumstances; that our environment continues to deteriorate alarmingly; that we face a crisis in education; that our streets are increasingly unsafe; then we have to recognize that we must reorder the priorities of this country and decide to put first things first. We cannot do that so long as defense expenditures stay at an unnecessarily high level, and that is why I support this tough-minded amendment which is before the Senate, and I hope it will be adopted by the Senate.

We should not—either for economic reasons or the pressure of domestic needs—jeopardize national security; on that we are agreed. But on one item alone, the withdrawal of some troops from Western Europe and Korea, withdrawals which even the administration is coming closer to agreeing can be made without damage to our security or that of those countries to which we are committed, would virtually provide all the savings required by the pending amendment. I urge its adoption.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. I yield myself 3 minutes.

Mr. President, I covered this point yesterday afternoon, and I am sure this is the way the matter will figure out: If we impose this so-called reduction now of $5.2 billion, which is in addition to the other reductions that the committee has made in the bill, it will all have to be absorbed in the last 6 months of the present calendar year. It is just a fact of life that we have already let July and August pass, operating on a continuing resolution. As Senators know, that is set for the previous year's level. This bill cannot possibly be finished and signed by the President in less than a month from now, and that will be 3 months of the time gone.

The appropriation bills take more time. Last year, the appropriation bill for the Department of Defense became law, I think, on the 22d of December. It could have been a few days before then, but it was in December. Then, for the first time, they will know where they are in the Defense Department.

We cannot just run out as though we are catching an animal or something and do these things. They have to be set in motion. So it will take the last 6 months of the year in absorbing this reduction of $5.2 billion, and that will be doing it at a rate of $10 billion a year, in a 6-month period.

There are a million employees, people in military uniforms, contracts that are in force, and many thousands of civilian employees. The machine cannot be stopped that fast, in such a short period of time.

A precedent was established here a few years ago, when a cap was put on spending, through a resolution. It came up at one time in connection with a tax increase. But we started that at the then current level of spending, and some exceptions were made, and we wound up with approximately half of the Government excepted from this operation. The war was on then, and the war is on now. We forget that. So I do not think that that resolution was a realistic precedent as applied to the present problem.

I would not create a job just to give it to some individual; but, at the same time, when all this machinery is going and these people are in jobs, to throw them out literally without any decent notice and no orderly procedure, simply because we want to vote for a resolution with respect to a reduction, is not the American life.

I have some actual figures on this. To save $3.2 billion in the defense payroll under the circumstances to which I have been alluding, it would be necessary to cut direct civilian and military manpower by approximately 30 percent—1.2 million people below the level planned for June 30, 1971. In short, Mr. President, to cut defense spending by $5.2 billion after the year already is well underway, as I have described, will be cutting more than 2 million jobs—about 1 million in the defense industry and more than a million in direct employment.

That is the way the knife will cut if we adopt this amendment and it becomes law. It might be said that that is not correct. I believe it is correct. We asked them to make the calculations, and I think we are dealing with people who are as honest as they can be with the calculations and their estimates. I think this is the only evidence before the Senate on what this will do to these civilian employees, in such a short period of time, with no chance to get ready. There is no way to do it in an orderly fashion, if it is just demanded that it be done.

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

Mr. STENNIS. I yield myself 1 additional minute.

The only thing before the Senate that has been carefully weighed by a committee, with a report filed and a recommendation—although the other Senators are very able and very conscientious—the only thing before the committee, in a legislative way and according to our general operation schedule, is that $19 billion plus bill for procurement—hardware, tanks, ships, guns, submarines, airplanes, and other things that are necessary, particularly for the years ahead.

I plead with the Senate: Let us not go off at an angle here, not on this bill, in an effort to try to change the priorities that we all want to change—but in an orderly way—and do something we will have to come back and undo later, to the great harm of many citizens, and without saving money but losing money.

The PRESIDING OFFICER. Who yields time?

Mr. McINTYRE. Mr. President, will the Senator yield me 5 minutes?

Mr. STENNIS. I yield 5 minutes to the Senator from New Hampshire.

Mr. McINTYRE. Mr. President, the impact of the amendment offered by the distinguished Senator from Wisconsin confused me somewhat initially, since the bill before the Senate is a request by Defense for some $20,585,789,000 for procurement and research and development.

As a result of our briefings and hearings, the Armed Services Committee was able to recommend to the full Senate a reduction of the Department of Defense request of $20,585,789,000 to a figure of $19,242,000,000. This recommendation resulted, as I think I can demonstrate, from a great deal of hard work, a great deal of tough questioning, and many hours of study.

I have here this morning the report the R. & D. Subcommittee gave to the full committee on the work it did. We were examining of that $20,585,000,000 request, $7,345,000,000 for research and development, test, and evaluation. We started to take a look at the budget request back on February 3, with the Air Force coming in to discuss with us for an hour and a half the ABRES, or advanced ballistic reentry system, program. On that same day, we took a look at the B–1 bomber. We spent about 3 hours on those two subjects that day.

The next day, February 4, we had the Navy come in to talk about the E–2C. The R. & D. Subcommittee had some misgivings about what we thought was some duplication between the E–2C and the AWACS program. The same day we looked at the Aegis missile for 3 hours. We devoted the entire day to those two subjects.

On February 6, we met for an hour on the AWACS program, the airborne warning and control system.

On February 11, we met for 2 hours and a half with the Air Force on the Minuteman, asking questions and trying to determine whether there was any softness in the request that the Air Force was making for that program.

On February 12, we took up a program called Surface Effect Ships, for 2 hours with the Navy. We ran across something that bothered the subcommittee on R. & D. quite a bit. This is a joint pro-

gram between Commerce and Navy, but we found that Commerce was squealing out from funding its share of the program.

On February 16, we looked at the Army program on advanced helicopter development, which figured strongly later on in our decision affecting the Cheyenne helicopter.

On February 18, 2 hours were spent taking a good look at the Cheyenne itself.

On February 19, we were back with an interesting problem in the research and development field, what is known as Minuteman Rebasing. Two hours were spent on that.

Then moving to March 10, the Air Force was questioned seriously and at length for 2 hours on the supersonic cruise armed decoy, known as SCAD.

On March 11, the Navy was over to talk about ULMS. That is a far-out program of the future dealing with a new submarine and a new missile, a program that last year we were completely dissatisfied with in the R. & D. Subcommittee, resulting in a recommendation that the program be scratched, at least temporarily. Some funds were then put back in conference. This year the ULMS program is beginning to make more sense to the subcommittee. We see it as important to our future security.

On the same day, we spent 2 hours and a half on the Mark 48 torpedo. This is the torpedo that the Research and Development Subcommittee was very much interested in because we had an intuitive feeling that perhaps money could be saved in that area. This hope actually caused me to go to Antec in the Caribbean where the Mark 48 torpedo was being tested. We spent 4 hours on that program.

It will be interesting for the Senator from Wisconsin to note that this torpedo has now reached a final testing stage, so that the subcommittee felt there was no answer but to give the Department of Defense the money it needed to continue with the program. It is a torpedo of great potential for the security of the United States.

On March 16, the Navy discussed with us and we questioned them on the destroyer helicopter program. In this area we felt we found a softness or at least an area where we could save money.

On March 18, for 2 hours and a half, we discussed the undersea surveillance system—SOSUS—which I had the opportunity to visit later at Key West at one of the SOSUS schools.

On March 18, for an hour and a half, the Navy came over to tell us about their acoustics warfare program. Interestingly enough, the ASW, antisubmarine warfare, is deeply involved in the future defense of this country. The research and development subcommittee spent much time on ASW.

On March 23, we took up section 203. Ultimately, many hours were spent by the staff and by members of the subcommittee on this very difficult problem of section 203. We will have an amendment to offer later today on that.

On March 24, the Army's advanced ballistic missile defense was discussed for 2 hours.

On March 25, we reviewed section 409 dealing with the chemical and biological warfare program. Visits were then made to Fort Detrick and Edgewood Arsenal.

On March 25, the Navy discussed the advanced surface ship sonar development, for an hour and a half.

On March 26, the Navy brought in Admiral Caldwell who is a very distinguished naval officer and very well informed. We spent 4 hours discussing antisubmarine warfare. In all the money that will be requested for ASW development, we found very little that we could intelligently and with reason reduce.

On March 31 we spent up to 2 hours discussing defense communications planning.

On April 1, we discussed nuclear weapons effects research programs and testing, for 3 hours.

On April 2, we discussed ARPA programs for 2 hours and a half.

On April 8, we discussed the Federal contract research centers, and we visited one on the outskirts of Washington. Behavioral and social sciences were also given a going over.

On the following day, April 9, we looked at the SAM/D program, on which we recommended a strong reduction last year. That reduction was restored in conference, we recommend a reduction this year of $16 million.

On April 10, the Army's Pershing missile was looked at and discussed, as were the testing programs of the services.

On April 11, the Lance missile program to replace the Sergeant was examined for 2 hours.

On April 16, we took up for 2 hours and a half the highly controversial S3A, which is a plane to fly off carriers in the ASW program. Ours was a tough decision on that one, but we finally decided to go along with the program, at least for another year.

Finally, on April 20, we discussed one of the programs which the Senator from Wisconsin has been questioning—the STANO sensor program.

The important thing to realize is that we looked at many programs and tried to cut back on those programs. They were all discussed and evaluated thoroughly. We cut no more than we did because we found no more to cut.

When the Senator from Wisconsin comes here, therefore, and talks about a $5.2 billion cut, I wonder what he expects from the Subcommittee on Research and Development and Tactical Air Subcommittee, headed by the Senator from Nevada (Mr. CANNON), that have spent many hours trying to find these dollars in an intelligent way that the Senator wants to cut, and to do so with something less than mere intuition.

I expect that if the amendment carries, the judgment of someone else will be superimposed over the judgment of the Subcommittee on Research and Development.

Mr. PROXMIRE. All the amendment contemplates is that the rest of the Defense Department would do exactly what the Senator's subcommittee did. The subcommittee made a cut of 6 or 7 percent in the procurement bill. We want the same kind of cut in the rest of the Defense Department budget.

Mr. McINTYRE. But the amendment does not say that.

Mr. PROXMIRE. Mr. President, we believe there should be a whole series of areas in which the Defense Department budget could be cut. It would not necessarily be research or procurement. I will show that in a moment. That would be at the option of the Defense Department itself.

Mr. McINTYRE. This is proposed after the long hours we spent in subcommittee thus far this year. I think it would have been appropriate if the amendment had exempted research and development.

I am not sure, but I feel that the Senator from Wisconsin must be aware of this. I am not sure how much deeper we can cut on a technological basis. That area is so important.

I feel that I should point out the long hours of work that the subcommittees have spent on this matter since February to the point where it dominated our time. It is almost the first of September now. We have been in executive session time and time again because of the difficulty of getting quorums.

A lot of work has been done by the Armed Services Committee, the Senator from Mississippi, who is an excellent chairman, fair, impartial, and hard nosed.

I think the Senator is aware that the Secretary of Defense has taken a position. The Senator knows that the Secretary has a reputation of being on the line on this matter. This is a rock bottom budget. Yet, somehow or other we found $1.3 billion to cut. That does not seem to be inconsequential.

Mr. PROXMIRE. It is exactly the point. If the Senator's subcommittee can find $1.3 billion or 7 percent in procurement to cut, the Defense Department can find $3.9 billion to cut in the remainder of the operations for a total reduction of 7 percent. They should be hard nosed and disciplined. They should be required to make the hard choices. That is all we are asking for.

Mr. McINTYRE. Then the appropriate time to bring up the amendment would be when the appropriation bill is here.

Mr. PROXMIRE. That will be 2 months later. We will then really have a time problem in making the cut.

Mr. STENNIS. Mr. President, I yield 2 minutes or such time as the Senator from Maine may use.

The PRESIDING OFFICER. The Senator from Maine is recognized for 2 minutes.

Mrs. SMITH of Maine. Mr. President, before us now for consideration is an amendment which would impose a flat percentage reduction on the defense budget. The proponents of this amendment seek to accomplish indirectly that which they failed to do by direct means.

I want to make it very clear that there are items in the bill that I did not want to see included. I also agreed to a number of reductions during the markup which caused me some dismay. While I felt very strongly that certain programs should not be cut, I, too, recognize not only the need but the demand for reducing Federal expenditures.

But, Mr. President, unlike the arbitrary cut as proposed in this amendment,

the committee reductions were made on the basis of sound justification and after a thorough and painstaking analysis of the budget submission.

A $5.2 billion cut on this bill that has been so thoroughly explored and so thoroughly explained by the distinguished chairman, the Senator from Mississippi, is in my opinion a dangerous way of legislating. With the continuing resolutions going on, the prospect of this cut, if it were to go through, would mean not only a $5 billion cut, but could mean a $10 billion cut.

This is a national security matter. I am sure that the distinguished Senator from Wisconsin is as security minded as the rest of us. If he could sit at the table in the Armed Services Committee under the direction of its distinguished chairman, and realize how thoroughly we studied every item and how we examined the expenditures in previous years, he would know that there has already been a sizable cut and I am sure he would better understand how I feel about it.

We see a concerted effort here to nullify the committee system which in the end would lead to the U.S. Senate becoming a legislative quagmire.

An across-the-board percentage reduction does little to enhance public confidence in the legislative process.

In my judgment the issues underlying the thrust of this amendment have already been subjected to very serious consideration. I see no way to justify a reduction of $5.2 billion, and I assure my colleagues that such a cut would have a most serious impact on our national security.

Mr. President, I abhor war as do we all, and I join every citizen in the Nation in begrudging the resources that must be allocated for defense. If we are to give further consideration to the reduction of the Defense budget, I submit that this be done in a more rational and responsible manner. There is no way of justifying the cut as proposed in this amendment. To me it represents a substitute for sound judgment and I shall vote against it.

Mr. President, I know of no one on the floor of the Senate who is more economy minded than the Senator from Maine. I think this is well known.

I am troubled, however, always when an across-the-board cut is proposed.

I will have to vote against the proposal. While I would like to see a $5 billion cut, and I hope this will come to us before very long, I think it is a dangerous way to act as a committee of the whole on the floor rather than to take the committee's recommendations.

Mr. STENNIS. Mr. President, I thank the Senator from Maine for a splendid statement.

ORDER OF BUSINESS

Mr. STENNIS. Mr. President, I ask unanimous consent that we may have a brief quorum call on divided time, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered. The clerk will call the roll.

The assistant 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. PROXMIRE. Mr. President, I yield 5 minutes to the Senator from Massachusetts.

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

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

Last February, I called for a new realism in our defense budget. Today, I have the opportunity to begin to implement this recommendation.

The Proxmire-Mathias amendment provides for a sensible ceiling on Pentagon expenditures. It reduces total defense outlays by about the same percentage as the Armed Services Committee has already cut the military authorization bill. It is a major contribution to the fight against inflation and a first step toward reordering our national priorities.

Just a short while ago, the President vetoed significant education and housing bills on the ground that they were too inflationary. But military expenditures are the most inflationary of all Government expenditures because they do not supply Americans with any of the goods and services they desire. In fact, when the military budget gets high enough, as in World War II, we require a sweeping system of controls to keep the prices down. Thus, a reduction in military spending is an effective way to fight inflation.

But there are even more pressing reasons to reduce and reallocate military spending. Every American knows what these reasons are—crime, poverty, pollution; inadequate schools, inadequate housing, inadequate transportation. The $5 billion saved by this amendment could go a long way toward meeting these domestic problems.

Of course, no reduction in defense outlays would be acceptable if it impaired our national security. But this 7 percent reduction does not do so. There are many areas where substantial cuts can be made without jeopardizing our military posture.

The most obvious area is manpower. Twenty-five years after World War II, for example, we continue to deploy 320,000 troops in Europe and 250,000 of their dependents at a yearly cost estimated to run between $12 and $15 billion. I do not suggest that all these troops be withdrawn. Some must remain to demonstrate to both NATO and the Warsaw Pact that any conflict in Western Europe will inevitably involve the military might of the United States. But we should withdraw a substantial number of these troops, and let the increasingly prosperous nations of Western Europe contribute more to their own defense.

I think this would really follow the recommendations made by President Eisenhower 14 years ago. He suggested the United States should consider withdrawing 2½ divisions from Western Europe.

What has happened in the meantime, particularly the improved relationship between the Soviet Union and the Federal Republic of Germany, demonstrates that we should consider reduction of the number of troops we have in Western Europe.

And as the distinguished Senator from Illinois (Mr. PERCY) and other Senators have pointed out, we should secure larger contributions for support of the troops that remain from the West European countries. In this way we could reduce our military budget, but also maintain our responsibility to the countries of Western Europe.

In Korea we have two full divisions totalling 56,000 men. As the administration itself is beginning to recognize, this is a much larger force than necessary for our national security. For almost 20 years we have armed and trained the Army of the Republic of Korea, at a cost of nearly $3 billion. That army should be capable of meeting any threat from the North. We need only deploy a small number of troops—if any at all—to demonstrate our commitment to South Korea's independence.

I was heartened by statements relating to the Vice President's trip to South Korea which indicate that the administration is for a reduction in the number of the American troops in South Korea.

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

Mr. PROXMIRE. I yield the Senator 2 additional minutes.

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

Mr. KENNEDY. Substantial savings can also be obtained by a closer examination of our naval needs. At present we maintain a fleet of 15 attack carrier task forces, even though the Soviet Union does not have a single attack carrier, and also has far fewer overseas bases than we do. Charles Schultze, the former Director of the Bureau of the Budget, indicated in testimony before the Joint Economic Committee that the size of our carrier fleet was the most questionable item in the military budget. The cost of each task force, which includes the aircraft carrier plus supporting ships is about $400 million per year. This is more than the budget request for the entire legislative branch of the Government, including the Senate, the House, the Capitol, the Library of Congress, the Government Printing Office, the General Accounting Office—all the salaries and other costs. Yet, as Mr. Schultze suggested, the reason we have 15 attack carrier forces may be purely historical.

In the Washington Naval Disarmament Treaty of 1921, the U.S. Navy allotted 15 capitol ships. All during the nineteen-twenties and thirties, the navy had 15 battleships. Since 1941 (with temporary exception of a few years during the Korean War) it has had 15 attack carriers, the "modern" capital ship. Missions and "contingencies" have changed sharply over the last 45 years. But this particular force level has not.

Clearly, when an attack carrier task force costs $400 million each year, it needs more than an historical justification. If, as Secretary Laird recently announced, we are not policemen of the

world, do we really need 15 attack carriers?

Another questionable item in the Navy's budget is the antisubmarine warfare carriers. Former Secretary of Defense McNamara conceded that this is "a relatively high cost system in relation to its effectiveness." It can only be made more effective at great expense, and therefore its deployment should be promptly reexamined.

DOD should also examine whether both the Navy and the Air Force are presently planing to procure tactical aircraft which use far more sophisticated and expensive equipment than is really necessary. There is a danger that both services are paying exorbitant amounts for "gold-plated" new planes which perform only marginally better than their predecessors, At a time when austerity is the watchword, this seems a good place to start being austere.

There are many other items I could point to, ranging from the new manned bomber to the Pentagon's $39 million public relations budget.

That public relations budget is $3 million more than the administration request under the Older Americans Act. Certainly, we should take a hard look at this ordering of priorities.

Obviously we have responsibilities around the world, but in the past we have been willing to accept these responsibilities and continue them without the appropriate review of both our commitments and the weapons needed to meet them. We can no longer afford to be so casual.

I feel the amendment of the Senator from Wisconsin (Mr. PROXMIRE), which is cosponsored by the Senator from Maryland (Mr. MATHIAS) is responsible and thoughtful, and that it fulfills our responsibility to provide for the national security of the United States without ignoring our domestic needs.

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

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. YOUNG of North Dakota. Mr. President, there are many reasons why the pending amendment should be rejected. Let me name a few:

First, this is not the appropriate legislation for such an amendment. It would have been far better if it had been offered as an amendment to section 501 of the second supplemental appropriation bill, 1970, imposing a limitation of fiscal year 1971 budget outlays. This bill was passed by the Senate on June 22.

Second, it is too late to impose a limitation of this magnitude. We are now nearly 2 months into fiscal year 1971, and the Department of Defense could not establish the necessary administrative and management machinery that would be required for an orderly implementation of such a limitation.

The amendment does not reflect the fact that the fiscal 1971 estimated outlays for military functions of $71.2 billion represents a reduction of $6.7 billion below the fiscal 1969 level and $5.3 billion below the fiscal 1970 level.

The amendment does not reflect the fact that we are still involved in a major war and the tremendous cost of inflation. When stated in fiscal 1969 dollars, the fiscal year 1971 estimate for military functions outlays is $65.3 billion—a reduction of $12.6 billion below the fiscal 1969 level and $6.5 billion below the fiscal year 1970 level.

The sponsors of the amendment have failed to recognize that the fiscal year 1971 estimate of $71.2 billion for military functions outlays includes approximately $26.5 billion to liquidate obligations incurred pursuant to authority granted in previous years and in July and August under the authority of the continuing resolution. I want to discuss this point in detail.

Mr. President, the sponsors of the amendment state:

> It cuts approximately 7 percent below the amount proposed in the budget.

I might add that this alone is sufficient reason for the amendment to be rejected, but, in addition, it must be borne in mind that the amendment, in its application, will force far greater reductions. As I stated, $26.5 billion of the $71.2 billion represents funds that are required to liquidate obligations that have been incurred pursuant to the authority granted in appropriations for prior fiscal years and for the months of July and August under the authority of the continuing resolution.

These are bills the Government owes, and the Department of Defense cannot take any action to make a reduction in these funds. When this $26.5 billion is eliminated from the total of $71.2 billion, we have $44.5 billion left that is subject to some degree of control by the Department of Defense.

The proposed $5.2 billion reduction would have to be made in this remaining $44.5 billion—a reduction of approximately 12 percent. To make reductions of this magnitude would completely wreck our defense posture.

The sponsors of the amendment state further:

> There are numerous precedents for general cuts or limitations on spending for both military and civilian programs.

In my opinion, the instances cited are not a precedent for a limitation on the outlays for specific programs for one department of the executive branch of the Government. However, there is a precedent for an unsuccessful effort to impose such a limitation.

The Department of Defense Appropriations Act for fiscal year 1953, as it passed the other body, included a limitation of $46 billion on the expenditures of the Department of Defense. This amendment was rejected by the Senate and the conference committee accepted the Senate position on the matter. It was not a workable procedure for fiscal year 1953 and it is not a workable procedure for this year.

Mr. President, on May 20, 1970, the Department of Defense Appropriations Subcommittee, of which I am the ranking minority member, concluded 5 weeks of hearings on the Department of Defense appropriation bill for fiscal year 1971. We heard 155 witnesses. The printed hearings will total more than 4,300 pages.

The PRESIDING OFFICER. The 5 minutes of the Senator have expired.

Mr. STENNIS. Mr. President, I yield the Senator 1 additional minute.

Mr. YOUNG of North Dakota. It was on the first day of these hearings, February 20, in joint session with the Committee on Armed Services that Secretary Laird clearly stated the challenge we must consider in enacting appropriations for the Department of Defense. He said:

> As we reduce our defense spending and move further into negotiations, we should have no illusions about the current state of world affairs. I am obliged to report to you, for example, that the Soviet Union is not making similar reductions in its defense budget. In fact, the Soviet Union is pulling abreast of us in many major areas of military strength and ahead of us in others. The Soviets are continuing the rapid deployment of major strategic offensive weapons systems at a rate that could, by the mid-1970's, place us in a second-rate strategic position with regard to the future security of the Free World.

Mr. President, the adoption of the pending amendment would hasten the day when we would find ourselves in this second-rate strategic position. I cannot escape the conclusion that the adoption of this proposed amendment would be the blueprint to making the United States a second-rate power to Russia. I urge the Senate to reject this amendment.

Mr. PROXMIRE. Mr. President, I yield 1 minute to the Senator from New York (Mr. JAVITS).

Mr. JAVITS. Mr. President, I shall support the amendment, without necessarily—and all of us are in the same position—knowing what will finally come out of conference. It would undoubtedly be less than the $5.2 billion now contemplated when it comes out of conference, if it is adopted.

My reason for supporting this amendment is that we must readjust our national priorities if we are not to sacrifice domestic tranquillity to a foreign war. The people had a chance to vote for guns or butter on a tax reform bill, and they decided not to pay the bill for both. We face now a deficit which may run as high as $10 billion. We should not provide such disproportionately large sums for the defense budget.

It seems to me we are faced with no choice except to readjust our priorities on a broad scale, which this amendment requires, because we simply must devote more money to cities, schools, health, ecology, and many other priorities needed at this time. I shall support the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I yield myself 5 minutes.

Mr. President, this vote is the test vote of 1970 on economy in Government. Here is the test vote on Government spending. This amendment, if adopted, would cut spending far more than the combined increases in the President's budgets in all appropriation bills passed by the Congress to date. It would reduce spending far more sharply than the Nixon vetoes would reduce it.

The vote today will really separate the big spenders and those who are fiscally responsible. As the Senator from New York said so eloquently, this is the priorities amendment.

The Wall Street Journal of this morning, on its front page, under "Washington Wire," states:

> Administration insiders now concede the possibility of a deficit lurching to $10 billion or $15 billion this fiscal year—far beyond the official projection of $1.3 billion; the deficit for July was $6.7 billion, against $3.1 billion for July of last year. But further sizable spending cuts are near-impossible; the Administration is locked into spending commitments.

That means two things: It means we cannot have the kind of educational programs, the kind of housing programs, the kind of antipollution programs that we all feel are necessary for our country, and in 1972 the situation is going to be even more difficult. We are told that without military spending cuts the deficit could then be $15 billion to $25 billion.

This amendment is not an amendment which will weaken our security. The fact is—and this has not been disputed; we have checked it and double-checked it—that the Russians are spending 17 billion rubles, roughly the equivalent of $20 billion. Translated into the comparative cost of living between their country and ours, it is going to spend $40 billion American purchasing power dollars on its military. So this amendment would provide that we would still spend $26 billion more than the Russians spend.

Furthermore, there are many areas where this cut can be made. One would think, to listen to the opponents, that there is no fat in the military budget, that the entire cut would have to be taken out of substantive programs. The fact is that we have excessive, redundant bases, over 400 major bases, scattered around the world. We had a documentation by a distinguished Under Secretary of Defense last Thursday night on waste and fat in procurement, which he called a mess, and in which he said we were overspending and in which he indicated the obvious cure would be to have less money available to the Pentagon for procurement.

We have a manpower situation that has become a disgrace with 12 men in supply and support for every one in combat—the worst ratio in the history of warfare.

We have a European commitment, 25 years after the end of World War II, with 320,000 American troops still stationed in Europe, and no convincing case made that we cannot withdraw 50,000 or 100,000 of those troops.

We are still voting in terms of spending for a two-plus war strategy, although the administration accepts, they say, a one-plus war strategy. Analysis by the Brookings Institute shows that we could have some $9 billion a year if we actually followed the one-plus war strategy which the administration says it is following.

It has been pointed out that the Pentagon has been spending some $40 million a year in public relations.

This amendment, if it were entirely concentrated—we are not assuming it should be, but if it were entirely concentrated in the strategic arms area, would mean that we could still beef up our nuclear weapons from 4,200 full nuclear loads to 7,000 within the next 5 years. This would mean that instead of having 10 times the number of such weapons necessary to devastate Russia, kill 75 million Russians and knock out 75 percent of its industry, we would have 15 times as many. The bill itself, unamended, contemplates we should have 20 times as many. We are not saying the entire savings should be in that area, but that option would be left open to the Pentagon.

Still not mentioned are a speedup in the withdrawal from Vietnam, or a slowdown in the rotating of troops and officers, or the adoption of uniform accounting standards, legislation for which we have passed, and which Admiral Rickover says could save us $2 billion a year.

Nor, Mr. President, have we mentioned the $8 to $10 billion a year in surplus supplies sold off at a few cents on the dollar, equal to 20 to 25 percent of all the supplies we buy.

This is the kind of waste we are permitting to continue in the Pentagon, without providing the discipline that Congress could provide—the one real authority and check we have to require efficiency in military operations, and require an end to the redundancy of weapons and the kind of manpower and materiel waste from which we have suffered so much.

Mr. President, that is what this amendment would accomplish. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. FULBRIGHT. Is the Senator's time exhausted?

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

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. FULBRIGHT. Three minutes?

Mr. PROXMIRE. I yield 3 minutes to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I support the amendment of the Senator from Wisconsin. For several months now, there has been a great deal said on this floor about the state of the finances of this country, and even more has been said by the executive branch and others about the spendthrift Congress.

We have had three vetoes of major bills relating to domestic affairs—very important domestic affairs: education, housing, water and sewers, and so on. The amount by which those bills as passed by Congress exceeded the amount acceptable to the President, as I recall it, was something less than $1.5 billion. Because of that, because we passed bills exceeding the President's requests by approximately $1.5 billion, nearly every day there is published an article inspired by some member of the executive branch to the effect that this is a spendthrift Congress, an irresponsible and wasteful Congress.

I do not know how we can be responsible, in this body, without taking into account the condition of our finances and the needs of our country, without having to make decisions with regard to the priorities. That is what is important, and most important, to our country.

The Senator from Wisconsin has given more attention to this aspect of our affairs than nearly any other Member in this body. His committee on the economic report has had very fine hearings, with the finest minds in this country. He has made efforts, and I have supported them, to cut specific items of various kinds, such as the ABM and others, and we have lost. It may be that there is some valid reason for not cutting the ABM, although I have not yet found one. I have not ever seen a good reason. But the Senate thought otherwise.

Now the Senate is turning to the last resort, which is to say, in effect, "If you will not accept specific cuts, this is a general cut," and leave it up to the discretion of the administration as to where the reductions should be applied; because there are many activities carried on by the Military Establishment where reductions could be effected. With respect to personnel and foreign bases, for example, there are hundreds of foreign bases, and I am quite sure a third of them could be closed without the slightest effect upon our security. They are simply held on and kept in operation through inertia. They were created during a period of tension in the days of Stalin, and in a big bureaucracy, there just is not enough initiative and interest to close them. So they go on, with thousands of people stationed in remote places around the world. Most of those places are rather pleasant places in which to live, so they are hard to give up.

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

Mr. FULBRIGHT. Two more minutes?

Mr. PROXMIRE. I yield the Senator from Arkansas 2 more minutes.

Mr. FULBRIGHT. So I think the approach of the Senator from Wisconsin is the only way left to meet the President's criticism about a spendthrift Congress. If we could pass the amendment offered by the Senator from Wisconsin, we would certainly bring the amounts which have been voted by this Congress back into line with the President's overall budget requests. I have not figured it out to the dollar, but I know it would make a substantial contribution toward bringing the overall expenditures down to or below the President's requests; and I do not have the slightest doubt that such a cut could be absorbed in the various activities of the military without any substantial effect upon the security of the country.

The President's own policy recently, in the Middle East and in the SALT talks, if I interpret it properly, is an effort to bring about détente, to bring about a lessening of tension and better relations with the Russians. I can think of nothing that would be more impressive as a contribution to that overall effort of bringing about better relations with the Russians than a cut in military expenditures. It would be a signal to the Russians that we are not determined to press the arms race on and on and on, with the

only logical explanation being that we expect to have a confrontation sooner or later, and we are getting prepared for it.

I do not think this would in any serious way weaken us, but it would be a sign to the world and to the Russians that it is now our intention to move toward a relaxation of tensions in international relations.

I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President——

Mr. FULBRIGHT. Mr. President, if the Senator will yield me just a moment, I ask unanimous consent to be added as a cosponsor of the amendment, No. 862——

Mr. STENNIS. While the Senator is doing that, I yield 2 minutes to the Senator from Michigan.

Mr. JAVITS. Mr. President, would the Senator allow me to do the same?

Mr. STENNIS. I am sorry, I do not have the time, gentlemen.

Mr. GRIFFIN. Mr. President, we hear the cry in this debate for a reordering of priorities. The distinguished Senator from Wisconsin has referred to his proposal as the "priorities" amendment. This would seem to assume and suggest that there has been no reordering of priorities. I want to take just a moment to remind the Senate and those who are following this debate that under the Nixon administration we have already witnessed dramatic reordering of our national priorities.

In 1961, the Federal grant was spending 48 percent of the budget on defense. In 1969, we were spending 44 percent of the Federal budget on defense. But the fiscal 1971 budget, submitted by President Nixon, allocates not 48 percent, not 44 percent, but only 37 percent of the Federal budget for national defense.

This is the first time in over 20 years that any administration has allocated more money in the budget for human needs and resources than for defense. This administration has already cut defense spending nearly $12 billion below the level of the last Johnson administration year. But there is a limit and we must not cut below the minimum absolutely essential for national security.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. STENNIS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Each side has 5 minutes remaining.

Mr. STENNIS. I yield 3 minutes to the Senator from Washington.

Mr. JACKSON. Mr. President, I know that the distinguished chairman of the Committee on Armed Services has already made it a matter of record that the pending amendment would decimate the defense budget in a most unfortunate and irresponsible way. I wish to take but a moment of the Senate's time to join with him in opposition to this ill-conceived amendment.

I wish to make it clear at the outset that opposition to the pending amendment in no way suggests opposition to the full exercise of congressional responsibility in limiting defense expenditure to the minimum level consistent with the requirements for a sound approach to our national security. It is, Mr. President, foolish in the extreme to believe that the issue before us is one of congressional responsibility or the ordering of our national priorities or the promotion of economy in Government. There is no necessary relationship between these objectives, worthy in themselves and deserving of support, and the amendment before us.

Let me be perfectly clear: The exercize of our responsibilities, the ordering of our priorities and the effort to assure economy must be based on careful, deliberate, and prudent limitation on expenditure of the sort that has been carried out by the Commitee on Armed Services. The committee has, as the Senate knows, examined every line in the Procurement Act and brought to the floor a measure that is $1.3 billion less than the House version of the act. It has acted with care and discretion that contrasts sharply with the careless and heavy-handed approach of the pending amendment. It is not, Mr. President, an exercise of our responsibility to order a budget cut whose impact we cannot even begin to assess, much less support with careful argument. It is, I believe, a derrogation of responsibility. By failing to request specific budget cuts, the wisdom of which could be argued, we are being asked to give to the executive branch the sole authority to spend—wisely or unwisely—whatever arbitrary figure a random guess has placed before us. If a $5 billion cut cannot be defended on a program by program basis, it cannot be defended in the aggregate. Obscuring the effect of our action is no substitute for precise argument.

Moreover, Mr. President, it is naive to believe, as apparently some do, that the answer to waste and inefficiency lies in reducing the funds available to be spent. There is no reason to suppose that waste and inefficiency will not continue at a lower spending level, or even to suppose that the percentage of funds spent unwisely will decline as the budget declines.

It is the responsibility of the Senate to assure that unnecessary programs are not funded, and the first step in achieving this result is to identify which programs are unnecessary or unwise. We have tried to do that in committee. We have considered amendments that identified programs to which some Senators objected and, after careful debate, we have sustained them. The pending amendment is nothing more than a substitute for the failure of its sponsors to convince the Senate that there are programs whose deletion would leave our national security unimpaired.

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

Mr. STENNIS. I yield 1 additional minute to the Senator.

Mr. JACKSON. I would point out, Mr. President, that many supporters of the pending amendment have participated in an effort to determine which defense programs can be canceled or deferred. Failing to argue that the results of their research have convinced them—and ought to convince the Senate—to enact specific cuts, they have come to the floor with an amendment that casts doubt on the confidence with which they support their own findings. I am referring here to the desultory report of the Members of Congress for Peace Through Law. Had the recommendations of that report been intended seriously to assist Congress in enacting sensible legislation, it is those recommendations—program by program—that would be before us now, and not an ill-considered amendment that would impact on programs covering several fiscal years and affecting at least 10 billion dollars in obligational authority.

I would welcome any effort, Mr. President, to bring before the Committee on Armed Services serious recommendations to limit defense expenditures on which we may exercise our constitutional authority. This is the least we can do in our continuing effort to provide for an adequate level of national security for a minimum defense budget. The pending amendment, far from advancing these objectives, is but an irresponsible caricature of them.

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

I will have to leave the Chamber for a short time following the vote on the pending amendment. I wish to announce my support of the amendment worked out by the Senator from New Hampshire which he will offer, and which I think is needed.

Mr. President, in considering a $5.2 billion cut in Defense spending for this fiscal year, as proposed by amendment No. 861, we had better recognize that we may well be talking about well over 2 million jobs by next June 30.

Let us consider a few facts.

Fiscal year 1971 is already well along—we are at the end of the second month, with 10 months remaining. And it will be some time yet before this bill is enacted into law.

Just about half of the Defense budget for this fiscal year is for the military and civilian payroll; the other half is for purchase of goods and contractual services.

Fiscal year 1971 spending for purchases is already largely determined—it will result from contracts already in existence, made in prior years or in July and August of this year. A very small amount of fiscal year 1971 spending will result from purchase contracts to be entered into in the next 10 months. In fact, I am advised that to cut purchase spending by $2 billion for the balance of the year, the Department will have to cut back by about $12 billion on new contracts—and this in turn will cut industry workload by about one-third, the equivalent of about a million jobs, by next June.

This would leave about $3.2 billion in spending cuts to be achieved by reducing the number of military personnel and direct civilian employment of the Department. Once again, we must recognize that there is a significant leadtime involved. Large further personnel cuts cannot be made immediately. It takes several months before a cutback directive can be translated into less personnel on the

rolls. If the Department began promptly, it would be about January before employment reductions would begin to take effect, with further reductions each month thereafter. To save $3.2 billion in the Defense payroll under these circumstances, it would be necessary to cut direct civilian and military manpower by about 30 percent—1.2 million people—below the level planned for June 30, 1971.

In short, Mr. President, to cut Defense spending by $5.2 billion after the year is already well underway, would be cutting over 2 million jobs—about a million in defense industry, and over a million in direct employment.

To appreciate what this means, we have to understand that very large manpower cuts are already reflected in the fiscal year 1971 budgets as submitted. Measured from the wartime peak in 1968, the budget proposed cuts of 639,000 military personnel, 142,000 civilians, and 1.3 million contractor personnel by June 30, 1971—a total manpower reduction of over 2 million.

The cut that is already underway, involving more than 2 million jobs spread over 3 years, has itself created a great many problems. It has certainly added to our unemployment problems, while causing turbulence in Defense programing and in defense-related industry. These problems would be compounded many times over if we had to compress a further 2 million job cut into the short space of 10 months.

And, Mr. President, if we are to cut Defense spending by $5.2 billion in this way—$3.2 billion in direct payroll and $2 billion in purchases—we would end up on June 30, 1971 with a military force under 2 million men, about the same level as we had on June 30, 1941, 6 months before Pearl Harbor. We will face a chaotic situation in defense industry, as contracting volume is cut by $12 billion to achieve $2 billion in current year spending cuts, compounding a situation that is already critical.

A cut of $5.2 billion in Defense spending, it is said, is only about 7 percent of the total. But it quickly becomes a 30-percent problem when it must be effected through progressive cuts in contracting and employment, beginning after the fiscal year is well underway. Under the circumstances, a cut of $5.2 billion in Defense spending would produce chaos in defense manpower, including defense-related employment in industry.

Mr. PROXMIRE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Wisconsin has 5 minutes.

Mr. PROXMIRE. I yield the remainder of my time to the majority leader.

Mr. MANSFIELD. Mr. President, more than a quarter of a century after the end of the Second World War, approximately 535,000 U.S. troops, dependents, and U.S. workers are still in Europe. It takes $14 billion every year out of the defense budget to maintain that unnecessary force and those unnecessary dependents and those unnecessary U.S. workers.

This country has more than 2,000 bases, large and small, scattered throughout the world. The cost of this, according to the latest figure I received some months ago, is $4.8 billion a year. Why, 25 years after the end of the Second World War, do we have to have so many bases in so many countries, having so much in the way of personnel, and costing so much in the way of Government expenditure? Why, after 25 years, do we have to have this amount of troops, dependents, and U.S. workers in Western Europe, at a cost of $14 billion a year out of the defense budget?

Mr. President, I support the Proxmire-Mathias amendment putting an expenditure limit of $66 billion on the Defense Department for fiscal year 1971. In my judgment the imposition of such a ceiling is the only way that this Nation's fiscal and economic house can be put in order. Talk is easy. It is time to act on the hard choices that must be made.

When the budget was proposed this year for fiscal 1971, the strength of the economy was misjudged. It was estimated that tax revenues would yield sufficient funds to provide a surplus of $1.3 billion. Unfortunately, the estimate was wrong. It was later revised in May of this year to reflect a deficit of over $1.3 billion.

The economic slowdown during past months provides an even more bleak forecast. It is now estimated that the loss in tax revenues—because of the economic recession—will be up to $15 billion. In other words, we may now expect $15 billion less than what the administration projected when the budget was originally proposed in January. That loss will be felt in every department of Government. It will be felt in the health and welfare programs that are so vital; in the fight to preserve the environment and in the education needs. As we have seen, the loss has been dramatically felt already in our vital housing and urban assistance programs.

It was in January that the Defense Department was allocated over $71 billion for fiscal 1971. But now we know that the Government will receive perhaps $15 billion less and all I ask the Senate is: Where will the Government make up this revenue?

Will it be by cutting education?

Will it be still more from housing and urban assistance?

Will it be from hospital construction as was attempted?

Will it be from health research?

Or will it be instead from the Defense Department which has recently learned from its own study that the overall efficiency of its operations and spending is greatly deficient.

The Senators from Wisconsin and Maryland can certainly document precisely those areas where the cuts can be made. Manpower reductions alone could contribute the greatest share of the reduction. Those troops returning from Southeast Asia and those hopefully to be removed from Europe could account for over $3 billion in savings if the levels of the Armed Forces are correspondingly reduced.

The experience of the Senate over the past 2 years should reinforce the approach taken by this amendment. When efforts are made to meet head-on one weapon system after another, the Senate is deluged by Defense Department reports, secret documents, and what not that accomplish the necessary obfuscation. Many of the systems deemed in one year as essential by the Executive in order to defend against the Senate's criticism are dropped the following year by the Pentagon for the very reasons the Senate expressed. What is Congress role in determining the expenditure levels of the various departments? That level of expenditure really decides national priorities.

Giving to the Defense Department the right to eliminate what they consider most expendible faces the question realistically. It is what happens today, anyway. The Defense Department now determines what is necessary and how much it costs. The rest is provided by Congress. Let Congress at least put a ceiling on what they may spend and let the competition for the funds within the Pentagon determine the elimination of the least necessary items.

In short, we can do more today to determine priorities than we have done all year. This is the Senate's opportunity to contribute to balancing the books so loudly heralded when education bills are passed, when hospital construction bills are passed, when housing bills are passed. But those measures contain much, much less compared to what we are here talking about. There is more money to be saved with this amendment than can be saved in all of the rest put together.

For those who cry out to cut spending, for those who say let us be fiscally responsible—this is their opportunity to act with their vote instead of their voice.

Mr. HART. Mr. President, today's vote on this amendment to limit Pentagon spending to $66 billion may be as important a vote as the Senate will have this session on the question of reordering priorities.

The amendment, of which I am a cosponsor, reduces the total Pentagon budget request of $71.2 billion by about $5.2 billion.

In considering this amendment, we must remember that within the last 12 months, the President has vetoed two education appropriation bills and one housing appropriation bill because Congress approved more funds than the President requested.

The President vetoed the education funding bill for fiscal year 1971 because Congress added $453 million to the budget request.

The President vetoed the housing money bill because it exceeded the budget request by $541 million.

The twin ironies of that second veto are: $700 million of the funds contained in the bill would not be spent this year and therefore, are not inflationary;

And, under the President's priorities, the bill contains more funds for the space agency than for the housing department.

Even without consideration of those two ironies, the fact remains that the President vetoed the two bills because together they exceeded the President's funding requests by $994 million.

That means if we pass the amendment

now before the Senate, the President could accept the priorities set in the education and housing bills as passed by Congress and still be more than $4 billion ahead of the game.

And if, indeed, the principal concern is the effect of Federal spending on inflation, a cut in defense spending will do more to cool a heated economy than cuts in education and housing.

As a matter of fact, a convincing case can be made that spending for education and housing are necessary to combat inflation.

Some will argue that a 7-percent cut in Pentagon spending will be detrimental to the Nation's security.

The fact is that the Senate Armed Service's Committee recommends a cut of almost 7 percent in that portion of the Pentagon budget covered by the military procurement authorization bill. Those recommended reductions will be part of any overall cut we may approve today.

The fact is that Pentagon projects are still plagued with costly overruns such as the $2 billion overrun on the C–5A. One effective way to halt, or at least decrease such overruns is to put pressure on Pentagon planners to improve procurement procedures by setting a reduced overall spending limit.

The fact is that the administration is prepared to spend almost $1 billion this year on an ABM system which it will have to tear down if it gets the arms limitations agreement it wants.

The fact is that we still have 3 million men under arms, and according to the New York Times, 429 major bases and almost 3,000 minor bases overseas. One justification for going ahead with the costly C–5A airplane is that deployment of the craft will enable us to bring our troops home from overseas bases. Let us do that and save some money.

The fact is that studies show we can reduce expenditures from $18 billion to $14 billion and still continue to increase our strategic strength.

The fact is that we now have more than 4,000 deliverable nuclear weapons, probably 10 times as many as we need to achieve near total destruction of the U.S.S.R.

And the fact is that according to the London Office of Strategic Studies, Russians are spending the equivalent of less than $45 billion on military activities this year.

These are only some of the reasons why I believe a reduction of 7 percent in a $70 billion budget would not undermine the national security.

There will be those who argue that establishment of a spending limit and leaving the specific cuts to the Pentagon is not the proper way to reduce Pentagon spending.

There is ample precedent for this approach.

In 1951, Congress told President Truman to reduce the Federal budget by a specific amount.

In 1968, the Senate approved a 3-percent reduction in the military procurement authorization bill.

Last February, at the suggestion of the ranking Republican members of the Senate Appropriations Subcommittee on Health, Education, and Welfare, the Senate approved a 2-percent cut in the HEW-Labor funding bill.

As a matter of fact, in 1968, I proposed an unspecified cut of $500 million in military research and development. While that amendment failed by three votes, Congress later determined, thanks to the strenuous efforts of Senator THOMAS MCINTYRE, chairman of the Subcommittee on Research and Development, that my amendment was too modest.

Last year by going over the Pentagon budget for these items with a fine tooth comb, Senator MCINTYRE succeeded in reducing the Pentagon requests for $8.2 billion by about $1 billion. This year, the Senator recommends cutting the budget request of $7.4 billion by more than $400 million.

That comes to a 2-year savings of about $1.5 billion.

If Senator MCINTYRE and his subcommittee can make such savings out of budget requests of $8 billion and $7.4 billion, I suggest the Pentagon can find $5.2 billion worth of fat in a $70 billion budget.

Mr. President, in summing up the case for this amendment, I can find no more eloquent argument than these words of President Eisenhower:

> No matter how much we spend for arms, there is no safety in arms alone. Our security is the total product of our economic, intellectual, moral and military strengths . . .
>
> Let me elaborate on this great truth . . . It happens that defense is a field in which I have had varied experience over a lifetime, and if I have learned anything, it is that there is no way in which a country can satisfy the craving for absolute security—but it easily can bankrupt itself, morally and economically, in attempting to reach that illusory goal through arms alone. The Military Establishment, not productive of itself, necessarily must feed on the energy, productivity and brainpower of the country, and if it takes too much, our total strength declines.

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

The PRESIDING OFFICER. Thirty seconds.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time and ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. STENNIS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. HARRIS). All time on the amendment has now been yielded back.

The question is on agreeing to the Mathias-Proxmire amendment, No. 861.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. RIBICOFF (when his name was called). On this vote I have a pair with the Senator from Florida (Mr. GURNEY). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. EASTLAND (after having voted in the negative). On this vote I have a pair with the Senator from Maryland (Mr. TYDINGS). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. MAGNUSON (when his named was called). On this vote I have a pair with the Senator from California (Mr. CRANSTON). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. Moss), the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that, if present and voting, the Senator from Louisiana (Mr. LONG) would vote "nay."

On this vote, the Senator from Nevada (Mr. CANNON) is paired with the Senator from Alaska (Mr. GRAVEL). If present and voting, the Senator from Nevada would vote "nay" and the Senator from Alaska would vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from Hawaii (Mr. FONG), the Senator from Florida (Mr. GURNEY), the Sentor from California (Mr. MURPHY), the Senator from Ohio (Mr. SAXBE), and the Senator from Illinois (Mr. SMITH) are necessarily absent.

The Senator from Oregon (Mr. PACKWOOD) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Arizona (Mr. FANNIN), the Senator from South Dakota (Mr. MUNDT) and the Senator from California (Mr. MURPHY) would each vote "nay."

The pair of the Senator from Florida (Mr. GURNEY) has been previously announced.

On this vote, the Senator from Ohio (Mr. SAXBE) is paired with the Senator from Illinois (Mr. SMITH). If present and voting, the Senator from Ohio would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 31, nays 42, as follows:

[No. 276 Leg.]

