

higher governmental budgets. Our Chamber led the fight for increasing our budget for public instruction so that Duval County would eventually have a top quality school system. With the aid of our school board, our Legislators in Tallahassee were able to establish a new funding formula which will mean millions of extra dollars to our community in the years ahead for public education.

I could list many more examples of the solid and effective partnership role we assume with government aid and support to help meet the needs of our community.

This Seminar in itself is an example of our mutual interests. Next week Jim Mooney, our Executive Vice President, and I will go to Washington at the request of Secretary of Commerce Maurice Stans, to consult with him and other Chamber presidents, in the common problem of aiding minorities to establish businesses of their own in their neighborhoods.

The American system of free enterprise is without question the very best way to give employment, income, consumer benefits and a richer and fuller life to the greatest number of people. America is living proof of this philosophy. Only last week Secretary George Romney, while speaking in Jacksonville, lauded the great contributions that are made by individual citizens in our democracy. He called on all of us to give our maximum private effort to help business and government solve our mutual problems.

Yes, it's good business to concern yourself with the problems and challenges of our community and our government. Yes, and it's also good Americanism to do your part to make the *land we live on, the country we live in and the world we live with* an even better place *because we're here!*

#### CAMPAIGN REFORMS A "RITUAL CHARADE"

### HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, November 16, 1970

Mr. BOLLING. Mr. Speaker, the following article written by Jack Gould points up the dangers of escalating expenditures for political advertising. It appeared in the Kansas City Times on October 24, shortly after President Nixon vetoed the bill limiting expenditures for political advertising:

CAMPAIGN REFORMS A "RITUAL CHARADE"  
(By Jack Gould)

NEW YORK.—The criticism of President Nixon for vetoing a bill limiting expenditures in political campaigns was chiefly noteworthy for its display of naivete. No realist in the TV medium thought for one moment that the White House would throw away its economic advantage in drowning the opposition in spot commercials or staged discussions, either in the current campaign or in 1972.

Former President Lyndon B. Johnson was no less a master in bending the medium to his will and in 1964 it was Sen. Barry S. Goldwater who suffered the economic disadvantage in his presidential campaign.

The point is that whenever either party believes TV will serve its partisan ends, then meaningful reform in campaign abuses is just a ritual charade. The name of the game is to get elected or reelected, and if TV is the supposed magic wand that assures success, then the status quo is going to prevail.

This year's exercise in proposed reform follows the traditional pattern. Noble words circulated in Congress about the evils of selecting candidates through the power of the purse, but when the chips were really down the idea once again became academic as the President advanced labored reasons why the bill had defects.

Consider the realities apropos this November. While Congress bemused itself with fitful hearings, both Gov. Nelson A. Rockefeller in New York and Gov. Ronald Reagan in California had contracted for gobs of spot commercials. Through neatly timed maneuvering it turned out that the congressional bill would not apply to this year's election in any event. The image-makers in the two largest states didn't have to state their pragmatic approach: Did the White House want to take the risk of jeopardizing Republican governorships of the two largest states?

Nixon also had to look ahead. If the equal-time provision of Section 315 of the federal communications act were amended to allow coverage of the two principal candidates, a provision of the bill, he would find it politically awkward to avoid debates.

But Nixon was singled once in his debates with the late President John F. Kennedy and deciding two years ahead of the event that he would expose himself again to such a risk runs contrary to human nature.

Johnson adopted the go-it-alone tactic in a different way. As all incumbents do, he saw no point in enhancing the TV exposure of Goldwater, so first the word went out to the Democratic congressmen to forget any amendment inviting debates. Then he declined to appear on regular discussion programs, because under the rules of fairness the senator would have had claim to equal time.

Both parties, in effect, want to and do control the TV medium and therein lies the deep danger. Stations are licensed by the Federal Communications Commission as an arm of Congress, with the Senate having the power to pass on presidential nominees for the agency.

In both Democratic and Republican regimes the long political arm of the White House has always had an important influence on the FCC, and Congress has treated the agency like a malleable child. The regulatory body charged with the critical determination of the future of communications, with all its effects on elections, is essentially a repository for political patronage.

The circumstances require a whole new approach to the concept of a free press. Surely that freedom must be defended, but practically it is also increasingly irrelevant.

The prime source of information and opin-

ion, which the drafters of the Constitution and Bill of Rights sought to protect, no longer lies in the unlicensed press. For untold millions, especially those who prefer news and pictures and crisp bulletins, yesterday's "free press" is now government-regulated television, with a federal regulatory agency supplanting the editor as the ultimate umpire of journalistic standards.

In short, politicians with a partisan ax to grind—not journalists, who at least theoretically are committed to the credo of objectivity—have taken over the mainstream of journalism. If the politician is important or loud enough, his raised voice or eyebrow is sufficient in itself to convince the television broadcaster of the advisability of self-censorship to avoid jeopardizing a license worth millions.

This transition from free-enterprise journalism to government-dependent journalism has taken place in an atmosphere of astonishing indifference to the change. Such is the emotional impact of television's moving and talking personage that the image-makers swiftly moved in to convert governmental leaders to pitchmen selling their views on crucial issues of government, the way manufacturers sell automobiles and soaps.

Instead of being called to task for what they might be doing to a fair and viable democracy, these image-makers have been lionized as some sort of super wizards.

As long as today's government-dependent journalism rests in the hands of politicians whose omnipresent thought is the matter of election or re-election meaningful reform of television's role in politics is just a pipe dream.

The routine is monotonous: To pacify the public there is a gesture of concern just before an election, with action always too late to have any meaning. Then the issue is tidily shelved.

What to do? A brave broadcaster might reject all commercial spots in exchange for a fair balance of free time for all major candidates. By begging Congress for relief, the broadcasters are parties to the game: They know nothing will happen. A house rule on politics and a willingness to defend the rule up to the Supreme court if necessary would be a true test of their sincerity and determination.

The League of Women Voters, universally respected for its nonpartisanship and hard work, might be one organization which could explore the complete removal of TV from political domination and champion new ground rules applicable to all parties in or out of power. It might take years to accomplish, but the present state of chaos on the air took 20 years to develop.

Escalating expenditures for political advertising threaten to make a mockery of democracy, and the content of the political spots is an appalling oversimplification of critical matters affecting voters of all persuasions.

Some generation at some point will have to rally momentum for an overhaul of the relationship between those chosen to govern and society's most powerful means of persuasion—TV. The debasement of both is hardly a matter to be ignored or mourned and joked about, election after election.

## SENATE—Tuesday, November 17, 1970

The Senate met at 10 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

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

Eternal God, Father of all, who art above all and through all and in all,

without whom life has no spiritual source or divine meaning, but with whom there is power for the present and hope for the future, we turn to Thee as did our fathers in their day for light and guidance through all perils and difficulties. Give us, as Thou didst give them, the patience and the wisdom to strive for a

redeemed and righteous nation, a cleansed earth, and a society of peace and justice. Release Thy spirit anew upon the world and, above and beyond our human limitations, bring to fulfillment the divine intention for all mankind.

Through the toiling hours of this day,

lead Thy servants in this Chamber as faithful stewards of the Nation's trust, so to speak, and act as to heal the wounds of embittered days, to cultivate the spirit of unity and concord, and in every endeavor confirm the pledge of "one Nation under God, indivisible, with liberty and justice for all."

In the name of the Lord of Life. Amen.

#### DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, D.C., November 17, 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 Monday, November 16, 1970, be dispensed with.

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

#### TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements during the period for the transaction of routine morning business today be limited to 3 minutes.

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

Mr. TALMADGE. Mr. President, I ask unanimous consent to proceed for 15 additional minutes.

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

#### AMERICAN TRADE POLICY

Mr. TALMADGE. Mr. President, on October 13 the Senate Finance Committee, by a vote of 9 to 3, approved a motion sponsored by Senator HANSEN and myself to add major portions of H.R. 18970, the trade bill reported out of the House Ways and Means Committee, to the social security amendments.

I believe that this vote represents a major milestone in American trade policy.

This vote reflected the Finance Committee's awareness of the grave disadvantage that shortsighted and soft-headed trade policies have placed on American workers.

It reflected the Finance Committee's recognition that this country can no

longer withstand a continued outflow of our gold, that we must do something to balance our trade accounts.

This vote represented the determination of the Finance Committee to obtain reciprocity in world trade.

The vote represented the determination of the Finance Committee to get action on trade legislation during this session of Congress.

This vote has already produced results. Shortly after the vote on October 13, Japan changed its position and suddenly indicated a willingness to negotiate voluntary restraints on textile imports.

As everyone knows, Secretary of Commerce Stans spent several unprofitable months trying to negotiate voluntary restraints on Japanese textile imports and was turned down cold.

Now that Japan has suddenly indicated a willingness to negotiate, we will hear a clamor to postpone passage of the trade bill. Nothing could be more foolish. Japan will never agree to limit its flood of textiles unless this Congress demonstrates its determination to have reciprocity in world trade.

Of course, there is nothing in the trade bill which would be inimical to a voluntary agreement, for the bill provides that voluntary agreements may supersede any quotas established under the terms of the bill.

We have had a substantial deficit in the balance of payments in every year but one in the past decade. In 1969, we suffered an astronomical balance-of-payments deficit, a deficit of \$7.2 billion.

A look at the record shows that these deficits are due not to the inability of the American manufacturer to compete, but to the fact that our trade negotiators have systematically lowered barriers against foreign imports while failing to insist upon the reciprocal reduction of trade barriers of foreign nations. Our trade negotiators have apparently lived under the delusion that good old Uncle Sam can still be banker, Santa Claus, and policeman to the whole world. We continue to give billions of dollars of foreign aid, we provide military protection for the entire free world, and we give low-wage foreign countries easy access to our markets.

Free trade is a wonderful theory. When I was in college, I was taught by my economics professors that free trade is good. Apparently, the economics professors are still teaching this theory, for I understand that about 5,000 economists have signed a petition stating their opposition to the Trade Act approved by the House Ways and Means Committee.

Under the theory of free trade, every nation is better off because every nation will produce items which they produce most efficiently. Prices to consumers the world over will be much lower. All the world's productive resources can be used with maximum efficiency.

I agree that free trade is a beautiful theory—but it is a theory only. While the United States has lowered its tariffs and eliminated its quotas, other nations have kept theirs. Also, the more sophisticated exporting nations such as Japan have developed all kinds of devices and schemes to encourage their manufactur-

ers to export, and all kinds of devious restrictions against imports.

In the September edition of Fortune magazine, there is a very interesting article about the Japanese export offensive. This article, entitled "How the Japanese Mount That Export Blitz," points out that the Japanese trade offensive has some highly original features which are hard to match. For example, the Government backs corporations that export with an arsenal of help—credit at preferential rates, attractive tax incentives, and even insurance against overseas advertising campaigns that fail to meet sales targets. In addition, cartels of Japanese exporters meet regularly to fix prices and lay plans for overwhelming foreign competitors. Giant trading companies spearhead the export drive. Their tireless sales forces abroad are backed by the full force of Japan's banks and Government ministries.

Moreover, the export offensive is commanded by Premier Eisaku Sato in person. The Premier heads the Supreme Trade Council, where top business and government leaders quietly slice up the world market and set annual goals for every major product and country.

This article points out how the Japanese have sold some items such as air conditioners and automobiles at a loss for as much as 3 years to drive competitors out of business and overwhelm a market.

Another article in the October edition of Fortune magazine points out how the Japanese are gaining inroads in the American textile market by concentrating on one product line after another. After the Japanese manufacturers have driven the American manufacturers of one product line out of business, then they are free to raise prices and go on to another product line.

As well as having all kinds of export incentives, Japan has one of the most protected domestic markets in the world. The Japanese have quotas on 98 different items.

As Secretary of Commerce Maurice Stans has pointed out, other countries such as the European Common Market countries have discriminations against Japanese exports, and these countries have a host of devices to keep out textiles from less developed countries. As the Secretary has stated:

In short, our market has been open while others have been closed.

Secretary Stans is exceptionally well qualified to testify on the subject of trade restrictions of other countries. The Secretary spent many months trying to negotiate a voluntary restraint on imports with the Japanese. Japan turned him down flat.

The Secretary's testimony before the Senate Finance Committee was most illuminating. The Secretary pointed out that in the first 8 months of 1970, we lost 91,000 jobs in the textile-apparel industry because of imports. The Secretary stated that if quotas are not imposed, we stand to lose 100,000 jobs annually in the textile-apparel industry.

Mr. President, I do not feel that we can afford to sell one of our largest and

most important domestic industries down the river; I do not believe we can afford to say goodbye to an industry which provides one out of every eight manufacturing jobs in the United States; I do not believe we can forsake an industry which provides a large percentage of the job opportunities available to poorly educated, underprivileged black and white Americans.

Mr. President, during the testimony on the trade bill, some witnesses tried to raise the specter of retaliation. Clarence Palmby, Assistant Secretary of the Department of Agriculture, testified at great length about the threat of retaliation to our soybean exports.

Soybean exports have increased dramatically in the past few years and are, of course, a prime dollar earner in our export trade.

However, I believe that the threat of retaliation against soybean exports is nothing more than a scare tactic used by opponents of the trade bill. As I pointed out in colloquy with Secretary Palmby, other nations could not possibly refuse to accept our soybean exports, for we export just about all of the soybeans which are exported in the world market. Total world exports of soybeans in 1969 were 342 million bushels. Of this total, the United States exported 311 million bushels. Moreover, as the Department of Agriculture's own publications point out, soybeans have increased dramatically in world trade because they are the only commodity in sufficient supply to bridge the gap in the worldwide shortage of oils and meals. Not only do the markets of the world have to depend upon the United States to supply their soybean needs, but these markets have no substitute for soybeans.

The soybean bogymen is only one of the red herrings used by the opposition. We are told that it is up to the United States to be a leader in free trade. We are led to understand that should we move toward a more protected domestic market, other countries will retaliate and we will have a worldwide trade war.

What these critics are really saying is that we should continue our bighearted policy of free trade while other countries are allowed to continue their protectionist policies. They are saying that if we follow the same policy that the other nations of the world have followed for over 30 years, there will be a trade war.

This is sheer nonsense. The United States, with the largest and richest consumer market in the entire world, is in the best bargaining position in the world. The United States has every right to insist on reciprocity in world trade.

It is time that we say to all the nations of the world, "We can no longer afford to be Santa Claus. We are going to have to insist on reciprocity because a continued outflow of our gold reserve and a continued loss of domestic industries will destroy us."

Mr. President, the trade amendment approved by the Senate Finance Committee is the same bill that was reported out of the House Ways and Means Committee except for the deletion of the tax deferral system known as the Domestic International Sales Corporation, and the

deletion of Presidential authority to eliminate the American selling price system of evaluation on benzenoid chemicals. In addition to quotas for textiles and footwear, the amendment makes several other substantial changes in our trade laws. The bill will greatly improve the chances of displaced American workers to get adjustment assistance—temporary income supplements and retraining. It also liberalizes the mechanism through which industries damaged by foreign imports can get relief, the escape clause.

I wish to emphasize that the President's hands will not be tied in any case. Should the President find it is in the national interest not to apply a quota, he can refuse to grant quota relief. This is true even in the case of textile and footwear quotas. Moreover, the bill places emphasis on voluntary agreements. The President will have authority to enter into multilateral or bilateral agreements to limit imports of textile or footwear articles in order to avoid market disruptions. Such voluntary agreements will supersede any quotas established under the terms of this bill.

Mr. President, there has been criticism in some quarters of the move to attach the trade bill as an amendment to the social security bill. It is charged that this is blackmail, that we are making social security a hostage of a trade bill.

Nothing could be further from the truth. It was the judgment of those interested in securing trade legislation this year that there would not be sufficient time to go through the normal hearing process and extended debate on the Senate floor. Now that the Congress has returned from the November elections, it will have only about a month to clear a massive legislative backlog. Six major appropriation bills have not yet been approved by the Senate. The Senate will have to deal with the most revolutionary social legislation in decades, the President's family assistance plan.

Moreover, we have reason to believe that the Members of the Senate would never have the opportunity to vote on the question of whether we should have trade legislation. We have every reason to believe that the opponents of trade legislation, knowing they do not have the votes, would attempt to talk a trade bill to death if the bill were to stand alone.

When the Senate Finance Committee reports to the Senate floor a bill which includes social security provisions and trade provisions, any Member of the Senate who objects to attaching the trade measure to social security can call for a vote on the question of whether to strike the trade provisions from the bill. Every Member of the Senate will have an opportunity to vote on the issue of whether the trade amendments should be enacted into law.

I want to compliment the chairman of the Finance Committee, Senator Long, on the tremendous job he has done in scheduling and holding hearings on short notice. When I announced my intention to move for the inclusion of trade legislation in the social security amendments, the chairman scheduled 2 days of hearings and approved a witness list

which included a broad cross section of interests. We heard from 19 different witnesses, which included six representatives of the administration and representatives of the AFL-CIO, the United States-Japan Trade Council, and the League of Women Voters. The chairman accepted for the record statements of any person who wanted his statement included in the record.

Mr. President, I thought for a long time that it would be impossible to secure the passage of trade legislation this year. I thought that those of us who wish to protect the jobs of American workers would encounter the same kind of roadblocks that have faced us in the past.

Now, however, I am optimistic. I believe we can, in this session of Congress, secure the passage of legislation which will protect the jobs of the 2.4 million people employed in the textile-apparel industry. Hopefully, we will be able to protect the footwear industry, where plant after plant is being closed because of the flood of imports.

I believe that the Congress will, at last, say to the world that henceforth the United States is going to demand reciprocity in world trade; that we are going to use our bargaining power to protect American industry, American jobs and the American gold supply.

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

Mr. TALMADGE. Mr. President, I yield to my friend, the distinguished Senator from Wyoming, cosponsor of the amendment.

Mr. HANSEN. Mr. President, I compliment the distinguished Senator from Georgia for the very important contribution he is making here this morning. I hope that every Member of the Senate and of the other body will take time to read the excellent statement he has just made.

It ought to be noted by those who contend that we have much at stake, and much is being risked by our insistence that we take a realistic view of our trade policies today, that instead of having \$1 billion trade surplus, we actually have a \$4 billion deficit.

It is free when other countries want to import into the United States but there are all sorts of roadblocks, as the Senator from Georgia has pointed out, if we want to export to any other country in the world. Our \$1 billion-plus surplus balance of trade becomes a deficit in excess of \$4 billion if one considers the amount of goods that are shipped from America, being purchased through foreign aid, U.S. financed, the differential between the value placed upon imports coming into America and exports leaving this country, about a 10 percent differential—often referred to as CIF the difference and adds to that cost the in cost insurance and freight, and the impact of Public Law 480 expenditures.

What is the significance of this fact in the context of American jobs? Great moment is made of our soybean exports, yet practically all the theoreticians who contend that we should have fewer trade barriers than we now have say that the ultimate salvation of America must be found not in the production of agricul-

tural products but in the production of sophisticated materials in which the poorer schooled and less adequately trained foreign workers will not be able to compete as effectively as typical American workers.

So, on the one hand, those who say we have a good balance of trade and point to soybeans turn around and say that this is not the sort of product we should be trying to export from this country, because they know, as all know who are concerned enough to look at the facts, that fewer people are employed in agriculture in America today than ever before in our history in proportion to our total population. In 1969, one farmer in the United States produced enough for himself and 45 other persons. In 1959 one farmer produced enough for himself and 23 other persons in the United States. It is interesting to note that in 1968 there were about 900,000 fewer farms in the United States than there were in 1960.

The typical American farmer feeds more of his fellow Americans than does any other farmer anywhere else in the world.

Mr. President, I find it significant that those who oppose any restrictions at all are the same people who are proposing that we expand welfare programs; that we engage in more costly work training programs in order to take up the slack and fill the jobs that are lost to foreign workers. The same people are deploring the fact that 5.5 percent of our work force is unemployed and are saying, "Let us get on with welfare and job training." But none of these critics tell us where we are going to find the jobs in American industry to take up the slack and provide work for the people who are being put out of work.

The fact is that if America were to produce all the things that have been imported into America just last year, it would be necessary to put on the work rolls in American industry 2.5 million more people.

It is the jobs that people have in this country that make America the great marketplace that it is. If we destroy the purchasing power of the people who are losing their jobs because of the increasing amount of imports, the time will come when the United States will not be the world's greatest marketplace. It is directed toward this eventuality that the distinguished Senator from Georgia and I submitted and attached as an amendment to the social security bill a reasonable program which already has strengthened the hand of the Secretary of Commerce and has made his pleadings more effective in dealing with foreign countries by saying, "Let us be a little more fair to foreign countries than we have been in the past." I think our proposal is a step in the right direction.

I hope the speech made by the Senator from Georgia will be read. I hope that the wise counsel it contains will be heeded by Members of Congress in giving the necessary strength to the Secretary of Commerce and other administration officials in attempting, first of all, to establish some reasonable quotas or some reasonable treatment between America

and the other countries in the world today.

I thank the distinguished Senator from Georgia, and I compliment him for his fine statement.

Mr. TALMADGE. I thank my distinguished friend from Wyoming for his generosity and his outstanding contribution.

With respect to the trade surplus, I think the best evidence of that is the fact that we have had a deficit on our balance of payments 18 times out of the past 20 years, if my memory serves me correctly; and we have \$42 billion worth of short-term dollar claims overseas and only \$10 billion in gold.

I yield the floor.

#### ORDER OF BUSINESS

Mr. KENNEDY. 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. KENNEDY. 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:

PROPOSED AMENDMENT TO THE BUDGET, 1971, FOR THE INTERNATIONAL MONETARY FUND (S. Doc. No. 91-110)

A communication from the President of the United States, transmitting an amendment to the budget for the fiscal year 1971, in the amount of \$1,540 million, for the U.S. quota, International Monetary Fund (with an accompanying paper); to the Committee on Appropriations.

REPORT ON CONTRACTS NEGOTIATED BY THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

A letter from the Acting Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report with respect to contracts negotiated by the National Aeronautics and Space Administration for property or services determined to be for experimental, development, or research work, or for making or furnishing property for experiment, test, development, or research, for the period January 1, 1970, through June 30, 1970 (with an accompanying report); to the Committee on Aeronautical and Space Sciences.

PROPOSED LEGISLATION TO PROVIDE CONTINUANCE OF INCENTIVE PAY TO MEMBERS OF THE UNIFORMED SERVICES FOR A 3-MONTH PERIOD AFTER TERMINATION OF MISSING STATUS

A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to amend section 552(a) of title 37, United States Code, to provide continuance of incentive pay to members of the uniformed services for a 3-month period after termination of missing status (with an accompanying paper); to the Committee on Armed Services.

REPORTS OF VIOLATIONS OF SECTION 3679, REVISED STATUTES

A letter from the Secretary of Defense, transmitting, pursuant to law, eight reports

of violations of section 3679, Revised Statutes, and Department of Defense Directive 7200.1, "Administrative Control of Appropriations within the Department of Defense" (with accompanying reports); to the Committee on Appropriations.

PROPOSED LEGISLATION TO AMEND PUBLIC LAW 91-514

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend Public Law 91-514 (with accompanying papers); to the Committee on Commerce.

#### REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on audit of the Federal Savings and Loan Insurance Corporation supervised by the Federal Home Loan Bank Board, for the year ended December 31, 1969 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the transfer of regional activities to local post offices inconsistent with congressional intent, Post Office Department, dated November 13, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the need to enhance the effectiveness of on-the-job training in Appalachian Tennessee, Department of Labor, dated November 13, 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 regarding Federal assistance for presidential transitions, dated November 16, 1970 (with an accompanying report); to the Committee on Government Operations.

PROPOSED LEGISLATION TO DECLARE THAT THE UNITED STATES HOLDS CERTAIN LANDS IN TRUST FOR THE MINNESOTA CHIPPEWA TRIBE, MINNESOTA

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to declare that the United States holds certain lands in trust for the Minnesota Chippewa Tribe, Minnesota (with an accompanying paper); to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION TO DECLARE THAT CERTAIN FEDERALLY OWNED LANDS SHALL BE HELD BY THE UNITED STATES IN TRUST FOR THE STOCKBRIDGE MUNSEE COMMUNITY, WISCONSIN

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to declare that certain federally owned lands shall be held by the United States in trust for the Stockbridge Munsee Community, Wisconsin (with an accompanying paper); to the Committee on Interior and Insular Affairs.

REPORT ON THE MINERALS EXPLORATION ASSISTANCE PROGRAM

A letter from the Secretary of the Interior, transmitting, pursuant to law, the fifth annual report on the minerals exploration assistance program for the fiscal year ended June 30, 1970 (with an accompanying report); to the Committee on Interior and Insular Affairs.

#### PETITION

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate a resolution adopted by the American Legion, Department of Florida, De Bary, Fla., praying for the reestablishment of the Defense Supply Catalog Committee of the National Security Commission,

which was referred to the Committee on Armed Services.

**PRINTING OF REPORT ON COLUMBIA RIVER AND TRIBUTARIES**  
(S. DOC. NO. 91-112)

Mr. BYRD of West Virginia. Mr. President, on behalf of my colleague, the senior Senator from West Virginia (Mr. RANDOLPH), I present a letter from the Secretary of the Army, transmitting a report dated May 16, 1969, from the Chief of Engineers, Department of the Army, together with accompanying papers and illustrations, on Columbia River and tributaries, Washington, requested by a resolution of the Committee on Public Works, U.S. Senate, adopted September 9, 1962. I ask unanimous consent that the report be printed as a Senate document, with illustrations, and referred to the Committee on Public Works.

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

**PRINTING OF REPORT ON CALCASIEU RIVER AT DEVIL'S ELBOW, LA.** (S. DOC. NO. 91-111)

Mr. BYRD of West Virginia. Mr. President, on behalf of my colleague the senior Senator from West Virginia (Mr. RANDOLPH), I present a letter from the Secretary of the Army, transmitting a favorable report dated September 21, 1970, from the Chief of Engineers, Department of the Army, together with accompanying papers and illustrations, on Calcasieu River at Devil's Elbow, La., requested by a resolution of the Committee on Public Works, U.S. Senate, adopted June 23, 1965. I ask unanimous consent that the report be printed as a Senate document, with illustrations, and referred to the Committee on Public Works.

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

**BILLS INTRODUCED**

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

By Mr. HANSEN:

S. 4494. A bill for the relief of Mr. David J. Crumb; to the Committee on the Judiciary.

By Mr. GRAVEL:

S. 4495. A bill for the relief of Willis Lucien; to the Committee on the Judiciary.

By Mr. HART:

S. 4496. A bill to amend the National Environmental Policy Act of 1969, to provide for a National Environmental Data System; to the Committee on Commerce.

(The remarks of Mr. HART when he introduced the bill appear below under the appropriate heading.)

By Mr. RANDOLPH:

S. 4497. A bill for the relief of Mostafa Ibrahim Shaaban and his wife, Aziza Shaaban; to the Committee on the Judiciary.

By Mr. MATHIAS:

S. 4498. A bill for the relief of Teresa Gina Bisghini; and

S. 4499. A bill for the relief of Paolo En-drizzi; to the Committee on the Judiciary.

By Mr. HARRIS:

S. 4500. A bill for the relief of the owners of certain interests in lands located in Caddo

County, Okla.; to the Committee on the Judiciary.

(The remarks of Mr. HARRIS when he introduced the bill appear below under the appropriate heading.)

By Mr. HARRIS (for himself and Mr. BELLMON):

S. 4501. A bill for the relief of Ronald K. Downie; to the Committee on the Judiciary.

By Mr. GORE:

S. 4502. A bill for the relief of Mira Bjelajac; to the Committee on the Judiciary; and

S. 4503. A bill to amend title 38 of the United States Code so as to make presumptions relating to certain diseases applicable to veterans who served during the period between the end of World War II and the beginning of the Korean conflict; to the Committee on Finance.

By Mr. RIBICOFF:

S. 4504. A bill for the relief of Luc Avril and Marie Telici Avril; to the Committee on the Judiciary.

By Mr. THURMOND:

S. 4505. A bill to amend the Food Stamp Act of 1964 in order to prohibit the distribution of food stamps to any household where the head of the household is engaged in a labor strike; to the Committee on Agriculture and Forestry.

(The remarks of Mr. THURMOND when he introduced the bill appear below under the appropriate heading.)

By Mr. MURPHY:

S. 4506. A bill for the relief of Sylvia Afante Foster; to the Committee on the Judiciary.

By Mr. INOUE:

S. 4507. A bill for the relief of Leonardo Galvizo Eder; and

S. 4508. A bill for the relief of Amdao V. Rivera, Jr.; to the Committee on the Judiciary.

**S. 4496—INTRODUCTION OF A BILL TO AMEND THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969**

Mr. HART. Mr. President, I introduce, for appropriate reference, a bill to amend the National Environmental Policy Act of 1969 to provide for a National Environmental Data System. The bill is similar in several respects to S. 4044, a bill which the distinguished Senator from Washington (Mr. MAGNUSON) and I introduced earlier this year. At the time of introduction of that bill, reference was made to the efforts of the able Congressman from Michigan, Mr. DINGELL, who in the House had proposed the creation of a similar institution. Since his proposal has now been revised and since it would be helpful for the Senate to have the benefit of his revisions for its consideration, the bill I introduce today includes those revisions. Again, I wish to express admiration and appreciation for his leadership in this area.

The bill is designed to create a central system in which all data relating to the environment would be housed. By thus assuring instant access by regulatory agencies and by the public to all such information, the system would attempt to correct what as of now must be regarded as basic weakness in our environmental protection scheme.

Many of our environmental problems can be traced to a lack of timely knowledge as to the seriousness of a given pollutant. In testimony before the Senate Subcommittee on Energy, Natural Resources, and the Environment, we have

repeatedly heard witnesses bemoan the absence of any centralized clearinghouse for environmental information. In our hearings on the effects of mercury on man and the environment it was claimed by both those responsible for the mercury pollution and those directly affected by it that the existence of such a clearinghouse might have prevented much of the damage that occurred. Although for several years literature was available which suggested that inorganic mercury could be converted to the deadly poison known as methyl mercury, neither the chemical companies discharging the pollutant nor the regulatory agencies of Government were aware of it until several months ago. Had there been a source to which they might have turned to learn all that was known about the behavior and effects of mercury, discharges of the chemical could have been stopped much sooner.

In a similar vein, when our subcommittee examined the problems associated with the use of the herbicide 2,4,7-T and related chemicals we again found that lack of knowledge was a central problem. In the case of 2,4,5-T itself, although alarming information relating to the fetus-deforming effects of the herbicide in test animals was available as early as June of 1966, neither the Department of Agriculture nor the Food and Drug Administration knew of it until years later. Moreover, even the producers of the chemical were denied access to the information which might have led them to restrict their production voluntarily.

It is therefore the major purpose of this bill to insure that when information of this sort is known by anyone anywhere in the world that every effort is made to bring it to the attention of as many people, both within and outside the Government, as possible. Considerable thought will have to be given to the precise mechanism by which the accumulation and dissemination of this material is handled, but would anyone deny the desirability of increasing the free flow of such vital information? It is my hope that Congress will move quickly to accomplish that objective.

The PRESIDING OFFICER (Mr. EAGLETON). The bill will be received and appropriately referred.

The bill (S. 4496) to amend the National Environmental Policy Act of 1969, to provide for a National Environmental Data System, introduced by Mr. HART, was received, read twice by its title, and referred to the Committee on Commerce.

**S. 4500—INTRODUCTION OF A BILL FOR RELIEF OF THE OWNERS OF CERTAIN INTEREST IN LANDS LOCATED IN CADDO COUNTY, OKLA.**

Mr. HARRIS. Mr. President, I introduce, for appropriate reference, a bill for the relief of the owners of certain interests in lands located in Caddo County, Okla. Similar legislation has already been introduced by my colleague, Mr. EDMONDSON, in the House. The exact description of the land involved in this legislation is some 150 acres in W<sup>1</sup>/<sub>2</sub> of

section 15, T8N, R12W, Caddo County, Okla.

Some 10 years ago this land was flooded by the United States following the construction of the Fort Cobb Reservoir in Caddo County. Claims for compensation of mineral rights in this land were submitted to the Bureau of Reclamation of the U.S. Department of Interior by the claimants. However, the claims were denied on the grounds that the Tucker Act, upon which claims for compensation of this loss would be based, contains a 6-year statute of limitations.

This special relief legislation would waive the statute of limitations so that the claimants might be successful in their proposed suit to recover damages for the loss of their mineral rights.

I ask unanimous consent to have printed in the RECORD a copy of the reply I received from the Department of the Interior in regard to these claims. I urge that this legislation be expeditiously and favorably considered by the appropriate committee.

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

The bill (S. 4500) for the relief of the owners of certain interests in lands located in Caddo County, Okla., introduced by Mr. HARRIS, was received, read twice by its title, and referred to the Committee on the Judiciary.

The letter, presented by Mr. HARRIS, is as follows:

U.S. DEPARTMENT OF THE INTERIOR,  
Washington, D.C., August 21, 1970.

HON. FRED B. HARRIS,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR HARRIS: This is in response to your letter dated June 18, 1970, inquiring as to the feasibility of special legislation waiving the statute of limitations as to certain claims against the United States, as suggested in letters from Mr. Ion B. Turk and Mr. John W. Nichols, both of Oklahoma City.

Messrs. Turk and Nichols claim to be the owners of mineral rights in land that was flooded by the United States some ten years ago following construction of the Fort Cobb Reservoir, Caddo County, Oklahoma. Last year they asserted a claim for compensation with the Bureau of Reclamation of the United States Department of the Interior. The claim was denied on the ground that the statute of limitations barred claims not asserted within six years of the flooding. They further assert that in the condemnation of similar property close to theirs, the owners of the mineral rights were awarded \$100 per acre. There appears to be about 150 acres involved.

Special relief legislation waiving the statute of limitations is a feasible avenue for relief. Such statutes normally recite the names of the claimants, the nature of the claim and the statute by which the claim is barred. They normally provide a fixed period of time in which the action can be brought.

I am sure you understand that the Department of the Interior cannot at this time state what position it will take on such a bill should it be introduced.

Sincerely yours,

HOLLIS M. DOLE,  
Assistant Secretary of the Interior.

S. 4505—INTRODUCTION OF A BILL TO AMEND THE FOOD STAMP ACT OF 1964

Mr. THURMOND. Mr. President, in 1964 it was brought to the Senate's attention that the Food Stamp Act of 1964 was too broadly written, for it allowed certain undeserving individuals to receive welfare benefits under it. Since 1964 the unfairness of providing public assistance to union strikers in the form of Federal food stamps has been pointed out on more than one occasion. The gross unfairness and totally ridiculous result of the Food Stamp Act in this regard is now clearly evident to all. When 343,210 General Motors employees, who were members of the United Auto Workers Union, went on strike a few months ago, many of them lined up at welfare offices and demanded food stamps, claiming that they were no longer able to provide "a nutritionally adequate diet" for themselves and their families.

While it is true that these workers were no longer receiving their weekly checks from General Motors, the law cannot be so blind that it does not recognize and consider the reasons why these workers were not being paid. The reason was, of course, that these union workers simply refused to work and voluntarily walked off their jobs. I do not question, nor ask this Senate body to question, the right of these strikers or the right of any man to decide not to work. What I do question is, however, whether the citizens of this country should be required to subsidize the income of an individual who voluntarily decides to quit work and go on strike.

If a man is willing to work but unable to find a job, then I believe in assisting him. However, if an individual simply refuses to work when there are plenty of jobs open to him, then I have no sympathy for him. A man who will not work when jobs are available should have to bear the consequences of his act and not expect the Government to step in and put food on his table.

Many fine, hardworking Americans in this country would count themselves extremely lucky to have the opportunity to work for a company like General Motors that is paying, on the average, over \$4 an hour. Yet these employees, enjoying the benefits of this high wage, turned their backs on this opportunity, and voluntarily quit working. Under the law as it is presently written, the Department of Agriculture had no alternative but to authorize the issuance of food stamps to these individuals. In my judgment, this amounted to a terrible economic crime perpetrated on the American taxpayer who, through his taxes, was actually forced to contribute his hard-earned dollars to the purchase of food stamps for these individuals who refused to work.

Furthermore, the issuance of food stamps to these individuals who could have been earning \$4 an hour, undoubtedly took the food out of the mouths of people who were actually in need. The strikers in one State were drawing so many stamps that the Federal Government had difficulty keeping the stamps

printed and supplied to the local agencies.

The United Auto Workers Union strike, the biggest and costliest strike in more than a decade, had a serious adverse effect upon many innocent individuals. Since these strikers were being fed at the taxpayers' expense, there was little incentive to go back to work. As a result, the strike lasted for almost 2 months. Each day this strike continued, the number of innocent victims increased. This union action caused over 100,000 individuals who wanted to work to be laid off, cut the gross national product by \$1 billion per week, and severely damaged the earnings of many primary and secondary suppliers, not to mention the cost to each individual taxpayer who paid for millions of dollars worth of additional food stamps. In my judgment, this is but another example of the heavy and unreasonable burden the American taxpayer is forced to bear because of the domination of Congress by the liberal forces.

I consider the events involving the issuance of food stamps to union strikers an outrage. This practice should be discontinued. In order to accomplish this goal, I introduce a bill to amend the Food Stamp Act of 1964 which will make strikers ineligible to participate in Federal food stamp programs.

Mr. President, I send the bill to the desk and request that it be referred to the appropriate committee.

The PRESIDING OFFICER (Mr. BELLMON). The bill will be received and appropriately referred.

The bill (S. 4505) to amend the Food Stamp Act of 1964 in order to prohibit the distribution of food stamps to any household where the head of the household is engaged in a labor strike introduced by Mr. THURMOND, was received, read twice by its title, and referred to the Committee on Agriculture and Forestry.

ADDITIONAL COSPONSORS OF BILLS

S. 2193

At the request of the Senator from New Jersey (Mr. WILLIAMS), the Senator from Oklahoma (Mr. HARRIS) was added as a cosponsor of S. 2193, the Occupational Safety and Health Act.

S. 3687

At the request of the Senator from Maine (Mr. MUSKIE), the Senator from Washington (Mr. JACKSON) was added as a cosponsor of S. 3687, the National Water Quality Standards Act of 1970, which would increase the Federal grant authorization for waste treatment facilities to \$2.5 billion a year for 5 years and extend the standards program to all navigable waters.

S. 4352

At the request of the Senator from New Jersey (Mr. WILLIAMS), the Senator from New Mexico (Mr. MONTOYA) was added as a cosponsor of S. 4352, relating to equitable promotions and retirements for National Guard technicians.

S. 4353

At the request of the Senator from New Jersey (Mr. WILLIAMS), the Senator from New Mexico (Mr. MONTONA) was added as a cosponsor of S. 4353, relating to Civil Service status for Selective Service System employees.

S. 4434

Mr. TOWER. Mr. President, I ask unanimous consent that, at the next printing, the Senator from Kansas (Mr. PEARSON) and the Senator from Oklahoma (Mr. BELLMON) be added as cosponsors of S. 4434, to deregulate the wellhead price of natural gas.

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

Mr. PEARSON. Mr. President, I rise today to indicate my cosponsorship of S. 4434, introduced by my distinguished friend, Senator TOWER.

This legislation addresses an increasingly vital concern—the shortage of fuel. Never before in this century has the United States faced such serious and widespread shortages of energy as are upon us now.

Symptoms of this fuel crisis are already in evidence. Last month, the Eastern Ohio Gas Co., serving Cleveland and other industrial centers, warned that if this winter is as severe as expected, factories will have to shut down to provide gas to heat homes, schools and hospitals. Many of the lights in the halls of the State office buildings, we should remember, were turned off during the power shortage of last August—dramatic evidence of the seriousness of this problem. In addition, the Federal Power Commission has recently indicated that gas companies in various parts of the country will import increasing amounts of fuel to meet the needs of the coming winter.

Increasingly stringent antipollution requirements, moreover, so important to our quality of life, are aggravating this crisis.

In short, while the demand for all fuels is great, the need for natural gas, our cleanest fuel, has risen as dramatically as the demand for clean air. The bill to which I extend support today is critically needed to meet this serious situation by increasing the supply of natural gas in the United States.

S. 4434 would remove Federal Power Commission authority to maintain price ceilings on the interstate sale of natural gas by independent producers. Drafted by the Vice Commissioner of the Federal Power Commission, Carl E. Bagge, this legislation recognizes the forces of a free market which are so essential to encourage exploration for natural gas reservoirs. The last 20 years of FPC regulation in this area, as characterized by Mr. Bagge, have produced "a regulatory dry hole." The FPC has tried econometrics systems, cost-plus structure systems, and other regulatory schemes—all with the same result: Regulatory chaos, shrinking supply, and critically inadequate exploration.

At present, our known supplies of natural gas are nearly exhausted, demand remains insatiably high, yet its cost remains at the artificially low price ceiling established by the FPC. Predictably,

virtually no exploration by domestic producers has been done nor can it be economically undertaken.

Chairman Nassikas of the FPC has publicly stated that we "must recognize the realities of the market." This bill rests on that principle.

Moreover, Mr. President, the operation of this measure would encourage exploration by the independent operators who are so important to my State and Nation. It is these men, the "little men" of the industry, who have discovered approximately 80 percent of all natural gas reservoirs. It is these men who are directly affected when natural gas is imported from Canada at a price of 32 cents per thousand cubic feet, from Alaska at a price of 65 cents per thousand cubic feet, and from Algeria at a price of \$1.71 per thousand cubic feet, while Kansas and other domestic producers receive only approximately 16.5 cents per thousand cubic feet.

Mr. President, we have in the past enjoyed plentiful supplies of both fuel and clean air. We now must take immediate action to insure continued supplies of both. For these reasons, I am happy to join with Senator TOWER as a cosponsor of this legislation.

#### SENATE RESOLUTION 482—RESOLUTION SUBMITTED AND AGREED TO MAKING CERTAIN STANDING COMMITTEE ASSIGNMENTS

Mr. MANSFIELD submitted a resolution (S. Res. 482) making certain standing committee assignments, which was considered and agreed to.

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

#### SENATE RESOLUTION 483—RESOLUTION SUBMITTED AND AGREED TO RELATING TO DEATH OF REPRESENTATIVE WILLIAM L. DAWSON, OF ILLINOIS

Mr. STEVENSON (for himself and Mr. PERCY) submitted a resolution (S. Res. 483) relative to the death of Representative William L. Dawson, of Illinois, which was considered and agreed to.

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

#### DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION BILL, 1971—AMENDMENTS

##### AMENDMENT NO. 1070

Mr. HARRIS. Mr. President, the bill making appropriations to the Departments of Labor and Health, Education, and Welfare, and related agencies, Calendar No. 1350 (H.R. 18515), contains language which would limit Federal matching of State expenditures for administration, services, and training in the public assistance programs to 115 percent of the actual expenditures that were incurred during the last fiscal year ending June 30, 1970.

I believe this would be a decisively wrong step. We need to improve social services, not restrict and contract them, as we would be doing with this provision in the face of a growing population and an increasing case load. Particularly does this suggested provision seem inconsistent with the administration's efforts, agreed to already by the House of Representatives, to enact a new family assistance program.

The American Public Welfare Association has issued a paper detailing objections to the proposed limitation. As a member of the Senate Finance Committee, I find this paper very clear and convincing, and I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

Mr. President, I have prepared an amendment I intend to offer to strike this objectionable provision when the appropriation bill is taken up by the Senate. I send the amendment to the desk and ask that it be printed as an amendment and that it be printed at this point in the RECORD.

The PRESIDING OFFICER (Mr. BELLMON). The amendment will be received and printed, and will lie on the table; and, without objection, the amendment and paper will be printed in the RECORD.

The amendment (No. 1070) is as follows:

On page 38, strike lines 12 thru 18, inclusive.

On page 38, line 19, strike out "209" and insert in lieu thereof "208".

The paper, presented by Mr. HARRIS, is as follows:

#### AMERICAN PUBLIC WELFARE ASSOCIATION, Chicago, Ill.

The National Council of State Public Welfare Administrators of the American Public Welfare Association, representing all 54 States and Territories, assembled today, November 16, 1970, have unanimously resolved to urge all members of the United States Senate and House of Representative to delete from H.R. 18515, making appropriation for the Departments of Labor, and Health, Education and Welfare, the provision in Section 208 which would, during the current Fiscal Year 1971, limit Federal matching of State expenditures for administration, services and training in the public assistance programs to 115 percent of the actual expenditures that were incurred during the last fiscal year which ended June 30, 1970.

The proposed 115 percent limitation would impose upon the clear majority of all States severe, inequitable, and unrealistic financial burdens. We direct particular attention to the following significant considerations:

(1) Because of the rapid and continuing increase in the caseloads of the public assistance programs, the costs of direct administration have been rising proportionately, even without regard to program extensions and improvements or dollar inflation. Since 1967 the number of public assistance recipients in the Federally aided categories has doubled. In many States, the 115 percent limitation will not even meet the cost of the mere volume of incurred eligibility determinations.

(2) Since all States and Territories are already operating under budgets established by their Legislatures for the current fiscal year, premised on the availability of Federal matching funds under the existing formula, and have made commitments for most, if not all, of the funds so budgeted for improved

social services and training as well as ongoing administration, the 115 percent limitation would have the effect of requiring States either to abruptly cancel out many important programs, or to call upon their Legislatures for additional supplemental appropriations and deficit financing in a climate of public welfare activity where State fiscal resources are already overwhelmed.

(3) The existing Federal matching formula has already been relied on to trigger broad community commitments for rehabilitative social services. States have developed combinations of State-local, public and private funding to coordinate and deliver social and restorative services such as day-care, homemaker services, family planning, work readiness and employment counseling. It is essential that these beginning partnerships of public and private dollars, and public and private capabilities, be given the opportunity to mature rather than be abruptly curtailed.

(4) It is inconsistent for the Administration and the Congress to have insistently urged the States to expand activities calculated to rehabilitate poor people, and to continue to mandate additional expansions and improvements, while at the same time cutting back on fiscal support for services already in operation.

(5) The enactment of Section 208 would be a repudiation of promises made by the Congress in 1962 and 1967 services amendments to the Social Security Act, which States in good faith have been implementing.

#### AMENDMENT NO. 1071

Mr. YARBOROUGH submitted amendments, intended to be proposed by him, to House bill 18515, the Departments of Labor, and Health, Education, and Welfare appropriation bill, 1971, which were ordered to lie on the table and to be printed.

#### NOTICE OF HEARINGS ON NOMINATIONS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the Senator from Mississippi. (Mr. EASTLAND).

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

#### NOTICE OF HEARING

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, November 24, 1970, at 10:30 a.m., in room 2288, New Senate Office Building, on the following nominations:

Owen D. Cox, of Texas, to be U.S. District Judge, Southern District of Texas, vice a new position created by Public Law 91-272, approved June 2, 1970.