YEAS—31

Burdick	Hughes	Pastore
Byrd, W. Va.	Javits	Pearson
Case	Kennedy	Pell
Church	Mansfield	Proxmire
Cooper	Mathias	Randolph
Eagleton	McCarthy	Symington
Fulbright	McGovern	Williams, N.J.
Goodell	Metcalf	Williams, Del.
Harris	Mondale	Young, Ohio
Hart	Muskie	
Hatfield	Nelson	

NAYS—42

Aiken	Bellmon	Brooke
Allen	Bennett	Byrd, Va.
Allott	Bible	Cook
Baker	Boggs	Curtis

Dole	Jordan, Idaho	Smith, Maine
Dominick	McClellan	Sparkman
Ellender	McGee	Spong
Ervin	McIntyre	Stennis
Griffin	Miller	Stevens
Hansen	Percy	Talmadge
Holland	Prouty	Thurmond
Hruska	Russell	Tower
Jackson	Schweiker	Yarborough
Jordan, N.C.	Scott	Young, N. Dak.

PRESENT AND ANNOUNCING LIVE PAIRS AS PREVIOUSLY RECORDED—3

Eastland, against.
Magnuson, against.
Ribicoff, for.

NOT VOTING—24

Anderson	Goldwater	Montoya
Bayh	Gore	Moss
Cannon	Gravel	Mundt
Cotton	Gurney	Murphy
Cranston	Hartke	Packwood
Dodd	Hollings	Saxbe
Fannin	Inouye	Smith, Ill.
Fong	Long	Tydings

So the Mathias-Proxmire amendment (No. 861) was rejected.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HOLLAND. Mr. President, I move to lay that motion on the table.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Pursuant to the previous order, the Senate will now proceed to the consideration of amendment No. 857, with a time limitation of 30 minutes. The clerk will report the amendment.

The assistant legislative clerk proceeded to state the amendment.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment may be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered, and the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

At the appropriate place in the bill insert a new section as follows:

SEC. . (a) Notwithstanding any other provision of law, for a period of one year prior to the closing and for a period of three years following the closing of any military installation in any State, the Secretary of Defense shall, to the maximum extent practicable, in awarding any contract for the purchase of any equipment or service, give preference to any contractor who agrees that, in carrying out such contract, he will utilize the facilities at such installation and offer jobs to former employees who are unemployed as a result of the base closing.

(b) In order that the provisions of subsection (a) of this section may be effectively carried out in the case of any military installation which the Secretary of Defense has announced will be closed, he shall cooperate to the maximum extent practicable, consistent with security requirements, in making the facilities of such installation available for inspection by persons interested in utilizing such facilities after the installation has been closed. The Secretary shall make such facilities available for inspection by such persons as far in advance of the final closing of any military installation as possible.

(c) As used in this section (1) the term "State" means the several States and the District of columbia, and (2) the term "equipment or service" includes the repair, overhaul, rebuilding, or modification of any equipment as well as the manufacture of any equipment.

PROGRAM

Mr. MANSFIELD. Mr. President, will the Senator from Oklahoma yield to me so that I may make an announcement?

Mr. BELLMON. I yield to the Senator from Montana.

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER. Senators will be seated. Those who have business to conduct other than the business of the Senate will please leave the Chamber.

Mr. MANSFIELD. Mr. President, first I extend my personal thanks to the Presiding Officer for his efforts to keep decorum and dignity in this body. I hope the example set by you, sir, will be followed by others who occupy the chair.

Mr. President, for the information of Senators, and with the concurrence of the distinguished manager of the bill, I wish to announce that there will be 30 minutes on the Bellmon amendment, and 1 hour on the McIntyre amendment. I understand the Senator from Arkansas (Mr. FULBRIGHT) will have one or two amendments; and that the Senator from New York (Mr. GOODELL) will have one or two amendments following that. So this is to put the Senate on notice that there will be rollcall votes this afternoon and a number of amendments to be considered.

I call to the attention of Senators that the Senate convenes at 8:30 a.m. Monday and 8:30 a.m. Tuesday; and that on Tuesday we will have four rollcall votes at the very least. I wish Senators would keep that in mind and be prepared to stay in town. Take Saturday off and Sunday, too, but act accordingly.

Mr. SCOTT. The restaurant will be open for breakfast at 8 o'clock. [Laughter.]

CONTROL OF TIME ON BELLMON AMENDMENT

Mr. STENNIS. Mr. President, will the Senator from Oklahoma yield to me?

Mr. BELLMON. I yield.

Mr. STENNIS. Mr. President, on the Bellmon amendment, I ask unanimous consent that the time in opposition thereto be controlled by the Senator from South Carolina.

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

AMENDMENT NO. 857

Mr. BELLMON. Mr. President, this is a brief amendment. The gist of the amendment is contained in the first paragraph which states:

SEC. . (a) Notwithstanding any other provision of law, for a period of one year prior to the closing and for a period of three years following the closing of any military installation in any State, the Secretary of Defense shall, to the maximum extent practicable, in awarding any contract for the purchase of any equipment or service, give preference to any contractor who agrees that, in carrying out such contract, he will utilize the facilities at such installation and offer jobs to former employees who are unemployed as a result of the base closing.

Mr. President, like many other States, Oklahoma has a number of military installations whose operations contribute to the size of the State's work force and to the overall economy of the area. In each instance, the Federal Government has invested large amounts of money establishing, equipping, and staffing these installations. The resulting payrolls have been of major importance to the communities of the area in which they are located.

When new military bases are opened, great stress is placed upon local communities to provide the facilities and services the new influx of population requires. Frequently officials of the Federal Government bring pressure upon local governmental and community leaders to provide lodging, housing, larger schools, entertainment facilities, recreation opportunities, and service industries. These developments are essential to the successful operation of Federal facilities, and local communities which meet such needs provide a genuine service in the national interest.

Because of varying requirements in our Nation's defense needs, it becomes necessary from time to time to make reductions in personnel, or to close down an installation. When such a necessity occurs, the resulting impact on the surrounding area can be calamitous. This is especially true if the installation is in a rural area and one in which there are no major industries to provide employment for a significant number of people who are laid off.

Mr. President, just as local communities and citizens have a responsibility to provide needed services and facilities when new Federal facilities are opened, the Federal Government has a responsibility to take every reasonable step to cushion the economic shock to local communities when the defense needs of the country no longer require use of the base.

In Oklahoma at the present time, we have such a situation at Clinton-Sherman Air Force Base. The Air Force has determined that it no longer has need of this base, and has withdrawn its B–52's along with all military and civilian personnel. The closure of this base has created a vacuum in the economic life of the cities and towns of the area which will be very difficult to fill.

Mr. President, this is a situation that is not in the best interests of this country. In order to provide some means of guarding against future occurrences of this type, I propose an amendment to the military procurement act to require the Secretary of Defense to give preference in the awarding of contracts to contractors who will agree to utilize the facilities at such installations and offer jobs to former employees who are unemployed as a result of a base closure.

Many who have served in the Armed Forces know from firsthand experience the tragic lack of civilian facilities and services to support military base personnel in many instances. One of the reasons for this unfortunate condition is the on-again, off-again nature of military base uses. This amendment is intended to stabilize activity at military bases and encourage development of needed supporting services.

There is another reason for this amendment. The investment by this Government in military bases represents

many, many billions of dollars. At the Clinton-Sherman Airbase alone, the investment by this Government amounts to approximately $57 million. In addition, among the facilities being vacated are 900 Capehart housing units in excellent condition, with a mortgage value of around $12 million, plus a water and sewer system, plus all other necessary facilities for a "new town." The only missing element is jobs, to take the place of the 8,000 military and civilian positions representing an annual payroll of $15.1 million.

This amendment is intended to provide civilian job opportunities so that these homes can be used and so that the present residents will not be forced into our already overcrowded cities. This amendment will help the Federal Government assume its responsibility when military bases are closed in the same way local communities are expected to meet their responsibilities when bases are opened.

With the anticipated decrease in military activity it is not unlikely that a great many communities in all parts of this country will be affected. This amendment can do much to lessen the economic blow to local communities faced with the sudden loss of employment and departure of families from their area. This amendment can help establish "new towns" in areas which need and can support permanent population and can help lessen congestion. This kind of preventive measure, in my opinion, is much preferable to any kind of effort intended to dismantle bases which, with job opportunities, could become viable communities.

Mr. President, I discussed this matter with the distinguished Senator from South Carolina and I believe he has an amendment he would like to suggest.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, the proposed amendment is entirely inconsistent with the long established procurement principles and policies of the Federal Government. It could result in the award of contracts to less competent and less qualified contractors. It could cause dislocation of contractor employees in one area as the price for hiring Federal employees who are out of work. It could cause the payment of higher prices for goods and services and penalize a low bidder solely on the grounds that he could not afford to abandon his own plant and people.

It would be unfair to any contractors who have their own facilities which are adequate to provide the equipment or services. In effect it could place a contractor with less invested in facilities and people in a favored position and defeat the normal process of competitive procurement.

Incompetency, lack of experience, and marginal financial stability all could be set aside under this amendment. A less qualified contractor, who under normal standards would not win the contract, could wind up with it because he was able and willing to use idle facilities at closed Government installations.

There are well established procedures, already in effect which provide for preferential consideration of displaced Defense civil service employees in filling both vacated and new jobs. This is covered by Department of Defense Instruction No. 1404.5 dated April 22, 1970, and entitled "Nation-Wide Centralized Referral System for Displaced Department of Defense Employees."

This policy is on a national basis so that employees who lose their jobs in one area of the country, and who are unable to be placed in civil service jobs in the same locale, also have preferential rights for employment in other areas of the country.

Mr. President, it is inconceivable that this amendment in its present form would be given serious consideration by the Senate. As I have explained, its terms are undefined. Its provisions and meanings are fraught with vagaries. Though I agree completely with its objectives, to help relocate and rehire Federal employees who have lost their jobs, the method for accomplishing this as proposed in the bill is not acceptable. The impact of lower budgets and reduced Defense spending is even greater on private industry than on Government installations. The job protection and reemployment rights available to civil service employees are not available to workers in industry.

I fully sympathize with the objective that the distinguished Senator from Oklahoma has in mind. I wonder whether he would consider modifying his amendment so that the amendment would read as follows:

At the appropriate place in the bill, insert a new section, as follows:

"SEC.—. (a) The Secretary shall also encourage recipients of defense contracts to use military installations being closed and to offer employment to former employees of military installations who are unemployed as a result of the closing of such installations.

"(b) The Secretary of Defense, in the case of any military installation which he has announced will be closed, shall cooperate to the maximum extent practicable, consistent with security requirements, in making the facilities of such installation available for inspection by persons interested in utilizing such facilities after the installation has been closed. The Secretary shall make such facilities available for inspection by such persons as far in advance of the final closing of any military installation as possible."

Mr. President, if the distinguished Senator from Oklahoma can see his way clear to modify his amendment in that respect, I shall be glad to support it.

Mr. BELLMON. Mr. President, before I respond to the distinguished Senator from South Carolina, I would just like to say that I do not accept some of the objections that the Defense Department has raised to the language I have proposed. There is nothing in this language that would, in my opinion, require the Defese Department to award contracts to either incompetent or high cost bidders. It simply authorizes the Secretary of Defense, to the maximum extent possible, to make use of facilities that are being closed and people who are being put out of work because of the closing of the installations. It was not ever the intent of the Senator from Oklahoma that those contracts be awarded to companies that could not perform or that were asking unusually high prices.

In my judgment, relocating the workers is not the complete answer, because it leaves the communities in a totally impoverished state and causes a huge waste of investment of Federal funds in plants that could be turned into useful and enduring enterprises.

Also, the policy followed by the Defense Department simply means relocation of thousands and thousands of workers from areas where there is plenty of room, clean air, and clean water, into our already crowded cities, where there are already problems of congestion, pollution, and crime.

I believe the original language is in many ways superior, but I believe the language suggested by the Senator from South Carolina will go a long way toward accomplishing the objective I had in mind when the amendment was offered. I believe that if the Defense Department will make use of the language which has been proposed it will go a long way toward accomplishing the objective of using the facilities and providing jobs for people who became unemployed when the facilities were closed.

Therefore, I accept the modification.

Mr. THURMOND. Mr. President, I appreciate the Senator's comments, and I am pleased that he accepts the amendment.

The PRESIDING OFFICER. Will the Senator send to the desk the modification of the amendment of the Senator from Oklahoma in order that it may be stated to the Senate?

The amendment, as modified, was read as follows:

At the appropriate place in the bill, insert a new section, as follows:

"SEC. —. (a) The Secretary shall also encourage recipients of defense contracts to use military installations being closed and to offer employment to former employees of military installations who are unemployed as a result of the closing of such installations.

"(b) The Secretary of Defense, in the case of any military installation which he has announced will be closed, shall cooperate to the maximum extent practicable, consistent with security requirements, in making the facilities of such installation available for inspection by persons interested in utilizing such facilities after the installation has been closed. The Secretary shall make such facilities available for inspection by such persons as far in advance of the final closing of any military installation as possible."

Mr. BELLMON. Mr. President, I yield back my time.

Mr. THURMOND. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Oklahoma, as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from New Hampshire.

Mr. McINTYRE. I have an amend-

ment at the desk. I ask that the amendment may be read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

On page 14, immediately above line 19, insert the following:

"SEC. 207. It is the sense of the Congress that—

"(1) an increase in Government support of basic scientific research is necessary to preserve and strengthen the sound technological base essential both to protection of the national security and the solution of unmet domestic needs;

"(2) a larger share of such support should be provided hereafter through the National Science Foundation;

"(3) to the extent that funds are not otherwise available to provide for such increased support during the fiscal year beginning July 1, 1971, they should be provided from funds which have been or are programmed for other Federal programs for such fiscal year; and

"(4) in implementation of and in a manner consistent with these precepts the Director of the Office of Management and Budget should, in the preparation of the Federal budget for the fiscal year beginning July 1, 1971, provide for not less than a 20 per centum increase in the amount of funds to be made available to the National Science Foundation over the amount made available to such Foundation for the fiscal year ending June 30, 1971."

Mr. McINTYRE. Mr. President, I ask unanimous consent that section 204 of the committee amendment be considered as part of my amendment so that it and the new section 207 which I now offer as an amendment may be considered en bloc.

The PRESIDING OFFICER (Mr. SPONG). Is there objection?

Mr. DOMINICK. Mr. President, reserving the right to object, what is the Senator doing?

Mr. McINTYRE. I have asked unanimous consent that section 204 of the committee amendment be considered as a part of my amendment so that it and the new section 207 proposed in my amendment may be considered en bloc.

The PRESIDING OFFICER. And to be considered as an amendment to the substitute.

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMINICK. Section 204 has already been agreed to by this body.

The PRESIDING OFFICER. The Senator from Colorado is in error.

Mr. DOMINICK. I thought the committee amendments had been agreed to.

The PRESIDING OFFICER. The committee amendment is an amendment in the nature of a substitute for the whole bill.

Is there objection to the request of the Senator from New Hampshire? The Chair hears none, and it is so ordered.

The amendments being considered en bloc are as follows:

On page 11, after line 11 insert the following:

"SEC. 204. None of the funds authorized to be appropriated by this Act may be used to carry out any research project or study unless such project or study has a direct and apparent relationship to a specific military function or operation."

On page 14, immediately above line 19, insert the following:

"SEC. 207. It is the sense of the Congress that—

"(1) an increase in Government support of basic scientific research is necessary to preserve and strengthen the sound technological base essential both to protection of the national security and the solution of unmet domestic needs;

"(2) a larger share of such support should be provided hereafter through the National Science Foundation;

"(3) to the extent that funds are not otherwise available to provide for such increased support during the fiscal year beginning July 1, 1971, they should be provided from funds which have been or are programmed for other Federal programs for such fiscal year; and

"(4) in implementation of and in a manner consistent with these precepts the Director of the Office of Management and Budget should, in the preparation of the Federal budget for the fiscal year beginning July 1, 1971, provide for not less than a 20 per centum increase in the amount of funds to be made available to the National Science Foundation over the amount made available to such Foundation for the fiscal year ending June 30, 1971."

Mr. McINTYRE. Mr. President, the Research and Development Subcommittee has wrestled long and hard this year with the problems posed by section 203 of last year's bill. That section, you will remember, provided that no Department of Defense research funds were to be used during fiscal 1970 for any research projects or studies which lacked "a direct and apparent relationship to a specific military function or operation."

After long deliberation, the Research and Development Subcommittee recommended the reenactment of section 203. That recommendation, as you know, was accepted by the full committee, and what was section 203 of last year's bill is now section 204 of the bill pending before the Senate.

The subcommittee recommended the reenactment of section 203 because it could not rationally quarrel with the section's basic thrust. Ever since the first days of the cold war, Department of Defense requests for funds have been warmly received on the Hill. As a consequence, and as the breadth of its own activities has increased markedly, the Department has often undertaken research of equal or greater relevancy to other mission agencies.

I think all of us could cite a number of instances in which the Defense Department research program exceeded its proper bounds. One prime example is Project Themis, a program to establish centers of excellence at universities previously lacking in first-rate research facilities and personnel. It would be hard to argue against the long term benefits inherent in such a program. But it would be hard to dispute either that such a university-development program bears far greater relevance to the mission of the National Science Foundation than to that of our Defense Establishment.

There is a good example, too, in the fiscal 1971 R.D.T. & E. budget. The surface effects ships program is a joint Navy-Commerce Department venture to develop hydrofoil technology. During the program's early years, the funds required were small, and both participants contributed equal amounts. For fiscal 1971, however, $20 million was required and the Department of Defense requested funds to cover almost the entire amount.

Referring to its recommended reenactment of section 203, the committee coupled a $10 million reduction in the surface effects ships program with the following language in the committee report:

The Bureau of the Budget should recognize that . . . Department of Defense Support of non-defense programs is not viewed with favor. . . . The budget for fiscal year 1972 should be examined carefully . . . to insure that such instances are not repeated.

Surely the time has come for examples of this kind to end. How can we possibly hope to reorder our priorities if the research programs of domestic mission agencies—the source of the new technologies required to solve their problems—are not able to stand on their own two feet?

The mere reenactment of section 203, however, might well be productive of more problems than it solved. Ever since its passage, the section has been subjected to conflicting interpretations. Moreover, its reenactment by itself will not make available additional research funds for domestic-oriented programs.

I would like to come to grips with these problems today. I would like to make clear, first, the committee's understanding of what the section requires. The amendment will insure the allocation of funds to domestic research goals.

Let us be clear, first, what section 203 itself requires. A good deal of misunderstanding has existed on this matter in the past and has contributed, I feel, to the controversy which the section has sparked.

It has been widely assumed, for example, that only research directed to the solution of short-term problems is permissible under section 203, that basic research of a long-range, exploratory nature has been ruled out of bounds.

The committee rejects this interpretation of the section's relevancy test in recommending its reenactment. It is a fundamental truth that any agency heavily dependent on science and technology for the performance of its mission must engage in basic research if it is to perform that mission well. Consider the alternative. If the Defense Department were to cease its support of research on the frontiers of science and technology we might well suffer as a nation the fate of the buggy-whip makers and wagon craftsmen who kept trying to improve their old specialties long after the internal combustion engine had finally arrived on the scene.

It has also been argued that section 203 bars Defense Department participation in any research projects which might be relevant to domestic agencies. This, too, is not quite right. What the section actually requires is a project's relevance to the defense mission. There are clearly projects with this relevance and domestic relevance as well. The application of military radar and computer technology to civilian air traffic control

functions, experimental work on housing on military bases, and selected manpower training programs are only a few examples.

The committee strongly believes that an effort should be made, not to bar Defense Department participation in all programs of dual relevance, but to maximize the domestic fallout of the Department's efforts in this area. This is essential, in my view, if our priorities are to be reordered under current budgetary pressures and if the many skills of our Defense Establishment are to be enlisted in the cause.

The bill reported by the committee makes a small beginning on this large and long-range task. At the suggestion of the distinguished Senator from Massachusetts (Mr. BROOKE), it creates an Interagency Advisory Council on Domestic Applications of Defense Research. This council, composed of members from eight different agencies, will attempt to identify research projects of mutual interest to DOD and the other member agencies and to coordinate work upon them. It is the committee's hope that as nondefense research programs expand in coming years, sponsorship and supervision of work begun under the council's auspices can be shifted to other agencies.

I would like to point out, Mr. President, that the strongest proponents of section 203—such as our distinguished majority leader, for example—have never suggested that it was designed to rule out Defense Department participation in basic academic research or in projects of dual relevance. But misunderstandings have arisen on these points, and I am sure that the Senator from Montana would agree with me that a clarification is in order at the present time.

The Defense Department has also expressed concern about the subjective nature of the relevancy test prescribed by section 203 and the headaches the test has given to defense research managers charged with its application.

Unfortunately, there is no simple solution to this problem. There is no precise, self-applying test which could possibly be devised. Yet some test obviously must be prescribed if the Congress is to give voice to its strong belief that there should be an end to the Department's support of nondefense research and programs.

The idea of relevance is not new. I should think that the Defense Department would be well acquainted with the following statements that support the principle of relevance.

First:

> The foundation shall be increasingly responsible for providing support by the federal government for general-purpose research through contracts and grants. The conduct and support by other federal agencies of basic research in areas which are closely related to their missions is recognizable as important and desirable, especially in response to current national needs, and shall continue.

Second:

> Mission oriented governmental agencies do and should support much long-range basic research, information from which is calculated to have a direct bearing on some aspect of their mission . . . All mission oriented agencies need to be in close contact with the best and most advanced research which can apply to their problems.

The first is from President Eisenhower's Executive Order No. 10521 of March 15, 1954, on scientific research. This order still stands. It was not rescinded by President Kennedy, by President Johnson, or by President Nixon. The second comes from the recent advice to the President by his Task Force on Science Policy.

It is the committee's belief that the overwhelming majority of research projects now in the Defense Department's budget do meet the relevancy test in section 203. The project review necessitated by the section, plus the budget cuts of recent years, have gone a long way toward setting its house in order.

No formal Defense Department review of existing research projects—to determine their compliance with section 203—is contemplated by the committee in conjunction with the section's reenactment. But its continued presence will serve two goals.

First, it will serve as a directive to defense research managers, in considering proposed projects for Department support, to heed the principle of relevancy which section 203 lays down. It is the committee's hope that projects of all but the highest relevancy will be turned down by the Department and directed to alternative sponsors, consistent with the availability of alternative research funds.

Second, the continued presence of section 203 will serve as a warning to defense research managers that the Hill's green light for unrelated defense research has turned red, and that clearly irrelevant proposals will be afforded a hostile reception if included by these managers in the Department's submitted budgets. Naturally, the judgments of these managers, as the men most aware of a given project's ramifications, will be carefully considered if and when the relevancy of future projects becomes an issue.

While some of the controversy which section 203 has sparked has been due to misinterpretations and to the subjective nature of its relevancy test, even more has resulted from there being ascribed to the section by its supporters a far broader function than the one I have just outlined—one broader, in fact, than the words of the section permit.

Judging from remarks on the floor during the past year, it is clear that section 203 was intended by its supporters not merely to weed out nondefense research projects in the Department's budget, but to correct what they regarded as a serious structural imbalance in Government support of basic research in the United States. It was their hope that the new section would produce large-scale reductions in Department of Defense research programs and that these reductions would be offset by corresponding increases in the research budgets of the National Science Foundation and domestic mission agencies.

Such a restructuring was deemed especially important, by the amendment's Senate supporters, within the academic community, where Department of Defense research support has until very recently exceeded that of the National Science Foundation. As our majority leader, the distinguished Senator from Montana (Mr. MANSFIELD) explained on the floor last year:

> A reasonable goal to be obtained through the working of this new provision could be to reduce DOD funding of academic research to no more than 25% of that funded by the National Science Foundation by the end of fiscal 1971.

Things just have not worked out that way.

In the first place, the Defense Department's review of its entire research program resulted in the identification of only $8.2 million worth of projects on which work had to stop because of section 203. This was an amount, needless to say, far less than supporters of section 203 had intended and far less than that required for a structural reallocation. In fact, the $8.2 million cut occasioned by section 203 was itself subsumed in the much larger $64 million reduction imposed directly by the Congress on the Department's research budget.

At the same time, reductions were also imposed last year on the research budgets of most domestic mission agencies. Faced with budgetary restrictions, these agencies responded in time-honored fashion, cutting back on research in deference to ongoing programs.

The academic community was saddled with most of the final burden. Agencies could reduce their in-house research efforts only minimally if efficient utilization of their facilities was to be maintained. And since too few dollars were available at the National Science Foundation to pick up the resulting "dropouts," many academic investigators have found themselves cut off from the research support necessary if their investigations are to go on.

In retrospect, these results are not surprising.

To begin with, section 203 was an improper vehicle for use in effectuating a major reallocation of Government research support. Legislation so imprecise, if given such a function, will inevitably be subjected to conflicting interpretations, with the result a war of words but a stalemate in the sphere of action. In fact, the reallocation function attributed to section 203 only served to heighten the difficulties inherent in application of its relevancy test.

Moreover, the section's supporters have seemed at times little more clear than the section itself as regards the nature and mechanism of the reallocation they hoped it would achieve. How many Department of Defense research dollars were to fall out en route to the new alinement? How were these dollars to be offset with increases elsewhere in a period of dollar shortages when most governmental agencies—and most congressional committees, too—saw research as the place to cut? And how could the institutional base needed to support the new structure possibly be built in 2 short fiscal

years? Not only was the legislative vehicle deficient. With questions like these unanswered—some indeed unanswerable—its route was ill defined.

Similar criticisms cannot be leveled, however, at the basic policy goal of reallocating Government support of research in the United States. For too long a time, too few of our total research as well as operating dollars have been channeled into domestic-oriented areas. How can we hope to end pollution and to meet the whole range of unmet domestic needs unless we develop the kinds of technology requisite to meeting them?

And it is especially important in my view that new patterns of research support be developed for our academic communities all across the country. I think that an excellent goal, not for the coming year but for the relatively short-term future, would be the goal sighted by the distinguished Senator from Montana (Mr. MANSFIELD) in discussing section 203 last year—a level of funding for the National Science Foundation four times as large as the basic research budget of the Defense Department. There are several considerations in favor of such a goal.

One is nothing more than the preservation of a viable relationship between the academic community and the Defense Department itself. At present, many university administrators are under extreme pressure from activist student elements to end all "war-related research" on the campuses. Such pressure faces university administrators—and the Defense Department—with a rather unpleasant choice: They must end their long and mutually beneficial association or otherwise run the risk of growing strife on campus.

A larger National Science Foundation role on campus would help to diffuse the tension. In the short run, it would enable the most sorely pressed university administrators to temporarily sever their relationship with the Defense Department with minimal ill effects for both. These universities and their investigators could turn to the Foundation as an alternate source of funds, while the Department would be insured that the needed work somehow got done. Foundation officials have made it quite clear to me that a large number of any projects dropped by the Defense Department would win Foundation support in open competition with all other projects proposed.

Over the longer term, a larger Foundation role might help to dissipate the present unrest itself. Most students, if pressed, would openly acknowledge the importance of a continuing link between our universities and the Defense Department. On reflection, they would not dispute that traditional research support links are an eminently practical means for bringing the advice and criticism of experts in the academic community to bear on the Defense Establishment.

What stops them from espousing such a view just now is their deep alienation from present national policy—the war in Vietnam, the gigantic military budget, and our unmet needs at home. A larger role for the National Science Foundation would itself be an indication that our policies were changing, that our system was being responsive.

A larger Foundation role would have several other implications.

It would enable the Foundation to bring to academic research some of the central policy coordination so sorely lacking to date. The horizons of individual mission agencies are quite properly limited by their own functions and operations. They have neither the resources nor the responsibility to assess our research needs from a truly national perspective. The Foundation, on the other hand, would be able with increased resources to step up its development of a national science policy, channeling resources and creating new pools of talent in areas neglected for the most part till now.

Moreover, while increased research efforts by domestic mission agencies are also needed, these agencies are not always the best of research sponsors, even within their areas of interest. They quite properly define individual projects so as to maximize the potential for short-term practical solutions, often to the detriment of breakthroughs around the corner. And there is a related consideration also. It is not unheard of for an agency to favor research which extends rather than undermines its ongoing programs, and therefore not to fund a research project calling these programs into question. So even as regards short-term, pragmatic solutions to problems, the Foundation, by encouraging truly free inquiries, would have a vital contribution to make.

A larger Foundation role would be helpful also in times of budget stringency, such as the present. The time-honored tendency, in such periods, is for mission agencies to cut back on their research dollars. The Foundation, as an institution devoted to basic research support, would not be subject to such pressures internally. And it would be better able to resist such cuts on the Hill, by arguing the necessity of support for its program because other research efforts were already being cut back. A larger Foundation role would thus help to insure the academic community of steady, long-term research support.

Indeed, it is the absence on such steady support at present which makes a rather prompt increase in the Foundation's budget imperative. The experience of the past year is instructive in this regard.

Due to budgetary stringency, virtually all mission agencies have been forced to cut back sharply on their own research programs. Some of the reductions have been absorbed in-house, to the extent consistent with efficient utilization of existing facilities. But there have been quite substantial cuts in the funding of outside performers.

As a result, many investigators have found themselves cut off from former funds. Such cuts have in fact been so severe that over $60 million worth of terminated research projects have been or are likely soon to be presented to the National Science Foundation for support. Many of these projects merit support, but the funds are just not available. The Bureau of the Budget was aware of this problem in the preparation of the Foundation's fiscal 1971 budget, but it allocated only $10 million for use in meeting it.

Already recent science graduates are finding it impossible to find employment in either research or education. If the situation continues, the damage could be severe. For while established scientists will win out in any scramble for limited funds, it is on the newcomers in major fields that our long-range future depends.

It is for reasons such as these, Mr. President, that I share the commitment of the distinguished Senator from Montana to an increased role for the National Science Foundation.

The amendment I am introducing today will provide for such an increase. It will explicitly direct the executive branch to do what the Senator from Montana hoped it would do in response to section 203.

My amendment calls upon the Office of Management and Budget, in its preparation of the fiscal 1972 Government budget, to provide for a 20-percent increase over the congressionally approved fiscal 1971 level in the budget of the National Science Foundation.

The Foundation's fiscal 1971 budget is $513 million. My amendment would thus provide for an increase of approximately $100 million.

This increase would constitute an important first step toward the goal of a $1 billion National Science Foundation budget recently endorsed by the President's Task Force on Science Policy. It would greatly alleviate the present "dropout" problem and also permit initiation of important new Foundation programs.

I do not believe that this increased funding for the National Science Foundation should be sought, however, at the expense of the remaining research funds of the Department of Defense or other mission agencies. I believe that the restructuring of research support envisioned by my amendment must be achieved through the channeling of increased funds to the National Science Foundation, not through the shuffling of existing research dollars. I say this for several reasons.

To begin with, such shuffling could be disruptive of existing research projects and would only compound the present "dropout" problem.

More significant is the fundamental importance of research to the solution of our present problems, both defense related and domestic. Many of our problems—in the field of pollution, for example—can be solved by technological breakthroughs, but these breakthroughs will not occur unless sufficient research funds are continually available.

In illustration of this point, the Illinois Institute of Technology's Research Institute not long ago did a series of case studies on products which today are having a major socioeconomic impact on the Nation and the world. The institute found that the last 50 percent of the significant research events that led to development

of magnetic ferrites, now widely used in computer memories, telecommunications, and small electric motors, occurred in a period from 1946–59; those that produced the video tape recorder produced in 1956 started in 1927; the last 50 percent of events leading to "The Pill" in 1960 began in 1936; and those that ended in the electron microscope in 1940 started in 1910.

Indeed it might be dangerous not to provide the steady large-scale research funding needed to insure similar breakthroughs in the future. Unfortunate though it may be, we are in competition today with an economic system which emphasizes the benefits of long-range planning.

I am in fact troubled by the trend which has developed over the past decade as regards Soviet and American research programs. Soviet research and development in all areas has been growing at a rate of about 10 percent a year, while our own research expenditures across the board have essentially leveled off.

I need not remind this body of the fact that three of the most significant scientific and technological developments of the century—nuclear fission, radar, and jet propulsion—were all based upon fundamental work done mainly from abroad. Our security might be jeopardized should future breakthroughs of similar magnitude again occur abroad.

Yet Soviet-American research trends are especially disturbing in the areas of military, atomic energy, and space work. During the 1960's, Soviet military research and development expenditures increased by about 60 percent, while our own expenditures increased by roughly 30 percent. And estimates for 1970 show the Soviets are now leading by more than 20 percent in absolute dollar terms.

Under these circumstances, and in light of the large-scale reductions which the Armed Services Committee has made in the Defense Department's research program during the past 2 years, further broad cuts in this area are not warranted. We would be ill advised not to couple our continuing cutbacks in defense procurement and hardware reduction with the strong research and development program needed to advance our technological base.

I wonder how many of my colleagues perceive how significant a cutback in Department of Defense funding of academic research has already occurred in the past 2 years. Actually, there has been a decline during this period from a level of $247.3 million in fiscal 1969 to $215.6 million in fiscal 1971. Measured in constant dollars—accounting for the impact of inflation and of increasingly costly technology per se—that represents a decrease in research effort of almost 25 percent in a very short time.

But while my amendment does not call for a reduction in other research programs to offset the increase provided by it for the National Science Foundation, it does recognize that some offset may be needed. It calls upon the Office of Management and Budget, should the budgetary requirement exist, to make some corresponding reduction in other projected programs.

This requirement is included, Mr. President, not only to demonstrate a sense of fiscal responsibility. Its purpose is to make clear that the increase called for—a very small amount in relation to our total budget—is not to be rejected on grounds of inadequate funds, that research should not be the target of any adjustments which may be required.

Mr. President, the Research and Development Subcommittee has wrestled long and hard this year with the problems posed by section 203.

The distinguished Senator from Montana deserves our gratitude for introducing that section and for bringing the issues it has raised to our attention. I believe that the section has had a constructive influence during the past year and that it will continue to have such an influence if interpreted along the lines I have outlined.

I also believe, however, that the broader restructuring of Government research support which the Senator envisaged as a result of section 203 can best be achieved through the amendment I am offering today and executive branch action pursuant to that amendment. I sincerely hope that he will join with me today in support of my amendment.

Mr. President, this concludes my remarks on my amendment. I think it might be useful, however, to place in the RECORD at this point a detailed analysis of the Defense Department's 6.1 or basic research budget. I ask unanimous consent to do so.

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

6.1 RESEARCH

[In millions of dollars]

By Agency	Fiscal year— 1969	1970	Fiscal year 1971 Requested	Recommended by SASC
Army	88.9	76.4	80.1	76.3
Navy	130.3	117.9	118.9	116.6
Air Force	95.9	85.0	83.3	83.3
ARPA	43.6	43.2	42.7	36.7
DASA	45.5	46.0	44.6	44.6
Total	404.2	368.5	369.6	357.5
By scientific area:				
General physics	39.7	33.6	31.8	
Nuclear physics	34.7	33.4	28.5	
Chemistry	14.7	13.2	13.5	
Mathematical sciences	43.7	42.6	35.9	
Electronics	31.6	27.7	29.5	
Materials research	42.8	38.4	49.2	
Mechanics	31.7	30.3	30.9	
Energy conversion	16.7	14.1	15.5	
Terrestrial sciences	13.7	12.6	14.0	
Atmospheric sciences	31.1	31.1	32.6	
Biological and medical	44.2	38.3	39.2	
Behavioral and social	16.3	12.9	13.1	[1] 12.9
Oceanography	32.1	30.0	28.7	
stronomy and astrophysics	11.1	10.3	7.2	
Total	404.2	368.5	369.6	[1] 357.5

[1] The $12.1 million cut recommended by the committee is to be made at the discretion of DOD, except in the area of social and behavioral sciences, where $200,000 of the cut has been mandated.

R.D.T. & E. AUTHORIZATION BY PERFORMER

[In millions of dollars]

	Fiscal years— 1969	1970	Fiscal year 1971 Requested	Recommended by SASC
1. In-House:				
Government owned, contractor operated	329.5	341.3	337.2	
Government owned, government operated 6.1 research	169.1	154.5	153.2	
Other	1,861.3	1,873.3	1,826.5	
2. Industry:				
6.1 Industrial Research Laboratories	44.3	44.5	44.4	
Other	4,481.3	4,130.4	4,151.3	
3. Universities and colleges:				
6.1 research	160.9	143.7	144.1	
Other	80.4	79.4	71.5	
4. Federal Contract Research Centers:				
6.1 research	5.2	5.8	7.4	
Other	225.9	210.7	213.1	
5. Other nonprofit research institutions:				
6.1 research	12.2	12.5	11.1	
Other	369.9	359.0	325.4	
6. Foreign performers:				
6.1 research	6.0	2.4	2.0	
6.2 exploratory development	3.2	1.3	1.0	
7. Hospitals, State institutions, and other miscellaneous: 6.1 research	6.5	5.1	7.4	
8. Emergency fund		75.0	50.0	50.0
9. Prior year authorization			56.0	
Total R.D.T. & E. program	7,755.7	7,438.9	7,401.6	7,016.5
6.1 research	(404.2)	(368.5)	(369.6)	(357.5)
Other	(7,351.5)	(7,070.4)	(7,032.0)	(6,659.0)

SOURCE OF FINANCING

1. *In-House*—This pays for the cost of operating and maintaining all of the Department of Defense activities engaged in research, development, test and evaluation. The 6.1 Research funds relate specifically to laboratories which are engaged in conducting in-house research and whose people monitor research contracts and grants. This category does not include the funds for research contracts and grants, and these are distributed among the other categories as indicated. This category also includes funds from 6.2, 6.3, 6.4 and 6.5, as well as from the operational development programs.

An example of a contractor-operated installation is the Eastern Test Range in Florida which is operated and maintained by Pan American Airways with Radio Corporation of America as the major subcontractor.

2. *Industry*—This is the largest category and includes contractual effort from all areas and programs under the RDT&E appropriation. The major dollars are for 6.2, 6.3, 6.4, 6.5, and operational developments. The 6.1 effort is primarily for contracts with indus-

trial research laboratories, examples of which are listed separately.

3. *Universities and Colleges*—The preponderance of funds which go to these activities is provided by contract and grant from 6.1 Research funds. The remaining funds largely are provided from 6.2 and some from 6.3.

4. *Federal Contract Research Centers*—Most of the funds are provided from 6.2, 6.3, 6.4, 6.5 and operational developments. A small portion is provided from 6.1 Research.

5. *Other Non-Profit Research Institutions*—A small fraction of these funds comes from 6.1 Research. Most of the money comes from 6.2, 6.3, 6.4, 6.5 and operational developments. Typical institutions are listed separately.

6. *Foreign Performers*—As indicated in the table, 6.1 Research and 6.2 Exploratory Development are the two program sources of funds.

7. *Hospitals, State Institutions, and Others*—This is supported entirely from 6.1 Research. Typical organizations are listed separately.

6.1 Research.
6.2 Exploratory Development.
6.3 Advanced Development.
6.4 Engineering Development.
6.5 Management and Support.

Mr. KENNEDY. Mr. President, I support the amendment of the Senator from New Hampshire.

There is today a crisis in support for basic research. In fiscal 1970, mission-oriented agencies such as DOD, NASA, AEC, and HEW reduced their expenditures for academic research by at least $60 million. The National Science Foundation was given only $10 million to take up the slack. As a result, university science programs are in disarray. Brilliant graduate students do not know if they will ever be able to make use of their excellent education. Undergraduates are turning away from science to other fields of endeavor.

Basic research is crucial to our Nation's future. Our economic leadership depends upon it, as does our ability to overcome the adverse side effects of economic growth. We look to basic research also to improve the health of our citizens—to fight heart disease, cancer, and mental illness.

Scientific research needs to be funded in an orderly manner. It cannot be turned on and off like a faucet. Expensive equipment cannot be purchased one year and left idle the next. First-class research teams cannot be organized and disbanded at will.

When basic research is left in the hands of mission-oriented agencies, constant fluctuations in funding levels are almost inevitable. In times of budgetary belt tightening, the mission agencies will always sacrifice their long-term research projects to more immediate concerns. What is needed therefore is an adequately funded agency whose primary concern is basic research.

The National Science Foundation was supposed to be that agency. It was supposed to insure that academic science was supported in an orderly fashion. But the National Science Foundation has never been given enough funds to perform that task. For many years it lived in the shadow of the mission agencies, particularly DOD.

Senator McINTYRE's amendment is a first step toward enabling the National Science Foundation to play its proper role in the support for scientific research. I hope that the Senate will accept the amendment and that the administration will heed our voices and begin to formulate an intelligent science policy.

I would like to add that I come from the State bordering on the distinguished Senator's own State of New Hampshire and one of the things that impressed me traveling around my State is that there are so many defense-oriented industries which are interested in trying to utilize their personnel and their technical know-how to address many of the critical domestic and social needs of this country; but they find that there is no institution that could help them to develop alternative products which might be consumer oriented or meet social needs.

I believe that there is a sound movement taking place within Congress which recognizes the responsibility of Congress to try to assist private industry, universities, and technical and scientific personnel to utilize their enormous skills to meet our domestic needs. The Conversion Research and Education Act, which I have introduced, is part of that movement.

The Senator from New Hampshire, as I understand the thrust of his remarks, is trying to jar this body into confronting this problem, and I want to commend him for raising this issue before the Senate, and to thank him. He has chaired the hearings on research of the Armed Services Committee and has a broad understanding of the needs in that area.

Mr. McINTYRE. Mr. President, I want to thank the distinguished Senator from Massachusetts for his kind statement concerning the work of the subcommittee. He is exactly right. We find solutions to problems of this kind on the R. & D. Subcommittee extremely difficult. We are trying to jar the Senate into thinking about reordering its priorities in the field of basic research. Hopefully, we can begin to get some assistance from the executive branch.

Let me make it clear that the subcommittee's thinking at the present time is that after reducing Defense Department basic research $75 million to $80 million in the past 2 years, that program itself should not go any lower. But the National Science Foundation's own efforts must be increased, for the long series of reasons I cited. Thus, I appreciate very much the support of the Senator from Massachusetts. He has a wide knowledge indeed of this subject.

Mr. KENNEDY. As I said, the National Science Foundation can play an extremely important role here. What we must try to do, particularly as we cut back defense expenditures, and as this results in loss of employment among many scientific and engineering personnel, is to develop within the Commerce Department, the Small Business Administration, and other agencies of the Government, as well as the National Science Foundation, the ability to redirect the energies of the scientific community so that they can come to grips with our domestic needs.

We in this body will have to try to meet the present challenge and find ways to help industry and the scientific and engineering professions to find it worth their while to devote their talents to meeting the social needs which exist in this country.

The Senator from New Hampshire has performed an extremely useful service in helping to crystallize some of the thinking on this matter.

Mr. McINTYRE. I thank the Senator from Massachusetts and urge his continued interest in what we consider to be a difficult problem. His help will certainly be needed if the goals of my amendment today are to be realized.

Mr. DOMINICK. Mr. President, I was most interested in listening to the colloquy between the Senator from Massachusetts and the Senator from New Hampshire. All too often we in the Senate and the public at large forget the benefits which have accrued to society as a whole by virtue of some of the military defense spending which has gone on in the past.

For example, we had not only the research previously funded before the amendment of the Senator from Arkansas (Mr. FULBRIGHT) was agreed to, that puts us in a bind, to which the Senator from New Hampshire is now addressing himself, but we have the fallout from rapid education developments, language schools, new techniques in medicine and surgery, and a great many other progressive steps of this kind which, generally speaking, have been totally overlooked in the field of public awareness, and often—much too often, it seems to me—in the debates in the Senate.

Mr. President, I have looked at the amendment with some care because of the fact that it operates on an authorizing level for fiscal 1972. Both the Senator from New Hampshire and I serve on the Armed Services Committee. I also serve on the Committee on Labor and Public Welfare. The responsibility for determining the authorizing level for the National Science Foundation comes within the jurisdiction of the Committee on Labor and Public Welfare.

I spoke to the chairman of the committee, the Senator from Texas (Mr. YARBOROUGH), and we read this over again. As I said, the authorizing limits for the National Science Foundation do come within the jurisdiction of the Committee on Labor and Public Welfare, and obviously we have not had any hearings or any evidence as to what it would be, and so forth, for fiscal 1972, because we are simply not on that level.

I notice that the amendment is written as a sense of Congress amendment. In other words, what the Senator is saying here, as I understand it, is that it is the feeling that if this could be done within the budgetary process, we should work towards that end. Is that correct?

Mr. McINTYRE. That is correct. The amendment states it to be the sense of the Congress that action by the Office of Management and Budget is required soon—in preparing next year's budget—if we are to meet this urgent problem. The Senator realizes that what we are

trying to do is to focus attention on the problem, so that the Office of Management and Budget can act and so that domestic mission will be aware of the fact that they too, should be picking up the cudgels on behalf of their own research and development programs. That is the thrust of the amendment.

Mr. DOMINICK. I am delighted to have the Senator from New Hampshire verify my understanding, and also the understanding of the Senator from Texas (Mr. YARBOROUGH). This eliminates, obviously, any jurisdictional problem we might have had, and is also trying to put back into focus the fact that the amendment of the Senator from Arkansas (Mr. FULBRIGHT), which the Senate has agreed to and is a provision of the bill, has created a substantial cutback in the scientific community through the universities and the ability to proceed with scientific research.

I think it is extremely important. I certainly hope that we can get around the results of that by the initiative taken by the Senator from New Hampshire.

Mr. McINTYRE. Mr. President, I thank my good friend, the Senator from Colorado, who is a member with me of the Armed Services Committee, for his attention to this matter. As the Senator has already pointed out, it is his committee that has jurisdiction of the National Science Foundation. His committee's help could be extremely important as we try to change the whole thrust of Government research support around.

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

Mr. THURMOND. Mr. President, I yield 1 minute to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I support the McIntyre amendment, section 207, since it specifies the direction in which I believe Federal sponsorship of science should proceed. It elaborates and complements the expressed intention of section 203 of the present law. It specifies the congressional intent to channel more resources through the National Science Foundation, while insisting that the Department of Defense maintain a program of basic research. I support fully this policy.

I believe the enactment last year by the Congress of section 203 has focused much needed attention on the whole issue of this Nation's science policy and the methods through which the Federal Government makes its contribution to the research community. I would hope that the Senate will express overwhelmingly its support for the basic thrust of 203 and back fully the Armed Services Committee in its recommendation of its reenactment.

I was invited by Congressman DADDARIO to testify before his House Subcommittee on Science, Research, and Development with respect to the use of public resources for basic science and the rechanneling of these resources through civilian agencies. I ask unanimous consent that my statement before his subcommittee on August 11 be printed at this point in the RECORD. It fortifies the statement made today by the distinguished Senator from New Hampshire (Mr. McINTYRE), who has done such outstanding work in this field as the chairman of the pertinent subcommittee of the Senate Armed Services Committee. I congratulate him.

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

RECHANNELING THE PUBLIC RESOURCES FOR BASIC SCIENCE THROUGH THE CIVILIAN AGENCIES: A NEW GOAL FOR NATIONAL SCIENCE POLICY

(Statement of Senator Mike Mansfield)

I have been asked to comment on the government's role regarding the support of research. I appreciate this invitation by the Chairman of the Subcommittee on Science, Research and Development. Specifically, I suppose the question really is whether adequate government support of science can be carried on if there is a permanent shift away from the role of the military in the conduct of research. What must be considered is the relationship of the Department of Defense and other mission agencies to the matter of research; what part research plays in their overall functions and as a related matter, whether strong ties should be continued between the Pentagon and our universities. The answer to these questions by and large will determine this nation's entire science policy for the years ahead.

At the outset I should say that the quality of life on earth tomorrow will be determined in large part by the measure of the scientific research undertaken today. There is thus a significant public responsibility to sponsor research in the various scientific disciplines and to keep the way clear to follow up on new discoveries. Determining the emphasis, however, is a most delicate responsibility. To a great extent the emphasis is determined by the size of the resource devoted to the various disciplines.

Since the end of World War II, the Government's contribution to research, development and the supporting facilities has reached nearly $200 billion. Where and by whom that money was spent has determined not only the science policy of this nation but the entire emphasis in science education and training. During this time well over half of the government's contribution to science has been channeled through the Department of Defense. It must be clearly understood that most of this money purchased research of the highest quality. However, not nearly so clear is the rationale that dictated that the Department of Defense should be the principal sponsoring agency for much of this vital research.

For the past 25 years the Pentagon has sponsored research in almost every scientific discipline imaginable. From the most esoteric examinations of ornithology to the study of broad social movements in foreign countries, the Pentagon has run the gamut in its research endeavors. By necessity, therefore, the Pentagon assumed a significant role in determining the nation's science policy. The desirability of such a large role for this mission agency is the basic issue confronting us.

It is not difficult to understand how we got where we are today. The phenomenon of channeling so much of our research money through the Defense Department developed over the years not only from normal bureaucratic urges to grow but because the science community and the Congress acquiesced in that growth. So the question is not how we got here. It is why. To put it simply: Why should the Defense Department be the principal government agency through which is funded the federal research that has no apparent relationship to the security needs of this nation?

To reply by saying that the research community has found that funds simply were more readily available at the Defense Department rather than at other civilian agencies states a fact. But it is not an answer. Nor is it sufficient to say that Pentagon requests for funds receive less Congressional scrutiny than those requested by non-military agencies. Too often in the past prevailing attitude has been expressed by the question: Are we giving you enough? Perhaps it should have been: Why do you need so much? In part the historical answer lies in the fact that the cloak of national security lined with the international threat of communism simply prevented a close scrutiny of Defense requests including requests for research and development. In part, the answer is that Defense spending requests became so large that even billions for research and development seemed dwarfed. As a result the scientific community came to rely upon the immunity of Defense funding from close scrutiny and occasional budgeting squeezes. For years Defense funding provided a very stable source of research money. It was the easiest path for research community to follow.

It wasn't long before many of the most able members of the science community gravitated to this source of funds. It became apparent, too, that although only a relatively small fraction of the federal research dollar was spent on university campuses, that money was very important to those universities in maintaining their status. The salaries paid by the research grant paid in effect the salary of the faculty member and a good share of the institution's overhead as well. The universities were not prepared to accept direct subsidies for fear of losing their autonomy—but they were apparently prepared to accept such a dependence indirectly with no questions asked.

Two years ago during Senate debate on the Defense appropriations bill for fiscal year 1969, I offered an amendment which would have limited the payment of indirect costs for a research grant or project to 25 percent of the direct costs.[1] From my preparation for this measure and subsequent debate, I saw the grave financial difficulties faced by our universities today and noted the disturbingly heavy dependence of virtually all of our leading universities upon hidden subsidy via indirect costs. A total of 620 academic institutions in fiscal year 1968 received federal support for research and development totaling $1.4 billion. Of this the Department of Defense accounted for $243 million and the National Science Foundation, $212 million. This money largely benefited only a few institutions. The top 100 accounted for 87 percent, or $1.2 billion.[2] Even under the limitation of my amendment, these top 100 would have received $300 million for indirect costs; money that the individual scientists would never see but which would go into general university funds. Of this, in turn, 20 percent would have come from the military appropriations. And since overhead charges by many institutions were higher than the 25 percent limit I proposed, the Defense Department in 1968 was supplying more than $60 million to the indirect cost accounts of leading universities. Under these circumstances, I concluded that the situation was most unhealthy. To better gauge the ramifications of the federal subsidy to universities through overhead payments, I wrote to Philip Handler, then Chairman of the National Science Board and now President of the National Academy of Sciences. In a frank reply, he pointed out that of $1,671 million of federal funds for research at universities for fiscal year 1967, only about $426 million were utilized to

[1] Congressional Record, vol. 114, pt. 22, p. 29322.

[2] "Federal support of research and development at universities and colleges and selected nonprofit institutions, fiscal year 1968." National Science Foundation report NSF 69-33, 1969, pp. 3 & 14.

support research in the most immediate sense. The remainder found its way into institutional funds and departmental funds.[3]

Subsequently the National Science Board proposed to the President that this situation of a hidden and unhealthy subsidy be corrected through grants to the universities so that future proposals for research would need cover only the direct and out-of-pocket costs of the work. I hope that the silence which greeted this recommendation within the Executive Branch will not be permanent and that Congress will assess its practicability as a way to establish more honest relations between the universities and the agencies of the federal government that fund on-campus research and higher education.

A contributing reason for the expansion of defense interests into almost each imaginable field of research in my opinion is the past and present inadequate information about what kind of research is being done by whom and where.

It has often occurred to me, and to other Members of Congress, that because many federal departments and agencies fund so many research projects, there is a real possibility of overlap and duplication simply because "the word" does not pass between federal research administrators. Note that I am not speaking of research that one scientist deliberately carries out to confirm or refute the discovery of another, for this is an essential part of the scientific process. Rather, I have been and am still concerned with the probability that needless and unwitting duplication of work occurs which could be minimized if scientists and administrators had a current, reliable and complete source of information about who is doing what research with federal funds. So I asked the agencies to supply me with a list of current research projects. Having little success with the direct request, I arranged for the Bureau of the Budget to ask the agencies to comply.[4] When all of the replies finally trickled in, it was evident that whatever the agency project information systems may be, they are simply incapable of readily providing summary information on research. Eight departments and agencies finally responded. Five separate replies were sent by Defense and six by the Department of Health, Education and Welfare, bringing the total number of project information readouts to 17. Eight replies appeared to be print-outs of computer systems, with the rest manually prepared. Two defense agencies submitted computer products and three manual ones. Later it was reported to me informally that project information had been taken from the computer-based systems, edited and put back in before being printed out for transmittal. Three of the agencies of HEW and four other agencies used the science classification system specified by the Bureau of the Budget in its Circular A-46. The remainder employed their own systems for identifying fields of science. The system used by the National Science Foundation, presumably the lead agency for federal information on science and technology, was different from that specified by the Bureau of the Budget.

Parenthetically, considering the many computers and elaborate information systems of government agencies, this simple request should not have produced the administrative convulsions that it did. The administrative entanglement indicated to me that each department goes its own way in research with little attention to that funded by others. There simply does not exist a system capable of quickly and easily informing research administrators in one department of what research of potential interest or use to them is currently funded by another federal agency. While coffee-break exchanges among scientists have their value, they are not an adequate substitute. It is well over a years since I inquired into this matter. Yet the Office of Science and Technology has not decided what current information about research projects should be collected, who should do the collecting, how it should be collected and who can have access to it. Perhaps we need some one to tackle this issue with the vigor of past efforts when the related question of cataloging and making available the results of research already done was exhaustively considered. Perhaps the reorganized Office of Management and Budget can give this a priority among its management functions.

My experience in trying to get current information on research confirmed yet again my observation that bureaucracies must often be kept after to obtain improvements in the administration of government-funded research. These improvements are all the more necessary in a time when the dominant question has changed from: "What can we spend our increasing research appropriations on?" to "How can we best spend the available appropriations for research?"

In this connection, to overcome the inertia, to get out of comfortable, well-worn ruts sometime require heroic measures.

It was during the Senate's appropriation hearings in 1968 that I asked Dr. Foster of the Defense Department about duplication of research and about the relation of Defense-sponsored research, particularly its basic research, to that of other agencies. It was abundantly clear in his response that the Pentagon then believed all fields of science and technology were open to it, that it saw no inconsistency in funding basic research in fields already funded by civil agencies, and that *all* research projects it sponsored were somehow relevant to Defense needs. The Defense Department was adamant in its position that it must continue the full spectrum of research then being undertaken, even though by definition the outcome of much such research can neither be predicted nor its possible relevants to military science known. This testimony reinforced the conviction that research funded by the military appropriations had built up an enormous momentum, and that only the most forceful efforts by Congress could effect change in the direction of rechanneling federal responsibility for the funding of basic research. At the time, it seemed clear that there was not a national policy that viewed the nation's long-term interests. What to do about it was another question.

During the floor debate on the military authorization bill (PL 91-121) for fiscal year 1970, I added a rider which appeared as Section 203. It reads as follows:

"None of the funds authorized to be appropriated by this Act may be used to carry out any research project or study unless such project or study has a direct or apparent relationship to a specific military function or operation."

That provision became law and the same provision now appears as Section 204 of the military authorization bill reported to the Senate for fiscal year 1971, but does not appear in the bill reported in the House.

I believe Section 203 is a necessary and practicable step towards the goal of reducing the heavy dependence of American science that has built up since the early 1950's. Properly and imaginatively administered, it can also lead to a strengthening and a rebuilding of the foundation for the future of much of American science.

The intent of the provision is clear. It is a mandate to reduce the research community's dependence on the Defense Department when it appears that the investigation under consideration could be sponsored more reasonably by a civilian agency. After all, the National Science Foundation was created by Congress back in 1950 specifically to channel federal funds into basic research. Since its creation, it has been the orphan child of the federal government's science policy. Since 1955 NSF has been given $2 billion to sponsor basic research. During this same period, Pentagon spending has been $3 billion on this same type of research; it has spent 50% more for the fundamental investigations—in addition to the many billions on advanced research and development of specific military needs—than has the agency set up for this sole purpose.

The addition of Section 203 to the military authorization law thus sought to set in motion a realignment. The language was intentionally imprecise in an effort to afford the Executive Branch an opportunity to start a process that would lead to the transfer of resources from the Defense Department to the civilian agencies—primarily to the National Science Foundation.

Clearly, Congress does not exist to operate the daily workings of the Executive. By law, however, Congress does have a responsibility together, with the President, to establish broad policies. Congress has a right to assume that policies so established will be followed. Much progress has already been made since Section 203 became law in the face of the resistance that has lingered in some quarters. The authorization for NSF funding for this coming fiscal year has been increased by about $75 million over last year. By comparison, this year the Defense Department's share of basic research funds will be $50 million less than that of the National Science Foundation.

By no means, however, does Section 203 intend to cut off the Defense Department from research that it needs. It is neither anti-military nor anti-research. Whether the language chosen is interpreted strictly or loosely, it is hoped that the ultimate result of this whole endeavor will be a continued high level of basic research funding by the federal government. Hopefully, we will see in the near future that the civilian agencies under the leadership of the National Science Foundation will develop as the primary source for these research funds. The responsibility of the civilian agencies to fund an appropriate share of basic research is in no way diminished by Section 203. The Pentagon will continue to have a responsibility for research—even basic research, one that allows those entrusted with military defense to maintain a full and necessary exchange with the researchers at the frontiers of science. The role of the Defense Department in sponsoring basic research, however, is intended to be incidental rather than predominant.

Turning now to the DoD response to Section 203, I believe that the review of research by DoD could have benefited from guidance and criteria issued by its top management. That did not happen. Instead, all that the Defense Department did was to send a memorandum to its constituent agencies informing them of Section 203 and telling them to comply.

When I inquired of DoD about their follow-through on this provision, Deputy Secretary of Defense Packard replied in part that the Department had contacted the National Academy of Sciences and invited them to consider carrying out an examination of all projects which might be affected. I thought this a constructive idea and wrote to Dr. Handler on December 5, 1969, to support this participation by the Academy. To my disappointment, Dr. Handler replied on December 12 that he must decline to involve the National Academy of Sciences directly in the review. He did volunteer to offer the Academy for any follow-up review. More important, he agreed it would be useful for

[3] For the text of Mr. Handler's letter, see the Congressional Record, vol. 114, pt. 22, pp. 29338-9.

[4] c.f. Bureau of the Budget Bulletin No. 69-8, dated December 3, 1968, Subject: Listings of Federal Government contracts and grants for support of research.

the Academy to do two things. First, to formulate principles which might guide the administration of Section 203. Second, to undertake a projection of the implications and consequences of Section 203 with respect to the future of federal research policy and the national welfare. While I did not ask the Academy to do so then, experience with Section 203 indicates that it should do so now.

To date, there have been differences in application within the Department of Defense. On the one hand, for example, the Advanced Projects Research Agency asserts that none of its projects fail the test of Section 203, even though the General Accounting Office has singled out some as questionable in terms of this legislation and as more properly supportable by the State Department than by military appropriations. On the other hand, the Department of the Air Force has seized upon Section 203 to terminate research funded from appropriations prior to fiscal year 1970, with the excuse that they were carrying out the "Mansfield" philosophy.[5]

Of the 6,600 research projects that were reviewed, 220 were found affected by Section 203 which involved fiscal year 1970 funds totalling $8.8 million. This is about 4 percent of the $223 million that DoD obligated during this fiscal year for research at colleges and universities, and less than 1 percent of the $1,295 million of federal funds for university research and development estimated by the Bureau of the Budget for fiscal year 1970.

By comparison, the general tightening of the Defense research budget for fiscal year 1970 caused a reduction of $64 million, notwithstanding Section 203.

Recently, the Secretary of the Air Force testified that approximately 7 percent of the research projects, representing 3 percent of the Air Force research program, failed to pass Section 203. In comparison, tightening funds required a cut of over 10 percent.

Of course, Section 203 goes beyond the 220 projects immediately affected. Research projects funded from prior years' funds that do not meet the test of this legislation will be affected as they come up for renewal. The Comptroller General was unable to provide us with an estimate of the number of projects in this category or their total funding. Nonetheless, in my judgment, such projects should continue to their normal expiration, which will provide time for coordinated review by the Department of Defense with the civil agencies and for leadership and initiatives from the Office of Science and Technology. Despite its limited reaction to date, I still look to the Office of Science and Technology to provide the leadership necessary so that research affected by Section 203 which should be continued in the national interest will have a fair chance at the available basic research funds.

All that is required under Section 203 is relevance, which is not a dirty word as some critics of the Section sometimes seem to suggest. Relevance does not preclude agencies from funding basic research. Section 203 does not forbid the Defense Department from funding any and all research at colleges and universities. Had that been our purpose, we would have so written this legislation. What Section 203 does is to begin to close out a second and a backdoor National Science Foundation which has grown up in the Department of Defense.

It seems to me that the Defense Department can readily identify and justify many fields of fundamental research about which enough is known to judge their relevance to defense needs now and in the foreseeable future. Research funded in such fields as a result of announcement and publication of such DoD interests should produce proposals for research that would permit scientists to explore aspects of science which add to understanding in fields reasonably related to Defense needs.

The idea of relevance is now new. I should think that the Science Adviser to the President would be well acquainted with the following statements that support the principle of relevance.

First:

"The Foundation shall be increasingly responsible for providing support by the federal government for general-purpose research through contracts and grants. The conduct and support by other federal agencies of basic research *in areas which are closely related to their missions* is recognizable as important and desirable, especially in response to current national needs, and shall continue."

Second:

"Mission oriented governmental agencies do and should support much long-range basic research, information from which is calculated *to have a direct bearing on some aspect* of their mission. . . . All mission oriented agencies need to be in close contact with the best and most advanced research which can apply to their problems."

The first is from President Eisenhower's Executive Order No. 10521 of March 15, 1954, on scientific research. This order still stands. It was not rescinded by President Kennedy, by President Johnson or by President Nixon. The second comes from the recent advice to the President by his Task Force on Science Policy.

Section 203 opened to the Administration a unique opportunity to set in motion a rebalancing of the responsibilities of federal agencies for the funding of basic research. The section became law on November 19, 1969. Yet the budget for fiscal year 1971 does not indicate that this opportunity has been taken. There is no indication of a shift of basic research unrelated to defense needs to the National Science Foundation or other agencies and, at the same time, a corresponding reduction in Defense funding.

In short, timely arrangements have not been made for orderly decisions pursuant to Section 203. I wrote last fall to the Director of the Budget Bureau and to the Cabinet officers of Departments and other agencies concerned on that point. The letters have had no appreciable effect. The Research Management Advisory Panel to your Subcommittee recommended that the Section be administered so as to produce an orderly shift in sources of research support. What has happened to that recommendation? In the meantime, where is the contribution of the interdepartmental system for coordination in research to which reference is always made when Congress starts to talk about improving the administration of federal appropriations for research? What has it done?

All that is heard are requests for the abolition of Section 203. Indeed, there seems to be almost a willingness to risk the wreck of the whole DoD basic research program rather than take an innovative and imaginative response to the law. Again, however, what may be involved is the built-in inertia of bureaucracy.

To carry out the intent of Section 203 will require new ventures in interagency coordination. That is the responsibility of the reorganized Bureau of the Budget and the Office of Science and Technology under the President. Thus far, unfortunately, the White House science office apparently sustains the rigid opposition of the agencies to Section 203. That is most unfortunate because if there are to be improvements in coordination and a shift in the emphasis of federal policy with regard to support of basic research, it is going to take a joint effort by the President and the Congress.

To sum it up: We are in dire need of a new national policy on the federal role in science. Whether technological progress depends upon basic research is no longer an issue. That was agreed upon years ago; and I am sure it is the conviction of Congress that maintenance and hopefully growth in scientific activities are essential to the public welfare and the nation's future. But the policies of the 1950's and 1960's are not suitable for the already perplexing 1970's. Too much is at stake to depend upon fortune, upon luck, upon happenstance. Our policies must be soundly and thoughtfully conceived and guided.

If the Executivve Branch is thinking about policy in these terms, no evidence of it has yet appeared in the public press despite recent inputs from the President's Task Force on Science Policy and the National Goals research staff.

I hope we can look to the scientific community for advice. Yet I recall that this community speaking through the National Academy of Sciences in 1965 was unable to answer the questions on how much money should be spent for research and how it should be divided up.

Recognizing the risk of oversimplifying, it would be my judgment that we can no longer rely for guidance upon an uncoordinated, unplanned collection of laws, orders, statements, understandings, and traditions. These all have their place. But we must now bring them together, which is what the inquiry of the Subcommittee is all about. I would hope that the Subcommittee on Science, Research and Development will continue its role of Congressional leadership and stimulate enough interest so that our leaders of government and science will sit down together and work out the principal outline and content of the kind of policy that is needed. It is up to Congress to assert its long-neglected responsibility and set forth a national policy for science. It is long overdue.

The PRESIDING OFFICER. The time yielded to the Senator from Colorado has now expired. The only remaining time in the hands of the Senator from South Carolina.

Mr. THURMOND. Mr. President, how much time remains?

The PRESIDING OFFICER. Twenty-five minutes remain to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 5 minutes.

Mr. THURMOND. Mr. President, I support the amendment of the distinguished Senator from New Hampshire. My interpretation of the amendment is that the purpose is not to reduce research and development for critical weapons which are essential to our national security. It is simply to provide more funds to the National Science Foundation for basic research.

Basic research is essential. We should go forward in this field. The developments we have had and the inventions that have come to this country have come from basic research.

It is very important that we not reduce funds. It is important that we continue to go forward in that field.

I want to say, however, that the survival of this country is not only dependent upon that basic research but is also

[5] In his letter to Rep. Daddario of June 5, 1970, Secretary Seamans wrote of Section 203: "We have attempted to meet the intent, as we understood it, rather than merely the letter of Section 203. Accordingly, we made no distinction between fiscal year 1970 or prior year funded research in our review. . . ."

dependent upon the research the Defense Department does with our critical weapons.

In this connection, I want to read from an article by Gen. Thomas Lane, a retired Army general. This article is entitled "Survival Is First Priority."

General Lane says:

Citizens who follow discussion of the federal budget will frequently encounter the cry for new national priorities. The usual ploy is for a Senator or a lobbyist to cite the needs of education, medicine or housing, then mention the cost of new military aircraft, and say, "We must revise our priorities!"

It is revolting to note the frequency with which public officials or prominent intellectuals resort to this tactic. It is revolting because the cry reveals an ignorance and confusion which ill become men bearing public responsibility.

In our society, the increasing mastery of machine technology is reducing the proportion of society engaged in essential work. From top scientists to factory workers we have the producing elements of society. The rest of the people enter occupations reflecting the leisure opportunities of our economic system. On the intellectual side, they used to be called philosophers; but now that the numbers have greatly increased and philosophy is too difficult, they call themselves social scientists.

Although the field includes some social scientists who are soundly trained in philosophy and are broadly educated in related disciplines, the common aspect of the social scientist who gains public attention is that of a narrow-minded zealot absorbed in his craft and oblivious to other values. He is an educator who lacks the most elementary comprehension of sound public policy. He is a doctor with his fist in the public purse. He is a welfare worker who thinks government has an obligation to tax the workers to sustain the drones. In the federal Department of Health, Education and Welfare, his number is legion.

Each of these specialists considers his work essential to the welfare of the United States. As he looks at the federal budget and notes the cost of a new airplane or of an ABM system, he drools to think what he could do with that kind of money. He argues that we are wasting money on weapons of destruction instead of investing it in his constructive service to mankind.

It is dangerous to have such mistaken ideas rampant in our society. Every citizen, whatever his occupation, should understand that national survival must be our first priority. All other activities depend upon the success of our security effort. If it fails, there will be no health, no education and no welfare. There will be only the kind of enslavement we see behind the iron curtain, a slavery which thousands have risked their lives to escape.

Security is worth all our resources, if they are required for success. And it is not due one cent more than the minimum required for success.

This country has always put its security first. We have no problem of priorities. Our problem is to define the security requirement.

Security requirements are determined by the threats which hostile powers and principalities pose to our existence. Our domestic health and morale are indeed vital factors in meeting the hostile threat and are to this extent allies of national security. But health education and welfare have no independent value which takes precedence over national security.

Security requirements are in their nature necessities, not preferences. We must do what must be done and no more. If the threat of Soviet aggression now requires vast expenditures on sophisticated armaments, we must meet that threat until we can disarm it.

Whether we should at the same time achieve a particular level of social services within our society is a question for the citizen to ponder. But we should be clear-headed about the different nature of these programs. In priority, they come after national security.

Mr. President, I feel that we must remember that the weapons and planes and armaments we have today to protect the people of this Nation are the result of research and development that was done 5, 10, or 15 years ago. It is essential that we do go forward and provide the necessary research and development for the Defense Department in order to maintain our national security. Without national security, as I have just stated, we have nothing. Our people, if they are to survive, must be protected by the Defense Department.

I am in favor of the various programs we have today, but if we have to choose between research and development for the Defense Department and other programs, there should be no question in the minds of the people of America which they will choose.

I repeat, national security means our survival.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. THURMOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The request has been made for the yeas and nays. There is not a sufficient second.

The yeas and nays were not ordered.

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

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

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays on the pending amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time on the amendments having been yielded back, and the yeas and nays having been ordered, the clerk will call the roll.

The legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), The Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Connecticut (Mr. DODD), the Senator from Tennessee (Mr. GORE), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from Minnesota (Mr. MCCARTHY), the Senator from South Dakota, (Mr. MCGOVERN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from Mississippi (Mr. STENNIS), and the Senator from Maryland (Mr. TYDINGS), are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alaska (Mr. GRAVEL), and the Senator from South Dakota (Mr. MCGOVERN), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from Hawaii (Mr. FONG), the Senator from Florida (Mr. GURNEY), the Senator from California (Mr. MURPHY), the Senator from Ohio (Mr. SAXBE), and the Senator from Illinois (Mr. SMITH) are necessarily absent.

The Senator from Oregon (Mr. PACKWOOD) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. MILLER), and the Senator from Texas (Mr. TOWER) are detained on official business.

If present and voting, the Senator from Arizona (Mr. FANNIN), the Senator from Florida (Mr. GURNEY), the Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. MILLER), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senator from Ohio (Mr. SAXBE), the Senator from Iillinois (Mr. SMITH), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 68, nays 0, as follows:

[No. 277 Leg.]

YEAS—68

Aiken	Fulbright	Nelson
Allen	Goodell	Pastore
Allott	Griffin	Pearson
Baker	Hansen	Pell
Bellmon	Harris	Percy
Bennett	Hart	Prouty
Bible	Hatfield	Proxmire
Boggs	Holland	Randolph
Brooke	Hruska	Schweiker
Burdick	Hughes	Scott
Byrd, Va.	Jackson	Smith, Maine
Byrd, W. Va.	Jordan, N.C.	Sparkman
Case	Jordan, Idaho	Spong
Church	Kennedy	Stevens
Cook	Magnuson	Symington
Cooper	Mansfield	Talmadge
Curtis	Mathias	Thurmond
Dole	McClellan	Williams, N.J.
Dominick	McGee	Williams, Del.
Eagleton	McIntyre	Yarborough
Eastland	Metcalf	Young, N. Dak.
Ellender	Mondale	Young, Ohio
Ervin	Muskie	

NAYS—0

NOT VOTING—32

Anderson	Gurney	Mundt
Bayh	Hartke	Murphy
Cannon	Hollings	Packwood
Cotton	Inouye	Ribicoff
Cranston	Javits	Russell
Dodd	Long	Saxbe
Fannin	McCarthy	Smith, Ill.
Fong	McGovern	Stennis
Goldwater	Miller	Tower
Gore	Montoya	Tydings
Gravel	Moss	

So Mr. MCINTYRE's amendments were agreed to en bloc.

Mr. PROXMIRE. Mr. President, earlier today, the Senate voted, as I understand it, by a 42-to-31 vote to reject an amend-

ment that Senator MATHIAS and I offered which would have provided a ceiling on the amount the Defense Department could expend in this fiscal year. I think the significance of that vote is very great. We lost that vote. However, I point out that the vote itself represents remarkable progress. A few years ago, on a similar proposal, only two Senators voted to limit defense spending. That was a motion to limit it by 10 percent. Those two Senators were the distinguished Senator from South Dakota (Mr. MCGOVERN) and the distinguised Senator from West Virginia (Mr. RANDOLPH). I voted against that proposal.

I am gratified for the active support of this amendment by the senior Senator from West Virginia (Mr. RANDOLPH). At that time, he stated that we could eliminate billions of dollars from the military budget. He stressed that it was essential to apply these savings to priority domestic programs. This is the reasoning of many today. But in 1963 the Senator from West Virginia was practically alone in the cause at the time—on the roll call only two Members voted for the amendment. So the Senator from West Virginia was one of the earliest advocates of a reasonable defense budget and of the need to reorder our national priorities.

I think many of us have had an awakening in the last 2 years. I say that because there is going to be another opportunity for us to offer similar action when the appropriation bill comes before the Senate.

The principal arguments I have heard against this amendment—and I sat through the entire debate—were these: No. 1, it was the wrong bill. We should have amended the appropriation bill. No. 2, because we limited spending instead of obligational authority, we put the Pentagon in the position where they would actually have to cut back by the full force of expenditures in the next fiscal year without any flexibility. If we act to limit the appropriation bill, on the other hand, we affect obligational authority. We do not directly limit the spending itself. They would be free to expend sums that have been obligated in the past, so the cut would not have as drastic or immediate an effect.

With that in mind, Mr. President, I think there is every likelihood, every real posibility, that we can pick up five, six, or seven votes next month, which is all we apparently need in order to provide an effective reduced limit of defense appropriations.

I might add that the House Appropriations Committee, which last year cut approximately $5 billion from the Defense appropriation proposal made by President Nixon, has yet to act; and after that House action last year, the Senate cut even further below the Nixon requests.

So I do hope that the Members of the Senate and those in various organizations who so enthusiastically and faithfully supported us in talking to Senators on this matter will not lose heart. I think we have every real chance for effective action in this session, within the next few weeks.

Mr. HATFIELD. Mr. President, the Vietnam war continues. That is the one clear, unmistakable fact that we must all recognize. After two decades of American involvement; after 10 years of American men fighting in Southeast Asia; after $140 billion has been spent; after dropping more bombs on North and South Vietnam than the total of all bombs dropped during World War II and the Korean war; after 43,000 Americans have been killed and 285,000 wounded; after more than 122,000 South Vietnamese soldiers have died and more than 295,000 casualties; after an estimated 300,000 civilian deaths; after 1 million civilian casualties; after 4 million have lost their homes; after an estimated 620,000 North Vietnamese and Vietcong soldiers have died, the war continues.

Despite 27 months at the Paris negotiating table; despite halts, resumptions, and halts, in the bombing of the North. Despite programs and plans for Vietnamization—despite all this the Vietnam war continues. And it will continue.

Americans will continue to die there. Vietnamese will continue to die. The country will continue to be torn apart by bombs. Civilians will continue to be maimed and slaughtered. America's resources will continue to be drained. Our young men will continue to be alienated, and our position in the eyes of all the world will continue to erode.

So I ask my colleagues—what is their plan, what is their way, what is the method that they prescribe to bring this conflict to an end? How is it all going to stop? Tell me the way that will bring this unfortunate chapter of our Nation's history to a close.

Vietnamization—that is what we most often hear proposed. Vietnamization is put forth as a plan for ending the war. But it is nothing of the sort. Vietnamization means that South Vietnamese will fight and die in increasing numbers instead of Americans. Eventually Americans will fire the artillery and fly the planes and drop the bombs, but the South Vietnamese will shoot the rifles. Vietnamization is not a plan for ending the war in Vietnam. At best, it is a plan designed to reduce American casualties and to enable fewer American troops to be in Vietnam while still pursuing the same goals that have been guiding our policy over the past decades.

Let us examine what we really mean when we talk about Vietnamization. We constantly hear about the numbers of completed and proposed troop withdrawals from Vietnam. Seldom, however, do we recognize the number of present and projected troops that remain in Vietnam. The President's announced reduction of 150,000 additional troops by April 1971, will leave approximately the same number of Americans in Vietnam as there were in the summer of 1966. It is not clear exactly what will be our policy relating to troop withdrawals beyond that time. Some reports suggest that we will never be able to reduce our forces below about 200,000 men. Other reports have suggested that the intention is to bring American forces eventually down to a lower level—perhaps 20,000 to 50,000 remaining as a residual force.

In any event, the details of our policy beyond this time are not known. But it is clear that we do intend to retain a specific military presence in that country.

The President has announced three criteria which shall guide the progress of our troop withdrawals. The first is the progress of negotiations in Paris. I would speak to this point in further depth later, but now I will only point out that after 27 months and 81 meetings there has been no progress.

The second criterion announced by the President to guide the rate of troop withdrawals is the level of enemy activity. I assume that what is meant by this factor is that as long as the enemy stops fighting, then we can withdraw our troops. That, of course, is perfectly reasonable. But it is true that as long as Americans are present and fighting in Vietnam, the enemy has absolutely no intention of suddenly laying down his arms.

Thus the level of enemy activity offers no hope for troop withdrawals unless one assumes that we can militarily crush the enemy into surrender—a goal which the administration has repudiated in its own statements.

And so, the war continues.

The third factor governing the rate of our withdrawal from Vietnam according to the administration, is the ability of the South Vietnamese to take over the fighting on their own. As Vice President AGNEW Stated on August 20, 1970, "Withdrawal—from Vietnam—will take place only as the capability of the South Vietnamese becomes able to take up the slack." In other words, if the South Vietnamese become better able to fight and to win without our assistance, then we will find it possible to withdraw added numbers of our troops. But the opposite is also clear. If the South Vietnamese are unable to maintain an effective military position against their opponents, then our troops will remain. We never would have sent more than 500,000 Americans to Vietnam if the South Vietnamese could successfully fight their own war.

Nevertheless, assume for a moment that you accept the basic premise of Vietnamization; namely, that the war can continue but that the South Vietnamese should be responsible for the fighting. The question then becomes this: When would be a reasonable time for the South Vietnamese to go it on their own? Vietnamization as such is really nothing new. We have been trying to give them the ability to defend themselves on their own since the time the first American dollar and first American soldier arrived. So the South Vietnamese have had the direct benefit of our presence and equipment and training for more than 10 years and our indirect assistance for a decade before that. We have given them more than $6.6 billion worth of direct military aid since 1950.

All this effort—I suppose—has been successful in some ways. The South Vietnamese now have armed forces numbering more than 1 million men. If you add to this the size of the local police and security forces which provide defense, you then have another 250,000 men. Thus, they now have a strong and for-

midable force. What is the size of the enemy whom they fight against? At present, it is estimated that there are 240,000 North Vietnamese and Vietcong whom they fight against in the South. The Vietnamese have approximately an additional 400,000 soldiers in their total army in the north whom they have never committed to the south. It is doubtful they could ever commit that total number. According to the Defense Department. 620,000 of the enemy troops have died in battle. With enemy forces so reduced, with all the assistance and aid we have given them and would, in the foreseeable future, always hold a very decisive advantage.

And so, what does it really take to enable them to defend themselves on their own? The question is, will they ever be able to? If one accepts the basic premise behind Vietnamization, and if one believes it should at least be given a chance, then let me ask this—is it reasonable to give Vietnamization another year, or even more than a year, another 15 months to see if it will succeed? Now is not that a reasonable approach? Let us say you believe that, for some reason, a force of 1.2 million men cannot now effectively defend themselves against a force of 225,000 of their fellow countrymen. And that, given enough time and preparation and materiel and support this force of more than a million men eventually will be able to effectively defend themselves against their opponent. Well, then, let us see if they are able to do that in the next year or so. Let us say that we will do everything we can—continue to give them all the manpower, all the training, and all the support of our own troops that they require until the end of 1971—let us propose that. And let us see if then they can finally be able to defend themselves on their own. And if they cannot effectively defend themselves by the end of 1971, then I would submit they will never be able to effectively defend themselves.

Vietnamization has currently been defined to mean this: We will continue to fight for the Vietnamese as long as they cannot fight on their own. That may take 2 years, or 4 years, or 8 years, or 10 years—or never. That sort of policy is nothing more than a rationalization for maintaining American military involvement in the Vietnam war. But let us interpret Vietnamization in a different way, in a more reasonable manner. Let us say that we will give them all that they need—give everything that we have—offering the South Vietnamese every opportunity to fight on their own, and devote the next year to that end. We will announce that by the end of that year they will then have to continue the conflict, if they so desire, without the assistance of American military forces.

That is what our amendment proposes. It knows that the South Vietnamese will never be able to fight on their own as long as they are never told that they will have to do so. It knows that the South Vietnamese will never prepare themselves in earnest for fighting without the help of American Armed Forces so long as they are told that Americans will give them help as long as they need it. By linking our withdrawals to the ability of the South Vietnamese to fight on their own, we have a formula for a never-ending American involvement.

If we truly want to give the South Vietnamese the ability and the opportunity to carry on this struggle independently of our military forces—if we truly are seeking that aim—then we must tell them in no uncertain terms that they must become militarily independent of our manpower. And why should that be so startling, so threatening—particularly when they have more than a year to prepare for that circumstance. Why should they feel nervous, or threatened, about having to fight on their own against a force currently only one-fifth the size of their own? Why should they be resisting every American word that mentions increasing the pace of American withdrawal?

The conclusion one is tempted to draw is that they doubt whether they possess what is truly necessary to carry out their aims—that they doubt they have the necessary determination, the necessary commitment, the necessary will to achieve their goals. But if this is the case—if they are lacking in those essential qualities, then no degree of American involvement ever can or ever will achieve those ends for them.

Most serious of all, Vietnamization simply does not provide for a stable political settlement of the conflict; rather, it is a formula for a continuing, protracted war. President Nixon has stated on April 20, 1970, that "a political settlement is the heart of the matter." And yet, if we rely solely upon Vietnamization of the war, there will be no political accommodation between the antagonists in Vietnam. Vietnamization merely changes the nature of the conflict; it does not resolve political differences; it does not halt the loss of life; and it perpetuates the very political instability which dragged us into Vietnam initially.

And so, Vietnamization alone is simply not the way out. It does not provide for the complete withdrawal of American troops; it is a military strategy which fails to deal with the political roots of the war: it does not achieve peace but only changes the identity of some of those who die. And the war continues.

The President's alternative to Vietnamization has been progress at the Paris peace talks. However, those talks have been stalemated since they began. On June 30, 1970, President Nixon stated that when his administration took office:

> The United States had been negotiating at Paris for ten months but nothing had been agreed upon other than the shape of the bargaining table.

And in his Vietnam "up-date" report on April 20, 1970, he candidly admitted—

> I must report with regret that no progress has taken place on the negotiating front.

Some have charged that this amendment would undermine Ambassador Bruce and destroy any chance for a negotiated settlement at Paris. A complete withdrawal, they maintain, would eliminate any incentive for the North Vietnamese and the Vietcong to negotiate because they will have achieved the primary purpose of their negotiations—the withdrawal of American troops.

And yet, it must be pointed out that the real difference here is the pace of withdrawal, not withdrawal itself. The President has already wisely committed us to a withdrawal of some American troops. We seek to speed that withdrawal, to disengage militarily with honor and order and safety.

Apparently even the administration does not believe that withdrawal of American troops would undermine the Paris negotiations. If so, they would appear to be working at cross purposes. Vice President AGNEW himself has defended the withdrawal of troops while we negotiate. On May 3, 1970, on "Face the Nation," Peter Lisagor asked him:

> Why should (the North Vietnamese) come to Paris and negotiate seriously, Mr. Vice President, if we have already proclaimed . . . that we are withdrawing from South Vietnam? What is the inducement for them to negotiate?

Vice President AGNEW responded:

> They are not only negotiating with us, they are negotiating with the South Vietnamese, and the South Vietnamese are going to be there a long time.

This is precisely the point. Any true resolution of differences in South Vietnam, any political accommodation, must come from the South Vietnamese themselves. Our withdrawal will not undermine those negotiations; they will not eliminate the possibilities for a political settlement to what is essentially a political conflict.

In fact, we have every reason to believe that a stated withdrawal of all American troops more than 15 months from now would initiate the first real breakthrough in the stalemated negotiations. Saigon has demonstrated little or no interest in a negotiated settlement of the war, and as the course of Vietnamization, with the continued American presence in South Vietnam, has become more clear, President Thieu has grown increasingly intransigent.

On July 28 Thieu announced confidently that he expected total military victory in 3 years, that he would "never accept a Government coalition with the Communists," and that—

> If the Communists do not want peace, peace will certainly come with our victory. . . . If they wish to continue fighting, we will eliminate them. (Washington Post: July 30, 1970).

Within days the administration unfortunately chose to support such a rigid position, declaring on July 31:

> We are opposed to a coalition government, negotiated or imposed. (Washington Post: August 1, 1970).

As long as Americans remain in Vietnam, as long as we continue to shore up Thieu and his clique in Saigon, he has no reason to take negotiations seriously or to begin to make concessions and compromises necessary to unite the disparate factions in his country. And the war continues.

If, however, for the first time, we announced publicly and openly that American troops would not remain indefinitely in Vietnam, if we declared our intention not to remain there beyond December 31, 1971, then Thieu and the Saigon government would be compelled to confront the political realities of South Vietnam.

We might then be able to achieve the concessions which we need and desire to achieve a stable and durable peace. For the first time, it could be possible to negotiate effectively the release of prisoners-of-war; a cease-fire and deescalation could be instituted to secure the safety of American troops during withdrawal; the level of conflict in Laos and Cambodia could be reduced; and the political impasse in South Vietnam might at last be penetrated.

A fixed withdrawal date at the end of 1971 will not, as Vice President Agnew has charged, deal "a lethal blow" to the Paris talks. Rather, the illusion of real negotiations threaten to provide a rationalization for continuing the war indefinitely, not ending it.

Furthermore, the entire history of our involvement in Vietnam demonstrates that concrete results cannot be achieved by exerting only military leverage. This is the case for the United States; it was true also for the French. The North has shown every indication that it will fight a protracted war or it will seek a political settlement once a definite timetable for the withdrawal of all American forces has been established.

The real "lethal blow" to the Paris peace talks would be an escalation of military activity or another invasion of Cambodia. Secretary of State Rogers stated the candid truth when he said that the chances for a negotiated settlement of the war had deteriorated since the invasion of Cambodia. On July 15, he said that North Vietnam and the Vietcong would "not be inclined to negotiate" after the setbacks they suffered in Cambodia and this meant that the prospect for the negotiations "in the next couple of months are not too bright." He also stated that the Vietnam war might very well end with "no war and no peace."

This amendment is not a desertion of one commitment to the South Vietnamese people or their Government. Our sacrifice of American lives, our provision of arms, and money, our support for more than two decades speak eloquently of our concern for the people of South Vietnam.

We have no desire to abandon the South Vietnamese now or even 15 months from now. The amendment stipulates that military aid, including operations, may continue until December 31, 1971. After that date, if American troops are still needed in South Vietnam, all the President must do is come to the Congress and explain why. By congressional action, South Vietnam could continue to receive the aid of our Armed Forces but the need and necessity must be established.

The destruction of Vietnam during this war has been so great that they will need aid and support for many years to rebuild their shattered society. Part of that aid might mean the supply of additional weapons and materiel to provide security and continued military aid to the South Vietnamese Army; part of that aid might be money and assistance to reform and transform the wreckage of the war. We are not deserting our allies; they have fought with us and died with us, but we cannot send Americans to die for them forever.

There simply comes a time when allies must become true allies and not dependents. Our commitment to South Vietnam has never been unlimited, and a stipulated withdrawal date 15 months in the future would serve notice to Saigon that the time has come for it to confront the conflicts which have destroyed the fabric and quality of Vietnamese life for so long.

And so, unless this amendment is passed, we are confronted with the indefinite commitment and maintenance of American troops in Vietnam, with a constant loss of American lives, and with support for a government which has made little effort to win the allegiance of the people it governs. The war continues now, and unless this amendment is passed, the war will go on with no definite end in sight.

This amendment provides the United States with an honorable and orderly way out. First, it merely stipulates that the present withdrawal rate already announced by the President would be put into legislative form. The administration has already stated that these withdrawals are irreversible, so this provision expresses congressional support for the President's policy. Thus, this provision authorizes a troop level of no more than 280,000 men in Vietnam by April of 1971.

If, of course, the administration found it necessary to change its policy and not meet this withdrawal rate because of some unexpected contingency, Congress would simply be called upon to approve a differing authorization.

The second provision of the amendment concerns itself with those policies beyond April of 1971; it states that funds appropriated after that time for use in Indochina should be used for the following objectives:

First, the orderly termination of military operations there and the safe and systematic withdrawal of remaining armed forces by December 31, 1971;

Second, to secure the release of prisoners of war;

Third, the provision of asylum for Vietnamese who might be physically endangered by withdrawal of American forces; and

Fourth, to provide assistance to the Republic of Vietnam consistent with the foregoing objectives.

We do not know if this is inconsistent with the policies of the administration. They have chosen not to reveal their course of action beyond April of 1971. But we do believe it to be a sound and reasonable approach for the administration to follow. If, however, the President finds that either circumstances or policies prohibit him from withdrawing all armed forces by the end of 1971, and if this poses any danger to our military forces at that time, then he has the option of extending this timetable by 60 days. Further, if the President decides that armed forces should remain in Vietnam beyond this period of time, then he would be required to come to the Congress and set forth his recommendations and deadline for their withdrawal subject to the approval of the Congress.

Therefore, this amendment is an overture to the administration. We are seeking an approach which we believe will be most reasonable to all parties concerned.

We are giving the administration full authority to carry out its withdrawal program, to be completed by the end of 1971. If the administration differs with the course of action, then they need only to justify an alteration of the timetable to the Congress.

I do not know why the administration should find this to be an unreasonable proposal.

In my view, it certainly would be unreasonable to propose that the administration be given full authority for any course of continued military activity in Vietnam without congressional approval beyond 1971.

Therefore, I would hope that the administration will carefully consider this revised amendment with an open mind. In my view this represents a most sensible approach for guiding our future course of action in Vietnam; it is the responsible way for the legislative executive branches to cooperate together in this process.

There is no excuse for men of reasonable minds to reject such an overture.

The primary purpose of all these provisions is the preservation of human lives—South Vietnamese and American. Some have objected that the amendment would tie the hands of the President as Commander in Chief. I categorically deny this.

The President himself stated on July 1, 1970, that

> the right of the President of the United States under the Constitution (is) to protect the lives of American men.

This amendment in no way interferes with the power of the Commander in Chief to protect the lives of American men. It assures the safety of American men and enables the President to protect American troops during an orderly withdrawal.

A withdrawal by December 31, 1971, is the best means of holding down the number of American deaths and casualties in Vietnam. This is the conclusion of studies projecting American casualties in Vietnam prepared by two former staff members of the Office of Systems Analysis in the Department of Defense. We have no assurances that the present rates of withdrawal will continue, but assuming they would continue until all American troops had departed, we would be out of Vietnam by approximately September 1972. Compared with this plan, a December 31, 1971, withdrawal date would mean 1,600 fewer American deaths and 14,000 fewer casualties.

If, however, current withdrawal rates continue leaving a residual force of 50,000 Americans in Vietnam until 1975, a withdrawal by the end of 1971 would mean 3,600 fewer deaths and 31,550 fewer casualties. Some plans call for a residual force of approximately 200,000 in Vietnam until 1975, and compared with this prospect, the amendment withdrawal date would save 10,900 American lives and prevent more than 96,000 casualties.

All this assumes that the present level of fighting would persist, as it gives every indication it will. It also assumes that there will be no cease-fire or reduction

in the level of combat once a fixed withdrawal date of December 31, 1971, is declared. However, once we make it clear that we are withdrawing and will depart by a fixed date Hanoi and the Vietcong would have good reason to negotiate a cease-fire or reduce the level of fighting in order to assure a withdrawal by the end of next year.

In providing a way to reduce American casualties, the amendment can hardly be construed as restricting the President's powers as Commander in Chief only of those forces which have been raised and supported by the Congress. The framers of the Constitution strongly intended that the Commander in Chief should direct our military forces into war with other nations only when war had been declared by the Congress.

The wisdom of the separation of powers, therefore, applies to our Nation's policies of defense and foreign affairs just as clearly as it applies to domestic issues. It is no infringement upon the President's constitutional duties as Commander in Chief for Congress to exercise its own judgment over the support of armies for specific purposes.

For too long the Congress has given the President almost sole responsibility for the war; this must be changed. I want to see the Congress reassume its proper constitutional responsibility. The American people hold us accountable for what this Government does; we must answer to them.

The American public supports a withdrawal from Vietnam by the end of 1971. The Harris poll of August 17, 1970, indicates that 44 percent of the American public favor a withdrawal by the end of 1971 while 35 percent oppose it. This sentiment is further evidenced by an earlier Gallup poll during the last week in May which indicated that 48 percent favored a withdrawal by July 1971, or before, while only 31 percent favored the President's policy of timing withdrawals on the ability of the South Vietnamese to handle the fighting.

As elected representatives of the people, we must listen to them. They favor an orderly and rational withdrawal of American troops by the end of 1971, and the approval of this amendment will testify to the Senate's ability to respond to the will of the American people.

While saving lives, a December 31, 1971, withdrawal would also conserve billions of dollars needed desperately for domestic needs. The amendment would save nearly $5 billion compared with the present withdrawal rate, if it continues. Assuming that a residual force of 50,000 were maintained in Vietnam until 1975, this amendment would save nearly $11 billion. Furthermore, if 200,000 troops are stationed in Vietnam until 1975, more than $46 billion would be saved.

The war continues to be the single greatest source of inflation in the economy. This amendment would be a decisive move in checking the rising prices and soaring interest rates which are victimizing every American.

These are the consequences of the amendment which is before you. It offers us a chance of peace, a responsible withdrawal from a war which has killed our young, alienated our youth, drained our resources, and earned us the disaffection of people across the globe. The war continues, but we have a chance, an opportunity to end it and the tragedy it has brought.

And yet, some have obscured both the intent and consequences of the amendment with insinuations and specters of disaster. Some have charged that a "bloodbath" will follow in the wake of our departure from Vietnam. If this is in fact the case, the amendment states that asylum will be provided "for Indochinese who might be physically endangered by the withdrawal of United States forces."

Some may seek such asylum, but the facts indicate that this bloodbath argument is fallacious. It ignores the loss of life which is continuing in Vietnam today and which will continue until this war is stopped. According to casualty projections, the current withdrawal rate, should it continue, would result in 10,000 more South Vietnamese deaths, compared with the December 31, 1971, withdrawal date. If present withdrawal rates continue, leaving a residual force of 50,000 men in Vietnam, 65,000 more South Vietnamese would lose their lives in battle. And if a force of 200,000 Americans remained in Vietnam until 1975, 135,000 more South Vietnamese soldiers would be killed.

The bloodbath theory simply does not hold. By withdrawing American troops from Vietnam, both American and Vietnamese lives will be spared.

Furthermore, more than 15 months will provide both Americans and South Vietnamese to establish conditions in which repressions could be prevented. According to the Rand Corp. report, any government developing after an American departure would have compelling reasons for not instituting a program of assassination and terror. Such a move would only further alienate and divide a people looking for a government to support.

Today the South Vietnamese Army is four to five times larger than all enemy troops in South Vietnam. Presumably, such a force is capable of preventing the deaths of the citizens whom they protect. If they are not prepared to do so now, 15 months provides ample time to train and equip such troops. If they cannot protect the people 15 months from now, When, may I ask, will they be ready?

At the basis of this issue is the political reality that only a government which wins the allegiance of the people can prevent repression and reprisals. After all the men and money and equipment the United States has provided, Saigon must now provide for the safety and welfare of its citizens.

Critics of this amendment often invoke the well-worn domino theory to explain why this amendment is dangerous and ill advised. Whenever I hear someone defend U.S. policy in Vietnam with the domino theory, I recall the wise words of President Eisenhower, who said:

> I never played dominos, and I never took much stock in short labels to describe a complex situation until I felt that everybody know what the label meant.

Vietnam is a complex situation and one which simply cannot be described in the simplistic terms of the domino theory. It ought to be apparent by now that in Vietnam we are not dealing with a monolithic Communist movement sweeping across border after border. China and Russia are not unified, and Hanoi has consistently and skillfully played one off against the other. Hanoi is an intensely nationalistic regime, though communism is its political philosophy, and its support from the people arises from its appeal to nationalistic fervor. It is little wonder that they are able to lump together the United States, France, and China as the hated invaders of their country.

The real purpose of the domino theory, as Joseph Kraft has written, is "not to describe the situation in Asia but to rationalize the Vietnamese war for American public opinion." The truth is that our continued intervention in Vietnam, and our perpetual military involvement there, are having exactly the same effect which the domino theory describes. We are driving Hanoi into greater and greater dependence upon Russia and China. Most alarming, however, is the growing disaffection among neutral countries throughout Asia who deplore and resent the potential threat of an ever-widening war in Indochina.

President Nixon has told us to talk to the dominos who would be affected by the withdrawal of American troops from Indochina, and yet former Ambassador to Japan Edwin O. Reischauer has maintained that Vietnam is the central issue undermining our critically important relationship with Japan:

> The relationship between the United States and Japan,

He has stated—

> is being eroded by Vietnam strains and stresses.

A withdrawal of American troops from Vietnam and the establishment of political stability in Indochina will do more to check the expansion of communism throughout Asia than anything else we can do at this point in history.

If this domino theory were valid, if the Asian countries were concerned about the threat of communism spreading throughout Asia, then they, too, would have a stake in guaranteeing a non-Communist government in South Vietnam. Presumably their concern would be so great that they, too, would supply men to fight in common cause with the South Vietnamese. However, the only Asians fighting in Vietnam are those paid by the United States as mercenaries. And so, it would appear that it is more important to watch what dominos do than what they say.

The fundamental lesson of Vietnam is simply this: We cannot fight wars, even those involving avowed Communists, unless the people themselves wish to resist the growth of communism in their country. This is as true for all the Southeast Asian countries as it is for South Vietnam. The test of their strength as viable governments is their ability to deal with the forces within their own countries which threaten to disrupt and disturb the government's authority.