John Feikens, of Michigan, to be U.S. District Judge, Eastern District of Michigan, vice a new position created by Public Law 91-272, approved June 2, 1970.

Robert M. Hill, of Texas, to be U.S. District Judge, Northern District of Texas, vice a new position created by Public Law 91-272, approved June 2, 1970.

Philip Pratt, of Michigan, to be U.S. District Judge, Eastern District of Michigan, vice a new position created by Public Law 91-272, approved June 2, 1970.

William M. Steger, of Texas, to be U.S. District Judge, Eastern District of Texas, vice a new position created by Public Law 91-272, approved June 2, 1970.

Jose V. Toledo, of Puerto Rico, to be U.S. District Judge, District of Puerto Rico, vice a new position created by Public Law 91-272, approved June 2, 1970.

John H. Wood, Jr., of Texas, to be U.S. District Judge, Western District of Texas, vice a new position created by Public Law 91-272, approved June 2, 1970.

William C. Frey, of Arizona, to be U.S. District Judge, District of Arizona, vice a new position created by Public Law 91-272, approved June 2, 1970.

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Mississippi (Mr. EASTLAND), chairman; the Senator from Nebraska (Mr. HRUSKA) and the Senator from Arkansas (Mr. McCLELLAN).

#### ADDITIONAL STATEMENTS OF SENATORS

##### THE MOST POWERFUL SENATOR

Mr. SCHWEIKER. Mr. President, Pennsylvania, the Senate, and the Nation are most fortunate to have my colleague, the distinguished senior Senator from Pennsylvania (Mr. SCOTT), with us in this body. The Philadelphia Inquirer recently noted this.

I ask unanimous consent that its perceptive editorial be printed in the RECORD.

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

##### THE MOST POWERFUL SENATOR

Hugh Scott's campaign slogan—"the most powerful senator Pennsylvania ever had"—is even more appropriate after his reelection to a third term by more than 200,000 votes over Democratic challenger William Sesler.

The venerable Republican statesman has added another "first" to his impressive list of political credits. He is the first senator in Pennsylvania's history to be elected to three consecutive terms by popular vote.

He already held the distinction of being the first Pennsylvanian of any political affiliation to serve as party leader in the Senate.

Tuesday's victory was another of those against-the-tide performances that have become a Scott hallmark.

Thus Senator Scott has demonstrated once again that his appeal to the electorate transcends party considerations. The people vote for the man, not the party, and they do so with confidence in the personal integrity and the political independence which are characteristic of Scott's public service. He is a party leader, not a party follower.

Hugh Scott's strength and durability are rooted in principles of political moderation that have earned him the support and respect of Democrats and independents as well as Republicans. That is no easy feat for a man who has served as Republican National Chairman as well as Senate Republican leader.

As "the most powerful senator Pennsylvania ever had" looks forward to a third term, he just might be on the way to becoming the best senator this state ever had.

#### SENATOR MANSFIELD'S STATEMENT TO THE DEMOCRATIC CONFERENCE OF THE SENATE

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD the statement I made to the Democratic Conference of the Senate yesterday.

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

#### STATEMENT OF SENATOR MIKE MANSFIELD (D., MONTANA) TO THE DEMOCRATIC CONFERENCE OF THE UNITED STATES SENATE

The election is behind us. If the results do nothing else, at least, they provide for a continuance of a watchdog Senate. I would anticipate that this Conference will go on exercising leadership in that function, a role which has fallen to us under a Republican Administration.

At the outset, I want to thank deeply on my own behalf and on behalf of all other Democrats who were re-elected, the Democratic Senatorial Campaign Committee and its staff for their efforts. In particular, I ask the Conference to join with me in recognition of the extraordinary determination and dedication of the Chairman of that Committee. All of us owe a great deal to that Chairman, a great Senator and a great Democrat, Dan Inouye.

Needless to say, I share with the Conference a personal sense of distress with regard to those Democratic members who were not reelected. Changes of that kind are inevitable in politics. We all know it but it does not detract from our personal sense of loss.

For the present, however, the election has brought about only one alteration in the Senate. The Democratic Majority is increased. We have one new Member. He comes to the Senate out of a long tradition of excellence. He bears a name which has been synonymous with political integrity for a century. Most important, he comes to us in his own right, with deep convictions regarding freedom and the American political system. On every score, the Senator-elect from Illinois, Adlai Stevenson III is most welcome.

To those Democratic candidates who are returning to the Senate, I would also like to note my personal pleasure with the results of the recent election. Congratulations are in order not only because you were elected but because you were elected in very difficult circumstances. In instances, you were subjected to a personal vilification of a most offensive nature. You defeated opponents in the face of what can best be described as a massive essay in political slicksterism. Your re-election is above all else a tribute to your constituents, to the good sense of the people of the United States.

May I add in all candor, moreover, that you beat the heavy money. The fiscal blitz which confronted you as Democratic candidates this year was without precedent. If there is any area of American politics which was revealed by the election to cry out for adjustment, it is that of financing elections. We ought not to delay in establishing a measure of reason and equity in candidate-spending. We must act not only to reduce the volume of spending but to broaden the popular base for funding federal political campaigns. Unless we do so, there is grave risk that the politics of federal elections will become the playthings of wealth. The government of the United States will be subject to ever greater manipulation by the levers of financial privilege.

What is involved, here, is neither a problem for one party or the other. This year the Republican coffers were filled and the Democratic cupboard was bare. Who knows what the situation will be two years hence. Or two years thereafter. The problem is not political; it is national. It is a problem in the practice of representative government. The public stake in a rational solution to that problem is both high and urgent.

With the Administration's cooperation, I would expect appropriate committees of the Senate to examine this question and report comprehensive recommendations to the Senate without delay.

Beyond these brief observations, I will not comment on what transpired on November third last. With regard to the outcome in the Senate, the questions of who won and who lost have already been self-answered to

the satisfaction of "spokesmen" of the Administration. What could possibly be added to the political wisdom which flows from these fountain-heads?

In any event, there are more pressing matters to engage the attention of the Conference. We are about to resume the second session of the 91st Congress. That is what assembles us here in these closing weeks of 1970. In this brief convening, the Senate has a very specific carry-over responsibility. It is to dispose of the Administration's most urgent legislative requests.

To that end, it would be my intention to consult, first, with the distinguished Minority Leader (Mr. Scott) and with the President and the House leadership in order to draw up a rock-bottom list of legislative items which should not wait for disposition until the next Congress. I trust that the list will be mercifully short but it will include, of course, the remaining appropriations bills. It most certainly ought not to include any new items or items which are not well along in the legislative mill. Finally, the list must be kept clear of legislative gimmickry.

The leadership will seek the cooperation of all Members in completing the work of the Senate as quickly as possible. It is my intention to resume the daily-double sessions, that procedural innovation which proved so helpful in expediting Senate business in the weeks before election; I would also ask the Conference to consider the question of Saturday meetings.

No dates for termination of the session can be given at this time. Indeed, the 91st may yet be known as the unending Congress. It is the will of the Members, not the Leadership that sets the date for adjournment. Insofar as the Leadership is concerned, however, the present convening is regarded solely as a windup. I cannot urge too strongly that the Administration and the Congress concur in putting over what can be put over to the next Congress.

Members might bear in mind that in these remaining weeks the Senate will also be setting the tone for the 92nd Congress. May I say, bluntly, in connection therewith that the election has opened wounds, most of them unnecessary. Some of you have felt directly the stings of unwarranted personal attacks. So, too, have some Members of the Senate Minority. Nevertheless, I ask your help in closing the wounds. The nation's welfare requires that they be closed. Senators, I know, will put that welfare above all else.

This election has also been made a vehicle for raising excessive and invalid anxieties about the federal government. In particular, an apparently calculated effort was made to undermine public confidence in the work of the Senate. I would hope and expect the Minority, no less than the Majority to reject categorically the blanket condemnations, the snide innuendos, the inferential alliterations which were so designed. Let us reject them, however, without reproducing the pattern of arrogant half-truths, quarter-truths and no truths which was so much the hallmark of the recent election campaign.

The fact is that the current Senate need not cringe from the record. We need make no lawyer's defense of our stewardship of this institution. Republicans and Democrats alike, we have no need to apologize for the Senate in the 91st Congress. Its record was already respectable before November 3. The record—established, may I say, by both parties—will be respectable when this Congress expires on January 3.

It is to be regretted that more time was not spent in Washington by those who went up and down and back and forth across the nation unwarrantedly criticizing the Senate. Had they been here, where their Constitutional responsibilities are lodged, they might have learned that the Senate has not dawdled during the past year. At the conclusion of the 91st Congress, we will have been in ses-

sion more hours than any other Senate in at least a decade. We will have taken more roll-call votes than any other Senate in the history of the nation. That statistic is at least indicative of the degree of conscientiousness with which Members have tried to reach decisions on controversial issues.

They might have learned, too, those who should have been in Washington that, instead of frustrating the President, the Senate joined with him in the effort to bring the Indochinese tragedy to a close. No apologies for that effort are in order from any Senator on either side of the aisle who may have been a part of it.

I say that notwithstanding the several weeks which were spent in prolonged debate on the Cambodian resolution—debate prolonged, may I say, not by those who supported the measure. The object of the resolution was to restrain the involvement in Indochina; the debate emphasized the importance which the Senate attaches to the uninterrupted withdrawal of American servicemen from the misbegotten adventure in Viet Nam.

As I understand it, that is no different from the attitude of the President. But it ought to be apparent at this late date that the wheels of the war do not grind to a halt on the basis of the good intentions of the President. We have had three Presidents with good intentions but the involvement continues. The hundreds of American casualties of the Cambodian enterprise recede in memory but the war goes on. Americans still die. Billions still disappear into the morass of Southeast Asia. Rather than apologize for the Cambodian resolution, then, the Senate has a responsibility to remain ever alert to possibilities for strengthening its intent.

Those who criticized the inaction of the Senate on crime and violence might have also learned, had they been here where their responsibilities are, that the Senate addressed a very close attention to these problems. The Senate acted on all of the President's requests for legislation on crime-suppression. Moreover, on its own, the Senate initiated additional measures.

It is true that the Senate proceeded in the belief that the nation's problems are a little too complex to be ascribed to the views of one pediatrician on the spanking of children. Rather the Senate acted on the premise that crime, drugs, violence, pornography, archaic courts and a dilapidated penal system are facets of a many-sided problem. Not one but all sides demand the attention of the Nation.

There is no need to apologize for the Senate's disinclination to act on a simplistic view of our times. I would hope that the Senate will continue to try to see the nation's difficulties in full perspective and to act on the basis of that perspective. Part of that perspective, may I say, is the state of the nation's economy. The inflation has still to be ended. Unemployment continues to rise. Industry and agriculture are in the doldrums. We are confronted with a budgetary deficit of upwards of \$10 billion this year even though the Congress will have probably cut the overall total of the President's requests for expenditures when work is completed on the Appropriations bills. What confronts us is a deficit born out of a fall in the Administration's anticipation of federal income. When business and employment go downhill, so, too, does the government's tax receipts. What is coming, in short, is not a spending deficit but a recession deficit.

The Senate has not let these issues—inflation, recession and unemployment—disappear under the rug. Insofar as the Leadership is concerned, these issues will not be dropped from the agenda. They will remain in the Senate's purview until the economy begins to move forward again and until all those who seek work, have it.

To those who recently urged a party

changeover in the Senate, in order better to sustain the President, I want to say that the Conference has asked me to serve continuously as Majority Leader for a decade, a tenure longer than any other. In all that time, however, I have never seen the Senate more national and less partisan in outlook than during the 91st Congress.

The Joint Leadership of the Senate has worked well together on behalf of the nation. President Nixon has had the support of Senate Democrats no less than Senate Republicans when it could be given to him in good conscience. When it could not, differences have been expressed with reason and with restraint. Whatever our personal reservations, the good of the nation demands that we continue to function in that fashion.

The Senate has done well. It can do better. Bear in mind, however, our limitations as well as our capabilities. The Senate is one body in a Congress of two, in a federal government of divided powers and a permanent bureaucracy, in a nation of many jurisdictions—state, urban and rural. It is going to take a dedicated effort on the part of all to maintain an equitable present and a livable future for the people of this nation.

It is not beyond our doing. It can be achieved, if we will listen to the viewpoints of all, if we will act towards one another—regardless of our differences—with a degree of decency, understanding and restraint.

Let the election recede into history. What matters is not what party may have lost but what the nation may have won. And let the politics of 1972 look to 1972. The Senate has its own responsibilities for the rest of 1970, 1971, and 1972. We need to summon ourselves to a new dedication. We must do what we can to remove the wedges of division which have been driven deeper and deeper into the nation.

#### MAINE NEEDS MORE SUMMER RESIDENTS LIKE GARDINER MEANS

Mr. MUSKIE. Mr. President, one of Maine's most distinguished summer residents is Dr. Gardiner C. Means. Noted economist, author, presidential adviser, and enthusiastic outdoorsman, Dr. Means has not been content merely to enjoy the summer beauty of our State. By vigorously maintaining that Maine can and must find a suitable balance between economic development and environmental protection, Dr. Means has articulated what all of us who love Maine know and feel. And as a valued member of the Maine State Planning Council, he is contributing his energies and talents toward helping Maine to promote policies for sound future growth.

Mr. President, the Maine Sunday Telegram of October 25 contains an article entitled "Maine Needs More Summer Residents Like Gardiner Means," written by Marc A. Nault. I am proud to have Gardiner Means as a part-time constituent.

I ask unanimous consent that the article be reprinted in the RECORD.

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

#### MAINE NEEDS MORE SUMMER RESIDENTS LIKE GARDINER MEANS

(By Marc A. Nault)

A majority of Maine's summer residents have by now long departed their coastal and lakeside retreats for the cities and suburbs with little thought about the state save for the memory of its stunning natural beauty and a particularly pleasant summer too soon ended.

Preoccupied with their own good-paying jobs and professions that will permit them to return next summer, few are aware of the struggle many Maine people have in getting through the cold, snow and expense of winter; or the biennial dilemma the legislature faces in pruning heavy budget requests to within tax revenues limited by a fragile economy; or the frowns that mark the countenance of voters at annual town meetings over the high cost of local government and education services. No, the summer people experience the glory of summer but miss out on the economic agony of a Maine winter.

One unusual exception is a remarkable man of 74 whose interest in and concern for Maine's year round residents doesn't end when he closes his rustic cedar cottage on Yellowhead Island in Machias Bay within view of the controversial supertanker port proposed at Machiasport. He is Dr. Gardiner C. Means, internationally respected economist and avowed conservationist, who summers in Washington County and maintains a permanent home on a small farm in Vienna, Va., some 20 miles from Washington, D.C.

Dr. Means' name has been associated with the Machiasport oil refinery proposals for his advocacy of thorough pollution control safeguards and the concept of locating any refinery inland, an idea credited as setting a precedent for the landmark site selection law passed by the 104th Legislature.

But few, if any Maine residents know anything else about a man whose counsel is sought in and out of government here and abroad, nor of the influence he has had on recent state economic and environmental planning policies as a member of the Maine State Planning Council.

Not given to flamboyance, unless you could call the bright red felt L. L. Bean hunting hat he wears daily while sunbathing in Maine flamboyant, Dr. Means is a studious and probing man with none of the stuffiness one might expect of his Exeter and Harvard (B.S. in physical sciences, Masters and Ph.D. in economics) background.

His short physical stature and healthy good looks belie an agility that would shame many only half his age. But one of his favorite summer pastimes in recent years was canoeing with his wife along the Maine coast for days at a time, camping out on isolated landfalls with only the bare essentials of equipment and food stores.

It was the canoeing trips that led gradually to Washington County waters from Bath and Boothbay.

Yellowhead, a ten acre island at the head of Machias Bay, was one of the places they used to canoe to. Then owned by friends from the Washington, D.C. area, the Means purchased it in 1963.

This strong personal tie to coastal Washington County spurred the Means, who are both professional economists (Mrs. Means a former Vassar professor, uses her maiden name, Dr. Caroline Farar Ware in her professional work) to learn more about the area. His interest and background caused Dr. Means to be invited by Governor Kenneth Curtis to join the State Planning Council.

When the refinery proposals were unleashed in the summer of 1968, Dr. Means undertook an intensive study of the economic and environmental impact of the project and was named by the governor to serve as chairman of the air and water pollution subcommittee for Machiasport planning.

"No one asked harder questions than did Gardiner Means," wrote conservationist Frank Graham in the July 1970 issue of *Aubudon Magazine*, in referring to the role Dr. Means played in the Machiasport discussions.

Throughout the debate Dr. Means has maintained the position that a "balance can be struck between economic development and environmental protection."

Washington County, Graham suggested, is

a testing ground for the proposition that people do not count for less in the conservationists' scheme of things than do birds and trees.

His belief in this conviction, that people do count, led Dr. Means to establish the Bucks Harbor Skiff Company in 1965—three years before the Machiasport proposals highlighted the chronic plight of Washington County residents. The aim was to provide winter work for lobstermen.

Dr. Means personally designed a lightweight fiberglass skiff and put its production under the management of Bucks Harbor lobsterman Floyd Colbeth.

Some 200 skiffs have been built and sold, and although the company has suffered from a lack of marketing know-how and has been slowed by technical problems, hopes remain that full production can be resumed and a more intensified marketing campaign undertaken.

Another project Dr. Means intends to examine more closely this winter is how to grow commercial crops of the highland cranberries that are native to Washington County. He also is interested in how lobster farming can be conducted, particularly in raising the baby lobster and fry through the critical period when it is prey to natural predators.

Dr. Means makes no predictions on the outcome of his studies but gives every evidence of being unwilling to merely enjoy his Machias Bay surroundings without trying to assist in overcoming the economic deficiencies of the area.

This is the kind of challenge he has faced and grappled with throughout his professional career, first in work he did with the Near East Relief organization after World War One. Assigned to Turkey, he says this is where he gained his first experience in managing a conglomerate—a series of small businesses such as carpentry, blacksmithy, shoe making and weaving.

The weaving experience stimulated him later to take a two year course at Lowell Textile School and eventually to establish a successful specialty blanket weaving company.

Throughout this period, Dr. Means was confronted by the question, "Why don't things work right?" in the economy. To satisfy his concern he returned to Harvard to study economics and it was there that he met the future Mrs. Means, who also was doing post graduate work at Radcliffe.

Through his wife he met Dr. Adolph Berle, a lawyer on the faculty of Columbia University who invited Means to assist him in a study focusing on the separation of ownership and management of corporate enterprise.

However, Dr. Means came to realize that they were studying the separation of ownership and control of corporations, a significant development in the American economy. This work led Berle and Means to co-author a major economic treatise, "The Modern Corporation and Private Property," which concluded that a corporate revolution had been going on in which more and more economic activity was coming under the control of the nation's 200 largest corporations.

Published in 1932 at the bottom of the depression, the book spelled out the profound implications this concentration of control had on legal and economic theory, practice and government policy.

The book became widely accepted as a classic in its field and served a significant role in the development of the Securities and Exchange Act passed by Congress to protect investors from abuses by corporate management. It also became part of the Roosevelt New Deal Doctrine.

What followed for Dr. Means was a series of high-level policy-making assignments in the Roosevelt Administration. Dr. Means notes with a modest degree of pride that

he was one of the earliest to become concerned about consumer protection, now a major goal in the federal administration. He authored a study of "The Consumer and the New Deal" while a member of the Consumer Advisory Board.

In addition to the recognition earned by the Berle-Means classic, Dr. Means went on to develop the concept of administered prices for which he became known throughout the economics profession. It established an alternative theory to that advanced by the Keynesians to explain persistent unemployment in a free enterprise system.

In addition to his numerous assignments in government, Dr. Means has authored several books on economics including one which he coauthored with his wife, "The Modern Economy in Action." He says he has three additional books in mind he intends to write.

Perhaps the highest recognition accorded this son of a Congregational minister who was born in Windham, Conn., and who lived for a brief time during his youth in Madison, Maine, came when the Harvard chapter of Phi Beta Kappa accepted him to membership in 1968—some 50 years after receiving his doctorate—for outstanding professional achievement and contributions to economic learning and practice during his career.

But none of this mantle of honors shows when Dr. Means is in the Machiasport area. Attired in his rumpled sun tan trousers, worn deck shoes, open jacket and ubiquitous red felt hat, he is readily accepted and at home with the lobstermen and clam diggers as they talk together about the economic problems of Down East Maine.

A measure of his acceptance came this summer when many Machiasport natives became concerned about his failure to show up at the usual time in early June for his summer stay on Yellowhead.

Actually, he had an appointment before a Congressional committee in Washington late in July. But he stayed a little longer in September to accept an invitation by Sen. Edmund S. Muskie to testify in Machias at the Machiasport oil pollution hearings.

Even in his testimony, Dr. Means offered little that would inform the audience of his prestigious credentials. He introduced his remarks with the following modest, straightforward note:

"My name is Gardiner C. Means. I am an economist and summer resident of this area. My wife and I own Yellowhead Island which is within two and one-half miles of the proposed port. Also, I am actively concerned with the development of the economy of the Machias area. I am thus involved on both sides of the pollution problem. Will pollution be so bad that I should oppose the project in order to protect our island or can it be kept so low as to justify supporting the project for its advantages in building up the region."

It is the same dilemma other Washington County residents face and Dr. Means could well have been speaking for them trying to seek answers, exercising caution, suggesting safeguards, hoping that somehow it might be possible to help the local economy without damaging the area's beauty.

Maine needs more season residents like economist and conservationist Gardiner C. Means and his wife.

#### ONE MILLION OLDER WORKERS

Mr. WILLIAMS of New Jersey. Mr. President, the recent grim unemployment statistics clearly show that our Nation is confronted with a crisis of mounting proportions.

Today, 4.7 million workers are without jobs. Unemployment is at its highest level in nearly 7 years.

From January 1969 to October 1970, the jobless rate has jumped sharply from 3.4 to 5.6 percent—adding nearly 2 million persons to the unemployment rolls.

Especially hard hit have been middle-aged and older workers. There are now 1 million unemployed persons aged 45 and older.

Many are discovering that they are losing more than just their jobs. They are also losing their private pensions, which they had counted on to provide security during retirement.

Once unemployed, mature workers run the greatest risk of long-term joblessness.

While the unemployment rate is higher for the Nation's youth, persons 45 and over constitute a disproportionately high percentage of the very long-term unemployed—27 weeks or longer.

Yet, these tragic unemployment figures do not even begin to tell the whole story because they do not include the labor force dropouts—those who have given up the active search for work.

Today there are more than 8 million men 45 and older who have withdrawn from the work force, too often unwillingly.

As depressing as these statistics are, they cannot accurately reflect the impact on a jobless individual and his family:

The frustration of a dismissed worker who knows that he will never collect a penny from his pension, although he worked most of his life to provide a little nestegg for retirement;

The despair of an unemployed father who will not be able to afford Christmas gifts for his children and wife; and

The loss of dignity for former workers and executives who must report regularly to the employment security office to collect unemployment insurance.

Two articles published recently in the Wall Street Journal and Look magazine describe these tragic experiences in very human terms.

Moreover, this information provides additional compelling arguments for prompt and favorable action on my middle-aged and older workers employment amendment when the 1970 manpower legislation is considered in conference committee. This measure would provide badly needed training, counseling, recruitment, and placement services for the unique and growing employment problems of mature workers. And it can be a very far-reaching weapon for combatting widespread unemployment for persons 45 and older.

Mr. President, I commend these two articles 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 Wall Street Journal, Nov. 4, 1970]  
INCREASING LAYOFFS ROB MANY OF THEIR PENSIONS AS WELL AS THEIR JOBS

(By Jim Hyatt)

AVON LAKE, OHIO.—At first glance 33-year-old Edward Herrera didn't fare too badly last April when he was laid off here by Fruehauf

Corp. He eventually found a job paying \$50 a week more at a nearby Ford Motor Co. plant.

Despite the higher pay, however, Mr. Herrera is still bitter about losing his job. "I put in 11 years for nothing," he says. Because he was laid off well before age 40, when he would have become eligible for an eventual pension, Mr. Herrera took nothing with him when he left Fruehauf but his final paycheck.

As layoffs reach the highest levels in six years, and as corporations tighten their belts by closing plants, many workers like Mr. Herrera are learning that they're losing more than just their current jobs. Years of potential eligibility toward pensions are also evaporating. As far as earning a pension is concerned, many workers are, in fact, having to start their working careers over.

Private pension plans hold well over \$100 billion in assets. About 17,000 such plans covering about 21 million workers are on file with the Labor Department, and several million workers are thought to be in plans not reported to the department. Pension plan coverage has become increasingly generous over the years—yet Congressional committees and others looking into pensions are discovering that because of high industry turnover even in good times, stringent eligibility requirements and today's widespread layoffs, many workers covered by such plans will never be eligible to collect a penny.

#### HIGH CASUALTY RATE

Just how many workers lose out is a hotly debated question and no exact figures are available. "My very rough estimate is that it is quite possible that over one-third of all workers in pension plans will never get anything from them," says Michael S. Gordon, special minority counsel for pensions for a Senate subcommittee. "In some industries the ratio will be much higher."

Union officials estimate that Fruehauf laid off more than 1,000 workers in the final year of manufacturing at the plant here and say that at least 350 of them were let go short of pension eligibility requirements—age 40 and 10 years on the job.

Companies often try to save pension rights by liberal recall provisions or by offering workers jobs at other plants. But those choices often create a variety of problems. A Dallas man in his 30s was laid off recently by Texas Instruments Inc., where pension eligibility begins at 50. But he says it has been difficult finding another job because prospective employers fear he'll go back to TI if a recall occurs.

Other workers say alternate jobs are seldom offered on the best of terms. John Voss, a 38-year-old engineering aide, is two years short of pension eligibility at a General Dynamics plant, "but I'd have to take a lot less pay." He also complains that "there's no telling when the other plant will lay off, too."

#### SMALL COMFORT

Industry-wide "portable" pension plans often keep pension rights intact for workers who move to similar jobs, but in the current economy such plans are little comfort to many so covered. Evelyn W., a 40-year-old Cleveland woman, lost a job last January as a packer at a sausage plant. Because of the business slowdown, "a lot of the other plants wouldn't even take an application," she says. She is 10 years short of being old enough to establish a pension right and figures she has lost a pension worth \$70 a month at retirement. Currently she's taking accounting and secretarial courses at a junior college.

Layoffs hit especially hard at older workers who are dismissed short of retirement age. Jesse Stockton, 53, laid off after 23 years at Fruehauf, figures he'll never be eligible for another pension. At 65, he'll draw about \$50 a month but working to 65 could have added another \$36 a month to his check, union officials say.

Plant closings often take an even harsher toll on pensions already earned. An unexpected and sudden closing can leave a pension fund that doesn't even cover the built-up obligations already due workers. A classic instance: The 1963 closing of Studebaker Corp.'s South Bend, Ind., operations, in which several thousand workers with earned pension rights received only a small portion of the money they had expected.

Today's wave of plant closings is creating thousands of similar cases. Metals Forming Co., a unit of Gulf & Western Industries, is in the process of closing a plant in Ecorse, Mich., that employs about 175 workers. United Auto Workers officials say that because of the unexpected shutdown, only the most senior employees will get a pension.

#### WASHED OUT

In a letter to Congress last July, Leonard Woodcock, UAW president, asserted that "among the victims of that closing are a man and a woman, both 52 years old, each with 37 years of service. Their entire 37 years with the company were washed out as far as pension benefits are concerned."

A Gulf & Western spokesman says only that the company "intends to honor all provisions of its contract" and adds that "employees will receive the benefits to which they are entitled." That's true enough, the union says. The problem is that what they're "entitled to" is precious little.

The United Steelworkers of America says it recently talked one company into forking over an extra \$35 million to bring a subsidiary's pension fund into balance after the subsidiary folded. Such instances are not isolated. Melvin Glasser, director of the UAW's social security department, says in one recent week alone the union had "four requests to terminate pension plans from employers going out of business." Some benefits will almost certainly be lost, he adds.

Some workers find, unhappily, that their employer's pension plans are so restricted that virtually no benefits are available. Olga Jensen worked about 18 years for a San Francisco marine transportation company that suddenly was liquidated a couple of years ago. She was 47 at the time and expected that she would receive some settlement from a pension fund for her years of service.

To her surprise, Miss Jensen found that the fund only paid a pension to employees working to the age of 65 and that when the plan terminated her expected Social Security benefits were deducted before any pension was calculated. As a result, she got nothing. "It was more than shabby," she says. She worked for a time at another company but decided the risks of losing another pension were too great. Taking a pay cut, she moved to the U.S. Customs Office, where the pension provisions were more liberal.

Lower-level workers aren't the only employees encountering pension problems. "The loss of pension credits is spreading into new sectors," says Merton C. Bernstein, an Ohio State University law professor. "Manufacturers are laying off white-collar managerial people."

A 49-year-old middle-management official at Texas Instruments is less than a year away from meeting the age 50 pension eligibility requirement, but he figures his chances are "less than 50-50" of making it in the face of major layoffs by the Dallas company. "It's like being in an artillery barrage when they have you zeroed in," he says.

#### WIPED OUT

One 58-year-old bank executive in the Midwest was recently fired just 18 months short of having 10 years on the job, a requirement for a pension. Bitter about the treatment, he calls such requirements "archaic and obsolete." He adds: "A place like this constantly reminds you that maybe you don't get much pay but a big percentage of your overall compensation is in various

benefits, including the pension plan. When they forfeit the pension they fatten their own purse."

A 44-year-old Cleveland banker, fired after seven and a half years, frets that "I'm halfway through my working career and I'm starting over again on another potential pension. If you change jobs every 10 years or so, you're not a job skipper in any sense of the word. Yet two or three moves and you can effectively end up without anything at all."

Such problems are especially widespread among professional and technical people out of work due to defense spending cutbacks. "We're getting some pretty pathetic letters," says one California job retraining specialist. "Because of the ups and downs of our business, they suddenly find themselves near retirement, laid off, with no pensions." One study found the average engineer spends less than six years at any single job, far short of most pension eligibility requirements.

In boom times, of course, high-salaried engineers didn't worry about pensions. "I've been buying a little real estate and thought I wouldn't worry about pensions very much," says John R. Goodwin, 49, an aeronautical engineer who has had 11 employers in his career but has never qualified for a private pension. He lost his last job, which paid \$17,500 a year, just three months short of qualifying for a plan.

With hundreds of his colleagues out of work, however, he finds his real estate holdings, including his own \$45,000 home in a Los Angeles suburb impossible to sell. He has taken some temporary \$3-an-hour drafting jobs and hopes to do some consulting work, but he figures he has lost any chance of ever earning a pension. "As far as I'm personally concerned," he says, "I think the game is up."

#### TAKING REMEDIAL ACTION

Alarmed at such developments, unions are increasingly taking tough stances in negotiations, seeking to improve pensions even at the sacrifice of current wages. "Unions are saying it is senseless to stick money in the pay envelope just to let Uncle Sam get it," says Robert F. Rainey, supervisor of pensions and trusts for H. K. Porter Co., Pittsburgh, an industrial equipment concern. He figures his company's pension costs have almost doubled in two years.

The United Rubber Workers Union this year boosted pension benefits to \$7.75 a month per year of service, almost 50% higher than the previous level. In October Owens-Illinois Inc., Toledo, signed a new three-year contract with the Glass Bottle Blowers Association that will boost pension benefits in 1973 to \$7 a month from \$4 a month currently for each year of service. The union represents most of the company's 20,000 employees in 18 glass container plants.

But fatter pensions alone don't protect workers from layoffs, so unions are also seeking more liberal eligibility requirements. A major issue in the current strike against General Motors is a UAW demand for a full pension of \$500 a month after 30 years. GM has offered such terms for workers at age 58. "Thirty and out" could double pension costs," says one corporate official.

Pension disillusionment has led to considerable pressure in Congress for tighter Federal controls and looser eligibility requirements. One measure sponsored by Sen. Jacob Javits of New York would set up a reinsurance fund to pay benefits that employers couldn't cover in the event they are forced to go out of business. It would also create an independent pension commission, similar to the Securities and Exchange Commission, to handle pension regulatory matters.

Moreover, a number of unions and employees are seeking fully "portable" pensions. Such a system, already used by some unions with industry-wide contracts, permits work-

ers to simply change jobs and carry their accrued pension benefits with them. White-collar workers caught in the economic downturn are particularly interested in such a plan. The American Chemical Society is exploring portability for its members, and an official of the American Institute of Aeronautics and Astronautics says: "I know of four companies that six months ago would have shot you if you stood on their property and uttered the words 'portable pensions.' These companies are now investigating it. The climate is changing."

#### THE SCARY WORLD OF THE SLIGHTLY AGING EXECUTIVE: FIRED AT 49

Keith Bose promised his son a bicycle for his ninth birthday. But before Keith Jr.'s birthday arrived, Bose had been laid off from his \$13,000-a-year defense job and there was no money for a bike. Bose's wife overheard Keith Jr. explaining to a neighbor boy, "We had to pay the electricity."

Bose grew up during the depression. When he was the same age as Keith Jr. is now, his father lost his retail meat business and had to go to work as a butcher. Bose swore nothing like that would ever happen to him. He went into electronics where, in this age of science and space, he thought there would always be a job for a man who wanted to work.

As a captain in the Army during World War II, he was a communications and radar specialist. For four years, he taught electronics in Japan. Back home, he went into aviation electronics and piloted his own plane. In recent years, he's been in defense as a sale executive, then in research, writing technical manuals for the men on the production line.

Last May, Bose was let out by the Tele-Signal Corporation on Long Island. Now, his unemployment insurance, which goes for 26 weeks, is about to expire. He told the State Employment Service he'd "do anything." But the only job they could suggest was selling paint on commission. When he went to apply, the company had folded.

He had no money saved. His mortgage payment on the house and a small bank loan add up to \$268 a month. Although his wife is working part time as a waitress at Howard Johnson's, what she brings home hardly pays for the groceries for a family of six. (His widowed mother lives with them.) He's at his wit's end.

The Boses have never lived high off the hog. They have a modest home in Kings Park near his work. Betty Bose has the usual freezer and washing machine. They have two cars and two TV sets. But, unlike some of his colleagues, he'd paid for everything when he was fired.

Even so, things are beginning to close in on him. The gas gauge on the Chevrolet doesn't work, and he's worried about the tires. One TV set is broken. The first night a LOOK writer-photographer team visited them, the freezer broke down. The whole family stops to listen when the washing machine makes a peculiar noise.

They can't afford to pay service fees. And Keith Bose, despite his vast technical knowledge, is as much at sea as an ordinary layman when it comes to repairing a freezer or TV.

During the summer, Betty Bose worked full time, five nights a week, including the busy weekends, at the restaurant. She left the house at four, didn't get back until after midnight, so tired she'd fall asleep the minute her head hit the pillow, while her husband tossed beside her. On the noon shift, she makes less money, but she's home when the children get back from school. She says, soberly, that maybe she should look for a full-time job. But her only office experience was a brief time as a secretary before she and Keith were married. "Besides," she adds, "it's Keith who needs the job, not me."

The hell of wanting to work and not find-

ing anyone who wants you wears a man down. Bose knows he's not at fault; he's as capable as ever. Yet it's rough to take. And all over the country, similar things are happening to men his age, men in five- and six-figure salary brackets. What makes it doubly hard is that men like Bose aren't used to going around, hat in hand, to ask for jobs. Always before, they did the hiring and firing. In days past, if a highly skilled specialist or engineer found himself unexpectedly let out, he was snapped up immediately. Now, no one seems to want them, and they even lack the supplemental benefits provided blue-collar workers by their unions. After 26 weeks on unemployment insurance, it's either welfare or starve.

In order to keep up his own morale, to give himself and his friends something to do besides sit at home waiting for the telephone to ring, Bose has formed a group of local out-of-work defense engineers and middle-management people. They call the organization "SELF HELP." They meet and talk about where jobs might be, discuss the techniques of résumés, the dangers of putting money into businesses where they've had no experience. But mostly, like Alcoholics Anonymous members, they console each other, air the gripes their wives are sick of hearing.

At one of the smaller meetings, I heard a vigorous 50-year-old engineer who used to commute to Washington, D.C., on high-level liaison for Lockheed say, "By God, I'll do anything, even drive a truck."

The problem is, these men can't get just anything. In some fields, they are blocked by unions. In others, younger men, with stronger backs, are preferred. Joseph Curry, the sympathetic head of the New York State Employment Service in Hicksville, L.I., wishes he could help. But employers are often reluctant to hire an "overqualified" man, especially one over forty. They fear he won't last. And, from the man's point of view, taking just any job keeps him out of circulation and puts him at a lower level with his next employer.

Curry adds, "The problem is of course cyclical. These people will eventually land somewhere. All it takes is time and effort."

It's not easy to take the long-range point of view when you are worrying how to pay the mortgage, when you've already given up your evening beer and figure pipe tobacco may come next. What really galls is the prospect of accepting welfare—too little to help much, and humiliating.

Recent figures from the Labor Department list 1.2 million white-collar workers out of jobs. The tragedy behind this is that some of these men, who're pushing fifty or near sixty, will never work again. They'll be lost to themselves and the nation.

The Labor Department can't help them. The creaking antiquated employment agency set up by the Government, financed by taxpayers like Bose, is so out of date it can offer little except sympathy—without tea—to the unemployed. The lists of jobs they laboriously compile are obsolete by the time they reach the hands of those who want work—the jobs either have been filled or the companies have folded, victims themselves of the recession.

One of these days—three or four years in some areas, eight to ten for the entire nation—a computer jobmatching system will be in operation, run by the Government. All a man will have to do is go to his local office, list his skills and the salary he needs, and he'll be given—right away—an up-to-date list of several jobs in his area and in other parts of the country, jobs for which he is suited. Until that day, our unemployed will have to struggle along by themselves. Or be taken for fees by those private agencies that feed on men in misery—and offer nothing more than fancy handholding.

## A TRAGEDY COMPOUNDED

Mr. HANSEN. Mr. President, we are witness once again to one of those tragedies of the Vietnam war. The wife of a captured Air Force pilot has been informed through what can only be called a blackmail outfit that her husband has died in North Vietnam.

But there is no confirmation.

Mrs. Evelyn Grubb, wife of Air Force Maj. Wilmer N. Grubb, has been told that her husband is dead. He was shot down over North Vietnam in January 1966, nearly 5 years ago. She has never known exactly what his physical condition has been. For a long time she did not even know whether he was alive or dead, whether he had been captured or not.

Now, according to the Air Force, a Mrs. Cora Weiss, who has just returned from North Vietnam has passed along the information that Major Grubb has died in prison.

Understandably, Mrs. Grubb has not been able to accept this information at face value. She has declared she will not accept it until she is officially notified through regular channels according to the articles of the Geneva Convention on Prisoners of War.

It is tragic enough for the wife of a soldier to learn that her husband is dead. But to learn of it in this manner—with this degree of uncertainty—compounds the personal tragedy into a national sorrow.

We cannot rest, we must not rest, until the Communist leaders of North Vietnam are forced by world opinion to abide by the Geneva accords to which they are a signatory.

## THE SOVIET-GERMAN NONAGGRESSION PACT

Mr. ALLOTT. Mr. President, on August 28, 1970, in a statement on the floor of the Senate, I raised a number of questions concerning the Soviet-German Nonaggression Treaty which was signed on August 12 of this year, but which has yet to be ratified by the German Bundestag—parliament.

That speech dealt primarily with the economic aspects of the treaty and its importance to the United States. As I pointed out at that time, the Soviet Union needs the West German industrial know-how and equipment to replace that which has been diverted into Soviet military production. Moreover, in order to ease their current economic difficulties, the Soviets badly need West German credits.

Much has been said about the treaty since August 28. Yet, there has been absolutely no refutation of my contention that the economic benefits written into a paragraph known as "extension of economic cooperation" are, in part, responsible for the sudden willingness of the Soviets to negotiate.

Interestingly enough, as I detailed before, the West—in particular the United States—has little if anything to gain from such a treaty, while the benefits for the Soviet Union appear to be endless.

In addition to the economic implications, the aspect of the treaty of most

concern to the United States revolves around the Berlin problem. It is that matter which I wish to speak of today.

Since 1945, West Berlin, due to its location in the heart of Soviet-occupied territory—known as the "independent" state of East Germany, or officially the German Democratic Republic—has been a symbol of freedom in the sea of East European countries dominated by small Communist minorities, but supported by strong Soviet military power.

The status of West Berlin, which on one hand is under the administration of the Four Power Council, but on the other hand is economically and politically part of West Germany, has never been fully clarified.

In the meantime East Berlin has been entirely incorporated into East Germany, despite the Four Power agreement that both parts of the city would remain under the Four Power administrative status until the final settlement of the German question, a settlement which was to have been in the form of a peace treaty which has never become reality.

In view of the August 12 Soviet-West German agreement for a treaty to be ratified by the parliaments of both nations, the West Berlin problem immediately became a first-rate issue exceeding by far its symbolic status as a torch of freedom in an unjustly divided nation.

The settlement of the West Berlin issue became, de facto, a condition without which the ratification of the Soviet-West German treaty is practically impossible.

There are several aspects of the Berlin issue varying in significance which relate to the future of the city, and as a matter of fact, to the credibility of the East-West agreement in general.

Thus far the terms of "settlement" of the West Berlin problem have been unbelievably vague on the part of the Brandt government in West Germany. This kind of vagueness always benefits the Soviet cause, because the Soviets have been known to violate so-called iron-clad agreements. It is presumed that they will take liberties when arrangements are inspecific.

Throughout the 25-year history of West Berlin, the Soviets have been able to continually harass the citizens of the divided city by means of their economic, communications, and transportation links with West Germany.

Assurances of access to West Berlin by highway rail and air corridors must be more explicit and direct. The controls of the implementation of these agreements must be specific and practical. The Brandt government because it has failed to obtain such iron-clad assurances thus far has failed the people of West Berlin, the people of West Germany, and the people of the United States.

The population of West Berlin must have complete long-range and continuous economic security without a constant threat of its economic lifelines with West Germany being choked off.

Any agreement with the Soviets must make it clear that West Berlin is part of West Germany economically, culturally, and politically. The freedom of assembly of the people of West Berlin as well their freedom of cultural and political activity

and interchange with West Germany must be spelled out clearly and unequivocally. Such an agreement must not only be in the short range, it must be long term.

In failing thus far to obtain such concrete agreements, the Brandt government has placed into doubt the future and freedom of the people of West Berlin, and as a result, the people of West Germany. Indeed, as one of the Four Powers, the United States is closely tied to the future of West Berlin as a free and independent city. Our interest lies here, too.

The most important part of the West German issue is the political aspect of the question. The city of West Berlin is a part of the political entity of West Germany and elects members of the West German Bundestag.

In view of the forthcoming understanding with the Soviet Union and other East European countries, it must be clearly understood that West Berlin is not a third Germany, or even a second Germany, but rather one of the largest cities of West Germany integrated economically, culturally, and politically with the rest of the nation. West Berlin should be no different than Frankfurt or Hamburg. The special status of West Berlin must not be a barrier to its free political existence within West Germany. West Germany must have the right to speak for West Berlin in all of its dealings abroad with any other nation.

In the context of European security, the problem of West Berlin is not a minor issue. The Berlin situation has potential for becoming a source of constant irritation in East-West relations. It could turn into the kind of explosive situation all peace-loving nations, especially the United States, are earnestly seeking to avoid. Therefore, and especially in view of the Ostpolitik moves initiated by the Brandt government, the Berlin issue must be clarified more than ever before.

The viability of NATO, the common defense effort of the West in Europe, the sense of reasonable cooperation with the East—all of this may well be jeopardized if the Berlin issue is not satisfactorily settled.

European security is not an abstract idea. It cannot be assured without a considerable degree of sacrifice, foresight, and dedication to face the actual threats and pressures that exist.

In a common effort by the entire Western community of nations, we can surmount these threats and maintain intact our freedoms internationally and for each individual nation. We must be ready to carry the burden and to withstand pressures in whatever form they confront us.

Right now the Soviets are pressuring West Berlin. They are holding the non-aggression treaty over the head of the Brandt government in West Germany.

Let me repeat what I said in my August 28 speech in relation to another part of the question:

I assume the West German government will not pay this price to purchase the fragile good humor of the Soviet Union.

No treaty is worth the price of free Berlin. All concerned Americans will continue to watch with interest as this matter comes to a conclusion.

#### CWA SUPPORTS CAMPAIGN BROADCASTING REFORM BILL

Mr. HART. Mr. President, Joseph A. Beirne, president of the Communications Workers of America, has been working for improvements in political campaign broadcasting practices for a long time. He and the members of his union have sought legislation to provide an opportunity for debates between major party candidates for President and Vice President, and for a straightforward presentation of the issues.

The voters of the Nation would have had the benefit of these debates, and would be free from some of the massive onslaught of supercommercialism, if the President had not vetoed the campaign broadcast bill.

Mr. Beirne has written a letter which discusses the veto, and gives some cogent comments on the points the President made when he vetoed the bill.

Mr. President, I ask unanimous consent that Mr. Beirne's letter be printed in the RECORD.

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

#### COMMUNICATIONS WORKERS OF AMERICA,

Washington, D.C., November 16, 1970.

I am writing to ask you to give your best and most analytic judgment to the President's veto of the bill reforming campaign broadcasting (S. 3637). Such an analysis will show that the ramifications of this bill would extend much deeper into what we might call the sinews of the Nation than just its effect on political broadcasting. At this time in the country's history, the effect deep within the Nation should not be undersold. For that reason, and because of the beneficial provisions of the legislation so far as TV campaigning and debates between candidates are concerned, I think the kind of analysis I am asking you to make will show that the veto should not stand.

You are, of course, familiar with how the bill would facilitate Presidential debates, and how it would both limit and lower campaign broadcast costs.

What is being overlooked and undersold, however, is what it would do beyond the substantive improvements in political campaign broadcasting.

Permitting this bill to become law would show the American voter that the Nation's highest legislative body, the Congress, and the Nation's executive, the President, recognize that the voters deserve a better level of campaign presentation than they are getting.

It would be a statement to the American people which says, in effect, "we, your national legislators, recognize that you deserve more of a discussion of the issues and less hucksterish hoopla as we seek your vote."

I think the Congress recognized this when the initial legislation was introduced on a bipartisan basis, and the conference report was adopted 60 to 19 in the Senate and 247 to 112 in the House.

I would guess that the President himself saw this aspect of the bill, and that is why he went to such great lengths to give a point-by-point set of excuses for his veto. But when those excuses are looked at, it becomes obvious that they are contrived and cannot stand up under even the slightest scrutiny.

For instance, the President said the bill would be "difficult, in instances impossible, to enforce." That is not so. Before any campaign began, the limits on broadcasting spending would be known for each candidate, and with broadcasters' logs open to public inspection, any questions on spending by a candidate could be easily checked out. Dean Burch, Chairman of the Federal Communications Commission, testified at the House hearings that the enforcement could be efficient.

And no one except the candidate or an authorized agent could purchase air time, eliminating the device of broadcast time purchased on a candidate's behalf by organizations outside the campaign structure.

Contrary to what the President said, the bill does not discriminate between urban and rural candidates. In House races an urban candidate has an urban opponent and a rural candidate has a rural opponent.

State-wide candidates have state-wide opponents, so with each candidate facing his opponent before an identical audience, there is no discrimination.

The President also said that the bill would not limit overall campaign costs, and would favor incumbents over opponents, but the President's assessment is incorrect.

The fact is that TV is the cheapest and most effective way to reach the most people, and the alternate media really play a secondary role. Your knowledge will tell you that money which would have gone into TV spots is not going to go into bumper stickers or buttons or newspaper advertisements. Campaign costs will go down. And, so far as incumbents versus opponents are concerned, it means that each has an equal limit of broadcast time which can be purchased. Certainly, that is fair.

It does not "discriminate against the broadcast media" when they are required to sell office seekers time at the same rate as other customers. No real argument can be made for charging a higher price to office seekers than the local department store.

It does "plug only one hole in a sieve," but that is the biggest hole, and the one that badly needs plugging.

If the Administration adopted a policy that specified legislation would have to solve every aspect of every problem before it was signed, we know that nothing would be signed. The "plugs only one hole" excuse offered by the President is perhaps the weakest argument he made when he vetoed the bill.

In Ohio and in Michigan the Senate candidates of both major parties recognized the validity of limiting broadcast spending, and they agreed to a limit.

Many comments have been made on the influence of political partisanship in the veto, and I am sure you are aware of them. Of course, the party which has the Presidency has the better opportunity to raise a big campaign war chest. But control of the President changes. Equality of opportunity to broadcast its views should be the same for major parties.

And, the equal time provision of the Communications Act of 1934 should be amended to allow free time for debates between the candidates for President and the candidates for Vice President. This single element of the legislation would do more to counter the distrust and disregard voters have for office holders than hundreds of speeches and thousands of press releases calling on citizens to be politically active. Americans appreciate the honest, open political debate. They see the candidates side by side in a forum, relating to the issues.

It is true that one candidate may be less glib but a better official, and it is true that one candidate may be more theatrical but less able than the other. The people, however,

have a knack for recognizing ability and seeking it despite the theatrics and glibness. We should have the debates.

I hope that you will give this issue the intensive analysis that it deserves, and vote to override the veto. The Nation will be in your debt.

Sincerely yours,

JOSEPH A. BEIRNE,  
President.

#### DR. RICHARD E. HOOVER RECEIVES MIGEL MEDAL

Mr. MATHIAS. Mr. President, I wish to extend my congratulations to Dr. Richard E. Hoover, an ophthalmologist of Baltimore, Md., who was recently awarded the Migel Medal by the American Foundation for the Blind for his outstanding voluntary work toward the prevention of blindness and for such achievements as the development of the long cane and the technique for its use.

Dr. Hoover's career began shortly after World War II in working with blinded veterans. It was at this time that he developed the widely used long-cane travel technique. He received his M.D. from the Johns Hopkins University School of Medicine in 1950, later taking his internship and residency in ophthalmology at the Wilmer Institute of Johns Hopkins Hospital. Dr. Hoover maintains a private practice in Baltimore and through the years has contributed much of his talents and energies to the cause of blindness. He has been a consultant in typhloperipatology to Boston College and to Western Michigan University. He was a consultant on ophthalmology to the Veterans' Administration for 14 years from 1953 to 1967. He has provided his consultation to the Maryland School for the Blind since 1962. Dr. Hoover has served as chairman for low-vision aids for the National Society for the Prevention of Blindness for the past 10 years and was president of the Maryland Society for the Prevention of Blindness from 1959 to 1967. Moreover, Dr. Hoover serves as a member of the board of directors of the National Accreditation Council for Agencies Serving the Blind and Visually Handicapped and of the American Foundation for the Overseas Blind.

This is indeed an outstanding record of devoted service and it bespeaks a rare depth of humanity. I hope that all Senators will join in my congratulations to Dr. Hoover.

#### ADDITIONAL DEATHS OF ALABAMIANS IN VIETNAM

Mr. ALLEN. Mr. President, I have placed in the RECORD the names of 1,042 Alabama servicemen who were listed as casualties of the Vietnam war through June 30, 1970. In the period of July 1 through September 30, 1970, the Department of Defense has notified 27 more Alabama families of the death of loved ones in the conflict in Vietnam, bringing the total number of casualties to 1,069.

I wish to place the names of these heroic Alabamians in the permanent archives of the Nation, paying tribute to them, on behalf of the people of Alabama, for their heroism and patriot-

ism. May the time not be distant when there will be no occasion for more of these tragic lists.

I ask unanimous consent to have printed in the RECORD the names and the next of kin of these 27 Alabamians.

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

LIST OF CASUALTIES INCURRED BY U.S. MILITARY PERSONNEL FROM THE STATE OF ALABAMA

ARMY

Pfc. Richard L. Barnes, son of Mr. and Mrs. Ceasar Barnes, Route 1, Box 30, Five Points, 36862.

Sp4 Gary M. Pridden, son of Mrs. Annie M. Pridden, 501 Brookside Drive, Opp, 36467.

WO1 Lance M. Lofman, husband of Mrs. Patricia V. Lofman, Tanglewood Estates, Lot #14, Newton, 36352.

Sp4 Jimmie L. Robinson, son of Mr. Edward Robinson, Route 1, Box 48-K, Jackson, 36545.

1st Lt. Terry A. Mote, husband of Mrs. Patricia J. Mote, Route 4, Box 114, Phenix City, 36867.

Sp4 Johnny Allen, Jr., son of Mr. and Mrs. Johnny Allen, Sr., 2427 22nd Avenue, North, Birmingham, 35234.

Sp4 Mark P. Ralford, son of Mr. and Mrs. Edward F. Ralford, 2613 Triana Boulevard, Huntsville, 35806.

WO1 William A. Parker, husband of Mrs. Mary E. Parker, 42 Brinson Trailer Court, Daleville, 36322.

Sfc. Clyde J. Ball, husband of Mrs. Elizabeth C. Ball, Box 182 U-A, Eastaboga, 36260.

Pfc. Steven M. Wade, son of Mrs. Anne L. Jones, 2302 10th Court Street, Birmingham, 35205.

Pfc. Robert M. Durall, husband of Mrs. Alice F. Durall, Box 108, Deerfield Drive, Enterprise, 36330.

Pfc. Michael E. White, son of Mr. and Mrs. James A. White, P.O. Box 314, 272 East Main Street, Prattville, 36067.

Sp4 Jack Moss, Jr., son of Mr. and Mrs. Jack Moss, Sr., 403 South Spring Street, Talladega, 35150.

Sp4 Rodger P. Crow, son of Mr. and Mrs. Earnest C. Crow, Route 4, Decatur, 34601.

Sgt. James E. Duckworth, husband of Mrs. Bonnie S. Duckworth, Route 1, Hanceville, 35077.

Pfc. Randy C. Brackin, husband of Mrs. Winnie R. Brackin, P. O. Box 284, Headland, 36345.

Sp4 James B. Perkins, husband of Mrs. Janet F. Perkins, 2001 3rd Place, South, Birmingham, 35205.

Sp4 Herman Evans, husband of Mrs. Phyllis A. Evans, 3808 13th Avenue, North, Birmingham, 35234.

WO1 Larry G. Baldwin, husband of Mrs. Kay Baldwin, P. O. Box 92, Newton, 36352.

AIR FORCE

Cpt. Steven B. Melnick, husband of Mrs. Linda S. Melnick, 3567 Berkely, Montgomery.

MARINE CORPS

L/Cpl. David M. Haveard, son of Mr. and Mrs. Grover L. Haveard, Route 1, Box 450, Brewton, 36426.

1st Lt. Richard W. Dodd, husband of Mrs. Richard W. Dodd, 33B 15th Terrace, N.E., Birmingham.

Sgt. Grady L. Eiland, son of Mr. and Mrs. Louis R. Eiland, Route 3, Foley.

1st Lt. Joseph H. Shelton III, husband of Mrs. Joseph H. Shelton III, 3508 Greensboro Avenue, Tuscaloosa.

Cpl. Daniel M. Bennett, son of Mr. C. D. Bennett, 261 West Mt. Island Drive, Mobile.

L/Cpl Ernest M. Barber, son of Mr. and Mrs. Robert A. Barber, Route 1, Talladega.

L/Cpl. Jimmy R. Holkem, son of Mrs. Laisey P. Holkem, Box 221, Stevenson, 35772.

MEANINGFUL INCOMES POLICY  
LONG OVERDUE

Mr. PROXMIRE. Mr. President, for almost 2 years the economic policymakers in the Nixon administration have refused to institute an incomes policy. Basically, an incomes policy is the use of the authority and prestige of the President and his office to help to hold down wages and prices through jawboning, through wage-price guidelines, or, at the extreme, through controls. It is no panacea for inflation—or unemployment and slow growth—which we have with us now, but it can help. The time is long overdue when such a policy should be put into effect.

We now have the worst of all economic worlds. We have high unemployment. We have a rapidly increasing rise in the cost of living. And both facts are contrary to the predictions and economic expectations of the Nixon administration. Their policies have not worked. The Nixon administration's game plan has collapsed. Let me be specific.

When President Nixon campaigned for office, he pledged to bring down the rate of inflation from 4.5 percent per year to 3 percent per year without increasing unemployment.

But in October 1970, the cost of living had increased to an annual rate of 6 percent.

Early in 1970, in the underlying facts presented in the 1970 economic report of the President, the President's economic advisers predicted that unemployment would average 4.3 percent for the year. But in October 1970, unemployment was 5.6 percent. Just under 2 million men and women are out of work today who had jobs when the Nixon administration came into office.

In addition, because of the rise in prices, the increase in unemployment, and the drop in corporate profits, the Federal budget itself will be in deficit in fiscal year 1971 to the tune of \$10 to \$15 billion. But at an unemployment level of 3.5 to 4 percent, instead of 5.6 percent, the economy itself would produce an additional \$10 to \$12 billion in Federal taxes. This is enough to close the fiscal gap and bring a balanced budget.

For all of these reasons, the time to act has arrived. And an incomes policy should be the first order of business. The time has arrived not only because of the facts I have given above, but also because of the nature of the price rises.

We do not have a traditional or classical case of inflation where too much money is chasing too few goods. Quite the opposite is true. We have idle machinery. We have idle men. These resources are being wasted and unused.

Basically the increase in prices comes from the market power of the dominant economic forces in the economy. This is what is called an "administered price" inflation. It is the result of the ability of business and labor to raise prices and to receive returns beyond their increase in productivity and beyond the increase in productivity in the economy. Then, when the price and wage settlements go into effect, they in turn raise prices and the cost of living for every-

one else who in turn, and perhaps rightly so, demand a price or wage increase to keep their present economic level of wages or profits from declining. The result is a continuing administered wage-price spiral.

Now this is precisely where an incomes policy can be effective. Along with other policies, it can help to break the back of inflation. If this is done, then the economic policymakers can move to expansionary monetary and fiscal policies which can get the economy moving again.

It is time the Nixon administration admitted its economic failures, shed its false optimism, and proposed an income policy. We must stop the inflation and needless price raises. We must put Americans back to work. We must get the country moving again.

Recently we may have seen the beginnings of an income policy. The initiation of a major investigation into the oil industry and some of its practices, may be the precursor to an incomes policy. If it is not the beginning of a full-blown incomes policy, perhaps it may be an embryonic incomes policy.

OIL: AN INCOMES POLICY BEGINNING?

A prime example of how the lack of a long range consistent economic policy fails to quench the fires of inflation and, in fact, tends to feed them is the administration's past treatment of the oil industry.

Every 1-cent-a-gallon increase in the price of gasoline costs the American consumers \$800 million, according to the Council of Economic Advisers. Yet in the past the Nixon administration rejected the report of its own experts, the Task Force on Oil Import Control, and ignored the last price increase of the oil industry. That amounted to 20 cents a barrel on crude which translated itself into an increase not only on gasoline but on home heating oil and everything else made from crude oil.

Now, belatedly, the administration is showing signs of trying to jawbone the oil industry into not increasing its crude oil prices by an additional 25 cents a barrel.

The oil industry is particularly dependent upon the Federal Government for maintenance of its artificially high oil prices. Through the oil import quota program the Federal Government places a floor under the prices which the major oil companies set in conjunction with the oil producing States. In order to insure that there would be no disruption in this price fixing scheme, the Federal Government has even abdicated responsibility to control the production of oil from Federal offshore lands to the adjacent oil producing States.

In the 10 months since the report of the Cabinet Task Force on Oil Import Control, the oil import quota program has cost the American economy about \$4¼ billion. This \$4¼ billion inflationary pressure could have been relieved by President Nixon by a stroke of the pen. This expensive and, according to his advisers, needless program, was created by Executive order and could be abolished by Executive order.

Indeed, if the President still wanted to protect the oil industry from foreign competition he could have substituted a tariff for quotas. This would have had at least two beneficial results not possible under the control program: It would bring in literally billions of dollars to the Federal Treasury to combat the growing deficit and it would have made the oil industry more competitive so that we would have less economic waste.

If the President had an incomes policy, wage price guidelines, and a rational, long-range economic policy, he would find it easier to balance the budget, produce a balanced economy, and balance the pressures generated by the oil industry against the needs of the Nation.

As the New York Times commented on Saturday, November 14, in editorializing on the Nixon administration's investigation into the 25 cents per barrel increase in the price of crude oil and the 0.7-cent per gallon increase in the price of gasoline, posted earlier in the week by Gulf Oil:

This action is important as a radical departure from the Administration's earlier oil policies; it is even more important as evidence that the Government is prepared to take action against inflationary price decisions by corporations with great market power. . . . The new move on oil is clearly intended to be the start of a new prices and incomes policy.

I hope indeed that the New York Times is correct. A meaningful incomes policy is long overdue.

I ask unanimous consent that the New York Times editorial of Saturday, November 14, and a piece by Hobart Rowen in the Washington Post of Sunday, November 15, entitled "Burns Pressing Hard for 'Income Policy,'" be printed in the RECORD.

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

#### START OF AN INCOMES POLICY?

The Nixon Administration has initiated a major investigation into the 25-cents-per-barrel increase in the price of crude oil and the 0.7 cent-per-gallon increase in the price of gasoline, posted earlier this week by Gulf Oil and followed by Atlantic Richfield. The Government will consider abandoning, at least temporarily, oil import quotas and freeing Federal offshore leases from state controls, in order to boost oil supplies and beat back the price hike.

This action is important as a radical departure from the Administration's earlier oil policies; it is even more important as evidence that the Government is prepared to take action against inflationary price decisions by corporations with great market power. A spokesman for the President's Council of Economic Advisers has made clear that the move could properly be regarded as an example of the Administration's decision to follow a policy of "activism" in specific price situations.

This is precisely the kind of policy we have long advocated. Although the Administration did make similar moves in the cases of coal and lumber, it showed no determination to follow up with such actions in other areas. The new move on oil is clearly intended to be the start of a new prices and incomes policy.

It is not clear whether and how this policy will be applied to collective bargaining over wages. Earlier this week, however, Paul W. McCracken, the President's chief eco-

nomist, declared that "the public interest is obviously a vitally interested third party at every price decision and wage negotiation."

Although this sounds like "jawboning," Administration spokesmen insist it is not. If the Administration means to concentrate on "structural" actions—similar to suspending oil import quotas—it certainly can find many that can be applied to both labor and management, such as attacking restrictive building codes, reforming various procurement regulations and licensing provisions, and withdrawing tacit approval from various union restrictions and business cartels.

However, an incomes policy, to be effective, must be backed by a program to restrain those corporate oligopolies and labor unions possessing great market power that cannot be reached—certainly in the short run—by such structural reforms.

The Administration's willingness to consider rolling back the oil price hike by temporarily suspending oil import quotas is also significant in dramatizing the importance of blocking the disastrous Mills bill that would open the gates to a flood of import quotas, including permanent oil quotas. Last spring the Administration shelved the report of the Cabinet Task Force on Oil Import Control, which recommended abandoning import quotas in favor of a tariff system in order to reduce oil prices. And this fall the Administration apparently decided to kill the report, giving the tanker shortage and high prices of foreign oil as its excuse. To make sure that the White House does not change its mind, the Ways and Means Committee has written permanent oil quotas into the protectionist trade bill which Congress will take up next week.

In effect, the Administration is at last admitting that oil import quotas—like all quotas—are engines of inflation. This is a sound position which we fervently hope the Administration will stick to, and Congress will come to understand and accept.

#### BURNS PRESSING HARD FOR "INCOMES POLICY"

President Nixon is faced with an acute dilemma: he cannot reduce both unemployment and inflation to politically acceptable levels by mid-1972. By classic means, he might achieve one goal—but only at the expense of the other.

However, he might squeak through to some sort of success by enforcing a system of controls over wages and prices: if it were possible to hold the line here, then the stimulation needed to create jobs could be undertaken.

To be sure, such resort to an "incomes policy" might fail. This possibility is repeatedly raised by its opponents. But the prospect of achieving, simultaneously, full employment and reasonable stability without an incomes policy seems totally hopeless.

An "incomes policy" could be anything from mild presidential jaw-boning to mandatory wage-price controls. It could also imply direct governmental action that helps control inflation by adding to available supplies; increases in oil import quotas, reducing the pinch on home-heating fuels, would be an example of that.

The administration's persistent opposition to an incomes policy, rooted in a theological and emotional conviction that it would be a dastardly interference with the private market mechanism, is well known.

But there are signs of a shift in attitude, traceable in part to the strong arguments being made for an incomes policy by Federal Reserve Board Chairman Arthur F. Burns.

This is not the first time that Burns, now winding up a brilliant career with the crunching responsibilities of a Central Banker, has pushed Nixon for an incomes policy. But as the man upon whom the President is counting to rescue the economy with a

liberalized monetary policy, Burns has important cards to play at this stage of the game.

Although for most of his distinguished career, Burns rejected an "incomes policy," he concluded while he was still counselor to the President in 1969 that in today's real world, reliance on tight money and a tight budget would not handle the nation's economic problems.

He argued—not successfully—that while classic economic policies would ultimately eliminate excess demand, and finally reduce cost-push inflation, it would take a long time.

There isn't enough "patience" in American society to wait the required time, Burns told the President and his other economic and political advisers.

At that stage—in the late summer and early fall of 1969—the President was convinced by his Council of Economic Advisers that inflation would shortly be brought under control, and that unemployment in 1970 would average only slightly over 4 per cent. That was the "game plan"—but it proved to be unduly optimistic. Burns was overruled.

Again, this past spring, as it became evident that the CEA's forecast would not be met, Burns in a public speech at the Business Council meeting joined a few Treasury and Budget Bureau officials who urged the President to reconsider. After much internal debate, this brought forth a Productivity Commission (scheduled to meet only once every three months) and the mildest of inflation warning systems called an "inflation alert."

Meanwhile, unemployment has risen to 5.6 per cent (in October), and while the rate of inflation has been dampened by a sluggish economy, "cost-push" pressures, (as wage boosts leap-frog over productivity gains) show no signs of abatement.

This has all been brought into sharp focus by the election returns. Anyone not wearing blinders can see evidence of public impatience with the twin burdens of high prices and high unemployment. Pursuing the "game plan," unmodified, might ultimately solve inflation, but not the jobs problem. Yet, as knowledgeable Europeans were suggesting last week, a hypoed American economy will run up a big balance of payments deficit, threatening devaluation of the dollar.

Economists at Brookings and elsewhere have figured out that it will take a persistent growth of the money supply by annual rates of 10 to 11 per cent to get back to full employment (4 per cent unemployment) by mid-1972. To Burns, this would signal Federal Reserve approval of a runaway inflation. He tells friends flatly that it won't happen.

In the light of Burns' strong view, supported by all the other members of the Board at the moment, a study by William Poole, a Fed economist (writing on his own, not for the FRB) makes a dramatic point: it shows that if monetary growth is kept near the present slow pace, the Gross National Product in 1972 would be some \$100 billion below potential.

According to former Economic Council Chairman Arthur M. Okun, now a Brookings Fellow, that would translate into something like 8 per cent unemployment.

Studies like Poole's must make certain assumptions which can't be proved out. But nobody in today's Washington really argues with the main two-pronged thesis:

First, stimulation of the economy in order to cut unemployment adds to the risk of restimulating inflation (especially in 1972).

Second, a tight-fisted monetary and budget policy designed to control inflation assures a prolonged period of unemployment.

This should bring the administration around to trying an incomes policy. Paul McCracken, who has opposed such a move

in the past because 1.) he believes it doesn't work; and 2.) it is an unfair interference with free markets, today shows more open-mindedness.

At the end of the week, for example, the administration announced a major investigation of crude-oil and gasoline prices. This is a special situation, but the action is the kind that would fit into an incomes policy.

But Burns is pressing for a strong general move in this direction. He would like to see the Productivity Commission transformed into a full-fledged Productivity, Price and Wage Commission. And if that means incurring the displeasure of labor and management, he argues, the President must be willing to assume such a burden.

If there were some assurance of more stable wages and prices, McCracken said in a New York speech just after the election, the administration would feel safer in pushing for a big boost in national output.

"We should have the ingredients here," McCracken said, "of a social bargain or compact. With more confidence about a stable price-cost level there would then be more pervasive support for more vigorously expansive basic economic policies. Real wages and salaries could then rise more rapidly."

To arrive at such a "compact" may take some head-knocking. Labor leaders will not easily be convinced that their demands should be moderated. Business leaders aren't anxious to shave profits even further by holding prices down. The whole effort may not work well, but cost-push inflation has to begin somewhere, and the sooner the better. If there is another way acceptable in an enlightened society, no one has come forward with it.

#### INTERACTION OF ANTITRUST POLICY AND PATENT POLICY

Mr. HART. Mr. President, the interaction of antitrust policy and patent policy over the years has gone on with relatively little public awareness. Yet the appropriate interaction of these policies is vital to the well-being of the public, the continued advancement of our technological revolution and the protection of consumers from monopolistic prices. At this moment there is apparently an internal debate within the administration over whether the delicate balance which the courts have struck over the years should be drastically altered by supporting legislation which would virtually wipe out the application of antitrust policy to anticompetitive patent licensing practices.

There is a great danger that this kind of legislation will not receive the full debate its seriousness deserves. This danger threatens because of the technical nature of the bills, the foreclosure of a public debate by the Bureau of the Budget of the diverse viewpoints within the administration, and a general failure of the public and this body to realize the full implications of this kind of legislation. It is for these reasons that I ask unanimous consent to have printed in the RECORD a speech by Federal Trade Commissioner Mary Gardner Jones. It is a masterly exposition of the interrelationship of patent and antitrust policy and their impact upon the consumer. Commissioner Jones has made understandable a difficult question that deserves full public discussion and the careful attention of this body. I commend this speech entitled, "The Impact of the Patent and Antitrust Laws on

Consumers," given before the Fourth New England Conference, to all who are interested in protecting the consumer from economic exploitation. Commissioner Jones has rendered a distinct public service by alerting us all to the dangers inherent in the proposed patent licensing amendments and by making clear that the most basic protection for the consumer is the fostering of a free competitive economy by the rigorous enforcement of our antitrust laws—not the destruction of them.

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

#### THE IMPACT OF THE PATENT AND ANTITRUST LAWS ON CONSUMERS\*

The consumer has always been the central focus of the effective operation of the competitive system. Adam Smith said it succinctly almost 100 years ago:

"The purpose of all production is the welfare of the consumer."

The antitrust agencies have long been aware of the importance of their work in making sure that consumers had the fullest possible range of options available to them in their purchase of goods and services. Practices and industries which have their greatest impact on consumers have always been accorded a high priority in the enforcement programs of these agencies.

But it is only comparatively recently that consumer groups and spokesmen themselves have also begun to turn their attention to this crucially important aspect of the functioning of the marketplace.<sup>1</sup> The relationship between concentration and inflation and the importance of broad information disclosure programs to the improvement of competition,<sup>2</sup> the impact of product obsolescence practices on consumer needs and demands,<sup>3</sup> and the alleged collusive delays in the development of automotive antipollution devices<sup>4</sup> represent examples of antitrust problems which have recently occupied the attention of consumer spokesmen.

One economist has estimated that monopoly (or oligopoly) prices cost the consumer what amounts to about 6% of G.N.P. or \$41.9 billion in 1968.<sup>5</sup> Ralph Nader has put the cost of monopoly at 20% of G.N.P., or \$173.2 billion in 1968.<sup>6</sup> While the latter figure is undoubtedly somewhat overstated, either cost figure is staggering if we consider that the total crime bill in 1968 was \$32 billion, the cost of the Vietnam War in 1968 was \$27 billion, and the estimate of the cost of eliminating poverty (at least a \$3,000 income for every family) is about \$11 billion per year.<sup>7</sup>

Other studies, now available, demonstrate the lower price ranges and broader product options which antitrust enforcement activities have brought about for consumers.<sup>8</sup> Thus, consumers have a vital stake in the effective operation of our antitrust laws to maintain and promote a vigorously competitive economy.

Consumers have equally important and long-range interests in the scientific and technological development of this country which is the primary goal to be served by the patent laws of this country.

The American patent system was developed in order to give effect to the nation's concern expressed in its Constitution "to promote the progress of science and useful arts."<sup>9</sup> The system proceeds on the fundamental premise that invention will best be stimulated by granting inventors a seven-year monopoly in their inventions and thus enabling them to recoup the rewards for their inventions free from the inroads of competition.<sup>10</sup>

The most persuasively advanced justification for the granting of such monopoly rights is that only by such a protection can the requisite stimulus be provided for the heavy investment of time and resources which is required to provide the education, facilities and rewards involved in creating the original invention and translating it into basic know-how and specific products and services available to the public and the nation.<sup>11</sup>

Some have said that the patent system has been devised at the basic expense of the consumer.<sup>12</sup> This criticism can be misleading. There is, of course, no dispute that the short-range impact of monopoly prices will fall directly on consumers in the form of higher prices. At the same time, these higher costs have to be balanced against the net social benefits derived from the patent system in the form of the new products and production processes which the system is designed to stimulate. Certainly the consumer in the long-run is the ultimate beneficiary of the specific invention and the healthy economy which is the spillover of high intensity technological developments in today's industrial society.

Thus, both the antitrust laws and the patent laws seek the same ultimate objectives—to promote the consumer's welfare, and, in the field of technological development, to create a stimulus to invent and innovate. Yet, they use essentially different means—the one by holding out the carrot of monopoly profits and the other by ensuring that the stick of competition will not be blunted by private agreements or artificial restraint.

Historically, it has been left to the antitrust agencies and to the courts to strike the optimum balance between those two concepts of short-lived monopoly and long-range competition which will enable the single public policy goal served by both statutes to be achieved.

In 1970, amendments to the pending Patent Revision bill were introduced into Congress which, in my judgment, would effect sweeping changes in the balance which the courts have evolved between these two statutes and the public policy goals which each seeks to serve on both the short and long term levels on which both must operate.<sup>13</sup>

Little public attention has been focused on these amendments although the Department of Justice and the Department of Commerce have taken diametrically opposed positions on their wisdom. The conflict between Justice and Commerce highlights a very significant question—whether the proposed patent law changes would adversely affect the delicate balance between patent policy and the existing antitrust limitations which have developed in order that patent practices not be needlessly anticompetitive.

The general intention of the proposed amendments, would grant patent holders the right to include any terms in their license agreements that are necessary to secure "the patent owner the full benefit of his invention." They would permit patent holders to limit the use of their patents to specific fields or geographic areas, to cross-license their patents, to enter unrestrictedly into grant-back arrangements and to assign licenses on their patents in whole or in part, on an exclusive or non-exclusive basis and for periods less than the life of the patent. Finally, they would restrict the grounds on which patent licensees might contest patent validity.<sup>14</sup>

I am convinced that these amendments would seriously affect the balance struck by the courts between the consumer's need for effective competition in order to provide a brake on the unbridled exploitation of monopoly and market power and the inventor's need for some assurance of an adequate return on his invention sufficient to justify

\*Footnotes at end of article.

the investment risks required for its development and commercialization.<sup>15</sup> If enacted into law, these amendments could have a chaotic and seriously injurious impact on the ability of both the patent and antitrust laws to promote the type of technologically advanced society and viable and competitive economy which is of such major significance to the consumers' welfare.

Under these amendments, patent holders would apparently no longer be held to the defined period granted to them under the patent laws within which to reap their monopoly profit. Indeed, by judicious planning of patent developments and through pooling and other arrangements permitted by these amendments, it might be possible for a patentee to perpetuate his monopoly indefinitely and thus impose on consumers what can amount to virtually monopoly prices for the patented products for an equally indefinite period.

These amendments could in some circumstances also enable patent holders to use their patents as a lever to eliminate competition at all levels of distribution in the production and sale of their patented products and to carve out what could amount to submonopolies with respect to their customers, fields of use or geographic markets for the patented products which could be wholly unrelated to the technological use of the patents. The antitrust laws have never sanctioned this type of absolute freedom for the patentee to exercise such unfettered control over the production, sale and use of the patented product. They have proceeded on the basic premise that the monopoly granted by the patent was essentially personal to the patentee—a right to exclude others—and could not be automatically used as a mechanism to divide up markets and eliminate competition between those persons whom the patentee elected to license either for the production or sale of the patented item.

These amendments could also serve to enable patentees to secure monopoly control not simply over a segment of a technology covered by their own patent but over an entire field of technology or industry. Yet, the antitrust laws have consistently sought to limit any unreasonable extensions of the patent grant which would encompass attempts to control the production and sale of products outside the patent grant. The courts have been concerned to prevent patentees from using their patents in such a way as to gain partial or complete control over products or patents not belonging to them, to create virtually insuperable entry barriers to a market or, by using the leverage of a strong patent, to add economic value to weaker patents which otherwise might not be marketable.

Finally, the effort embraced in these amendments to restrict the basis on which licensees can challenge the validity of the patent could eliminate one of the most effective deterrents to law violations in the patent field. Essentially, today the Patent Office relies on the private litigant to police the patentability of inventions. It has been estimated, for example, that 72 percent of the patents litigated in the court of appeals have been found to be invalid.<sup>16</sup> While this estimate did not differentiate between suits brought by licensees and those brought by competitor manufacturers or patentees, nevertheless, the statistic does indicate the importance of the private suit as a factor in policing the patent system. As a practical matter, in many situations licensees may be the only persons who will have both the incentive and the resources to litigate issues of patent validity. Thus, attempts to restrict the licensee in bringing such suits seem likely to have a significant negative effect on the policing of the legality of issued patents and on established public policies favoring free competition and private enforcement of the

antitrust laws. To block license challenges could subvert this policy and result in the frustration of the national economic policy in favor of free competition by leaving invalid patent monopolies unchallenged. In today's environment, with the emerging force of the private lawsuit to achieve public policy objectives, it would be a serious step backwards in my judgment to seek to place any obstacles in the way of the operation of private litigation as an important factor in the enforcement of effective public policy.

The principal argument offered in favor of these amendments is that they are essential in order to provide adequate incentives to the inventor and to shift the responsibility for accommodating the two laws away from the antitrust enforcement agencies and the courts and into the hands of Congress.<sup>17</sup> Yet, the evidence in support of this general argument does not appear to me to be very convincing. No broad-scale empirical data is offered to support the assumption that a substantial alteration in the compensation reward system as it is presently operating would lead to a substantial increase in important inventions and innovation rather than simply an increase in the amount of the reward which would be secured to the patentee.<sup>18</sup> Indeed, the tremendous technological growth and development in this country would not suggest that the antitrust laws have acted as an unreasonable deterrent on invention and innovation.<sup>19</sup>

Moreover, little evidence is adduced that the courts have failed in the performance of their assigned role to reach for an accommodation between the specialized needs of the patent monopoly as an engine of technological growth and the more generalized, but equally vital, needs of the American public—the consumer and the potential or competing businessman—for the fruits of competition and freedom from monopoly power and exploitation.

I do not believe that any of us in this room would or should support an effort to abandon this *ad hoc* case-by-case approach which has worked so well in the past to achieve this all important accommodation of equally essential public policies. I am convinced that in what is a highly important, difficult and constantly changing area of industrial activity, only the case-by-case approach can offer the assurance that each problem as it develops and each accommodation which needs to be made, will in fact be made on the basis of the special facts of the case and the needs of all the interested segments of the public as they are perceived at that time.

I am convinced that if these amendments or legislation resembling them should be enacted into law, their unavoidable effect would be to raise consumer prices, inhibit the dissemination of new technology, promote and strengthen individual concentration and encourage both the domestic and foreign cartelization of business.

If we still believe in the goals of our antitrust laws to prevent the exercise of private monopolies and to promote competition as a viable means of achieving our basic social and economic objectives, then we cannot virtually eliminate their application in the patent field without seriously compromising and rendering essentially meaningless our larger goals of regulating the exercise of market power through antitrust laws and creating the type of competitive environment so essential for the welfare of our citizens and the health and prosperity of the nation.

#### FOOTNOTES

<sup>15</sup> While this text forms the basis for Miss Jones' oral remarks, it should be used with the understanding that paragraphs of it may have been omitted in the oral presentation and, by the same token, other remarks may have been made orally which do not appear in the text.

<sup>16</sup> See, e.g., recent editorials in the summer and fall issues of *Antitrust Law and Economics Review* (dated 1969 but published in 1970); see also Virginia H. Knauer, "The Consumer and the Conglomerate", Speech Before the 1970 Convention of the Federal Bar Association (Sept. 17, 1970), in which she analyzes the problems of concentration in the economy and concludes with the observation that "vigorous anti-trust activity may well be the consumers' best friend."

<sup>17</sup> Study Paper No. 2, "Industrial Structure and Competition Policy", *Cabinet Committee on Price Stability*, pp. 39-42.

<sup>18</sup> Edward F. Fox, Robert C. Fellmeth, John E. Schulz, *The Nader Report on the Federal Trade Commission*, Chapter II, pp. 16-17.

<sup>19</sup> *United States v. Automobile Mfrs. Assn., Inc., General Motors Corp., Ford Motor Co., Chrysler Corp., and American Motors Corp.*, (C. D. Calif. 1969, Consent Decree).

<sup>20</sup> David R. Kamerschen, "An Estimation of the 'Welfare Losses' From Monopoly in the American Economy," *Western Economic Journal* (Summer 1966) p. 233.

<sup>21</sup> See the editorial in *Antitrust Law and Economics Review* (Summer 1969).

<sup>22</sup> *Ibid.*

<sup>23</sup> A recent study indicates that a price fixing conspiracy among wholesale bakers in the State of Washington resulted in consumers paying \$30 million more for their bread than they would have if the conspiracy did not exist. A cease and desist order by the Commission caused prices to fall by 15% to 20% (*Bakers of Washington, Inc., et al.*, Docket No. 8309, Feb. 28, 1964, modified Dec. 3, 1964). See Russell C. Parker, "The Baking Industry", *Antitrust Law and Economics Review* (Summer, 1969) pp. 118-120. See also Federal Trade Commission, *Economic Report on the Baking Industry* (1967).

After the conclusion of a Justice Department antitrust suit [*U.S. v. Carter Products, Inc., and American Home Products Corp.*, 160 Civ. 375 (S.D. N.Y. 1960)]. Consent judgment entered on Nov. 9, 1962] against the two leading producers, Carter Wallace and American Home Products, 54 new companies commenced the production of meprobamate at prices which ranged from 30 to 50 percent lower than those charged by those two companies. For the prices see *Drug Topics Red Book* for the years 1960 and 1970.

<sup>24</sup> U.S. Const. Article I, section 8. See, *Motion Picture Patents Co. v. Universal Film Mfg. Co.*, 243 U.S. 502 (1917).

<sup>25</sup> F. M. Scherer, *Industrial Market Structure and Economic Performance* (Chicago: Rand McNally & Co. 1970), p. 380 *et seq.*

<sup>26</sup> J. J. Servan-Schreiber, *The American Challenge* (1967).

<sup>27</sup> Professor Machlup has written, for example, that: "Patents, by giving their owners exclusive rights to the commercial exploitation of inventions, secure to these owners, profits . . . which are ultimately collected from consumers as a part of the price paid for goods and services. The consumers pay; the patent owners receive". Machlup, Fitz, *An Economic Review of the Patent System*, Study No. 15 of the Subcommittee on Patents, Trademarks and Copyrights of the Committee on the Judiciary, U.S. Sen. 85th Cong., 2d Sess. (1958), pp. 44-45.

<sup>28</sup> The amendments, numbered 578 and 579, are to S. 2756, 91st Cong., 2nd Sess. (1970) pending before the Senate Subcommittee on Patents, Trademarks and Copyrights, introduced by Senator Scott and frequently referred to as the Scott amendments, have not yet been the subject of any hearings and public discussion of them has been virtually nil, confined essentially to the technical journals of the Patent Bar.

<sup>29</sup> Amendments 578 and 579 contain other provisions affecting the rights and duties of patentees in the areas of patent misuse defi-

tion, relationship of state law and the like which raise comparable problems concerning the relationship between the patent and anti-trust laws but which are not discussed here.

<sup>15</sup> Opportunity cost of investment is the economists' shorthand for reasonable profit. As Willard Mueller put it "effective competition is not a flower that thrives unattended." *Hearings on Planning, Regulation, and Competition Before a Subcomm. of the Senate Select Comm. on Small Business*, 90th Cong., 1st Sess. (1967) p. 24.

<sup>16</sup> *Hearings on the Nomination of Earl Schuyler, Jr. to be Commissioner of Patents, Before the Subcommittee on Patents Senate Committee on Judiciary*, 91st Cong., 1st Sess. (May 2, 1969).

<sup>17</sup> Proponents of the amendments contend that recent court decisions have created serious deterrents to this incentive because of the uncertainty they have created as to the rights of the patent holder and the resultant fear that he will not be able to reap the full or at least adequate rewards for his invention. For a summary of their views, see remarks of Senator Scott in offering these amendments, *Cong. Rec.*, Senate, April 4, 1970, p. 55321.

<sup>18</sup> Machlup wrote in 1958 that "no economist, on the basis of present knowledge, could possibly state with certainty that the patent system, as it now operates, confers a net benefit or a net loss upon society. The best he can do is to state assumptions and make guesses about the extent to which reality corresponds to these assumptions." (Supra note 12).

Professor Edwin Mansfield, Professor of Economics at the Wharton School, University of Pennsylvania made the identical observation about the absence of any hard empirical data for evaluating the operation and impact of the patent system. *47 J. Pat. Off. Soc'y.*, 292, 297 (1965).

<sup>19</sup> Total R&D expenditures has increased from \$5.2 billion in 1953 to an estimated \$26.3 billion in 1969 representing 2.8% of G.N.P. In 1967, industrial research amounted to \$16.4 billion compared to \$210 million spent in 1931 and \$390 million spent in 1940. About 51% of this 1967 research effort was financed by government contracts. See, e.g., National Science Foundation Report, *Research and Development in Industry*, 1967; Daniel Hamberg, *Essays on the Economics of Research and Development*, (1963) p. 26; T. K. Quinn, *Giant Business* (1953); Jewkes, Sawers and Stillerman, *Sources of Invention* (1959); W. S. Commanor, "Research and Technical Change in the Pharmaceutical Industry", *Rev. of Econ. and Stat.* (May 1965), p. 190.

## RESUMPTION OF HEAVY ARMS SHIPMENTS TO GREECE

Mr. FULBRIGHT. Mr. President, when the State Department revealed the resumption of heavy arms shipments to Greece on September 22 its official announcement included this statement:

The trend toward a constitutional order (in Greece) is established.

Almost 2 months have elapsed since that statement. During this time several events have occurred which clarify the nature of the trend which the State Department perceived, or, more accurately, misperceived back in September. Some of these were noted recently in a New York Times article from Athens, written by Alfred Friendly, Jr., on November 8, and in an earlier New York Times article published on October 18. I ask unanimous consent that the text of these articles be printed in the RECORD at the conclusion of my remarks.

I cite the following recent actions of the junta as indicative of the trend current in Greece:

The midnight arrest of an Athens engineer next seen by his relatives in a hospital recovering from head and abdominal injuries.

The abrogation of Greece's agreement with the International Committee of the Red Cross which, for the past year, has permitted Red Cross officials limited access to detained persons and prisoners thereby affording them some protection against mistreatment.

The explicit acknowledgment by a junta spokesman that the Colonels intend to remain in power by means of their own political parties when and if parliamentary rule is restored.

The announcement of the appointment, but not election, of a powerless 56-man committee which will debate and comment on, but not enact, bills prepared by the junta.

These actions by the junta, all of which were taken subsequent to the lifting of the U.S. heavy arms embargo, demonstrate quite clearly the unrelenting totalitarianism of the Greek regime as well as the eager gullibility of our State Department. My own assessment of them is very much in accord with that attributed by Mr. Friendly to former Greek Foreign Minister Evangelos Averoff-Tossizza who said:

Either responsible Americans are badly informed or they are trying to find in Greece the comic masks of democracy which they can present to American public opinion to placate it.

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

### GREECE WILL CHOOSE 56-MAN COMMITTEE TO ADVISE CABINET

ATHENS.—Greece's military-backed Government, which abolished parliamentary democracy 42 months ago, today proclaimed elections to be held Nov. 29 for what was termed a "mini-Parliament."

This 56-member body, called the "Consultative Committee on Legislation," will be asked to debate and comment on draft bills. It is to go into operation early next year.

There is no law making the committee's decision obligatory on the Cabinet, which will continue to rule by decree as it has done since the 1967 coup.

A decision by Premier George Papadopoulos published today said that professional and labor organizations as well as regional authorities would choose 92 candidates—all below the age of 50.

The Premier would then select half of them to serve on the committee. Ten other committee members, without regard to age, would also be nominated by the Premier.

Twenty-two of the 92 candidates would be chosen by the executives of nine national unions, consisting of the General Confederation of Labor, as well as the national organizations of farmers, artisans, industrialists, traders, seamen doctors, lawyers, and engineers.

### SEVENTY WOULD BE APPOINTED

Seventy candidates would be appointed on a regional basis, the country being divided into 28 districts. The regional electors would include the area's Government-appointed mayors, as well as the presidents of local labor and professional unions.

The Premier's announcement specifies the qualifications for excluding anyone convicted for candidates in the committee, having joined a party or group "whose objective is the propagation of ideas designed to overthrow the prevailing system."

Candidates will also be required to declare

past membership in political parties, as well as to state their views on parties or groups "aiming at the overthrow of the existing social order."

### GREEK REGIME SAID TO PLAN PARTY TO MAINTAIN ITS RULE

(By Alfred Friendly, Jr.)

ATHENS, November 8—The men who seized power in Greece in 1967 intend to maintain that power through their own political party or parties when they decide to return the country to parliamentary rule, a spokesman for the Government has disclosed.

In two newspaper articles due for publication this week, the spokesman, George Georgalas, writes: "It is certain that some time there will be a political expression of the revolution." He added in an interview yesterday that "we will form a party to be the expression of the revolution."

Such a party "will embody the basic principles and proclamations by which the revolution will carry on" in a parliamentary context, he said.

### MARTIAL LAW CONTINUES

Neither Mr. Georgalas, a former Communist who is now undersecretary to the Premier in charge of press and information, nor opponents of the Government expect any quick restoration of parliamentary democracy in Greece.

Premier George Papadopoulos, bolstered by a recent direct expression of American political and military support, appears to be the master of a situation in which progress toward democracy is reversed as often as it is speeded.

Although the Government said in a report to the Council of Europe last December that it intended to abolish special military tribunals in September, martial law remains in force. "Men are restrained by this mere shadow of martial law more than they would be by the whole normal legal structure," the Premier told a British newsman last month.

Martial law, Mr. Georgalas added in the interview yesterday, "prevents the newspapers from talking of the past and the old politicians from engaging in a commerce of hate and fanaticism." Since Greece walked out of the Council of Europe last Dec. 13 as she was about to be expelled, he added, "we are free to do what we want without any obligation" to the council, a consultative body of West European states.

The Government has promulgated laws establishing the sanctity of the domicile and requiring that arrests be accompanied by judicial warrants, but security policemen entered the home of Andreas Frangias, an Athens engineer, last week at midnight and took him away. His relatives next saw him under police guard in a neurological hospital here.

### INJURIES REPORTED

According to reliable reports, Mr. Frangias suffered head and abdominal injuries during interrogation and is now being fed intravenously. He is said to believe that he signed one or more papers while in detention, and legal experts presume he signed a declaration saying that his arrest had been made according to a warrant that neither his family nor his lawyers has yet seen.

"They mock us," declared George Mangakis, an attorney who has been a noted defender of opponents of the regime. "There is a pretense of civil liberties," he added, "but in security cases, there is only the martial law."

The state's police power appears to be expressed more by random intimidation than by systematic repression. A young man walking out of a downtown movie theater last week was taken into custody and held overnight because his pockets contained suspicious pieces of wire and metal. He explained that mechanical tinkering was his hobby, but he was not initially believed.

Four high school boys were picked up by suburban policemen without warning or any stated reason last Friday and held 12 hours for interrogation before being sent home under orders not to speak of their experience. The wife of a political prisoner was called into security headquarters for lengthy questioning after she drove her schoolbound children past an Athens home where an explosion believed to have been caused by a bomb had occurred hours before.

#### VACATIONER CLOSELY WATCHED

A distinguished economist, known as a critic of the military men running the Government, found that his movements were closely watched even while he was on vacation on a remote island in the Aegean Sea. A taxi driver who had guided him and his family around one day refused to work with them again because of the police questioning he had undergone after the day's tour was over.

With some 600 suspected Communists still held on the island of Leros, detained by administrative fiat for more than three years, with 76 royalist sympathizers exiled to remote villages and with roughly 350 political prisoners in jail after trial, dissidents here are deeply distressed by the Government's abrogation last week of its agreement with the International Committee of the Red Cross.

The accord, which would have been automatically extended for a second year last Tuesday had Greece not renounced it, permitted Swiss Red Cross officials freely to visit detained persons and prisoners, intervene for their release on medical grounds and, in general, assure that their treatment was inspected by outsiders.

"I am very worried now for the men who are left," commented a 55-year-old left-wing journalist who spent two years and nine months on Leros before Red Cross intervention helped him obtain a medical release. "Their official reporters may have been too cautious in describing conditions on the island, but they were very effective in many individual cases. Now there will be no one to intervene."

According to Mr. Georgalas, there is no further need for intervention. The agreement with the Red Cross he said, "helped us with international public opinion" by scotching reports of torture and brutality. Now that only about a thousand political figures are in detention or jail, he asked, "why continue an arrangement that has served its purpose."