President Nixon himself has given explicit recognition to this fact in his Guam

doctrine. American strategic interests are not at stake in Vietnam, and unless the South Vietnamese people have the desire and will to establish a democratic government, we cannot provide it for them.

If we withdraw from Vietnam by the end of next year, if this amendment is passed, and if we declare that our commitment to South Vietnam is not unlimited, our credibility in Southeast Asia and around the world will be improved—not impaired. Today we suffer the scorn, the revulsion, the resentment of people throughout the world who are offended by the immorality and futility of this war. A withdrawal from Vietnam offers the United States the opportunity to reclaim the moral leadership for peace in a divided world.

Some have accused the supporters of this amendment as being isolationist, of seeking to establish a "fortress America." We want no isolation from the harsh realities of the world. With the massive power and influence of the United States comes great responsibility for using that power prudently and humanely. Continuing to fight a war which few wish to defend, maintaining a presence in Vietnam which is resented by many Vietnamese and Americans alike, has drained our resources and sapped our strength. To regain our prestige, influence, and power in international affairs requires a prompt, orderly withdrawal from the conflict.

During recent weeks those who have opposed the amendment have charged that our amendment would represent a surrender to Hanoi. But I ask—is it disloyal to America to vote for the preservation of American lives? Is it wrong to vote for a withdrawal from a war in which victory is not the goal?

The issue, I repeat again, is not one of withdrawal or no withdrawal. Even the President is committed to the extrication of some American troops from Vietnam. The issue is not one of victory or defeat, success or surrender. The administration is pursuing a policy to reduce our stake in the war; this amendment simply withdraws all American troops from participating in the conflict. We cannot win or lose this war; only the South Vietnamese can do that. For years we have provided men and materiel, arms and aid, to the South Vietnamese, and I submit that it is now reasonable to say that 15 months from now we will no longer sacrifice American lives. We have done our best; we have given our best—to suffer and die in Vietnam.

Our policy in Vietnam has never been total victory. Instead, as President Nixon stated on July 1, 1970, a just peace in Vietnam means—

> Simply the right of the people of South Vietnam to determine their own future without having us impose our will upon them, or the North Vietnamese or anybody else outside impose their will upon them.

Then the President asked—

> When we look at that limited objective, I am sure some would say, "Well, is that really worth it? Is that worth the efforts of all these Americans fighting in Vietnam, the lives that have been lost?"

That is a disturbing question; it is agonizing indeed to ask whether the suffering and pain and death of this war have any meaning, purpose, or significance. There are those who have said and will continue to say that those lives were lost in vain. But such a judgment is filled with ambiguities which only history will make more clear for us to understand.

I will not say that the deaths of 43,000 Americans have no meaning. But I do say this. We have tried to strengthen the South Vietnamese Government; we have provided aid to the people; during the next 15 months we will provide more funds and support to create a stable society and open the door to peace. But they must make it on their own. Let us give the South Vietnamese, strengthened by our assistance and support, the freedom to choose their own future, to make their own peace.

Let there be no mistake. This amendment is not peace at any price; it is not cut and run; it is not an immediate, precipitate withdrawal. Rather, this amendment provides for a rational, safe, orderly withdrawal of all American troops more than 1 year from now. It preserves all the constitutional powers of the President as Commander in Chief; it reasserts congressional responsibility for the conduct of the war; it offers a hope for the achievement of our policy objectives; it offers us and the Vietnamese people the possibility of peace.

By passing this amendment the Congress will declare clearly its intention to participate in the judgments which guide the course of the war in Vietnam. Respect for our Constitution and reverence for rule by law and not men demand that the Congress accept this responsibility for the tragic and prolonged conflict in Southeast Asia.

The constitutional balance between Congress and the President for conducting the war must be reestablished. In the wisdom of the framers of the Constitution, the power of the Executive to wage war was checked by the Congress. As Lincoln clearly saw more than a century ago:

> The provision of the Constitution giving the war-making power to Congress was dictated, as I understand it, by the following reasons: Kings had always been involving and imperishing their people in wars, pretending generally, if not always, that the good of the people was the object. This our convention understood to be the most oppressive of all kingly oppressions, and they resolved to so frame the Constitution that no one man should hold the power of bringing oppression upon us.

This is not Nixon's war; it was not Johnson's war; it should be seen as America's war. This is your war—it is mine. We must not shirk our constitutional responsibility; we must not allow these decisions to be borne alone by the President. The responsibility for waging a war is too great a burden for any one man to bear; Congress must make its own judgments, reach its own conclusions, and struggle toward its own decisions. Together, sometimes in concord, sometimes in disagreement, the Congress and the President will express the will of the people and govern our Nation wisely.

This amendment will give us the opportunity to create that constitutional balance and will set the method by which the legislative and executive branches together can exercise their shared responsibilities. We may not be able to withdraw all American troops from Indochina by the end of 1971; then the President has the option of extending this time, in order to insure the safety of the troops, by 60 days. Furthermore, if the President believes it is necessary to maintain troops beyond December 31, 1971, he need only come to the Congress and explain why it is necessary to maintain them there, setting a deadline for their withdrawal for the Congress to approve. South Vietnam and other countries may need additional aid after 1971; such aid would simply require congressional authorization. Through the established legislative procedures, the need and necessity of future involvement in Indochina can be studied and determined under the provisions of this amendment.

This amendment stipulates a constitutionally proper means of sharing responsibility for the conduct of the war with the Executive and for achieving a safe, orderly, rational withdrawal from Vietnam. The time has come for the Congress not only to debate, to discuss, and to agonize with the country over this war, but to use its best wisdom and exercise its inherent responsibility to enable an honorable resolution of our tragic involvement in this conflict.

The conflict in South Vietnam must cease; it has brutalized our people and created strife and enmity between neighbors. More than 50 years ago, during the First World War, Walter Lippmann observed:

> There is in America today the beginning of that very military arrogance which we are being told this war is being fought to abolish. It shows itself in contempt for all efforts toward peace, in programs of armament which are vistas of a nightmare, in denunciation of the virtues that make a free and tolerant people, in a hatred of other points of view, in the attempt to haze and ostracize those who have different opinions, and in the assertion of a brittle, touchy impatience at the thought that anything can be adjusted without slamming the table or rattling the windows.
>
> Which position requires courage and which requires nothing but the willingness to drift with the current . . .? At a dinner table, in a drawing room, on the stump, in the Senate, the easy attitude is to follow the loudest declaration, to go with, and not against, the violence of the tribe. It usually involves no risk, and it is almost a cheap way to approval.
>
> Yet there is no guarantee that the fibre of a people is sound because no one appears who is willing to risk the sneers of the angriest. It may be that the people who are ready to sacrifice popularity, to face ridicule, to stand out for reason and adjustment, are the people who really have the bravery that freedom requires.

Those words might have been written today. We need the bravery that freedom requires, to preserve human life, to make our Government sensitive to a people tired of war, to move our country toward peace. This amendment offers us that opportunity.

The war continues. But it need not continue indefinitely. We are not powerless; we are not without responsibility. Let us take our responsibility and pass this amendment to withdraw our troops orderly and safely.

WASHINGTON POST ENDORSES AMENDMENT TO END THE WAR

Mr. President, it was with a feeling approaching unalloyed pleasure that I read this morning's Washington Post to discover that, at long last, the amendment to end the war, sponsored by 25 U.S. Senators, has found favor in the sight of the editorialists of that fine newspaper.

This demonstrates a laudable openness of mind and a willingness to listen to the reasonableness of the proponents of the amendment, who have argued for setting a definite timetable for the withdrawal of our troops from Vietnam, and a proper regard for the constitutional responsibilities of the Congress.

I ask unanimous consent to have the editorial printed in the RECORD, and should like to express my appreciation to the Washington Post editors for their support. I am hopeful that it will be read and taken into consideration by Members of Congress who are yet to be convinced of the merit of the amendment.

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

A NATIONAL POLICY TO END THE WAR

The Senate has an opportunity during the next few days to write a rational and responsible policy for ending the war in Vietnam. For many months the Senate has been itching to reverse its 1964 endorsement of a blank check to President Johnson to initiate and carry on that war. It adopted the Fulbright resolution designed to give Congress a voice in future national commitments, and a few weeks ago it attempted to forbid widening of the war to Cambodia through the Cooper-Church amendment, although the language got pretty muddy before the final action came and the House would have none of it. Now the Senate has a chance to go on record for an orderly and timely liquidation—an objective that is earnestly sought by an overwhelming majority of the American people.

This issue has been distorted in the past by the simplistic manner in which some senators sought to hasten the withdrawal from Vietnam. A scuttle-and-run policy was said to be the only alternative to a declaration of war. Widespread opposition to any action by Congress on the war was aroused by the argument that it could be, and should be, cut off by a snap of the congressional fingers.

As the issue is now being debated in the Senate, however, it assumes a very different posture. No longer is there any effort to say that American troops must be out of Vietnam within six months. In its present form (the text is presented, for the record, elsewhere on this page today) the amendment to the military procurement bill originally offered by Senators McGovern and Hatfield would now require the withdrawal of American armed forces by Dec. 31, 1971—leaving a liquidation period of 16 months. If any emergency should arise, the President would be authorized to extend this period by 60 days, and if that did not allow enough time for safe evacuation of Southeast Asia the President would so report to Congress within 10 days so that Congress could authorize a further extension.

Rigidity has thus given way to flexibility. As reshaped by the Foreign Relations Committee, this is quite a different proposition, which would have the great virtue of enacting a national policy for termination of the war without putting the President into a straitjacket. In effect Congress would enact the President's withdrawal formula as a sound national objective, without saying that it would have to be carried out in any and all circumstances. This achievement of firmness in the statement of a national policy, along with elbow room in actually carrying it out, is a tribute to the good judgment of all those who have contributed to it.

Up to now, the administration has remained in opposition to any congressional action in this sphere. In part this may be attribute to the sound objections raised against earlier versions of the McGovern-Hatfield amendment. No doubt it also reflects an automatic White House preference for a free hand. In this case, however, the White House as well as the country has an enormous interest in having the Congress on record for termination of the war in an orderly and responsible fashion. If the outcome should turn sour—by no means a remote possibility—it would be much better to have the President and Congress jointly responsible.

In our view, the White House could well regard this proposal before the Senate as a fortuitous opportunity to put Congress on record in favor of the Nixon withdrawal policy or something close to it. The requirement that our Vietnam troop-level be reduced to 280,000 men by next April 30 and that the remaining forces be brought home by the end of next year is specifically recognized in the language of the amendment as a reflection of the President's own statements. Unless the President wishes to deviate from this withdrawal policy, there are compelling reasons why he should welcome a congressional reaffirmation of it.

The President has, to be sure, opposed past efforts to set a date for the windup of the Vietnamese affair. He has feared that the fixing of a date would take pressure off the North Vietnamese to negotiate an end of the war. But if Congress fixes a date which the President could postpone or even eliminate with the consent of Congress, when the time came, the North Vietnamese would, as the Foreign Relations staff memorandum notes, have no assurance that mere stalling would redound to their advantage.

In any event, it seems to us that the advantages of having a congressional withdrawal policy on the books greatly outweigh any disadvantages that might be encountered at the negotiating table. Such legislation would put the President under pressure to carry out the evacuation at the earliest feasible date. It would put our military leaders—and our diplomats, as well—on notice that the national policy is irreversible. Saigon also would have a clearer understanding of what the score is and would be able to adjust its policies accordingly. So long as there is hope that the President may change his mind under pressure the Thieu government is more likely to avoid the hard decisions that are essential to a future for South Vietnam without American manpower for its defense.

Behind all the arguments for and against this amendment is the even more vital fact that the Senate is making a bid to get back into the policy-making arena in regard to war and peace. We think the President should welcome that effort as a bed-rock imperative of American democracy. If the present amendment is not satisfactory to the administration in all particulars, amendments can always be suggested. But it would be tragically shortsighted for the administration to take an arbitrary stand against congressional action designed to underscore and give congressional support for the President's own policy. Orderly termination of the war as soon as feasible ought to be the joint policy of the two political branches, and it is doubtful that there will be a better opportunity than the present to make it so.

Mr. MONDALE. Mr. President, the debate we begin today marks a singular moment in the history of the Senate.

As so often when decisions in this Chamber are most grave, the issue itself is most clear. The Hatfield-McGovern amendment represents, as many of my distinguished colleagues have pointed out, a reassertion of congressional authority in the fateful choices of war and peace—a reassertion so plainly required by the Constitution and so long overdue.

But beyond the momentous question of the balance of powers in our Government, the purpose of this amendment is still more simple and fundamental.

My colleagues and I rise today to stop at last the killing and maiming of Americans in Vietnam.

The historic merit of this amendment, Mr. President, is the unmistakable message it would carry from the Congress to the Nation and the world.

To the American people, unanimous in their yearning for peace, it would affirm that the years of illusion and misdirection and terrible sacrifice in this war are finally coming to an end.

It would express that large measure of the public will, particularly among our young, for a rapid and total withdrawal of U.S. forces.

Moreover, it is a special strength of the present amendment that it has been expanded to meet also the deep and legitimate concern of many Americans that withdrawal could mean the exposure of our dwindling forces to enemy attack. There can be no real argument that this legislation somehow ties the President's hands in defending our men in Vietnam. On the contrary, by providing the President explicit authority to defend our forces as he judges necessary to secure our withdrawal, this amendment would bring our men home safely and honorably as well as soon.

I should point out in particular, Mr. President, that the amendment also provides full authority to the President to do all he can to secure the release of our prisoners of war in North and South Vietnam. The barbaric treatment of those men and the anguish of their loved ones here at home is an enormous tragedy of this war. The Hatfield-McGovern amendment recognizes the constant obligation of the Congress as well as the Executive to work toward the liberation of our men as rapidly as possible.

Yet this act of Congress would speak not only to the hopes of America. Its message would be equally clear to friend and foe in Vietnam.

To South Vietnam, whose responsibilities we have borne too long, we would be serving fair notice that finally—after the hollow rhetoric of two administrations—Asian boys are indeed going to have to fight Asian wars.

The lessons of the last 16 years are vivid. Nations—much as men—are stifled by patronage and strengthened by challenge. If the Army of Vietnam is to be truly effective, if the democratic elements of the country are ever to pull themselves together, if an independent nation is in fact to be built in South Vietnam, the best incentive we can provide is the sure knowledge that the time has

come for them to shoulder the primary responsibility of their own defense.

To Hanoi, this amendment also conveys a challenge and an incentive which might well be decisive in reaching a negotiated settlement.

For months, the North Vietnamese and their supporters have been telling us that the first imperative of successful negotiations, and the key to departure of their own troops from South Vietnam, would be a specific commitment to the withdrawal of U.S. forces. This amendment calls that hand for all the world to see.

Nor can Hanoi find ready advantage in this amendment for their own position on the ground. To lie and wait insures them nothing when the President, with consent of the Congress, can adjust our withdrawal to meet any contingency. And how confidently can Hanoi ignore a settlement now when the notice of our withdrawal is likely to galvanize the non-Communist forces of South Vietnam as never before? The shrewd men in Hanoi could well conclude that the price of a settlement today would be less than what they might pay for the risky months of waiting.

The administration has often argued that uncertainty is the greatest strength of its policy—and that this amendment will eliminate that tactic.

Indeed it will, Mr. President, and that is perhaps the ultimate virtue of the amendment. For the cost of calculated obscurity in our Vietnam policy has been far too high.

A Hanoi uncertain of our objectives has been intransigent at the conference table and unremitting on the battlefields.

A Saigon uncertain of our policy has been slow to gather the strength, as it must, to stand on its own feet.

And most important, an America uncertain of our course has been as tragically and dangerously divided as at any moment since the Civil War.

President Nixon has told us again and again that the heart of the matter is not whether we end this war, but how we end it.

And that is true. We have a clear choice of paths to follow.

We can continue the equivocation which passes for diplomacy, the improvisation which passes for a plan, the bluff and lashing out—as in Cambodia—which passes for strength and manly purpose.

Or we can make good on the pledge for peace we all avow. We can undertake a truly national policy to end this war.

That alone will speed the return of our men held prisoners.

That alone will flush out an elusive enemy.

That alone will insure our accomplishments in Vietnam.

That alone will redeem the pledge made by President Nixon in his campaign to bring America together.

So what we are about in this legislation, Mr. President is nothing less than a test of the long-professed commitment of the Congress and Executive alike.

We face the choice squarely. The Senate can share with the President the awesome burden of making peace with Vietnam and ourselves. Or we can spurn once more our constitutional obligation.

No more fateful choice has confronted the Members of this body.

AMENDMENT NO. 814

Mr. FULBRIGHT. Mr. President, I ask unanimous consent to call up my amendment No. 814.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The assistant legislative clerk read the proposed amendment, as follows:

On page 14, between lines 18 and 19, insert the following:

SEC. 206. (a) Notwithstanding any other provision of law, beginning with the fiscal year beginning July 1, 1971, no funds appropriated to or for the use of the Department of Defense for any fiscal year may be expended for carrying out research or study projects involving foreign affairs, foreign areas, or related matters except to the extent that the total amount expended for such purposes in such fiscal year does not exceed an amount equal to the total amount expended by the Department of State in the immediately preceding fiscal year for research and study projects (involving foreign affairs, foreign areas, or related matters) which were conducted for the Department of State by persons or organizations outside such Department. The total amount expended by the Department of State in any fiscal year for such projects shall include amounts transferred to the Department of State from other departments and agencies for the purpose of having such projects carried out under the direction of the Department of State.

(b) The head of any department or agency of the Federal Government shall, in response to any request made to him in writing by a committee of the Congress, promptly submit to such committee a copy of any report, study, or investigation requested by such committee if the report, study, or investigation was financed in whole or in part with Federal funds and was made by a person outside the Federal Government, except that this requirement shall not apply in the case of any report, study, or investigation with respect to which the President exercises the right of executive privilege.

Mr. FULBRIGHT. Mr. President, it is a simple amendment and I hope that the managers of the bill will accept it. The amendment would:

First. Limit the Defense Department's spending for research by outside organizations on foreign affairs matters to not more than the amount appropriated, or transferred by other agencies, to the Department of State in the preceding fiscal year for such research; and

Second. Insure that congressional committees are given access to Government-financed research studies carried out by private individuals or organizations unless "executive privilege" is invoked.

In the last fiscal year the Department of Defense spent $9 million for outside research on foreign affairs matters, 72 times the $125,000 appropriated to the Department of State for its entire external research program, including contracts, consultants, and conferences.

In its report on the Defense authorization bill last year, the Senate Armed Services Committee wisely urged that $4 million of Defense funds for research on foreign affairs matters be transferred to other Government agencies, particularly the Department of State. In doing so the committee stated that:

Defense Department activities in these two categories ("foreign military security environments" and "policy planning studies") have grown up to fill a void caused by lack of information in this area available from agencies which may be more directly responsible.

But the Defense Department's response to the committee's directive was to transfer only $483,000 of its $9 million budget to the State Department in fiscal 1970. And that came about only last June, as the fiscal year was ending, in an obvious attempt to show that it had not ignored the Committee's request entirely.

The situation is little better this fiscal year. The Defense Department's budget request for foreign affairs research is $9.9 million. And the State Department's request for external research is $350,000—of which only $241,000 is slated for contract research. The Armed Services Committee is to be commended for recommending a 30-percent reduction in the Defense request—to $6.8 million. But this cut will still leave a situation where the military is spending nearly 20 times as much on foreign affairs research as the agency assigned the primary responsibility for conduct of the Nation's foreign policy.

For the information of the Senate let me list a few of the titles of foreign affairs research projects carried out by the Defense Department in fiscal year 1970 which are proposed for continued funding in fiscal year 1971. Unfortunately the amounts planned for fiscal year 1971 are classified but I can assure the Senate that they are substantial:

FISCAL YEAR 1970—TITLE AND AMOUNTS

Strategic Analysis of North Africa, Middle East, and South Asia, $139,000.

U.S., U.S.S.R., CPR Strategic Interactions and Response Patterns, $325,000.

Soviet Military Policy, $255,000.

European Security Issues, $76,000.

Asian Security Issues, $312,000.

Dimensions of International Conflict for Long Term Prediction, $200,000.

World Event/Interaction Survey for Short Term Conflict Prediction, $112,000.

Forecasting International Defense Alliances and Alinements, $100,000.

Asian Regional Arrangements, and so forth, $325,000.

Base Studies, and so forth, $400,000.

My amendment would limit the Department of Defense's spending for foreign affairs research, such as these projects, to not more than that spent by the Department of State in the last fiscal year for external research of this nature, including its own funds and any funds transferred to State by the Department of Defense or other Government agencies. It would not only encourage Defense to transfer additional research funds to the State Department, as the committee has urged, but it would also give the State Department leverage for obtaining additional allocations during the budgetmaking process. In explaining the committee's 30-percent reduction in this activity to the Senate, Senator MCINTYRE stressed the need for transferring responsibility for this research to State. He said:

It is the Committee's expectation that its action this year will underscore the need

for additional such steps both within the State and Defense Department themselves and at the Bureau of the Budget.

My amendment will help to carry out the committee's intent.

Although the amount of money involved here is dwarfed by the size of other authorizations in this bill, the principle involved is important. Over the years the Department of Defense has moved into this and many other areas which are the proper responsibility of the State Department solely because it, and not the State Department, could get the money from the Congress. This amendment will help restore the proper relationship between the responsibilities of the two Departments and insure that requests for financing this type of research will be given closer scrutiny than has been the case in the past.

The second part of the amendment would require Government agencies to make available to congressional committees, upon request, any study or report prepared outside the Government which was financed in whole or in part by the sponsoring agency. The purpose is to insure that the Congress is given access to research studies performed by the so-called think tanks, the universities, or individuals whose work is paid for by the taxpayers. The amendment recognizes the right of the President to withhold "privileged" information from the Congress, and it also specifies that the mandate applies only to work performed outside the Government.

This amendment is the outgrowth of many efforts by the Committee on Foreign Relations to obtain a study prepared by the Institute for Defense Analysis relating to the 1964 Gulf of Tonkin incident. It is my understanding that the study contains a review of what happened in the Gulf of Tonkin, how communications were handled, and in general how decisions were made. The purpose of the study, I was informed, was to determine what lessons could be learned for future crisis situations. I think that my colleagues will agree that there is much that all of us can learn from that incident and its aftermath. The committee has attempted a number of times to obtain this study from the Department of Defense, but has been refused each time.

The Institute for Defense Analysis receives virtually all its funds from the Department of Defense. In the 1970 fiscal year this organization received $10,130,000 from the Department of Defense and the Department proposes to give them $10,650,000 in 1971.

I believe that the Congress, which imposes the taxes on the public to finance this organization, and which authorizes and appropriates the money for it, should have the right to see how that money is being spent. The issue here is far more important than this one study—it is a question of whether the Congress has the power to obtain information, prepared outside the Government with tax money, for which no claim of executive privilege has been made.

The Senate is beginning to reassert its Constitutional prerogatives and to restore the proper balance to our political system. Passage of this amendment will be one small, but positive, step in that direction.

Mr. President, I recognize that these practices have grown up over the past several years during a period of wartime. I sincerely hope that we are beginning to wind down the war and that before too long we will return to a period of more normal civilian control and participation—especially participation by Congress—in decisions involving our national security.

I hope that this amendment will be accepted by the distinguished Senator from New Hampshire. He has been very cooperative on this matter, last year, and this year.

Mr. McINTYRE. Mr. President, in discussing the amendment offered by my good friend, the Senator from Arkansas, I would like first to address myself to that part of amendment No. 814 which is labeled section 206(a).

Mr. President, I have listened with interest to the remarks of my distinguished colleague from Arkansas (Mr. FULBRIGHT). I must admit in all candor that I share his commitment to an increased role for the State Department in foreign area research, an endeavor in which it has lagged almost to the point of delinquency.

Let me review briefly the action which the Armed Services Committee has taken in the past 2 years in this foreign research area to reduce DOD's role and increase State's.

The Defense Department's foreign area research program has always represented only a small part of its work on the behavioral and social sciences. The great bulk of its effort has been expended in the areas of: First, human performance—studies of the performance of men under stress; second, manpower selection and training—studies of the best methods for training men for various positions in the Armed Forces; and third, human factors engineering—studies to insure that military hardware is designed for safe, efficient, and effective use under battlefield conditions. The foreign area research budget of the Department is itself divided into two components—foreign military security environments and policy planning studies. Mr. President, as background to my discussion, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a table of Department of Defense funding of social and behavioral science research for fiscal years 1969–71.

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

(See exhibit 1.)

Mr. McINTYRE. Mr. President, last year the Department's foreign area research budget request was $13.3 million. The committee recommended a reduction of $1.5 million and coupled this reduction with the following language in the committee report:

> The Committee believes measures should be taken to transfer a number of these efforts to other agencies for future fiscal years and that during the coming fiscal year the management of certain projects of interest to the Department of State, the Arms Control and Disarmament Agency, the National Science Foundation, and other agencies should be taken over by those agencies, particularly the Department of State. This should be with the understanding that any subsequent requests for funding authority will be made by these other agencies in their future budget presentations which Congress should be prepared to consider carefully in light of this suggested change. The Department of Defense should actively seek agreements for transferring approximately $4 million of . . . fiscal 1970 funds (earmarked for foreign area research) to other agencies.

It should be clear to my colleague that the Armed Services Committee intended that the shift from Defense Department support to other agency support be accomplished in an expeditious but orderly manner.

However, as the result of a successful floor amendment introduced by the Senator from Arkansas last year, the Department's program was subsequently reduced another $2.8 million, from $11.8 million to $9.0 million. One effect of this additional reduction was to wipe out almost 70 percent of the funds earmarked by the committee for transfer to other agencies.

Despite this loss of funds, efforts were made by the Defense Department to initiate not a transfer of additional funds to the State Department directly, but the allocation of some funds to a collaborative State-DOD research program. Less than 2 months ago an agreement was finally reached whereby $483,000 of fiscal 1970 funds were made available for such work.

The fiscal 1971 Defense Department budget included a request of $9.9 million for foreign area research. In light of the Department's reluctance to approve outright transfers of funds to the State Department and in light of the policy expressed in section 203 of last year's bill, the committee subjected this request to a thorough, almost painstaking examination. As a result of this examination, it recommended a reduction of $3.1 million—over 30 percent—from the Department's proposed budget, bringing it to a level of $6.8 million. This reduction was directed primarily to work in counterinsurgency operations and work proposed by the military services but deemed more appropriate either to the State Department or the International Security Affairs Office of the Department of Defense. The remaining funds are earmarked for projects which, while of interest to the State Department, bear a clear relationship to the Defense Department's own mission. Plans for a jointly-staffed State-DOD foreign area research coordinating committee under National Security Council auspices are well underway. The committee should be established soon, after which funds for those remaining foreign area research projects in DOD's budget which are of interest to State also will be made available to the committee and the projects conducted on a collaborative basis.

I submit that the committee has done all it can in the past 2 years both to eliminate Defense Department involvement in foreign area research not relevant to its own mission and to increase the State Department's participation in this work. I agree that the latter goal

has not yet been realized to an appropriate extent, but I feel that future pressures toward this end should be applied not to the Defense Department but to State itself and to the Bureau of the Budget as the agency with overseeing responsibility as regards the composition of State's budget. As for the Defense Department itself, its foreign area research budget has now declined from $16.1 million in fiscal 1968 to a committee-recommended fiscal 1971 budget of $6.8 million, an overall reduction of 58 percent.

I would like to ask my colleague, as chairman of the Foreign Relations Committee, what actions he has taken to increase State's own foreign area research budget in recent years, and just what he feels has to be done by the Congress to get State moving in this area?

EXHIBIT NO. 1

BEHAVIORAL AND SOCIAL SCIENCE

[In thousands of dollars]

	1969	Budget 1970	Actual 1970	Fiscal year 1971 Requested	Change	Recommended
Human performance:						
Army	400	600	500	1,000	−300	700
Navy	2,400	2,500	1,000	1,000		1,000
Air Force	500	700	300	200		200
Defense agencies	3,600	2,500	2,700	2,700	−200	2,500
Total	6,900	6,300	4,500	4,900	−500	4,400
Manpower selection and training:						
Army	5,700	6,100	4,600	5,500	−500	5,000
Navy	9,900	10,800	8,200	9,000	−700	8,300
Air Force	3,500	5,100	5,200	8,900	−700	8,200
Defense agencies	2,400	3,300	3,400	3,800	−200	3,600
Total	21,500	25,300	21,400	27,200	−2,100	25,100
Human factors engineering:						
Army	1,800	2,100	1,500	1,800		1,800
Navy	1,200	1,300	900	1,200		1,200
Air Force	300	300	200	200		200
Defense agencies						
Total	3,300	3,700	2,600	3,200		3,200
Foreign military security environments:						
Army	2,600	2,900	1,900	2,900	−1,300	1,600
Navy	300	300	200	200		200
Air Force	1,100	1,100				
Defense agencies	3,200	2,600	2,600	2,600	−500	2,100
Total	7,200	6,900	4,700	5,700	−1,800	3,900
Policy planning studies:						
Army	1,700	1,500	1,100	1,100	−400	700
Navy	800	700	600	500	−200	300
Air Force	1,900	1,900	1,000	1,000	−300	700
Defense agencies	2,000	2,300	1,600	1,600	−400	1,200
Total	6,400	6,400	4,300	4,200	−1,300	2,900
Summary:						
Army	12,200	13,200	9,600	12,300	−2,500	9,800
Navy	14,600	15,600	10,900	11,900	−900	11,000
Air Force	7,300	9,100	6,700	10,300	−1,000	9,300
Defense agencies	11,200	10,700	10,300	10,700	−1,300	9,400
Total	45,300	48,600	37,500	45,200	−5,700	39,500

Mr. FULBRIGHT. Mr. President, the only concrete action was the action that the Senator from New Hampshire cooperated in. That was the principal effective agent.

This was one of the reasons I liked that approach. I do not know how to inspire the State Department to assert its responsibility in this area. The State Department has not in recent years had very much influence in the budget process. Matters that are clearly within the State Department, such as the exchange program, have been restrained very severely through the budget and by action of the Appropriations Committee.

As a matter of fact, the Senator knows that all agencies other than the Department of Defense have great difficulty when it comes to getting money.

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

Mr. FULBRIGHT. The State Department has had other pressing budget problems and they have not tried very hard, apparently, to get more money for research. I have counseled that they do so but there have been no effective results.

Mr. McINTYRE. The Senator just supported the amendment I offered, which is an outgrowth of section 203, which is the application of the relevancy test, which has given us quite a few problems in connection with the defense budget. This amendment is an attempt to bring the National Science Foundation into this picture more clearly as an institution solely devoted to research. When there is budget stringency and a need to cut, the cut is too often at the research end. This amendment points one direction in which we have to go. But there have to be increases, too, in the research budgets of other mission agencies. The State Department is one of these.

It is said the Department of Defense is doing too much in research. The Department of Defense will meet that argument by saying, "Those areas where we are carrying on research may well go to the National Science Foundation and to the State Department, but we think these areas of research are important and should be done, and no one else is now doing them. So we will need the Senator's cooperation, as chairman of the Committee on Foreign Relations, to bring about this reordering of research within the Government today.

Mr. FULBRIGHT. I appreciate what the Senator has said, and I congratulate him on what he has accomplished. Without his efforts it could not have been done.

I do not profess to set myself up as a final judge on what is necessary for the defense of our country in the way of research involving foreign matters, but many of the research activities of the Defense Department, it seems to me, were related to a particular view of the world situation and our role in the world.

To put it another way, much of the research was based on a false assumption as to the need for such studies, for example there were the research projects or counterinsurgencies in countries like Chile.

I thought Project Camelot and other research of this nature, should not have been financed for two reasons. First, that it should not have been done by the Department of Defense, and second, that it should not have been done by any agency. It was a frill. If a private institution having nothing to do with its money wanted to do that kind of work, it would be all right, but we should not be paying for this kind of thing with the taxpayers money.

What we are now talking about is transferring research which I, and the Senator from New Hampshire agree should be done, but not by the Department of Defense.

Mr. McINTYRE. What I am trying to say to the Senator is that it is not enough for the Senator from Arkansas to take the position that some of the foreign area research by the Department of Defense should not have been done by that Department. That is not enough. The Senator deserves a great deal of credit for his alertness in focusing light on this matter. The Committee on Armed Services has focused attention on this matter.

Mr. FULBRIGHT. The Senator is correct.

Mr. McINTYRE. But this is not enough. We must also get the work done elsewhere, when it should be done.

With respect to the State Department, it seems to me that there are many foreign area research projects which should be looked into by some of their best minds, projects that would be of interest to the Senator as chairman of the Committee on Foreign Relations. All I am saying is that the Defense Department's research program in this area has been cut back properly and that in the future we must work together to increase State Department Foreign area research efforts.

I am saying we need the Senator's help, whether it is an on-going study on the Soviet Union, or the Red Chinese, or something else. The Senator should be pushing for these studies.

Mr. FULBRIGHT. When the Senator referred to on-going studies of the Red Chinese and Russia, that is an area I agree should be pursued.

Mr. McINTYRE. Can the Senator tell

me if the State Department is actually conducting such a study?

Mr. FULBRIGHT. I do not know. They have a policy planning staff and they have a research bureau, but both are quite small. The funds for outside research are very limited, as I have stated. If the operation were given more attention by the head of the State Department they could do a better job.

The Senator also knows the State Department has suffered a considerable decrease in responsibility with the development of the White House National Security Council staff. I think it has suffered a decrease in its own assurance capacity to exert itself. It is not a new development. In the preceding administration there developed the idea that the State Department is not as effective as it should be. I think many people over there felt they were being bypassed.

If one reads the press today it is common gossip among many journalists that Mr. Kissinger is really the Secretary of State and that he and his staff are the ones who are really consulted and who play a major role and that the State Department really survives by sending ambassadors abroad and giving receptions, and so on. I do not subscribe to that theory.

I have great respect for the Secretary of State, although I do not know how his influence compares to that of Dr. Kissinger. I do not wish to go off on a tangent.

But there is a research agency in the State Department and it is the office which should have the responsibility and the funds for carrying out this type of research. It is the agency that is responsible to Congress, contrary to Mr. Kissinger's operation at the White House, which takes the position that they are immune to coming before Congress and talking about or discussing foreign policy.

So we have a situation that is very serious. I would like to rebuild the prestige and the functions of the State Department. I think what the Senator suggested goes in that direction. His attitude has been highly sympathetic to that in the past. I think it is very important that the civilian aspect of our foreign policy be emphasized. That is what this amendment is all about.

I appreciate what the Senator has done and his openminded attitude about the problem.

I would hope that as a result of this discussion and what has happened, the State Department would reemphasize the position of the research operation and the policy planning staff, and give them more money, as the Senator suggests.

The Senator and I are in complete agreement. I, too, hope that the State Department will begin to expand its activities in this area.

I see the Senator from Mississippi is here. I would like to turn to section (b) of the amendment. It was my understanding that the chairman of the full committee was agreeable to accepting this part of the amendment provided some minor modifications were made.

Mr. President, I yield at this time to the Senator from Mississippi (Mr. STENNIS) on section (b) of the amendment with which he is familiar.

Mr. STENNIS. Mr. President, if the Senator from Arkansas will yield to me; is this his modified amendment No. 814?

Mr. FULBRIGHT. That is correct.

Mr. STENNIS. This is the amendment we discussed a few weeks ago?

Mr. FULBRIGHT. That is correct. I confined it to the two committees that the Senator referred to.

Mr. STENNIS. Yes. As I understand it, the Senator has plainly excepted from the requirement anything about the President's exercising the right of executive privilege. That is what the Senator intended to do?

Mr. FULBRIGHT. Yes; that is explicit in the language.

Mr. President, while the Senator is considering that, I wanted to add a few words about the second section. It has become almost impossible to obtain the result of much of the research for which, as I have said, the taxpayers have paid Just recently I received a letter from a man in Thailand who said:

> I am writing to suggest that the work of the Committee on Foreign Relations might be assisted by reading a study prepared for OSD/ARPA by the Research Analysis Corporation of McLean, Virginia, titled "A History of Insurgency and Counterinsurgency in Thailand." The report is classified Secret. It is my strong belief that more informed policy-makers make more informed policies, and therefore I feel it would be very much in the national interest of the United States for your committee to study this report. I mention this only because of the possibility that through some oversight members of the Executive Branch may have failed to bring this very detailed and extensive study to your attention.

He goes on to say:

> May I in return ask for one small accommodation, namely that my name not be used in connection with your request for this document (assuming you have not seen it). The title of this document is unclassified, so there is no reason why I should not mention it to you in an open letter. However I have noted a certain sensitivity in Washington, Saigon and Bangkok when your name comes up.

I think two things are to be said about the letter. First, this man, obviously an honest man, no longer feels free to speak openly, because of possible retaliation that he may suffer. So I feel constrained not to give the man's name in public, although the Senator from New Hampshire is free to see the letter. I just do not want to prejudice the writer in any way.

We made a request to the Defense Department for the study, which was paid 100 percent by the taxpayers' money. In response to that request we received a letter from Dr. Foster saying "no" which was classified "confidential." I do not know how absurd one can get. They have gone so far as to classify a letter that says, "No, we will not give you the report." That is what it says here. It says, "This is a report which is limited to internal distribution," and then they mark that letter "confidential."

I do not know how much more absurd one can get in abusing the power of classification than to classify a letter saying "No, you cannot have the document," but which I think, under any democratic processes, ought to be made available to my committee.

That is what the second part of the amendment which the Senator from Mississippi is considering deals with. I think they have carried this matter to an absolute absurdity. I do not see how the committees of the Congress can be expected to function effectively if all these papers that are considered research papers are unavailable for the consideration of the Senate or the committees.

Mr. McINTYRE. Mr. President, the chairman of the Committee on Armed Services and I find ourselves in sympathy with that portion of the amendment offered by the distinguished Senator from Arkansas provided that it can be restricted so as to apply to the Armed Services Committee and the Committee on Foreign Relations of the Senate and the Armed Services Committee and the Committee on Foreign Affairs of the House. If the Senator from Arkansas is willing to modify the amendment to that extent, it is my understanding that we are willing to accept the amendment as modified.

Mr. FULBRIGHT. Mr. President, I send to the desk a modfication of my amendment No. 814 and ask to have it stated.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The assistant legislative clerk read the modified amendment as follows:

> Strike out subsections (a) and (b) of the amendment and insert a new subsection (a) as follows:
>
> "SEC. 206 (a) The head of any department or agency of the Federal Government shall, in response to any request made to him in writing by the Senate Committee on Armed Services, the Senate Committee on Foreign Relations, the House Committee on Armed Services, or the House Committee on Foreign Affairs, promptly submit to such committee a copy of any report, study, or investigation requested by such committee if the report, study, or investigation was financed in whole or in part with Federal funds and was made by a person outside the Federal Government, except that this requirement shall not apply in the case of any report, study, or investigation with respect to which the President exercises the right of executive privilege."

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. FULBRIGHT. I yield.

Mr. STENNIS. Mr. President, I have always thought it was our duty to protect the right of executive privilege. I think it is the duty of the Executive to respect our privileges. I think that privilege is spelled out in the amendment for the committees that have direct jurisdiction.

We discussed this matter last year with the Senator from Arkansas and worked on it somewhat then. I think we ought to accept the amendment and take it to conference and see what we can work out on it with our conferees from the House. I am delighted to do that. That is my studied opinion of it.

Mr. McINTYRE. Mr. President, will the Senator from Arkansas yield?

Mr. FULBRIGHT. I yield.

Mr. McINTYRE. It is also my understanding that the modification would delete that section marked (a) in the original amendment. Is that correct?

Mr. FULBRIGHT. It does.

I want to thank the Senator from Mississippi and the Senator from New Hampshire. I think this may be a small part of the overall effort of Congress to play a more significant, and I would think more constructive, role in the formulation of our national policies, especially in the field of foreign affairs.

We are subject to criticism in the press all the time to the effect that "Congress does not do this" and "Congress does not do that," but I assure Senators that Congress cannot perform its functions when we are not allowed to get the basic research—and it is about the only basic research that is being conducted, as the Senator has already said—but are met with a classification of documents which I do not think have the slightest thing to do with military affairs. I refer, for example, to the study that Dr. Foster just refused to let us have. Apparently we were turned down on the pretext of protecting the sensitivities of some people with whom we have relations. But, after all, Congress has some responsibilities.

So I appreciate the attitude of the Senator from Mississippi, and I hope he will insist upon this amendment in conference.

Mr. President, I am ready for the vote. I move the adoption of the amendment, as modified.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. FULBRIGHT. Mr. President, I have another amendment which I did intend to offer today, but, by agreement with the various people concerned, the Senator from Mississippi and others, I shall not offer it until next Tuesday, at which time the Senator from West Virginia has informed me that he has reserved the time for a vote on it, with a 40-minute limitation. Is that correct?

Mr. BYRD of West Virginia. If the Senator will yield, let me get that request in right now.

Mr. FULBRIGHT. I do wish, very briefly, to explain what it is, after the Senator——

Mr. BYRD of West Virginia. I will make the request later, then.

Mr. FULBRIGHT. All right. I will just make the statement now, and the Senator can make his arrangement a little later.

This is a very brief amendment, and I wanted to explain at this time what it is intended to do. The amendment concerns section 501 of the bill.

I ask unanimous consent that I may yield to the Senator from West Virginia without losing my right to the floor.

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

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I have cleared this request with the principal parties involved—the author of the amendment, the manager of the bill, the assistant minority leader, the majority leader—and other interested Senators.

I ask unanimous consent that, on Tuesday next, the controlled time on the Muskie amendment be limited and reduced from 3 hours to 2½ hours, beginning immediately following the vote on the Proxmire amendment with regard to draftees; and that, at the conclusion of the vote on the Muskie amendment, the amendment to be offered by the able Senator from Arkansas (Mr. FULBRIGHT) be laid before the Senate and made the pending business, and that there be a time limitation on the Fulbright amendment of 40 minutes, to be equally divided between and controlled by the author of the amendment and the manager of the bill; and that, at the conclusion of the 40 minutes, a vote occur on the amendment to be offered by the Senator from Arkansas (Mr. FULBRIGHT).

That, immediately following the vote on the amendment by the Senator from Arkansas (Mr. FULBRIGHT) the vote occur on the committee amendment, as amended, after which the bill be read a third time and there be one-half hour of controlled time on the bill, at the conclusion of which the vote on passage of the bill occur.

Mr. JAVITS. Mr. President, reserving the right to object—and I shall not object unless I have to—may we know from the Senator from West Virginia whether the door is not left open to anyone else who might have an amendment? You never know, until the end of the road, whether someone does or not. Would this arrangement cut off any right to offer an amendment?

Mr. BYRD of West Virginia. It would not cut off any right to offer an amendment to the amendment. An amendment could be offered at the expiration of the 40 minutes, but there would be no time on an amendment to the amendment. The vote would occur immediately.

Mr. JAVITS. Mr. President, I do not think that is fair. In other words, the Senator, without any notice to the Senate, is foreclosing debate even on amendments which are at the desk.

I think it would be better if the Senator would make some modest provision, such as 10 minutes on the side, for anything else that might come up, just to protect Senators against that contingency.

Mr. GRIFFIN. Mr. President, will the Senator yield for an observation?

Mr. BYRD of West Virginia. I yield.

Mr. GRIFFIN. I think the Senator from New York makes an important point. It is a fact, however, that during the remainder of the afternoon today and on Monday, I think any Senator does have an opportunity to offer an amendment. It would probably have to be by unanimous consent if it were taken out of time already allotted, but it could come at the end of the day, and there is no particular problem, nor does there have to be, in my experience, in having other amendments brought up.

One of the problems we have is that we have already set a final time for voting, and there would have to be a modification of that agreement; is that correct?

Mr. JAVITS. What is the final time for voting, if I may ask the Senator?

Mr. BYRD of West Virginia. Well, it is a little uncertain. There can be no specific time stated for the final vote under the order previously agreed to.

Mr. JAVITS. The Senator from Michigan said we have already set a final time.

Mr. BYRD of West Virginia. We have set a limitation on time, but we have not said the vote will occur at X hour.

Mr. GRIFFIN. Mr. President, I stand corrected. The Senator from West Virginia is correct.

Mr. JAVITS. I understand the force of the problem. I know Senators are anxious to get away, and I am, myself. I am not pleading otherwise.

But I do think that to lock up this bill with third reading, without giving any Senator who may decide he wishes to offer an amendment the opportunity to do so, is just not right.

I would therefore respectfully suggest that either on Monday or Tuesday—let us say on Monday, at the conclusion of Senator MCGOVERN's time; or, what would even be fairer, because we do not know what is going to happen on these various elements of the bill, it really ought to come at the end of the vote on the Muskie amendment on Tuesday. At that time, if any other Senator has an amendment, he ought to have 10 minutes on each side.

Mr. BYRD of West Virginia. Does the Senator have reference to an amendment to the amendment?

Mr. JAVITS. I mean any amendment. Do not have third reading until any Senator who wishes to propose anything can do it, with 10 minutes on the side. Then lock it up.

Mr. FULBRIGHT. Mr. President——

Mr. BYRD of West Virginia. Mr. President, I have the floor. An order respecting third reading has already been locked up. It was agreed to on yesterday. May I say to the Senator from New York that I am very sympathetic to his request with regard to an amendment to the amendment offered by the Senator from Arkansas. But believe me, many hours of effort have been expended, bases have been touched and retouched in attempting to conclude these various agreements. Now, if we are to open this up to any amendment which might be brought in here on Tuesday next by any Senator, I shall be forced to withdraw this request and object to any other. But I am perfectly willing to revise my request to include the provision that there be a limitation of 20 minutes on any amendment to the Fulbright amendment, to be equally divided.

Mr. JAVITS. Or substitute therefor?

Mr. BYRD of West Virginia. Well, that is also considered as an amendment.

Mr. JAVITS. Could the Senator, then, provide that on Monday, after the time has expired on the McGovern amendment, if any Senator wishes to propose an amendment, there will be 20 minutes, equally divided? Then other Senators will be protected.

Mr. BYRD of West Virginia. Mr. President, I revise my request in this manner, with respect to the amendment to be offered by the Senator from Arkansas (Mr. FULBRIGHT):

That time on any amendment to the Fulbright amendment be limited to 20 minutes, to be equally divided between the author of the amendment and the Senator from Arkansas (Mr. FULBRIGHT), or, if Mr. FULBRIGHT is not opposed thereto, then the time in opposition to be under the control of the able manager of the bill (Mr. STENNIS).

Mr. JAVITS. And any amendment means a substitute as well.

Mr. BYRD of West Virginia. Yes.

Mr. GRIFFIN. Mr. President, reserving the right to object—and I shall not—can this amendment be further identified?

Mr. FULBRIGHT. Mr. President, if the Senator will yield—and I wish to make an observation, too——

Mr. BYRD of West Virginia. Mr. President, I yield for that purpose.

Mr. FULBRIGHT. This amendment is intended to preserve the legal and proper jurisdiction of the Committee on Foreign Relations, over the foreign military sales matters. I was going to explain it in a few minutes. Its effect is——

Mr. GRIFFIN. It is not printed, I take it, at this point?

Mr. FULBRIGHT. I have a copy here. It has not been——

Mr. GRIFFIN. Numbered?

Mr. FULBRIGHT. Printed. A copy is available. I had intended to bring it up this afternoon, debate it, and have a vote on it. I was requested to follow this procedure of putting it off until next week because, I understood, the Senator from Montana and others did not wish to deal with it this afternoon.

The effect of it would be that the so-called Jackson amendment would be effective only if the military sales bill or similar legislation does not become law. If that bill, which is now in conference, does become the law, of course, it would authorize funds for the same purpose covered by the Jackson amendment.

If for any reason it fails to become the law, then this provision in the bill would go into effect.

In other words, I am trying, actually, to protect what I believe to be the legitimate jurisdiction of the Committee on Foreign Relations. As everyone knows, certain committees, the Committee on Government Operations and others, including the Armed Services Committee, have become involved in matters properly under the jurisdiction of the Foreign Relations Committee. I feel that it is my duty to resist such moves. I do not think that I should voluntarily allow the Foreign Relations Committee to be deprived of its basic jurisdiction. That is the only purpose of the amendment. It has no other purpose.

Mr. GRIFFIN. I thank the Senator for giving us a description of the amendment.

Mr. FULBRIGHT. That is all it is about. It does not deal with amounts. It does not try to cut down or enlarge or change the amounts involved.

Mr. JAVITS. Mr. President, if the Senator will yield, the amendment will be directed to section 501, at page 18, lines 7 to 21, inclusive.

Mr. FULBRIGHT. That is correct.

Mr. JAVITS. And the thrust of it will be to retain this provision in this bill only if the Military Sales Act does not become law.

Mr. FULBRIGHT. That is correct.

Mr. JAVITS. And the operation of this section would be suspended until that question is determined.

Mr. FULBRIGHT. If it does not become law, then this is operative.

Mr. JAVITS. In other words, this would not be operative on that basis until December 31, 1970, if operative at all.

Mr. FULBRIGHT. It would be 15 days after the adjournment of Congress. If Congress adjourns, say, October 15, it would be effective November 1, approximately.

Mr. JAVITS. I thank the Senator.

Mr. FULBRIGHT. The President must be given time to sign a sales bill, of course.

Mr. STENNIS. Mr. President, if the Senator will yield, I am not going to object to any reasonable request for time; but if we could get to it——

Mr. FULBRIGHT. I have to object. For example, if the Senator wishes to offer the Military Sales Act devoid of some of the amendments as an amendment to this, I could not accept an agreement that would make the Senate vote on that kind of amendment in 10 minutes. We spent weeks on the Military Sales Act; it is in conference. If it means that, I could not accept that kind of agreement.

Mr. JAVITS. Frankly, I might say to the Senator, speaking only for myself, that I have no idea what I would do on even the Senator's amendment. After all, I am a member of the Foreign Relations Committee, and I am also deeply interested in the Jackson amendment, and I would like to retain it. So I have to worry about it. I cannot tell the Senator what I would move. I think the Senator knows me personally well enough to know that I will move heaven and earth to respect the time problems and the feelings of the Senator as to this issue; and, probably, if I am against him, I will just challenge him on his amendment.

Mr. FULBRIGHT. Of course, the amendment might be rejected. I cannot have any protection about the adoption of an amendment. I want protection against bringing in that kind of amendment—for example, if Senator X offers the text of the Military Sales Act as an amendment.

Mr. JAVITS. To shut off amendments of substitutes is really impossible in situations such as that.

Mr. FULBRIGHT. I was going to call up the amendment this afternoon. It was not my request that it go over.

Mr. JAVITS. That will not shut off amendments to it, and if you shut it off this afternoon, Senators could talk as long as they wish.

Mr. FULBRIGHT. That is correct.

Mr. BYRD of West Virginia. Mr. President, may I have the Chair propound the unanimous-consent request as revised? Or would the Chair like me to repeat the request?

The PRESIDING OFFICER. If the Senator from West Virginia would repeat the request as revised, the Chair would be very grateful.

Mr. BYRD of West Virginia. Mr. President, I restate my request as follows: I ask unanimous consent that on Tuesday next, the time which will begin running on the Muskie amendment, at approximately 12 o'clock noon, be limited to 2½ hours instead of 3 hours, as originally proposed; that at the expiration of the time allotted, a vote occur on the Muskie amendment, following which vote, the amendment to be offered by the able Senator from Arkansas (Mr. FULBRIGHT) be laid before the Senate and made the pending business.

Mr. STENNIS. After the vote.

Mr. BYRD of West Virginia. Following the vote on the Muskie amendment, the amendment to be offered by the Senator from Arkansas (Mr. FULBRIGHT) be laid before the Senate and made the pending business, the time thereon to be limited to 40 minutes, to be equally divided and controlled between the author of the amendment, Mr. FULBRIGHT, and the manager of the bill, Mr. STENNIS; that any amendments thereto be limited to 20 minutes, the time to be equally divided and controlled between the author of the amendment to the amendment and the author of the basic amendment, or, if Mr. FULBRIGHT is not opposed thereto, the Senator from Mississippi, the manager of the bill, or, if he is not opposed thereto, the minority leader or his designee; that following the vote on the amendment to be offered by the Senator from Arkansas (Mr. FULBRIGHT), the vote occur on the committee amendment as amended, after which the bill be read a third time; that time on final passage be limited to 30 minutes, to be equally divided between and controlled by the manager of the bill and the able minority leader or his designee.

Mr. GRIFFIN. Mr. President, reserving the right to object, may it be understood that the request of the Senator from West Virginia does not preclude the possibility of motions being made which are not debatable, prior to the vote on the Fulbright amendment, such as a motion to table?

Mr. BYRD of West Virginia. In other words, the Senator does not wish to exclude a motion to lay on the table the amendment to be offered by the Senator from Arkansas?

Mr. FULBRIGHT. That is at the end——

Mr. GRIFFIN. At the expiration of the time.

Mr. JAVITS. Mr. President, if the Senator will yield, is it the understanding now with the leadership—this is not part of the unanimous-consent request—that on Monday, after the debate on the McGovern amendment, which has 5 hours, they will go as long as necessary to accommodate Senators who wish to introduce other amendments, on a basis of 20 minutes total, 10 minutes to a side?

Mr. BYRD of West Virginia. Mr. President, I would want the able manager of the bill to be agreeable to this request, the request being that at the expiration of the time which has been allotted on the McGovern amendment on Monday next, which is 5 hours, any amendments offered by any Senator be limited each to 20 minutes, the time to be equally

divided and controlled between the author of the amendment and the manager of the bill.

Mr. STENNIS. For how long? For just Monday?

Mr. JAVITS. Monday.

Mr. STENNIS. I have no objection.

Mr. President, if the Senator will yield, I feel that gives everybody a chance, without locking anyone in—it does lock up the bill—and I hope that will be the end.

The PRESIDING OFFICER. The Chair wishes to inquire of the Senator from West Virginia, to be perfectly clear, whether the last suggestion was a suggestion only and not a part of the agreement.

Mr. JAVITS. Mr. President, if the Senator will yield, as I understand it, if the Senate stays in session after the 5 hours have expired, any business can be handled. Therefore, whether or not the Senator makes it a unanimous-consent request is entirely in the discretion of the leadership. I am satisfied to trust the good faith of the leadership. If it commits itself, it will do it.

I will say to the Senator that if he wants me to limit the debate on such amendments to 20 minutes, it would have to be included in the unanimous-consent request.

Mr. BYRD of West Virginia. I intended to do that, but I wanted to be sure that the manager of the bill was agreeable.

There is now another complicating factor which has been called to my attention, Mr. President. I think we are about to reach an agreement on the second phase, which has to do with Monday. May we have the first part of my request, dealing with Tuesday, agreed to, with the understanding that if something happens to the second part of the request, we can vacate the first?

The PRESIDING OFFICER (Mr. MATHIAS). Is there objection to the initial request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. Mr. President, that was with respect to Tuesday next.

Now, I ask unanimous consent that immediately following the expiration of the 5 hours allotted on the McGovern amendment on Monday next, the Senator from Illinois (Mr. PERCY) be recognized for not to exceed 30 minutes, following which Senators may offer amendments with time on any amendment to be limited to 20 minutes, the time to be equally divided between the mover of the amendment and the manager of the bill.

Mr. FULBRIGHT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arkansas will state it.

Mr. FULBRIGHT. Does this mean that the amendments have to be germane to the bill? Can we bring in nongermane matters?

Mr. BYRD of West Virginia. No, there is no rule requiring germaneness in this context.

The PRESIDING OFFICER. The Chair would advise the Senator from Arkansas that there are no germane requirements.

Mr. FULBRIGHT. So, an amendment on any subject, civil rights, pollution, nutrition, anything, is in order with 20 minutes debate. Is that right?

Mr. BYRD of West Virginia. That is right, but I do not see any problem there.

Mr. FULBRIGHT. There used to be those who saw problems. Perhaps there is not. I am not raising any. I was just inquiring.

Mr. BYRD of West Virginia. I think that any Senator would exercise——

Mr. STENNIS. Mr. President——

Mr. BYRD of West Virginia. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BYRD of West Virginia. I am sure that any Senator would reserve his right to move to table such an amendment. I feel confident that the leadership could be relied upon to support a tabling motion on any dilatory amendment.

Mr. FULBRIGHT. I was merely inquiring as to what the intention was.

The PRESIDING OFFICER. Is there objection to the second unanimous consent request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. BYRD of West Virginia. I thank all Senators concerned.

The unanimous-consent agreement, later reduced to writing, is as follows:

Ordered, That during the further consideration of H.R. 17123, military procurement bill, debate on various amendments thereto be limited as follows:

Debate on the amendment by the Senator from South Dakota (Mr. McGOVERN) and others, the so-called "end-the-war" amendment, numbered 862, to be limited to 6 hours of controlled time, with a vote coming at 10 o'clock a.m. on Tuesday, September 1. Five hours of the controlled time will begin at 12 o'clock noon on Monday, August 31, and the other hour will occur on Tuesday, September 1 between 9 o'clock a.m. and 10 o'clock a.m., with all of the controlled time to be equally divided and controlled by Mr. McGOVERN and the manager of the bill, Mr. STENNIS. Any amendments to the amendment or motions or appeals relative to the amendment (except a motion to table, if offered) shall be limited to 30 minutes, to be equally divided and controlled between the proponents and Mr. McGOVERN; if Mr. McGOVERN is not opposed to any such amendments, motions, or appeals, the time in opposition will be controlled by Mr. STENNIS or the Majority Leader or his designee.

Debate on an amendment by the Senator from Wisconsin (Mr. PROXMIRE) on draftees, numbered 754, will become the pending business on Tuesday, September 1, following the disposition of the so-called "end-the-war" amendment numbered 862, by Mr. McGOVERN, with the time to be limited to 1 hour, to be equally divided and controlled by Mr. PROXMIRE and Mr. STENNIS; debate on any amendment to the amendment shall be limited to 20 minutes to be equally divided and controlled by the mover of the amendment (Mr. PROXMIRE) or Mr. STENNIS if Mr. PROXMIRE is not opposed to the amendment.

Debate on an amendment to be offered by the Senator from Maine (Mr. MUSKIE) numbered 811, will be limited to 4½ hours of controlled time. The first two hours of controlled time will be from 10 o'clock a.m. to 12 o'clock noon on Monday, August 31. The other 2½ hours of debate wil be on Tuesday, September 1 following the vote on the amendment by Mr. PROXMIRE on draftees numbered 754, with all the controlled time on the Muskie amendment (No. 811) to be equally divided and controlled by Mr. MUSKIE and the manager of the bill, Mr. STENNIS. Any amendments to the Muskie amendment or motions or appeals relative thereto shall be limited to 30 minutes, to be equally divided and controlled by the mover of the motion or amendment and Mr. MUSKIE, and such amendments or motions shall be in order at any time during the consideration of the Muskie amendment, which, if offered, will be taken from the 4½ hours allotted to the amendment, numbered 811.

On Monday, August 31 following debate on the McGovern amendment numbered 862, the Senator from Illinois (Mr. PERCY) will be recognized for 30 minutes, after which debate on any amendment offered will be limited to 20 minutes to be equally divided and controlled by the mover of such amendment and the manager of the bill, Mr. STENNIS.

Debate on an amendment to be offered by the Senator from Arkansas (Mr. FULBRIGHT) immediately after the vote on the Muskie amendment will be limited to 40 minutes, to be equally divided and controlled by Mr. FULBRIGHT and the manager of the bill, Mr. STENNIS, with debate on any amendment to the amendment limited to 20 minutes to be equally divided by the mover and Mr. FULBRIGHT, or Mr. STENNIS if Mr. FULBRIGHT is not opposed to the amendment.

Immediately following the vote on the Fulbright amendment, the vote will occur on the committee amendment, as amended, after which the bill be read a third time, after which will be ½ hour of general debate on the final passage of the bill, as amended, to be equally divided between the manager of the bill (Mr. STENNIS) and the Minority Leader or his designee, and that a vote occur on the final passage of the bill at the expiration of that time.

AMENDMENT NO. 868

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that there be printed and lie on the table the amendment to which I have already referred.

The PRESIDING OFFICER. The amendment will be received and printed and will lie on the table, as requested.

Mr. FULBRIGHT. Mr. President, this is a simple amendment concerning section 501 of the bill.

Section 501 would do two things. It would have the Congress go on record with a policy statement concerning the dangerous and delicate situation in the Middle East. And it would give an open-ended authorization for the sale to Israel, on credit, of any amount of arms that "may be necessary to counteract any past, present, or future increased military assistance provided to other countries in the Middle East." The provision clearly deals with policy and substantive matters wihin the jurisdiction of the Foreign Relations Committee. If this section were introduced as a bill, there is no question but that it would be referred to the Foreign Relations Committee for consideration.

I am well aware of the strong sentiment in this body that the United States provide additional arms to Israel. The foreign military sales bill, H.R. 15628, which was the subject of nearly 8 weeks debate in this Chamber, contains ample funds for that purpose, if the President decides that it is in our national interest to do so. The program that would be extended by that bill is the traditional

method for financing arms sales on credit to Israel and other foreign countries.

That bill is still in conference and is very much alive. I have no doubt that the conferees will meet again shortly after the House returns from its recess. For the Senate to approve section 501 as written under these circumstances would be both premature and a direct invasion of the jurisdiction of the Foreign Relations Committee. It would also be most untimely in view of the long sought cease-fire and the negotiations now underway.

The amendment I have offered would not strike section 501 from the bill nor would it diminish the authority it contains. It would merely make the authority conditional on the Congress failure to pass a military sales bill before adjournment. And it would insure that the inclusion of a military sales item in this bill will not be considered as a precedent for the handling of future military sales legislation, so that the traditional jurisdiction of the Foreign Relations Committee over this subject will be preserved.

The 90-day cease-fire in the Middle East will not expire until November 5, long after the Congress has adjourned sine die. Hopefully, there will be an extension of the agreement, if a settlement has not been reached by then. Certainly the President will not decided to ship additional arms to Israel as long as the cease-fire is in effect. So as a practical matter, there is no need for arms sales authority until well after the time when it will be known definitely whether the conferees on the military sales bill can reach agreement.

In summary, this amendment does not affect the basic authority in section 501. It only holds that authority in abeyance and makes it conditional on Congress failure to pass a military sales bill. And it specifically states that the enactment of the provision shall not be a precedent for future congressional consideration of such matters.

I hope that the amendment will be adopted.

Mr. President, just by way of comment, I want to assure the Senator from New York that the purpose of the amendment is in no way to deal with the merits of the subject matter, which is dealt with in the amendment. It is intended to protect what I believe to be the legal and proper jurisdiction of the Committee on Foreign Relations. That is why I am offering it. It is not to try to pass judgment upon the substance of the problem which is involved here.

Mr. President, I thank the Senator from Mississippi.

Mr. STENNIS. Mr. President, I ask for recognition.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I ask unanimous consent that I be authorized to yield to the Senator from Kansas (Mr. DOLE) for 10 minutes without losing my right to the floor.

The PRESIDING OFFICER. Without objection, the Senator from Kansas is recognized for 10 minutes.

THE FIFTH VERSION OF THE SO-CALLED "END THE WAR AMENDMENT"

Mr. DOLE. Mr. President, I have read the original so-called "end the war amendment"—more appropriately, the "lose the peace amendment"—all the intermediate changes and versions, and now the latest, the fifth edition, of the proposal sponsored by the Senators from Oregon and South Dakota.

It is interesting to note that through this series of alterations the sponsors have changed their amendment from a declaration of capitulation in Vietnam to a recognition and acceptance of what President Nixon has been saying and doing in Vietnam for 19 months.

With a few more changes, now, it would correspond closely with the President's expressed policy in South Vietnam, and his program for Southeast Asia.

Until we reach that point, there is only one question to decide—should the President, as Commander in Chief, continue to direct this country's disengagement from a war the previous two administrations got us into, or should that job be delegated to a committee of 535—the Congress?

Mr. President, I recognize that we will debate whatever remains of the "end the war amendment" next week, but before then we should discuss—if only briefly—the amendment as it is now and ask: What was the purpose of the original amendment which has now gone through a complete metamorphosis?

Tomorrow's so-called "end the war amendment" may be different than today's, so it should be clearly understood that I am discussing only the fifth version of the amendment—the one before us today. I do not know the future intentions of the principal sponsors and whether additional changes are planned.

What today's amendment says, as I read it, says the President must have the troop level in Vietnam down to 280,000 by next April 30. This comes so close to the plan President Nixon announced on April 30 that one wonders if the drafters had their source material switched.

Regardless of the surface similarity to the President's program, we now come to the meat of the fourth amended amendment, or the fifth amended amendment, which declares:

> After April 30, 1971, funds herein authorized or hereafter appropriated may be expended in connection with activities of American armed forces in and over Indochina only to accomplish the following objectives:

Those objectives are stated to be:

First. Withdrawal of all American forces by December 31, 1971.

Second. Release of prisoners of war.

Third. Provision of asylum for endangered Vietnamese.

Fourth. The supply of aid to South Vietnam.

This statement of objectives with its December 31, 1971 deadline is followed by a proviso that in the face of a "clear and present danger" to American Armed Forces the President may suspend the withdrawal deadline by up to 60 days, or until March 1, 1972.

SUBSTANTIAL QUESTIONS RAISED

All of the objectives are worthwhile and commendable but the cited leaves unanswered questions.

For example: What happens under this fifth version if the North Vietnamese attack in such a way and at such a time as to make impossible either the orderly termination of military operations or the safe and systematic withdrawal of remaining forces by December 31, 1971 or by March 1, 1972? And what precisely would constitute a clear and present danger to American forces?

Another question: Where do we provide asylum for thousands and perhaps millions of South Vietnamese refugees, how do we know whose lives will be endangered until it is too late?

Another question: What assurances do we have that the enemy will release their American prisoners under any circumstances?

Yet another question: What assistance could we provide South Vietnam if our precipitate withdrawal turned that country over to the Viet Cong and the North Vietnamese?

WHY SO MANY CHANGES

Mr. President, I am hopeful that answers to these and other questions will be forthcoming and I trust we will get into another matter of critical importance which underlies and surrounds the McGovern-Hatfield amendment.

It is a question that has not been satisfactorily answered. It is the question of propriety, custom, and precedent surrounding the campaign to raise money and conduct a lobbying effort on behalf of the amendment.

Certainly those who donated money—I might add that this amounted to some $600,000—in response to the May 12 NBC television solicitation, newspaper advertisements, and spot commercials on radio and television did so in the belief that there was a plan to end the war.

Now, however, many contributors must have discovered that the plan they thought they were supporting keeps changing. So far, it has changed at least four or five times.

The original intent and representation was to end the war June 30, 1971, by ending our fighting on December 31, 1970, and withdrawing our troops 6 months later. This was the so-called fund-raising amendment, the amendment discussed on May 12, at which time the sponsors were able to raise some $600,000 based on the emotions and anxieties of the American people.

What has happened to change the plan to 280,000 troops by April 30, 1971, and withdrawal of all forces by December 31, 1971, or March 1, 1972?

If the amendment's sponsors did not intend to press for an end of the war by June 30, 1971, why did they draft their amendment to promise that date? And why did they raise half a million dollars on the strength of the date included in their first amendment? If they did not mean June 30, 1971, do they mean December 31, 1971, or do they now mean March 1, 1972, or do they mean some other date in 1972, or 1973, or 1974, or 1975?

CREDIBILITY COMPARED

Credibilty has become a prominent catchword in Washington over the past several years, and I believe it is important to recognize that President Nixon's credibility on ending the war and winning the peace is unimpeachable.

Just look at the record. He took office in January 1969, with 542,000 American fighting a war commenced and expanded by two previous administrations. In June, September, and December of that year he announced withdrawals of 25,000, 35,000, and 50,000 troops, and by April 15 of this year those 115,000 men had been withdrawn.

When he announced the initiation of the Cambodia operations on April 30, he said that all American forces would be withdrawn from that country by June 30. And on June 30, American forces were out of Cambodia.

President Nixon has not equivocated over dates or numbers. He has made clear, reasonable commitments, and he has kept them. When the President speaks of numbers and dates, there is no question of those numbers or those dates.

I believe the Presidents' record offers a marked contrast to that of the so-called "end the war amendment," which I believe should be designated, "the lose-the-peace amendment." This amendment started out having all American forces out of Vietnam on December 1, 1970. Then it said December 31. Then it said June 30, 1971. Now it says we will have 280,000 men in Vietnam on April 30, 1971 and have them all out by December 31, 1971—or is it March 1, 1972, or 1973, or 1974, or when?

I cannot believe that the "lose-the-peace amendment" was introduced with the expectation that it would ever become law. Any observer of Washington knows that the Senate and the House will never pass it and no President, Democrat or Republican, would ever sign it. But, since it has been advocated so vigorously and at such expense and with such considerable efforts to lobby and pressure Members of the Senate, we are entitled to know why it was introduced and why it has been subjected to such fundamental, continuing, and substantial alteration.

Mr. President, perhaps it is expecting too much to expect answers to these questions, but I do believe they are questions most Americans are asking.

I am looking forward to next week's debate, regardless of what form the "lose-the-peace amendment" may take at that time.

Mr. President, so that my colleagues in the Senate may know, I ask unanimous consent to have printed in the RECORD what I believe to be the pioneer version, the bill introduced by the Senator from New York (Mr. GOODELL), on October 7, 1969. That is what I refer to as the first version of "the lose-the-peace amendment."

That was followed on October 8, 1969, by what I refer to as the second version "the lose-the-peace amendment," introduced by the junior Senator from South Dakota and others.

That was followed on April 30, 1970, by what I consider to be the third version, introduced by the junior Senator from South Dakota and the senior Senator from Oregon.

That was followed by the fourth version on May 5, 1970, introduced by the Senator from South Dakota and others.

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

Mr. STENNIS. Mr. President, I yield the Senator from Kansas 2 additional minutes.

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

Mr. DOLE. Mr. President, that was followed by the fifth version which was never printed as an amendment. However, it did appear in the RECORD, and it was indicated that it would perhaps be the final version. That appeared in the RECORD sometime last week.

That was followed by the sixth and the latest version of "the lose-the-peace amendment," which was introduced on August 26, 1970, by the junior Senator from South Dakota and the senior Senator from Oregon.

I ask unanimous consent that all of these different versions of the so-called "amendment-to-end-the war" be printed in the RECORD at the conclusion of my remarks so that Members of the Senate will understand that we are not considering the amendment discussed on national television on May 12, 1970. We are considering one of the half dozen versions. I am not certain what we may be considering next week.

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

(See exhibit 1.)

EXHIBIT 1

S. 3000

A bill to amend the Foreign Assistance Act of 1961

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 "Vietnam Disengagement Act of 1969."

SEC. 2. (a) Congress finds that the broad foreign policy interests of the United States require that the American military presence in Vietnam be removed at the earliest possible time, and that such action will promote the social and political well-being of the people of South Vietnam; that the prosecution of the war in Vietnam with American troops must be ended, not merely reduced; that the loss of American lives in Vietnam can be halted only by establishing a clear timetable for terminating American combat operations and withdrawing American troop commitments in the near future; and that the responsibility for ending the American involvement in Vietnam is not the President's alone, but must be shared by the Congress under its constitutional authority to "raise and support armies" and to "declare war."

(b) It is the purpose of this Act—

(1) to reassert the responsibility of Congress, under its constitutional authority to "raise and support armies' and "declare war," to share with the President the task of extricating this Nation from the Vietnam war; and to involve Congress in setting a clear and unequivocal timetable for the withdrawal of American troops from Vietnam;

(2) to express the clear intent of Congress that all American military personnel be withdrawn from Vietnam on or before December 1, 1970; so that the retention even of noncombat military training personnel in Vietnam after that date would not be permitted without the enactment by Congress of further legislation specifically approving such retention; and

(3) to give clear notice to the Government of South Vietnam that following December 1, 1970, it must assume the burden of fighting; and to permit the withdrawal of American military personnel and the assumption of their combat functions in an orderly fashion on a schedule set by the President with a required termination date of December 1, 1970.

SEC. 3. Chapter 1 of part III of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 620A. PRESENCE IN VIETNAM.—No part of any amount authorized to be appropriated under any Act shall be used after December 1, 1970, to maintain military personnel of the United States in Vietnam."

S. CON. RES. 39

A concurrent resolution relating to withdrawal of United States forces from Vietnam

Whereas the war in Vietnam has resulted in the loss of more than forty thousand American lives, in some two hundred and fifty thousand American casualties, in the depletion of American resources to the extent of over $100,000,000,000, and in inestimable destruction of Vietnamese life and property; and

Whereas the war stands today as the greatest single obstacle to efforts to focus the country's financial, human, and spiritual resources upon urgent domestic needs; and

Whereas spokesmen for the present administration have recognized that military victory cannot be achieved in Vietnam and have specifically defined United States policy to exclude that unattainable goal; and

Whereas the painful history of United States involvement in Vietnam exposes the futility of external attempts to create and sustain a viable, indigenous government, particularly when its leaders resist political and social reforms aimed at inspiring popular confidence and support; and

Whereas the leaders of South Vietnam have indicated, by action and deed, that their ambitions conflict with the interests of the United States in a prompt settlement of the conflict, and that they are unlikely to adopt a negotiating posture which might end the war so long as they are assured of all the United States support they need to prosecute it; and

Whereas the dominant result of policies relating the level of American presence to the capability or willingness of the South Vietnamese to fight the war themselves can only be the continued daily loss of life and limb by American servicemen, with no foreseeable conclusion: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress of the United States that all United States forces should now be withdrawn from Vietnam, the pace of the withdrawal to be limited only by steps to insure the safety of our forces, the mutual release of prisoners of war, and the provision of safety, through arrangement for amnesty or asylum in friendly countries, for those Vietnamese who might be endangered by our disengagement.

AMENDMENT NO. 605

On page , line , insert the following:

"SEC. . (a) Unless there has been a declaration of war by the Congress with respect to any conflict in Vietnam, no part of any funds appropriated pursuant to this Act or any other law shall be expended in connection with such conflict after December 31, 1970, for any purpose other than to pay costs relating to the withdrawal of all United States forces, to the termination of United States military operations in that country, to the arrangement for exchange of prisoners of war with the Government of North Viet-

nam, to the provision of food and other nonmilitary supplies and services for the welfare of the Vietnamese people, and to arrangements for asylum in friendly countries for Vietnamese who might be physically endangered by the withdrawal of United States forces.

"(b) Unless there has been a declaration of war by the Congress with respect to any conflict in Laos, no part of any funds appropriated pursuant to this Act or any other law shall be expended to furnish, after December 31, 1970, to Laos or to personnel of Laos any defense article or any military assistance or advice.

"(c) Unless there has been a declaration of war by the Congress with respect to any conflict in Cambodia, no part of any funds appropriated pursuant to this Act or any other law shall be expended to furnish to Cambodia or personnel of Cambodia any defense article or any military assistance or advice.

"(d) For purposes of this section, the term 'defense article' shall have the same meaning given such term under section 644 of the Foreign Assistance Act of 1961."

AMENDMENT NO. 609

On page —, line —, insert the following:

"SEC. (a) Unless the Congress shall have declared war, no part of any funds appropriated pursuant to this Act or any other law shall be expended in Vietnam after December 31, 1970, for any purpose arising from military conflict: *Provided*, That funds may be expended as required for the safe and systematic withdrawal of all United States military personnel, the termination of United States military operations, the provision of assistance to South Vietnam in amounts and for purposes specifically authorized by the Congress, the exchange of prisoners, and the arrangement of asylums for Vietnamese who might be physically endangered by the withdrawal of United States forces: *And provided further*, That the withdrawal of all United States military personnel from Vietnam shall be completed no later than June 30, 1971, unless the Congress, by joint resolution, approves a finding by the President that an additional stated period of time is required to insure the safety of such personnel during the withdrawal process.

"(b) Unless Congress shall have declared war, no part of any funds appropriated pursuant to this Act or any other law shall be expended after December 31, 1970, to furnish to Laos any military advisers, or to support military operations by the forces of the United States or any other country in or over Laos.

"(c) Unless the Congress shall have declared war, no part of any funds appropriated pursuant to the Act or any other law shall be expended, after thirty days after the date of enactment of this Act, to furnish to Cambodia any defense article or any military assistance or military advisers, or to support military operations by the forces of the United States or any other country in or over Cambodia.

"(d) For the purposes of this section, the term 'defense article' shall have the same meaning given such term under section 644 of the Foreign Assistance Act of 1961."

AMENDMENT NO. 609—NEW LANGUAGE

Sec. (a) No part of any funds appropriated pursuant to this Act or any other law shall be used after December 31, 1971, to maintain or introduce any military personnel of the United States in or over Indochina, unless the Congress (after examination of the recommendations to be submitted under subsection (c) of this section) shall by joint resolution specifically otherwise provide.

(b) Nothing in this section shall preclude the otherwise authorized use of funds in connection with Indochina for provision of assistance in amounts and for purposes specifically authorized by the Congress, for the release of prisoners, and for the arrangement of asylum for Indochinese who might be physically endangered by the withdrawal of United States forces.

(c) Within sixty days after the date of enactment of this Act, the President shall submit to the Congress his recommendations of United States policy in Indochina, including his assessments of both the military and political consequences of the withdrawal required pursuant to subsection (a) of this section, his recommendations on steps to secure the release of United States prisoners of war, and his evaluation of the ability of United States forces to conduct a safe and orderly withdrawal from Indochina by December 31, 1971. It is the sense of Congress that such recommendations (and such supplementary recommendations as the President may elect to submit at a later time) should be examined in the Senate by the Committees on Armed Services and Foreign Relations and in the House by the Committees on Armed Services and Foreign Affairs and that such committees should report their recommendations to the Senate and House respectively.

(d) For purposes of this section, the term "Indochina" shall mean North and South Vietnam, Laos, and Cambodia.

AMENDMENT NO. 862

At the end of the bill add a new section as follows:

"SEC. —. (a) In accordance with public statements of policy by the President, no funds authorized by this or any other Act may be obligated or expended to maintain a troop level of more than two hundred and eighty thousand armed forces of the United States after April 30, 1971.

"(b) After April 30, 1971, funds herein authorized or hereafter appropriated may be expended in connection with activities of American armed forces in and over Indochina only to accomplish the following objectives:

"(1) the orderly termination of military operations there and the safe and systematic withdrawal of remaining Armed Forces by December 31, 1971;

"(2) to secure the release of prisoners of war;

"(3) the provision of asylum for Vietnamese who might be physically endangered by withdrawal of American forces; and

"(4) to provide assistance to the Republic of Vietnam consistent with the foregoing objectives.

Provided, however, That if the President, while giving effect to the foregoing paragraphs of this section, finds in meeting the termination date that members of the American Armed Forces are exposed to unanticipated clear and present danger, he may suspend the application of paragraph b(1) for a period of not to exceed sixty days and shall inform the Congress forthwith of his findings; and within ten days following application of the suspension the President may submit recommendations, including (if necessary) a new date applicable to subsection (b) (1) for congressional approval."

Mr. McGOVERN. Mr. President, will the Senator yield to me for a couple of brief questions?

Mr. DOLE. I yield.

Mr. McGOVERN. Mr. President, I did not hear all of the Senator's remarks, but I do want to thank him for having printed in the RECORD the various modifications that have been made in the amendment to end the war, because I think it will give us a helpful illustration of how the legislative process works.

I cannot believe that the Senator from Kansas is suggesting that the best way to produce sound legislation is to automatically accept the first version of any bill or amendment that is introduced.

I well remember, as the Senator from Kansas may remember, that the last time we passed major agricultural legislation in 1965, it went through the process of repeated amendment. I can recall at least a dozen different amendments in which members of the committee and Senators on the floor participated that, I think, improved the bill.

I ask the Senator if he is trying to propound a new legislative doctrine here that a piece of legislation which is modified after its original introduction thereby loses any merit that it might have.

Mr. DOLE. Mr. President, I do not believe this amendment ever had any merit. But if it did, the point is that on May 12, 1970, on national television the Senator from South Dakota and others asked the American people to send in their money to end the war. That amendment has been changed two or three times since that time, including the timetable.

If I had donated any money on one premise and the premise was changed, I might request my money be returned.

That is the point that I make.

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

Mr. STENNIS. Mr. President, I ask unanimous consent, without losing my right to the floor, that I may yield 5 additional minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 5 additional minutes.

Mr. DOLE. Mr. President, I yield to the Senator from South Dakota.

Mr. McGOVERN. Mr. President, with reference to that point, the President of the United States, in my opinion, is now sitting in the White House to a great extent because of the unpopularity of the Vietnam war and the fact that, during the 1968 campaign, then candidate Nixon told the American people that he had a plan to end the war, that he did not feel it ought to be revealed during the campaign, but that once the campaign pressures were out of the way, he would reveal the plan for ending the war. Perhaps partly on those prospects, some $22 million was contributed by people all over the country to Mr. Nixon's campaign.

Would the Senator say that in view of the fact that a year and a half has passed and we still have some 400,000 forces in Vietnam and suffer casualties every week, that the President ought to refund that money?

Mr. DOLE. Mr. President, I do not recall that, and I observed the election rather closely, even the efforts of the junior Senator from South Dakota with reference to the Presidency.

I do not recall the President making a plea on the television, "Send in your money and I will end the war in Southeast Asia."

Mr. McGOVERN. He asked for our votes on that basis.

Mr. DOLE. On that basis and many others.

The action of the Senator from South Dakota and others set the precedent

that it is proper for the Members of the Senate to buy national TV time and raise money for radio and TV spots in my State and others to lobby their colleagues.

That creates the impression that it is proper procedure. It is precedent breaking. If someone now wants to raise money for the Black Panthers or the White Citizens Council there would be the precedent established by the Senator from South Dakota and others on the May 12 program.

Mr. McGOVERN. Mr. President, there were some 70,000 people who contributed following that broadcast. The changes in the amendment have been widely discussed in the press. To the best of my knowledge, not one single contributor has asked that his money be returned.

I am sure there would be no question about it if anyone wrote in and said, "Your original amendment called for the withdrawal of American forces by June 30, 1971. Now you have changed the date."

Mr. DOLE. You have really changed it to March 1972.

Mr. McGOVERN. Mr. President, at the time we made our broadcast, we had a June 30, 1971 deadline for the withdrawal of the forces. However, as the Senator knows, a number of months have passed since that amendment was first introduced.

What the sponsors had in mind was providing a good, solid year's time following action on that amendment to terminate American involvement. Now several months have passed. In keeping with that, we have set back our withdrawal deadline to December 31, 1971. But there is nothing in there to prevent the President from arranging an earlier withdrawal if he felt the situation so dictated.

Mr. DOLE. I do not quarrel with the Senator's wish to end the war in South Vietnam; and trust he does not quarrel with my wish to end the war. I believe that everyone would like to see a quick end of the war in Southeast Asia, or wherever war occurs.

I do not say this in defense of the President because he needs no defense. However, he has a plan for peace and he is extricating us from the situation he inherited.

As I recall some of the Senator's speeches in 1968, he was advocating a withdrawal of 250,000 American troops. President Nixon will exceed that figure by next May 1.

As I have said, President Nixon does have a plan. His plan might not be as rapid as we like, but it is a very complex problem and some one person must speak for our Government and it must be the President.

I recognize, having voted for the Church-Cooper resolution, the responsibility of Congress, but since we are on the road to disengagement, it would be the better part of wisdom to leave it to the President.

Mr. McGOVERN. Mr. President, will the Senator yield briefly?

Mr. STENNIS. Mr. President, I shall speak for about 30 minutes, but I yield 1 minute to the Senator from South Dakota.

Mr. McGOVERN. Mr. President, I wish to call the attention of the Senate to a telegram received from former Vice President Humphrey, in which he endorses the McGovern-Hatfield amendment and urges the Senate to pass it. I think it is significant that the Vice President, who supported American policy in Vietnam during all the years he was the Vice President, has now called for passage of the so-called McGovern-Hatfield amendment.

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

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

DEAR GEORGE: I consider the forthcoming vote on the McGovern-Hatfield Amendment to End the War as a test of our determination to disengage from a costly and tragic struggle.

Unfortunately the Paris negotiations have yielded no results. Clearly a new initiative for peace is needed. The McGovern-Hatfield Amendment, together with a standstill ceasefire and the conduct of new free elections in South Vietnam, provide our best hope for peace.

This Amendment provides the opportunity for reasserting an American initiative to encourage a political settlement of this cruel war. With this Amendment our own policy for Southeast Asia will be subject neither to the veto of Saigon nor to the provocative and sporadic incursions emanating from Hanoi. It will afford us an opportunity to regard from a new perspective our own domestic needs and other international obligations.

I endorse the McGovern-Hatfield Amendment as a firm statement of official policy stating a clear commitment by our government to make an orderly and systematic withdrawal. It offers every possible protection for American military manpower and will bring our men safely home. It reasserts the responsibility of Congress in the conduct of foreign affairs while leaving the President with necessary flexibility to fulfill his constitutional obligations.

I fully endorse the McGovern-Hatfield Amendment and urge your colleagues to support it.

Sincerely,

HUBERT H. HUMPHREY.

Mr. McGOVERN. Mr. President, I thank the Senator from Mississippi for yielding to me.

Mr. STENNIS. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, without losing my right to the floor.

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

The legislative clerk proceeded to call the roll.

Mr. McGOVERN. 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. McGOVERN. Mr. President, I intend to yield the floor back to the Senator from Mississippi but first I wish to call attention, not only to the telegram from the former Vice President, but also what seems to me to be a very significant editorial endorsement of the amendment which was published in the Washington Post.

I say it is a very significant endorsement not only because the Washington Post is a major newspaper that is frequently quoted on the floor of the Senate and in other public forums, but also because it represents the first time that this newspaper has endorsed the amendment. Reflecting, perhaps, the point that the Senator from Kansas made here a while ago that there have been changes in the amendment, the Washington Post editorial now comes out with strong support of the revised version of the amendment.

Mr. President, there might be some quarrel on the part of cosponsors as to whether we have fundamentally altered the substance of the amendment, but be that as it may, we did make certain changes in the amendment that would give the President somewhat greater flexibility in terms of handling our withdrawal from Vietnam and from Indochina. We did provide that as he approaches the deadline, or at any time after the passage of the amendment, until the deadline of December 31, 1971, the President could, without further consultation with Congress, extend that deadline for not to exceed 60 days. If he chooses that course he would have to come to Congress within the first 10 days after announcing the extension and ask Congress to set a new deadline if he wanted to go beyond the 60-day grace period.

Perhaps because of that proviso with respect to the deadline of December 31, the Washington Post has now endorsed the amendment.

I might say, in a rather remarkable turn for him, the Vice President some 2 weeks ago in his speech at Miami Beach cited a previous editorial in the Washington Post as an indication that this amendment was reckless. So in view of the high regard the Vice President has for the editorial opinion of the Washington Post I am now very hopeful that he will have it in mind and say that this amendment has the kind of responsible proposal the editor of the Washington Post believes it to be.

Mr. President, I ask unanimous consent to have printed in the RECORD the editorial entitled "A National Policy To End the War," published in the Washington Post today.

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

A NATIONAL POLICY TO END THE WAR

The Senate has an opportunity during the next few days to write a rational and responsible policy for ending the war in Vietnam. For many months the Senate has been itching to reverse its 1964 endorsement of a blank check to President Johnson to initiate and carry on that war. It adopted the Fulbright resolution designed to give Congress a voice in future national commitments, and a few weeks ago it attempted to forbid widening of the war to Cambodia through the Cooper-Church amendment, although the language got pretty muddy before the final action came and the House would have none of it. Now the Senate has a chance to go on record for an orderly and timely liquidation—an objective that is earnestly sought by an overwhelming majority of the American people.

This issue has been distorted in the past by the simplistic manner in which some senators sought to hasten the withdrawal from Vietnam. A scuttle-and-run policy was

said to be the only alternative to a declaration of war. Widespread opposition to any action by Congress on the war was aroused by the argument that it could be, and should be, cut off by a snap of the congressional fingers.

As the issue is now being debated in the Senate, however, it assumes a very different posture. No longer is there any effort to say that American troops must be out of Vietnam within six months. In its present form the amendment to the military procurement bill originally offered by Senators McGovern and Hatfield would now require the withdrawal of American armed forces by Dec. 31, 1971—leaving a liquidation period of 16 months. If any emergency should arise, the President would be authorized to extend this period by 60 days, and if that did not allow enough time for safe evacuation of Southeast Asia the President would so report to Congress within 10 days so that Congress could authorize a further extension.

Rigidity has thus given way to flexibility. As reshaped by the Foreign Relations Committee, this is quite a different proposition, which would have the great virtue of enacting a national policy for termination of the war without putting the President into a straitjacket. In effect Congress would enact the President's withdrawal formula as a sound national objective, without saying that it would have to be carried out in any and all circumstances. This achievement of firmness in the statement of a national policy, along with elbow room in actually carrying it out, is a tribute to the good judgment of all those who have contributed to it.

Up to now, the administration has remained in opposition to any congressional action in this sphere. In part this may be attributed to the sound objections raised against earlier versions of the McGovern-Hatfield amendment. No doubt it also reflects an automatic White House preference for a free hand. In this case, however, the White House as well as the country has an enormous interest in having the Congress on record for termination of the war in an orderly and responsible fashion. If the outcome should turn sour—by no means a remote possibility—it would be much better to have the President and Congress jointly responsible.

In our view, the White House could well regard this proposal before the Senate as a fortuitous opportunity to put Congress on record in favor of the Nixon withdrawal policy or something close to it. The requirement that our Vietnam troop-level be reduced to 280,000 men by next April 30 and that the remaining forces be brought home by the end of next year is specifically recognized in the language of the amendment as a reflection of the President's own statements. Unless the President wishes to deviate from this withdrawal policy, there are compelling reasons why he should welcome a congressional reaffirmation of it.

The President has, to be sure, opposed past efforts to set a date for the windup of the Vietnamese affair. He has feared that the fixing of a date would take the pressure off the North Vietnamese to negotiate an end of the war. But if Congress fixes a date which the President coud postpone or even eliminate with the consent of Congress, when the time came, the North Vietnamese would, as the Foreign Relations staff memorandum notes, have no assurance that mere stalling would redound to their advantage.

In any event, it seems to us that the advantages of having a congressional withdrawal policy on the books greatly outweigh any disadvantages that might be encountered at the negotiating table. Such legislation would put the President under pressure to carry out the evacuation at the earliest feasible date. It would put our military leaders—and our diplomats, as well—on notice that the national policy is irreversible. Saigon also would have a clearer understanding of what the score is and would be able to adjust its policies accordingly. So long as there is hope that the President may change his mind under pressure the Thieu government is more likely to avoid the hard decisions that are essential to a future for South Vietnam without American manpower for its defense.

Behind all the arguments for and against this amendment is the even more vital fact that the Senate is making a bid to get back into the policymaking arena in regard to war and peace. We think the President should welcome that effort as a bedrock imperative of American democracy. If the present amendment is not satisfactory to the administration in all particulars, amendments can always be suggested. But it would be tragically shortsighted for the administration to take an arbitrary stand against congressional action designed to underscore and give congressional support for the President's own policy. Orderly termination of the war as soon as feasible ought to be the joint policy of the two political branches, and it is doubtful that there will be a better opportunity than the present to make it so.

CORRECTION OF THE RECORD

Mr. McGOVERN. Mr. President, yesterday I had printed in the RECORD an article from the Boston University Law Review, written by Francis L. Coolidge, Jr. and Joel David Sharrow. The article, as published in the CONGRESSIONAL RECORD today, lists the wrong authors, or at least with a terrible spelling of their names. I would like to have those names corrected in the RECORD as they appear at the conclusion of the article: Francis L. Coolidge, Jr., and Joel David Sharrow.

The PRESIDING OFFICER. The correction will be made.

Mr. McGOVERN. I ask unanimous consent that the name of the author of the second article I inserted from the Boston University Law Review, Henry P. Monaghan, appear following that article.

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

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

Mr. McGOVERN. I yield.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that I may be made cosponsor of amendment No. 862, commonly referred to as the McGovern-Hatfield amendment.

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

Mr. FULBRIGHT. Mr. President, I wish to congratulate the distinguished Senator from South Dakota for the work he has done on the amendment and to endorse the editorial which has just been referred to. The editorial contains an interpretation of the purpose of the amendment and the effect it would have.

I believe it would be of help to the administration, the country, and Congress if this amendment were agreed to. It would tend to bring Congress and the administration back together on the same track. I hope the amendment is agreed to.

Mr. McGOVERN. Mr. President, I appreciate the Senator's words. The revision in the amendment was worked out at the suggestion of respective members of the Committee on Foreign Relations, with the graciousness of the chairman.

Mr. FULBRIGHT. I do not wish to take away any credit that is due the Senator from South Dakota. The revision here is a matter of detail. It simply deals with one of the problems, in particular, and that is the capacity for flexibility in case of unforeseen developments. The thrust of the amendment is exactly the same, and that is, to express the policy of Congress and the Senate to end the war. I think from that point of view there is no substantial change.

AMENDMENT NO. 862—ADDITIONAL COSPONSOR

Mr. JAVITS. Mr. President, I ask unanimous consent that I may be made a cosponsor of amendment No. 862, the so-called McGovern-Hatfield amendment.

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

THE DD–963 DESTROYER PROGRAM

Mr. STENNIS. Mr. President, I have not previously discussed on the floor of the Senate the issues involved in the DD–963 destroyer program and the award of the contract for the 30 ships involved to the Ingalls Shipbuilding Division of Litton Systems, Inc., because I was awaiting the completion and delivery of the report from the General Accounting Office directed to the suggestion of a "buy-in" by Litton on the final bid. This report has now been completed and, as I will show, it refutes the "buy-in" suggestion entirely and vindicates the award completely as far as this issue is concerned.

I should mention at the outset, Mr. President, that the distinguished Senator from Maine (Mr. MUSKIE) has an amendment which would require contracts for the construction of these destroyers with two domestic shipbuilders, with the total number of destroyers to be constructed to be divided substantially equally between such shipbuilders. While I strongly oppose the Muskie amendment and think that every sense of justice and equity calls for its defeat, it is not my purpose to address it in detail at this time, although I shall do so later. What I propose to do today is to discuss, and hopefully throw light upon and bring understanding about, a number of issues which have been raised with respect to this program and the award of the contract to Ingalls.

HISTORY OF THE PROGRAM

Industry competition was initiated on the DD–963 program in 1967—more than 3 years ago.

Proposals for the development and construction of the DD–963 were initially received from six shipbuilders: Todd Shipbuilding, Inc.; Avondale Shipyards, Inc.; Newport News Shipbuilding and Drydock Co.; Bath Iron Works Corp.; General Dynamics Quincy Division; and Litton Systems, Inc., Ingalls Shipbuilding Division.

The request for proposals was released to industry on February 15, 1968, covering competition for contract definition. I will come back to this point later.

By October 1969, consideration had been narrowed to Bath Iron Works and Ingalls, and these two were requested to make certain refinements to their proposal and contractual documents prior

to final evaluation and source selection. Subsequently, in February 1970, additional proposals—the third—were received from the two companies still left in the competition.

Shortly thereafter the Navy asked the competing companies for their "best and final" offers. These were submitted on March 26, 1970. The proposal by Ingalls was adjudged to be lowest and best. The price breakdown per ship for Litton was $71.3 million while that of Bath was more than $8 million higher—$79.7 million. The total value of the contract based on the ceiling price is about $2.14 billion.

NO CHANGE IN GROUND RULES

In the request for proposal of February 15, 1968, a set of ground rules was established for the DD–963. Among the ground rules was the stipulation that the development and production contract for all of the 30 ships would be awarded to a single successful contract definition contractor. At no time were changes made in these ground rules during the industry competitive contract definition which began with the release of the request for proposal on February 15, 1968, and terminated with the award of the contract on June 23, 1970.

That date of February 15, 1968, is important, because it was then that the ground rules were announced and were understood, and all procedures were conducted with those ground rules in view.

This is a very significant fact. For more than 2 years prior to the contract award the stipulation that the award would be made on a "winner take all" basis was known and accepted. This was the program recommended by the Navy. This was the program approved by the Secretary of Defense, Bureau of the Budget, and the President. Congress knew of the procurement program and this stipulation and acquiesced in it. Industry found it entirely acceptable and made no objection prior to the contract award.

Let me remind the Senate that the Navy spent more than 3 years in planning for the DD–963 destroyer program and going through the source selection process and the industry competition. Industry competition itself started more than 2 years before the contract award. After this intense competition, and after literally thousands of man-hours spent by the source selection experts, objection is now made to a ground rule established in February 1968. We are now asked to change the ground rules even though no one has alleged that all of the competitors were not given equal opportunity in the competition and negotiations for the award. As a matter of fact, it has not been brought to my attention that Bath Iron Works itself is raising any question whatsoever with respect to the fairness of its treatment in the competition.

Mr. President, I want to say with great completeness and clarity that I have no complaint with the Senator from Maine (Mr. MUSKIE), who filed the amendment and prompted it. I fully understand his viewpoint, his obligation to have matters gone into and fully considered from the viewpoint of his own constituents, from the viewpoint of his own obligation to them, from the viewpoint of his obligation to his fellow Senators, and from the viewpoint of his obligation to the rest of the country. I have the highest respect for him and also for other Senators who have presented amendments. This is not a personal matter.

DD–963 SOURCE SELECTION PROCESS

It should be understood that source selection for the DD–963 destroyer was not based on cost alone, although price was, of course, an important consideration. It was based on full consideration of five distinct categories: Life cycle cost, ship system, management plans for conducting the detailed design and production effort, military effectiveness of the ship, and corporate qualifications of the competitors.

The team which conducted the evaluation was composed of experts drawn from 27 different Navy commands and Government agencies throughout the United States, approximately 350 full-time evaluators, augmented by about 250 part-time consultants, were used.

All these were used. Mr. President, that sounds like a great deal of attention and consideration was given to this matter, and it was and should have been. This involves 30 destroyers, long since overdue in our U.S. Navy. Most of our destroyers are World War II vintage, far behind the art of achievement in this field now, far behind the modernity that is needed and required, especially in view of the new potential with reference to Soviet attack submarines and their other types of submarines.

I know, as a matter of fact, that for years destroyer needs have been pushed aside to a lower priority among the many demands of the Navy. It should be noted that when it was finally decided to launch in on this program, it was recognized that it would be a 6- or 7-year program. It is not a fly-by-night proposition. It has had the utmost consideration of the different Navy commands, experts, and part-time consultants.