#### ADVISORY COUNCIL PLANNED

The Government's spokesman was equally forthright in defining the purpose of the 56-member advisory council whose members are to be "elected" here on Nov. 29. Forty-six of the members will be chosen from among 92 persons nominated by provincial administrators and the executive committees of trade unions and professional associations. All the 1,200-odd electors have been either appointed or screened by the Government, which will also name 10 persons of its own choosing to the council.

Mr. Georgalas says that the council, whose members will get a monthly salary of more than \$830, will help the government in the time-consuming process of reforming Greece's laws, debating proposals submitted by the Government for its opinion.

Beyond that, he explained, the group "will be a link between the Government and the masses and a school for forming cadres for the new parliamentary life."

To Evangelos Averoff-Tossizza, who served as Greece's Foreign Minister from 1956 to 1963, the pretense of an elected advisory council as a precursor to the restoration of parliament is worse than a farce.

"It is a way of corrupting people by paying them high salaries and giving them the

impression of power," he said recently. "It's a clever, insincere and immoral move by the Government and foreigners who think that something good is happening here."

#### RIGHT-WING CRITICAL

The pseudo-Parliament was attacked last week even by the right-wing newspaper *Vradyni*. In an editorial, the paper pointed out that the council had no function under the Constitution the Greeks approved two years ago and were still waiting to see implemented.

"Identification of the concept of the advisory council with the concept of parliament is a national crime," the paper said, and "in keeping with Fascist and Hitlerite pronouncements."

Under such circumstances, Mr. Averoff and others believe that the United States made a grave error in its September 22 statement on Greece. In explanation of its decision to resume heavy arms shipments to the Athens Government, the State Department said:

"The trend toward a constitutional order is established. Major sections of the Constitution have been implemented and partial restoration of civil rights has been accomplished."

More indicative of the regime's long-term intentions, its opponents say, are the orders for a new security police headquarters to include "convalescent" rooms in which suspects may be held after interrogation.

"Either responsible Americans are badly informed or they are trying to find in Greece the comic masks of democracy which they can present to American public opinion to placate it," Mr. Averoff declared.

"Personal liberties have not been reinstated, and human dignity is trampled," he added. "Instead of returning to democracy, the conditions are being created for the longest possible prolongation of the dictatorship."

#### DEATH OF JACOB BLAUSTEIN

Mr. MATHIAS. Mr. President, Maryland, the Nation, and the world has lost a distinguished citizen. Jacob Blaustein, industrialist, humanitarian, culturalist, friend to Israel, and diplomat died Sunday at the age of 78.

Mr. Blaustein, of Pikesville, Md., near Baltimore, was a founder of the American Oil Co. and president of American Trading and Production Corp. His interests ranged from promoting the cultural life of his native Baltimore to obtaining relief for war victims through his vice presidency of the Conference on Jewish Material Claims against Germany.

Mr. Blaustein performed missions of world peace and human rights for five American presidents—Roosevelt, Truman, Eisenhower, Kennedy, and Johnson. All Americans, I feel sure, join me in mourning the passing of this outstanding American and distinguished citizen of the world community.

I ask unanimous consent that Mr. Blaustein's obituary, published in Monday's *Baltimore Sun*, be printed in the RECORD.

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

BLAUSTEIN, 78, DIES; HEADED OIL EMPIRE  
Jacob Blaustein, a former door-to-door salesman who became head of a financial empire and a spokesman for human rights, died at 9:30 p.m. last night at his 200-acre farm, Alto Dale, near Pikesville.

Mr. Blaustein, 78, had been in failing

health for several days as a result of complications from abdominal surgery performed in January in Chicago.

Funeral services will be held at 12 p.m. Wednesday at Temple Oheb Shalom, 7310 Park Heights avenue.

Mr. Blaustein was a founder of the American Oil Company and president of American Trading and Production Corporation which has vast holdings in oil companies, explores for and produces crude oil, operates a fleet of ocean-going tankers and is in electronics, banking, insurance and real estate.

The oil magnate was a virtual whirlwind of activity in his lifetime. His interests ranged from promoting the cultural life of his native Baltimore to obtaining relief for war victims through his vice presidency of the Conference on Jewish Material Claims Against Germany.

He was one of Israel's most influential and indispensable backers during the state's formative years and often met with chiefs of state to discuss issues of world-wide importance.

He performed missions for five American presidents—Roosevelt, Truman, Eisenhower, Kennedy and Johnson—missions concerned with human rights and world peace.

He had negotiated with Russia's Mikoyan and Molotov, Chancellors Adenauer and Erhard, of West Germany; Prime Minister Ben-Gurion, of Israel; the Shah of Iran, Foreign Minister Rapacki, of Poland, and President Frondizi of Argentina.

Those who knew much of his work, some of it done quietly and without portfolio, say he often played a decisive part in correcting misunderstandings between the United States and the infant state of Israel. And, it is said, he played an important role in getting Israel into the United Nations.

His career of diplomacy in human rights began in 1945 when he and Judge Joseph Proskauer, of New York, were summoned to the White House by President Roosevelt and authorized to attend the formative meetings of the United Nations in San Francisco as consultants to the United States delegation.

#### HISTORIC ACHIEVEMENT

There, working against a frustrating indifference, particularly from Moscow, they helped put human rights provisions in the United Nations Charter, an historic achievement.

"None of us ever was sure whether Molotov spoke English," he recalled later. "He would look at us as we spoke, his face a complete deadpan. And when we stopped speaking he would say, without the slightest change of expression, 'Nokay.' No one really understood whether he meant yes or no. It was usually no."

"By the time we got back to Washington to give our report, Roosevelt had died so we reported to Truman. For me it was the beginning of a long association and I was pleased to watch the new President grow to enormous stature in his high office."

It was during the Truman Administration that Mr. Blaustein suggested to Prime Minister Ben-Gurion that Israel should be an ally of the United States. At the same time, in 1950, he obtained from Mr. Ben-Gurion the historic statement clarifying the relationship between Israel and Jews in other free countries.

It eliminated any question of dual nationality, stating:

"Citizens of the United States are Americans and citizens of Israel are Israelis; this we affirm with all its implications."

Mr. Blaustein was a member of Mr. Truman's Advisory Board on Mobilization Policy during the Korean war, giving advice on petroleum matters. He did similar work during World War II.

President Eisenhower took into consideration the oil magnate's experience in high-level public affairs and appointed him to the

United States delegation to the United Nations in 1955.

During his United Nations service, Mr. Blaustein became a close friend of United Nations Secretary General Dag Hammarskjöld.

#### HAMMARSKJÖLD MEMORIAL

Mr. Blaustein donated an \$85,000 statue in memory of the late Mr. Hammarskjöld which was installed in front of the United Nations building in New York.

Secretary of State Dulles said, after Mr. Blaustein had finished his United Nations work: "Our success in securing the Assembly's overwhelming indorsement of the United States position on important questions . . . was due in large measure to the persuasive arguments he brought to bear, and to his understanding of our foreign policy objectives."

One of these successes was the Assembly's rejection of a Soviet proposal that all refugees from Russia and other countries behind the Iron Curtain return "voluntarily" to their homeland.

"Of course," Mr. Blaustein said, "voluntary" was a euphemism. What they meant was forced repatriation. . . . My experience in dealing with the Russians, is that we must be as sure as we can that we are right and fair and always lead from a position of strength."

#### WORKED A LONG DAY

Mr. Blaustein, who worked sixteen to eighteen hours a day, also was one of the negotiators representing the Conference on Jewish Material Claims Against Germany when West Germany awarded \$822,000,000 to rehabilitate in Israel or elsewhere those who had been persecuted by the Nazis. West Germany also agreed to indemnify individual Nazi victims, Jewish and non-Jewish.

In 1960, he was instrumental in winning from the Krupp armament makers awards of \$1,300 for each slave laborer employed there during the war. "It is not very much for what they suffered but I imagine it will be an important amount to many of them," he said.

Mr. Blaustein was a philanthropist as well as a businessman and statesman. For five years, he was national president of the American Jewish Committee and was associated with Baltimore's Jewish charities since his middle twenties.

All this while he served as a director of Standard Oil Company of Indiana, Pan American Petroleum and Transport Company, Pan American Refining Company, Mexican Petroleum Corporation, Pan American Pipe Line Company, Carib Marine Corporation, Pan American Gas Company and the American Oil Company.

A 1968 study by *Fortune* magazine named Mr. Blaustein as one of the wealthiest men in America.

#### ONLY PARTIAL LISTING

This partial listing does not include his position with American Trading or in the management of the Blaustein building, the 30-story \$12,000,000 skyscraper he built at Charles and Fayette streets. It opened in 1963.

The glass and aluminum tower was reportedly built by Mr. Blaustein in a fit of pique after his proposal for the construction of One Charles Center, with a design by Marcel Breuer, was rejected in a spirited competition.

His building at One North Charles street was allegedly designed deliberately as a slight to be taller than One Charles Center.

He was active in community endeavors such as supporting the Baltimore Symphony. Speaking of culture, he said:

"A community must be well rounded and it must have character, in which culture plays a significant role." He called on business men to contribute, saying "it is incumbent upon them, even for the good of the

business itself, to concern themselves with other aspects of community life."

In 1962, he was named to the board of the Dag Hammarskjöld trust and in 1963 was made a member of the Advisory Committee on International Business Problems.

In 1964, Mr. Blaustein received the Synagogue Statesman Award from the Synagogue Council of America and the Herbert Lehman Award for leadership in the development of Israel.

In March of 1965, he returned to European statesmanship. He went again to West Germany to confer with Chancellor Erhard and former Chancellor Adenauer on behalf of survivors of the Nazi rule, who could not file claims for indemnity by the 1953 deadline because they were in Iron Curtain countries. He also discussed diplomatic relations between Israel and Germany and the status of German scientists working in Egypt.

In all, he averaged three trips abroad each year on various missions.

The Blaustein story started in 1910 when Jacob, then 18, and his father, Louis, then 40, teamed up to form the American Oil Company. It started in an old livery stable at Clarkson and Wells streets. It was a horse and wagon, door-to-door concern.

Their one tank wagon carried 280 gallons of kerosene and Jacob would sit next to the driver and dart in and out of stores taking orders and making deliveries. The tank wagon was an innovation in the business, one of many made by the Blausteins.

Another more sophisticated development was the introduction of the first special anti-knock motor fuel which revolutionized the gasoline and automobile industry and made possible the use of the high-compression engine.

They also designed and opened the first drive-in gasoline station in the United States. Known as the Lord Baltimore Filling Station, Inc., it was located on Cathedral street.

"Until we got the idea," Mr. Blaustein recalled, "you had to service autos at the curb. It was a clumsy operation."

Up to that time, motorists bought from pumps which had no indicator so the customers did not know if they were getting the proper amount of gas.

The Blausteins rigged up a 10 gallon jar on top of the pumps with gallonage marked on the side. Then the motorists could, as the advertisements soon said, "See What You Get, Get What You See."

After a long and complicated litigation between the Blausteins and Standard Oil of Indiana, American Oil Company became a totally owned subsidiary of Standard in 1954. The Blausteins became large Standard Oil stockholders and Jacob was made a member of the board of directors.

Mr. Blaustein was born on September 30, 1892. He was married on June 10, 1925 to Hilda Van Lee Katz.

In addition to his wife, he is survived by a son, Dr. Morton K. Blaustein, of Baltimore; two daughters, Mrs. David Hirschhorn, of Baltimore; and Mrs. Arthur E. Roswell, of Somerville, N.J.; a sister, Mrs. Henry A. Rosenberg, of Baltimore, and eight grandchildren.

#### THE CONTINUATION OF THE TRAGIC WAR IN INDOCHINA

Mr. HARRIS. Mr. President, much has been said about the tragically continuing war in Indochina, but nowhere what needs to be said has been expressed better or with fewer words than in a November 14, 1970, editorial in the *Oklahoma Journal*, published by outstanding Oklahoman W. P. Bill Atkinson.

We must all remember "that men are

still dying there," as the editorial so eloquently points out.

Mr. President, I know that other Senators will appreciate the opportunity to read these wise and timely words. Accordingly, I ask unanimous consent that the editorial be printed in the *RECORD*.

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

#### HOW MUCH CAN WE STAND?

The American public, always so eager to grasp at good news, no doubt takes comfort from the oft-heard assurance that the war in Vietnam is "winding down."

But, for the record, let it be known that men are still dying there.

Not at previous rates—only 31 last week, the report says with almost a sanguine ring.

Still, 31 brought the U.S. total killed in Vietnam up to 43,959 and there is no indication how much longer the war will drag on.

Along with the 31 killed, the report also says, there were 104 wounded, and gladly notes this figure is "the lowest in almost five years."

One wonders if we could cut it down to one dead and one wounded each week—would this be a tolerable figure we could live with indefinitely?

#### ANNIVERSARY DATE OF U.N. GENOCIDE CONVENTION IS RAPIDLY APPROACHING

Mr. PROXMIER. Mr. President, the 22d anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide is rapidly approaching. Yet, the United States has failed to ratify this important human rights document, which was adopted by a unanimous vote of the United Nations General Assembly on December 9, 1948.

I cannot think of a better way to commemorate the anniversary of this convention than by devoting a day of work in the Senate to this important document. It would be my hope that this day of discussion would result in favorable action by the Senate on this great document.

Not only is this year the 22d anniversary of the Genocide Convention; it is also the 25th anniversary of the founding of the United Nations. Our favorable action on a major convention of the U.N. would certainly be in keeping with our past role in this world body.

Twenty-two years is long enough for us to consider the ratification of this treaty. The consideration and affirmative action by the U.S. Senate on the Genocide Convention during this anniversary year would show the nations of the world our serious regard for the United Nations and its conventions.

#### JIM HALEY, THE "COUNTY CONGRESSMAN"

Mr. HOLLAND. Mr. President, appearing in the September-October 1970 issue of the *Florida County Government and Port Authority* magazine is an article about my distinguished colleague and longtime friend, JAMES A. HALEY, who for the past 18 years has represented the Seventh Congressional District of Florida.

I feel that this article, entitled "JIM HALEY, the 'County Congressman,' Moved From Big Top to Hill Top," illustrates the efficiency with which JIM HALEY carries out the duties of his office.

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:

JIM HALEY, THE "COUNTY CONGRESSMAN,"  
MOVED FROM BIG TOP TO HILL TOP  
(By Bill Fritts)

"Ask the people he has served."

If there is a single phrase that sums up the essence of veteran U.S. Congressman James A. Haley, it is this, because the pinnacle of Haley's reputation soars highest in the realm of "true public servant."

In his 18 years as representative from the 7th Florida Congressional District, Democrat Haley has compiled an impressive record of public stewardship, and in the process has earned the respect and admiration of both Republicans and Democrats alike.

When tall, lank Jim Haley reaches out and grasps your hand and says he'll help you, you know that he will. It is not a politician's empty promise.

The help needed may be large or small—perhaps no more than some information on a trivial matter; but it is forthcoming, without fail. You cannot write Jim Haley without getting an answer.

A cigar-smoking, silver-haired legislator who has moved into that select category of "statesman," Haley is seeking his 10th term in the U.S. Congress, running on his record as an acknowledged conservative and outspoken advocate of economy in government.

He is, in a very real sense, "Mr. Conservative," but not in an extremist, radical manner—rather more in the style and format of a person who draws his convictions from simple virtues learned in the past, who long ago found his philosophical niche in life and has stuck with it.

It is a philosophy that has found many admirers in the seven counties he serves as 7th District Congressman and which has draped the mantle of bipartisan candidate around his shoulders; for Haley's long tenure of office is due in no small measure to the "simpatico" loyalties of his Republican constituents.

This fact was borne out recently when Venice Mayor Smyth Brohard, a power in the Venice Republican stronghold, paid tribute to Haley on the occasion of a new post office dedication—one of 39 that Haley has obtained for his seven-county district—referring to "Republicans and those of like mind."

Commented the Sarasota Herald-Tribune editorially: "Beneath the veneer of party labels, the Congressman's philosophy and his voting record are in accord with the conservative inclination of the district he represents."

Comments Haley, "I think that more and more people are voting for what a man stands for, not the party he belongs to." And for this reason, he indicates, he does not fear the continuing influx of Republicans into the lower West Coast tier of counties that help comprise the 7th District—counties such as Manatee, Sarasota, Charlotte and Lee.

"I know we're getting more Republicans in the district.

And there are a lot of them who believe in my philosophy of government."

How, exactly, is this conservative philosophy expressed?

In the matter of foreign aid, for instance, Haley literally fumes and his cigar burns bright as he denounces what he terms Uncle Sam's "give-away program."

"If they get everything they want this year," he says, "our total foreign aid spend-

ing will be \$12,133,525,000. When many people think about foreign aid they think only about our foreign assistance budget, which is \$2,163,000,000, but there are all kinds of other forms of giving away money."

He deplores a national foreign aid policy that has boosted the nation's debt to a figure \$60 billion higher than the total national debts of all other nations in the world.

"What we're doing is giving away money we don't have. If the \$199 billion we've given away in foreign aid in the past 20 years had been applied to our debt the interest of about \$19 billion a year could be cut in half," he says.

He is outspokenly against America's involvement in Vietnam and Southeast Asia.

"I've said all the time we never should have gone to Asia," he states. "Our military leaders have always advised us not to get into a land war in Southeast Asia because it would be a war of attrition and we can't win a war of attrition there.

"If I had the decision to make . . . I would have turned the conduct of the war over to the military people who are trained to win wars and let them tell us if they could win or if we should get out."

His cautious approach to legislation is exemplified in the manner in which he has handled the controversial Alaska Native Claims Settlement Act. As chairman of the House Subcommittee on Indian Affairs, he holds a life and death grip over it.

He has criticized the Senate bill as "a can of worms," but does not seem to quibble with its gut provisions—he likes the idea of a big federal contribution, approves of state revenue participation, and favors, if anything, a greater land grant than that contained in the Senate bill, even suggesting that the Natives should have priority of selection over the state.

What, then, doesn't he like about the bill? "It's sloppy," he rasps. "Too many corporations, too many places where people other than Natives can get the benefits. It's going to take a lot of time and a lot of work."

But he is committed to getting a bill—a good bill—out. "We're just going to have to play it by ear," he says. "I'd like to get a bill out because the longer we fool around with it, the more confusing things are going to get in Alaska."

He is proud of the fact that he has chaired the House Subcommittee on Indian Affairs for nearly 16 years.

"It is," he says, "the only Congressional committee set up specifically by the Constitution of the United States, Article I, Section 8, to be exact. I could have had any subcommittee under Interior (Committee on Interior and Insular Affairs), but I just happen to like this one. A man can find out about a lot of American history on this committee."

He is deeply sympathetic to the Indian's plight in this country. He recently said, "The Indian people are the most harassed, pushed around folks in the history of our nation. We put the Indian off in remote areas. We killed his initiative, tried to make a farmer out of a hunter. We signed treaties and broke them. We made promises and didn't keep them. The Indian people are really a second nation within us, but we have treated them as second class citizens of our own. The blackest pages in our history concern our dealings with Indians."

He is held in high esteem by his Indian friends, who have bestowed many and various honors upon him. He has been dubbed Deh-gawh-weh-goh, Chief of the Twenty Canoes, by the Seneca Nation, one of the highest ranks in that tribe.

He is the only white man to hold an honorary membership in the Agua Caliente Band of Mission Indians, probably the wealthiest group of Indians in the world, owning much of the property in Palm Springs, Calif.

Full membership would have meant an

\$18,800 year stipend for life—a beneficence that Haley had to turn down because it would have created a field day for investigative Washington reporters.

He has been instrumental in helping the Indians resolve land problems and in bettering themselves through the development of their resources on the reservations. Educational programs have been improved, and training programs established to help the Indians to join in the mainstream of our economic life.

He led the fight to compensate the Senecas for the loss of a major part of their lands—land taken by the federal government for the construction of the Kinzua Dam, violating the oldest existing treaty of the United States. Indeed, the list of Indian legislation bearing Haley's name or stamp of approval encompasses names of tribes of nearly every state having reservations.

Another area in which he has rendered effective and widespread service is that of veterans' affairs. He is the second-ranking member of the Committee on Veterans' Affairs and chairman of its important Hospitals Subcommittee.

Most important to Florida has been his efforts to increase the number of Veterans Administration hospital beds—now totaling over 3,500.

He has been effective in helping raise veterans' compensation and pension rates and in bringing about the passage of the Cold War G.I. Education Bill.

In 1965, as chairman of the Hospitals Subcommittee, Haley conducted two months of the hearings and investigations into the Administration's proposal to close various VA hospitals and regional centers in other states. Following the hearings, six of the 14 hospitals and all eight regional offices were removed from the shutdown list.

The American Legion, Veterans of Foreign Wars, Disabled American Veterans and Veterans of World War I jointly honored Haley for his success in maintaining these facilities.

His legislative interest, however, has not been limited to his committee assignments. He has provided outstanding leadership in obtaining legislation beneficial to the Sunshine State's valuable agriculture industry. He has been in the forefront in development and conservation of Florida's natural resources and has been influential in developing transportation facilities serving the state's vital tourist industry.

One of his greatest contributions to Florida conservation dealt with the purchase of the remaining privately-owned lands within the boundaries of the Everglades Park. Last year Haley and Sen. Spessard Holland co-sponsored legislation to purchase the so-called "hole in the donut" tract within the park, an area covering 6,640 acres. The bill authorized purchase for \$697,200.

On Sept. 24 of this year, after some skillful maneuvering, Haley succeeded in getting through Congress a bill authorizing the purchase of the balance of all privately-owned lands within the park, amounting to 58,398 acres. This part carried an appropriation of \$20 million.

Thus through Haley's efforts and those of close colleagues in the House and Senate this priceless Florida heritage—unduplicated anywhere else in the world—has been put into the public domain in its entirety forever, protecting it from despoliment by development.

Haley saw his efforts and those of many Florida conservationists come to fruition late in September when the House passed two Haley Wilderness Bills as part of the House Omnibus Wilderness Bill. The areas to be made part of the National Wilderness System, once the bill becomes law, are certain lands in the Island Bay and Passage Key Wildlife Refuges in Charlotte and Manatee Counties. Through the legislation Congress assures that there is no building of roads or

other man-made structures on the lands involved. In addition, no motorized forms of transportation could be used in and about the wilderness areas to prevent the disturbance of wildlife and pollution of the land.

Haley has also helped obtain funds for beach erosion control surveys for Sarasota and Manatee counties and for the study of the flooding problems on the Braden and Manatee rivers.

In regard to the beach studies—to use them as an example—they point up the fact that Haley is not only well respected by “the folks back home” but also by his colleagues in the Congress. When he requests support for a particular bill, he always gets a respectful hearing and almost always action. In fact, in his 18 years on the Hill, Haley has never lost a bill on the floor of the House.

Giving support to the beach erosion studies was Congressman John Blatnik, who is scheduled to become chairman of the House Public Works Committee. Haley had recently helped Blatnik with some legislation affecting Blatnik's district—and he noted in a recent memo, thinking ahead to future legislation, “I am confident that as chairman of Public Works he will be equally as helpful.”

Haley also sponsored the rebuilding of the Venice jetties and the dredging of Sarasota passes to connect the West Coast Inland Waterway and the Gulf of Mexico. With other members of the Florida Congressional Delegation, he has assisted in obtaining the authority and funds for the Central and Southern Florida Flood Control District.

A strong supporter of the Small Watersheds and Flood Prevention Act, which he has described as one of the most effective self-help programs ever adopted by the Congress, he has taken pride in the fact that the first project to be completed in the United States was the East Lake Placid Chain of Lakes project.

Of the 16 projects authorized for Florida under this program, seven are located in whole or in part in his district. They include the Sarasota West Coast Watershed project and the Big Slough project, which serve DeSoto, Sarasota and Manatee counties, and the Palatka River project serving Polk and Lake counties.

He has been active in the fight to assure funds for the continued orderly development of the watershed projects and the entire soil conservation program.

Ever alert to Florida's interest in the tourist industry and the importance to the 7th District and all of Florida, Congressman Haley worked diligently to bring about the construction of Florida's “missing link” highway from Tampa to Miami as part of the Interstate Highway System.

He has been of direct assistance to the City of Venice in obtaining federal government release of Venice Airport property with only a minimum of federal restrictions. He assisted also in obtaining release of federal acreage at Drane Field, Lodwick Airport and the Bartow Air Force Base for municipal purposes. He has been helpful to these airports as well as the Sarasota-Bradenton Airport in obtaining authority and federal funds for airport development.

In the field of public welfare, Haley has aided in obtaining funds or other federal assistance for such local projects as these:

Hospitals in Manatee County, Bartow, Lakeland, Sarasota and Winter Haven; public health centers in Bartow, Bradenton, Haines City, Lakeland, Lake Wales, Sarasota, Wauchula and Winter Haven.

Public works planning, sewage treatment plants, public housing or slum clearance in Arcadia, Auburndale, Bartow, Bradenton, Dundee, Haines City, Lakeland, Mulberry, Palmetto, Sarasota, Sebring, Wauchula and Winter Haven.

His legislative contributions on behalf of Florida citrus are almost endless. He has been

frequently honored by Florida Citrus Mutual, and in 1966 received the Mutual's “Silver Spade” award.

Some of his contributions in the citrus field have been:

Introduced legislation to bring imported tangerines under the same size and grade restrictions which are in effect for Florida tangerines under the Agricultural Marketing Agreements Act.

Helped with citrus export problems, particularly those concerning Great Britain and the Common European Market Countries.

Gave assistance in seeking to resolve problems with Food and Drug Administration relating to pesticides, color additives and standards of identity for orange juice and orange juice products.

Co-introduced and sponsored with Sen. Spessard Holland Public Law 86-2, which authorized use of Citrus Red No. 2 for the coloring of oranges.

Assisted in bringing about embargo on all commodities from Communist Cuba.

Protested to International Development Fund the use of American tax money to establish a citrus canning plant in Morocco. Project was dropped by the Fund.

Among other multitudinous activities, he has helped obtain passports and visas, discharges from military service, pensions, social security benefits, and has helped many a veteran secure admission to VA hospitals for needed medical treatment.

He has also been one of the chief architects of research for converting salt water to potable drinking water, and in his role of conservationist has helped establish many bird sanctuaries around Florida.

Haley's odyssey as a congressional representative formally began on Jan. 3, 1953, when he first took office. Before that, he served in the Florida Legislature in the 1948 and 1950 sessions, becoming known as “Mr. Economy.”

He became recognized throughout the state, however, because of his chairmanship of the special investigating committee which became known as “the Haley Committee,” and which conducted a spectacularly successful probe of spreading crime and corruption in the state.

Fuller Warren, a former governor of Florida, recently wrote a resume of Haley's principal achievements while he served in the Legislature. He listed:

“The Sunshine Skyway, which benefited Florida's West Coast more than any other public project ever constructed by the state.

“The ‘taste test’ citrus code, which did so much to rescue Florida's citrus industry from threatened insolvency.

“The law that banned roaming livestock from public roads saved thousands of motorists from sudden death or bodily injury, escalated tourist travel in Florida, and incidentally upgraded the cattle industry—perhaps benefiting more people than any other law ever enacted by the Legislature and the Chief Executive of Florida.

“Frontier frugality that produced a surplus of about \$50,000,000 in the State Treasury at the end of fiscal 1953 . . . Haley had an important part in producing this enormous surplus of unspent tax money, being himself one of the most frugal, economical, parsimonious public servants with tax money ever to serve in the Florida Legislature.”

Congressman Haley is, as the saying goes, a “born Southerner,” having first seen the light of day on Jan. 4, 1899, in Jacksonville, Ala. In 1925 he moved to Sarasota, which has remained his home ever since. He saw Army service in Europe in World War I and later attended the University of Alabama.

In Sarasota, he organized an accounting firm and began his long career as a successful businessman who still found time to become a recognized civic leader and to compile a long record of public service.

John Ringling, the circus magnate, was

impressed by Haley's abilities and persuaded him to become associated with the Ringling enterprises. Upon Ringling's death, Haley was placed in charge of the circus magnate's estate, and he subsequently served as president and director of Ringling Bros. and Barnum & Bailey Circus until he resigned in 1948.

Of these years, when he ran “The Greatest Show on Earth,” he still has fond memories and likes to recall events of those times—and laughs heartily when reporters kid him about “being the only man really at home in the House because, after all, he once ran the biggest circus in the world.”

Haley himself quips, “I guess you might say I came from the Big Show to the side show.”

His years with the circus included the war years, when food was rationed and he had to see that 1,600 employees and circus animals—including 51 elephants—were fed, sheltered and received the necessary medical attention.

He recalls that it was a tradition with the Ringling Brothers that the highest official of the circus would follow the polewagon off the lot. The center pole which held up the big tent was the last thing to be packed to leave and the circus couldn't set up until it arrived at the next place.

“That was fine,” Haley says, “when there were five Ringling Brothers to pass the job around, but when I took over as the one man overseeing the operation, the tradition became a man-killer.”

He remembers it would be in the small hours of the morning when he finally saw the pole safely on its way, then he would go ahead in his chauffeur-driven car, arrive at the lot, and sleep a few hours before the pole arrived.

Today, he gives his constituents the same hard work and devotion he used to give “The Greatest Show on Earth.”

Haley's services to his district, his state and his country, if they were recounted in full, would fill a voluminous book. It is not often, indeed, that a man is endowed by nature and good fortune to play such a role in life. But the beneficiaries of his dedication to public service know his works, and have thanked him in countless ways over the years. A list of awards he has won would in itself make a small pamphlet.

Testimonial to his stature as a U.S. congressman is a recent rating of the top House leaders by Washington columnists Robert S. Allen and John A. Goldsmith. This elite group, deemed the “ins,” are those who exert decisive influence on the formulating and adoption of every measure considered by the House.

Only three “top leaders” were listed from Florida—and Haley was cited twice, once with the Interior and Insular Affairs Committee and once with the Veterans' Affairs Committee. It is a graphic underscoring of his effectiveness.

“Ask the people he has served.”

“We have done that, and here are some of their answers:

Willard Schroeder, 2404 Blispham Rd., Sarasota: “Appreciate efforts put forth by you and your wonderful staff in assisting me with my claim under Social Security. Feel that without your help things would still be filed in ‘File Z.’”

Ralph Dashner, 504 Regency House, Sarasota: “I like your attitude on the issues of the day. While I normally vote Republican, I have been voting for you because I agree with your views.”

John Grotfelty, M.D., 1247 Lakeland Hills Blvd., Lakeland: “It is very gratifying to know that you have time to help one of your constituents with serious problems regarding safety and life.”

Ralph Miller, 4806 Triton Ct., Cape Coral, giving a thank you for assistance with a Social Security matter: “Since we are recent

newcomers to Florida, it is nice to know that you, as our representative, are really concerned about your constituents."

Charles F. Shepard, 325 Citrus Dr., Nokomis, in regard to Venice Jetties project: "From favorable reaction and comment you may rest assured your constituents will remember your local interest at proper times. May I again thank you for your aid and thoughtfulness in the matter."

Adele L. Oldenburg, reference librarian, Polk Junior College, Winter Haven, thanking Haley for material for library: "Now, more than ever, I realize how valuable it is to have a man such as you in our government—and this from a Republican."

Allen S. Hitch, 120 39th St. N., Bradenton, in reference to re-routing I-75 around eagle's nest: "Thanks for an excellent job. The work you did is deeply appreciated."

Joseph Taylor, 113 McKinley Ave., Lehigh Acres, Fla.: "Thank you for your thoughtfulness. You seem to be one of the 'thoughtful few' American legislators in both House and Senate who try to do a good job."

Sherman Adams, 3503 14th St. W., Bradenton, referring to assistance in obtaining an FHA loan for a home: "It is very difficult to express the gratitude we all feel toward you and your staff."

Mrs. Harry King, Jr., 606 Ave. H NE, Winter Haven, thanking Haley for assistance during a Washington, D.C., visit: "If the state of Florida moves as fast as your office in Washington, then we will always be among the top."

Lt. Col. C. B. McDuffee, 213 Outer Dr. E., Venice: "My family and I wish to tell you that we appreciate the fine job you are doing and believe you have consistently voted in the best interest of our country. Although we have changed our registration to Republican this year, we certainly will support you in every way we can."

Mrs. Joyce Daugherty, 885 27th St., NW, Winter Haven: "I just had to let you know what wonderful service you give to the people of Florida. I pray that you will continue to be our Congressman."

John R. King, 529 Parkview Place, Parkland: "Thank you for the excellent service you are performing for the citizens of Florida as well as the entire country."

Harland S. Moss, Route 2, Box 204S, Lake Wales: "When future election times arrive be assured that my wife and I will be the first in line to place a big X by your name. We will also consider it a privilege to work in your behalf to retain you in office as long as you desire."

Howard G. Smith, 110 Limonia Dr., Indian Lakes Estates: "Thank you so much for your help and I just want to tell you that you will have my vote every time you run for office plus votes of all our friends."

Oscar David, Sarasota Chapter No. 96, American Association of Retired Persons: "It has been with absolute faith and confidence in your integrity that we (2,000 members) have turned to you as our legislative leader in Congress. You have always justified this confidence."

#### THE TRADE ACT OF 1970

Mr. HATFIELD. Mr. President, I am alarmed at what may happen in the next few weeks in the Congress in the area of foreign trade. We may turn our backs on decades of trade liberalization in hopes of short-term solutions to domestic economic problems.

To paraphrase the well-known quote, passage of the import quota bill would be one small sop for textiles, and one giant mistake for mankind.

I certainly sympathize with American interests suffering from the current economic doldrums. I agree that one facet of

the damage to a number of industries stems from imports. I fear, though, that in many industries imports have become the scapegoat for other economic ills. It is easy to point the finger at imports as the single cause of current economic problems, when a number of other reasons all play a part. I repeat, though, that some industries can point to damage from increasing imports.

The 1970 trade bill, I fear, could trigger a global trade war. Retaliation could generate a breakdown in foreign trade which would have repercussions of tragic consequences.

Supporters of the current trade bill have said that retaliation would hurt any foreign country and would be economically unsound. This is true, and if the economists developed trade policy, there probably would not be retaliation.

Trade policies, however, ultimately are made in foreign countries by politicians, not economists. Foreign politicians would call for retaliation and the voices of the economists would not be heard. To those who would doubt this, I point to the situation in this country, where it is the politicians and not the economists who want import quotas.

Retaliation hurts everybody. I recall an old Laurel and Hardy movie. Somewhere along the line Hardy got mad and ripped the sleeve off Laurel's jacket. Laurel responded by tearing the front out of Hardy's shirt. And so it went until both of these characters were down to their union suits. It was funny in the movies, but there is nothing funny about the prospect of losing your shirt in a trade war.

Mr. President, I want to comment on an extremely sensitive area which I think would be affected adversely by this bill. I refer to agriculture. U.S. agricultural experts, after being in the doldrums for a couple of years, are beginning to resume the upward trend they exhibited earlier.

Beginning in the early 1960's, our shipments of farm products rose steadily to a peak of \$6.8 billion in fiscal year 1967. They dropped off to \$6.3 billion in 1968, and to \$5.7 billion in 1969. In fiscal 1970, agricultural exports had a strong resurgence, with exports hitting the \$6.6 billion mark. The Department of Agriculture sees a continuation of this strong growth in 1970, with exports of \$7 billion or better.

Enactment of trade legislation with quota provisions that invite retaliation against our agricultural exports could do egregious damage to our Nation's farmers.

Our farmers want to produce. They are geared up to put more acres into production. But their only real opportunity to market enlarged production lies in expanded export markets. This export opportunity will be lost to them if we begin to restrict imports in irresponsible ways.

The wheat farmers of this country especially are vulnerable to foreign trade restrictions. For years wheat has been one of America's leading export commodities. The record year was fiscal 1966, when we shipped 859 million bushels, representing 66 percent of 1965 produc-

tion, and having an export value of \$1.4 billion. Shipments declined for a few years. Now, they are climbing again. Shipments this year will be at the 700 million bushel level—the third best year in our history.

For the wheat farmers of Oregon, exports are all-important. Around 85 percent of Oregon's commercial marketings of white wheat go to foreign users—a larger export percentage than for any other part of the country. Because Oregon and our neighboring State of Washington are so dependent on wheat exports, they are also more vulnerable than producers of other commodities to restrictive trade measures applied by foreign countries.

Our Oregon wheat producers are fearful of consequences growing out of the Trade Act of 1970. And well they might be. The kind of white wheat that Oregon produces is sold primarily to Japan, but considerable quantities also go to the Philippines, Korea, and Taiwan. These are countries that export to the U.S. textiles, shoes, and the other general categories of products whose entry to this country would be limited immediately by the trade bill. They also are exporters of items coming under the general purpose quota triggering device contained in section 301(5)(a) of the bill. If we apply trade restrictions to these countries, will they continue importing our white wheat? Oregon wheat growers have reason to fear retaliation.

Oregon wheat producers already are worried about the competition they are getting. Australia, also a producer of high-quality white wheat, has steadily increased its marketings of this grain to Far Eastern users in recent years. You may be sure that Australia is watching for us to stub our toe. This is what we would be doing if we pass the Trade Act of 1970 with its current provisions.

Producers of other Oregon crops would be affected if trading nations tighten restrictions on our agricultural exports. Oregon producers of grass and legume seeds export to Japan a substantial part of their annual production. Oregon also depends on the export market to a considerable extent for commercial sales of pears and filberts. The most recent statistics for fiscal year 1970 shows Oregon the seventh State in exportation of fruits and preparations and 10th in vegetables and preparations.

I ask unanimous consent that my statements of September 23 and November 2 discussing Oregon agriculture be printed at this point in the RECORD.

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

#### SENATOR HATFIELD'S STATEMENT OF SEPTEMBER 23

"Oregon's agricultural exports could be the first target of Japanese retaliation toward the United States if we pass an overly restrictive Trade Import Quota Bill," said Senator Mark O. Hatfield today.

"Oregon supplies 80% of the U.S. wheat exported to Japan. In 1968, 38% of the exports from Portland were to Japan. Oregon's trade with Japan rose 20% in 1968-69, and now is 7.5% of the U.S. total.

"The agriculture industry in Oregon and across the United States must not bear the

brunt of retaliation against the U.S. for any trade bill which would cause far more problems than it would solve."

Hatfield met recently with three members of the Japanese Diet to discuss ways to improve Oregon's trade with Japan.

"All three Japanese Congressmen are of the ruling party," said Hatfield. "They expressed their desire to work toward a more liberal policy to allow even greater U.S. exports into Japan.

"Our talk centered on improving Oregon lumber and wheat markets, although we also discussed markets for our manufactured goods.

"I also will oppose a possible effort to call up the entire import quota bill as an amendment to another bill. Any measure of this magnitude deserves Senate hearings. We need to hear from our agriculture industry. I plan to ask Senator Long, Chairman of the Finance Committee, to hold hearings on this bill.

"I am sympathetic, though, to Oregon businessmen damaged by imports. I urged the Japanese Congressmen to press for some voluntary agreements to head off possible punitive action by the Congress, and I stressed the urgency of reaching voluntary textile agreements between the U.S. and Japan."

SENATOR HATFIELD'S STATEMENT OF  
NOVEMBER 2

"The increase of wheat exports by nearly 40% in 1970 might be the last such gain," warned Senator Mark O. Hatfield this week, "if the controversial import quota bill is enacted."

"Wheat exports of nearly 160 million bushels were up from 109 million bushels last year," said Hatfield.

At a recent breakfast meeting with Secretary of Agriculture Clifford Hardin and Assistant Secretary Clarence Palmby, Hatfield discussed Oregon's wheat exports and the administration officials agreed that Oregon's wheat exports would be a prime target for foreign retaliation if the import quota bill is passed.

"Retaliation against our agricultural exports could cripple this vital segment of Oregon's economy," he continued. "I fear nationalistic pride overseas would generate retaliatory measures, hurting all segments of United States foreign trade."

"Agricultural exports, such as wheat, would be a prime target, both by Japan and in Europe. Almost 16% of Oregon agricultural crop sales are export sales."

Hatfield also pointed to Oregon's turf and forage seed industry as a possible target for retaliation.

"One third of our turf and forage seed crop is sold abroad," he said. "Over a ten year period, we have averaged exports of about 45 million pounds. In 1969-70, this represented cash sales of \$11,166,000."

Hatfield said the overall agriculture export rise in the first quarter of 1970 is nearly one-fifth above the same quarter last year. Non-agriculture exports were up eight per cent this year.

Mr. HATFIELD. Mr. President, non-farm groups have a major stake in our agricultural trade. Last year for example, Columbia River ports handled 165 million bushels of wheat destined for the Far East. This was 80 percent of the Far East movement off the Pacific Coast. This meant jobs for longshoremen and merchant seamen. It meant profit for grain handlers, warehousemen, transportation agencies, financial institutions, and many other enterprises functioning in the trade field. These export-related interests, like our farmers, do not want to be hurt by legislation that could trigger restrictions against our exports.

When I talk about problems in the trade area, I am mindful of the fact that the European community is making it difficult for us to market our farm products in that area. Also, the community's farm policies are stimulating agricultural production which we are encountering, because of the community's export subsidy program, in many of our traditional markets. Now we are faced with the problem of an enlarged community that would continue to follow inward-looking agricultural trade policies.

But I do not see how we can gain by emulating in this country the very same practices we have been fighting abroad. There are other ways of bringing our trading partners around to policies envisioned in the general agreement on tariffs and trade. I am sure that the administration in the months ahead will be taking more and more individual actions with respect to trade problems than has been the case in recent years. Mr. President, while I intend the prime thrust of these remarks to center on agriculture, I think we in Congress should remember the effect of this bill on the consumers of this country.

One fact is inescapable: consumers will pay more for goods than they do today if this bill is enacted. I do not know how anyone can disagree with that statement, for in many instances, imported goods are lower priced than competing domestic goods.

I ask the question: If I am a senior citizen on a fixed income, or I am a low-income resident of any inner city, or I am a worker caught in today's inflationary spiral, what will happen to me if import quota restrictions remove lower cost items from store shelves?

To answer my own question, my dollar would buy less than it does today. I will have to pay more for similar goods.

I think it highly speculative for domestic producers to eye any dollar spent on imported goods as a potential dollar that would be spent on domestic goods in the absence of those competing foreign goods. If low-cost goods are removed, I do not think that a person can project that amount as one that would be used to purchase higher cost domestic goods.

Others will offer statistics to document this increase in costs to consumers and I will only point out the opposition to the bill by Virginia Knauer, the President's Special Assistant for Consumer Affairs.

Mr. President, I will raise a rhetorical question regarding the impact of imported products on our domestic industry: If there had not been the Volkswagen, the Toyota, and the Datsun, would we have the Vega, the Pinto, and the Gremlin today?

A brief examination of the comparative profit margins of these cars with the larger car offers an indication of what the answer is:

While I am discussing imported cars, I call attention to a letter I received from Mr. Knute Kvale, Northwest distributor for Volkswagen.

Mr. Kvale points out the Volkswagen investment in men and equipment, and similar points were raised in letters from

Mr. L. L. Stubberfield, of the Nissan Motor Corp., and Mr. J. J. Rye, of Toyota Motors.

Mr. President, I ask unanimous consent that these letters be printed at this point in the RECORD.

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

RIVIERA MOTORS, INC.,  
Beaverton, Ore., October 28, 1970.  
The Honorable MARK HATFIELD,  
Senate Office Building,  
Washington, D.C.

DEAR MARK: In response to a telephone call from Walt Evans on the Import Quota Bill, I would like to inform you that we have twenty-two (22) Volkswagen dealers throughout the state of Oregon, plus our distributor facilities. This represents a total investment of approximately \$9,000,000. There are 820 employees working in these dealerships and this distributorship.

In the state of Washington, there are twenty-six (26) Volkswagen dealers with approximately \$6,500,000 invested and 716 employees.

Obviously, these dealers have based their investments in facilities, equipment and employees on a certain volume of business. Any reduction in volume because of import quotas would endanger the profitability of these dealerships and could only result in loss of jobs and income to many Oregonians and Washingtonians.

Sincerely yours,

KNUTE M. KVALE,  
President.

NISSAN MOTOR CORPORATION IN  
U.S.A., PORTLAND REGIONAL  
OFFICE,

Portland, Ore., November 9, 1970.

Senator MARK O. HATFIELD,  
Senate Office Building,  
Washington, D.C.

DEAR SENATOR: I would like to urge that you vote NO on proposed legislation concerning import restrictions. I am referring to HR189-70, and possible riders.

I am naturally interested in any legislation which would restrict the importing of Japanese Automobiles, and I have some information which you may wish to review as you consider your position on this issue.

The Nissan Motor Corporation in U.S.A. has been busy establishing dealers and selling cars and trucks in Oregon for more than ten years. The Regional Offices for Nissan in the Northwest United States are located in Portland. This \$350,000 facility was completed only fourteen months ago and we are now in the completion stage of an addition which will double our floor space. Thirty-five persons are employed in this region and approximately \$252,000 in annual payrolls are generated.

Presently there are thirty Datsun Dealers in Oregon employing four hundred and forty people. Estimated annual payrolls for these Dealers total \$3,393,814.

Warehousing Nissan products in Portland involves an additional 35 persons and generates approximately \$186,000 in annual payrolls.

In addition, there are some 800 longshoremen who handle Datsun and other unloading in Portland. Wages paid for these services, attributable to Datsun, amount to approximately \$52,500 annually, according to the Commission of Public Docks.

Trucking our product from the warehouse to the Dealers involves over 260 people. While they transport many other products, imports now account for 24% of the total business and perhaps a half million dollars in annual payroll. As you see, I am pointing to at least 1570 jobs and nearly \$4,500,000 in payrolls which are directly related to Nissan imports. This is in addition to the many

other imported cars which are marketed in Oregon.

Not only do the ships carrying Nissan products add substantially to the tonnage of the Port of Portland, but these same ships return to Japan carrying the products of Oregon. As an Oregonian, involved in the economic life of our State, I feel certain that if import restrictions by the United States were to result in similar restrictions by Japan, the resulting loss to our agricultural community would have a most serious effect.

Nissan Motor Corporation in U.S.A. imports cars and trucks which do not compete directly with Domestic products. Our model selection demonstrates that we are offering different products which fill different needs.

I hope that this information will be of use to you and I hope it will be your decision to oppose Import restrictions.

Thank you for your attention.

Sincerely,

L. L. STUBBERFIELD,  
Regional Manager.

TOYOTA MOTOR DISTRIBUTORS INC.,  
Portland, Oreg., October 30, 1970.

Mr. WALTER EVANS,  
c/o Senator Mark O. Hatfield,  
Senate Office Building, Washington, D.C.

DEAR MR. EVANS: Attached you will find the listing of the number of residents of the state of Oregon who are employed by Toyota Motors Distributors, Inc. and Toyota dealers. These figures do not include wives, dependants, or others who may depend on these people for their livelihood. Also, these figures do not include Convoy Company and the railroads who ship our cars to our dealers.