It is very significant, I think, that in all five categories the Ingalls proposal was adjudged superior. The degree of superiority varied depending on the category, but at no time was there a reversal of relative positions. These categories were known to the contractors from the day they entered the competition. The evaluation within the categories was based on comparison with predetermined standards which were established prior to the receipt of the proposals and prior to the start of the evaluation. And finally, as I have said, in each of the five categories, Litton demonstrated a measurable advantage and no reversal of position occurred as a result of the extensive reviews of the source selection conducted by the Secretary of the Navy or the Secretary of Defense prior to receipt of approval to proceed with award of the production contract.

It is interesting to note here, Mr. President, that these 3 years of activity, planning, and ground rules extend over the period of two administrations, two Secretaries of Defense, two Secretaries of the Navy, and two Chiefs of Naval Operations, besides the military officers in the Navy.

"BEST AND FINAL" OFFERS

As I have mentioned, negotiations on the DD–963 program were completed by a request for a "best and final" offer from both final competitors. The basis for this request is the Armed Services Procurement Regulations, which requires a formal close to the negotiation. The Comptroller General has frequently ruled on this question and has stated that offerors should be advised, first, that negotiations are being conducted; second, that offerors are being asked for their "best and final" offer, not merely to confirm or reconfirm prior offers; and, finally, third, that any revision must be submitted by the date specified.

As recently as July 2, 1970, the Comptroller reiterated his position. In the case of NASA's proposed award to General Electric, he recommended that Fairchild protest be sustained. The full text of his opinion appears in the CONGRESSIONAL RECORD for July 9, 1970, pages 23477–23479.

In short, not only was there no irregularity in the request for the "best and final" offer from the final competitors, but the fact is that the award would have been subject to a successful protest under the rulings of the Comptroller General if this procedure had not been followed.

"RESET" PROVISION

Some question has been raised with the contract pricing "reset" provision that was established during the final negotiations for this contract. There is no merit in this. The "reset" provision is an accepted and standard part of the fixed price incentive—successive target type of contract which is provided for and fully explained in the Armed Services Procurement Regulations.

There is nothing unique in this so-called "reset" provision and use of it is not limited to the DD–963. It has been used on many other programs, and both by the present and preceding administrations. These include the Army's one and one-quarter ton truck program; the Army's Vulcan weapon system—antiaircraft gun; the Navy's A–7D/E attack aircraft; the Navy's *Phoenix* air-to-air weapons control system; the contract for Pratt and Whitney engines for the Navy's F–14 and the Air Force's F–15 aircraft; the Navy's general purpose amphibious assault ship—LHA; the Air Force's F–15 aircraft; and the Air Force's airborne warning and control system—AWACS.

In the DD–963 contract the "reset" of target price will occur in the 39th month of the contract. At this point the contractor must submit to the Navy either a proposal for a firm target price or a firm fixed price for the 30-ship program. In no event—and I stress this point—can the contractor's proposed prices exceed the ceiling price as now established under the contract. Further, in negotiating the "reset" price the contractor is motivated to control the established target cost and get below it if possible since he will share, through increased profits, a percentage of the proposed costs below the established costs.

The contract also provides some protection to the contractor for unanticipated

costs which cause an increase above the established target costs. However, the contractor's profit is narrowed as the costs approach ceiling, and when they reach ceiling there is zero profit.

In this issue of "reset" target prices, and increases and decreases in profits based on cost presentation, it should be realized that the same contract was offered to both of the final competitors after an analysis of their third proposals indicated excessive contingencies in significant cost areas. Both competitors had the opportunity to change, and did change, their proposals when the "best and final" offer was requested. I have looked at the final figures of both competitors, Mr. President, and it is clear that both contractors reduced their target costs and profits, and also their proposed ceiling price. Ingall's ceiling price, as well as its target price, was substantially below its competitor's prices. Since the ceiling price cannot be exceeded under the "reset" provision, neither competitor could benefit from a large cost overrun on the program.

The contract in this case is in no way similar to the contract involved in the C–5A procurement. There is no so-called golden handshake in this contract, and there is no manner by which the contractor can increase his profits except by a reduction in the established target cost which will, of course, also save the Government money. In addition, this is a fixed price incentive—successive target contract and is not to be confused with the total package procurement concept utilized in the case of the C–5A.

Mr. President, I refer to the C–5A contract. I frankly stated here on the floor of the Senate that I thought it was a bad contract for the contractor and for the Air Force. We had very substantial consideration of that contract in our committee and here on the floor, and the Senate has acted on it. I wanted to make that clear because of some who had referred to this as similar to the C–5A, when in fact, on analysis, it is not similar, but is dissimilar in major particulars.

ALLEGED "BUY-IN"

There have been allegations that Litton made a "buy-in" on its "best and final" offer on the DD–963 program. There is no merit to this whatsoever and no evidence to support it.

Invariably in any procurement the bidder, in developing his own estimate, will include contingencies for unknown factors in his quotation, depending on the type of contract arrangement contemplated. The decision to change the type of pricing arrangement in requesting the "best and final" offer was in recognition of the contingencies in Bath and Litton's third proposal, as indicated by the detailed technical and audit analyses which the Navy had conducted.

These contingencies existed primarily in the area of major subcontracting wherein there was a lack of firmness in the subcontract quotations which resulted in pricing data being based on budgeting estimates rather than on firm quotes or on quotes containing a significant amount of unsupportable costs. It was expected that there would be substantial reductions in the responses to the request for the "best and final" offers which were based upon a high share of initial risk being accepted by the Navy and a postponement of the establishment of firm pricing arrangements until after resolution of the major uncertainties which created the need for the contingencies in the prices.

I will go into some detail to explain the reason for the substantial reduction in Litton's proposal in the "best and final" offer as compared with the third proposal. But before I do, let me point out again that Litton's "best and final" offer was more than $8 million lower than that of Bath. This represents a savings to the Government on the 30-ship program of about a quarter of a billion dollars.

The difference in prices between the Bath and Litton final offers are readily explainable by differences in the labor rates, overhead rates, general administrative costs and profit rates, each of which was audited and found valid. Any attempt at a "buy-in" in the Litton "best and final" offer would have required unreasonable manipulation of labor manhours and/or material cost estimates which would have been readily identified in the course of the analyses.

Now let me explain to you the basis for reduction in Litton's price from the third to the fourth proposal. The reduction in the target price amounted to $12.2 million per ship. Of this reduction, $2.4 million was in target profit and $9.8 million was in target cost. The new target profit represents an 8.8 percent profit which is a reasonably good rate in comparison with that achieved in the shipbuilding industry.

The major reduction in the target cost estimates category was in net material—adjusted for overhead—and amounted to $8.4 million per ship. In their February 2 proposal, Litton had given an estimate that $49.9 million per ship would be required for material. In their "best and final" offer submitted on March 26, 1970, the direct material estimate was $41.5 million per ship.

No audit of that reduction was performed at the time—although it has been since—since it was in the area of material costs that the Navy felt that most of the contingencies in the February 2, 1970, offer existed. In their audit of the February 2 proposal, the Defense Contract Audit Agency indicated that a material figure of $40.5 million per ship could be justified and that the difference between that figure and the $49.9 million per ship included in the price offer was unsupportable. This, and the fact that a similar situation existed in the Bath offer, was one of the primary reasons why the Navy chose to request the "best and final" offer on the basis of a successive target contract. Thus, when Litton's reduction to $41.5 million per ship for material was received in the "best and final" offer, it was in reasonably close agreement with the recommendation of the Defense Contract Audit Agency.

Mr. President, these are facts in detail, but they are very significant. I was determined that all the facts be brought here to have bearing on any challenge that might be made since this amendment was offered.

In any event, the Defense Contract Audit Agency has now conducted an audit of the material content of Litton's best and final offer. The amounts of the reduction in the material costs offered by Litton has been found to be reasonable by this audit as has also the rationale for the reductions in other categories.

This is a situation which is tinged with some irony. The Navy had expected a reduction in the costs on the best and final offer and this is what it got. By this reduction the Government is going to save about a quarter of a billion dollars. However, based on this savings, we see an effort here in the Senate to take half the contract away from Litton and give it to a competitor whose quoted cost per ship was more than $8 million higher.

I make nothing but favorable references to that competitor. They are reputable and reliable people, with know-how. Their design was good and passed the qualifications. But this was a point of two competitors pitted against each other and the Government trying to get the most for its money in ships. And that is exactly what happened. The Government got a better bid from one of them.

If we truly want to save money, we will not disturb this contract award and impair the obligation of this contract. If we do disturb it, then we will be faced with the proposition that the Navy will either have to reduce the ship construction program or we shall have to authorize and appropriate additional amounts for it.

CAPABILITY OF INGALLS FACILITY TO HANDLE THE AWARD

Another question raised with respect to this award relates to the merits of awarding a major contract to a company with a large new ship construction backlog and a new and untested facility with no experience in handling this backlog.

The matters of the adequacy of the contractors' facilities to handle the award were treated in two separate categories of the source selection. In the management plans for the development and production category, the processes to be used by the contractors in achieving their ship product were evaluated. This evaluation treated the adequacy of their plan for managing and supporting their work effort, for conducting their detailed engineering, for the procurement of materials, for the production of the ship, and finally for the test and evaluation by which they would demonstrate that the ship actually met all performance requirements. Both contractors were judged to be satisfactory in this area, but Litton was superior by about 10 percent.

In the category of corporate qualifications, the Source Selection Advisory Council examined the degree to which the contractors' past performance and the resources available to them provided confidence in their ability to carry out successfully what they had proposed to do. Included in this category was the technical competence of the contractors' organization, and manpower resources and capabilities, and the financial resources required to perform the contract. In this category also both contractors were judged to be satisfactory, but In-

galls held the advantage in all factors considered, especially in the financial resources for performance of the contract.

In short, during the selection process the detailed management plans, production plans, schedules and man loading charts of both competitors were thoroughly examined and deemed feasible of accomplishment. Although a sizable backlog is shown for the Ingalls facility, it does not differentiate between work to be accomplished at Pascagoula and that which is subcontracted. In the case of the DD–963, it is estimated that approximately 60 percent of the dollars involved in the contract will be spent outside of the Pascagoula area and distributed over about 45 States. As a matter of fact, I understand that the pacing factor in the delivery of the ships will be the capability of the subcontractors to provide the components needed rather than by Ingalls' own capability and the backlog at this plant.

When we address the capability of Ingalls to handle this award, we should be aware of its outstanding record for quality ship construction over a period of many years. Since 1958 Ingalls has delivered or received contracts for 66 Navy ships with a total contract value of $3.96 billion. Since 1959 it had delivered or received contracts for 43 commercial ships with a contract value of $592 million. This record itself inspires confidence. I have tables showing the details of Ingalls' commercial and Navy ship construction program.

With respect to the newness of the Ingalls facility, let me point out that it has been under construction for 2 years and is scheduled for completion later this year. Production has already been started on eight commercial ships at this facility. In fact, the commercial shipping lines had sufficient confidence in this new yard to award contracts amounting to over $170 million before the yard is completed. This "new and untested" facility will not constitute an abnormal production risk. Certainly, it will not be as great a risk than would be the planned facility of the other finalist—Bath Iron Works—which is not even yet under construction.

ENTIRE AWARD TO ONE CONTRACTOR

Another and somewhat related issue raises a strawman—the dangers of contracting such a large portion of our new shipbuilding programs to one corporate entity, particularly in view of the problems now faced in the C–5A case.

The DD–963 program is distinguishable from other large programs which have been the subject of criticism because it is a development program based primarily on known engineering state-of-the-art and is not dependent on a large-scale research effort. This is why no prototype is required or justified in this case. The risks associated with production based on state-of-the-art engineering effort are considered minimal. Problems that have occurred on prior ship programs from the contractor's interpretation and implementation of Navy developed specifications will be avoided on the DD–963 program because the ship's specifications and design and the program plans required to produce these ships were developed in great detail by the contractor. Under previous programs the Navy developed specifications and they had to be interpreted and implemented by the builder. Problems arising from the alleged impossibility of achieving Navy specifications will be avoided in this program.

Finally, the contract performance risk in terms of schedule, technical performance, and cost control has also been minimized by an extensive definition of the management plans which form a part of the contract. These management plans provide an excellent means for the contractor to control his efforts and for the Government to detect problems as they are developing so that prompt and effective corrective action can be taken.

MULTIYEAR CONTRACT AND CANCELLATION CHARGES

Another issue concerns the use of the multiyear contract and the suggestion that this type of procurement would require that the Congress pay tremendous cancellation charges should it decide in future years to discontinue the programs. The implication is also made, Mr. President, that this concept transfers control for all practical purposes out of the hands of the Congress and virtually precludes an effective review on an annual basis. Neither of these suggestions are factually accurate or justified.

The Navy believes that the most economical approach to acquisition of the number of identical ships is through a multiyear contract. This type of contract provides the advantages of economic procurement of material and efficient utilization of facilities and manpower.

The shipbuilding industry in its own privately financed study concluded that multiyear procurement of standardized ships was necessary for industry vitality. The Maritime Administration has also concluded that the multiyear approach was most economical.

In essence, Mr. President, the multiyear procurement is certainly most appropriate where there are a number of ships which are to be funded in increments over a period of years. Congress continues to control the expenditures through the authorization and appropriation process. Each multiyear increment is subject to review in the consideration of the budget. The Congress retains the power to cancel authorization of the program in any year. In the event the Congress decides to discontinue the program a normal cancellation clause in the contract affords protection to the Government and to the contractor.

Since the contract is based on a level unit price over a period of years, the contractor is given limited protection for reasonable preproduction and other nonrecurring costs that should be amortized over the entire program. In a similar manner the Government reserves maximum contractual limitations on cancellation payments subject to negotiations and consideration for the effort performed prior to cancellation.

Mr. President, the alleged "tremendous" cancellation charges imputed to this program simply do not exist. Under the multiyear type procurement no more is paid in the event of cancellation than would be paid if the ships had been bought on an individual basis. The Navy estimates that if the contract for 30 ships was stopped after the first 16 ships were authorized and maximum cancellation costs are paid, the average cost of the first 16 ships, including these cancellation costs, would be lower than the cost of 16 ships bought under an annual procurement plan. These maximum contractual cancellation costs amount to $279 million if the program is stopped after 16 ships. I think it is clear and is recognized by all knowledgeable persons that in the case of the construction of a number of standard and identical ships multiyear contracting is the most efficient and economical manner in which to proceed.

IMPACT OF AWARD ON FUTURE COMPETITION

It has also been asserted that there would be a dangerous impact on future competition from the award of the Navy's entire destroyer program for the 1970's to a shipbuilding company that has just constructed a new facility. It is asserted that this award would enable this shipyard to drive out proven destroyer building capability and would adversely affect our mobilization base and result in higher costs in the long run.

This ignores the facts. The Navy's entire destroyer program for the 1970's as reported in their quarterly reports to the Armed Services Committee is an inventory requirement of 50 new ships and, therefore, this contract for 30 ships does not necessarily represent the Navy's entire destroyer program for the 1970's. Fifty ships are considered by the Navy to be its minimum requirement to replace the aging World War II destroyers, although requests for approval of additional destroyer procurement are not contemplated until the DD–963 program is well underway.

It is my understanding that there are at least five qualified private shipyards, including the Bath facility, which can be competitive in any follow-on destroyer procurement. Any of these shipyards certainly have the option to modernize and improve their competitive position for future destroyer programs by participating in other shipbuilding programs that will be forthcoming. The recently announced Maritime Administration 10-year program to build 300 new American-flag cargo ships is, of course, a prime example of potential future programs. To penalize a shipyard which has already modernized its facility by denying it a contract on the basis that such modernization would give it a competitive advantage which would prevent further modernization of industry could in reality be a deterrent against modernization.

INDUSTRIAL ESPIONAGE

Another issue that I want to discuss is the allegation that there were leaks of vital information, including prices, during the DD–963 procurement. I have inquired into this matter since I am also concerned about a matter of this nature in any competitive procurement. The Navy Investigative Service advises me that it is continuing its investigation into

information provided to the Navy on April 15, 1970, by Bath shipyard officials of specific pricing information they had received from an unidentified source. I am told that no evidence of any leakage of information from Navy personnel has been uncovered.

The Navy states that as far as they can now determine the information that the Bath shipyard price was more than $8 million higher per ship than Litton became available after the "best and final" offers were submitted by the contractors on March 26, 1970. The Navy conducted no negotiations with respect to prices with either Bath or Litton after that date. I will continue to follow this and advise the Senate further of any significant disclosures that may be found since I view this as a very serious matter.

However, the fact that Litton's bid was so much lower than Bath's on the "best and final" offer—about $8 million per ship—would seem to rule out any so-called industrial espionage in this case. Certainly, if Litton had actually known the amount of Bath's offer before it submitted its bid, it would be only reasonable it would have bid moderately lower than Bath. As it is, the difference of $8 million a ship means that Litton has left about a quarter of a billion dollars on the table.

BLUE RIBBON PANEL STAFF STUDY

In previous discussion on the floor of the Senate reference has been made to a blue ribbon defense panel staff study on Navy ship procurement which generally recommends a distribution of major ship construction of a series of ships to two or more yards. I do not intend to discuss this staff study in any detail, but do want to make a few comments with respect to it.

The first and most obvious observation with respect to this question is that the staff report is not part of the Blue Ribbon Defense Panel report. As a matter of fact, the report of the Blue Ribbon Defense Panel contains an express disclaimer with respect to such staff studies and reports. The Blue Ribbon Defense Panel report contains this statement:

Selected staff reports have been identified as Appendices to this Report. The Panel's recommendations are in no case based exclusively on these staff reports, as its studies were broader and more extensive than the staff report alone. Some of the appended staff reports contain detailed facts and evaluations bearing on specific recommendations of the Panel, while others address subjects, draw conclusions and suggest changes in areas which the Panel as a whole did not choose to address. In some such instances, there was a question as to whether the studies covered all of the particular subject or subjects sufficiently to enable the Panel confidently to make a recommendation.

In a letter dated August 4, 1970, the Honorable J. Fred Buzhardt, then staff assistant to the Chairman of the Blue Ribbon Defense Panel, and now General Counsel of the Department of Defense, said with reference to the staff study on Navy ship procurement:

This staff study does not, of course, constitute a part of the report of the Blue Ribbon Defense Panel, and the findings and recommendations included in this staff report were not adopted by the Panel except to the extent they appear in the Panel's report.

I want to make one or two observations about the staff report itself. At one point it asserts that concentration of work in a few yards will reduce competition and offset the advantages of series production. This statement apparently was made prior to completion of the competition in the DD–963 program because the final competition in this case resulted in a reduction in price of about $270 million.

Continuing, the staff report asserts:

This is particularly true since high production rates of complex ships (six or more a year) is not probable. Again this statement was apparently written before the completion of the competition in the DD–963 program since the contract delivery schedule for these destroyers calls for delivery of up to 11 ships in a single year, or about one per month.

Another statement in the staff report was:

In the case of the DX (DD–963) the Navy could by now have a prototype ship, virtually ready to sail and less money would have been spent than has by now been spent for paper only.

The staff report stated that:

In excess of $100 million has already been spent on the program for the paper preliminaries.

This is inaccurate. The records do not show any amount such as this as having been spent on the program prior to the contract award. The records show that the cost of the "paper studies" for this program for all contractors was only $36 million. Funding documents as of December 31, 1969, showed only about $30 million expended for the program. Neither of these amounts would be enough to construct a prototype of the DD–963 under any circumstances. The staff possibly thought that, because the Congress had appropriated funds for the DD–963, it was being expended by the Navy for paper studies. I am unable to find any justification for the assertion that $100 million has been spent on such paper studies.

COST INCREASES IF TWO DIFFERENT SHIPBUILDING FACILITIES ARE REQUIRED

Mr. President, I do not intend at this time to discuss in detail the question of the increased cost to the DD–963 program which would result if the Muskie amendment is adopted. However, since it is obvious that there has been some confusion about this question, I do want to say a few words with reference to it.

On May 18, 1970, the Navy, in a memorandum classified "confidential," did inform me that, if it was required that this ship be built at "two different U.S. shipbuilding facilities," the cost would be increased "up to $225 million if as many as 10 ships should be built in a second shipyard under a subcontract to the selected prime contractor." This memorandum was properly classified because the award had not been made at that time. With the selection of the winning offeror and the signing of the contract, details of cost information which were classified during contract negotiations became unclassified, and subsequent memoranda on this subject reflected this.

It is important for us to remember that the May 18 memorandum was directed to the amendment by Representative WYMAN, Republican, of New Hampshire, which permitted a subcontract by the winning contractor, and that the memorandum assumed that only one design would be used and that procurement would be centralized in the prime contractor.

Mr. President, the reason, and the only reason, that I called for information about some kind of an estimate for the possible added cost to the Government of the two shipyard proposals was because there was an amendment in the bill we were considering at the time and we needed this information as part of the record for the consideration of the committee on the question of whether they would include that amendment in the Senate bill.

I say that is the only reason that I had any knowledge of it. And it was used, of course, for that purpose, and for that purpose alone.

Subsequently, the Navy spokesman said that if the contract was split evenly between two yards, that is, 15 ships each, the increased cost could be as high as $600 million. It is important to note that this $600 million was based in part on learning curve information obtained from both finalists at the Navy's request in conjunction with the Navy's assessment of the impact of a split procurement.

On July 27, 1970, in an unclassified memorandum to me, the Navy stated that the cost increase associated with the proposed amendment by Senator MUSKIE could not be determined accurately until after the negotiations which would implement it; but that the costs involved would be substantial—"somewhere between $225 million and $685 million for the 30-ship program."

It should be noted that the Muskie amendment is substantially different from the Wyman amendment because it calls for "contracts for the construction of such destroyers with two domestic shipbuilders," and also requires that the "total number of such destroyers to be constructed" be divided substantially equally between such shipbuilders.

I am going to discuss the Muskie amendment in some detail later and that discussion will include an explanation of the cost increase which will be involved in splitting the program as contemplated by the Senator's amendment. It is my purpose at this time simply to point out why the May 18 memorandum was "confidential" while the later information was not, and also to point out that the cost impact under the Wyman amendment would be substantially different from the cost impact under the Muskie amendment. I do not have to tell you that it is dangerous for us to attempt to compare apples with oranges.

CONCLUSION

Mr. President, since I am always concerned whenever questions are raised about the propriety of procurement awards of weapon systems, I hope that I

have been of some assistance to the Senate today in clarifying the issues and giving the facts on the contract award for the DD–963.

As I have said, Mr. President, it is not my purpose at this time to specifically rebut the amendment proposed by the Senator from Maine. However, I must comment that not only is his amendment without merit, it would—if adopted—set a precedent which would be very dangerous. As a matter of fact, if we follow the procedure recommended by the amendment the end result would be to make a farce of and undermine the integrity of the competitive processes laid down for source selection and awards of this type of contract.

All of us who have any industries located in our States that do business with the Government should pause and consider very carefully what the result will be if we establish the precedent of legislating contract awards on the floor of the Senate, because this will simply mean that any contractor who is successful in obtaining a Government contract because his bid is lowest and best could have all or part of the contract taken away from him by legislative action by the Congress. This would, in essence, make the Congress the final and supreme contracting agency and I am sure that no one desires this.

Ingalls Shipbuilding was selected as the winner of this contract after careful examination of both proposals by a source selection board of highly trained and qualified people. There is no question that Ingalls had the superior design. No issue has been raised with respect to this. There is also no issue about the fact that Ingalls had the lowest bid. As a matter of fact, as I have mentioned several times, it was lower than Bath's by about $8 million per ship—or over a quarter of a billion dollars on the 30-ship program.

There is no question whatsoever that both the law and the Armed Service Procurement Regulations were followed scrupulously in connection with this award. No question whatsoever has been raised about this.

I shall reserve detailed discussion of the Muskie amendment until later, but I must warn now that its adoption would establish a very bad precedent which would plague us for years to come. It would be very dangerous for the Congress to repudiate a contract made and entered into in good faith with the lowest and best bidder after 3 years of working and planning. The substitution of a majority of the Congress for the source selection process would have very serious repercussions in defense procurement for many years to come.

It is a healthy thing for any Member of Congress to pursue in detail the very fine quality of work done by a Government agency, and to pursue in detail the high quality of work done especially by the Navy, which has an abundance of some of the finest talent in the country with long years of experience in ship contracts, ship supervision, construction of ships and, of course, navigation and all the requirements of all special kinds of ships they have and that they must have. I have pursued this matter vigorously.

I have come into contact with some of the finest talent I have ever known. I already knew they were doing a good job. They know their lessons well when they come to Capitol Hill. They have many men. All these negotiations with respect to contracts are so that they can get the most for their money; they need more ships for their money. They have been relegated to a low priority for the military dollar. The demand has been so great for missiles, highly expensive planes, and many other things that the destroyer program has waited and waited, and now it is far behind the times.

This contract needs to move forward, but of all those people I have come in contact with, one of the finest is the gentleman who was the Chief of Naval Operations during all these negotiations, Admiral Moorer. Chief of Naval Operations is the highest office in the Navy. He recently completed 4 or 6 years as Chief of Naval Operations and was selected by President Nixon to be his principal military adviser. He was nominated to be Chairman of the Joint Chiefs of Staff and was unanimously approved by the committee and unanimously approved by the Senate. He is now serving in the highest military position in our Government.

If there are any flies in the contract, he would know about it, and he would not have allowed it for one single minute. I am not putting him on the spot. I am speaking of the outstanding work and faith he inspired in the Navy—and I do not make any exceptions—and in those who have come into contact with him. It is the Navy that has done these things.

Finally Secretary Chafee has been doing a fine job there, as has Mr. Packard, the Deputy Secretary of Defense.

This contract does not have to lean on them or be propped up. But at the same time they are part of the negotiations and the hard decisions, and there were many hard decisions to make. They were part of the decisions with respect to what was best for the Navy and what would get the most ships for the taxpayers' dollar. For that reason I defer to them.

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

Mr. STENNIS. I am glad to yield to the distinguished Senator from Alabama.

Mr. SPARKMAN. Mr. President, I have enjoyed listening to the Senator's presentation. The Senator mentioned Admiral Moorer. We all know the splendid job he did as Chief of Naval Operations and we are confident of the good job he is going to do as Chairman of the Joint Chiefs of Staff.

About 3 or 4 days ago he was interviewed by a reporter for the Birmingham News. I read the article and his interview was one of the most forceful and refreshing articles I have read on military policy in general and on the relationship between South Vietnam, and military participation in our defense program.

I have been very much impressed with what the Senator said here, and the fact that this contract went through regular channels that Congress over the years has provided for the letting of contracts.

Mr. STENNIS. The Senator is correct.

Mr. SPARKMAN. In addition, it received the careful scrutiny of people who are experts in that line. It was responsive to our requirement in competitive bidding with respect to the lowest bid of a qualified bidder who meets all requirements and that requirement was followed in this case.

Mr. STENNIS. The Senator is correct.

Mr. SPARKMAN. There is no question about the qualification of this company to do the work, is there?

Mr. STENNIS. There is no question about that. The Senator is correct.

Mr. SPARKMAN. They have been building ships for a long, long time down there.

Mr. STENNIS. Yes.

Mr. SPARKMAN. Formerly it was the Ingall Shipbuilding Corp. I knew the Ingall family and I still know some of them. They are from Birmingham and they are still involved in the operation. I know how heavily we have depended on the shipbuilding facility over the years.

There is one other thing I was impressed with by what the Senator said and that is the fact that we have been waiting a long time to get this destroyer program going.

A matter that disturbs me, and I have discussed this privately with the Senator at other times, has been the apparent loss in ship strength, comparatively speaking, over the past few years. I have seen some other reports that have been printed that to me are distressing. The Navy is still one of our great defensive forces, and I think we need to check more carefully on our maintaining its level of strength, even in peacetime.

We cannot wait until we are in trouble and then get our Navy. Can we?

Mr. STENNIS. It takes years of previous preparation and building.

Mr. SPARKMAN. Does the Senator know of any previous contract in which it was required that there be a split between different shipyards?

Mr. STENNIS. Will the Senator repeat that question?

Mr. SPARKMAN. Has there been any precedent for a proposal such as this, after it has gone through all the channels, to split it up?

Mr. STENNIS. No.

Mr. SPARKMAN. Regardless of great additional expense?

Mr. STENNIS. No.

Mr. SPARKMAN. Mr. President, for my part I want to thank the Senator for the great exposition he has given us.

Mr. STENNIS. I thank the Senator from Alabama. I appreciate his interest and support. I was merely trying to bring out the facts in this rather long and somewhat complicated set of procedures.

Mr. SPARKMAN. I think the Senator from Mississippi has done that admirably, and I hope all Senators will read his presentation.

Mr. STENNIS. I thank the Senator. I hope it will largely get to them, because the Senate will vote on this matter next Tuesday.

Mr. President, let me add that since the war has been in progress, this matter has been gone through by the General Accounting Office. In its fine way that office has gotten into the basis for the bids and the differentials and the prices of the two ship contractors. It went back into the materiel on all those items, and it found no complaint. The General Accounting Office made no complaint on that score. There was, in effect, no "buy-in," as that term is used, and I shall go into that in more detail before the debate is over.

Mr. SPARKMAN. I thank the Senator. I am in accord with his reference to the excellent job the General Accounting Office does. Also, we should keep in mind that the General Accounting Office is an arm of the Congress of the United States.

Mr. STENNIS. I certainly share the Senator's view. I knew Mr. Elmer Staats before he became Comptroller General. His record was splendid, and his performance since then has been outstanding. So we have the General Accounting Office, and we will take that matter up. It recognizes the question that if the award was made for multiple ships, there was a question of not dividing it up between additional sources, but it was determined that it was a matter of a judgment to be made. The judgment has already been made, and the Navy made it, as to which was the best course to follow. The contract was accepted. They all had their day in court. The low bidder got the contract. That is just about the story, and a brief way to put it.

Mr. SPARKMAN. I think the Senator has put it well.

Mr. STENNIS. We will go into this matter more in detail later. I thank the Senator again.

DD–963 AMENDMENT BY SENATOR MUSKIE

Mr. President, I strongly oppose the amendment offered by the distinguished Senator from Maine (Mr. MUSKIE). This amendment would prohibit the expenditures of funds for the procurement of DD–963 class destroyers unless separate contracts for the construction of such destroyers are entered into with two domestic shipbuilders and the total of such destroyers to be constructed is divided substantially equally between such shipbuilders.

That was the very question before the Navy during all those years of decision. The Navy decided to go the other route. That was the question before Congress. We knew all about this all through the years, and it came into sharp issue a short time ago on the military procurement bill. An amendment providing certain requirements passed the House, did not pass the Senate, but came right on the conference table and was considered by the joint conferees. The amendment did not survive. The conference accepted what the Navy had in progress, to go all the way with the successful bidder. The money was then appropriated for that purpose. So we have here what I have already referred to.

You already know that, in accordance with the Navy's plan which has existed for 3 years, and as a result of industry competition, a contract for 30 of the DD–963 destroyers has been awarded to Litton Systems, Inc., Ingalls Shipbuilding Division. I suggest to you that it is very late in the game—as a matter of fact, after the game is over—to change the rules and require that the contract be torn up and that new proceedings be started. I am confident that the Senate will not approve this amendment if it understands exactly what is involved and what the impact of the amendment would be.

However, before I discuss specifically the impact of this amendment on the Navy's shipbuilding program, I would like to discuss the history which resulted in the award to Ingalls. The Navy spent more than 3 years in planning for the DD–963 destroyer program. It considered all approaches to the best procurement methods. The industry competition on this program was started in 1967—over 2 years before the contract award. The ground rules for the competition were published to industry by the release of the request for proposal on February 15, 1968. Among these ground rules were that the development and production contract would be awarded to a single successful contract definition contractor. These ground rules made it clear that a substantial multiyear buy was planned. There were no changes in these ground rules at any time during the industry competitive contract definition which began with the release of the request for proposal on February 15, 1968, and terminated with the award of the contract on June 23, 1970.

In other words, Mr. President, it was known from the beginning that it was contemplated that the award would be made to a single successful contract definition contractor. This was the recommendation of the Navy. It was approved by the Secretary of Defense, the Bureau of the Budget, and the President. Congress acquiesced in it for 2 years. The shipbuilding industry raised no objection to it. Then after the award has been made to Ingalls, the Senator from Maine proposes an amendment which is apparently designed to give Bath Iron Works, Inc., of Maine another opportunity to get a portion of this award.

Let me say here, Mr. President, that the two final contractors—that is, Ingalls Shipbuilding Division and Bath Iron Works—were given equal opportunity in all competition and negotiations for this program award. The competitors are not, to my knowledge, raising any question with respect to the fairness of treatment in this competition. There is no question but that Ingalls had both the superior technical design and the lowest costs in its proposal. In fact, Ingalls proposal was more than $8 million per ship lower than that of Bath Iron Works. These are facts which are not questioned by anyone.

I reemphasize that this contract was awarded after 2 years of very intensive competition. Are we in Congress now to reopen this issue and decide how and to whom the contract should be awarded and divided? Why was not this done 2 years ago? Why is this question being raised only with respect to the DD–963 program? It just does not make sense for the Congress to sit back for 2 years and let the Navy go through the proper and prescribed procurement processes, make the award on the basis of the best and lowest bid, and then have the Senator from the State representing the losing finalist introduce an amendment to negate all this effort and impair the obligation of the contract entered into by the Government with a private shipbuilder.

Are we going to establish a prceedent for every losing contractor to try to reverse the action of the source selection authority on the Senate floor with an amendment to the authorization bill? Mr. President, if this precedent is established by the adoption of the Senator's amendment, then the Senate should be prepared to assume the responsibility for awarding contracts in all major Government procurements.

Mr. President, I will now say a few words about the impact of this amendment on the Navy shipbuilding program and on the economy of our Government.

The DD–963 program was, by design, a major departure from past ship procurement programs in recognition of the rising cost of ships and as a specific effort to minimize ship-operating costs. Continuing studies over the years have established that significant savings could be realized by designing the destroyers for low production cost, building the ships in large production lots, and perfecting the design for ease of production at the designer's shipyard.

In arriving at this conclusion, the Navy studied our domestic shipbuilding operations, foreign operations—both in Europe and in Japan—and the procurement practices which encourage improved efficency. As I say, the Navy has concluded that the use of stable programs, using the techniques of series production of standardized ships, modularized construction, and other available methods of production control, significant savings can be made. The same conclusions have been reached by independent studies sponsored by the shipbuilding industry, the academic community at Webb Institute of Naval Architecture, and by the Maritime Administration in their planning for the rebuilding of the U.S. merchant fleet.

The actual savings will vary depending on the size of the program and the type and complexity of the ships being built. For the DD–963 program, the contract costs for the production of 30 ships of this class are about 15 percent less than could have been realized using multiple shipyards as builders and annual lot procurement techniques which we used until recently for the acquisition of most Navy ships.

All of these factors, including the basic ground-rule that production responsibility would be limited to a single contractor, were fully considered in the industry competition for this program. They were all well known to the shipbuilders who competed, specifically including Bath Iron Works. Based on an in-depth analysis of contractors' proposals received on this program, under the consideration which I haved mentioned, the Navy estimates that each DD–963 destroyer pur-

chased under an "all in one builder" program would cost between $8 million to $20 million less than the cost of acquiring the same destroyer in a split buy of the program, depending on the manner of the program split.

I think the results of the competition and the money savings resulting from the award in this case clearly vindicate the Navy's wisdom in going to series construction and "all in one builder" program.

Now let us look at the impact of the Muskie amendment on the Government's position with respect to this program. As I stated, the Muskie amendment would require that the Navy enter into two separate contracts. Use of a single design would be highly desirable to the Navy in view of the major reductions in training and logistics support which would result. However, to use the single design, it would be necessary to delay procurement of ships from a second source until a bid package is available from Litton. This would involve a 2-year delay in contract awards for the second 15 ships. With respect to standardization, it is probable that the use of a second source would result in some loss of standardization, even with tight control and supervision.

In addition, the Senator's amendment would increase the cost of the program substantially. The Navy estimates that any significant split of the DD–963 program would increase costs anywhere from $225 million to $685 million, depending on the number of ships involved, the method of contracting, and other factors. If, for example, the Navy was required to award contracts to two builders—and this seems to be required by the Muskie amendment—the estimate is that the cost increase for the complete 30-ship program would be about $600 million. If two different ships are required the cost increase is estimated at about $685 million.

Both the Department of Defense and the Navy is opposed to split of the program because of the substantial increased costs that would result. The "one builder" approach being used for the DD–963 program will provide the Navy with destroyers at the least cost to the Government. I think we all agree that this is an important issue.

The Navy has been falling behind year after year in keeping up with its requirements for new construction to fulfill urgent fleet needs. This is true in all types of ships. If additional money is available, I feel very strongly that it would be best used to acquire additional ships, be they support ships, submarines, or any of the other types we need so badly. Such additional purchases would, of course, be in competition, open to all builders and would thus be of benefit and value to the U.S. shipbuilding industry.

As I have already noted, the language of the Muskie amendment would require the Navy to enter into two separate contracts with two different shipbuilders. It is readily apparent that this would create a significant delay since the procurement of ships from the second source would cause the entire proceedings to be held up awaiting the preparation of a bid package by Ingalls. It is estimated that this would involve about a 2-year delay in the contract award for the second 15 ships. It should also be noted that under the language of the proposed amendment the Government would be exposed to cancellation costs on the Litton contract which was bid on the basis of 30 ships rather than the 15 ships contemplated under the Muskie amendment.

In addition, Mr. President, the Senator's proposal would not significantly increase the assurance of uninterrupted delivery against strike or disaster at the prime shipyard. Most of the large components of these ships will be bought from single vendors after competition for purposes of economy and standardization. The threat of a strike or national disaster at the vendor plant is equally present as at the shipyard. There are factors which are lived with in any production cycle over a period of years. Since a single contractor would utilize the vendor production to capacity or near capacity, a second contractor would only delay the progress of production and reduce the economies that could be achieved.

I think it is apparent, Mr. President, that the cost increases and delay in ship deliveries associated with the Muskie amendment would do nothing to assist the Navy shipbuilding program or the Nation's economy. The estimated increased cost of between $225 million and $685 million would have to be taken from the Navy's program for new construction of ships. This would appear to be in direct conflict with the Senator's expressed desire to carry out a substantial modification program at other shipyards. Obviously taking these funds from the Navy's new construction program would reduce the future awards that could result in a modernization program.

Of course, the alternate course of action is to increase the budget for Navy shipbuilding to offset this amount. In this time of austerity, the Senate Armed Services Committee has sought to get the most out of a substantially reduced budget. I am sure that Senator MUSKIE does not want to take the opposite tack and increase the defense budget, but the fact is that his amendment would have precisely that effect. My understanding has been that the distinguished Senator has been strongly in favor of reduced military spending.

In summary, Mr. President, on the point of the impact on the Navy's shipbuilding program, I hope that the Senate fully understands that the adoption of the amendment proposed by the distinguished Senator from Maine would seriously cripple the Navy's DD–963 construction program. The amendment would cause considerable delay and would substantially inflate the cost of the program. It is, indeed, very late in the day after the competition has been completed and the award has been made to come forward with a proposal which would interrupt and disrupt a very sound program which the Navy has worked on for 3 years.

In addition, Mr. President, I certainly do not believe that the Senate wants to take on the responsibility of source selection and convert itself into an agency to make contract awards for the Government. We certainly do not want to do this when the result would be to set aside a contract award already made and thus impair the obligation of that contract. I think we should all understand that if we do this in the case of this Navy program, then we must be prepared in the future to do it with respect to other Government contract awards.

The fact is, Mr. President, if this amendment should become law it would set an extremely bad precedent and throw the entire Government contracting procedures into chaos and make a mockery of the source selection machinery. More important, however, it would introduce politics and political considerations directly into Government procurement. For that and other reasons, it is not only without merit but it is actually a dangerous amendment which should not be seriously considered.

Let me remind the Senate that at the outset of this bill we had before us an amendment by the distinguished Senator from Delaware (Mr. WILLIAMS), who is justly noted for his rugged honesty and integrity. The purpose of that amendment was to preclude the making of announcements of defense contract awards by Members of Congress, and the primary reason advanced in support of the amendment was that it raised the suggestion of political influence if Members of the Congress were permitted to make such announcements. We all agreed that this was a bad practice and the amendment was unanimously adopted.

Now we have before us an amendment which would cancel and disrupt the award of the DD–963 destroyer contract which has been made on its merits by the Navy. While I can understand that the Senator from Maine (Mr. MUSKIE) wants some of the business to go to his State, the procedure which he would follow does far more than suggest political influence. His amendment, if adopted, would be political influence of the most direct, flagrant, and blatant type because the Senate, or a majority of it—and we are all politicians—would have passed final judgment on a military contract award.

I hope that we will all look to the future and realize that if we establish the precedent that we are going to interfere with and set aside contract awards in such cases, we are inviting more trouble than can possibly be imagined. Government contracts will no longer be awarded on the merits of the proposals and on the basis of the lowest and best bid. They will finally be determined by who have the most votes or most political influence in the Congress. This will inevitably result in political logrolling of the worst type and could open the door for all types of undesirable practices.

If we adopt this amendment, Mr. President, we might as well add another amendment to the bill to the effect that no contract award by the Defense Department or any other governmental agency shall be final or binding until it has been submitted to and approved by

the Congress. If we interfere with one Government contract award, certainly we are taking upon ourselves the responsibility to look at the others. There is certainly no reason to single out this contract which, as the record shows, is entirely free of any suspicion of irregularity whatsoever.

In conclusion, Mr. President, I state emphatically that we simply should not intervene directly in these procurement matters and abrogate a source selection made by the Defense Department and a contract entered into by it. Not only does this destroy the integrity of the procurement practices and source selection procedures, it actually would in this case impair the obligation of a contract since it would take at least a part of the award away from the successful competitor.

In concluding, Mr. President, let me say again that the DD–963 program originated 3 years ago. From its very inception the Navy intended to award the entire contract to a single shipyard. The published ground rules so stated. Not until this year has the Senate been asked to legislate or mandate a division of the contract. It is very late in the day to do this after the award has been made to the shipyard which won the competition on the merit because it had the lowest and best bid. If a division of the contract is so meritorious and so necessary now, why did not the Senator attempt to compel this prior to the selection of the winning contractor? Until this year—until the shipyard in Maine lost the contract—the Senate was entirely content to proceed on the Navy's prescribed "winner take all" basis. Repudiation of the source selection process in this case would have very serious repercussions, indeed.

With all deference, Mr. President, I say that the Senator's amendment has nothing whatsoever to recommend it. Its impact on the entire procurement process can only be harmful and mischievous and I hope and expect that it will be defeated.

I point out with emphasis again that I have nothing but the highest commendation for the Senator from Maine and other cosponsors who have worked on this matter with diligence and earnestness and great sincerity.

I yield the floor.

RESTORING CONSTITUTIONAL GOVERNMENT

Mr. McGOVERN. Mr. President, I rise today to speak about a deepening constitutional crisis in the United States. That crisis centers around the crucial issues of war and peace and the proper role of the Congress in relationship to the Chief Executive. As I have studied the growing tendency of the Congress to surrender its war powers to the President, I have been increasingly convinced that we are in danger of falling into one-man rule in the United States. The pending amendment not only seeks to terminate U.S. military involvement in the affairs of the people of Indochina, but it seeks to reassert the congressional powers which our constitutional fathers intended us to shoulder.

The debate on Indochina policy over the past several months has been underscored by growing concern over the constitutional balance between the executive and legislative branches. The long-range implications of this issue are no less significant than our policy choices on Vietnam.

A deepening constitutional crisis in the all-important areas of war and peace is not unique with this administration, nor with its predecessor. The confused relationship between executive and legislative war powers that bedevils us today began at the turn of the century, with President Theodore Roosevelt's dispatch of troops into Panama in 1903. In a characteristic boast, President Roosevelt said: "I took the canal and let Congress debate." Also without congressional action, President Wilson sent troops into Mexico in 1916, in pursuit of Pancho Villa. But these and most otner military actions ordered by American Presidents acting on their own initiative were small in size and brief in duration.

Before Vietnam, Laos, and Cambodia, the most extensive use of Armed Forces by unilateral executive action was in Korea, where several hundred thousand Americans fought, and where 33,000 died—a loss long ago exceeded in Vietnam. President Eisenhower acted without congressional authority in the Formosan Strait in 1955 and in Lebanon in 1958, although resolutions of support were obtained.

Secretary of State Dean Acheson bluntly asserted the premise of Executive war powers to the Senate Armed Services and Foreign Relations Committees nearly 20 years ago. Said Mr. Acheson:

> Not only has the President the authority to use the Armed Forces in carrying out the broad foreign policy of the United States and implementing treaties, but it is equally clear that this authority may not be interfered with by the Congress in the exercise of powers which it has under the Constitution.

The position taken by the Nixon administration is strikingly similar. In comments of March 10, 1969, on the National Commitments Resolution the Department of State outlined its views thus:

> As Commander in Chief, the President has the sole authority to command our Armed Forces, whether they are within or outside the United States. And, although reasonable men may differ as to the circumstances in which he should do so, the President has the constitutional power to send U.S. military forces abroad without specific congressional approval.

Mr. President, I submit that this thesis stands the Constitution on its head. It facilitates what that document seeks to impede. It brands as congressional "interference" the very powers which the Founding Fathers urgently intended the Congress to exercise.

EXECUTIVE AND LEGISLATIVE WAR POWERS

The Constitution does, to be sure, grant specific foreign policy and defense powers to the President. Under article II, section 2, he is authorized to make treaties, by and with the advice and consent of the Senate, and to appoint ambassadors. In this realm there is a presidential monopoly. According to Justice Sutherland's opinion in a 1936 case, U.S. against Curtiss-Wright Corp.:

> He alone negotiates. Into the field of negotiation, the Senate cannot intrude; and the Congress itself is powerless to invade it.

It is clear, therefore, that no Member of the Congress, no committee of the Congress, not even the Congress acting as a unified branch of Government can purport to negotiate officially with other nations. We can do no more than offer advice, which the President can accept or reject.

Beyond this, the President is designated as Commander in Chief of the Army and Navy of the United States. It is this office, along with the constitutional vesting of general executive power, which some see as authorizing the unilateral executive military actions taken during this century, including Vietnam. Though that interpretation seems to me to go far beyond the Constitution. And such an interpretation was clearly not contemplated by the founders. Alexander Hamilton, a strong advocate of executive power, interpreted the office of Commander in Chief as amounting to "nothing more than the supreme command and direction of the military forces, as first General and Admiral of the Confederacy."

The Constitution places a civilian at the top of the military command structure. Each man in uniform is answerable to him. It says nothing about the purposes he can pursue with the armed forces under his command.

Madison's notes of the debates at the Constitutional Convention do, however, indicate a desire to give the President some unilateral authority. An early draft provided that the Congress should have the power to "make" war. The record says, for example:

> Mr. Sharman thought it stood very well. The Executive should be able to repeal and not to commence war. "Make" better than "declare" the latter narrowing the power too much.

But Mr. Madison and Mr. Gerry moved:

> . . . to insert "declare," striking out "make" war; leaving to the Executive the power to repel sudden attacks.

The substitution was approved, giving the President authority to meet an emergency attack in the absence of congressional action. But here also arises the first very substantial reason to suppose that unilateral executive power is quite limited. The framers expressed themselves clearly on one instance in which an Executive decision could stand alone, and they mentioned no others. The scope of this single power is not precisely defined, and it is a matter of some dispute. Certainly, the President can use all of the forces at his command to defend the Nation's shores against an attack. Doubtless, he needs no permission to direct the protection of American military forces wherever deployed, if they are in immediate, perceivable danger. An act of Congress purporting to prohibit such action would be a nullity.

It is much less clear whether he can order offensive operations based on the fear that an enemy is about to attack. The terms used in the motion—"repel" and "sudden"—seem to imply that congressional approval should be sought in

any case where the threat is not immediate, and they also suggest that the amount of force used should be as much as is sufficient to remove the threat. But more substantial questions are raised by the logical consequences of a broader power. While a Member of Congress, Abraham Lincoln provided a compelling analysis on this point in a letter to Herndon:

> Allow the President to invade a neighboring nation whenever he shall deem it necessary to repel an invasion, and you allow him to do so whenever he may choose to say he deems it necessary for such a purpose, and you allow him to make war at his pleasure. Study to see if you can fix any limit to his power in this respect, after having given him so much power as you propose.

But executive prerogatives on issues of war and peace do not stand alone. Against them are arrayed an extensive listing of legislative powers and duties. Under article I, section 8, it falls to the Congress to "declare War," to "make Rules for the Government and Regulation of the land and naval Forces," to "provide and maintain a Navy," and to "provide for the common Defence and general Welfare of the United States." The Constitution further provides that "no money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law." And, in the case of appropriations to support armies and only in that case, it limits those appropriations to a duration of 2 years.

The letter from Lincoln just cited also supplied an accurate description of the reasons why Congress was so explicitly designated:

> The provision of the Constitution giving the war-making power to Congress was dictated, as I understand it, by the following reasons: Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This our convention understood to be the most oppressive of all kingly oppressions, and they resolved to so frame the Constitution that no one man should hold the power of bringing oppression upon us.

The framers wrote with the benefit of sharp hindsight upon two centuries of contest between English kings and Parliament. What is most relevant here is that Parliament had successfully employed its power of the purse to prevent and halt royal adventures abroad. In fact, a legislative forerunner to the pending amendment to end the war was passed in 1678, when Parliament specified that the Army of Charles in Flanders be disbanded by a date certain. The framers clearly intended that the Congress should have at least that much power, and they added more by requiring congressional action to initiate war as well as allowing congressional action to stop it.