Needless to say, if you include Washington, Idaho, Alaska, Montana and Wyoming, this number would at least be tripled.

If we can be of further assistance, please do not hesitate to call upon us.

Sincerely,

J. J. RYE,  
Assistant Regional Manager.

Attachment.

TOYOTA MOTOR DISTRIBUTORS, INC.  
PORTLAND—59

Astoria .....	8
Bend .....	26
Brookings .....	7
Coos Bay .....	15
Corvallis .....	10
Eugene .....	16
Grants Pass .....	12
Gresham .....	7
Klamath Falls .....	10
Lebanon .....	16
Medford .....	16
Milwaukie .....	16
Newport .....	15
Gateway-Portland .....	23
Rambo-Portland .....	18
West Slope-Portland .....	23
Roseburg .....	8
Salem .....	19
Sheridan .....	10
The Dalles .....	12
Pendleton .....	3
Hermiston .....	11
Baker .....	5
Port Services Company-Portland .....	21
Total .....	386

Mr. HATFIELD. Mr. President, these gentlemen point out the fact that many imported products have an economic impact in the local area equaling that of domestic producers. This is not universal, for some imported goods do go directly from ship to store. This is worthwhile to consider as we debate this bill.

While I can understand the frustrations that have shaped this bill—and I hope our trading partners are reading the signs correctly—I cannot support

this proposal. I am convinced that this bill would create more problems than it would solve. We need a trade bill, but the Trade Act of 1970 has been so loaded with extras it has become a no-trade bill. In my judgment, the quota provisions of this bill could set off a series of retaliations that would irreparably cripple our trade. With this bill we run the risk of ending up with trade at the same disastrously low level it hit in the Great Depression of the 1930's.

Mr. President, I wish to comment on another aspect of this broad problem. As Governor of Oregon, I led trade missions to Japan and Germany. Throughout my career in public service, I have been identified with the liberal trade point of view. These remarks today re-emphasize this position.

I wish to stress, however, a coordinate position to our foreign friends with whom this country trades.

Trade is a two-way street. The current discussions in Congress highlight the feeling that the United States is doing more than its fair share in the trade sector.

I urge foreign countries to accelerate their activities to allow freer access for U.S. products. It is difficult to stand here and defend a liberal trade position in the face of some of the restrictions the United States faces overseas.

Recently, I met with some Members of the Japanese Diet. I stressed the need for Japan to move toward freer access for U.S. goods. Some liberalization in this area has been announced. More is needed. The European Community also must adopt a realistic stance on this matter.

Those of us who support liberal trade policies for the United States should not be viewed by foreign governments as satisfied with the current status of our export activity. I urge more liberal laws for foreign countries so more of our exports can get an even break on markets overseas.

To point out to my colleagues in both Houses the sweeping and backward looking nature of the bill they soon will consider and to acquaint them with the strong feeling this bill has aroused in the administration, I ask unanimous consent that the remarks that Dr. Hendrick Houthakker of the Council of Economic Advisers made before the Lawyers Club in New York City on November 4 be placed in the CONGRESSIONAL RECORD at the conclusion of these remarks.

I draw particular attention to Dr. Houthakker's statement:

It has been pointed out that the trade bill represents a turning point in our attitude towards international trade, and in fact towards our position in the world generally. As you will have seen from the above remarks, I think the word "turning point" is quite appropriate. There is a great danger that because of some temporary adjustment difficulties, confined to a few products in a few industries, we embark on a course that will hurt many more people than it helps.

Dr. Houthakker also draws attention to the fact that passage of the bill could result in retaliation against some of our most efficient export industries such as agriculture and aircraft.

Mr. President, in my view, it is not wise to pass legislation that, while protecting certain sectors of our industry, would injure other sectors through retaliation.

I suggest that there are alternate, effective ways to protect those products actually injured by imports. Perhaps we would do well to study the measures Canada has taken to help its textile industry which also faces an import problem. I ask unanimous consent that two articles published recently in the Wall Street Journal, articles which outline these measures, be printed at this point in the RECORD.

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

[From the Wall Street Journal, Nov. 9, 1970]

CANADA FORMS PROGRAMS TO HELP TEXTILE FIRMS DEPRESSED BY IMPORTS

OTTAWA.—The Canadian government carried its "positive assistance policy" one step further when it announced it is formulating a program to help textile producers that are being hurt by low-cost imports.

Instead of concentrating on curbing these imports, the program will be aimed more at providing financial assistance to companies so they can diversify. It also would offer compensation to workers displaced by the change-over or automation.

Jean-Luc Pepin, Minister of Industry, Trade and Commerce said the legislation will be submitted to parliament soon. Meantime, the department has formed a clothing and textile board that would oversee the program.

BOTTOMLESS PITS

Announcement of the textile program ties in with the Trudeau government's apparent policy of getting away from continually protecting or subsidizing chronically troubled industries. "We're tired of putting dough into bottomless pits," one government source said.

Last week the government said it plans to adopt a complicated grains program that would be of more benefit to successful farmers than to unsuccessful ones. In years of low sales, farmers would be compensated from a fund established by themselves. Payments to each farmer would be based on his average sales of the previous three years. If sales in those years were high, the farmer would receive high compensation and vice versa.

Last month the government submitted legislation to extend government assistance to gold-mines through mid-1973, but specified that new mines wouldn't be eligible for the payments and that the companies couldn't hire new workers unless they have government permission. The government also said it's seeking ways to diversify the economies of gold-mining communities.

Mr. Pepin said the newly formed clothing and textile board will hold hearings next month on a complaint that low-cost imports of cotton yarns and cotton-polyester yarns are hurting domestic producers.

The producers, instead of requesting import curbs, would be seeking to prove that they need government assistance either to divert production into another textile line or to modernize production of existing lines.

This is part of the government's textile policy announced last spring to make the industry more competitive on world and domestic markets, Mr. Pepin said.

PERMANENCY SOUGHT

The board, Mr. Pepin said, was formed on "an interim basis," but parliament will be asked soon to approve permanent establishment of the panel.

The objective of the textile policy is to create conditions under which the Canadian textile and clothing industries can plan to move progressively toward the more viable lines of production on an increasingly competitive basis internationally, the minister said.

He said if it's determined that the imports offer "unfair" competition to domestic industry, the board could recommend that special duties be imposed on the imports of these products.

The new board's main function will be to advise the government on matters related to textile industry. By itself it hasn't any powers to grant financial aid or to impose measures to hold down imports.

[From the Wall Street Journal, Nov. 13, 1970]

#### TEXTILE TIP FROM CANADA

Canadian textile men, like their U.S. counterparts, have been complaining of greatly increased competition from imports. Unlike Washington, however, Ottawa has come up with a positive response.

The Canadian government is forming a clothing and textile board. Next month the board will hold hearings on claims that low-cost imports of cotton yarns and cotton-polyester yarns are hurting domestic producers.

If injury is proved, the affected Canadian companies and their employees may qualify for a variety of government assistance. The government may help the firms to shift to more profitable lines or to make their plants more efficient. Any workers displaced in the process may qualify for government compensation.

The aim, of course, is to promote the most productive use of Canada's resources and to avoid import restrictions that would inevitably lead to foreign retaliations against the nation's exports. That sounds reasonable enough, and in the U.S. the Administration has long supported much the same approach.

A great many members of the U.S. Congress, though, favor the pending legislation that would clamp import quotas on textiles and make possible similar curbs on a long list of other products. They do so despite the fact that several nations have made it plain they would quickly retaliate against American goods.

The Canadians propose help only for firms that really need it, not broad protection for an entire industry of firms, many of them prosperous, diversified and highly efficient. A similar course would be eminently more sensible for the U.S.

Mr. HATFIELD. In addition, Mr. President, I draw the attention of Senators to an editorial published in Business Week for November 14. I ask unanimous consent that the editorial be printed at this point in the RECORD.

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

#### AGENDA FOR CONGRESS

The political grudges that developed in the last election cannot be wished away, but it is time now for the lawmakers to put the bitterness of the campaign behind them. When the lame-duck Congress meets next week, it will face several pieces of legislation that demand speedy action:

The welfare reform program, the most important social measure produced by the Nixon Administration.

Bills to insure investors against brokerage failures and regulate mutual funds, which must be passed to prevent a dangerous loss of confidence in Wall Street.

The Treasury Dept.'s proposal to bring in over \$2-billion in revenues through a speed-

up in collection of estate and gift taxes and extension of excises on autos and telephones—all needed to cut the deficit and enable the Federal Reserve to continue monetary expansion.

Inevitably, there will be a great many items that Congress cannot clear this session, and in some cases it would be just as well. The protectionist trade bill now before the Senate Finance Committee should at least be delayed to give U.S. negotiators a chance to hammer out a textile agreement with the Japanese that might avert a trade war.

On top of everything, though, the Finance Committee has slipped its trade bill into a Social Security bill, along with a measure to restrict welfare reform to a pilot program. The thinking is that the President could not veto this three-piece package. This is shoddy legislation. The Senate has a duty to consider each subject on its merits and not try to shove two dubious passengers onto the last train out of the station.

If Congress buckles down, it can handle the must measures, clear the seven remaining appropriations bills, and still get home for Christmas.

Mr. HATFIELD. Mr. President, in conclusion, I would hope that the Finance Committee would decide not to attach this far-reaching proposal to the social security amendments. A proposal of such magnitude deserves a full debate, apart from the merits of the social security amendments.

I ask my fellow Senators to weigh carefully the ramifications of the bill. We must not let local pressures of a short-range and local nature color our decision on the bill.

Mr. President, I ask unanimous consent that a letter from the Oregon Farm Bureau Federation, followed by Dr. Houthakker's speech be printed in the RECORD.

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

OREGON FARM BUREAU FEDERATION,  
Salem, Oreg., November 6, 1970.

HON. MARK O. HATFIELD,  
Salem, Oreg.

DEAR SENATOR HATFIELD: We are deeply concerned about the recent move of the Senate Finance Committee to amend the social security bill, HR 17550, to include the provisions of proposed trade bill (HR 18970). We are afraid the import quota provisions could result in retaliation by other nations that purchase large quantities of our agricultural products.

A large portion of Oregon-produced wheat must find its market in foreign channels. We need to find means to export more of our wheat and other grains grown in Oregon to enhance the economy of many of our farmers.

It took several years to recover from the drop in cattle prices which resulted from the ill-advised embargo on hide exports in the early '60s. Oregon cattle producers cannot afford to have this happen again. We don't want to lose the export market that the meat packing industry has developed for hides.

Many Oregon businesses, agricultural producers and the Oregon Department of Agriculture, Market Development Division, has been constantly working to develop exports for our many specialty crops. A retaliation by foreign countries against the import quota provisions of the proposed trade bill would nullify all of the money and effort that has been expended to open up new markets for our many specialty products.

I do not want to leave the impression that we are not concerned about agriculture imports coming from foreign countries that compete with our products. Strengthening of

our laws to prevent dumping and establishing standards for quality and sanitation of imports as well as developing other methods of handling certain unfair trade practices would help control excessive imports when they injure the domestic industries. We recognize that if we are to export, we must import, but we must do this in a manner that other countries reciprocate by removing some of their trade barriers. We must find reasonable accesses to foreign markets.

Careful consideration of these recommendations will certainly be appreciated.

Sincerely,

RALPH ROBINSON,  
President.

THE OUTLOOK FOR INTERNATIONAL TRADE  
(Remarks of Hendrik S. Houthakker, member, Council of Economic Advisers)

The dollar value of world trade in 1970 (excluding the Communist countries) is likely to be more than twice as large as it was in 1963. Nearly all of the increase has been "real", since the increase in prices in international trade has been very modest: little more than 10 percent since 1963. This very rapid growth in volume is undoubtedly the principal source of the problems that face us in this area. International trade requires adjustments in both the exporting and the importing countries, and these adjustments are sometimes painful.

The United States has shared fully in the growth of international trade. Our exports in 1970 also promise to be more than twice what they were in 1963, and our imports are likely to be 2½ times as great. Here, too, most of the increase has been real rather than caused merely by inflation. Since real GNP has gone up by only about one-third since 1963, it follows that both exports and imports have become relatively more important to our economy.

We are all aware of the considerable share of our farm production that goes abroad, but there are also a number of manufacturing industries where exports are a significant percentage of total demand. In 1969, for instance, exports are roughly estimated to account for 9.3 percent of the total shipments of the machinery industry (except electrical machinery). Similar percentages are 7.4 percent for instruments and related products, 6.8 percent for transportation equipment, 6.4 percent for chemical and allied products, and 5.5 percent for electrical machinery. All these percentages are probably greater for 1970, when exports grew more than GNP. For the whole economy it can be estimated that about 2½ million jobs are directly related to exports, a figure that should give pause to those who are worried about the effect of imports on domestic employment.

We have just seen that our manufacturing exports are spread among a considerable number of industries. The same is true on the import side. Rough estimates for 1969 indicate that the industry that had the largest share of imports in total supply is leather and leather products, where the percentage is 10.4. Next come lumber and wood products and other durable goods, each with 8.9 percent. They are followed by apparel with 7.3 percent, primary metals with 6.5 percent, and transportation equipment with 6.1 percent. It is worth noting that textiles, with 5.5 percent of total supply provided by imports, is not among the industries where the percentage of imports is particularly high. In fact the textile industry also has significant exports, which amounted to 1.8 percent of total shipments in 1969. The import problems of the textile and apparel industries are confined to some specific categories, such as sweaters and shirts.

Given a reasonable degree of adaptability on the part of American industry and labor it can hardly be said that the import percentages just given indicate a major threat

to domestic employment generally. We often hear assertions that more than 2 million workers in the textile and apparel industries are in immediate danger of having their jobs eliminated by imports. This is obviously an exaggeration. Far more people leave the industry voluntarily each year than could be made unemployed by an increase in imports. The Administration is, of course, sensitive to the problems raised by the growth of imports in certain specific textile products. For that reason it has been seeking ways to limit the exports of these products in order that this specific problem would not develop into a general move towards protectionism.

In a gathering of economists there presumably is no reason to elaborate on the advantages which the United States derives from foreign trade. Not only is international trade of considerable importance in keeping our domestic inflation under control, but our exports are also a significant generator of employment opportunities. The notion that we can restrict our imports without feeling adverse effects on our exports will not bear examination. This is true not only because import restrictions imposed by us in violation of the General Agreement on Trade and Tariffs are likely to lead to retaliation, or because of repercussions through other countries' balance of payments. What is more serious is the likelihood that a move toward protectionism on our part will find a worldwide response in the same direction. The rapid growth in world trade which we have seen in the postwar period is due in large part to an increased public recognition of its benefits to both exporters and importers, though some credit should also be given to a downward trend in transportation costs and to improvements in the international monetary system.

The significance of the trade bill that is now before Congress lies not so much in its actual provisions, but in its psychological impact. Ever since the 1930's the United States has been a leader in the movement towards freer world trade. Every President from Franklin Roosevelt to Richard Nixon has emphasized its benefits to us, not only on economic but also on political grounds. To achieve freer trade we have had to overcome opposition not only within the United States but also in many other countries, where protectionist traditions are no less strong. If we now give in to protectionism, the climate of international trade is likely to deteriorate rapidly. The non-tariff barriers of which we have often complained are likely to become much more important than they are now. The growth in our exports, which has been a valuable stabilizing factor in the current economic readjustment, is likely to be slowed markedly. The many U.S. corporations who have branched out into foreign countries are likely to feel the adverse effects as well. Our political relations with a number of countries that are now our friends will become poisoned by disputes over sweaters, shoes and clothespins, and I for one am unable to see what we will have gained in return.

It is heartening to see the dangers in the trade proposals currently before Congress find growing recognition. The spokesmen for American agriculture have been especially effective in asserting our interest in freer international trade. Some of our industrial exporters have also made their views known. But I am not sure there is as yet full realization of what trade restrictions would mean to the future of our economy. Out of many possible examples let me just take one where the consequences of a return to protectionism are especially clear. I am referring to the supersonic transport. We all know that there is considerable disagreement on the merits of this particular project. It is not my purpose today to speak about the pros and cons of the SST, which depend to a large extent on the success of the Anglo-

French Concorde. Let me just reassert the Administration view that as long as the British, the French and the Russians are willing to develop commercial supersonic planes with large government subsidies, we cannot afford to leave our aircraft industry out of the race, at least to the point of developing a prototype. We should all realize, however, that the case for the SST is based largely on exports. Since the SST will not be used over inhabited areas, the domestic demand for this plane would hardly be sufficient to justify government help in its development. The sales projections that have been made indicate that at least half of the planes would be sold to foreign airlines.

The prospect for selling planes abroad will no doubt be severely reduced if we make protectionism respectable again. Many foreign airlines are owned or otherwise controlled by governments, and therefore subject to pressure in their purchase of equipment. Moreover some other governments have already shown that they are willing to spend large sums of money to develop their own planes. It is true that the present version of the Concorde is not a serious competitor for our SST, mostly because of its small size, but further development can no doubt take care of that problem. Our principal customers, especially in Europe, would therefore be more likely to turn to foreign supersonic aircraft, which would render our SST uneconomic. To put it more bluntly, if the trade bill passes in anything like its present form the SST would be a dead duck.

It has often been pointed out that the trade bill represents a turning point in our attitude toward international trade, and in fact towards our position in the world generally. As you will have seen from the above remarks, I think the word "turning point" is quite appropriate. There is a great danger that because of some temporary adjustment difficulties, confined to a few products in a few industries, we embark on a course that will hurt many more people than it helps. There are adequate means short of quotas for dealing with these transitional problems, including adjustment assistance and, in certain cases, voluntary restraint on the part of exporters. The Congressional debate on the trade bill has so far not given much encouragement to those who believe in free enterprise and the pursuit of the general interest, but I have not given up the hope that wiser counsel will prevail.

What will happen in the next few weeks depends to some extent on the actions of other countries. The resurgence of protectionism in this country is based partly on the belief that other countries have not gone as far in the direction of free trade as we have. I do not think this widespread belief is entirely justified. The European Economic Community is often held as an example of restrictive trade policies, but it should not be forgotten that its overall policy, at least in the areas outside of agriculture, has been fairly liberal on balance. We do have our differences with the EEC in the area of agriculture, and also on the subject of preferential agreements that the EEC has concluded with a number of Mediterranean countries, as well as on some other matters which I will not go into here but which are of lesser importance. I shall say more about agriculture in a moment, but let me just mention briefly that the question of preferential arrangements is also of great concern to us. Even though these agreements have so far done only limited damage to our trade interests, a division of the world into trading blocs will surely be harmful to the efficient international allocation of resources. The Administration has often stated its support for greater European unity, but this does not mean that we are prepared to let our interests be ignored. The EEC justifies the expansion of preferential agreements in the

Mediterranean area partly by political considerations, yet it should not be forgotten that the defense of this area has been entrusted primarily to the U.S. Navy, so that we have political interests there as well.

We have long recognized that the political unity of Europe will have economic consequences, but we have also believed that these will be favorable for the world as a whole provided the Community maintains an essentially liberal trade policy. It is open to doubt whether the preferential agreements concluded by the EEC will have equally favorable economic consequences. Similarly the support which we have given to enlargement of the Community by adding new members should not be interpreted to mean that we are abandoning any of our rights under GATT, or that we would condone any tendency on the part of the Community to become more inward-looking.

Agricultural policy has been the principal stumbling block between the Community and the United States for several years, and it continues to be so. Although we recognize that a Common Agricultural Policy is necessary to have a meaningful Community, this does not mean that we must agree with the specific form which the Common Agricultural Policy has taken. In particular we remain concerned about the high internal price level for farm products in the Community, which has led to overproduction and to the dumping of surpluses in foreign markets, where they compete with our own farm products. Given the strong support which our farm groups have given to free trade, we cannot help but be disappointed by the apparent unwillingness of the Community to discuss meaningful changes in its farm policy. Our own long experience with farm policy has taught us that high farm prices are not a good way of supporting farm income, and we therefore find it difficult to accept the argument that the Community has no other way of solving its political problems. The experience in some European countries would point in the same direction. The quantum system that was in force in France before the Common Agricultural Policy was probably a more efficient way of meeting the legitimate demands of farmers than the present system where production is virtually unrestrained and indeed overstimulated.

In other parts of the world there are also measures that could be taken to improve the climate for international trade, and thereby reduce the pressures for protection. It is encouraging that Japan is now proceeding somewhat more actively with the liberalization of its import restrictions, but there still is a long way to go. Since Japan, like most other countries, is subject to strong inflationary pressures it would seem that additional increases in imports would be especially helpful from its domestic point of view. In the case of the United Kingdom the recently announced plans to move towards higher farm import prices must also be viewed with concern, and not only because they would constitute further interference with the normal processes of agricultural trade. Although higher farm import prices might ease the strain on the British government budget, they would also raise prices to consumers, and thereby make Britain less competitive, with possible detriment to its balance of trade. We obviously cannot treat these plans with indifference.

The preservation and stimulation of a healthy international economy is not going to be easy in the next few years. We have entered a period of growing pains, in which various nostrums will be urged upon us as a cure for symptoms that will mostly disappear by themselves if we just leave them alone. As economists we have to see to it that the public at large retains a sense of proportions, and does not allow some transitional problems to block the road towards international prosperity and harmony.

### THE CROSS-FLORIDA BARGE CANAL

Mr. HOLLAND. Mr. President, the September-October 1970 issue of the Florida County Government and Port Authority magazine contains an article about one of Florida's most controversial navigation projects, the Cross-Florida Barge Canal. As every Senator well knows, I strongly endorse the project and regret that it has been the target of what I consider unwarranted, unfavorable criticism. Because the article gives an insight into some of the opposition to continued construction of the project, 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 BARGE CANAL—NOBODY KNOWS THE TROUBLE IT'S SEEN

(By Jim Long)

The faint sounds of the "public" outcry were beginning to be first heard in Florida less than five years ago—"Save the Oklawaha!"

At first, the battle song was confined to outraged discussions at meetings of genuine conservation groups, numbering few indeed. Their members began a campaign of besieging newspapers and radio and television commentators.

The propaganda extended even to bumper stickers: "Save the Oklawaha!"

Somewhere along the line in the past several years, the catalyst for preserving the Florida environment—and the environment of the rest of the nation—appeared. When and what and who and where can't be pinpointed.

Perhaps "progress"—the catch-all word—had gone too far and, suddenly, conservation and environment and pollution became the "in" words.

It has become a political action, bar none—the bandwagon upon which just about everyone has leaped. Like most political actions the pendulum has swung far—much too far in the opinion of many. Courageous is the politician who does not declare himself a 100 per cent, Grade A, All-American conservationist, from Richard Nixon on down through precinct committeeman, and therein lies the power bloc.

The Cross-Florida Barge Canal had just begun its diggings near Palatka and the St. Johns River when the first faint cries became a continuous screaming and shouting, and the U.S. Army Corps of Engineers—in complete innocence—became the target.

The Cross-Florida Barge Canal has become the classic example of mass guilt transference. The conservationists' campaign has become primarily a campaign of emotions.

Now that the canal is more than 30 per cent complete and the Oklawaha River virtually destroyed, if there is anyone to blame, it is people of Florida. It is they—through their political representatives in the state and in the Congress of the United States who begged, pleaded, cursed, urged the construction of a project in which the Corps of Engineers—the scapegoat, if you will—now finds itself embroiled.

And the great majority of "conservationists" are on a collision-course with a pitfall of political action: They are not telling the whole truth.

Are conservationists really dedicated to a campaign to "Save the Oklawaha?"

The Florida Defenders of the Environment, with headquarters in Gainesville, are one of the most militant conservation action groups. Listen to this piece of literature mailed throughout the United States urging support of the move to stop construction of the canal:

"The fundamental purpose of this effort is not to save one particular river or ecosystem. It is to show that the public will no longer tolerate massive destruction of the natural environment by projects undertaken without proper environmental studies, evaluations and planning, and it is to prove that an ill-advised project, even though already authorized and partially constructed, can be stopped. Preventing the destruction of the Oklawaha regional ecosystem by the Cross-Florida Barge Canal project will set a precedent for all those who would protect their environment anywhere in the United States."

Obviously this is not the purpose impressed on the people of Florida; that purpose is to "Save the Oklawaha."

The Corps of Engineers is a third of the way through the cross-state canal; indeed, only about 20 miles of the Oklawaha River valley remains intact. But the power of the conservation lobby cannot be underestimated.

Exhibit "A" is the Miami-Dade jetport in the Everglades, an entirely different ecological situation. The site had been cleared and a training runway constructed—millions of dollars spent—when the jetport was brought to a sudden stop by an order from no less than President Nixon.

The Corps of Engineers, in nearly 200 years of its existence, has never had a project halted in mid-construction. Whether the canal will be the precedent the Florida Defenders of the Environment seeks remains to be seen.

But there are a few sins of omission which need to be told, sins learned by a tour of the canal by editors of Florida County Government & Port Authority Magazine:

Conservationists claim the Rodman Pool, created near Palatka to serve the St. Johns lock, remains choked with timber, logs and debris when, in fact, it is virtually a cleared lake, a phase of the program long-planned by the Corps of Engineers.

Conservationists claim the Rodman Pool is saturated with water-weeds, particularly water hyacinth, when, in fact, the percentage of water weeds is nowhere near alarmists' claims, and those are being controlled with sprays.

Conservationists claim fishing has been destroyed in the area of the Oklawaha valley where canal work has been done, when, in fact, fishing has greatly improved, as attested by the hundreds of fishermen crowding the river and Rodman pool banks daily. The Corps of Engineers has plans to preserve it.

Conservationists claim the valley was in a natural state before the project turned the first spade, when, in fact, half a dozen or more developers had already broken ground along its "inaccessible" reaches for subdivisions and trailer parks and fishing camps, and were already pouring thousands of gallons of raw sewage into the river daily throughout most of its length. That pollution was stopped by the Canal Authority of Florida, charged with acquiring canal right of way, which exercised its power of condemnation in purchasing many developing areas along the shoreline.

Conservationists claim that valley forests will be destroyed by the canal. Many acres of pure woodlands are already destroyed and others left standing in the pools are dying. But, in fact, the river—from its headwaters in the lakes of Central Florida—has been dammed and channeled and widened to Silver River near Silver Springs, and virtually all its cypress removed by commercial operations for half a century or more.

A tour will reveal many other conceptions impressed upon the public are, in actuality, misconceptions, encouraged by opponents of the barge canal.

On the tour taken by FCG&PA editors, the party also included Dr. Joe A. Edmisten,

professor of biology and director of environmental studies at the University of West Florida at Pensacola; Colonel Giles Evans, retired Army engineer and manager of the Canal Authority of Florida; Colonel R. M. Bachman, also a retired Army engineer and chief of the division of waterways, State Department of Natural Resources; Dave Bowman, Corps of Engineers ranger in charge of the Rodman pool, and Tom Holland, Corps of Engineers ecologist.

At Silver Springs before the tour began, the party lunched with Ocala and Marion County proponents of the canal, including County Attorney Willard Ayres; Ted M. Reiter, board member of the Canal Authority of Florida; Clerk of Court John Nicholson, former president of the Florida Waterways Association, and Bernard Watts, editor of the Ocala Star-Banner.

The consensus of those officials—and Putnam County-Palatka officials at the terminus of the man-made canal into the St. Johns River—was that they were being greatly wronged by unfounded charges of environmental devastation of the Oklawaha Valley. They see the canal as an opportunity for vast commercial and recreational development along the route, an opportunity they say will allow the area to enjoy the progress of other Florida communities.

The tour began at Silver River (called by the natives Silver Run) at the Ocala boat dock and proceeded down Silver River by Florida Marine Patrol boat to the confluence with the Oklawaha River. The boat moved upstream some two miles, but was unable to proceed further because of low water, held back from the lakes by the Moss Bluff dam to allow bridge construction at Sharpe's Ferry.

It is in this area that the Southwest Florida Water Management District has channeled the river and accomplished other work for flood control, with spoil being piled several hundred feet from the river's edge into the backwoods.

Colonel Evans pointed out: "Frequently overlooked entirely is the problem of handling flood flows from the upper Oklawaha. Were the increased flood handling capacity of the canal not available, the entire Oklawaha River to the St. Johns would have required straightening, widening, deepening, clearing and channelization, just as presently is in process along the stretch from Moss Bluff to Silver Run."

The second segment of the tour was along a 20-mile stretch of what really is left of the so-called "unspoiled" state of the Oklawaha. But man's mark was seen along almost the entire stretch.

Colonel Evans noted: "Private developers, groups and individuals were filling up lot-sized holdings along the Oklawaha wherever they could obtain possession. One 69-acre tract in Rodman Reservoir encompassed over 300 such lots. Another developer proposed several thousand home sites immediately abutting a swamp corner of the future Eureka Reservoir. The canal project forestalled this development."

Pointing out man's invasion of the Oklawaha Valley since the turn of the century, Colonel Evans said: "Private timber companies cut all the virgin cypress they could move out of the Oklawaha bottoms . . . their hoist and skid paths still showed as distinct striations on aerial photographs until finally obliterated by canal construction. The successor shallow-rooted second growth trees readily fell to erosion from the Oklawaha's current and frequently blocked any navigation unsustainable by axe and saw."

Indeed, on four separate occasions, the river was blocked by trees which had fallen since the last official party had toured the river only a couple of weeks earlier.

At Eureka, where the "natural" Oklawaha ended and the upper reaches of the Rodman Reservoir began the party came upon the completed Eureka Dam and Lock, breaking

out of the heavily-forested river. Along the entire route, water fowl and wildlife were abundant as upper Rodman Pool waters inundated broad stretches of the river, its still-standing timber apparently unchanged by flooding.

The path ahead through the pool lay 16 miles to the opposite end, where the major water reserve of the reservoir was trapped behind the Rodman Dam. The dug canal itself took another path to the northeast to the St. Johns Lock, a short distance downstream, while the natural Oklawaha River continued from the dam to the St. Johns River, a distance of several miles. It will remain.

This portion of the huge reservoir had been all but cleared of floating timber and vegetation and scores of fishermen lined the shores.

Robert D. Blackburn, botanist with the U.S. Department of Agriculture who specializes in aquatic weed problems, discounted dire predictions of the reservoirs becoming weed-clogged.

He said: "At the present time aquatic weeds are of minor importance in the Rodman reservoir. Spray operations by the Corps of Engineers have resulted in excellent control of water hyacinth. The problem of hyacinth control is reduced to a maintenance operation and continued maintenance spraying . . . will prevent further problems."

It must be pointed out, too, that hyacinth in canal areas is perhaps better but no worse than hyacinth in other Florida lakes and waterways.

The FCG&PA tour party remained overnight in Palatka and joined city and Putnam County officials at breakfast the next morning, after which a tour was made of the new barge port north of the city on the St. Johns. Funds for construction were obtained through the sale of bonds, passed overwhelmingly by county voters in a referendum. The cost is nearly \$1 million.

Hosts for the breakfast and tour included Hamilton Gordon, executive vice president of the Putnam County Chamber of Commerce; Col. Raymond Buntin, manager of the port authority; Mayor I. J. Hudson of Palatka; R. G. Williams, chairman of the chamber's waterways committee; and W. Perry Brown, assistant vice president and division manager, administration, Hudson Pulp and Paper Co., the county's largest industry.

It was curious to note that in the face of opposition from all parts of the state and nation, those most affected—residents and officials of Levy, Marion, Putnam and Duval counties—are the canal's most ardent supporters.

Perhaps not so curiously, contact with the Florida Defenders of the Environment and a request for information brought through the mail only those papers written by opponents of the canal. One of these was a statement of opposition from the Florida Game and Fresh Water Fish Commission, which only a few years earlier had been one of the most avid supporters. It was a complete turnabout from its earlier position after environmental control had assumed serious political overtones.

Another switch came from A. P. Black, research professor of chemistry and sanitary science, University of Florida, and president of Black, Crow and Eidsness, Inc., water engineering firm widely used by cities and counties throughout Florida. Said he: "I am convinced that the construction of the cross-state barge canal . . . poses no present or future danger to either our surface or ground water resources."

He is joined in this belief by Glen L. Faulkner of the U.S. Geological Survey, who made an exhaustive study, published in book form, of the geohydrology of the canal with special reference to the Ocala vicinity, and Dr. Robert L. Vernon, Florida state geologist, who has spent a lifetime studying Florida's geological and hydrological regimes.

In February of this year, Rep. Richard Tillman, chairman of the House committee on conservation, released a report on "a critical review of the Cross-Florida Barge Canal—conclusions and recommendations." The report noted that Florida "made a full and deliberate commitment, equivalent to a contract, with the federal government to provide the right of way for a canal with local and national benefit," and that this decision "had the concurrence of the U.S. Fish and Wildlife Service, the Florida Game and Fresh Water Fish Commission, the Florida Board of Conservation, and the Florida Geological Survey."

The study found that the cost-benefit ratio was more than five to one, excluding Florida benefits.

The report noted that in 1904 a dam was constructed on the Withlacoochee River about three miles east of Inglis under a permit issued to the Camp Phosphate Company. The dam was a hydroelectric power structure which had a lock for phosphate barges.

Approximately 3,500 acres were flooded to form Lake Rousseau.

The report said a study in 1963 showed that Lake Rousseau was the most heavily fished area in the vicinity of the barge canal route, with the same sports fish being caught as those in the Oklawaha. The report added: "The flooded river basin has provided a boon to the sport fisherman because the remains of stumps and trees, plus the decayed vegetation, provide a habitat conducive to fish propagation and growth. Eight fish camps are located on Lake Rousseau."

In attacks on the canal, opponents carefully avoid mentioning the half century old history of Lake Rousseau.

As for canal opponents not playing cricket, Colonel Evans, in a statement to the Florida Senate committee on natural resources and conservation, pinpointed the role of the Corps of Engineers in canal construction and outlined how the corps had become the scapegoat in the project.

Said he: "This project was initiated at the insistence of Florida and allied interests . . . the United States has already spent over \$45 million on the project, which is one-third complete. Florida's funding to date is . . . \$13 million and the canal authority has obtained over 85 per cent of the right of way. The purported ruin of the Oklawaha River is a distracted fantasy . . ."

"Local interests, not the Corps of Engineers, must initiate these projects. The corps simply serves as the investigative and engineering agent for Congress and the public."

(Historically, the Corps of Engineers has always been conservative in its cost-benefit ratio on all public projects, including the barge canal. Its figures on the canal cost-benefit have been increased by other agencies. Recreational benefits were included on the canal only after the corps was directed to do so under a law passed by Congress. The corps some years ago recommended against building the canal, but was overruled by a special board of review after additional evidence and information had been submitted by local interests.)

Colonel Evans added: "The canal project opens the entire valley to the boating public and provides greatly improved access facilities . . . since the United States will hold fee title to a collar around the edges of the reservoirs, the public is assured of ample access for fishing and other recreational activities."

In July, the Corps of Engineers opened the first of ten such recreational areas around the Rodman pool at the Rodman dam.

Colonel Evans asserted that the Corps of Engineers has done more than any one single agency for the overall cause of conservation, including exploring, cataloging and conserving the flora and fauna of the West, recommending the establishment of the National Park Service, made the first hydraulic

studies on the Mississippi River, made plans and studies on the Tennessee Valley Authority (TVA), and developed fish ladders "long before the public became concerned about natural values."

In a refutation of charges by the Florida Defenders of the Environment, W. A. McCree Jr., of Orlando, president of the Florida Waterways Association, made these categorical denials.

Porosity and leakage around canal structures will not be a problem in pollution and hydrologic changes in the aquifer.

There is no record of earthquakes in the Oklawaha Valley and the reservoirs will act as stabilizing agents.

There is an excellent market for mineral resources in the canal area, including dolomite.

Water supplies in drought periods will be adequate for canal operations.

The Corps of Engineers will place rigid guards against possible pollution of the aquifer where the canal penetrates aquifer rocks. Natural cleansing of the ground water will remove any minor threat of contamination to the large springs in the area.

Any possible leakage from the Summit Pool (near Ocala) will be rigidly controlled.

Major flood control benefits will result in the Oklawaha Valley because of the canal's construction.

Management will improve the water conditions in the area.

Plant and animal life will undergo changes in the valley, which construction of the canal will preserve, rather than destroy, because most of the surrounding area was in private ownership and the invasion by individual owners threatened uncontrolled development.

Water weed will come under more adequate control than most other Florida lakes and streams.

Land values will be enhanced by development of the area.

The sizes of locks were designed for canal barges and tows and were never meant to include ocean-going barges and tows.

#### A DESERVED TRIBUTE

Mr. GRIFFIN, Mr. President, we all regret that one of the Senate's most distinguished Members, Senator JOHN WILLIAMS of Delaware, will retire at the end of this session after 24 years of service.

An article published in the Washington Sunday Star of November 15, 1970, reviews our colleague's outstanding record.

Mr. President, I ask unanimous consent that the article, written by Dorothy Marks, be printed in the RECORD.

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

RETIRED WILLIAMS THINKS THAT 65 IS OLD ENOUGH

(By Dorothy Marks)

He speaks softly but carries a big stick. He has been called the "watchdog of the Senate," a "one-man FBI," the "whispering terror," a "self-righteous nitpicker" and "Honest John."

Honest John is soft-spoken but hard-hitting John Williams, Republican of Delaware, one of four senators voluntarily giving up his seat this year. The others are Democrats Spessard Holland of Florida, Eugene McCarthy of Minnesota and Stephen Young of Ohio. The least colorful of the four, Williams may be the one that the taxpayer will miss most.

As with many things he has done there in the past 24 years, Williams is leaving the Senate "as a matter of principle."

"No one over the age of 65 should start out on a six-year Senate term," he says simply. Although he looks younger and is in robust health, Williams turned 66 in May.

"Back in February 1969, when I announced I was retiring, I suggested there should be a mandatory retirement age for senators, congressmen and judges," he said. "I meant it."

#### CUTOFF AGE

"One of my last acts here will be to propose a constitutional amendment making 65 the cutoff age for any senator taking the oath of office, 68 for a Congressman and all judges would be required to retire at 70.

"Naturally, I am doing it knowing Congress won't get around to considering it this session. Besides, I wouldn't want it to influence anyone running this fall. But I hope the Senate will take a good, long look at the proposal next time around."

Williams is the only man ever to have been elected to four consecutive terms from Delaware. Republican politicians have been singing "say it isn't so" in his ear ever since he said he was quitting. "There is no such thing as a draft unless a politician wants it that way," he says drily.

To suggestions he take on the job of "ombudsman" to the White House, the answer is a firm "no" too.

Isn't it true some men are old at 50 and others young at 75? "Sure," Williams said, "most of my friends up here are over 65 (about a third of the Senate falls in this category, in fact) but, overall, I believe it is a good thing that a man not grow old or stale or feeble in an important job like this."

The mandatory requirement proposal has brought "a lot of favorable mail from people around the country" but his fellow Senators have been strangely silent, he said.

The senator's youthful appearance could be the result of clean living. Neither he nor his wife drinks or smokes, and they shun the cocktail circuit. He spends weekends strolling the fields—sometimes with a gun over his shoulder—on several small farms he owns in his native Millsboro. Or he and his wife watch the waves roll up in front of the cottage they own on the uncrowded end of the Rehoboth Beach boardwalk.

Weekdays he arrives at the office at 7:30 a.m., skims through his personal mail, and then heads for the Senate dining room for breakfast with Democratic Majority Leader Mike Mansfield and Republican Sen. George Aiken of Vermont and his wife, Lola. Under his proposed constitutional amendment, Mansfield, 67, and the rugged and immensely popular Aiken, 78, would be ineligible to run again.

Among Williams' special friends on the Senate Finance Committee, where he is ranking GOP member, are Len Jordan, of Idaho, 71, Wallace Bennett of Utah, 72, and Carl Curtis of Nebraska, 65.

Striking out for what he believes right regardless of where the chips fall is nothing new for Williams. Since 1946, he has been sniffing out corruption in government, checking the figures and reading the fine print to see where Uncle Sam's expenses could be shaved and the taxpayer's interest protected.

Most often, his targets have been Democrats, but there are several Republican scalps among his trophies, too. His probe of the Internal Revenue Service under Harry S. Truman resulted in the conviction of Joseph Noonan and 120 other officials with him. Sherman Adams, Eisenhower's chief of staff, and Guy Gabrielson, Chairman of the Republican National Committee, were toppled by conflict of interest charges first raised by Williams.

Bobby Baker, Secretary of the Senate Majority under Lyndon Johnson, is one of his later victims.

A conservative on most issues, Williams

impressed even those who dismissed him as a "self-righteous nitpicker" when he went after oil depletion allowances and attacked tax advantages given the giant Dupont company of Delaware.

#### TAX CHICANERY

His own brush with corruption as a young man probably started him on the muckracking role he has played ever since. One of 11 children in a strict Methodist family, Williams was in the grain business with his brothers when the IRS charged him with failure to pay his taxes.

Outraged, he travelled to Wilmington, tax receipts and cancelled checks in hand, to find a tax collector there had been quietly been embezzling his and other's monies. To make matters worse, the director, a political appointee, was trying to hush the matter up to protect his party.

"I guess you can say the thing I feel best about," Williams told me, "is the investigation I made in the late '40s and early '50s which resulted in the 64 Internal Revenue Service Collectors around the country being taken out of politics. After all, every person in the country has to deal with the IRS and, if he loses confidence in this agency, he loses confidence in his government." And he would stop paying taxes, too.

"I have a lot more confidence in the integrity of the men who run government now than I did when I came here," he said.

As a penny-pincher, Williams has proved somewhat of a hair shirt to his fellow senators. He has never taken a trip abroad on Senate funds. "Some congressional travel is necessary and helpful," he says, "but there are entirely too many world junkets at public expense."

He initiated a request to the Comptroller General which resulted in a ruling that Congressmen and Senators return the unused portion of their stationery allowance to the Treasury instead of pocketing it.

In view of the record federal deficit, he opposed the senators' hiking their salaries from \$30,000 to \$42,500, and forced a roll call vote instead of a voice vote on the proposal. He also succeeded in stopping a 20-year practice of the Defense Department's giving legislators 24-hour notice of contracts being let in their States so they could announce it first.

In Medicare, he has fought against overpayments to hospitals and doctors' fudging on their taxes. He went after lawyers who charged aliens what he thought were exorbitant fees to get private bills introduced granting them citizenship. He got legislation through forbidding presidents and other public officials who turn over their papers to universities from taking deductions for them as charitable donations, a move which some historians are not entirely happy with, on the ground some valuable public documents may now rot away in attics.

Williams is still working to sharpen up procedures of the Senate Ethics Committee, and applauds the recent House Reform Bill as "a small step in the right direction which the Senate will certainly act on this session."

The senator is close-mouthed about his future plans although his top aide, Eleanor Lenhart, will be working for him back in Millsboro after January. He may do some writing or take on "advisory" assignments. "My papers are going to the Delaware State archives," he said. "They will have to be kept sealed for some years, though, to protect informants and others named there."

The Senator has another piece of unfinished business. He has been irked for years that visitors to the Capitol must pay a 25-cent fee to private guides for a tour, and he personally sees to it that no Delaware constituents see the Capitol this way. He wants the tours free and the guides placed under Civil Service.

"I think I'll do something about this before I leave. It is not the quarter," he says characteristically, "it's the principle."

#### WHAT IS HAPPENING TO OUR COUNTRY?

Mr. GOLDWATER. Mr. President, in August of 1968 a distinguished Arizona housewife, Mrs. Ralph Diamond, wrote a guest column for the society editor of the Phoenix Gazette newspaper that proved especially prophetic. Beginning with the question, "What is happening to this country?" Mrs. Diamond went on to provide the Gazette's readers with a unique view of conditions that were building up in our country. She noted a growing trend to concentrate on our failures as a nation while forgetting our many accomplishments. She dealt concisely with the problem of hampering our police in the performance of their duty in an overweening effort to protect the rights of the criminal. She decried the attack on American business and the profits which provide millions of well-paying jobs. She pointed out that we spend billions making it possible for some people not to work.

Because I believe Mrs. Diamond's observations were typical of those held by millions of less articulate American housewives today, I ask unanimous consent that her column be printed in the RECORD.

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

#### HAVE WE FORGOTTEN HOW TO SAY "NO"?

(By Mona Mackley, Gazette Society Editor)

Today's guest columnist, Carolyn (Mrs. Ralph) Diamond, belongs to two of the oldest families of Arizona—the Melzers and the Diamonds.

Carolyn has a myriad of friends. She could golf, party and play all hours of the day. But "no thank you" is her answer to that. Husband Ralph (of the Diamond department store clan) and their three children have been first interest, of course. Daughters are Debby and Carol and son Chip is really Ralph Jr.

Then come the many community service organizations that have needed, and unendingly used, her talents. Mrs. Diamond has been an officer, president or on the boards of so many: Junior League, St. Luke's Board of Visitors, Cancer Fund, Cardiac Aid, Volunteer Bureau, United Fund and maybe dozen others. . . . Occasionally she finds time for tennis and quickie vacation trips to the coast with the family. She is Arizona born, and a University of Arizona graduate.

But Carolyn also is one of that growing group of women in the country with great interest in national and local problems and governments as well as the civic organizations of their own communities. Yes, despite her warm smile glowing from freckles and reddish brown hair and a quick and kind sense of humor, Carolyn Diamond is one of the women of today deeply concerned with today and its tides.

#### WHAT IS HAPPENING TO OUR COUNTRY?

(By Mrs. Ralph Diamond, guest columnist)

What is happening to this country?

This question is in the uppermost thoughts of many Americans.

It seems to be the trend to concentrate on our failures and forget our accomplishments. We are constantly bombarded with remind-

ers of our shortcomings . . . And are accepting a feeling of mass guilt for everything from the unfortunate assassinations to the unjust plight of the minorities.

We seem to be turning our backs on everything that made America great. We hamper police and protect the rights of criminals—at the expense of law-biding citizens.

Instead of teaching respect for law and authority, we condone those who break the laws—so long as they feel the law is unjust and their "cause" is good.

We forget that capitalism is the basis for our economy. Businesses, built from profits and providing millions of well-paying jobs, are caught in a squeeze due to controls and taxes destined to destroy the profits necessary for future jobs.

Yet we spend billions for people NOT to work.

We have raised our children under the permissive direction of Dr. Spock and John Dewey. . . . And wonder why they have no respect for us, for themselves, for authority, or for our country.

We have stood idly by while the family group and mores have eroded.

W have forgotten how to say "No!"

We have sacrificed to send our children to college . . . sometimes to come under the influence of professors who teach disrespect for the very principles that are the essence of democracy and freedom.

We are caught in the spiral of inflation and higher taxes . . . and read where the tax-exempt Ford Foundation is granting huge sums to the National Students Association for "peaceful" agitation on college campuses.

We read of huge government programs to train lawyers in the new field of "poverty law" . . . and that the interest on our national debt is 14 billion dollars per year.

There certainly are legitimate needs for government programs to better the conditions of low income groups in our cities. But unfortunately, you cannot buy or legislate success in the civil rights field. It is a matter of individual respect and understanding on a person-to-person basis. All races are made up of individuals. We must stop thinking in generalities and classes of people and learn to evaluate each person on his own merits, regardless of color or creed.

I also am deeply concerned about the growing feeling of ever greater dependence on someone else to provide for us, the massive growth of government programs surplussing individual responsibilities and initiative . . . and the massive taxes to support them.

Can anything be done to reverse this trend?

Does the average person really realize the source of government funds? Now hold on, I am not against federal funds per se. But suddenly I realize they are "my" funds, and those of all taxpayers. And I don't believe the average wage-earner makes this distinction. Normal thinking is: his money is "his," government funds are gifts from a benevolent government.

This idea just might reverse such line of thinking:

Give all wage earners their total earnings. Right then they must cash the check and move immediately to a special window a few feet away. There they give back in cash what was formerly withheld for taxes.

Certainly the average worker considers his take-home pay as his salary. If he actually had his total pay in his hands, then turned around and gave back his share of taxes—what a shock! But—he would be much more cognizant of his personal role in government spending . . . And inclined to be more interested in legislative matters, his representation, and fiscal responsibility.

The realization that each of us is personally paying for these huge government programs (which too often tend to negate the individual's responsibility and initiative), might bring greater attention.

Oversimplified? Of course, and probably impossible under existing IRS (Internal Revenue Service) laws. It's even possible that no additional hardship would be worked on businesses—since they already function as tax collectors.

But chances are good that if such an idea were instituted—it wouldn't be long before the newly aroused taxpayer would find he had remembered again "how to say no" . . . and might even try it in other needed areas of American life today.

#### A DISTINGUISHED AMERICAN: DR. RICHARD H. WHITEHEAD

Mr. McINTYRE. Mr. President, a very distinguished American lives in my hometown of Laconia, N.H.

Dr. Richard H. Whitehead, who now carries on an enormously active and vigorous interest in the world at age 83, conducts his efforts from a charming home on beautiful Lake Winnisquam at Laconia.

Richard Whitehead is 83 years young. He began his career as a mechanical engineer after graduation from college in Maine in 1908. His ability was quickly recognized by the electrical wizard Charles Steinmetz when Whitehead discovered a means for preventing a breakdown of generating systems from short-circuits. Steinmetz had not been able to achieve this state of the art. He was high in his praise of Whitehead.

Shortly after this accomplishment, Dr. Whitehead was in the Panama Canal helping Gen. George Goethals build this wonder of our hemisphere. Few Americans made a greater contribution to its success. He has been honored many times for his work on the canal and is one of the few remaining survivors of those who built this engineering marvel.

Following his work on the canal Dr. Whitehead moved to new areas of accomplishment. He became president of the New Haven Clock Co., saving that business from bankruptcy as he did the Scott & Williams knitting plant, which he also served as president. He has served as well as president of the Laconia National Bank.

At the end of World War II, at the request of the Joint Chiefs of Staff, he undertook difficult and far-reaching studies of the German economy and the steps needed to repair that war ravaged country. Many of his recommendations were incorporated into the rebuilding of Germany.

Through all his full life Dr. Whitehead has kept an abiding interest in the Panama Canal, the attempts to modernize it, and the suggestions that an additional canal be built in Central America.

He recently completed a very thought-provoking and interesting article on the Panama Canal, the problems of constructing it, and many of the present-day problems which have taken place in the Canal Zone. This article is well worth study.

Mr. President, I ask unanimous consent that this article and an article about Dr. Whitehead which recently appeared in the distinguished Technology and Human Affairs review be printed in the RECORD.

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

[From Technology & Human Affairs, winter 1970]

#### RICHARD H. WHITEHEAD: A FERTILE OCTOGENARIAN

At an age when most men are enjoying their retirement and doing nothing more exhausting than studying moves in a backgammon game, Dr. Richard H. Whitehead (Lewis, ME 1908) is immersed in several important projects. At 83, Dr. Whitehead's breadth of interests contrasts sharply with today's tendency toward technological specialization. In fact, it is quite reasonable to compare him with the classical Renaissance concept of the "complete" man.

This octogenarian is, simultaneously, an engineer, industrial administrator, economist, author, history scholar, and humanitarian. One characteristic of this multifaceted man is his consuming interest in whatever he tackles. He has learned to distrust recommendations before he knows the source of the facts on which they are based. As he says: "First, eliminate the confusion, then be sure you clearly understand. I think I know beauty when I see it, but of truth I can never be sure."

Perhaps some of his diverse interests were engendered by his unusual family background. His father was a printer and proofreader, whose involvement in the occult absorbed his best energies. "He was very well read and a self-taught expert on words and their meaning. His interest in mysticism made him a marginal provider, but we never went into debt." Several mystics held weekly meetings in a closed front room in the family's west side Chicago home. Whitehead recalls that his father once traveled to Egypt and spent a night in the great pyramid of Cheops, "hoping to experience a revelation of occult wisdom." To help make ends meet, his mother took in roomers, and, when 12 years old, Whitehead delivered morning and afternoon newspapers.

If the mystics were a visionary group living in a world apart, there was one among them whose advice helped to start the young boy on the road to a number of successful careers. The mystic told Whitehead's father that young Richard should become an engineer, attend Lewis Institute, then finish his education in Zurich, Switzerland. "He then backed his advice by giving me a \$20 gold piece which I used as my downpayment for a Lewis education."

In 1901, when he was 14 years old, Whitehead entered Lewis "on a shoestring." "I graduated seven years later at 21 with a degree in mechanical engineering, having had to alternate work and school." He worked as a facility clerk for the Chicago Telephone Company, and, in later years, repaid his mystic benefactor by recovering the elderly man's confiscated property and seeing that he was cared for.

A month after he graduated from Lewis, he married Katharine Pokorny. "We were engaged during the last year of school at Lewis. Because our parents thought we were too young to marry, we eloped with \$10 as our entire capital, and were married in St. Joseph, Michigan." Whitehead remembers that the young couple celebrated with a large chocolate soda.

"For two years I continued work as facility clerk for the Chicago Telephone Company and tried to find a job as an engineer to supplement my slender income." He taught a night school course in alternating currents at Lewis Institute.

In 1910, Whitehead worked in Commonwealth Edison Company, operating an oscillograph, adjusting recording meters and recording technical data. He was assigned to

record and plot data from tests made to find a workable protection for generators and generating systems from external short circuits caused by insulation breakdown and damage.

Whitehead looked for the answer in Charles P. Steinmetz' textbook on transient phenomenon, but without success. "Then I received a flash that was the key to the problem. When the short circuit current occurred at the zero point of the voltage wave, the test showed that the resulting current was double that of when the event occurred at the peak of the voltage wave. I was then able to predict mathematically the current for a short circuit on any point of the voltage wave."

The problem solved, Whitehead went to his company boss, who doubted that the 24-year-old engineer had done what Steinmetz himself had not done. Whitehead's suggestion: send it to Steinmetz and find out. When the electrical wizard verified Whitehead's findings, he also suggested that a paper be presented at the Boston convention of the American Institute of Electrical Engineers. At first, Whitehead was to be excluded, and his boss was to present the paper. "When I told my wife, she told me I should present my own work and that her father would pay my way to the convention. I told my boss the next morning, and after leaving his office I waited for what I thought was my final paycheck."

That afternoon, he was told that the company would be glad to let him attend the convention "but because of my youth, the paper should be a joint presentation, to which I agreed." Not only was the paper well received, but Whitehead was interviewed by the *Boston Transcript* in a front-page story. "I returned to Chicago, bursting with confidence and exhilarated after meeting the top engineers in the country." Whitehead looked at his \$90-a-month salary, and decided to change jobs. He sent copies of his Boston paper and applications to two prospects, the Doie Pineapple Company in Hawaii and to Washington authorities then recruiting engineers to work on the Panama Canal. "To my great amazement, both applications brought job offers the same day."

Whitehead and his wife made the choice "which I felt offered more challenge—Panama." Whitehead left for Panama in 1912 as the testing engineer for the Isthmian Canal Commission. This meant that he was responsible for the operation and approval of lock equipment before it was put into service. His boss was Colonel (later General) George W. Goethals.

Two months after he arrived in Panama, his wife and two children joined him. "Our third child, named George Goethals Whitehead, was born in Pedro Miguel. Goethals was so pleased that he let the baby travel through the Canal aboard the old *U.S.S. Missouri*, the first battleship to cross the Canal." Whitehead chuckles as he recalls that when his wife had to change the baby in an officer's cabin, an admiral boomed: "What a hell of a disgrace to the Navy to change the britches of a baby aboard a United States battleship."

Whitehead recalls that Goethals was continually battling the present American misconception that the canal was being built by Army personnel. "Actually, it was a civic achievement of the American people. Army officers reported only to Goethals, who in turn reported as a Presidential appointee to the Secretary of War. Goethals wisely always placed Army personnel in positions comparable to those staffed by civilians."

As testing engineer, Whitehead watched work slow down, as the Canal neared completion, to prolong jobs. One morning, Goethals suddenly appeared at his operating shack, his cigarette bobbing up and down in agitation, demanding: "I want you to tell me what is the matter." Whitehead replied:

"The organization needs pep." When Goethals asked him if he could "put pep" into things, Whitehead said he could if he had the authority.

"Goethals then told me I was in charge of all operations on the Pacific locks, effective the next morning. I little thought then that on March 31, 1954, 40 years later, I would be a presidential commissioner appointed to dedicate the Goethals Memorial at Balboa in the Canal Zone."

The Canal operations were not without their problems, Whitehead recalls. On one occasion, Goethals was alerted that former President William Howard Taft was coming to inspect the facilities. "We had planned to demonstrate a lock gate at Gatun, but the gate, without apparent manipulation, swung across the locks. Goethals told me he wanted a faultless demonstration for Taft, and that he would let Taft operate the upper lock gates at Pedro Miguel. So I rigged up a switchboard on the lock wall to operate the gates' control mechanisms."

The next morning, Taft arrived with his retinue, including a motion picture cameraman. As Whitehead was introduced, Taft asked him to throw the switches, and as the camera ground away, the gates swung closed. "Then Goethals asked me to open both gates. The gate farthest from us swung open, but to my dismay the one closest to us did not budge."

Without showing any excitement, Whitehead dropped through a manhole cover into the tunnel, raced to the control board on the gate, and throw the connector manually. Then he quietly rejoined the Taft-Goethals party. The gate opened smoothly, and Taft returned to Washington unaware of any malfunction. Later, Whitehead was to tell his story of the Panama Canal and General Goethals in *Our Faith Moved Mountains!* a book published in 1944.

Dr. Whitehead is a staunch proponent of the construction of a second commercial canal, the size of the St. Lawrence Seaway, through Nicaragua. Such a canal, he believes, would greatly benefit the United States economy, handle 65 per cent of the smaller shipping through Panama, and bring New Orleans and San Francisco closer by 560 miles.

"The Nicaraguan Canal route would be about 180 miles long, mostly through Lake Nicaragua and the San Juan River. The United States has the right to construct a canal over this route for a 99-year period."

"This second western hemisphere inter-oceanic canal would take much of the traffic pressure off of the Panama Canal" Dr. Whitehead says. "American coastwise shipping would use this more northerly route in preference to the Panama Canal. Of major importance, our nation's economy would not depend on a single canal."

In 1916, Goethals invited Whitehead to join him in the New York firm of Goethals & Company, consulting engineers. The firm had an outstanding assemblage of talent in industrial as well as engineering know-how. Whitehead began his first assignments with the company in manufacturing and later became interested in industrial management.

When Goethals' firm was dissolved, Whitehead joined the banking firm of George H. Burr and Company as a consulting engineer. His next move was to the New Haven Clock Company in 1922. "I was originally to liquidate the company for Burr and Company, but was sure I could salvage it." He became president and general manager, and succeeded in revitalizing the company. A change in ownership and the different philosophy of the new management prompted him to leave the company.

In 1945, at the request of the Joint Chiefs of Staff, Whitehead visited the Black Forest area of Germany, to inspect German plants and supply companies which had made naval mines and fuses during the war. Two years later he returned to General Lucius Clay's

office in Berlin, to prepare a report on the German economy and to recommend steps for its rehabilitation.

The assignment was staggering, and Dr. Whitehead worked alone. "Germany's economy had reached bottom and was operating under regimentation with scarcely any vitality. First, I decided to evaluate Germany's assets and liabilities. But visits to the military government and to German agencies were largely unsatisfactory. "However, his digging did produce a source of reliable information. He was advised to find the famous German financier Hermann Abs, former president of the powerful Deutsche Bank.

In the wake of Germany's defeat, Abs had been exiled to a Rhineland farm in the French sector. Whitehead cut through the bureaucratic red tape, got a pass, borrowed a jeep, and with a load of chocolate, coffee, butter, and bacon arrived at the farmhouse.

The report Whitehead submitted with the help of Abs and others, changed the thinking of the military government and provided a new direction for the policies which brought about the almost miraculous German recovery. Whitehead was then asked to make another study of how captured enemy and American surplus materials "from cigarettes and shoes to nails and baby carriages" could be distributed to get the economy off dead center.

The report was accepted as the basis for military law, and Whitehead was appointed control officer for the German Public Corporation. On his recommendation, Abs was appointed head of the Reconstruction Finance Corporation of Germany. In 1969, Abs became chairman of the Krupp corporation. "I was sent back to Washington to represent the German economy in the Marshall Plan project," Whitehead recalls. "But I soon decided I was better off elsewhere, so I resigned and returned to my work as a consulting engineer."

Whitehead was asked to make a preliquidation study of Scott and Williams, a Laconia, New Hampshire firm manufacturing circular knitting equipment in 1951, the 65-year-old industrialist was named president. He brought the company from the brink of bankruptcy to an annual \$4 million dollar net profit after taxes.

"Ten years later, I retired to be free of managerial responsibilities, but continued as board chairman. On retirement I was made then asked me to help out on management an honorary member of the United Steelworkers Union. The Laconia National Bank problems, and I accepted the presidency for two years only."

Whitehead's years of diverse activity have created in him a strong admiration for self-reliance. "I'm afraid many of the young people today lack faith in the future. Yet the future of our country offers more opportunities than any nation has offered in history."

His office, in an attractive guest cottage on Lake Winisquam, New Hampshire, contains desks and tables piled with books and magazines ranging in subject from engineering and finance to his latest interest, the ancient near East and the mathematical contributions of the Egyptians and Babylonians.

In 1965, a gold key was presented to him as "Pioneer Electric Mule Wrangler" by Canal Zone Governor Robert J. Fleming, Jr. In 1941, he received an Honorary Doctorate of Engineering from IIT. However, one of his prized possessions is a photograph of General Lucius G. Clay, presented to him in appreciation of his work in Germany. If an evaluation of Dr. Whitehead's accomplishments can be found, it is in the inscription under the photograph:

"To Richard H. Whitehead whose contributions to the Panama Canal, to our war effort and to military government in Germany is a measure of a great citizen. With warm regards, Lucius D. Clay."

THE BATTLE OF THE LEVELS AND THE PANAMA CANAL

(By Richard H. Whitehead 1)

There are only two low passes, less than 300 ft. above sea level, through the back bone of the Americas at its narrow waist line, or Isthmus, connecting North and South America; one where we built our Canal and the other in Nicaragua.<sup>2</sup> Both of these low passes were found by civilian American engineers. Through one, private American enterprise built the Panama Railroad, completed in 1855 between Colon and Panama City, which the French had to purchase when they attempted to build a sea level canal. The other pass, coupled with the huge lake Nicaragua, is much closer to our shores. Here private American enterprise laid out a lock canal and were working on its construction after the French failed in Panama.<sup>12</sup> Congress authorized steamship routes in the early 1850's from both our coasts to terminal points on each of these routes, and in the settlement of our Pacific territories both routes had heavy overland traffic.

Our government gave serious consideration to building a canal only during the Spanish American War when the battleship Oregon in 1898 had to take its historic long journey around the Horn. Dramatically, we realized we needed a canal, as Goethe had predicted as early as 1827. His prophecy follows in part.

"It may be foreseen that this young state will in 30 to 40 years have occupied and peopled the large tract of land beyond the Rocky Mountains. In such case a more rapid communication should be maintained between the Eastern and Western shores of North America than the disagreeable and tedious voyage around Cape Horn. It is absolutely indispensable for the United States to effect a passage from the Mexican Gulf to the Pacific Ocean and I am certain they will do it." Was this to be a lock canal through Nicaragua or would we acquire the rights of the sea level canal that DeLesseps had failed to build, and if we acquired these rights would we build a sea level or a lock canal? Thus began the "battle of the levels" in which the majority of consulting boards with exception of the Sultan Commission of 1930 has always favored a sea level canal at Panama.

After we wisely built a lock canal, adopting the minority viewpoint, the Army engineers still persisted, in spite of the achievements of the great Goethal of their own corps, that the Panama Canal should be changed into a sea level canal. Thus the "Battle of the Levels" Goethals termed it has gone on continuously since we started to build the Panama Canal. We Canal Diggers are lock canal advocates and have always been on the defensive, excepting when our leaders, Stevens and Goethals, had the actual responsibility of the undertaking. They are long departed. I humbly attempt to give voice to their thoughts as, at 83, I am one of few survivors who as a fellow Canal Digger was intimately associated with them.

The outstanding success of the Suez Canal completed in 1869 by De Lesseps naturally turned his thoughts to an Isthmian canal. Popular and honored in France he was the logical choice to head this new enterprise. With him as head, capital and support seemed assured, even though America held aloof. A survey in 1877 by French Lt. Wyse located the proposed canal between Colon and Panama City paralleling the American Panama Railroad. De Lesseps, not a trained engineer, insisted on a sea level canal. His experience at Suez proved a disastrous handicap.<sup>3</sup> "The engineering problems met at Suez," says Blanchard in *Seventy Years of Suez* were not at all comparable with Panama, a fact that De Lesseps discovered later,

much to his sorrow. "Panama required a huge cut to be blasted through a mountain of solid rock, at Suez it was largely a matter of dredging out mud and sand; in fact a considerable amount of the excavating was done by an army of some 25,000 laborers, who shoveled dirt into baskets, loaded them on donkeys who in turn, carried and dumped it beyond the edges of the great ditch. This led, in the former case, to an expensive and complicated lock canal in which ships had to be raised and then lowered some 85 feet, literally lifted over the continental divide. For the other, a simple sea-level waterway was quite feasible." He grossly underestimated the task. His technical committee considered an estimate of 240 million dollars and 12 years time, insufficient for a sea level canal 72 ft. wide and 28 ft. deep. He considered it excessive and arbitrarily reduced it to 131 million and 8 years time. Work was started on this basis in 1881. De Lesseps, by force of circumstances of his own creation, became the promoter of an unsound venture. He and his son finally spent 350 million dollars but had taken in only 266 million. Then confidence in them waned and the crash came in 1889. All France shuddered. A new company was formed out of the receivership of the old to keep their concession alive. Their only hope of any recovery was to find a purchaser and we were the only prospect.

They had excavated 76 million cu. yds but only 30 million cu. yds that would be useful to us, they also had purchased the Panama Railroad built by American interests.

The story of De Lesseps' attempt to dig a sea level canal is dramatized by their naming of Gold Hill in Culebra Cut. Here is where the French began work on the summit of the continental divide. The lowest point in the saddle between Gold Hill and Contractors Hill initially 287 ft. above sea level was excavated for a depth of 140 ft. and the remainder of the 9 mile cut opened. They did a surprising amount of work when the diminutive equipment they used is considered and actually removed 500,000 cu. yds in one month. They used narrow gauge tracks and lacked the heavy railroad equipment which we employed with wide gauge tracks. Contractors Hill was named as the result of the hard work of a Dutch contractor, but Gold Hill was named from a stock prospectus put out by the Company to raise additional capital translated as follows:

"There is one hill in the Canal alignment that must be removed in the ordinary course of excavation (It is still there; may it remain firm), it is a gigantic mound of rock but far from being a hindrance this hill is one of the Company's best assets for we are confidently informed by our geologist that this mountain is full of gold and it is believed that the ore from this place alone will be worth more than the entire costs of canal excavation".

All France was crushed by De Lesseps' catastrophic failure. One voice had been raised that might have saved the venture for France, but it had been quieted by De Lesseps. It was the plan of Godin De Lepinay who in the beginning proposed "a dam across the Chagres at Gatun to create a lake of sufficient height to absorb the waters of the Chagres, the level of the lake to be a little below the height of the highest flood waters" and continued DeLepinay "it will be the most advantageous to navigation." Our present canal to all practical purposes was built on DeLepinay's plan with the Gatun Dam as its keystone. DeLepinay wanted to work with nature and use the mighty Chagres as a friend, instead of an enemy, to help lock the ships over the continental divide.

After DeLesseps' failure we took over and a new international commission still recommended building a sea level canal.<sup>18</sup> After a lot of lost motion, the great railroad engineer

John F. Stevens was appointed to carry on. He wisely convinced the President and Congress<sup>16</sup> that we should build a high level lock canal closely following the suggestions of De Lepinay. George W. Goethals, his successor, believed also only in a lock canal.

The work of these great engineers and administrators was so successful that one would expect the "battle of the levels" settled. Not so, instead it has been renewed with new vigor especially in the last nine years by Presidential dictum backed up with funds from Congress.

Stevens and my Chicago friend Ralph Budd organized the excavation of Culebra Cut, the difficult 9 mile stretch through the continental divide, that the French had opened up. Contrary to a recent statement by a Colonel of engineers for distribution to members of Congress, this was no horse and buggy undertaking with equipment that would be obsolete today. We Canal Diggers got excavation up to a million cu. yds. per month in short order and reached a peak of two million. There were 76 miles of broad gauge track laid in the narrow cut. The long dirt trains were large flats with unloaders that dumped the spoil in minutes. 260,000 holes were drilled each month and loaded with 700,000 pounds of dynamite. The booms of every shovel that could be placed in position were in continuous motion loading dirt trains moving ahead in synchronism with their swinging booms. These dirt trains left the cut with their spoil on unheard of close schedules a minute apart; no known modern system could move the dirt out of Culebra Cut any faster because as Stevens said "it was a matter of transportation".<sup>2</sup> Culebra Cut has been renamed to commemorate Colonel Gaillard who was in charge of excavation under Goethals. One day I visited the cut with him and as we watched together that wonder in work, "to slit the sliding mountains and lift the eternal tide", he turned to me and said "Imagine the folly of building a sea level canal".

The board of consulting engineers of 1905 estimated total excavation for a lock canal at 95 million cubic yards, when the width of the cut was increased to 300 ft. they raised their estimate to 175 million. The actual excavation in 1917 when the canal was ready for dependable service with a full depth channel was 325 million.<sup>3</sup>

Now, when the slides have just been tamed and the width of the channel increased to 500 ft., over 550 million cu. yds. have been excavated. So much for estimates and actualities! Truly "Our Faith Moved Mountains."

The public believe erroneously that the Army Engineers built the Panama Canal. Actually the Canal was a civic achievement<sup>4</sup> of the American People, however an army engineer officer has been assigned as governor since the permanent organization went into effect on April 1, 1914. The Steamship Santa Clara was the first commercial steamship to pass through the Pacific locks on the 18th and 19th of June 1914; I stood on her bridge with her Captain. Then and since, the locks have fulfilled and surpassed expectations. When an Army governor recommended in 1947 the conversion of our Canal into a sea level<sup>17</sup> ditch; the canal banks were still sliding in! His report was shelved but work was stopped indefinitely on a third set of larger locks which are badly needed for our large aircraft carriers after an expenditure of 89 million dollars. These locks were recommended by the Sultan Commission<sup>5</sup> in 1930 and Congress had approved their construction and work had begun on them in 1940.

In 1961 the President appointed a study group<sup>19</sup> and the army engineers consulted advised, that the tidal currents were not an obstacle. This was a grave mistake. There was a shortage of water, they advised, with increasing traffic. More and more ships includ-

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ing some of our late aircraft carriers were too big to go through the canal locks. They did not state that many of these larger ships could not enter any of our Ports on the Atlantic or the Gulf, and if there was a shortage of water it could be pumped from the ocean into the lake at a very small cost per lockage. It was also claimed mistakenly and the news media advised that only a few hundred persons were required to operate a sea level canal instead of several thousand to handle a lock canal! Propaganda for a sea level canal was given the full treatment by government agencies. The Executive branch of government coupled all this with the alluring possibility that a new sea level canal could in all likelihood be built with nuclear energy at a comparatively low fractional cost of conventional excavation.

On Sept. 22, 1964 Congress accordingly passed public law 88609 establishing a commission with five men from private life. "For determination of the feasibility of and the most suitable site for the construction of a sea level canal, and the estimated costs thereof". Only a study for a sea level canal was provided for, the sea level advocates had hit below our belt.

I had the honor in 1954 of dedicating in a moving ceremony the Goethals Memorial erected by act of a grateful Congress in the Canal Zone at Balboa. President Remon, the strong man of Panama, participated in the tribute to our great Canal Builder. Shortly afterwards he was assassinated and political turmoil ensued. The left wingers led by communists in Panama's university started an anti-American hate movement.

We surviving Canal Diggers at the time were looking forward to celebrating the 50th anniversary of the opening of the canal in 1914. During the intervening years it had remained the world's greatest engineering achievement. As a gesture of good will our country spent 20 million dollars to build a bridge across the canal to link up the Inter-American Highway. When we attempted to dedicate it in 1962 the Panamanian communists were so well organized that we had a riot instead.<sup>6</sup> Shortly afterwards the Canal Zone was invaded by armed mobs with the Panama authorities making no initial attempt to restore order. The riots resulted in the usual bloodshed with fatalities, burning of Canal Zone property, and looting.<sup>6</sup> The bridge we had given Panama and another million dollars annually from 1955 for treaty rights resulted only in creating a voracious appetite for more. The Panama flag now flew with ours over the Zone. The fifty year anniversary celebration scheduled for 1964 was not for us, most of us Canal Diggers stayed home. That year traffic reached a new high of over 72 million long tons.

Then we received a blow from our own President. We were informed on Dec. 18, 1964, that, after all, a sea level canal should have been built in the first place (When over 550 million cu. yds. had been excavated and the slides were still in motion). He stated the report of 1930 recommending the third set of locks to handle larger ships was made as an interim measure with the purpose of converting the canal ultimately to a sea level canal (I am at a loss to know how it could be so construed). The President had been sold—hook, line, and sinker—that nothing would do except a sea level canal and that the canal we built was obsolete. He and every head of a government department concerned, he stated, were determined on a new sea level canal at a location to be determined by the new Inter Oceanic Canal Commission preferably built by nuclear fission. And if they found this was not feasible, conventional means would be used to convert the De Lepinay-Stevens-

Goethals masterpiece into a sea level canal that would handle all the 500 ships at that time that were too big to go through, and any others in the future. With this Presidential dictum backed by legislation from Congress and large authorizations, the Inter-Oceanic Commission met monthly and passed the engineering studies on to the Atomic Energy Commission and the Army Engineers.<sup>10</sup> It has developed since that they passed a hot potato.

We Canal Diggers who were on the job during the excavation of Culebra Cut wondered what would happen if they tried to dig the canal 120 ft. deeper! What would happen to the mighty Chagres with its astounding power of destruction when it was uncontrolled and no longer cushioned by Gatun Lake! Even our lock canal had been shut down to traffic by its rampages. The canal control facilities have been barely able to handle the 350,000 cu. ft. of water per second that naturally flows at times into Gatun Lake. These matters did not deter the 1947 report of the Army engineer governor of the Canal recommending its conversion into sea level but this report had been shelved and not exposed to attack. But now the alluring prospect of using nuclear fission elsewhere seemed to be the answer. The report of 1964 containing a full page photograph of the President with his dictum also showed a crater formed by the explosion of a 100 kilo-ton thermo-nuclear device that moved 6½ million cu. yds. The crater was 300 ft. deep and 1280 ft. in diameter. Even so, it would be dwarfed in Culebra Cut alongside Gold Hill in the Cucuracha slide. The dictum of the President was backed up by the following reference to the illustrated crater, "Nuclear excavation experiments have led to the conclusion that nuclear canal excavation is theoretically possible."

We Canal Diggers, and I might add the Panamanians, were not convinced. No one who has not stood on the bottom level of Culebra Cut and been in tropical storms can have any realistic conception of what is involved in building a sea level trans-Isthmian canal. We Canal Diggers became articulate, but we were treated as outsiders. We represented a generation that had done well in its time but the world had moved along and we could hardly be expected to keep up with it. They thought we had lost the battle of the levels especially with the advent of nuclear fission. But had we? We began to ask embarrassing questions.

Our great President Theodore Roosevelt came to the Canal Zone in 1906. After operating a steam shovel in Culebra Cut he arranged to give us Ditch Diggers at his own expense a bronze medal, one of which I proudly possess and he told us, "You will stand as only a few of the most famous armies in history. This is one of the great works of the world, greater than you realize". Three score years later our work in two world wars had ably served our nation and 360,000 ships had gone through our canal.<sup>11</sup>

Our 50th anniversary had been a flop, now we received another blow, this time from our liberal press. The Americans they stated, who carried on, were colonists who lived in comfort in well kept houses with trimmed lawns while the Panamanians who worked with them lived in squalor outside the Zone. Nothing was said of the prosperity we had brought Panama<sup>9</sup> or of the mansions on the Buena Vista in Panama on the way to the golf course or that we paid higher wages with fringe benefits to Panamanians on the Canal Zone than they did in Panama. These Americans were highly selected technical personnel serving their country in sensitive positions, who were subject to call around the clock and kept the Canal in tip top shape to safely transit forty or more ships per day, a demanding responsibility that left little energy for leisure. Panama,

our liberal press said, had been exploited; we were interlopers depriving them of their heritage and so on. This liberal propaganda was written in the same convincing manner that helped Castro rob and resulted in his grave threat to our security. Our 1903 treaty had already been emasculated by giving up our right to restore law and order in Panama.

Giving up this right had resulted in the mob invasion of the canal which threatened the safety of the canal, and could only be stopped by armed force after bloodshed with fatalities and destruction of vital canal property.

A secret treaty was being negotiated by our State Department with the urging of the new commission when its terms leaked out prematurely. We were to relinquish control of the Canal and eventually give it to Panama. A new sea level canal was to be jointly operated. Astounded, the House of Representatives, led by Congressman Flood,<sup>7</sup> (who during the years had kept in touch with canal affairs) rose in heated protest and threatened to bodily invade the Senate who alone has treaty making powers.

My friend, Congressman Wyman, presented my views on this giveaway treaty on Sept. 12, 1967 (90th Congress Vol. 113 No. 148)<sup>8</sup> in a lengthy statement entitled "Why we should keep full control of the Panama Canal and not give up our sovereign rights to the Canal Zone". This statement follows in part:

"A shameful surrender of our heritage is being planned of which the public is almost unaware. In 1936 we revised our treaty and gave up the right to maintain law and order. Panama has had frequent armed insurrections, without our military presence the safety of the canal would be most problematical.

"A red herring device of a sea level canal has been used and Congress has been prevailed upon to pass legislation to study a sea level canal only so that other and more practical suggestions can not even be considered.

"Panama has known all about and deliberated about the proposed give away treaty for months, they are in, the American public is out. They know the unlikelihood of a sea level canal ever being built. They also know that the majority of ships built too large to transit the canal will never pay tolls to use any canal. Many were built to avoid having to go through the Suez canal, a busier canal than ours when Egypt keeps it open."

The Christian Science Monitor of Aug. 29, 1967 in a brainwashing article from Panama concerning the new treaties, quoted a student who said:

"The existence of a foreign colony supported by a massive military force in the heart of Panamanian territory whether sanctioned by treaty or not works as an irritant to Panama pride and nationalism. Naturally Panamanians want control over the Zone and an end to military bases".

Before the give-away treaty could be acted on, Panama elected a new president, Arias, no friend of ours. Even the give-away treaty would never satisfy him. He wanted us out, in spite of the billions we had invested with no net return to the Treasury. Then he got in a tangle with the Panama police force, a truck load of Panama police overthrew his government, exiled him, cleaned up the hotbed of radicalism in Panama's University, and set up the present military dictatorship. Thanks to our Canal, Panama today suffers no recession. On the contrary, her economy is booming. This Arias is the same person now negotiating with Nicaragua for Onassis. Before Richard Nixon became President he sent me the following unsolicited letter:

"I have just had the opportunity of looking over your statement on the proposed Panama treaties which was placed in the record by my good friend Congressman Wyman.

"You can be sure I shall study this statement very thoroughly in preparing my own

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position on this issue which is so critical to the security of the United States."

Recently the State Department unwisely reopened negotiations with the new military government of Panama. Alarmed, the House of Representatives moved quickly to avert an impending tragedy. On July 14, 1970 Congressman Wyman introduced H. Res. 1142 stating it was "the policy of the House, and the people of the United States, to maintain its sovereignty and jurisdiction over the Canal Zone and that we in no way forfeit, cede, negotiate, or transfer any of these sovereign rights or jurisdiction".

We Canal Diggers often stood on the banks of the Cut opposite Gold Hill, fascinated, watching the shovels snorting steam like harnessed dragons working at lower and lower levels to reach the pioneer cut, elevation 40 ft. above sea level. The great West Culebra slide has since moved the place where we stood into the cut 300 ft. below. Gold Hill today is an isolated huge rock with sides rising precipitously from the cut to elevation 662 ft. The South side of Gold Hill drops sharply 350 ft. into a sea of yellow rock and mud of the great Cucuracha slide below. On the North side it drops 300 ft. below into the crushed rock disintegrated by natural forces of what is left of the great East Culebra slides. Just as nature abhors a vacuum, so she uses her might to restore her equilibrium when we overstep the liberties we take with her. Since our canal was opened to shipping in 1914 it has been repeatedly closed to traffic because of slides, and only a few years ago it was gravely threatened by a crack in Contractors Hill that would have sent a mountain of rock into the canal if immediate steps had not been taken just in time. If the cut were dug 120 ft. deeper to make the canal into a sea level canal what would happen to Gold Hill and the exposed vertebrae of the continental backbone that tower over passing shipping? Obviously no sensible government would ever permit such risks to be taken.

When one blasts with nuclear fission one gets a huge crater 200 to 300 ft. deep and even though you rip rap the sides of this crater with hard material, fused by the explosion, the tremendous forces involved have disintegrated and weakened the structures of the remaining material on which the stability of the banks depend. We had two types of slides on the canal; one, a gravity slide where the pressure resulting from removal of material crushed the rock in the holding banks, resulted in a crack behind the banks and then the entire bank between the crack and the cut would slide into the cut. Another type was one where the pressure behind the banks would be transmitted to the bottom of the cut and force the bottom of the cut upwards with material from behind the banks moving beneath, then the entire mass would slide in. One such slide closed the canal for four months. First we had an island in the middle of the canal, then a peninsula, and finally an isthmus far above the level of the water in the cut.

All of this is a matter of record but forgotten when President Johnson issued his sea level canal dictum.<sup>10</sup> But had not the Army engineers in their 1947 report recommended converting the canal into a sea level canal? So, after all we cannot blame him too much as he was surrounded by sea level advocates with no experienced voice able to dissent as it requires communication to have one's voice heard.

So with the authority of the Inter-Oceanic Canal Commission,<sup>10</sup> the Army engineers took over a feasibility survey with the Atomic Energy Commission. First they had to select the routes. The only other logical place besides our canal is the Nicaragua route. This route had been recommended by the Army engineers previously as a better route than

Panama. American private capital had tried to build on this route and even had purchased and put to work some of Delesseps' dredges, after his failure in Panama. The Panamanians, threatened with the loss of a canal by the Nicaraguan route and aided by the representative of the defunct French Co., Bunusa Varilla staged a revolution and lowered the asking price of the defunct French company for their assets to 40 million dollars without the Nicaraguan competition the price would probably have been 100 million dollars more. The Americans who had invested more than 10 million dollars in Nicaragua were left holding the bag when the Senate decided, perhaps unwisely, on Panama. Certainly this route should be given every consideration as we also have a moral obligation under a treaty with Nicaragua. But the dictum was for a sea level canal, a sea level canal to avoid draining Lake Nicaragua would have to go through the mountains on a hopelessly impractical route. So the Army engineers, of course, have found a sea level canal that would bring New Orleans City 560 miles closer to San Francisco, not only impractical but have gone a step further in unwisely giving a lock canal there no consideration.

A route to use nuclear fission had to be selected away from centers of population. Only two routes at first were considered; one, the Sasardi-Marti route where Balboa first saw the Pacific "Silent upon a peak in Darien," a hundred miles South of our canal; and the other, 200 miles South in Colombia, the Atrato-Truando route. Then they prematurely made a cost comparison. The Sasardi-Marti route would be 48 miles long. With nuclear fission it would cost only 747 million dollars but with conventional means the costs would be over 5 billion. The Atrato-Truando route would cost 1,440 million dollars with nuclear fission and over 5 million with conventional methods. Naturally with these estimates they concentrated on the Sasardi-Marti route. This is one of the most primitive spots in the Americas inhabited by the wild Cuna Indians who recognize no governments. The Chagres is a mild stream compared to their Chucunaque river which has a tidal bore with its ascending wall of water with incoming flood tides. The country is so wild that the Inter-American Highway has not attempted to build through it as yet. The Panamanians who were recruited to cut a wide lane through the dense jungles for surveys, were at no time worried that a canal would ever be built through there that would isolate Panama and Colon cities, but they were willing to help us spend our money. The Army engineers found that more than 48 miles was involved as the mighty Chucunaque had shoaled up the approach for miles out to sea. After 5 years they reported nuclear excavation was being considered for only part of the route.

The 1969 report of the commission stated nuclear fission has not yet been developed safely for canal excavation to the extent required. The late report is that the Atomic Energy Commission will continue their research beyond Dec. 1, 1970, the date for the Commission to submit their final report. The Panama-American on June 24, 1970 had a startling headline absent in our sources of information. It read:

#### NUCLEAR PLAN RULED UNSAFE FOR CANAL EXCAVATION

An Isthmian nuclear canal is a pipe dream! It is one thing to blast a crater and have it remain put in the Nevada deserts but quite another matter when you subject it to the downpour of the tropics. As our able canal geologist McDonald used to say before they introduced the science of soil mechanics, "Disintegrated rock mixed with tropical rain becomes sliding mud."

Goethals in 1910 wrote "The Isthmian Canal" from which I quote "Accidents in

locks are relatively few and none of a serious nature have occurred at the St. Mary's Fall Canal during 54 years of its use. The risk to ships in narrow waterways such as proposed for a sea level canal at Panama far outweigh all hazards in the proposed lock canal PROVIDED (and the italics are his) the latter is so built as to minimize the chances of accidents at the locks. This is met by providing every possible safety device, by building the locks in duplicate, and by the installation of a system by which the vessels will be controlled by powerful machinery on the lock walls, thus avoiding mistakes on the part of the vessels, crew, or engineroom staff which once led to the accident at the Manchester Ship Canal." Such a system was installed in our canal. Special towing locomotives geared to the lock walls moved in synchronism to guide the ships through. An Army engineer officer was appointed as engineer of maintenance and the lock organization reported to him. The pilots, when in the locks, had to conform to the lock masters' safety requirements and his representative directed the lock operations for each ship. The pilot in the locks used the ships' engines sparingly. The engineer of maintenance was to be the next governor as it was felt that only by contact with the lock organization could he acquire the needed background for responsibility for the operation and safety of the canal.

Since the last great war this has been changed, Governors are now assigned without previous training on the canal for the job from the Engineer Corps. As a result the lock organization no longer has a separate voice that can be heard directly at the top level. It now reports to the Marine Division. Hence the pilots in the locks no longer are under any restraints from the lock organization. This leads to chances being taken as to the safety of the locks. What chances? At the lower lock at Miraflores there is only a single pair of 82 ft. gates. When these gates are opened the mixture of fresh water in the locks and the salt water of the Pacific results in a considerable current out to sea from the locks.<sup>14</sup> The ship must travel faster than this current to acquire steerage way when leaving the locks.

It takes two minutes to open the gates, I have seen pilots start their ship in motion before the gates were fully opened. What would happen with power failure and the gates stall when only partially open! If the locomotives were still attached they might be able to control the ship, but the pilot has a tendency to get rid of these lines as soon as possible to obtain steerage way in the strong fresh saltwater currents. Fortunately we have had no serious lock accident, but the original towing locomotives with their synchronous lock are just being replaced with Japanese locomotives which lack this safety characteristic.

Our overhead emergency dams have been removed and replaced only at Gatun and Pedro Miguel with underwater dams. Miraflores today has no emergency dam. The old dams removed could be put in place by hand, not so the recent 50 million dollar underwater dams. Then we had two giant cranes, 350 tonners, the Ajax and the Hercules. The two operated together to lift a sunken submarine and saved the crew. We thought two were required to handle our gates. One has unwisely been sold, not by the present governor.

Why did DeLepinay, Stevens, and Goethals all stress safety in navigation as a prime reason for a lock canal? For the simple reason such a canal is not affected by tidal currents, and ships passing through in either direction can proceed at uniform ground speeds whereas with tidal currents ships traveling with the current must travel faster than the current to have control of their movement. Even with our lock canal we must exercise care in

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drawing water through the cut when filling the locks, even though these currents are small indeed compared to tidal currents in a sea level canal.

We have had serious accidents in the cut. Recently a large so-called "clear-cut" ship hit a bank and sank in the side of the channel blocking the cut temporarily. Prompt action by a capable canal group cleared the ship from the blocked channel. Every care must be used for the safe navigation through the present 9 mile cut, large ships called "clear cut" ships have limited traffic to one-way. It is expected that by increasing the width of the cut from 300 to 500 ft. that ships that can pass the present locks can go through the cut on a two lane traffic pattern.

But even so as canal traffic increases the margin of safety will decrease and we have too many eggs in one basket. The other logical basket is a small lock canal through Nicaragua the size of the St. Lawrence Seaway<sup>12</sup> that would care for 65% of the ships transiting the Panama Canal. Rumor has it that we are about to give up our treaty rights as the Canal Commission has not considered a low cost Nicaraguan lock canal of the size desirable that would be self liquidating.<sup>13</sup> Rumor also has it that Onassis has the deposed president, Arias, of Panama negotiating for rights to put a pipe line across the Nicaraguan route to handle Alaskan Oil and improve water transportation.

If the canal study group of 1961 had given safety the consideration facts warrant, it is doubtful if the sea level dictum would ever have been made. We have a sea level canal in our own back yard they should have looked at. It is about 12 miles long and connects Buzzards Bay to Cape Cod. The tide tables show currents as high as 5.2 knots. These tides occur with a tidal range of 12 ft. This canal is only 30 ft. deep for relatively small ships and light traffic. Even so the width of this canal has been increased to a minimum of 480 ft. for safety because of the tidal currents. At Panama the mean level of the Pacific is nearly a foot higher than the Atlantic, and the Pacific has a tidal range of 22 ft., and the Atlantic about 2 ft. With a sea level canal the tides would be, on a comparative basis with those of Cape Cod, between 7 and 8 knots, too unsafe for navigation except for a wide strait, impractical even if nuclear fission could be used.

The great Engineer James B. Eads who built the St. Louis bridge questioned the practicality of a sea level canal.<sup>2</sup> Instead of a canal he said, "A magnificent strait at Panama through the Cordilleras through whose broad and deep channels the tides of the Pacific could be felt on the shores of the Caribbean, and through which the commerce of the next century might pass unvexed from ocean to ocean" would be needed. Eads' statement was made before the advent of 200 to upwards of 300 thousand ton ships of today which have to wait two minutes, when they try to stop before putting their engines in reverse.

A "magnificent strait" to handle the large ships being built today so that they could pass "unvexed" from ocean to ocean would have to be 70 ft. deep and nearly half a mile wide since large ships would have to navigate waters with 12 knot tides. Not only would a land barrier have to be removed but excavation would be needed far out to sea through the continental shelf.

With the Presidential dictum for a sea level canal the Commission got off to a bad start. Its final report to be made Dec. 1, 1970 will have no particular value because any recommendation it may make that is practical would have been made anyway and probably acted on sooner. It has done more harm than good. Its chairman, expecting to build a sea level canal, initiated the proposed treaty with Panama to give away eventually our present canal. The fault is not with the

supporting agencies, who were given an impractical assignment. It rests squarely on the shoulders of the 1961 study group who initiated a study for a sea level canal only and with the Army engineers who in 1947 recommended conversion of the present canal into a sea level canal.

Their 1969 report contains the statement "It has been the view of the commission from the outset that one of the most important measures of the feasibility of a new sea level canal would be the difference between sea level costs and benefits and the costs and benefits of an improved lock canal." This statement contrasts strangely with previous reports of the Commission and with the President's dictum. In fact, it took the Commission a number of years to voice this logical viewpoint. Can it be after all that the voices of us lock canal advocates are finally being heard and that the De Lepinay-Stevens-Goethals masterpiece is not in jeopardy and even that suggestions for its modernization in accordance with the Sultan report of 1930 now long overdue might be heard, or even recommended by the commission? If, as the Commission now states, they are interested in the relative costs and benefits of a lock canal as compared to a sea level canal, why has no consideration been given to the only other practical canal route through the American Isthmus, the Nicaraguan route with its lower pass and a much larger water supply for a lock canal? Why has no consideration been given to a low cost route there of the size of the St. Lawrence Seaway?<sup>14</sup> This cost would be about the same as the Seaway recently built or less, and it could handle the overload of the Panama Canal. With this self-liquidating venture and the larger Panama locks called for in the Sultan report, which were previously approved by Congress, the canal problem would be solved for the next century at a minimum outlay.

Someone else may become interested in Nicaragua as we are giving up our rights there because the Commission stated the Nicaraguan route was impractical. The impractical route was of their own selection and made no use of the low pass or of Lake Nicaragua. Instead of considering routes closer to our shores the Commission has spent our money on routes 100 and 200 miles further away from our present canal.

With the heavy increasing traffic through the canal and the delays in decision making, capability studies were wisely undertaken on the present canal by an unusually capable governor. The funds were available from canal revenues, so that he could speed up the widening of the cut from 300 to 500 ft. and thus increase canal capacity by providing for two-lane traffic through the canal's choke point.

On May 19, 1970, Governor W. P. Leber spoke to the American Society of Panama. "The Canal is now handling more traffic, larger ships and is putting them through in less time than ever before in its history!" In 1969<sup>11</sup> over 15,000 ships passed through the Panama Canal with 109 million long tons of cargo. Regardless of the President's dictum for a sea level canal, the Governor has a project study for further increasing canal capability. He estimates that 15 projects at a cost of 92 million dollars will bring canal capacity up to 26,800 ships per year, not considering the completion of the third set of locks for larger ships and our aircraft. I believe I submitted some of these project ideas, such as additional auxiliary culverts for the locks to better filling distribution and decrease lockage time, and also to tie in these auxiliary culverts with a hydraulic assist system to aid the towing locomotives in handling the very large ships that can just about squeeze into the locks. While I think the Governor's estimate much too large for safety, there is certainly additional safe capacity available for the shipping able to transit the

present 110 ft. locks.<sup>5</sup> Governor Leber deserves the thanks of Congress for demonstrating that our Canal is far from being obsolete.