Hence, the conclusion drawn by Mr. Ellsworth in the Constitutional Convention, again from Madison's notes, is significant:

> Mr. ELLSWORTH. There is a material difference between the cases of making *war* and making *peace*. It should be more easy to get out of a war than into it.

Mr. Madison also expressed support for:

> Clogging rather than facilitating war, but for facilitating peace.

If any ambiguity can still be asserted, we have only to look to early authoritative opinions. In 1801, Chief Justice John Marshall wrote:

> The whole powers of war being, by the Constitution, vested in Congress, the acts of that body alone can be resorted to as our guides in this inquiry.

As a member of the executive branch, Secretary of State Daniel Webster wrote in 1851:

> I have to say that the war-making power in this Government rests entirely with the Congress; and that the President can authorize belligerent operations only in the cases expressly provided by the Constitution and the laws. But no power is given to the Executive to oppose an attack by one independent nation on the possessions of another.

Or consider James Buchanan's precise description in a December 1858 message to Congress:

> The executive government of this country in its intercourse with foreign nations is limited to the employment of diplomacy alone. When this fails it can proceed no further. It cannot legitimately resort to force without the direct authority of Congress, except in resisting and repelling hostile attacks. . .

The legislative history, the historical setting, and the language itself, it seems to me, are unmistakable.

No one can read the record of the debates leading up to the establishment of the Constitution without being aware of the very strong convictions of the delegates to that convention that the war power should reside in Congress when it comes to the question of whether we go to war or whether we end it. The war power that the President has relates entirely to his function in commanding the troops once they are committed by the act of Congress or once committed to meet an emergency situation or to repel an attack. But they do not justify the kind of authority that some critics would give to the President in terms of the war and the long, drawn-out struggle in Indochina. All the constitutional debates point to the conclusion that the power to determine the purposes for which American military forces will be used resides in the legislative branch, whose laws must be faithfully executed by the President. The Commander in Chief clause merely entitles the President to the supreme command and tactical control of those forces when they are engaged in activities authorized either by enacted laws or by the Constitution itself. It can be read no other way.

Those who contend now for inflated Presidential powers can cite no textural support for their thesis. They make but one assertion—that the President holds full control over the use of the Armed Forces in pursuit of American security interests by reason of "practice" or "tradition," most of that tradition in the last few decades.

I fail to see how such foggy precepts can allow us to alter, without amendment, the terms of the Constitution itself. The truth is that Congress has acquiesced in Executive action either because it supported them or lacked the will to assert its opposition. In most instances in which the President has acted alone, he probably could have obtained congressional authority had he asked for it. The trend which has concerned us has developed because Congress has not really disagreed with the Executive and has thus felt no need to assert its own views. It is a serious perversion of the Constitution to suggest that congressional inaction signals the loss of congressional power and the gross expansion of Executive authority.

The logical import of the Presidential powers claimed would be to destroy the constitutional scheme so painstakingly constructed by the framers of that document. It would establish virtual one-man rule over the most momentous decisions any government is ever called upon to make—the decisions of war and peace. Considering the breadth of security interests claimed or potentially claimed by the Executive, it would leave the President free to engage in any conflict, large or small, short or indefinite, anywhere in the world. Under the new assumption of Executive power, it is hard to envision a conflict for which congressional authority would be required.

During the debate on the Church-Cooper amendment earlier this year, and also in the discussions that have taken place on the pending proposal, the administration's advocates have pleaded strenuously that we would interfere with the Commander in Chief. I find it intriguing that this argument has been raised with such fervor by some Senators who supported a provision in the Defense Appropriations Act of 1970 which barred the use of funds for the introduction of combat troops into Laos or Thailand.

I have often thought, Mr. President, since the incursion into Cambodia, that if we had had the foresight to realize that such a thing might happen, Cambodia would doubtless have been added to the restriction in 1970 that barred the use of funds for the introduction of combat troops into Laos and Thailand. I am confident that the only reason we did not include Cambodia under that restriction in 1970 is that it never occurred to anyone in the Senate that the President might order forces into Cambodia.

I suggest that we would do well to avoid the grave error of confusing our support for the President's Vietnam policy with an imaginary constitutional mandate for Congress to abandon duties imposed upon it by the Constitution. Every Senator is and should remain free to make his own choices on matters of policy, relying upon knowledge, wisdom, and conscience. But we are bound, by our oath of office, to uphold the Constitution.

Let us not forget that the Constitution binds us to review all funds for military operations at least once every 2 years. That is not put there for our convenience but for the protection of the country against the indefinite commitment of American forces or American military operations without systematic congressional review at least once every 2 years.

THE CONGRESSIONAL DUTY TO REVIEW

The points I have discussed may appear to have only an indirect relevance

to the pending amendment, since they relate primarily to the question whether the war in Vietnam was properly initiated. The pending amendment does not contest that issue; it does not seek to declare illegal the past actions of any President. It applies only to the future.

But it is clear that our constitutional system contemplates severe limitations on the President's flexibility in the use of the Armed Forces when he acts without specific congressional approval. Certainly, these influences on the initiation of war bear greatly on the question of how it might be terminated once begun.

The authorities are precise on this score, as well. They tell us two essential things:

First, that Congress very clearly does have the power to limit the purposes for which the Nation's Armed Forces shall be used, even after those forces have been engaged; and

Second, that we have a positive obligation to review these decisions at regular intervals.

The first point is a proper and logical consequence of the exclusive congressional power of the purse. It means, according to Justice Story's Commentaries on the Constitution of the United States, that:

> Congress can alone raise armies; and may put them down whenever they choose.

The second power flows from the 2-year time limitation on military appropriations, to which I have referred previously. Although it is our practice to appropriate every year for all Government activities, there is nothing in the Constitution to require that procedure except in the case of funding for the Armed Forces.

Alexander Hamilton described the meaning of that limitation in Federalist No. 26:

> The legislature of the United States will be obliged, by this provision, once at least in every two years, to deliberate upon the propriety of keeping a military force on foot; to come to a new resolution on the point; and to declare their sense on the matter, by a formal vote in the face of their constituencies.

The reason was explained by Mr. Dawes to the Massachusetts Ratification Convention:

> When we consider that this branch [the House] is to be elected every two years, there is great propriety in its being restrained from making any grants in support of the army for a longer space than that of their existence. If the election of this popular branch were for seven years, as in England, the men who would make the first grant, might also be the second and third, for the continuance of the army, and such an acquaintance might exist between the representatives in Congress and the leaders of the army as might be unfavorable for liberty.

The framers avoided this difficulty, Mr. Dawes pointed out, by providing the following result:

> The army must expire of itself in two years after it shall be raised, unless renewed by representatives, who, at that time, will have just come fresh from the body of the people. It will share the same fate as that of a temporary law, which dies at the time mentioned in the act itself, unless revived by some future legislature!

In the case of the very existence of the Armed Forces, therefore, and certainly on the narrower question of any portion of those forces engaged in conflict, Congress has an express duty to provide review and control, and there is no way in which we can surrender that power without violating the Constitution. The framers intended that no part of our Military Establishment should be maintained without continuing surveillance by the legislature.

Hence, I do not see how any Member of this body can find the comfort of neutrality on the war in Indochina by saying it is all a matter for the President to decide. We cannot withhold our judgments. The Constitution requires an "aye" or "nay" on this transcendent issue.

Those of us who oppose the war have, I believe, a moral obligation to use the power of our office to end it, or at least to try. That belief has been the central motivation for this amendment.

But it is a decision we cannot avoid in any case, amendment or not. We have voted upon it every year since the war began, through our annual votes on military appropriations bills. While we may have intended otherwise, our effect has been to ratify Executive action.

I must say it is a difficult thing, once troops are committed, for a Member of Congress to stand up and vote on appropriations that would terminate that action, but there is no other way under the Constitution, once American forces are committed abroad by the executive branch of the Government, for that action to be terminated except by the power of the purse which the Founding Fathers intended Congress to exercise with special care on matters relating to military operations.

Thus it is not correct to say that this tragic war belongs to Mr. Nixon, or to Mr. Johnson. It is not the property of their predecessors. It belongs just as much to the Congress which has supplied the Army, Navy and Air Forces with the necessary appropriations to fight it.

Our amendment does no more than confront the issue directly. When Senators vote next Tuesday morning at 10 a.m., they will be voting their individual judgments on whether or not they wish to use their constitutional powers to set a limit on our military involvement in Indochina, or would instead place the entire burden for that decision on the President alone.

AUTHORITY FOR INDOCHINA WAR

Beyond the broad powers it claims for the President, the executive branch has relied primarily upon a collective security theory to justify our involvement in Indochina. It has been asserted that our membership in the Southeast Asia Treaty Organization has demanded U.S. military action. While South Vietnam is not a signatory, it is within the protocol areas which the signatories consider vital to their security interests. It is argued that we are thus committed to other SEATO members to respond to aggression in Vietnam. As I shall show in a minute, I do not hold that interpretation of the SEATO Treaty, but if one were to push that argument, we would be obligated to go into Cambodia, which bears exactly the same relationship to the SEATO Treaty as South Vietnam does.

But, for two very good reasons, this cannot serve as an adequate response to a constitutional challenge. First, the treaty was ratified only by the Senate, whereas the Constitution requires that the Congress—both Houses—shall exercise war powers. Surely, the Senate cannot provide advance authority for military action that must wait for approval by the House as well.

Second, and more significantly, the terms of the Treaty itself provide that a response will be made only after a decision based on the "constitutional processes" of the signatory. A document which incorporates "constitutional processes" certainly cannot be construed to allow their avoidance.

Some have also urged that the Gulf of Tonkin resolution provides authority for the war, although neither the Johnson nor the Nixon administration has relied upon it. As a matter of fact, Under Secretary of State Katzenbach said years ago that they did not really need any authority from Congress to carry on military operations in South Vietnam. This administration has repeated that it does not need the Gulf of Tonkin resolution to justify what it is doing. But again, the response has fatal disabilities.

The resolution was not a grant of authority; it was an expression of approval of presidential "determination" to resist attack and prevent further aggression. Nowhere within its terms are such critical operative words as "empower" or "authorize." Moreover, where the Senate is concerned, it is obviously relevant to point out that we have twice voted by large margins to repeal the Gulf of Tonkin resolution. Surely, those in this body who thought it conferred authority must now look elsewhere for the executive power under which the war goes on.

I do not dispute that the President, as Commander in Chief, has the authority to withdraw American forces and to take all steps necessary to defend them during that process. Having found them deployed when he assumed office, he surely has those powers.

But Mr. Nixon assumes more than that. While removing some troops, he is leaving others. American forces are engaged in offensive operations, including heavy aerial bombardment. On next May first, at least 280,000 will remain in Vietnam, with no plan to bring them home. They will be there in pursuit of broad goals which have been set without the official authorization of Congress.

Of even deeper significance in a constitutional sense is the limitless scope of authority the President still claims in connection with Vietnam. The vastly-inflated Commander in Chief concept literally places no limit on what he might do. That concept could take us anywhere. No wonder there is such anxiety in the land, with such enormous power concentrated in one man's hands.

AMENDMENT TO RESTORE CONSTITUTIONAL GOVERNMENT

Apart from the policy of definite withdrawal it seeks to establish, our amendment responds directly to doubts about

whether the President does have authority in Indochina and, if so, its extent.

We can safely predict that one of two results will flow from its passage.

First, the President may abide by the timetable and remove all American armed forces by December 31 of next year. I personally hope he would move ahead on that timetable. If that is done, Congress will have rightly shared any political risks involved in the unsatisfactory conclusion of the war to which there is no satisfactory conclusion possible, that is, one that would satisfy all our citizens. I believe it is the obligation of Congress to share with the President the political hazards involved in terminating the war without victory. The President said that we are not going to go for a military victory. I think that is clear, because he would not withdraw forces if he intended to push for a military victory in Vietnam.

There is no victory in this futile and tragic war. Let us face that fact as men sworn to uphold the Constitution, rather than hiding behind the cloak of presidential power, and say that it is entirely up to the President as to the time the troops are committed and the conditions under which they are brought home. We can do a great deal to eliminate the kind of scapegoating that may otherwise follow withdrawal of our forces from Vietnam, if that decision is brought about by both the executive and the duly elected representatives of the people in Congress.

Second, the President may return to the Congress and seek explicit authority for his own policy, through carefully worded legislation designed to support his aims while perhaps limiting the time or the numbers of troops to be involved. The terms of the amendment suggest that he might do that during the 60-day period in which he is authorized to suspend the deadline for withdrawal in the event of an emergency. But he could obviously do it at any time, and any subsequent legislative act would, of course, supplant the terms of this proposal.

During the period after passage of the amendment, until the withdrawal deadline on December 31, he could come to Congress at any time during that period of time, and ask for a revision in the terms of the amendment, including the withdrawal deadline. He does not have to wait until the closing weeks of the withdrawal deadline.

If he were successful, he would have renewed credibility both at home and abroad. He would move with a clear mandate. The nagging doubts about new enlargements of the war could be laid to rest.

In any event, American involvement would be terminated by joint action of the legislative and executive branches, as the Constitution intended.

The President does not come before us now asking for authorization of his Indochina policy. He did not come to us to ask us for approval before American forces were sent to Cambodia. We are instead told that Congress has no business in such matters. Thus, if we are to participate at all, it must be on our own initiative.

For reasons which I have repeated throughout the discussion of this amendment, I am convinced that its terms offer the most hopeful and responsible route out of Indochina, out of a war that I believe the overwhelming majority of the American people want to see ended. Establishment of an orderly timetable for withdrawal can stimulate stagnating negotiations, release our policy from the grip of dictators in Hanoi and Saigon, and end the slaughter of Americans and Asians.

The Senator from Kansas earlier today talked about his view that this amendment is an amendment to lose the peace. There is not any peace to lose. There is a bloody war in progress that is killing young Americans every day and continues to slaughter people in South Vietnam at the rate of about 200,000 a year. That is the bloody conflict, the so-called bloodbath that exists.

We do not know what will happen if we end the war and withdraw the massive firepower of the United States. But we do know that hundreds of thousands of people are being killed as long as the war goes on. We know about this bloodbath. It is a historic fact which we read about in the news bulletins day after day.

We have no peace to lose, but only a war to end. That is why this amendment is properly named an amendment to end the war and why it is improper to talk about losing something which we do not have, which is peace. We are trying to establish peace, and this amendment has that as its purpose.

But Senators who disagree or have doubts about our policy in Indochina have equally strong reasons for supporting this proposal. It is a means to restore the constitutional principles from which we have strayed. Congress ought to share with the President in these decisions affecting war and peace.

Thousands of Americans have sacrificed their lives to secure liberty and create the Constitution that documents that liberty. And that is the only document to which every Senator swears his loyalty and which he swears to uphold when he becomes a Member of the Senate.

I hope that we will now have the simple fortitude to use that constitutional power that this great document invests in this body.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time on any amendment, order, or appeal relative to amendment No. 811 by the Senator from Maine (Mr. MUSKIE) be taken out of the 4½ hours allotted to that amendment.

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

ORDER FOR ADJOURNMENT FROM TUESDAY NEXT TO 9 A.M. WEDNESDAY, SEPTEMBER 2, 1970

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business on Tuesday next, it stand in adjournment until 9 a.m. on Wednesday, September 2, 1970.

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

THE BLOODBATH HOAX

Mr. McGOVERN. Mr. President, in recent weeks we have heard time and again that the orderly withdrawal of U.S. Armed Forces from Vietnam will result in a "bloodbath" of political reprisals against the South Vietnamese.

The President suggested in one of his recent telecasts, for example, that millions of South Vietnamese have placed their trust in us and that—

> To abandon them now would risk a massacre that would shock and dismay everyone in the world who values human life.

The Vice President easily transformed that "risk" to reality in his August 17 speech in Florida. He said:

> The result of our proposal would be . . . the collapse of the government, chaos in the country—and ultimately the kind of Communism that literally decimated the civilian population of Hue in the Tet offensive.

The clear implication of both statements is that the Vietnamese population is protected by our presence. And that proposition is a mean, cruel hoax. It would justify the indefinite slaughter of thousands of innocent South Vietnamese on the pretext that a few—primarily Messrs. Thieu and Ky and their narrow band of henchmen—might be saved.

It must first be noted that the "bloodbath" theory itself is open to serious question. I wonder, for example, why it is that an enemy takeover must result from our withdrawal, when it is a fact that the South Vietnamese have some 1,352,000 men under arms with some degree of combat training, including 1 million full-time soldiers. Estimates of enemy strength at the end of 1969 numbered at 240,000, including 100,000 North Vietnamese, 40,000 main force, and 100,000 irregulars and guerrillas. And it is estimated that only about 90,000 are combat troops, with the rest engaged in support activities. I simply cannot see how it is that 1,352,000 men are to be slaughtered by 90,000. If they cannot defend themselves on that basis then the entire Vietnamization strategy surely must fall.

If Vietnamization is as barren as it appears, and if the Communists are therefore destined to a share of the power in South Vietnam regardless of which policy alternative we choose, there are still reasons to doubt that a bloodbath would occur.

The most likely targets of political reprisals will have long since departed. According to a Swiss newspaper account, more than 10,000 of the Saigon elite have left the country since the negotiations began, and between $1.5 and $2 billion has left Vietnam by deposits in foreign banks. As for General Thieu, he has found a home for his children in Rome and his wife has a house in Europe.

With the vast bulk of the remaining civilian population the interest of the new government will be in accommodation, to consolidate its own power rather

than undermining confidence in the power of someone else.

But the most compelling response to this issue lies in the bloodbath that goes on now.

The Vice President's reference to events at Hue during the Tet offensive is more helpful on this score than he knows.

The Vietcong executed some civilians. We can only react with shock and dismay at this barbaric action.

Yet of the 3,600 civilians who died, the enemy killed only 1,000. The rest, more than two times as many, were attributed to the enormous indiscriminate firepower used by the allies to recapture the city.

There could be no more precise illustration of the fallacy in the administration's argument. What happened at Hue is happening throughout the Vietnamese countryside. It will last as long as the war goes on.

Mr. President, I have just recently received a paper on this subject by a Villanova Law School student, Stanley Shulman, and I believe it deserves the careful attention of every Senator. He employs and expands the excellent studies previously compiled by Senator Kennedy's Senate Subcommittee on Refugees.

Mr. Shulman points out that—

Nearly one-third of the population of South Vietnam has already become either a war casualty or a refugee.

He sets total non-Communist fatalities at 90,000 each year, a figure that is not declining. In fact the total number of casualties has increased since the 1968 Tet offensive, in large part because of more heavy aerial bombardment which cannot distinguish between enemy and innocent.

As to the future, Mr. Shulman makes a careful comparison of civilian casualties we can expect from continued war, as opposed to even the most hysterical predictions in the event of a Communist takeover. He says:

Between now and election time, 1972, civilian deaths alone will be over 100,000.

Non-communist Vietnamese deaths (combatant and civilian combined) will be twice that number.

Total war deaths will be almost five times that number.

Non-communist Vietnamese dead and wounded will be over 700,000.

Total Vietnamese dead and wounded will be 1,400,000.

Clearly we are faced with the prospect of a bloodbath. It is one we can virtually guarantee unless the war is ended.

Mr. President, I ask unanimous consent that the paper to which I have referred be printed at this point in the RECORD.

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

THE TRAGIC IRONY OF THE BLOODBATH THEORY

(By Stanley Shulman [1])

"When we assumed the burden of helping defend South Vietnam, millions of South Vietnamese men, women, and children placed their trust in us. To abandon them now would risk a massacre that would shock and dismay everyone in the world who values human life." President Nixon, May, 1969

Nearly one third of the population of South Vietnam has already become either a war casualty or a refugee.[2] This staggering amount of war misery will only grow under Nixon's Vietnamization Program. The strategy of more military aid for the present narrowly based, right-wing Saigon government, by removing the pressure on the Saigon regime for a negotiated settlement of the war and exacerbating divisions within Vietnamese society, both increases the chances for a future bloodbath and allows the everyday bloodbath to continue. Although American deaths are admittedly now declining, the total number of South Vietnamese casualties remains the same. The extension of the war into Cambodia, coupled with the Administration's apparent unwillingness to press for a negotiated compromise settlement, suggest anything but consideration for the value of human life.

If Americans were made aware of the extent of the daily toll of South Vietnamese civilian and military dead and wounded, the hollowness of the bloodbath theory would be immediately apparent to them. But the public has had little exposure to these facts. We constantly hear precise statistics on the numbers of weapons captured, tons of rice destroyed, and enemy killed, but a serious listing of civilian war casualties—the crucial component of the daily bloodbath—has always somehow been beyond the capabilities of the U.S. and Saigon governments.

Official civilian war casualty statistics are filled with glaring omissions. As far back as December, 1967, the head of AID medical programs in South Vietnam estimated that the number of civilian casualties were running at a rate of approximately 100,000 a year: 76,000 injured and approximately 24,000 civilians killed outright or dying before they could reach medical facilities. This in itself was a more than 100% increase over official estimates.[3]

But sadly the story does not end there. The Senate Subcommittee on Refugees subsequently visited approximately 32 of the 43 South Vietnamese provinces and discovered that even the AID statistics for the number of civilian casualties, based on civilians treated as inpatients at provincial hospitals, was underestimated because several hospitals were not reporting and those who did report often understated the figures from 10 to 50 percent. Further, the number of outpatients and those treated at village or hamlet facilities added an additional 100,000 casualties per year (although some are not of a serious nature). Using the AID chief medical officer's estimate of 24,000 civilians killed outright or dying before they could reach medical facilities, the total estimate of civilian casualties was approximately 175,000 for 1967.[4]

Within the last twelve months the total number of officially reported casualties, civilian and combatant, has been 40 percent higher than the 1967 pre-Tet offensive statistics. Unless reporting methods have improved enormously since 1967, we must conclude that the intensity of the war during President Nixon's Vietnamization Program has been greater than the pre-Tet levels, producing within the past year well over 200,000 killed or wounded civilians.

The official United States military casualty rate is one killed for every 6 or 7 wounded. The civilian ratio must be much greater, since death is far more probable for the innocent noncombatant who has minimal access to surgical and anesthesia capability, an adequate blood bank, or rapid transport to medical facilities.

Thus after careful study, the Senate Subcommittee on Refugees recently concluded that approximately 60,000 Vietnamese civilians had died from May, 1969–April 1970 alone.[5] Add to this United States, South Vietnamese, and other allied combat deaths and *total non-communist fatalities equal at least 90,000 for one year.* (May, 1969–April 1970). This figure provides an illuminating comparison with the Administration's oftenquoted Rand Corporation study, which predicted that approximately 100,000 might be executed after a Communist takeover in the South.

The Rand prediction is difficult to accept, in light of the fact that that study:

(1) Assumed that the Communists could win total victory in the South when the South Vietnamese Army's strength is placed at 1,250,000. (To admit such a possibility is to admit the failure of the Vietnamization Program.)

(2) Was in general agreement with the Administration's view of the events following the Communist takeover in the North and the Hue occupation, which have been subject to serious dispute by many critics;

(3) Did not consider the impact of strong third-country or international controls on a peace settlement; and

(4) Did not account for our moral obligation to provide a political evacuee program.

However, even if one does accept this figure, if the war continues at its present rate, during the period between now and election time 1972:

Civilian deaths alone will be over 100,000.

Non-communist Vietnamese deaths (combatant and civilian combined) will be twice that number.

Total war deaths will be almost five times that number.

Non-communist Vietnamese dead and wounded will be over 700,000.

Total Vietnamese dead and wounded will be 1,400,000.

These figures take no account of the 400,000 who will become refugees and the substantial but difficult to estimate Cambodian and Laotian casualties.

There is no reason to expect a significant change in this death and casualty rate. The decline in American casualties has led us to believe that the war has been "winding down," when in fact there has been no such turn of events. Excepting the abnormally high death rate during the year of the Tet offensive, South Vietnamese casualties reached their high mark under the Vietnamization Program in 1969. The first half of 1970 indicates a similar trend.

The President's bloodbath theory is therefore a tragically ironic justification for continuing the war. We are presently destroying the Vietnamese people in order to save them, at a cost of 40 million dollars a day. No speculation about a future "bloodbath," even if the Rand figures were to be accepted at face value, should obscure the fact that a far more massive bloodbath is presently occurring in Vietnam. Contrary to the President's statement quoted at the beginning of this paper, the value of human life seems

[1] 1970 graduate, Dickinson College. First-year student, Villanova Law School. This paper is a portion of a larger study, not yet completed, questioning the entire theoretical basis of the "bloodbath" argument.

[2] Senate Subcommittee on Refugees, *Hearings on Civilian Casualty, Social Welfare and Refugee Problems in South Vietnam*, 91st Cong., 1st Sess., p. 1 (Committee Print, 1969).

[3] See 115 Cong. Rec. S17510 (daily ed., Dec. 22, 1969). All civilian casualty figures are based on estimates by the Senate Subcommittee on Refugees, the only government body to undertake an in-depth study of this problem.

[4] *Ibid.*

[5] Staff Memorandum, Subcommittee files.

clearly one of the last priorities of this Administration's Vietnam policy.

STATE DEMOCRATIC PARTIES SUPPORT AMENDMENT TO END THE WAR AND EARLY WITHDRAWAL OF AMERICAN FORCES FROM SOUTHEAST ASIA

Mr. McGOVERN. Mr. President, the Democratic Parties in at least eight States have, in the past few months, declared their support for the amendment to end the war and an early withdrawal of American forces which I sponsor with 23 other Senators. Other State Democratic Parties may also have taken positions on the amendment of which I am not aware.

The eight States are: Maine, Massachusetts, Nebraska, North Carolina, New York, South Dakota, Utah, and Washington. In South Dakota, the party specifically commended efforts of members of both political parties who seek to reassert the constitutional responsibility of the Congress while affirming the need for presidential flexibility, and it endorsed the February 1970 position of the National Democratic Policy Council. The New York statement issued from a special party convocation.

The amendment and the withdrawal of all American forces by a fixed deadline are not a partisan matter. Senators on both sides of the aisle support the amendment; citizens across the country in both political parties have spoken out for it. But it is indicative of the importance and urgency of the issue that State Democratic Parties, in the midst of their own organizational activities, have taken the time to put their position on the record.

I applaud the action of those State Democratic Parties which have spoken out. I urge that all Americans who feel that the time has come to set a fixed deadline for the safe and secure withdrawal of American forces from Indochina act now to let their Senators know how they feel as we approach the vote on this important amendment.

Mr. President, I ask unanimous consent that the resolutions of those parties which I have received be placed in the RECORD at this point.

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

MAINE DEMOCRATIC PARTY PLATFORM, MAY 16, 1970

FOREIGN POLICY

* * * * *

2. The most important immediate objective of American foreign policy must be to terminate our nation's military involvement in Southeast Asia, and the first priority during the process of withdrawal of our forces is to secure a complete exchange of all prisoners of war in Indochina.

We endorse the peace plan contained in the resolution offered by Senator Ed Muskie in the United States Senate on May 11, 1970, and entitled "Declaring a Policy for Peace in Indochina". The resolution follows:

"Whereas de-escalation of the fighting, withdrawal of United States troops from Indochina, and intensive efforts at negotiations are the only routes to peace in Southeast Asia: Now, therefore, be it

Resolved, that the United States of America seeks a peaceful resolution of its differences with North Vietnam, and that United States policy encourage peace among all the peoples of Indochina and be it further

Resolved, that to achieve the objectives of this Resolution: (a) the United States immediately withdraw all its military forces from and cease military operations in Cambodia; (b) United States bombing of targets in North Vietnam be stopped henceforth; (c) the United States seek an immediate, standstill cease fire in Vietnam and other areas in Indochina; (d) the United States government declare that all its forces and military personnel will be withdrawn from Indochina in a specified time, not to exceed eighteen months from the date of adoption of this Resolution; (e) the United States delegation to the Paris Vietnam Peace talks be strengthened with negotiators empowered and directed to seek an agreement to facilitate the formulation of a political settlement in South Vietnam; (f) the United States encourage a conference under the auspices of the governments of East Asia or other appropriate international sponsorship to provide for discussions among all the various governments and political groups in South Vietnam and in Indochina for the purpose of resolving their political differences; and (g) the United States pledge technical and economic assistance for the reconstruction and economic development of the war-ravaged regions of Indochina and be it further

Resolved, that (a) the Senate express its support, and urge the President to develop a plan, for the complete withdrawal of United States military personnel from Indochina, such withdrawal to be completed in not more than eighteen months from the date of adoption of this Resolution; and (b) the Committees on Appropriations, Armed Services and Foreign Relations submit to the Senate by July 15, 1970, appropriate legislative recommendations, including but not limited to restrictions on military expenditures in Indochina, to implement the objectives of this Resolution.

We also endorse the amendment offered in the United States Senate on May 2, 1970 by Senators Goodell, Hatfield, Hughes, McGovern and Cranston, as embodying an approach designed to implement that Declaration.

The Amendment is as follows:

Section A: Unless the Congress shall have declared war, no part of any funds appropriated pursuant to this Act or any other law shall be expended in Vietnam after December 1970, for any other purpose arising from military conflict provided that funds may be expended as required for the safe and systematic withdrawal of all United States military operations, the provision of assistance to South Vietnam in amounts and for purposes specifically authorized by the Congress, the exchange of prisoners, and the arrangement of asylum for Vietnamese who might be physically endangered by the withdrawal of United States military personnel from Vietnam shall be completed no later than June 30, 1971, unless the Congress, by joint resolution, approves a finding by the President that additional stated period of time is required to insure the safety of such personnel during the withdrawal process.

Section B: Unless Congress shall have declared war, no part of any funds appropriated pursuant to this Act or any other law shall be expended after December 31, 1970, to furnish to Laos any military advisors, or to support military operations by the forces of the United States or any other country in or over Laos.

Section C: Unless the Congress shall have declared war, no part of any funds appropriated pursuant to this Act or any other law shall be expended, after 30 days after the date of enactment of this Act, to furnish to Cambodia any defense articles of any military assistance of military advisors, or to support military operations by the forces of the United States or any other country in or over Cambodia.

RESOLUTION TO END THE WAR APPROVED BY THE NORTH CAROLINA STATE DEMOCRATIC PARTY IN CONVENTION, RALEIGH, JULY 14, 1970

Whereas, we believe that the withdrawal of American forces from Southeast Asia is more essential to the best interests of this country, this state, and this nation than a military victory in Vietnam or the support of the present government in South Vietnam:

Be is resolved that we, the delegates to the Democratic Convention of the State of North Carolina, support the Amendment to End the War, U.S. Senate #609, sponsored by Senators McGovern, Hatfield, Goodell, Cranston, Hughes, and others; and be it further resolved that we, the delegates of the State Democratic Convention convey our concern about the war to the Governor of the State of North Carolina and to the Congressional delegation from North Carolina. The Amendment reads as follows:

(a) Unless the Congress shall have declared war, no part of any funds appropriated pursuant to this Act or any other law shall be expended in Vietnam after December, 1970, for any purpose arising from military conflict; Provided that funds may be expended as required for the safe and systematic withdrawal of all United States military personnel, the termination of United States military operations, the provision of assistance to South Vietnam in amounts and for purposes specifically authorized by the Congress, the exchange of prisoners, and the arrangement of asylum for Vietnamese who might be physically endangered by the withdrawal of United States forces, and Further Provided, that the withdrawal of all United States military personnel from Vietnam shall be completed no later than June 30, 1971, unless the Congress, by joint resolution, approves a finding by the President that an additional stated period of time is required to insure the safety of such personnel during the withdrawal process.

(b) Unless the Congress shall have declared war, no part of any funds appropriated pursuant to this Act or any other law shall be expended after December 31, 1970, to furnish Laos any military advisors, or to support any military operations by the forces of the United States or any other country in or over Laos.

(c) Unless the Congress shall have declared war, no part of any funds appropriated pursuant to this Act or any other law shall be expended, after 30 days after the date of the enactment of this Act, to furnish Cambodia any defense article or any military assistance or military advisors, or to support military operations by the forces of the United States or any other country in or over Cambodia.

(d) For the purposes of this section, the term "defense article" shall have the same meaning given such term under section 644 of the Foreign Assistance Act of 1961.

RESOLUTIONS FOR THE NEW YORK DEMOCRATIC CONVOCATION, MAY 20, 1970

We Democrats, assembled in this special convocation to consider the crisis of expanded American involvement in Southeast Asia, proclaim our determination to make the American system work successfully, to make our government and the Democratic Party responsive to our people's needs, to restore the dialogue essential to democracy's well-being, to move by every legal and effective means to end the violence at home and abroad, and to make the Democratic Party of New York a powerful instrument to restore domestic tranquility and to end the war in Indochina now.

To accomplish these objectives:

1. We unequivocally denounce the invasion of Cambodia, the under-cover war in Laos, and the resumption of bombing in North Viet-Nam. We call upon the President and the Congress to announce that all United States forces will be removed immediately from any combat role anywhere in Indochina, and that all United States military personnel will be out of Indochina by the end of 1971, appropriate provision having been made for their safe withdrawal and the release of prisoners of war.

2. We pledge our full support to the enactment of the Church-Cooper and McGovern-Hatfield amendments in the Senate and the adoption of their counterpart, H.R. 1000, in the House of Representatives; we ask that the Democratic members of the New York Congressional Delegation publicly commit themselves to the support of H.R. 1000 and other appropriate legislative efforts to end the war; and we call upon the Congress to reassert its constitutional mandate to control American involvement in foreign wars.

3. We call upon the Government of the United States to demand the release of and offer immediate sanctuary to the hundreds of prisoners now languishing in the dungeons of South Viet-Nam whose only crime has been support of a negotiated settlement of the Vietnamese war.

4. We call for the appointment of a Chief United States negotiator at the Paris Peace Conference who will have the confidence of the Congressional Foreign Relations Committees so that Americans may be assured that their view of an honorable agreement is being explored to end the war.

5. We welcome the young, both as members and critics of our Party. We welcome their creative dissent, the honesty of their dissatisfaction, and their commitment of personal energy to the election of candidates who reflect their hopes and ideals. We endorse The National Petition Drive organized by student groups throughout the State and urge all Democratic candidates, leaders, and organizations, to support actively this effort.

6. We ask for an honest effort by all citizens and groups to hear the opinions and arguments that divide us, to avoid violence against person and property, and to avoid the use of the flag as a partisan symbol representing the superior patriotism of either side.

7. We recognize the heroic valor of the Armed Forces of the United States in the Indochina war, and we call upon the Federal and State governments to provide generously for the support of the bereaved families of the dead, and for the medical care of the wounded and disabled; and we further ask that the elected representatives of the Democratic Party make regular periodic visits to veterans' installations where the American wounded are cared for to make certain that the Nation's obligation to these victims of the war is fulfilled.

8. We believe that international commitments that directly affect the security and national interests of the United States are seriously undermined by our involvement in Indochina. In calling for the immediate end to American military involvement in Indochina, we reject the counsel of isolationism and reaffirm our legitimate international commitments.

9. We call upon government on every level to recognize the increasing despair of millions of Americans as their pleas for social justice are met with attitudes of benign neglect and violent repression; and in demand that the Democratic Party of New York, in the voice and action of its office holders, candidates, and leaders place the imperative of social justice at the top of the American agenda.

The Democratic Party and its national leadership have a major responsibility for the tragic American involvement in Viet-Nam. We will not fulfill our responsibility to the future of our Nation, to our Party or to ourselves by rationalizing past mistakes or tolerating their repetition. We speak today as Democrats to make our political institutions respond to the urgent need for peace in our land. We speak today as Americans in calling for the end—NOW—to a war that has no national purpose and that is morally, politically, economically and militarily wrong.

THE 1970 UTAH DEMOCRATIC PLATFORM: GOVERNMENT IN A CHANGING AMERICA

INDOCHINA AND MILITARY SPENDING

The expanding war in Southeast Asia is of deep concern to the Democratic Party. It has torn the social and economic fabric of both the United States and the involved Asian nations. With a nation in economic and social turmoil, military might does not guarantee security, either within or without. We urge: The immediate withdrawal of all military personnel from Southeast Asia, in such a way that it does not endanger their security. We should not forget nor abandon our servicemen who are prisoners of war. We should endeavor to secure international supervision to insure the safety of the Asian people.

We urge that the military budget be reduced drastically. Although not opposed to continued research, we urge a suspension in deployment of A.B.M. and M.I.R.V. systems; a further cutback in military assistance and troop commitments to other nations, and a planned conversion of defense industries to civilian needs. There should be simultaneous emphasis on arms limitations talks and diplomatic negotiations for peace.

RESOLUTION NO. 12 OF SOUTH DAKOTA STATE DEMOCRATIC CONVENTION, MITCHELL, S. DAK., JULY 17, 1970

Whereas, the South Dakota Democratic Party takes notice of the reasons which prompted this nation's active military involvement in substantial force in Viet Nam and Southeast Asia,

Whereas, the war in Southeast Asia has cost thousands of American lives, billions in tax dollars, and has eroded our national spirit and divided our people in a way not seen in this country since the Civil War,

Whereas, without commenting directly on the validity and rationale of those decisions it is now clear that the war has been unnecessarily prolonged, and

Whereas, we acknowledge the effort to reassert the constitutional responsibility of the Congress in policy matters of this kind and affirm the need for presidential flexibility within this constitutional responsibility to defend our nation. We commend those thoughtful members of both political parties who have directed and inspired these meaningful Congressional efforts.

Now, therefore be it resolved, that the South Dakota Democratic Party endorses and supports the position of the National Democratic Policy Council. Text of position statement:

II. INTERNATIONAL AFFAIRS

Despite the Administration's claims of progress, Vietnam remains our most urgent overseas problem and our most divisive and bitter domestic one. Our national interests require that the war in Vietnam be brought to a close at the earliest practical moment. The loss of life, the division of resources from critical domestic needs, and the disunity of our country must be ended.

The withdrawal of some U.S. troops is a desirable first step and we support this decision. But future U.S. decisions, affecting American lives and resources, should not be dependent upon either North Vietnamese or South Vietnamese actions. Our schedule of withdrawal should not be dependent upon the progress of the Paris peace talks, the level of violence, or the progress of so-called Vietnamization. It should depend primarily upon the interests and policy of the United States. That interest and that policy require a firm and unequivocal commitment to the American people that all U.S. forces will be withdrawn from Vietnam in accordance with a definite schedule. We see no reason why this withdrawal should not be completed within eighteen months. Such a withdrawal can be accelerated by efforts to create the conditions necessary for a peaceful political settlement.

THE 1970 WASHINGTON STATE DEMOCRATIC PLATFORM

I. BUILDING FOR WORLD PEACE

1. We urge removal of all U.S. Troops—combat, support and advisory—from Vietnam and elsewhere in Indochina in keeping with the terms of the McGovern-Hatfield Senate Amendment #609, which says, among other things, that unless the Congress shall have declared war, no funds shall be expended in Vietnam after December 31, 1970, except as required for the safe and systematic withdrawal of all U.S. military personnel, and that the withdrawal of personnel shall be completed no later than June 30, 1971, unless Congress approves an additional period of time to insure the safety of personnel during the withdrawal process.

AMENDMENT TO END THE WAR—ASYLUM

Mr. McGOVERN. Mr. President, the amendment to end the war deals specifically with whatever fears remain about the possibility that there might be political reprisals in Vietnam following the withdrawal of U.S. forces.

Where this single issue is concerned, we propose a serious search, in combination with other nations, for asylum for South Vietnamese who might be endangered. The amendment leaves ample time for such efforts.

Some may find this plan unsatisfactory. I emphasize that it is no more than a suggestion, and an assurance that whatever funds are required will be available both before and after withdrawal. It supports any initiatives the President might want to make. He could pursue other means as well.

We cannot fail to note that this approach stands against a policy under which we are literally guaranteed that thousands of innocent South Vietnamese will be slaughtered. Hundreds of thousands will suffer grievous injury. The decimation of the Vietnamese countryside by bombs and defoliants will continue. Still more will be added to the millions of Vietnamese refugees whose homes and villages have been wiped out.

If we are concerned about a bloodbath, the choice between our amendment and the President's program could not be more obvious.

Mr. President, two Washington attorneys, Charles Hill and Frank Lloyd, have prepared for the benefit of the Congress a two-part study which carefully examines the so-called bloodbath theory and then amplifies on the steps which might be taken to arrange asylum. I commend this study to the attention of my colleagues, and I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the material

was ordered to be printed in the RECORD, as follows:

THE ADMINISTRATION'S "BLOODBATH" SPECTER: A REBUTTAL AND PROGRAM FOR PREVENTION

(By Charles E. Hill [1] and Frank W. Lloyd, III [2])

Over the past year, the Nixon Administration has constructed and evaluated to the forefront of its arguments in support of the existing Vietnam policy the contention that withdrawal of United States forces under a specified timetable would result in a "bloodbath" of Vietnamese citizens, both officials and civilians, by Viet Cong and North Vietnamese forces. Most recently, Vice President Agnew raised the "bloodbath" spectre in an August 17 speech to the Veterans of Foreign Wars Convention in Miami Beach, stating that withdrawal of United States forces would result in the "collapse of the Government, chaos in the country—ultimately the kind of Communism that literally decimated the civilian population of Hue in the Tet offensive".

In support of its predictions, the Administration has consistently cited two recent studies—one by a government employee, the other by a consultant under government contract—dealing with the subject of Viet Cong "repression". These are "The Viet Cong Strategy of Terror" (1970), by Douglas Pike, a USIA employee, and "Viet Cong Repression and its Implications for the Future" (1970), a report prepared for the Advanced Research Projects Agency by Stephen T. Hosmer of the Rand Corporation.

The purpose of this paper is twofold: first, to detail arguments in rebuttal to the Administration's contention that a "bloodbath" is inevitable, and, secondly, to set forth in detail those measures and relevant past experiences which might be drawn upon, to the extent necessary, to prevent a "bloodbath" if the Administration truly believes that this spectre can become a reality. Since many authors have dealt at length with the first point, the primary focus of this paper will be on the issue the Administration has as yet refused to deal with—the nature of those provisions and institutions relevant and necessary to insure Vietnamese asylum and resettlement, in this country or abroad.

I. REBUTTAL TO THE "BLOODBATH" ARGUMENT

Detailed rebuttal to the Administration's "bloodbath" argument and a critique of the basic studies on which it is founded is contained in D. Gareth Porter and Len E. Ackland's "Viet Nam: The Bloodbath Argument", *Christian Century* (November 5, 1969), and Charles P. Shirkey's "Vietnamese War Casualties and Implications for U.S. Policy", published by the Congress of Young Professionals for Political Action, as well as several other articles cited below. Rather than reconstruct in detail the arguments made in these articles, this part will only provide a brief summary and citations to those resources. This section will first analyze the historical events and sources relied upon by the Administration to support its thesis; it will then summarize the positive arguments that have been advanced by various commentators to rebut this position.

Analogy to Events in North Vietnam from 1954 to 1957. The Administration has relied heavily upon the alleged assassination of 50,000 persons in North Vietnam, as well as the imprisonment and later death of "hundreds of thousands" of others, in retaliation for their pre-1954 activities and in the course of Hanoi's consolidation of power, to support its argument. To the contrary, however, it appears that it was the Diem regime that in fact indulged most heavily in acts of political reprisal in the post-1954 era, while the Hanoi Government acted with great restraint in this regard. As pointed out in articles by George McT. Kahin [3] and Thomas Wicker,[4] only 19 complaints were lodged with the International Control Commission against North Vietnam during the period 1954–56, while more than 200 complaints were filed against the Diem regime. Furthermore, while the ICC found no difficulty in investigating complaints in the North, it was consistently obstructed in the South. In early 1957 it was barred by Diem from further efforts to pursue allegations, involving over 1000 incidents, against his regime. In addition, it is well documented that between 1954 and 1960 over 48,000 alleged Communists were arrested in South Vietnam, many of whom doubtless perished during their imprisonment.[5]

The Administration also has made constant reference to the large number of Catholics in the South, many of whom left the North in 1954, and has clearly inferred that Catholics would be placed in particular jeopardy by a United States military withdrawal. As has been pointed out by Clark Clifford [6] and Tran Van Dinh,[7] only about half the Catholics in North Vietnam moved south and those remaining experienced no particular discriminatory treatment, much less reprisals, at the hands of the Hanoi Government. There are presently approximately an equal number of Catholics in the North and the South, and Catholics hold prominent positions in the National Liberation Front.[8]

Deaths in Connection With the Land Reform Program and Consequent Peasant Revolt. The deaths in North Vietnam during the period from 1954 to 1957, to which the Administration has alluded, actually took place in connection with Hanoi's efforts to mobilize the local peasantry and redistribute to peasants land held by landowners, not as planned reprisal for pre-1954 activities nor to eliminate potential opposition and consolidate control. Most reliable sources place the number killed at 10,000 to 15,000, although some sources claim as high as 50,000 deaths. There is no reliable source that supports President Nixon's contention that, in addition to some 50,000 individuals killed directly, hundreds of thousands" of persons died in work camps.[9] More importantly, many of the excesses committed appear to have resulted from the free reign given to peasants and local cadres during the period and, by mid-1956, Ho Chi Minh apparently recognized the mistake that was being made, halted the program and took corrective action.[10] Richard Barnet reports that officials in Hanoi seem fully cognizant of the damage that was done and are resolved not to repeat this experience in the South.[11] Finally, D. Gareth Porter maintains that the North Vietnamese land reform program was in large part a response to the pressure on the land posed by a sizable landless population and that this underlying pressure does not exist in the South.[12]

Col. Tran Van Dac's Estimate. Pike refers to the assessment by Col. Tran Van Dac, the highest-ranking Communist defector, that three million South Vietnamese are on the Communist "blood-debt list." As has been pointed out by numerous commentators, this comment was made after the "blood-bath" argument was elevated to a prominent position by the Administration and is completely inconsistent with Col. Dac's detailed statement made a year earlier that individuals on such lists would be imprisoned, sent to concentration camps for re-education, or simply "carefully watched." [13]

Analogy to Hue. Pike's prediction that a major "bloodbath" would follow a "decisive" Communist takeover in South Vietnam is based upon his assessment of events at Hue during the Tet offensive. Initially, it should be pointed out that Pike's reconstruction of events (*i.e.*, that a small percentage of the blacklist killings took place during the initial occupation stage, that roughly 2,000 individuals were killed during the second phase of the occupation when Communists embarked upon an effort at consolidation and "social reconstruction", and that the bulk of the individuals—over 3,000—were killed during the withdrawal stage in an effort to eliminate witnesses who could prevent the Viet Cong structure from again going underground) [14] is directly refuted by Stephen Hosmer, author of the RAND study. Hosmer not only found the Communist activity at Hue (which he estimated resulted in roughly 3,000 deaths as opposed to Pike's more than 5,000) inconsistent with the normal application of terror by the Viet Cong, but estimated that the bulk of the deaths probably resulted from action taken by Communist soldiers, rather than political cadres. He assumes the likelihood of a general breakdown in discipline under the strain of battle and also relies upon a document that indicates that many of the deaths may have resulted from the difficulty in handling POW's in the intensified fighting and under the pressures of gradual withdrawal.[15] In addition to the general objection that Pike's reconstruction is lacking in essential documentation (as opposed to the generally high level of documentation in the Hosmer report), if not also in reasoned analysis, it has been argued by many commentators that the bulk of the deaths appear to have taken place during the midst of the intense fighting after the assault on the Citadel and that most of the bodies identified are those of soldiers and police.[16]

Pike and Hosmer Reports in General.[17] Several additional points should be made in regard to these two reports. Pike states, as a qualification to his prediction of a post-withdrawal "bloodbath", that it applies if the Communists "win *decisively* (and the key word is decisively) . . ." As has been pointed out by Charles Shirkey (*supra* at 8) a United States withdrawal would leave a South Vietnamese military force of over 1,250,000 men to face a combined North Vietnamese and Viet Cong force of little more than 200,000. Unless the Administration's Vietnamization program is a clear hoax, bearing no hope of success, it would appear that a "decisive" Communist victory should not come about. Furthermore, Pike maintains that the largest number of deaths at Hue were brought about during the Communist efforts to eliminate potential witnesses to the Viet Cong underground network. There would, of course, be no such incentive in the event of a Communist takeover, thus extrapolation based upon Pike's 5,000 death figure is wholly inappropriate.

The Hosmer study itself provides compelling arguments undercutting the Administration's "bloodbath" spectre. Hosmer (p. 36) stresses the restraint which the Communists have heretofore exercised in the use of physical "repression", stating:

"It may be said, then that the Communists have tended to view repression as a flexible instrument to be applied in accordance with the political requirements of a particular area at a particular time. They have also been sensitive to the political dangers inherent in the misuse of this instrument, particularly to the possible loss of popular support, and have therefore attempted to keep it under firm control."

And in assessing the likelihood of "repression" following a Communist takeover, Hosmer (p. 176) is careful to point out that "any discussion of possible Communist behavior under such circumstances *must obviously be considered highly speculative. . . .*"

Furthermore, Hosmer recognizes that the manner in which the Communists come to power will have a very real effect upon the extent of "repression". He reserves his gloomiest prediction for the situation in which a Communist takeover is the result of a long series of general offensives and uprisings. But this really says little more than that a con-

Footnotes at end of article.

tinuation and intensification of the existing struggle in South Vietnam will be accompanied by a large number of deaths, in part through continued Communist tactics of repression.