We Canal Diggers can now take a deep breath and relax. The "battle of the levels" is about over. We will win because De Lepinay Stevens, and Goethals paved the way in creating their enduring masterpiece. The sad thing is that another generation is not having the opportunity to do in Nicaragua what we were able to do in Panama. You can be certain that someone in the future will see this great opportunity which the Commission has ignored.

Let me close in saying we have been most inept in our relations with Panama. It is not all a question of money and what revenue Panama should receive from the Canal Zone and the growing canal business. We have made many favorable upward adjustments and gifts in payments, property and improvements for their benefit. Our ineptness is a matter of human relationship. For instance, we have a bad habit of renaming places on the Zone with North American names replacing old familiar pleasing Spanish Names. The Alhajuela Dam we named the Madden dam. The bridge we built they wanted to call "the Bridge of the Americas", we called the Thatcher Bridge. The sleek cruisers that carry pilots out in heavy seas to meet incoming shipping are manned Panamanians, yet operation of a towing locomotive is denied them. This is now being somewhat changed by giving Panamanians increased opportunities in the Canal organization. The Panamanians are good business men. I ought to know as for years I have been a stockholder in Panamanian Corporations. They know we need them to help us operate our Canal and they also know that we should have the sole responsibility of operating it, but they feel, and I agree, that the Canal has been such a great success that it should contribute even more to their economy. The reason our Treasury has received no net return is simply because the tolls on shipping are actually somewhat less than when we opened the canal. With ever increasing costs and the needed additional larger locks some adjustment upwards will have to be made in tolls if the present requirements of Congress are to be met that the Canal pay its own way.

We and Panama need each other.<sup>9</sup> Joint ownership or control, or board representation will only create friction, and result in more difficulties. Panama, like us, has a vociferous destructive element now temporarily suppressed by a military government. If we act firmly and justly in maintaining our exclusive rights it will be for their good as well as ours.

Panama's traditions go back a century before ours.<sup>2</sup> Hers was the first lasting settlement in the Americas that of Santa Maria in 1510; hers was the first cathedral dedicated to the Christian Faith. Long before the Panama Canal and the Panama Railroad, the Camino Real and the Cruces trail across the Isthmus were busy highways of commerce between the seas. Today with "the land divided and the world united" she becomes a natural center of Pan American Unity.

May he grant us each wisdom and understanding and with these forbearance and foresight that we thus together not only advance our mutual interest but continue to serve all nations in the future as we have so ably done since we Canal Diggers helped Goethals "To forge a planets dream". So sang poet Percy Mackaye.

"where old Balboa bent his gaze  
He leads the liners through  
and the Horn that tossed Magellan  
bellows a far halloo"

Footnotes at end of article.

## FOOTNOTES

<sup>1</sup> Author formerly Testing Engineer Isthmian Canal Commission, Superintendent Pacific Locks Panama Canal and member of the Goethals Memorial Commission.

<sup>2</sup> "Our Faith Moved Mountains" Authors Newcomen address 1943 Princeton Press in Library for Congress.

<sup>3</sup> Panama and Nicaraguan Canal Survey (Sultan Commission) 72nd Congress, 1st session House document 159.

<sup>4</sup> Authors dedication address Goethals Memorial, Congressional Record May 3, 1954.

<sup>5</sup> Facts about the Panama Canal, Scientific American, Feb. 10, 1917.

<sup>6</sup> Danger Over Panama, Jules Dubois, Bobbs-Merrill press 1964.

<sup>7</sup> Selected addresses, Representative Daniel Flood, House document 474 89th Congress.

<sup>8</sup> Why we should keep full control of the Panama Canal and not give up our sovereign rights to the Canal Zone, Congressional Record Vol. 113, No. 148.

<sup>9</sup> Our treaties with Panama and Canal Mandate Congressional Record Vol. 114 No. 107.

<sup>10</sup> Annual reports Atlantic-Pacific Inter Oceanic Study Commission, 1964, 1965, 1966, 1967, 1968, 1969.

<sup>11</sup> Annual reports Panama Canal Company 1950 to date.

<sup>12</sup> The Inter Oceanic canal of Nicaragua, A. G. Menocal, Nicaraguan Construction Co. N.Y. 1891.

<sup>13</sup> Annual reports St. Lawrence Seaway Development Corp. 1959 to 1969 a self-liquidating joint project with Canada.

<sup>14</sup> Hydraulics of the locking operations of the Panama Canal author International Engineering Congress San Francisco 1915, also in Goethals book on the Panama Canal.

<sup>15</sup> When the U.S. acquired exclusive rights to construct a canal in Panama, the board of consulting engineers voted 8 to 5 in favor of a sea level canal.

<sup>16</sup> The Senate Committee voted in favor of a sea level canal 6 to 5 but the senate decided on a lock canal by a vote of 36 to 31.

<sup>17</sup> The 1947 shelved report contained the statement approved by the Engineer officer acting as Governor. A sea level canal constitutes the only means of meeting adequately the future needs of inter oceanic commerce and national defense and such a canal can be obtained most effectively and economically by converting the present Panama Canal to sea level." In the year this statement was made 6,375 ships transited the canal. In 1969 over 15,000 ships with over 4 times the tonnage.

#### 1970 RESOLUTIONS OF ANNUAL MEETING OF ASSOCIATION OF U.S. ARMY

Mr. THURMOND. Mr. President, many outstanding groups in this country are concerned about the shifting balance of military power from the United States to the Soviet Union.

Such an organization is the Association of the United States Army. This concern is expressed in the resolutions adopted by this group at their annual meeting here in Washington on October 14, 1970.

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

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

RESOLUTIONS—ASSOCIATION OF THE UNITED STATES ARMY, 1970 ANNUAL MEETING, OCTOBER, 14, 1970

OCTOBER 14, 1970.

I certify that the Preamble and Resolutions Numbers 1 through 14 were adopted

at the Annual Business Meeting of the Association of the United States Army held this date.

Resolutions from previous years, specified in Resolution Number 14, follow that Resolution.

ARTHUR SYMONS,  
Secretary.

## PREAMBLE

There are in the histories of all great democracies times of crisis in which national ways of life, freedom of their peoples and indeed, their very existences have been threatened by the forces and events which are products of man's fitful stewardship of his turbulent world. Our nation has known such times—so vividly, in fact that although we are a peace-loving people there have been few decades that have not been marked by either war, near-war or international tension.

We face another crisis today, perhaps one of the most crucial since we became a world power, as we turn from the strife-torn Sixties to a decade which seems to offer, at best, an uneasy truce. There are always dangers in an unfriendly world, but one of the most ominous at present is the possibility that we will permit ourselves to become so weak militarily that we will be able to do little more than stand by and deplore the depredations against the Free World that are certain to follow communist realization that the United States cannot push back.

The signs that we stand at the edge of such an abyss are abundant. The national defense budget, which for fiscal 1971 will constitute the smallest share of overall federal spending in 20 years, is under pressure for even more drastic reductions. The number of Army divisions is expected to drop to its smallest total since 1960 by next June with more decreases likely to follow in the years ahead. Funds for vital research and development are inadequate and there is little likelihood that this situation will improve in the foreseeable future. Even the present rapid rate of withdrawal of troops from Vietnam is not fast enough for many of our people, and the voices urging precipitate cutbacks in U.S. forces stationed in such key strategic regions as Europe and Korea are growing stronger.

These bleak prospects are further complicated by current domestic unrest, one of the most potentially damaging aspects of which is an unreasoning inclination to take out on the military services frustrations and bitterness over the war in Vietnam. The effect on morale of this attitude, the social turmoil that is besetting our country and attendant, unrealistic demands for radical change in such vital areas as discipline, could be as debilitating in the long run as imprudent reductions in manpower and resources.

The need for maintaining a strong, modern and well-equipped Army has never been more urgent. We reject the notion that communism is no longer a threat to our country; Soviet Russia, whose military budget grows while ours gets smaller, is becoming bolder as her armed might increases. The consequences in terms of world peace and our own way of life if Soviet leaders should achieve their obvious goal of overwhelming superiority in arms, would be calamitous. Communist China continues to build up its military machine, her rulers' posture toward us as bellicose and unyielding as ever. Everywhere, from Europe to the Middle East to South America, those who would "bury" us and subjugate the rest of the Free World to communism are hard at work. We cannot, we must not, let this happen because we lacked the resolution—backed by adequate armed power—to stop it.

Nor can we drastically reduce our overseas forces, as some of our people would have us do. We can no longer look with confidence to the trump card we have been playing with increasing risk in past emergencies:

Our ability to mobilize our manpower and resources quickly. That capability lost its potency with the increase in the time necessary to develop and build the complex weapons needed to wage modern war—and the ease with which rockets and troop planes can cross the oceans. If our continued strong presence in such strategic regions as Europe and the Far East would ensure a measure of world stability and peace, the outlay in garrison troops and equipment would be worth the cost for this reason alone. But the fact is that when we join in the protection of the Free World we ultimately are protecting ourselves.

Despite the outcries for sharp reductions in the strength of our armed services the battle for preparedness has not been lost. For, no matter how hard the foes of a strong military establishment may argue or the editorialists thunder and snipe, the real decision must be made by the American people. If they demand a defense force that is second to none, we will have one—and we can without impairing other national priorities. If the answer is no, then it must be given with the knowledge that such a course could have grave, even disastrous, consequences. Apathy will not do; too much is at stake for silence.

We, the members of the Association of the United States Army, are convinced that the American people will demand a change in this dangerous course if they know of the perils with which it is strewn. Let this, then, be our crusade: To expound the cause of national defense with every resource that the association has at its disposal. We must speak from the lectern and printed page, and talk with neighbor, friend, stranger and doubter—to everyone in our country who will listen. Never—as our country and the Army more needed the unrelenting efforts of every member and chapter.

The message that we must carry over and over again was perhaps best expressed by the late President John F. Kennedy: "There can be only one possible defense policy for the United States. It can be expressed in one word. The word is first. I do not mean first, but. I do not mean first, when I do not mean first, if. I mean first, period."

In support of this stand and with the conviction that the great majority of Americans are with us in our desire for a strong Army and other defense forces, the Association of the United States Army adopts the following resolutions at its 1970 Annual Meeting:

#### NO. 1. STRENGTH, MODERNIZATION AND EFFECTIVENESS OF THE ARMY

The United States and the Free World continue to face an indeterminate period of international tension. Potential aggressor nations continue to strengthen their military power, thereby increasing the risk of armed conflict and global war. U.S. international policy and commitments, such as that to the North Atlantic Treaty Organization (NATO), require a strategy of collective security for deterrence of and flexible response to simultaneous threats or acts of aggression in widely separated parts of the world. U.S. military power must be adequate to meet this strategic requirement. The nation cannot permit budgetary limitations to adversely affect its military security.

The active Army must be maintained both by volunteer membership and, if need be, the draft at a strength level adequate to constitute an immediate bulwark against actual or threatened aggression. The Army National Guard and Army Reserve must, in conformity with the total force concept recently outlined by the Secretary of Defense, be elevated in strength, training and equipment to levels capable of immediate use as effective elements of the U.S. Army to carry out this mission.

We therefore resolve that to meet the requirement of U.S. global strategy, to fulfill U.S. international policies, treaties and com-

mitments, including its support of its NATO obligations, and to insure its national defense, that

(1) The U.S. Army, consisting of the active Army, National Guard and U.S. Army Reserve, be maintained at strength and effectiveness levels capable of providing trained and equipped forces for immediate response to U.S. national and international requirements;

(2) The U.S. Army vigorously implement measures to insure a cohesive, motivated, disciplined military force, high in esprit and dedication, knowledgeable in the perils it faces, capable of accomplishing its assigned missions;

(3) The Army, regardless of projected budgetary limitations, assign priorities to procurement and research and development requirements to insure that all elements are equipped with the most modern and superior materiel for rapid and effective fulfillment of the Army's mission.

#### NO. 2. REDEPLOYMENT OF U.S. FORCES FROM VIETNAM

The President of the United States has stated that the rate of American withdrawals from Vietnam depends upon three criteria: progress in the training of South Vietnamese forces, progress in the Paris negotiations and the level of enemy activity.

Substantial progress has been made in the training and equipping of Republic of Vietnam forces and significant advances have been made in pacification in the Republic of Vietnam.

The government of the Republic of Vietnam has recognized that it must shoulder an increasing share in the struggle to defend freedom in Vietnam while alleviating the burden borne by the United States.

Prior redeployments of U.S. troops have been based upon progress in the Vietnamization program. Therefore, the timing and pace of current withdrawals should be determined by the current military and diplomatic situation.

We therefore resolve to support the President's programs designed to base the redeployment of U.S. forces from the Republic of Vietnam upon progress in Vietnamization, development in the peace negotiations and the intensity of enemy activity.

#### NO. 3. PRISONERS OF WAR

One of the most shocking and cruel results of the war in Southeast Asia is the plight of the prisoners of war held by the North Vietnamese and Viet Cong. Even the most basic consideration usually accorded prisoners of war by the nations of the civilized world has been denied.

Families and other loved ones of these prisoners have been left to live in the uncertain agony of ignorance as to the prisoners' whereabouts, state of health or even existence.

We therefore resolve that the Association of the United States Army encourage the federal government and reputable organizations to use whatever resources necessary to call the attention of the world and the American public to the plight of U.S. prisoners of war and those of other nations held by the North Vietnamese and Viet Cong. We further urge that this publicity be a continuing effort so that the expression of outrage on the part of all people be sufficient to persuade the enemy to adopt more humane practices and hasten the return of prisoners of war to their homes.

Further, the Association expresses its sympathy in behalf of all of its members to the gallant wives, families and loved ones of these prisoners.

#### NO. 4. RESEARCH AND DEVELOPMENT

While Soviet Russia's research and development effort continues to grow steadily,

the United States is shifting its emphasis from defense to domestic programs, much to the detriment of efforts vital to the field of defense research and development.

The results appear to be self-evident in that the total Soviet efforts in research and development have already drawn abreast of those of the United States and may have, in fact, surpassed them.

The United States' world leadership is and has been due in a significant part to its technological superiority gained in the past twenty-five years. If U.S. defense research and development efforts are allowed to decrease in relation to those of the USSR, the increased attention to domestic programs may be to no avail because the United States may soon become a second-rate power as a result and thus vulnerable to international blackmail.

We therefore resolve that the United States provide sufficient resources to the defense research and development effort to assure world technological leadership.

#### NO. 5. ALL-VOLUNTEER ARMED FORCES

It is vital that the armed forces be maintained at adequate strength to be an effective instrument of national policy.

It has been the experience of history that a viable service system has been necessary to augment those who volunteer in order to provide the armed forces with high-quality personnel in the numbers required during emergencies.

There is no assurance that under a volunteer system a sufficient number of persons would select the combat arms assignments necessary to maintain an effective force.

Whether or not sufficient numbers of qualified personnel to adequately man the armed forces could be provided by an all-volunteer system is a matter for conjecture.

A viable and operational selective service system functioning in concert with a volunteer system guarantees adequate military manpower when needed.

We therefore resolve to fully support all measures designed to improve the attractiveness of military careers and to encourage the maximum number of true volunteers to serve in our armed forces.

We further resolve to urge continuance of the Selective Service System until such time that actual experience has proven that qualified personnel in sufficient numbers properly distributed within services—including the National Guard and the Reserves—can be provided without such a system.

#### NO. 6. DEFENSE AGAINST BALLISTIC MISSILES AND AIRCRAFT

The Association of the United States Army has long and vigorously supported an adequate air defense for the United States. In so doing, it has recognized the need for early deployment of an antiballistic missile defense system.

Since the Association of the United States Army's 1969 Annual Meeting, the President of the United States, with the approval of Congress, has directed initial deployment of the Safeguard System as a defense against intercontinental ballistic missiles.

In addition, the surface-to-air missile system (SAM-D) now under advanced and refined development, continues to be the best present response to attack by the low-altitude aircraft and tactical ballistic missiles which could conceivably be deployed against U.S. forces.

The two foregoing systems can thus cope with the threat of enemy intercontinental ballistic missiles, tactical low-flying aircraft, and tactical missiles.

We therefore resolve that the Association of the United States Army strongly endorse the positive action of the President and Congress; that it reaffirms its support of the ABM

system; that it urge the earliest possible deployment of Safeguard units already approved; and that it recommend expedited action to complete development and initiate production of the SAM-D weapon system.

#### NO. 7. STRATEGIC AIRLIFT AND SEALIFT

The capability of U.S. military forces to deploy rapidly to any point on the globe is a strategic necessity.

In order to attain this capability, the United States must have sufficient modern, responsive, high-speed airlift and sealift forces which contain a balanced mixture of active and reserve military forces complemented by the commercial resources of the air transport and maritime industries.

Such an arrangement, coupled with the prepositioning program, will provide the necessary flexible capability to permit timely deployment and support of ground forces.

Progress has been made in improving airlift capability by adding the C-5A aircraft to the active inventory. Multipurpose surface ships are being developed jointly by the Army and Navy in order to give ground forces more rapid sealift.

We therefore resolve that action be taken to provide continued support for programs designed to expand and modernize the merchant marine and to support the improvement in, and obtainment of, sufficient amounts of strategic airlift, multipurpose ships and other sealift, together with their supporting facilities, required to meet the operational needs of our ground forces.

#### NO. 8. SUPPORT OF THE ROTC

The Association of the U.S. Army has consistently supported the concept and purpose of the Reserve Officers Training Corps program and has urged publicizing its continuing need and importance to our national defense and the preservation of our freedoms.

Recent surveys have revealed a startling decline of thirty-six percent in ROTC enrollment in American universities in the past four years. In many instances, the decline is due to the withholding of academic credit for military science courses. In other cases, ROTC has been either discontinued by the university or declared an elective course.

Without ROTC, which supplies some two-thirds of our incoming second lieutenants, we would have to sharply expand the U.S. Military Academy and the Officer Candidate School program at considerable cost to the taxpayer or reduce our national defense position far past the danger point.

ROTC officers constitute a large body of educated, civilian-oriented military leadership in keeping with our democratic institutions and our tradition of a citizen-soldier Army.

We therefore resolve to continue support of the ROTC program and to urge that institutions of higher learning be encouraged to cooperate with military services to upgrade their ROTC programs and encourage student participation in them by giving academic credit for course work completed.

We further resolve to urge that institutions continue to provide the military services with an acceptable climate of institutional support for the ROTC program on campus, and to accept the responsibility for education of our military leaders comparable to their responsibility of educating leaders of other segments of our society.

#### NO. 9. VIOLENCE AGAINST THE ROTC

Over the past school year, more than two hundred incidents of violence involving personal injury and the destruction of property have been inflicted upon Reserve Officer Training Corps installations and personnel at various American institutions of higher learning.

Entire buildings and valuable records, equipment and supplies have been destroyed

in wanton attacks of terrorism by fire, vandalism, gunfire and bombing. Professors, administrators and students have been intimidated in these outrages, and not the least of the effects of these ravages on an ordered society has been their detrimental influence on ROTC enrollments and college participation in the program itself.

Another intolerable impact of this felonious harassment has been the resulting denial of the civil rights of cadets who have chosen to pursue military studies at these institutions. Their training is essential to the defense of the United States.

Violence committed against a person or the destruction or damage of property invariably is in violation of local, state or federal law. Section 2155, Title 18, of the U.S. Code, states that "Whoever with intent to injure, interfere with, or obstruct the national defense of the United States, willfully injures, destroys, or attempts to so injure, destroy, contaminate, or infect any national defense material, national defense premises, or national defense utilities, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both." Conspiracy is also punishable under the law.

We therefore resolve that the Association of the U.S. Army protest and deplore any attacks of violence upon ROTC personnel and property, and that it strongly urge the vigorous prosecution by the appropriate authorities of any persons, who in the commission of such an act, violate the law.

#### NO. 10. RECOMPUTATION OF RETIRED MILITARY PAY

For the past decade, the Association of the United States Army has advocated the reestablishment of the traditional relationship between retired pay and active duty pay that existed prior to the Military Pay Bill of 1958. Prior to 1960, military pay raises were infrequent and comparatively small. Raises since 1963, however, have increased base pay, in some grades to where it now exceeds by seventy-five percent what it was eight years ago. During this same period, the sole adjustments to retired pay have been minor cost-of-living increases which have done little to adjust the widening gap between active and retired pay.

Rises in the cost of living have operated to the greatest disadvantage to older retired military personnel. However, military personnel now in uniform can clearly foresee how vulnerable a fixed income, pegged arbitrarily at a time of retirement, it is to these inroads of inflation. It is manifestly unfair to reward equally honorable service and equally earned retirement against a rapidly escalating scale which benefits those most recently retired.

It appears to this Association that some equitable relationship of retired pay to active duty pay is a strong career incentive and in the past has proved to be an important motivating factor in attracting and holding qualified personnel in our armed forces.

Lack of action to bring about some equalization of retired pay can only lessen the attractiveness of a service career at a time when Selective Service may be phased out and a voluntary Army is being considered.

The President of the United States, prior to his election, described the failure to equalize retired pay with existing active duty pay as "unfair discrimination" and a "breach of faith."

The Secretary of Defense, in a recent communication to retired military personnel, stated that although he could not recommend recomputation to the President at this time because of financial constraint, "some form of recomputation of retired pay will continue to be a goal of this Administration and this Department."

We contend that this position is too vague

and lacks credibility, particularly for those directly affected. The present system singles out for economic hardship a special group whose members, having served their country in time of need, no longer are able to supplement their declining incomes.

Certainly in a country where the gross national product is approaching one thousand billion dollars a solution to this problem can be found which would be acceptable to the Army, the retiree, the Administration and Congress.

We therefore resolve that, while the Association of the United States Army is cognizant of the problems involved, it is firmly dedicated to the principle of recomputation and we urge the Department of Defense and the Administration to assign recomputation the high priority it merits.

We further urge action now which will move toward correction of inequities in military retired pay and which will establish a closer relationship between retired pay and current active duty pay.

#### NO. 11. SURVIVOR ANNUITY AND BENEFITS (WIDOWS' EQUITY)

The lack of an equitable survivor annuity program for the military retiree creates severe hardships for the large number of service widows.

Except for service-connected deaths, the survivors of retired members of the uniformed services are not entitled to receive any part of the retired pay of the deceased person after his death unless he had elected to participate in the Retired Serviceman's Family Protection Plan. Many other employees of the federal government automatically are entitled to a survivor annuity of considerable substance. Further, the costs of participation in the Retired Serviceman's Family Protection Plan, substantially exceed those entailed in the Civil Service retirement plan.

Most of the inequities in the current program would be corrected under proposals now under study.

We therefore resolve to support the establishment of a survivor annuity program which would eliminate the inequitable aspects that now exist.

#### NO. 12. DUAL COMPENSATION

Restrictions on the federal employment of retired military personnel are not uniform or equitable. They are, in fact, discriminatory in that retired regular officers must forego a portion of their retired pay as a condition of such employment, while other retired members are not required to do so.

At the same time, the federal government is often deprived of the services of highly qualified retired personnel by such restrictions which deny or inhibit the individual seeking government employment. Since retired pay is considered to be fully earned, there should be no bar to its complete entitlement in conjunction with federal or other employment.

We therefore resolve to urge the removal of restrictions on the federal employment of retired regular military personnel which require them to forfeit part of their retired pay as a condition of employment.

#### NO. 13. COMMISSARIES AND POST EXCHANGES

Current inflationary trends have continued to enhance the value of the Army's commissaries and post exchanges as one of the most important benefits and career incentives of military service and are needed more today than ever before.

There is a continuing effort on the part of some interests to reduce the services offered by commissaries and post exchanges. In keeping with our desire to present greater incentives to our military personnel it is essential that we press for improved and enlarged facilities of commissaries and post ex-

changes and that sufficient personnel be employed to service them.

We therefore resolve that the Association of the United States Army support expansion of the facilities of commissaries and post exchanges, and, further, that these services provide adequate personnel to properly maintain efficient operation.

#### NO. 14. CONTINUING RESOLUTIONS

Nine resolutions adopted at preceding annual meetings are still valid and remain in force.

We therefore resolve that the following continuing resolutions receive the full support of every member of the Association of the United States Army:

Military, Family and Off-Post Housing  
Stability Operations and Military Assistance  
Advanced Degree in Military Art and Science  
Principles of Freedom  
United States Military Academy  
Civil Defense  
Army Civilian Employees  
National and Post Cemeteries  
Medical and Dental Care

(Following are the action paragraphs of the Resolutions from previous years as renewed by Resolution No. 14)

#### MILITARY, FAMILY AND OFF-POST HOUSING

We therefore resolve:

(1) That this organization indorse and support all actions essential to acquire sufficient funds to provide appropriate housing for military personnel, world-wide.

(2) That this organization support the idea that where sufficient and adequate on-post housing does not exist in overseas bases, contractual arrangements should be made to provide off-post housing for military personnel and their dependents in nearby civilian communities, such housing to conform completely to United States standards.

(3) That this organization support—in the strongest possible manner—the concept that all off-post housing should be free of any vestige of discrimination because of race, color, creed or national origin. (Resolution No. 4, 1969)

#### STABILITY OPERATIONS AND MILITARY ASSISTANCE

We therefore resolve that the Association of the United States Army indorse and support the Army's stability operations and Military Assistance Program as a measure of assisting, at their request, friendly developing nations in preventing or defeating aggression, and urge the full exploitation of our military capabilities for such assistance. (Resolution No. 10, 1969)

#### ADVANCED DEGREE IN MILITARY ART AND SCIENCE

We therefore resolve that the Association of the United States Army indorse and support the proposal to authorize the commandant of the Command and General Staff College to confer the degree of Master of Military Art and Science (MMAS) upon qualified graduates of that institution. (Resolution No. 11, 1969)

#### PRINCIPLES OF FREEDOM

Now, therefore, be it resolved, that the Association of the United States Army, whose membership is composed of military and civilians alike, reaffirms that the rights of all must be protected and preserved, and also declares that the will of the people must prevail to preserve and protect the foundation stones of our government, our way of life, and our civilization; and

Be it further resolved, that the Association of the United States Army continue its efforts to instill in all Americans a deep sense of responsibility as individual citizens, a profound sense of patriotism, and willingness to fight to preserve our freedom and our way of life, not only for ourselves but for all generations to come. (Resolution No. 6, 1965)

## UNITED STATES MILITARY ACADEMY

We therefore resolve to continue and emphasize a program to encourage outstanding youth to seek appointments to the United States Military Academy and to search for new ideas leading to its further development and effectiveness. (Resolution No. 8, 1968)

## CIVIL DEFENSE

Now, therefore, be it resolved, that the Association of the U.S. Army supports civil defense authorities in their efforts to provide the American people with adequate shelter against the effects of nuclear attack. (Resolution No. 6, 1967)

## ARMY CIVILIAN EMPLOYEES

Now, therefore, be it resolved, that this Association extends special commendation and gratitude to the civilian employees of the Army and recommends that dynamic career programs be maintained to recruit, retain and encourage the continued service of dedicated public servants in consonance with the command responsibilities and missions of the U.S. Army. (Resolution No. 11, 1967)

## NATIONAL AND POST CEMETERIES

NOW, THEREFORE, BE IT RESOLVED, that it is the considered opinion of the Association of the U.S. Army that the best interests of the nation and the members of our armed forces and their dependents will be served by the expansion of national and post cemetery facilities immediately to insure that the members of our armed forces who have served honorably will be provided a resting place in a military cemetery as a tribute to their service. (Resolution No. 14, 1967)

## MEDICAL AND DENTAL CARE

NOW, THEREFORE, BE IT RESOLVED, that the Association of the United States Army requests the Department of Defense to take action to provide adequate medical and dental care for dependents of active duty personnel and eligible retired personnel, including adequate facilities for this purpose. (Resolution No. 13, 1964)

## 1970 RESOLUTIONS COMMITTEE

Chairman: COL Ralph Saenz, USA Ret., Southwest Oklahoma Chapter.

Chairman, BG William J. Gallagher, PARG Ret.

Subcommittee A: Blue Mountain Chapter.

Members: LTC David F. Boyd, Jr., USAR, Albuquerque Chapter; Judge Robert M. Curley, Milwaukee Chapter; Mr. Manuel G. Garcia, Mid-Palatinat Chapter; MAJ William E. White, USAR, Mother Lode Chapter.

Chairman, COL John W. Oswalt, USA Ret.

Subcommittee B: Fort Worth Chapter.

Members: LTC J. Norman Kelly, AUS Ret., Greater Los Angeles Chapter; Mrs. Elmer E. Rasmuson, (COL Mary Louise Milligan, USA Ret.), Alaska Chapter; Mr. J. Francis Rauch, Fort Monmouth Chapter; Mr. Ralph L. Weir, Jr., Fort Riley-Central Kansas-1st Infantry, Division Chapter.

## REORDERING OF NATIONAL PRIORITIES

Mr. GOLDWATER. Mr. President, we have heard a great deal of discussion about the reordering of national priorities for the stated purpose of channeling more and more funds away from defense needs and into domestic functions in the field of social welfare.

The demand for such a reordering goes on despite the fact that the Nixon administration has cut back defense spending so severely that expenditures in the 1969 fiscal year declined to 28 percent of all Government expenditures. This year the percentage will be close to 24 percent. In 1952 outlays for national defense

equaled 50 percent of all Government expenditures.

As I say, Mr. President, most of the demands that we have heard recently for reordering of our national priorities are aimed at cutting back the defense budget. Thus it is provocative, refreshing, and instructive to hear a demand for a reordering of our national priorities in the decade ahead to halt the shift of huge resources from our military preparedness into so-called social welfare programs.

Such a demand was sounded recently by Mr. Roger A. Freeman, a former White House adviser to President Nixon and a senior fellow at the Hoover Institute on War, Revolution, and Peace, Stanford University. Mr. Freeman warned that a reordering of priorities away from social welfare is essential to our survival as a Nation. He says:

We must review hundreds of domestic programs, compare their output with their input, measure in each case the tangible returns which our taxpayers receive on their huge investment, and weed out or revise those with little or no return.

Mr. President, because this message, which was delivered to the Hoover Institution Conference in Pasadena, Calif., on November 8, is of surpassing importance, I ask unanimous consent that it be printed in the RECORD.

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

## NATIONAL PRIORITIES IN THE DECADE AHEAD

(By Roger A. Freeman)

The demand for a "reordering of national priorities" has been strong in recent years and appears to be growing in intensity and power, as time goes on. It rests on the basic proposition that military expenditures have risen out of proportion in the past few decades and need to be cut back, while civilian public services have been starved, in absolute as well as in relative terms, and should be lifted to substantially higher levels. Thus the drive to reorder national priorities aims to multiply public funds for domestic functions, particularly in the field of social welfare, and to clip defense appropriations commensurately.

This movement is composed of two groups allied in a common strategy:

1. Those to whom for ideological reasons military activities are anathema, particularly when engaged in by the United States and other Western nations, and who therefore profess and pursue pacifist aims in this country.

2. Those who desire primarily to expand domestic public services as an effective instrument for the redistribution of income and who recognize defense cutbacks as a politically more palatable and therefore more promising source of funds than the available alternatives. They recognize the limitation to a boost in the funds for public assistance, urban renewal, environmental improvements, schools and colleges and dozens of similar programs if it is to be financed solely from the annual increase in federal revenues resulting from economic growth. They know that larger budgetary deficits lack widespread appeal at this time when rapid inflation has become one of the nation's most painful and intractable problems. And they are aware of the fact that to finance the proposed expansion in federal domestic programs by jacking up tax rates is politically even less attractive. Federal taxes are already at exorbitant levels because expenditures are so high. Everybody knows that federal spending has been soaring over the past ten or twenty years, far out-

acing the growth rate of the nation's economy. Everybody, that is, who has not looked at the record.

The record shows that federal expenditures increased at about the same rate as the gross national product (GNP) or personal income (PI) over the past ten years, in fact for nearly twenty years. Since 1952 the federal budget has almost exactly tripled, as did GNP and PI.

This seems to suggest that we experienced over the past two decades, a balanced growth in governmental spending, when many people thought that we were living through times of runaway, spendthrift budgets. But it only seems balanced growth, until we analyze the component of budgetary growth: the share of defense was cut nearly in half, while the share of domestic public services more than doubled. Defense costs went up 57% between 1952 and 1971 which is just barely ahead of the simultaneous rise in prices; in relative terms, defense fell from 66% of the total budget to 36%, from 13.6% of GNP to about 7.1%. Spending for domestic purposes meanwhile multiplied 7.6 times (+662%) and its share of the budget jumped from 17% to 47%; the remaining 17% of the budget went for interest, veterans, international affairs and space. Outlays for education, health and welfare multiplied 12.4 times (+1142%), for all other domestic purposes combined, 3.2 times (+219%).

Only one-fifth of the \$130 billion increase in the federal budget between 1952 and 1971 was allocated to national defense.

Some may feel that historical comparisons of governmental costs should include not merely federal spending because many domestic public services are partly or wholly performed at state and local levels. Between 1952 and 1969<sup>1</sup> all governmental expenditures in the United States (federal-state-local combined) for domestic purposes increased 420%: for education 389%, income maintenance 694%, health and hospitals 286%, for all other domestic services 299%. The increase for defense was: 74%, which subsequent changes have since reduced to 57%.

Outlays for national defense equaled 50% of all governmental expenditures in 1952, declined to 28% in 1969 and may be estimated close to 24% in the current fiscal year.

Some may feel that 1952 is not an appropriate year for such comparisons, because it was a war year. Actually, there is nothing improper about comparing a year in the late stages of the Korean war with a year in the late stage of the Vietnam war. But let us trace the trend of defense outlays farther back historically. U.S. Armed Forces expenditures reached \$2 billion in no year prior to 1941 except at the time of World War I. It was precisely the military impotence of the United States—and of other Western nations that invited Hitler's aggression in the 1930s and caused Japan's leaders to think that they could attack the United States at Pearl Harbor with impunity and would prevail in the end. They were proven wrong—at a cost of at least twenty-five million lives, of untold human suffering and of material values and destruction running into trillions of dollars.

But we did not learn our lesson. The United States dismantled its defense establishment between 1945 and 1948, cutting outlays from \$80 billion to \$12 billion. That unilateral disarmament prompted aggressive action by North Korea and Red China in which our Armed Forces barely escaped military disaster. The defense budget was then raised to \$50 billion and is still at that level, if counted in dollars of constant value. The nations in the Communist orbit have meanwhile been

<sup>1</sup> The latest year for which these data are presently available.

increasing the magnitude and striking power of their military establishment.

If we are to define what the priorities of the United States ought to be over the next decade, we should first try to evaluate what the priorities accorded military and civilian purposes in the 1950s and 1960s have achieved. Of an estimated \$230 billion increase in governmental expenditures (federal-state-local) between 1952 and FY 1971, about \$27 billion (12%) was allocated to national defense, with most of the remainder going into domestic public services.

The United States has shifted "from the warfare state to the welfare state" during the past two decades. What harvest has it reaped from this changeover? What is the return on the \$200 billion which we now invest each year in social welfare and other domestic services? What has been the effect of cutting the share of national defense from one-half of our combined public budgets to one-fourth?

At the very least we might expect to have come closer to the goals which the Founders of the Republic established: "... to insure domestic tranquillity, provide for the common defense, promote the general welfare."

But the evidence is to the contrary. Crime, delinquency and most kinds of social ills, new and old, have been multiplying at a frightening rate, to a point where American citizens are now less safe than they have ever been—or than people are in most other countries, more divided and more bitter at each other. Nor have there ever before been such anarchy-like conditions in the United States—mob violence, arson, looting, terror bombing, wanton destruction, assault and killing of law officers—as we have seen in recent years, weeks and days. Educational institutions have become the breeding places, and often the cause, of civic strife and contempt of law. Schools and colleges rank lower now in the respect and affection of the American people than they have at any time. This, despite the fact that in the current years we are spending \$73 billion for education—almost as much as all of the world's other nations combined. The core of many of our large cities has become a festering sore. After spending billions on urban renewal, slum clearance, public or publicly subsidized housing over the past two decades, we find that those programs have destroyed many more dwellings than they have built.

I cannot, in this short presentation, give you the details or specifics on the failure of hundreds of well-meant but ill-conceived social welfare programs. Let me cite how President Nixon summarized the picture for the nation's governors slightly over a year ago:

"We confronted the fact that in the past five years the Federal Government alone has spent more than a quarter of a trillion dollars on social problems—over \$250 billion. Yet far from solving our problems, these expenditures had reaped a harvest of dissatisfaction, frustration, and bitter division.

"Never in human history has so much been spent by so many for such a negative result. The cost of the lesson has been high, but we have learned that it is not only what we spend that matters; but how we spend it."

But there are many sincere people who claim that there is nothing wrong with these programs that could not—or would not—be cured by doubling or tripling their amounts. So they demand a "reordering of national priorities" in the 1970s, a further shift from military to civilian purposes.

A "reordering of national priorities" is truly called for—but in the opposite direction, if our national defense is to serve its task.

Rates of increase in the spending for military or other purposes or changes in the percentage which those outlays equal of the

total budget or GNP, do not, in themselves prove whether the amounts are too big or too small. The only meaningful way to measure the adequacy of our military preparedness is by the power of the countries against which we may have to defend ourselves some day. By that yardstick we fall woefully short. Our international position and our defensive strength reached their apex at the end of World War II and have been slipping ever since. Held against the power of its potential enemies the United States has never been as weak as it is now.

With a planned appropriation of \$73 billion in the current fiscal year and over 3 million men in uniform, our defense establishment offers a mighty and imposing sight. But the crucial point is that our adversaries have for many years been building up their military strength while ours has been diminishing. The USSR is winning the arms race, the USA the disarmament race. It is not widely known that much of the Vietnam operations was carried on by depleting the rest of our defense establishment of its best men and equipment. We are now left with "Swiss cheese" defenses as the case of the Pueblo, of a reconnaissance plane downed by the North Koreans, of a Cuban MIG17 flight to Florida's Homestead Air Force base, and similar incidents prove.

We still enjoyed a decisive military superiority over the Soviet Union at the time of the Cuban missile crisis in 1962—which is why the Russians yielded to President Kennedy's ultimatum to reverse the course of their missile-carrying naval vessels which were then steaming toward Cuba.

In discussions with Russian officials in Moscow, a few months ago, I was told that they had resolved in 1962 to see to it that the Soviet Government would never again have to back down in a future confrontation with the United States. Next time they will call our bluff.

When I watched the Mayday Parade in Moscow's Red Square, just six months ago, standing only a few feet from Mr. Kosygin, Mr. Breshnev and Marshall Grechko, I was surprised to see no military hardware, no big weapons, such as I had observed there in years past. Had the Soviets finally turned peaceful? They gave the answer yesterday at the Revolution Day Parade when they again displayed their arsenal on Red Square, for all visitors to see and take note.

Not that the Soviet Union was planning to start a war with the United States, or that Red China is. They hope that a war may in the end not be necessary. They believe that they may achieve their immutable goal of Communist world domination without a war if current trends continue long enough, because the United States will eventually be in no position to resist any action or demands or provocation with which our adversaries may someday choose to face us, close to our shores or anywhere in the world.

Moscow has been pushing one of the greatest armament programs ever, pulled abreast of us in many respects, is ahead of us in land-based intercontinental missiles, missile-launching and other submarines, antiballistic missiles and in several other major weapons systems. The Soviets are headed for a clear-cut arms superiority within a few years.

It takes five to ten years to develop, test, produce, and deploy a major weapons system. What we do now about our missiles and missile defense, about the F-14 and F-15 fighters, the MBT-70 main battle tank, C-5A cargo plane (whose fleet was cut from 120 to 81), the AMSA (advanced manned strategic aircraft)—now to be implemented as the B-1 new strategic bomber—the nuclear carriers and submarine programs will decide whether our defenses will be strong in the second half of the 1970s and beyond, or whether the United States will have to yield to nuclear or other forms of blackmail. The

Joint Chiefs appear to be fighting a losing battle. We seem to have declared an open season on national defense.

The frightening facts were made known in recent months by several of our leading military experts. They were presented as somber warnings to his colleagues in a speech on September 3, 1969, by the chairman of the Senate Armed Services Committee Senator John Stennis and by his counterpart in the House, Representative Mendel Rivers, on September 28, 1970, who told the lawmakers that "we seem hell-bent on national suicide." But the House, on October 8, cut defense appropriations \$2 billion below the President's recommendations.

#### IN SUMMARY:

Our national priorities must be reordered in the decade ahead if the United States is to survive as a nation. The trend of shifting huge resources into so-called social welfare programs, at the expense of our military preparedness, which prevailed during the 1952-1971 period must be reversed. We must review hundreds of domestic programs, compare their output with their input, measure in each case the tangible return which our taxpayers receive on their huge investment, and weed out or revise those with little or no return.

We will inevitably make some mistakes, but such mistakes can be corrected—in domestic programs. We may have no chance for a second guess, get no opportunity for a second try, in national defense. If we miss the first time, if we are not adequately prepared against our opponents to begin with, we may never get a second chance. The two oceans which shielded us till World War II have long since been made ineffective by technological progress. If at first we don't succeed—we are through.

Time is running out. If we do not act decisively now and in the decade ahead, we may be known in future history books as the generation that inherited America from its fathers, and lost it because we were too shortsighted to preserve it for our children, too occupied with trivial day to day conveniences to assure the survival of free government in this world.

That must not happen.

#### CRUDE OIL PRICE INCREASE

Mr. TOWER. Mr. President, a notice was published in the Federal Register today inviting comment from all persons interested in the investigation by the President's Oil Policy Committee of the recently announced 25-cent per barrel increase in the price of some crude oil produced in the United States. Four crude oil purchasing companies have announced such an increase. The stated purpose of the investigation is to determine the national security implications of a price increase at this time.

I strongly urge these oil companies and all other interested persons to seize this golden opportunity to present in an open and unbiased national forum, the hard facts which should irrefutably establish the need for a substantial increase in the price of domestically produced crude oil.

I believe that a substantial increase is needed at this time for two main reasons:

First, over the past 10 years, the price of oil paid to the producer has fallen far behind the rapidly rising costs of finding and producing the oil. An increase in the price of crude oil is needed to restore the economic incentive necessary to stimulate additional exploration efforts. Addi-

tional exploration efforts are needed to replenish our diminishing crude supply from our vast, though undiscovered, reserves. While we are presently producing oil at, or near, peak capacity, our exploratory efforts are at the lowest level in many years. If this disparity is allowed to persist, it is obvious that we will be forced to depend upon other nations to supply increasing portions of our large and expanding demands for oil.

Second, the specter of possible dependence on foreign sources for this vital energy resource cuts to the heart of the national security question. Our national security position would be irreparably damaged if we were forced to depend on foreign sources of supply for this large a portion of our needs.

We have witnessed in the past few months, the results of relying too heavily on some foreign sources for our oil needs. Thus, these oil companies, and others who are interested in preserving our strong national security position should welcome this opportunity to respond to the invitation of the President's committee.

Because the health of the oil industry is of such vital importance to all Texans, I intend to be among those who avail themselves of this invitation.

#### OWEN CHEATHAM, A MAN WHO WILL BE MISSED

Mr. HATFIELD. Mr. President, I wish to pay tribute to Mr. Owen R. Cheatham, an Oregonian who died October 24, 1970, in Eugene.

Mr. Cheatham was the founder of the Georgia-Pacific Corp., which built, over the years, into a billion dollar operation, headquartered in Portland.

Today, I do not want to dwell on the obvious business talents of Mr. Cheatham. Instead, I want to note the human qualities which made him a good friend to all who knew him.

Owen Cheatham was a man who lived a full life, putting all his ability and all his enthusiasm behind every endeavor that interested him. He offered constructive leadership in many areas outside his business, and emphasized community involvement to all employees of the company. In fact, when someone looks around Oregon at the community leaders, he finds a good number of Georgia-Pacific employees, both at the executive level and at the plant employee level, that contribute significantly to their respective communities.

This involvement was stimulated by Owen Cheatham, and this legacy, I trust, will continue. The civic and cultural life of our State has been assisted greatly by the activities of Mr. Cheatham and his company.

Mr. President, the citizens of my State will miss Mr. Cheatham. The citizens of Atlanta, Ga., where the company was founded, will also miss him.

I ask unanimous consent that editorials and news articles noting the death of Owen Cheatham appear in the RECORD, followed by a column by Robert Swan in the Daily Journal of Commerce on the death of Mr. Cheatham and Ervin E. Hanks, another Oregon businessman who died recently.

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

#### OWEN R. CHEATHAM

Owen R. Cheatham's corporate and cultural interests were nationwide and worldwide but the Pacific West had assumed an ever-larger importance in both. The Virginia-born business genius who built the Georgia-Pacific Corporation from scratch to a \$1.5 billion forest products industry counted his Portland home, one of three, as a favorite.

Mr. Cheatham's death of a heart attack at the Oregon-Southern California football game in Eugene Saturday ended a 43-year career as the chief fiscal planner of Georgia-Pacific and an almost mythical success story in the business world. The company he dominated for so many years, greeted in Oregon and the Pacific Northwest when its headquarters were moved to Portland with much skepticism and concern, remains a monument to his vision. Its advanced policies and practices and the scope of its operations are a tribute to Mr. Cheatham's early recognition that a corporation owes more than wages and profits to its employes and owners and that it must, itself, be a vital and constructive community force.

The apprehension which some held for the rapid and wide-ranging expansion of Mr. Cheatham's company in the Pacific Northwest has evaporated in the face of the modern forest practices of conservation and use employed by the firm. Mr. Cheatham's cultural and educational contributions were notable. But it is in the field of enlightened business management that his achievements were most noteworthy.

[From the Augusta (Ga.) Chronicle, Oct. 27, 1970]

#### OWEN R. CHEATHAM

The business career of Owen R. Cheatham, from its humble beginning in Augusta in 1927 to its untimely close last Saturday, was a success saga virtually without parallel in the industrial annals of the United States.

It was a self-made career which Mr. Cheatham fashioned by way of careful preparation, hard work, exceptional ability and distinguished leadership. Out of it—from its start as the Augusta Hardwood Lumber Co.—emerged the Georgia-Pacific Corporation, one of the world's largest natural resource industries with more than 200 plants in the United States and abroad.

It gained him recognition as one of the industrial giants of this country and earned him honors and financial rewards that come to but few men.

This eminent and exceptional Augustan was a man of many facets. In addition to his keen business ability and unusual foresight, he was a dedicated Christian, a courtly gentleman and a retiring but devout humanitarian. His success brought success to others and created rewarding opportunities for literally thousands of Americans who, as his business interests expanded, became a part of the Georgia-Pacific family.