Hosmer does, however, recognize that a Communist assumption of control through political arrangements such as the gradual subversion of a coalition government, would entail a greatly reduced likelihood of widespread violence. He thus recognizes that, under such circumstances, there would be considerable incentive to restrict the use of terror and to increase reliance upon persuasion. Hosmer further details reasons why the Communists might show particular restraint in the use of "repression" upon assuming power, in light of the "important change of context" which would have occurred.[18] He thus details the need to forge a degree of unity and to mobilize support in a divided society, as well as the need to draw upon the technical skills of former servants to the old regime. Hosmer further stresses the significant impact which international scrutiny of post-takeover events might have.

Despite such compelling arguments to the contrary, however, Hosmer ends by simply citing the possible temptation to purge "hard core" supporters of the present regime, the quest for consolidation of control and the possible need to "warn" potential reactionaries and then moves inexplicably to an estimate of the likely extent of an ensuing bloodbath: "one can only guess at what the *minimum* would be, but, given the size of the target categories involved, this author finds it difficult that the number would be much less than 100,000." [19]

Unlikelihood of a Precipitous Communist Takeover. As indicated above, Pike himself premises his pessimistic assessment upon the existence of a "decisive" takeover and Hosmer specifically recognizes the likelihood that a Communist takeover evolving from political maneuvers within the country would reduce the likelihood of extensive "repression." The overwhelming numerical superiority of the South Vietnamese forces has been detailed above. Senator Kennedy has stressed the fact that the non-Communist groups in South Vietnam are well-organized and well-armed.[20] It is assumed that the Administration's "Vietnamization" program will continue to the final withdrawal of American troops, and that military assistance to the Saigon regime will continue even after withdrawal.

If the Administration's recent statements about the success of Vietnamization are to be believed, there would appear to be no significant danger of an immediate Communist victory. Conditions thus appear ripe for those evolutionary developments which even Administration-cited commentators admit would lead to a greatly reduced likelihood of Communist repression.[21] If anything, our failure to withdraw troops from Vietnam is impeding the evolutionary process toward a negotiated settlement with compromise on both sides, while maintaining the high level of the existing "bloodbath."

Nature of Vietnamese Society and the Need for Reconciliation and Accommodation. Many commentators have noted the highly complex and multi-faceted nature of Vietnamese society, which includes such religious factions as the Cao Dai and Hoa Hao and the various Catholic and Buddhist sects, as well as numerous other political parties, clan associations, ethnic groupings and secret societies.[22] The Viet Cong itself essentially reflects or at least contains representatives of South Vietnam's diverse elements.[23] Even Pike, in suggesting that postwar Vietnam could resemble a federation of regional groupings like Switzerland, appears to recognize the pluralistic nature of Vietnamese society.

These factors represent compelling reasons for the Communists to utilize restraint, both in the process of seeking power after a United States withdrawal and in the process of consolidating that power in the event of a takeover. Hosmer, as noted above, recognizes the pressure upon a Communist regime to take positive steps to forge a sense of national unity in so highly fragmented a society and to bind the societal wounds inflicted through over 25 years of constant warfare. Several commentators have argued in detail that the Viet Cong and North Vietnamese leadership realize that the need for national reconciliation will dictate strict limits on the use of repression and a gradual approach to alteration of Vietnamese society.[24] These points alone indicate that a major bloodbath in Vietnam is unlikely, even if specific efforts are not made to safeguard against such an eventuality.

Treaty Guaranties and International Surveillance. Asylum, resettlement, and related programs to eliminate the possibility of a bloodbath are the subject of detailed analysis in Part II of this paper. There are also, however, detailed provisions that can be included in a negotiated settlement to provide guaranties against political reprisals. Both the 1954 Geneva Agreements on Vietnam and the Evian Ceasefire Accords that concluded the Algerian War provided for freedom of movement out of the territory touched by the war and guaranties against reprisals for political acts committed prior to the cessation of hostilities. Such settlements can serve as valid precedents for a negotiated agreement between the Viet Cong and this or a less intractable Saigon government.

Further, the official Viet Cong program specifically disavows postwar reprisals and endorses the concept of amnesty provided for in the 1954 Geneva Agreements. Several commentators have reported indications from Viet Cong officials that they will accept external safeguards, such as a continued international presence and investigation of alleged reprisals on the lines of the former International Control Commission, to insure that reprisals will not take place.[25]

Continuation of the Present Bloodbath. Any discussion of a potential bloodbath in Vietnam at some future date is meaningless unless seen in the context of the existing bloodbath occurring in Vietnam today. It is difficult to distinguish between death at the hands of a Viet Cong assassin or a People's Court and death resulting from napalm burns or fragments of anti-personnel weapons. As pointed out in a recent column by Frank Mankiewicz and Tom Braden, American weaponry is killing more Vietnamese civilians in one year than the Administration claims the Viet Cong have assassinated since the war began.[26]

Official United States and South Vietnamese Government figures conservatively estimate civilian deaths at about 300,000 up to December 31, 1969, or a minimum of 50,000 to 60,000 per year. Only about 10% of this figure appears to be the result of Communist assassination and executions.[27] These figures do not include the countless Vietnamese civilians maimed during the course of this war, who will carry its scars throughout their lives. Nor do these figures include civilian deaths in Laos from United States saturation bombings, nor in Cambodia which has only recently been the scene of extensive U.S. artillery and bombing. And, of course, these figures make no note of the fatalities among combatants, estimated at over 600,000 to date.

This fact alone, even without the clear evidence that the "bloodbath" spectre may well be without substance, should lead us to the choice of withdrawal. This is even more the case since, as outlined in the following section, adequate provision can be made, even without negotiations with the Viet Cong or North Vietnamese, for sanctuary and resettlement for all those who might be threatened by reprisals.

II. DEALING WITH A POTENTIAL BLOODBATH—ASYLUM AND RESETTLEMENT OF THREATENED SOUTH VIETNAMESE

Even should the Administration's position—that programmed withdrawal within the guidelines of the End the War Amendment would offer significant potential for a "bloodbath"—contain some element of truth (or should the Administration's actions create a self-fulfilling prophecy), there is no reason for these fears to become a reality.

There are numerous measures, drawing upon existing legislation and institutional facilities as well as upon past actions under analogous situations, that can readily be taken to avoid realization of the Administration's predictions. Part II of this paper will detail procedures and institutions which might be used to assure asylum and resettlement, both inside and outside the United States, for any potential victims of Vietcong or North Vietnamese reprisals.

A. The legislative framework for providing asylum to political refugees in the United States

1. *Basic Immigration Legislation.* In 1965, the long-standing system under the Immigration and Nationality Act of allocating specific immigration quotas to individual countries was replaced by a scheme providing for an overall limit upon annual immigration to the United States, with preference accorded to individuals meeting certain relationship and skill qualifications. (8 U.S.C. §§ 1151–1156). Thus, Sections 1151(a) and 1152(a) provide that the number of aliens who may be issued immigrant visas or otherwise lawfully admitted to the United States under a permanent resident or "conditional entry" (as defined in subpart 2 below) status shall not, in any fiscal year, exceed a total of 170,000,[28] and no more than 20,000 individuals from any single foreign state may enter in any fiscal year.

Subparts (1)–(5) of Section 1153(a) establish priority, with numerical limits, for specified categories of individuals related by blood or marriage to United States citizens or individuals already admitted for permanent residence in the United States, and to immigrants who are members of the professions or whose exceptional ability in the sciences or the arts may offer substantial benefit to the United States economy, cultural interests or welfare. Subpart (6), the sixth preference category, provides that up to 10 percent of the annual quota may consist of individuals capable of performing specified skilled or unskilled labor "for which a shortage of employable and willing persons exists in the United States."

The blood and marriage relationship categories will not offer an immediate avenue for any significant number of individuals who might be threatened by Communist retaliation in South Vietnam. Upon entry of a South Vietnamese citizen under one of the other categories, however, his spouse and unmarried children would qualify under subpart (2) for preferential immigration status.

A significant number of Vietnamese refugees, however, might be accorded preferential treatment under subpart (3), providing entry for individuals skilled in the professions, science or the arts. The term "profession" is defined in Section 1101(a)(32) to "include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academies or seminaries", and has been extended to include such activities as accounting and business administration. A caveat apparently requires all such applicants to display educational qualifications, or a combination of education and work experience, essentially equivalent to that obtained by United States residents entering

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the same profession.[29] While no detailed skill breakdown has so far been supplied regarding individuals deemed to be on a Communist "blacklist", Hosmer, in the RAND study (pp. 184–186), lists the following categories of South Vietnamese as most in danger of Communist retaliation in the event of a takeover: (a) Viet Cong defectors (particularly persons actively cooperating with the Government of South Vietnam); (b) intelligence and counter-intelligence personnel (from top level personnel to hamlet level officials); (c) national police and other security personnel; (d) government officials (particularly senior officials in the central government and middle level province and district officials); (e) military commissioned and non-commissioned officers; and (f) leading members of political organizations actively opposed to the Viet Cong program.

These groups should contain a relatively large number of persons qualifying as "professionals" under subpart (3). Under the Administration's more pessimistic estimate, their numbers would be augmented by strictly private professionals who, it would be argued, are endangered simply because of their economic class. Furthermore, past experience with Hungarian and Cuban refugee indicates that refugees fleeing a Communist regime contain a significant percentage of professionals. (See Section B below). A major shortcoming of subpart (3), however, is its annual numerical limit of 17,000 immigrants.[30] This has resulted in a waiting list covering roughly two years, although the list apparently contains many applicants from countries which readily fulfill their annual 20,000 person limit, thus the interim period during which a professional seeking to immigrate would have to remain in South Vietnam or in another asylum country would not extend for this entire period.[31]

Subpart (6), which provides for the entry of immigrants capable of performing "skilled" or "unskilled" labor, offers another significant potential route for Vietnamese refugees. Many of those individuals within the Rand study categories should exhibit varied skills allowing entry under this subpart.

Section 1182(a)(14) provides, as a prerequisite for granting a visa under this category, that the Secretary of Labor must certify to the Secretary of State and the Attorney General that there are insufficient workers in the United States "able, willing, qualified, and available" at the time of application and at the applicant's destination to perform the skilled or unskilled labor in question and that the applicant's employment would not "adversely affect the wages and working conditions" of similarly employed United States workers. The certification procedure itself is apparently not a major roadblock, since the full 17,000 visas under this section are allocated each year. There is, however, a waiting list under this category, presently extending back to November, 1969 applicants.[32] Again, this would at most necessitate a waiting period in an initial asylum country of up to ten months abroad, in the absence of special remedial measures.

Subpart (8) of Section 1153 provides that, to the extent that the annual quota is not filled through applications under preference categories (including the specific refugee category mentioned below), visas shall be made available to qualified immigrants "strictly in the chronological order in which they qualify." Due to regular failure to fulfill the allotments for relatives, about 30,000 visas are annually available to non-preference applicants. The waiting list for this group extends from September 1969[33] and, while applicants must also meet the labor certification requirements mentioned above, these appear to be applied less rigorously to non-preference applicants.

In summary, although there are difficulties in assessing the availability of visas under the first six preference categories without more specific information on skill levels of potential refugees, the benefit potential refugees can derive from such categories might be substantial. Particularly in light of the annual availability of roughly 30,000 non-preference visas (waiting list problems aside), these categories might well provide visas for up to half of the annual maximum quota of 20,000 Vietnamese admissible under the basic immigration legislation. And, of course, these categories could be drawn upon year after year to bring in refugees from a country of first asylum.

2. *Special Provision for Political Refugees.* The immigration laws provide two specific entry routes for the political refugee: (1) as a "conditional entrant" through the preference system described above and (2) as a "parolee" pursuant to discretionary powers granted to the Attorney General.

Conditional entry. As the seventh preference category, Section 1153(a)(7) provides that "conditional entry" may be granted to refugees not exceeding 6% of the annual maximum figure (i.e., 10,200 persons). "Refugees" are defined as individuals who, because of persecution or fear of persecution because of race, religion, or political opinion, have filed from a Communist or Communist-dominated country or area (or from the general area of the Middle East) and who are "unable or unwilling to return to such country or area on account of race, religion, or political opinion. . . ." Also included within this category are individuals uprooted by national calamities and unable to return to their prior homes.[34]

The regulations (8 CFR § 235.9(a)) set forth countries from which application for conditional entry status may be made. Lebanon is the listed country closest to Vietnam, but an appropriate amendment could quickly remedy this situation. The regulations (§ 235.9(c)) also require assurances of employment and housing, as well as transportation to the new residence, as prerequisites to granting conditional entry status. Appropriate government programs would surely make adequate provision for these assurances but, to the extent necessary, exceptions to these requirements could be provided through amended regulations.

The annual 10,200 quota was apparently exhausted by the mid-point of the fiscal year ending in June, due to the large number of refugees fleeing Czechoslovakia in the last two years. From 1966 to 1969, however, roughly 3,000 places under this category were left vacant annually. The camps from which Czech refugees have been immigrating are now relatively empty, indicating the likely return to pre-1969 conditions for conditional entry applicants.[35] The requirement imposed by Section 1153(c), that applicants within each category be taken in the order of their application, applies only to the first six preference categories, thus authorizing granting of conditional entry to areas of greatest need or impact upon national interest.

Parole. While the 1965 amendments to the immigration laws added for the first time *specific* provision for the admission of refugees, the Attorney General has since at least 1952 had the power to grant special dispensation to individuals in emergency situations. Section 1182(d)(5) provides that the Attorney General may, in his discretion, "parole into the United States temporarily under such conditions as he may prescribe for *emergent reasons or for reasons deemed strictly in the public interest* any alien applying for admission to the United States. . . ." (Emphasis added).[36] The "bloodbath" that the Administration fears may occur in Vietnam certainly constitutes an emergency and providing specific dispensation to endangered South Vietnamese citizens must be deemed action "in the public interest."

The power to parole refugees under Section 1182(d)(5) has been exercised on numerous occasions. Following the 1956–57 Hungarian Revolution over 30,000 Hungarian refugees were admitted into the United States, 15,000 of whom were paroled by the Attorney General upon request of the President.[37] Between 1962 and 1965, over 15,000 Chinese refugees were paroled into the United States.[38] And a significant percentage of the half million Cuban refugees admitted to this country since 1959 likewise came through the parole process.[39] Finally, the Attorney General has apparently made recent use of this power to allow the entry of 1,500 Polish and Czechoslovakian refugees per month during the first six months of 1970. Such action was apparently taken, at least in part, because of the exhaustion of the conditional entry quota for the fiscal year ending in June, 1970.[40]

Thus, even without reference to the six preference categories mentioned above, existing provision for annual admission of over 10,000 refugees and purovides an additional mechanism whereby the Attorney General may authorize admission of whatever number he deems necessary under emergency conditions or in light of his assessment of the public interest. While the conditional entry provisions apply to political refugees from all Communist-controlled areas and the Middle East, as well as refugees from natural calamities, surely priority (if necessary), in light of our past commitment to South Vietnam, would be granted to individuals fleeing Communist persecution there. Further the 10,200 conditional entrant quota is an annually recurring means for bringing refugees into this country, thus allowing gradual assimilation of refugees from various countries of first asylum.

3. *Ad Hoc Legislative Solutions.* Should the need arise for more decisive and immediate action than can be provided under existing legislation, or should the Administration be reluctant to utilize existing procedures without a further Congressional mandate, an *ad hoc* legislative solution could be sought. At an earlier point in the history of our immigration laws, before the development of the specific refugee provisions, such *ad hoc* solutions were utilized to deal with all refugee emergencies. These should provide valid precedents for any future legislative steps. The Displaced Persons Act of 1948 (62 Stat. 1009) authorized granting political refugees up to 202,000 visas, without regard to national quotas then in effect. This Act was apparently amended two years later to allow an additional 39,000 political refugee visas. In 1953, Congress passed the Refugee Relief Act of 1953 (71 Stat. 639) which provided for 205,000 visas, again without regard to existing quotas. These two Acts, as well as the Refugee-Escapee Act of 1957 (71 Stat. 639), also made special provision for the adjustment of status to that of permanent resident for a specified percentage of refugees admitted under their terms or pursuant to other provisions.

4. *Summary.* In conclusion, in the event of threatened Communist retaliation in the wake of United States withdrawal from South Vietnam, specific provisions in our immigration laws covering political refugees would allow admission of roughly 10,000 immigrants annually. In conjunction with those individuals qualifying under the profession, skill and relationship preference categories, any likely flow of political refugees from South Vietnam should be able to fill that country's 20,000 annual limit.

To the extent that this figure, which is available each year, is inadequate, the Attorney General has the power to authorize temporary "parole" into this country of additional South Vietnamese that he deems to be under threat of political reprisal. Ample precedent also exists for the development of a legislative solution specifically tailored to meet any extraordinary refugee problems, be-

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yond the scope of the above provisions, that might arise.

B. Past U.S. refugee asylum and resettlement efforts

Humanitarian assistance to refugees has been a basic tenet of United States policy throughout its history. The United States is, in fact, in large measure a "nation of refugees" from various European persecutions and conflicts during the 17th, 18th and 19th Centuries. Likewise, in this century, particularly in the post-World War II period, the United States has made major efforts to resettle refugees arriving in this country, and has provided substantial assistance to many more who have fled to other nations.

At the outset, it should be noted that many of our recent refugee assistance efforts, particularly for Asian refugees, have not had as a primary component a substantial refugee influx into the United States. For instance, our aid program for the 60,000 Tibetans who left their country after the 1960 Chinese takeover consisted principally of more than $2 million in aid for emergency relief and resettlement in India and Nepal, in addition to substantial quantities of surplus food commodities provided under Public Law 480. Few Tibetans came to the United States, most remaining in the Asian countries of first asylum.

Likewise, our on-going Far East Refugee Program, begun in 1954, which assists Chinese refugees in Hong Kong and Macao, emphasizes resettlement efforts in the country of first asylum or other Asian countries rather than emigration to the United States. While 15,000 Chinese refugees were brought to this country from 1962–65 under a special parole program, this represents only a tiny portion of the Chinese refugees assisted under this program. Nearly $15 million has been expended on this program, primarily through contracts with voluntary agencies, plus vast quantities of surplus foods valued at over $50 million.

The general statutory authority for United States assistance to refugee groups in other asylum countries is contained in the Migration and Refugee Assistance Act of 1962, 22 U.S.C. § 2601–05. Section 2601(b)(2) authorizes appropriations as necessary "for assistance to or in behalf of refugees designated by the President . . . when the President determines that such assistance will contribute to the defense, or to the security, or to the foreign policy interests of the United States." Besides regular appropriations under this Section, Section 2601(c) provides for up to $10 million to be transferred from annual foreign aid appropriations for this or other refugee assistance purposes specified under the Act when the President "determines it to be important to the national interest . . . in order to meet unexpected urgent refugee and emigration needs." A large-scale aid program to Vietnamese refugees who had gained asylum in other countries would certainly "contribute . . . to the foreign policy interests of the United States," and the $10 million contingency fund could be tapped under presidential order for this effort.

Means of insuring the existence of other willing asylum nations and of coordinating international humanitarian resources to assist in handling a potential Vietnamese refugee problem will be discussed in the next section. Since the majority of educated Vietnamese have a French-oriented background, it is unlikely that most would choose the United States if they were allowed to emigrate to France, where a substantial colony (10–15,000) of Vietnamese already live. Others might well prefer to live in other European or Asian countries. Even assuming, however, that all Vietnamese refugees would choose or would be forced, because of lack of international cooperation, to utilize the United States as their asylum country, the resources and capability to accomplish this are not lacking. On two occasions in recent history—the Hungarian and Cuban crises—the United States has shown that it can absorb a large number of refugees during a short period of time, and can use present legislation or enact special legislation to facilitate this.

When Hungarians left their country in large numbers during the winter of 1956/57, President Eisenhower instituted an emergency parole program that called for transporting 21,500 refugees to the United States within a few weeks' time. Within five months over 32,000 refugees had reached the United States, virtually all penniless and few of whom could speak our language. At Camp Kilmer, New Jersey, a reception center was instituted where more than 20 voluntary and government agencies, coordinated by a special Presidential Committee, served these refugees. Job skills were ascertained, and matching job offers solicited throughout the United States.

Resettlement of virtually all the initial refugee wave of 32,000 was accomplished by May 1957, little more than five months after the crisis began. Resettlement was facilitated by the fact that over one-half of the employable refugees were professionals and skilled or semi-skilled workers. To insure satisfactory permanent assimilation of these refugees into American society, governors' and mayors' committees were instituted in resettlement states and communities to continue assistance efforts after the federal government's task was over.

Even in the Hungarian crisis, however, the United States was not the country of first asylum, since most Hungarian refugees had first migrated to Austria. The first occasion in recent history when we became the country of first asylum for a large refugee population came in 1959, when Cubans began to flee the Castro regime. By late 1960 the refugee flow had so increased that the federal government established a Cuban Refugee Emergency Center in Miami. In February 1961 a full-scale Cuban Refugee Program was formally instituted within the Department of HEW. The Migration and Refugee Assistance Act of 1962, referred to above, was largely a response to the Cuban refugee problem. Special provisions were included in this Act (Sections 2601(b) (3)–(6)) for assistance to Western Hemisphere refugees, including aid to state and local agencies providing welfare services, special health, education, and vocational (including professional) training programs, and payment of transportation and resettlement expenses.

By 1969 over a half million Cuban refugees had reached the United States, the vast majority of whom had been served in some form by this federal program. The total cost of the Cuban Refugee Program to this point was slightly over $400 million. Resettlement was handled primarily by four national voluntary agencies working under HEW contract—Catholic Relief Services, Church World Service, United HIAS Service and the International Rescue Committee—all experienced in resettling refugees in the United States.

Within the first three years of the program, over 70,000 of the approximately 169,000 refugees registered in Miami were resettled. Resettlement was accomplished in every state and several U.S. territories, and a few refugees were resettled in Latin America and European countries. These efforts are still continuing. Resettlement in other parts of the United States has apparently been quite successful, primarily because, like the Hungarians, the Cuban refugees were a fairly skilled group. About half of the employable refugees were professional, technical and managerial personnel, and only about 25 percent were unskilled and semiskilled workers.

In the highly unlikely event that (a) more than 100,000 South Vietnamese wish to seek asylum in the event of United States withdrawal and (b) the United States will not be able to make, through international diplomatic negotiations, provision for resettlement in other nations of a significant percentage of whatever number desire asylum, these experiences indicate that even a large-scale influx of destitute, non-English speaking refugees into the United States can be dealt with on a rational, humanitarian basis. In such a contingency, specific health, education, training, and resettlement programs on the model of those in the Cuban program could be authorized through amendment to the 1962 Migration and Refugee Assistance Act.

Although it is extremely unlikely that the potential Vietnamese refugee influx would ever reach the level of the half million Cubans already assimilated, the cost of the Cuban relief and resettlement program in its first seven years, even for this number of persons—$400,000,000—represents only an insignificant portion of our yearly Vietnam War expenditures. Using a highly conservative $12 billion estimate of the cost of the Vietnam War for the current fiscal year,[41] even a refugee program of this magnitude would cost less than two weeks of continuing the war. Our experience with accepting 32,000 Hungarians—possibly a more reasonable estimate of Vietnamese the United States might be called upon to take within our borders, even if the total seeking asylum were over 100,000—shows that a refugee population of this size, given substantial and concerted action from volunteer and government agencies, can be assimilated in far less time at a far smaller cost.

One unknown factor is whether the percentage of skilled refugees would be significantly smaller than the high percentage of skilled persons who emigrated from Hungary and Cuba. As previously noted, even according to the Rand Study quoted by the Vice-President as setting the potential "bloodbath" figure at over 100,000, those South Vietnamese most in danger of death or long imprisonment at the hands of a Communist regime are principally civilian government officials, military officers, national police, intelligence and counter-intelligence personnel, and officials and party members of South Vietnam's right-wing political parties.[42] (See Section A above.)

All of these groups tend to be among the better educated and skilled elements of Vietnamese society. Many from this strata of Vietnamese society, because they have been required to deal with United States military and civilian personnel during the long American presence in their country, have learned basic communication in our language. The list does not include the large rural peasant or unskilled or semiskilled urban worker Vietnamese classes of Vietnamese society, who would create the most difficult education, training and resettlement problems in the United States or other foreign countries. This is consistent with the experience in most Communist takeovers, where it is the upper classes—the beneficiaries of the supposed inequalities of the old order—who feel most threatened and thus leave the country.

The fact that these potential refugees are Asian should not be a deterrent to United States resettlement. Although there has never been a substantial Vietnamese community in this country, we have had substantial immigrations from other Asian countries in the past. Large Chinese, Japanese and Filipino populations, particularly in the far West, exist in this country at the present time. The 1960 Census found over 464,000 Japanese, 237,000 Chinese and 176,000 Filipinos living in the United States, as well as sizeable numbers of Koreans, Indonesians and Asian Indians. It is reasonable to as-

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sume that, on the basis of past increases, the 1970 Census will show well over a million persons of Asian descent in the United States.

One of the principal justifications for entering the Vietnam War was that we are an "Asian nation" as well as a Europe-oriented nation. If we sincerely believe this, we should not hesitate to accept a new Asian population influx that we are, at least technically, clearly capable of absorbing. The recent admission of 15,000 Chinese parolees—refugees from Hong Kong—illustrates that resettlement for new groups of Asian refugees in this country is feasible. The existence of a substantial Vietnamese colony in France shows that Vietnamese are equally capable of integrating into a Western culture.

Thus there is nothing in past history to indicate that the United States could not, utilizing existing and special legislation, deal unilaterally with a Vietnamese refugee problem of the magnitude envisioned by those who hypothesize a "bloodbath" in the event of United States withdrawal from South Vietnam. To the contrary, our experience indicates that such a refugee population could be absorbed at a cost insignificant in proportion to expenditures for continuing the war, if our resources and will are mobilized in the same manner in which we met the Hungarian and Cuban crises.[43]

C. The potential for multilateral assistance to Vietnamese refugees through international governmental and private agencies

In attempting to accommodate those South Vietnamese wishing to emigrate in the event of United States withdrawal or a Communist takeover, however, the United States is not limited to its own resources. Nor is it clearly necessary for the United States to resettle all or even the majority of these refugees within its own boundaries. Many international organizations whose resources are devoted exclusively or in part to assisting refugees throughout the world have the status to mobilize world-wide cooperation and multilateral aid for the emigration and resettlement of South Vietnamese refugees.

The principal coordinator of international refugee assistance is the United Nations High Commissioner for Refugees (UNHCR). This office, established by the UN General Assembly in 1950, succeeded the United Nations Relief and Rehabilitation Administration, which dealt with refugees and displaced persons during the Second World War, and the International Refugee Organization, which continued these efforts in the immediate postwar period. The High Commissioner's initial task was to promote international cooperation for the protection of refugees throughout the world and to attempt to obtain generous asylum policies on the part of present and potential host countries for refugees. In 1954, however, the General Assembly authorized the High Commissioner to go beyond this purely diplomatic role and to carry out direct assistance programs that tried to bring about permanent solutions—through repatriation or resettlement—to refugee problems.

The High Commissioner's program is administered by a 30-member committee that meets twice a year at Geneva, Switzerland, the High Commissioner's headquarters. A representative of the United States is a member of this committee. The United States has been a substantial annual contributor to the High Commissioner's activities, under the authority for such contributions contained in the 1962 Migration and Refugee Assistance Act (Section 2601(b)(1)).[44]

The High Commissioner's role is basically a coordinating rather than an operational one. His Office implements a specific area refugee program in close cooperation with other intergovernmental or voluntary service organizations as operational partners. These have included the Intergovernmental Committee for European Migration, the League of Red Cross Societies, religious voluntary agencies such as the Catholic Relief Services, World Council of Churches, Lutheran World Relief, and the American Friends Service Committee. The High Commissioner's Office also draws heavily upon the resources of other United Nations bodies such as the International Labor Organization (ILO), World Health Organization (WHO), Food and Agriculture Organization (FAO), and United Nations Development Program (UNDP).

The most important international organization that deals with refugee transportation, as opposed to the many organizations, such as the Red Cross and religious-based groups, that provide assistance once refugees have reached an asylum or resettlement country, is the Intergovernmental Committee for European Migration (ICEM). ICEM was established in Brussels in 1951 at a conference convened at the initiative of the United States. Its initial aim was to help solve European postwar population pressure and refugee problems by assisting emigration to less developed nations or other willing host countries. ICEM now has 31 member governments. Its Director is a United States citizen, John F. Thomas, the former Director of our Cuban Refugee Program. Contributions to its budget are voluntary, with the United States generally contributing approximately one-third of the total.[45]

From its inception until May, 1970, ICEM has moved over 1,700,000 persons, approximately half of them refugees.[46] The largest number of refugees have been accepted by the United States, with Australia and Latin America following. Although ICEM, as its name indicates, originally focused principally upon European emigration, in recent years it has begun assisting refugees in other parts of the world, including the Middle East, North Africa, and the Far East. Thus there seems no reason why it could not, if requested, undertake logistical planning for a possible large-scale Vietnamese emigration.

The High Commissioner's Office, with the aid of ICEM, the Red Cross, and other operational partners, has shown that it can deal effectively with refugee and asylum problems of the magnitude represented by the maximal projections of Vietnamese who would be threatened by a Communist takeover. It has also shown that its resources and those of its operational partners can be mobilized quickly to handle emergency situations.

The first major refugee crisis during which the Office acted as the general coordinator of relief operations came in the winter of 1956–57 when more than 200,000 Hungarian refugees crossed into Austria and Yugoslavia. Actual relief operations were carried out principally by UNHCR's operating partners, the League of Red Cross Societies and ICEM. The High Commissioner's Office collected $11.6 million from worldwide fund appeals, the League provided services and supplies worth approximately $30 million, and ICEM moved nearly 206,000 refugees during the oeration.[47] The United States cooperated fully in these relief efforts, as noted in the previous section. But this operation was not a unilateral but a worldwide resettlement effort, coordinated by international agencies. The United States accepted less than one-sixth of the total number of refugees.

The High Commissioner's Office also played a major role in solving the Algerian refugee crisis. Beginning in 1957, more than 200,000 Algerians crossed into Morocco and Tunisia. With the League of Red Cross Societies as its operational partner, the High Commissioner saw that food, shelter, and clothing were provided to these refugees. Following the Evian Ceasefire Accords of 1962, which specifically provided for refugee amnesty, the High Commissioner participated, along with the Algerian and French governments, in the tripartite commission that carried out their successful repatriation. Contributions from governmental and private sources to UNHCR and the League for this joint operation totaled over $22 million.

The majority of the High Commissioner's present resources are devoted to the substantial refugee problem in Africa, where, even prior to the Nigerian Civil War, the Office was providing some form of assistance to an estimated half million refugees created by national and tribal disputes.[48] The High Commissioner's activities in Africa have ranged from purely diplomatic efforts to encourage African nations to grant voluntary asylum and full civil rights to refugees to large-scale medical, shelter and other emergency relief efforts (with the Red Cross and other volunteer agencies) and long-range resettlement and development programs (with the United Nations Development Program).

The High Commissioner's Office also has a continuing concern with Asian refugee problems. One of its first direct assistance programs was undertaken to aid Chinese refugees in Hong Kong and Macao, a program which is still continuing. It also coordinates large-scale assistance efforts to aid the Tibetan refugees currently in India and Nepal. The United States, as previously noted, assists and supplements both these efforts.[49]

The High Commissioner's Office therefore seems uniquely suited to assist the United States in diplomatic negotiations with potential host nations for South Vietnamese refugees, and to coordinate international assistance, resettlement and redevelopment efforts in the event that a refugee emigration does occur. Although the High Commissioner's mandate would not technically extend to Vietnamese until they had actually left their country[50] his Office should legitimately be able to initiate planning for a potential future refugee problem. If objections were raised to these activities, the United States could seek a General Assembly resolution to cover this situation. Such special resolutions, calling on the High Commissioner to extend his "good offices" to assist governments in dealing with situations outside his technical mandate, have been given in the past. Although the initial responsibility for moving refugees out of Vietnam, to bring them within the High Commissioner's specific mandate, would lie primarily with the United States, it could call upon the ICEM, Red Cross, and other international agencies besides the High Commissioner to assist in providing transportation and initial aid until full United Nations cooperation could be activated.

The United States has cooperated fully in the past with the High Commissioner, ICEM, Red Cross and other voluntary agencies in dealing with the Hungarian, Tibetan, Algerian and other refugee situations on an international basis.

It recently did so again in the Czechoslovakian crisis. To date, however, the United States and South Vietnamese governments have apparently been unwilling to seriously attempt to marshal active international concern for the needs of Vietnamese already refugees within their own country or those who might become refugees in the event of a Communist takeover. Both governments apparently fear that requesting international planning for Vietnamese refugee efforts would allow opportunity for international debate of the justice of United States involvement in the war and the tactics used by both governments to carry it out that contribute to the high civilian mortality and displacement rate. Thus they have so far

Footnotes at end of article.

attempted to "go it alone" on refugee assistance.

If a large-scale "bloodbath" is seriously considered a probability, the United States and Saigon governments should immediately begin to mobilize the resources of the international community to meet this contingency, utilizing the same pattern of coordination between United Nations bodies, voluntary agencies, and UN member governments successfully used to deal with the Hungarian, Algerian, Tibetan, and other recent large-scale refugee emigrations. Efforts should begin immediately to encourage the High Commissioner's Office, ICEM, the League of Red Cross Societies, and other voluntary organizations to plan for such a Vietnamese emigration, with the assurance that if a bloodbath is actually threatened, they will be given a full partnership role in the effort to remove all who might be in danger. The French were willing to enter into such an international partnership with the High Commissioner to solve the Algerian refugee problem after a ceasefire was reached. We should be no less willing to commit ourselves to the solution of such problems through international means.

Even if the United States were unwilling to seek or unable to obtain broad-based international cooperation in planning for Vietnamese asylum and resettlement, it should at least seek to assure asylum in other nations through bilateral or multilateral discussions and treaty agreements. The first source of such agreements should be our "allies" in the Vietnam War—Thailand, the Phillipines, South Korea, Australia and New Zealand. Since we have been forced to underwrite the cost of troops from the first three nations, it is difficult to believe that they will offer asylum to Vietnamese without similar financial assistance from us. Supporting refugee asylum in these countries should, however, be far less expensive than the cost of continuing our support of their troops in Vietnam. Our other allies should be asked to support Vietnamese asylum without United States assistance. Australia, like the United States, has accepted large refugee emigrations—although predominantly European—in the past, and still has substantial underpopulated areas that could be used for resettlement and redevelopment. The United States should likewise begin immediate diplomatic discussions with France, which has already accepted a significant number of Vietnamese refugees, on its willingness to accept greater Vietnamese immigration in the future.

Those who sincerely believe that a "bloodbath" might occur should be the strongest supporters of immediate and serious diplomatic efforts to assure that no one nation will have to take upon itself the total burden of refugee asylum and resettlement. By emphasizing that the Vietnamese situation, whatever its causes and current political state, is now a worldwide humanitarian problem and by seeking international assistance to meet it, the United States can only realize long run gains. In the short term, the United States may by such actions open the war to greater international debate and criticism. But if it can effectively mobilize world opinion to accept the view that there is international responsibility for relocation of any South Vietnamese that might be threatened by a Communist takeover, the results will be worth the short-term risks.

The alternatives are less palatable. Leaving within South Vietnam those who believe their lives would be in danger after our withdrawal would cause much greater international criticism of the United States. Accepting all Vietnamese emigrants into the United States, although technically feasible, still is not the optimum solution. Many Vietnamese may prefer to live in an Asian or European environment, and that choice should be open to them. The final alternative, ignoring the problem and letting the war drag on, with its continuing "bloodbath" and substantial internal refugee problem, is the most unacceptable of all.[51]

D. Conclusion

We have attempted to show, in this section, that there is no lack of avenues through which any "bloodbath" possibility can be effectively foreclosed. In the final analysis, however, the solution to any potential bloodbath situation depends essentially upon the political will of this country's leaders. Devising and implementing appropriate mechanisms for asylum and resettlement, here and abroad, presents no insurmountable challenge. It surely calls for no more creativity and expenditure of time and energy than has so far been spent in the development of the "bloodbath" spectre by the Administration. To the extent that this Administration is truly concerned with the lives of the inhabitants of South Vietnam, it should direct its energies both to developing solutions along the lines advanced in this paper and to assuring the political commitment on the part of the American people necessary for their implementation. Indulging in speculative "bloodbath" rhetoric, while the actual bloodbath in Vietnam continues unbated, will only delay this process and make it more difficult to carry out effectively.

FOOTNOTES

[1] L.L.B. Harvard 1966.

[2] L.L.B. Harvard 1967.

[3] "Topics: History and the Bloodbath Theory in Viet Nam", *New York Times*, December 6, 1969.

[4] "In the Nation: Mr. Nixon's Scary Dreams", *New York Times*, May 12, 1970.

[5] See also, Porter and Ackland, *supra*, and George McT. Kahin and D. Gareth Porter, *The Administration's Bloodbath Argument*, Cornell University, July 1970.

[6] *Set a Date in Viet Nam, Stick to it, Get Out*, Life Magazine, May 22, 1970.

[7] *The Fate of "Our" Vietnamese after Withdrawal: Fear of a Bloodbath*, New Republic, December 6, 1969.

[8] For a more detailed rebuttal of the Administration's position on the Catholics, see Dinh, *supra*.

[9] Televised address, November 3, 1969.

[10] Porter and Kahin, *supra* at 4; Porter and Ackland, *supra*.

[11] Richard J. Barnet, *Hanoi's View*, contained in the Congressional Record, May 26, 1970.

[12] Letter of August 3, 1970 to Charles E. Hill.

[13] Shirkey, *supra* at 2. Shirkey also points out that South Vietnam contains only 4.4 million men between the ages of 15 and 40.

[14] Pike, *supra* at 54–59.

[15] Hosmer, *supra* at 76, 77.

[16] Porter and Kahin, *supra* at 7, and Ackland and Porter, *supra*. Despite Pike's own reconstruction of events, his figures indicate that 50% of the dead are "unknown or unidentified" while 30% were military or paramilitary personnel.

[17] For a general critique of these two reports, see Shirkey, *supra;* Porter, *supra;* Porter and Kahin, *supra;* and Porter and Ackland, *supra*.

[18] Hosmer, *supra* at 178. He fails, however, to give proper weight in his assessment to the elimination of a major reason detailed earlier in his study for Communist terror, *i.e.*, the undermining of confidence in the South Vietnam regime and the isolation of that Government from the people.

[19] Hosmer, *supra* at 186.

[20] 116 Cong. Rec. 7805 (daily ed. May 26, 1970).

[21] As Lee Gelb and Morton H. Halperin indicated in "Only A Timetable Can Extricate Nixon", *Washington Post*, May 24, 1970, the Administration's objection to a fixed timetable casts considerable doubt on its convictions regarding the success of its Vietnamization program, and in fact hints of an intention to maintain a continuous military presence in Vietnam.

[22] Stanley Karnow, "Specialists Doubt U.S. Pullout Would Lead to Slaughter", *Washington Post*, November 3, 1969; Barnet, *supra*.

[23] Karnow, *supra*, and Barnet, *supra*.

[24] Porter and Kahin, *supra* at 3; Barnet, *supra*.

[25] Barnet, *supra;* Dinh, *supra*.

[26] "Noncombatant Toll Already Exceeds Predictions of Vietnam Bloodbath", *Washington Post*, July 21, 1970. See confirming figures from the Senate Refugee Subcommittee, 115 Cong. Rec. S17509–10 (daily ed. Dec. 22, 1969).

[27] Mankiewicz and Braden, *supra;* Shirkey, *supra* at 5. Note particularly Charles Shirkey's projections of civilian casualties and deaths under certain factual assumptions.

[28] Immigrants from Western Hemisphere countries are not included in this overall quota, but are dealt with under a separate provision of the Immigration and Nationality Act.

[29] *Factora* v. *District Director of U.S. Immigration and Naturalization Service*, 292 F. Supp. 518 (C.D. Cal. 1968); *Guinto* v. *District Director of U.S. Immigration and Naturalization Service*, 303 F. Supp. 1094 (C.D. Cal. 1969).

[30] The certification requirements specified below in regard to skilled and unskilled labor apply equally to individuals seeking entry under the professional category, but should raise no difficulties for the latter group.

[31] Telephone conversation with Immigration Service officials, August 21, 1970. Of course, professionals could also seek entry through the other avenues detailed below.

[32] Telephone conversation with officials of the Immigration Service, August 21, 1970.

[33] Telephone conversation with Immigration Service officials, August 21, 1970.

[34] Persons entering the United States as "conditional entrants" are deemed "excludable" aliens, rather than permanent residents subject to deportation, and their status is thus not surrounded with as many due process safeguards as are accorded under a deportation hearing. A proviso in subpart (7), however, allows immigration visas not exceeding one-half of the 10,200 annual allotment of conditional entries to be granted to refugees who have been continuously present in the United States for two years. Visas granted under this proviso result in an equivalent decrease in the number of "conditional entries" available during the year in which they are made available. Section 1153(g) and the regulations in 8 CFR § 235.9(3) otherwise provide for inspection of conditional entrants two years after entry and authorize application for resident visa under conditions applicable to applicants outside the United States.

[35] Telephone conversation with Immigration Service officials, August 25, 1970, and 9 HCR Bull. 7 (Jan.–March, 1970).

[36] Admission through parole also leaves an immigrant in "excludable alien" status, explained above, and when the Attorney General determines that the purpose of parole has been served, he may be returned abroad for treatment in accordance with normal immigration procedures. Entry as a parolee is apparently not conditioned upon the job, housing, and transportation qualifications detailed above.

[37] See 103 Cong. Rec. 1355 (1957) and *Report by the President's Committee for Hungarian Refugee Relief*, May 14, 1957, 36 Dept. State Bull. 984–85 (1957).

[38] See Presidential Directive, May 23, 1962, 46 Dept. State Bull. 993 (1962) and A. E. Evans, "The Political Refugee in U.S. Immigration Law and Practice," 3 *The International Lawyer*, 204, 219 (1969). Parole of

Chinese refugees was apparently conducted under the provisions of the Fair Share Act of 1960 (74 Stat. 504) which specifically authorized the parole of political refugees. This specific coverage of political refugee parole was not carried over to the amended immigration scheme in 1965. While it might be argued that the elimination of this specific provision, in conjunction with the inclusion of a particular preference category for political refugees, constitutes a Congressional intent to restrict the Attorney General's powers to non-refugee parolees, it must be noted that this power had been used by the Attorney General to parole refugees prior to the passage of the Fair Share Act and, as indicated below, Attorney General Mitchell has resorted to this power during the first six months of 1970.

[39] Evans, *supra* at 219–220.

[40] Interview with staff members of the Senate Subcommittee to Investigate Problems Connected with Refugees and Escapees on July 13, 1970, and 9 HCR Bull. 7 (Jan.–March 1970).

[41] See testimony by former Budget Director Charles L. Schultze before the Senate Committee on Foreign Relations (April 29, 1970); press conference, Secretary of Defense Melvin Laird, July 27, 1970.

[42] The other category mentioned in the RAND Study—Viet Cong defectors—might range from highly skilled to unskilled, but this group should not comprise the largest percentage of refugees.

[43] Much of the information used in this section is contained in publications of the Senate Subcommittee to Investigate Problems Connected with Refugees and Escapees including *U.S. Assistance to Refugees Throughout the World*, 91st Cong., 1st Sess. (1969) and *Resettlement of Cuban Refugees*, 88th Cong., 2nd Sess. (1963), both committee prints. See also *Report of the President's Committee for Hungarian Relief* (May 14, 1957), 36 Dept. State Bull. 984–85 (1957).

[44] The High Commissioner's administrative budget is financed through the overall United Nations budget, but annual budgets for direct refugee assistance programs are separately financed through voluntary contributions from UN member governments at annual pledging conferences. Emergency programs are funded by specific appeals from the High Commissioner's Office. Seventy governments pledged contributions to the $5.8 million 1970 budget for direct assistance programs.

[45] These contributions, like those to the High Commissioner's work, are authorized by the 1962 Migration and Refugee Assistance Act (Section 2601(a)).

[46] The remainder were national migrants who wished to move from overpopulated Western European areas to underdeveloped and sparsely populated countries.

[47] Of the over 32,000 refugees accepted by the United States, approximately two-thirds came to this country by the United States Military Transport Services and one-third by ICEM.

[48] This figure includes sizeable groups of refugees from the Portugese African colonies, Rwanda, Sudan, Ethiopia, and the Congo.

[49] One of the world's most pressing refugee problems—that of the Palestinians—is omitted from the list of the High Commissioner's programs because it is handled exclusively by a separate UN body, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). This important agency, established prior to the High Commissioner's Office, in 1949, continues to provide aid, education and vocational training to the 1,500,000 refugees created by two Arab-Israeli wars.

[50] Because the High Commissioner's mandate speaks of persons "outside their country of origin," it does not extend to persons displaced within their country by a civil war, such as the hundreds of thousands of refugees presently in Vietnam.

[51] Sources for this section include the following materials published by the High Commissioner's Office: *Background Paper on the Office of the United Nations High Commissioner for Refugees*, UN Doc. MHCR/48/66/Rev. 2 (1966); *Report of the High Commissioner for Refugees, Addendum*, 24 U.N. GAOR Supp. 12A, UN Doc. A/7612/Add. 1 (1969); *Refugees: 20 Questions and Answers* (1969); *The Red Cross and the Refugees* (1963); and the quarterly *HCR Bulletin*. The following ICEM-published materials were also used: *ICEM: Facts and Figures* (1970); *Review of Achievements* (1969); and *The Road to Freedom* (1969). See also, for current information on ICEM, *Hearings on Selective Migration Program for Latin America Operated by the ICEM Before the Subcommittee on Inter-American Affairs of the House Committee on Foreign Affairs*, 91st Cong., 2nd Sess. (1970).

ADJOURNMENT TO 8:30 A.M., MONDAY, AUGUST 31, 1970

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 8:30 a.m. Monday next.

The motion was agreed to; and (at 5 o'clock and 19 minutes p.m.) the Senate adjourned until Monday, August 31, 1970, at 8:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 28, 1970:

CORPORATION FOR PUBLIC BROADCASTING

The following-named persons to be members of the Board of Directors of the Corporation of Public Broadcasting for terms expiring March 26, 1976:

Frank E. Schooley, of Illinois.
John Hay Whitney, of New York.
Jack Wrather, of California.
Saul Haas, of Washington.
Thomas W. Moore, of Connecticut.

COMMUNICATIONS SATELLITE CORPORATION

Ralph A. Peterson, of California, to be a member of the board of directors of the Communications Satellite Corp. until the date of the annual meeting of the corporation in 1973.

EXTENSIONS OF REMARKS

THE FASTEST, CLEANEST FORM OF MASS TRANSPORTATION

HON. THOMAS M. PELLY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, August 14, 1970

Mr. PELLY. Mr. Speaker, argument over the Federal Government's financial participation in the development of two prototypes of the supersonic transport is reaching hysterical proportions by those opposed to this project. And, as is generally the case when emotion is so prevalent, all too often little regard is given to the truth.

Continually, emotional arguments regarding effects the SST will have on our environment have been answered by scientists of the Boeing Co., the builder of the U.S. SST and from Federal officials, not the least of whom is the Secretary of Transportation. Yet, the same discredited distortions are offered under the apparent theory that if they are repeated often enough they will become fact.

Yet, the fact is that the SST will provide all Americans with the fastest, cleanest form of mass transportation ever developed. There is absolutely no proof that the SST will have an appreciable effect on the atmosphere. Its sonic boom will not be heard by those living in populated areas. It will present no radiation hazard to the average traveler.

As I said, Mr. Speaker, there is no proof that these detrimental effects to our environment will occur, but, of course, the total picture will be studied as prototype development continues. Certainly, no environmental harm can come from the production of two prototypes.

And, opponents force the issue to be raised again and again, but the contract with the manufacturer clearly states that the Federal money will be returned with the sales of the SST.

There have appeared three noteworthy articles in recent days on the subject of the SST. Two of them are columns from the Machinist newspaper, and the other appeared in Parade magazine. Lest it be forgotten that America is in competition with the British-French Concorde and the Russian TU–144, the clipping from Parade, and the aforementioned two from the Machinist, will appear at this point in the RECORD:

(NOTE.—Here is the text of the AFL–CIO Executive Council's statement on the need for a U.S. supersonic transport aircraft. The statement was adopted at the Executive Council's recent midsummer meeting in Chicago:)

The constantly increasing desire of the American people to travel by air requires the constant development of new and more productive aircraft. In the last seven years, airline travel has doubled. It is expected to triple again by 1980.

To accommodate more air travelers without adding to the congestion of the airlanes and airports, the aerospace industry must develop larger and faster airplanes.

Today, the USSR and the French and British are developing airliners that will fly at supersonic speeds on trans-oceanic flights. These nations, using government funds, have produced prototypes and are now well along in their testing programs.

READY TO PRODUCE

The American aerospace industry is ready to begin the production of two prototypes of its own supersonic transport. To make that production possible, government funds have been budgeted. The House of Representatives has voted $290,000,000; the Senate is scheduled to vote later this month.

Without an SST, the American aerospace industry will be unable to maintain its leadership in world aviation, losing most of the market for transoceanic airliners. That would mean a loss for the United States of its