But it was not alone as a captain of industry that Owen Cheatham will be remembered, nor as he would have wanted to be remembered. A gentle man for whom the problems of his fellow man were his own, he participated in scores of civic endeavors designed to benefit those who could be aided through his advice, counsel and financial assistance. He served as national campaign chairman for the heart fund in 1966 and 1967, and at varying times as a director of the Boys' Clubs of America, the Metropolitan Opera Association and of the Giannini Foundation. His philanthropies were legion; his concern constant for those less fortunate than he.

Although it had been approximately 20 years since he left Augusta to make his home in New York, Mr. Cheatham still felt a strong attachment for the city in which his spec-

tacular career had its start. His company never closed its local offices, even as its huge interests became concentrated elsewhere. He frequently visited here with members of his family, and to play at the Augusta National Golf Club, of which he was a member.

To be sure, his death last weekend will be felt in industrial, civic and social circles throughout the United States. Nowhere, however, will it be felt more keenly nor with greater genuine grief than in Augusta. Here, where he was friend to so many people who gloried in his success and appreciated what he stood for and what he provided through his statesmanlike business career and through his philanthropies, Owen Cheatham will be remembered for many years to come.

#### OWEN R. CHEATHAM, GEORGIA-PACIFIC FOUNDER DIES

Owen Robertson Cheatham, 67, founder and retired chairman of the board of Georgia-Pacific Corp., died of a heart attack Saturday, October 24, while attending the Oregon-USC football game in Eugene, Ore.

Memorial services were held October 27 at Trinity Episcopal Church in Portland, Ore., and October 30 at St. Bartholomew's Episcopal Church in New York City. Funeral services were October 29 in Concord, Va. near his birthplace, with interment in the New Concord Presbyterian churchyard.

Mr. Cheatham began his business career in 1912 with Porter Bros. Lumber Co. of Naben, W. Va., and later became treasurer of Dolan Lumber Co. in Lynchburg, Va.

In 1927, on the eve of the Great Depression, he founded Georgia Hardwood Lumber Co. (later Georgia-Pacific Corp.) in Augusta, Ga. with capital of \$12,000 half of it borrowed. He lived to see Georgia-Pacific sales exceed \$1.1 billion with assets of over \$1.5 billion.

He expanded Georgia-Pacific from a tiny Southern lumber wholesale and export company to one of the world's largest natural resource corporations. He served as the corporation's president until 1957, then as board chairman until 1967, and was honorary chairman of the board and chairman of the executive committee at the time of his death.

Mr. Cheatham was recognized in the forest products industry as the man who first made widespread use of the principle of debt financing as leverage to increase timber ownership. Under his guidance, Georgia-Pacific grew from a position of no timber ownership in 1927 to its present day fee ownership exceeding 4.5 million acres plus more than 2 million acres of timber concessions and cutting rights. This timber and other raw materials are converted in 200 manufacturing plants throughout the United States and overseas into thousands of building materials, pulp, paper and chemical products for distribution in key domestic and world markets.

At the time of his death, Mr. Cheatham was a director of the Bank of America, N.T. & S.A., and had served as a director of The Prudential Insurance Company of America; Graniteville Company, and the Citizens & Southern National Bank.

In addition to his industrial leadership, he served a leading role in many civic activities. He was national campaign chairman in 1966 and 1967 for the American Heart Fund and was a director of the Boys' Clubs of America; Metropolitan Opera Assn., and the Giannini Foundation. He also served as a trustee of the Advisory Board for the Center for Advanced Studies at the University of Virginia; the Forestry School of Duke University; the Georgia-Pacific Foundation, and the Owen Cheatham Foundation.

Surviving are his wife, Celeste Wickliffe Cheatham; two daughters, Mrs. Roland Comberford and Mrs. Albert Kennerly and 6 grandchildren, all of New York City; four sisters, Mrs. V. D. Bradley, Mrs. W. R. Miller and Mrs. D. F. Savage, Sr., of Lynchburg, Va., and

Mrs. W. A. Dolan, of Augusta, Ga., and three brothers, J. N. Cheatham of Portland, Ore., B. F. Cheatham of Augusta, Ga., and W. H. Cheatham of Lynchburg, Va.

OREGONIANS BRING REALITY TO DREAM  
(By Robert G. Swan)

Some might have you believe it is only an impossible dream that a man, no matter how humble his beginnings, can rise to become president of his country, a great industrial empire or similar business endeavor during a lifetime in what we describe as the great American system. Oregonians were to pay final respects Tuesday morning at 11 o'clock in Portland to a pair of men who once again proved there is reality in that dream of our free enterprise society. Not only did each amass a great personal wealth in advancing to the top of their chosen fields in our competitive system of business, but each did much to shape important patterns of life as lived in Oregon today. . . . A memorial service for Owen R. Cheatham, the founder of Oregon's largest corporate enterprises, Georgia-Pacific, was set for 11 a.m. at Trinity Episcopal Church. . . . At the same hour, some two dozen westside blocks away, services were scheduled at Finley & Son for Ervin E. Hanks, the Colonel of Oregon's restaurant business.

Cheatham died as he lived, where the action was. The 67-year-old industrialist suffered a fatal heart attack as he took his seat in Eugene prior to the collegiate football classic between the University of Oregon and Southern California.

When a man must die, perhaps it is fitting the end comes where he found himself comfortable during life. Football was an important part of life for Cheatham, one of the early backers of the National Football Foundation and Hall of Fame. He always had time for the fall sport as he took \$6,000 in savings and matched it with a \$6,000 loan 43 years ago to form the beginnings of today's \$1½ billion Georgia-Pacific corporation.

One of the lasting monuments to Owen R. Cheatham is the white structure which forms Oregon's tallest building, the 30-story G-P Tower. In this building are collected for the first time in many years all of the principal functions so necessary in the operations of an international corporation. . . . Georgia-Pacific has been headquartered in Portland since 1950. The principal offices came west when Cheatham, the onetime lumber salesman from Virginia, began to engineer along the Pacific slope the great acquisitions by his firm, which many termed too daring to succeed.

Burial for Cheatham will be Thursday near his birthplace in Concord, Va. and in the state where he followed studies at Virginia Polytechnic Institute with entry into his lifelong career with wood products.

He served as president of Georgia-Pacific from its founding in 1927 until 1957 when he became chairman of the board. He stepped down as chairman three years ago, but retained his seat on the board, serving as president of its executive committee. Cheatham had come west to Portland for a board meeting on Friday.

It is somewhat ironic that a heart condition should snuff out the life of the long-time G-P leader. He served as national chairman of the Heart Fund in 1967. His fatal attack of Saturday was preceded a year ago by a similar attack. . . . He will be remembered as a pioneer advocate of commercial timber reseeded under a program he described as "dynamic conservation". A program which would insure that more trees were planted on G-P lands each year than were cut.

The talents of Cheatham were recognized by his equals in the high councils of business. Typical of this was his service as a director for the world's largest financial

institution, the Bank of America. . . . His role of leadership with the National Heart Fund was duplicated many times in like service such as on the boards of directors of the Boys Clubs of America, the Giannini Foundation, through the Episcopal Church or with the Metropolitan Opera Association in New York City, where he and his widow, Celeste, maintained a home along with residences in Portland and Florida.

Ervin E. Hanks likened himself best as a "Kentucky Colonel". His role as a Colonel was most natural. His Speck chain of 29 restaurants in Oregon and southwestern Washington constitutes one of the largest franchised outlets for Kentucky Fried Chicken in the nation.

No one restaurant operator in the Northwest approaches the overall dollar volume of the Speck food operations, which expanded from Fried Chicken in recent years to Kentucky Beef and, just recently, to include H. Salt Esq. Fish and Chips. . . . Hanks was a native of Northern California. He was born just south of the Oregon border at Shasta in 1899. He moved to Texas after service in World War I. He had a varied career as employment consultant, welfare worker and operator of a restaurant as well as a feed and seed store before he opened his first Speck Restaurant.

At a time in life when most men are perhaps inclined to think more of retirement, than of launching of a new business career, Hanks opened his first Speck, a small restaurant with drive-up service and seven stools on NW Skyline Blvd. Interestingly, at the beginning, Hanks' Speck Restaurant was noted for its hamburgers, not particularly fried chicken, the specialty which made him one of the restaurant industries' millionaires. . . . The growth of the Speck Restaurant chain blossomed with the popularity of its "Finger Lick'n Good" brand of chicken. At the time of his death, which came in his Southeast Portland home of an apparent heart attack, the 71-year-old Hanks was one of the largest stockholders in the nationwide Kentucky Fried Chicken company.

USEFULNESS OF WEATHER  
SATELLITES

Mr. TOWER. Mr. President, I ask unanimous consent to have printed in the RECORD two letters from William Bradford of Sulphur Springs, Tex., dealing with the usefulness of our weather satellites. Mr. Bradford is the president of radio station KSSST in Sulphur Springs and in performing the task of informing the people of the area about weather conditions and prospects he has found the weather satellite service to be extremely valuable.

In this time when our allocation of resources to the development of space hardware and programs is being attacked as being of low priority relative to social programs here on earth, it might be wise to consider the immensely important ramifications of the progress in space-related sciences to date and the prospects for the future. The weather prediction services of weather satellites are extremely important to the health and well-being of our citizens who reside in hurricane-prone area, for one example. Who can say how many other prospects remain to be developed that will be of benefit to "social" man here on earth? The most important will be tapping solar energy which can power the entire realm of man's activities and solve most of the pollution problems, hunger problems, and poverty problems of the world. This can

be done only with adequate space program funding.

The solution to many of our social problems here on earth will lie in the proper utilization of the benefits of advanced space technology. We have one concrete example here of the value of the space program in the everyday activities of the ordinary citizen, described in the words of Mr. Bradford. I commend these letters to the attention of the Senate.

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

HOPKINS COUNTY BROADCASTING CO.,  
Sulphur Springs, Tex., October 15, 1970.  
Senator JOHN G. TOWER,  
Senate Office Building,  
Washington, D.C.

DEAR SENATOR TOWER: We enclose copy of a letter to Mr. Robert Popham of ESSA concerning our use of the picture transmitting satellites. I do this, knowing that you share with me a desire to know of the use being made of federal funds in all of the many programs and projects on which our nation has embarked today.

This station has been receiving and using the weather satellite pictures since the early days of the program. We have been impressed with the speed at which those early experiments became precision, reliable sources of otherwise unobtainable information.

We have watched and reported the formation, movement and ultimate breakup of hurricanes. We have reported the ice breakup in Hudson Bay and shared with Quebec the confirmation that two of their lakes are a giant pre-historic crater. We have made our listeners aware of the weather picture as we have never been able to do before. We have demonstrated to foreign visitors our goals and achievements in the peaceful uses of space.

The satellites have vividly demonstrated that the weather, like the human body, is not a collection of separate parts, but a complex relationship. The first of the weather satellites could only "see" but the current series can both see and sense heat. Other senses (ESSA calls them "sensors") show promise of even further expanding the satellite's awareness of our environment.

Our purpose in this communication is the hope that we can share with you our awareness of what has already been accomplished, the potential value of what lies ahead, in the hope that this information will be of value to you as you participate in the legislative decisions which will determine the future of these projects.

Yours very truly,  
WILLIAM BRADFORD,  
President.

HOPKINS COUNTY BROADCASTING CO.,  
Sulphur Springs, Tex., Oct. 15, 1970.  
Mr. ROBERT W. POPHAM,  
APT Coordinator, U.S. Department of Commerce, Environmental Science Services Administration, National Environmental Satellite Center, Washington, D.C.

DEAR MR. POPHAM: You have requested that we inform you as to the use we make of the pictures we copy from the weather satellites. I regret that we may not be able to describe this in such a manner as to do justice to its value in our operation.

1. For over three years this radio station has been regularly copying APT Satellite transmissions as a part of our news/weather service to our listeners. At this time our routine includes copying the continental series of ESSA 8 pictures each morning and the ITOS 1 (which I understand may have been designated as ESSA 10) in the afternoons. The morning pictures are used with other

information in the preparation of a narrative description of Texas in detail, a general description of the rest of the nation, and descriptive information of continental weather when it is of special interest. In the afternoon a similar set of ITOS 1 pictures is usually copied with similar presentation in "Weather Roundup" programs.

2. We find the ability to copy both a "morning" and an "afternoon" satellite to be extremely useful. Earlier we compared the morning ESSA series with the noon crossing NIMBUS in detecting weather movements. More recently the afternoon ITOS 1 shows promise of further development of this capability. The following typical quotes may demonstrate our use of the satellites better than extensive discussion.

a. "Don't let the occasional sunshine in this area mislead you. The satellite picture shows this to be a small hole in what is otherwise an extensive solid overcast in all directions."

b. "A comparison of the satellite picture just received with the one earlier this morning seems to indicate this frontal system may be moving more rapidly than expected. This could mean earlier clearing, and colder temperatures tonight. Watch for a possible forecast change."

c. "If you're headed north for a vacation today, the satellite shows clear skies all the way to Canada."

d. "The satellite picture shows extensive cloud cover in that low pressure system in West Texas. The weather Bureau says it's moving this way and is forecasting rain."

The point we're making is that for our listeners, the satellites provide information which otherwise is not available, not readily available, or would be delayed.

3. Descriptive information from our satellite pictures of hurricanes Beulah and Celia was "fed" to the Texas State Network, providing information on those two destructive storms to over 100 other radio stations as a part of the network hurricane news coverage.

4. Pictures from ESSA, NIMBUS, ITOS and ATS have, on request, been supplied to the Earth Science Department of two universities, one museum and to several public schools as educational aids.

5. Surprisingly, we think we have also been able to use the satellites in an interesting effort in foreign relations. A group of fifteen students from Honduras were our guests. They showed a special interest in watching the satellite pictures being received from space. We used this as an example of one of the many ways the United States uses its space technology as a peaceful benefit to mankind. We explained that the weather satellites are not just for our own use, but for other nations to share. To demonstrate we went through our files, and each guest carried away with him, a satellite picture of his own native Honduras and, we hope, a favorable impression of this nation and its goals in space.

6. We wish we could brag to you that our reception of satellite pictures has saved lives or averted destruction. They have certainly helped ESSA to do just that.

We only know that because they are doing their job in orbit we have been able to aid universities teach earth science to students. We have given foreign visitors a photographic demonstration of some of the space aims and achievements of this nation. The satellites have helped us tell the housewife when to hang out the wash, and when to bring in the petunias.

As far as we are concerned, the share of our tax dollar that keeps the weather satellites operating and improving is returning rich dividends.

Yours very truly,

WILLIAM BRADFORD.

### THE TRADE ACT OF 1970

Mr. SAXBE. Mr. President, it is difficult to predict exactly what disastrous results will be produced by enactment of the protectionist trade legislation now attached to the social security bill. There is imminent danger of legal retaliation, the raising of tariffs or quotas on U.S. exports, especially against our agricultural products which in the last fiscal year totaled \$6.6 billion. My own State of Ohio accounted for \$205 million of these farm exports. Further, international trade could be thrown into a constant state of chaos because of the uncertainty of the loose trigger mechanism proposed for the establishment of additional quotas. Discrimination against U.S.-owned companies will increase sharply.

We all share the concern of all who are unfairly hurt by excessive imports resulting from foreign export subsidies, preferential agreements or other intolerable trade practices which damage U.S. interests. However, protectionist legislation is not the answer. Quotas will raise domestic prices—Governor Andrew Brimmer, Federal Reserve Board, has estimated that quotas on shoes and textiles alone could raise consumer prices \$3.7 billion by 1975—and lead to immeasurable international economic difficulty. Further, I am of the opinion that many of these dumping and subsidy problems can be handled under our present anti-dumping laws, and the administration has already started moving in this direction.

In short, the fundamental direction of U.S. trade policies must be one which continues to widen world trade, allowing the citizens of our country to enjoy the benefits of expanded trade.

An article published in this week's Time magazine and a recent New York Times editorial support this position. I ask unanimous consent that both items be printed in the RECORD. At the same time, I urge Senators to resist the dangerous protectionism of the pending trade legislation.

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

[From Time magazine, Nov. 23, 1970]

TRADE: THE BLACK COMEDY THAT COULD COME TRUE

It sounds like a ludicrous piece of political black humor. A Southern Democrat introduces an import-restricting bill designed to help a Republican President who wants to win votes in Dixie. Egged on by organized labor, Congressmen joyfully expand the bill into a measure that will force consumers to pay higher prices for clothes, shoes and many other goods. More than 4,000 professional economists sign a letter warning that the bill not only will be grossly inflationary but will also gravely hurt the nation's position in world trade. The U.S. Secretary of State says that the measure will start a trade war with some of the nation's most important allies. But these warning are drowned out by the voices of Pennsylvania mushroom growers, Hawaiian passion-fruit producers and other businessmen who want protection from low-priced imports. The bill passes, and the President signs it, explaining that he had to do so in order to win increases in Social Security payments for the poor and aged.

This grotesque parody of the U.S. legislative process is unfortunately all too real. When Congress reconvenes this week, the first major item of business in the House will be a vote on the most restrictive piece of trade legislation since the disastrous Smoot-Hawley Tariff Act of 1930. The bill, which would raise prices by denying consumers access to many imports, is likely to pass after only perfunctory debate, and then whiz to the Senate. There the Finance Committee already has voted to attach it as a rider to a measure raising Social Security benefits. The odds are that the Senate will pass the package in early December.

All of this would turn the clock back 35 years, to the days before the nation began leading a highly beneficial world movement toward freer trade. The provisions of the bill are complex, partly because the legislation grew by a process of log rolling rather than by conscious plan. The bill rigidly limits imports of textiles and shoes, for example. Next year they must be held to the 1967-69 average, which would amount to a reduction of at least 30% from current levels; in subsequent years, they could grow only 5% annually. The bill also obliges the President to continue holding down oil imports by quota, rather than switch to a less restrictive tariff system.

#### TRAGEDY OF ERRORS

The bill's most mischievous feature is the so-called "trigger mechanism." It forces the President to impose quotas or higher tariffs on any foreign product that is increasing rapidly in sales and has captured 15% of the U.S. market—provided that the domestic industry can prove injury and the U.S. Tariff Commission recommends action. The President can avoid invoking restrictions only if he finds that they would not be "in the national interest." At present, an estimated 125 foreign products—including wigs, radioactive isotopes, sewing machines, autos and TV sets—would be subject to the "trigger mechanism."

If anyone had proposed so blatantly protectionist a bill six months ago, free traders and consumer advocates probably could have rallied their forces quickly and buried it. The bill, however, took its present form gradually, as a result of a tragedy of errors made by everyone concerned—President Nixon, House Ways and Means Committee Chairman Wilbur Mills and foreign governments.

In the 1968 election campaign, Nixon promised to restrict textile imports. Hubert Humphrey offered a similar promise, even though the U.S. textile industry has never made any persuasive case that it is being badly damaged by imports. Between 1961 and 1969, the domestic industry's employment increased from 893,000 to 989,000. Even now, imports account for only 4% of all the textiles bought by Americans. Nixon, however, was seeking Southern votes. After winning them, he set out to hold them by assigning Commerce Secretary Maurice Stans to persuade the Japanese to "voluntarily" restrict textile exports to the U.S. Stans got nowhere. He was asking the Japanese to sacrifice sales without offering anything in return.

Stans, seeking a club to hold over the Japanese, asked Mills to introduce a bill setting textile-import quotas by law. Mills agreed, sensing that the gesture would be popular in the House and expecting that the threat would produce a voluntary quota agreement that would allow the bill to die unnoticed. But the Japanese dawdled and, when Mills opened public hearings in May, the protectionist dam broke. All together, 377 witnesses filled 16 fat volumes of testimony with pleas that the mushroom, umbrella, scissors and shears, zipper, bicycle, mink, glue and candle industries—among many others—deserved protection too.

In July, the Ways and Means Committee went into secret sessions, and the real log

rolling began. Democratic Representative James Burke of Massachusetts agreed to support textile quotas if the bill would also protect his shoemaking constituents, who have lost 25% of their market to imports. Wisconsin's John Byrnes, the ranking Republican on Ways and Means, introduced the trigger mechanism to help his state's dairy farmers repel an invasion of foreign cheese. The provision freezing the oil-quota system was thrown in to win the approval of Russell Long from oil-producing Louisiana, chairman of the Senate Finance Committee and the key to the bill's prospects in the upper chamber. Long returned the favor by arranging to tie the trade bill to increased Social Security benefits; both fall under his committee's jurisdiction.

#### THE VICTIMS

Opposition forces, meanwhile, were asleep or fumbling. Nixon, a self-proclaimed "free trader," began by threatening to veto any bill that went beyond textile quotas, but as the strength of the new protectionism became evident, he lapsed into silence. Worse, he permitted an open split in his Administration. Secretary of State William Rogers warned the Senate Finance Committee of an "impending trade war" if the legislation should pass, but Stans reassured the Senators that there would be no foreign retaliation that would hurt U.S. exports.

The Japanese Embassy in Washington consistently advised its government in Tokyo not to take the threat of a protectionist bill seriously. Other foreign governments chose to speak softly, for fear of antagonizing Congress. The A.F.L.-C.I.O., worried about the loss of jobs by highly paid union members, abandoned old free-trade principles to lobby for the bill.

One voice was never heard on Capitol Hill—the voice of the U.S. consumer. The consumer will pay the bill if the protectionist measure passes, and the price will be outrageous. Federal Reserve Board Governor Andrew Brimmer said last week that by 1975 consumers will be paying \$3.7 billion a year extra for clothing and shoes alone. Reasons: Americans will not be able to get low-priced imports as easily as they now do, and prices of U.S.-made goods will rise faster because of less competition from abroad. The costs, Brimmer declares, will be borne disproportionately by the poor, who must spend a larger slice of their income on shoes and clothing than the well-to-do. These costs would be multiplied if imports of many other foreign products were limited under the trigger mechanism.

Unifying Europe. Critics are belatedly waking up to the dangers of the bill. The Japanese, at about the 13th hour, have just reopened negotiations with Presidential Assistant Peter Flanigan in Washington for voluntary limitations on textile sales. European governments are conferring on ways of retaliating against American exports. The first target will be the \$500 million worth of soybeans that U.S. farmers sell annually to Europe. Next may come U.S. small airplanes, light machinery and computers. Steps of reprisal would be taken jointly by the six members of the Common Market, with Britain probably joining in. On a visit to the U.S. last month, Ralf Dahrendorf, the Common Market's top trade executive, raised an ironic toast to Wilbur Mills—as the man who had done most recently to promote European unity. The threats have begun to weigh on some Congressmen, who realize that U.S. exports produce more income than the auto or home-building industry. The nation's exports this year are running at a \$42 billion rate and are likely to exceed imports by \$3 billion. But the new worries about retaliation are probably too late. Mills has been concerned lately about soothing protectionists' fears that his heart is not really in the trade bill, which now informally bears

his name. In a recent speech he proclaimed that "Congress is not bluffing. I predict that the Trade Act of 1970 will pass by a big majority."

Nixon could still wage a vigorous fight against the Mills bill in the Senate. If it passes, he would do well to veto it, even at the price of delaying an increase in Social Security benefits. If the bill becomes law, he could use the "national interest" clause to weaken the trigger mechanism. The President's waffling so far, however, leaves scant hope that he will do any of these things. If he does not, the black comedy could become a horror story:

Foreign nations retaliate against the new U.S. restrictions, and angry U.S. politicians and businessmen press Nixon to hit back by putting up barriers against an even longer list of imports. Cooler heads in all nations warn that such a cycle of retaliation and counter-retaliation, carried to the extreme, can have the most chilling consequences. The last such spiral began during—and did much to deepen—the Great Depression. But the margin for good sense is slim, as the world teeters on the brink of a trade war that no one wanted.

[From the New York Times]

#### STOPPING A TRADE WAR

If President Nixon intends to block the highly protectionist Mills bill that would legislate compulsory quotas against imports of textiles, apparel, shoes, oil and eventually a long list of other products, he will have to start fighting now that Congress is back in session.

The trade bill already has been approved by the House Ways and Means Committee, and the Senate Finance Committee has sought to make it unstoppable by attaching it as an amendment to Social Security liberalization. A majority now appears ready to support the measure in both House and Senate.

As is usual with trade legislation, the special interests lobbying for protection of particular industries reinforce one another. A formidable coalition is now pushing for this bill, even though it would, almost certainly, ensnare the United States in a worldwide trade war. Leaders of the European Common Market have made clear the certainty of retaliation. Many American export-oriented industries—including such important ones as agriculture, aircraft and electronics—would suffer. What is less well understood by many Congressmen is that the nation as a whole would also suffer.

American consumers, already feeling the pangs of inflation, would have to pay still higher prices for many goods—both because less expensive imports would be restricted and because protected American industries would be able to boost their prices without fear of losing sales in the domestic market to foreign competitors. The term "protectionist" is, in a sense, a misnomer; it is really an act of aggression against American consumers and many American industries and workers, as well as against other nations, including some of this country's most important allies.

There is a good chance that this reactionary trade legislation can be blocked in the Senate if strong Presidential leadership is forthcoming. The Senate includes a group of at least twenty dedicated liberal-trade supporters who might be joined by many other Senators shrinking from the bill's more extreme provisions, such as the "Byrnes trigger," which would impose compulsory quotas on a long list of items whenever imports of these items exceeded a share of the American market.

One problem for the President in fighting against the Mills bill has been his own political commitment to the American textile industry—especially its Southern depart-

ment—to restrict Japanese textile imports one way or another. The failure last summer to work out a deal with the Japanese for voluntary quotas led the Nixon Administration to ask Congress for compulsory quotas on textiles—thereby opening the floodgates to the Mills bill.

Now the President's special assistant, Peter Flanigan, and Japanese Ambassador to the United States Ushiba are making a final effort to work out a "voluntary" deal that will permit the President to consider his obligations to the American textile industry discharged—and enable him to come out solidly against the Mills bill. If that can be done, the chances will grow that the protectionists can be prevented from railroading the Mills bill through Congress this year. The new Congress assembling in January would then have a chance to weigh more carefully the kind of trade legislation needed to serve the true interests of the nation.

#### HOOVER MEDAL AWARDED TO ERIK JONSSON, MAYOR OF DALLAS, TEX.

Mr. TOWER. Mr. President, it is a pleasure for me today to report that one of Texas' distinguished citizens has received a high honor by being awarded the Hoover Medal. The Texan who received it was Erik Jonsson, mayor of Dallas and a member of the American Revolution Bicentennial Commission, created by Congress to plan and have overall supervision of the commemoration of our 200th year of freedom.

The Hoover Medal, instituted in 1929 to honor the civic and humanitarian achievements of the late President Herbert Hoover, was presented Mayor Jonsson for his outstanding contributions to community betterment. The board of award consisted of representatives from the American Society of Civil Engineers, the American Institute of Mining, the American Society of Mechanical Engineers, and the Metallurgical and Petroleum Engineers.

Mayor Jonsson, born in the United States, is the son of parents who immigrated to our country from Sweden and became naturalized citizens.

It is good to have such a man on the Bicentennial Commission. The Commission's hard-working executive director, M. L. Spector, and the highly capable deputy executive director, Hugh A. Hall, report that Mr. Jonsson is one of the most active members of the Commission.

I ask unanimous consent that interesting additional background about Mayor Jonsson and a recent address he delivered, entitled "Avalanche: The Cities and the Seventies," be printed in the RECORD.

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

#### INTERESTING BACKGROUND FACTS ABOUT MAYOR JONSSON OF DALLAS

His civic and community services are extensive. He was the first President of the Dallas County United Fund; served two terms as President of the Dallas Chamber of Commerce; one term as President of the Dallas Citizen Council; and is currently an active member of a wide range of community organizations and boards.

Mr. Jonsson has longstanding interests and affiliations at all levels of the educational field. He was one of the founders of

the Southwest Center for Advanced Studies which became on September 1, 1969, the University of Texas at Dallas, a part of the University of Texas System. He is president of the Excellence in Education Foundation, Dallas. He also is a member of the Board of Trustees of Rensselaer Polytechnic Institute, Skidmore College and Austin College, American Assembly, Educational Facilities Laboratories, Callier Hearing and Speech Center, and Honorary Trustee and former Board Chairman, 1954-1964, of the Hockaday School. Mr. Jonsson serves, too, as Chairman of the Board of Visitors of Tulane University and as a member of the Visiting Committee of the School of Business of Harvard University.

He holds an M.E. degree from Rensselaer Polytechnic Institute and honorary degrees from RPI, Hobart and William Smith College, Austin College, Southern Methodist University, and the University of Dallas. Among other honors, he was the Gantt Medalist in 1968.

#### AWARDS RECEIVED BY MR. JONSSON

American Society of Metals Advancement of Research Award, 1964.

Society of Industrial Realtors Industrialist of the Year Award, 1965.

Bene Merenti Medal, 1966.

Honorary Member, American Institute of Architects, 1967.

Gantt Medal, 1968.

Horatio Alger Award, 1969.

#### AVALANCHE: THE CITIES AND THE SEVENTIES (By John Erik Jonsson)

Mr. President, Mrs. Gilbreth and Members of the Family, Members of the American Society of Mechanical Engineers, Ladies and Gentlemen:

I feel deeply privileged to address you on an occasion which honors both Henry Robinson Towne and Frank B. Gilbreth. These were leaders, builders, teachers, creative men of rare insights, clear reasoning. Their efforts importantly and measurably stimulated and developed one of our nation's sharpest, greatest tools . . . the proved body of knowledge they named Scientific Management. You know as well as I its benefits in terms of productivity and management of technological change to sustain an ever-increasing population. On reflection we also understand that, had we applied the principles enunciated by these two men as well as we should in management of all our governments, conditions would be better at all levels today.

As the end of the sixth and the beginning of the seventh decade of this Twentieth Century, A.D., approach, it seems in order to assess where we stand in these United States and to look forward. We lead the world in technology and management understanding. We are a prosperous and able people with the greatest productive plant in the world and an abundance still of land and natural resources. We live in exciting times, but we are confused about our aims and the means to attain them.

A simple society we are not. We have a heavy agenda of deep-rooted, complex, and difficult internal problems not easily categorized except that they are strongly centered in our cities. There most of the people are and more will be. There tumult and tension seem increasingly to have their way. There the mood of the people grows strange and perplexing, noisy and violent on the one hand, unvoiced, seemingly apathetic on the other.

Let me introduce the problems of our cities, not with a long dreary catalog of their ills but by asking you a few self-answering questions.

Do you know where your city is headed? Do you care? Do you think when you have elected a city government and hired its em-

ployees your citizen's duty is done? Do you think you can hire citizenship?

Do you vote in city elections? Would you more likely and regularly do so if you remembered what a complicated organism a city is, what great and complex problems it poses, and what large sums of your money it consumes in its operations? With this in mind, should you help search out, select, support for the governance of your city people of serious, selfless purpose, with the abilities, the knowledge, the education, the experience, the integrity to deal with a city's scope and magnitude—and its effect on your life? Do you bring your objective, common sense views to bear in your city or do you let the militants and special interest blocs speak for you?

Do you know how old your city charter is? Does it preserve functions and a system of management long since made obsolete by new tools and better, more efficient ways to operate? Does it ignore the functions those same better ways suggest?

How do you like the crime rate in your city? Does it worry you?

Can you get where you want to go safely and on time? Do you have a pleasant journey? Do you enjoy wall-to-wall concrete?

Who lives in the heart of your city? The poor, the misused, the disadvantaged? Do you know any of them? Do you consider yourself a vital, active part of the corporation which is the city, or do you think of it as "them"?

Who paid for the city's facilities on which you depend? Are you willing to help pay for a better city for your children and for theirs? Do you think this would be any cheaper to accomplish in the future?

Do you feel the pinch of inflation? Do you not believe your city operating costs escalate much like your own?

Avalanche: A decade sliding swiftly and suddenly upon us. The continuance of lightning-like change is inevitable through revolutionary increases in knowledge and the revolution of rising expectations. Likewise, we had better get ready for the 32 million more persons it is conservatively estimated will join, by 1977, our present, slightly splintered "one big family" of 200 million.

Where will the people live and under what conditions? Four more chaotic New Yorks? One more sprawling megalopolis with multiple governmental and taxing entities? As today's cities are, will these "homes" of people be products of random growth, haphazard design, countless more expedient decisions with little regard for sensible land use or thoughts of the long range? Will whole new cities be designed, modeled, built?

The "urban crisis" steadily captures more of our attention. From a wide and increasing variety of pens flow diverse opinions, ideas, suggestions on what is the matter and the choices to be made at these crossroads. Torrents of vitriolic words assess the blame or accept, on behalf of all, guilt for things as they are.

In Washington the staccato seems more intensive than elsewhere. There a multitudinous variety of programs are designed, some to exploit but most sincerely intended to accomplish mass solutions, and therefore often fated to fail, for neither the people nor the problems are "en masse". The people are individuals, the problems particular, of infinite variety, and in widely scattered locations and differing circumstances.

Lest we be buried by the avalanching problems of the cities in the Seventies, we must understand how to bring the problems progressively within the scope of deliberate planning and management. I believe Towne or Gilbreth would have approached the awesome task with the human being as the center of all we do, with the future clearly in mind and all segments of professional competence involved.

Gilbreth, in his search for the one best way, taught that we should record "what is"

separately from "what should be" and that management must conserve the best of the past, organize the present, and forecast and plan for the future. Both he and his contemporary Gantt taught that thorough knowledge always throws much light on a complex operation and that the way to gather such knowledge is to determine its elements, to study each of them separately, and to synthesize the results. Interpreting these teachings suggests a difficult but, to me, essential approach to take. If ever we are in scope and degree to institute the problem solving of which we are capable, we must survey our conditions, inventory our resources, and state, clearly and in writing, our goals, our shared aims. Then we may lay our plans to achieve them and set our priorities more intelligently.

Goal setting, taking into account things as they are and as they are desired to be, has a profound impact. I have found, not only for individuals but institutions, industrial and urban, alike. The process requires that the totality of problems and opportunities be examined simultaneously. It minimizes expediency and tends to halt the drifting process which Gilbreth observed, "never once produced the one best way, never once." Goal setting gives direction and meaning to preparations to act with informed deliberation in terms of one's resources. It fits the democratic way exceedingly well, and I suggest we institute it on a national scale and follow in the states and the cities.

There is a model for goal setting for the nation. It was constructed by a non-partisan Commission on National Goals appointed by President Eisenhower in 1960. Their work was administered by the non-partisan American Assembly because of its established practices of encouraging wide consideration of public issues. The Commission invited a distinguished group of Americans to write essays on fundamentals of American life as they saw them at that time. In proposing goals in 15 major areas, the Commission sought the counsel of approximately 100 people expert therein. Goals for Americans was published in a volume which has sold to date in the order of three-quarter million copies. That volume begins with these words:

"The paramount goal of the United States was set long ago. It is to guard the rights of the individual, to ensure his development and to enlarge his opportunity. It is set forth in the Declaration of Independence . . . The goals we here identify are within the framework of the original plan and are calculated to bring to fruition the dreams of the men who laid the foundation of this country.

"In the echo of those fateful words can be heard the onrushing thunder of a new age . . . Its soaring vision enabled our society to meet the trials of emerging nationhood. It placed the young republic securely behind the principle that every human being is of infinite worth. In time it led the nation out of the morass of human slavery. It inspires us still in the struggle against injustice . . . Our enduring aim is to build a nation and help build a world in which every human being shall be free to develop his capacities to the fullest.

"In the 1960's every American is summoned to extraordinary personal responsibility, sustained effort, and sacrifice."

If those words were appropriate a decade ago, surely they are even more so today. Our society, our technology, our increased numbers, our accelerating rate of change make crystal clear our need to take stock, to know where we stand, to be able to overcome our divisiveness and polarization.

"Social disruption in our cities and other fears and disorders, threaten to invite a period of tough repression that need not but might happen unless most everybody involved

rediscovers the necessity as well as the advantages of self restraint," Life Magazine editorialized recently. Deep down most of us know there is no way to go ahead in our society without the rule of law. If we proceed in our time to anarchy, of which there are disturbing signs, we can be very sure that order will be restored. Likely it will be authoritarian, dictatorial, without freedom for all. Alexander Hamilton explained it thus: "Government implies the power of making laws. It is essential to the idea of a law that it be attended with a sanction; or, in other words, a penalty or punishment for disobedience. If there be no penalty annexed to disobedience, the resolutions or commands which pretend to be laws will, in fact, amount to nothing more than advice or recommendation."

It is time to refocus on our respect for the law. With the present amount of crime in the streets, we should reassess the relatively new view that quickly returns the criminal there with little or no penalty. In the long range such treatment may be workable, but apparently it is not for our society. We may need to return to older methods not so permissive of the rights of violators to kill, to rob, to rape, to plunder, again and again.

Likewise we must deal with the paralyzing destructive new stance of vocal minorities and bloc groups. These groups should be made to know that they can no more "run over" the majority than the majority can afford to ignore them any longer. Their problems, however urgent, must take their place in the proper scale of human values and receive their proper share of attention and devotion of resources, no more, no less. Likewise, the majority group must accede to that with no pretext for delay and no lessening of the commitment to right old wrongs. We must remember too, that there are those, both outside and inside our organized society who will fight it, even destroy it if they can. It is not in keeping with our heritage as free men to pass on this nation to those who will follow in any way diminished from its condition when it was put in our own hands. Our responsibility is to achieve the objectives of a free, constructive, and effectively functioning society and to oppose with all our resources any destructive opposition.

We should voice clearly and repeatedly for the people truly to hear and understand, as our President, our Governors, our Mayors do, that there are no instant solutions to age-old ills; that we do not possess instant money in unlimited quantities; that all the manpower needed to do the jobs that must be done can't be mobilized overnight.

There have been many changes since Goals for Americans in the Sixties were established. Much has happened in this decade both in our social system and our technology. There are new needs; new aims need to be defined. New resources, new technologies begin to emerge from the shadows. The light of this and of other thorough knowledge may rightly convince us not only that old institutions must improve their performance but that new institutions, new ways of managing, must be created to deal with accelerating change. Age-old values need to be reviewed, restored, refreshed, restated, that we may understand how we shall live in the decade ahead and well beyond.

To that end, it is my hope that the President-Elect will name a new non-partisan commission on national goals to bring forth new assessments of where we now are . . . the state of the nation . . . and to prepare goals for the Seventies. If the commission could carefully order the goals in segments of a size and kind that would lend themselves to the ability to assess their costs, we could better judge the priorities for their achievement in terms of our resources.

To table the urgent and heavy agenda of the cities' problems, awaiting the results of

such an effort, would be suicidal. To delineate interim work more sharply, I presume to suggest that our new President might profitably name a Council of Urban Advisors to provide knowledgeable views and consultation based on extensive experience to assist in our disposition of the cities' problems. Such a Council to the President might well be formed from people able in the governance and administration of cities, and from professional men with a wide variety of talents and knowledge. Included could be representatives of outstandingly competent business, industrial, and educational institutions, city planners, architects, scientists and engineers who understand the technology of our time, lawyers who can foresee the legal framework for what is to be done, the medical profession to assist in pointing the way to the betterment of public health.

Such a non-partisan Council might well have ties not only to the President but to the Conference of Governors, as well. After all, the cities have only the sovereignty ceded to them by State charters and laws, and one of our most disturbing trends is the bypassing of State governments.

I share the conviction of Terry Sanford, former Governor of North Carolina, who spent two years at Duke University researching the material for his excellent book, *Storm Over the States*, that one of the major issues before the American people is the need to strengthen our state governments in order to preserve our federal system. My view of a goals program as a centripetal force—adding tensile strength and cohesion to purpose, knowledge, understanding, commitment—leads me to believe that our states might well benefit from engaging in goals programs of their own. At the state level, it would seem to me to be important to involve large numbers of citizens representing the diversity of the citizens, in the study, formulation, and the reach for consensus on a state's goals.

This is the approach we took in Dallas when we instituted more than two years ago a Goals program to ask, not tell, the people what kind of city they wanted ours to be. Thus far, we have involved in constructing Goals for Dallas about 50,000 citizens from every part of the city and of all races, religions, occupations, political persuasions. Half of the 50,000 have been the young—of high school and college age—for after all the future belongs to them and what could be better than the eager, active involvement of today's bright and educationally advanced young in the discovery of what they will want and need from life, the parallelism in their aims and those of their community and their country?

The process we have used in Dallas is well documented and its details available to anyone interested. Suffice to say here that Goals for Dallas has been characterized by an open-ended, continuing cycle of thoughtful, pointed gathering of information about ourselves and our city, and deliberations and decisionmaking involving as many citizens as could be enlisted. No partisan or special interest groups from any part of the city were permitted to dominate these efforts—or the goals. In the beginning, people were skeptical of the process and each other. In the end they found an amazing give and take, unanimity, mutual understanding, and respect.

A goals program, like this, gets people engaged in problems of their cities, lending perspective to how things are and how they could be. In correlating and communicating the people's wishes, it causes both public and private organizations charged with specific functions in the city, to be more responsive, and the people readier to support worthwhile undertakings.

Presently Goals for Dallas task forces of citizens, again composed of a balanced di-

versity of the citizenry, are engaged in developing strategies, including identification of organizations needed to achieve our goals and rough estimates of their cost. When this work is completed and widely published, consensus on the priorities for the goals will be sought in neighborhood meetings as well as for the goals themselves.

Meanwhile, in fragments, but in important ways designed to have irreversible impact on better living and future opportunities, we have proceeded toward a new level of renewal in Dallas. Let me, for reasons I will subsequently name, identify some of these to you.

One of our goals under transportation and communication reads: "Bring the Dallas-Fort Worth airport to its fullest potential as a regional and world air center." Next week we break ground for what bodes to be, with a nearly 20,000-acre site, the world's largest, finest port, flexible, ready to accommodate the bigger, faster craft, the future, and the expanded use of air transport it will surely bring.

Part of the initial financing for the port was provided by Dallas' 1967 capital improvements bond program, the largest ever approved in our State and given approval at ratios of nearly 3 to 1 by our citizens. Called the Crossroads Program, a wide range of items designed to bring better living for Dallas citizens, included flood control plans, a magnificent new Pei-designed municipal services center (City Hall) and facing park, the first downtown green space to be added in 30 years, renewal of a cultural center, and bread-and-butter items of a city . . . streets, water facilities, etc. Neither the Goals Program nor the Crossroads Program it so clearly influenced in composition ignored the impoverished. Provision was made to expand a code enforcement program already underway, without benefit of Federal aid, for monthly demolition of 100 houses which are unfit for human habitation. Monies were provided to bring the public facilities in poverty pockets up to acceptable standards, and to assist the people to bring sound but deteriorating housing into code conformance.

Dallas has a new appreciation for the problem-solving results that can be achieved with eyeball-to-eyeball dialogue followed by action. Members of our City Council and I, joined by administrative heads of city services, have held a weekly series of three- to four-hour neighborhood meetings with people living in the substandard parts of our 300-square-mile city. The people come to tell us their urgent needs; we come promising the possible, never the impossible. Knowing our way through the maze of City Hall red tape, as these citizens do not, we find meaningful ways to help. Streets and alleys have been paved, lights installed, water connections made, and countless needs of assorted sites and kinds met fully or in part. These citizens, I believe, have a new faith in their local government. The government—topside anyway—has a renewed zeal for its mission to serve people.

This year Dallas employers backed a summer Job Fair to the hilt with 5000 jobs, more than pledged at any other such fair in the nation, I understand. Dallas had a calm summer, the youngsters a productive one. According to a survey organized for anonymous comments, 97% of them reported employers who understood them and provided meaningful relationships and experience.

Our Council of Churches is the second in the nation to pioneer a "block partnership" program which matches a disadvantaged city block with an affluent group able to help meet the needs the block identifies as most important. Joint exploration of problems at their situs tends to reduce polarity between black and white and to help the poor help themselves.

Neighborhood needs have been further assisted by reorganization of our fire and police

departments and the addition of five "Neighborhood Aid" centers, including a mobile one, manned by police and aimed to let the people know them not as persecutors, but as the protectors they truly are.

Famed city planners, Vincent Ponte and Warren Travers, have been engaged to devise a multi-level plan for the 1000-acre core of our city, hopefully to bring new mobility, grace and beauty, pleasant facilities, and the round-the-clock vitality of people living in the inner city, renewing and quickening the very heart beat of Dallas.

Even with these and other programs unmentioned, perhaps matched or exceeded in other cities, the rate of change for Dallas and for them remains glacial. As yet we fall far short of the counsel of the man New York Times columnist James Reston calls the calmest voice and coolest mind in American public life, John Gardner, whose writings, I would, if I but had the way, make required reading for every American. "We are going to have to do a far more imaginative and aggressive job of renewing, redesigning, and revitalizing our institutions if we are to meet the requirements of today," Gardner says.

The fact is that one would expect the techniques of science, engineering, scientific management, so commonly understood, would have been rapidly and effectively transferred to the management of at least our larger urban communities. Quite the reverse is the case. Ponderous governments move slowly and in exceedingly antiquated ways their wonders to perform. By and large, in our cities the management philosophies and practices, the organizational structures, the tools, the systems of communicating with the people they are designed to serve, the self-renewing mechanisms, are absent, inadequate, or entrenched relics of a past long since gone.

Safety of the bureaucrat's job, best achieved by devotion to the status quo, antiquated civil service systems, skimpy budgets designed to avoid possible taxpayer resentment, lack of attractive motivating forces, too often, discourage the flexible, smart young men from seeking careers in our city halls. Research in terms of need is infinitesimal. If there are time and motion studies conducted in the city to improve efficiency, they are well hidden. If there are programs in work simplification, I have not heard of them. Only small, feeble beginnings have been made in the use of computers and other sophisticated tools. I know of only one small, interesting effort, a joint undertaking of six cities, of which my own is one, to study, articulate and bring about significant change by presenting to industry a sufficiently large and enticing market to achieve it. This coalition, conceived and assembled by Urban America, seeks both utilitarian and aesthetic improvements in street hardware and information systems.

The willingness in cities to accept new tools, if not often to force the design of better ones, is totally overshadowed by their ignoring what industry has long known and practiced: to get a better job done, get better men; give them better tools; provide them with opportunities; inspire them to new orders of improvement, fulfillment, self-renewal.

Thrice in a single day I have heard it said by distinguished people at high levels that New York's problems are "hopeless," "New York is unmanageable." "It's too late to do anything." I don't believe any of these statements. It is true that the troubles are deeply rooted, complex, difficult, unsolvable unless all levels of citizenry, including its best engineers and managers, are involved. With commitment and involvement, the problems can be made to yield to the basic principles we have long and beneficially used in management and engineering.

In what has been said thus far, I have

generalized a good deal and described a few of the recent Dallas efforts which seem to contain elements possibly transferable and worth trying elsewhere. My principal points were these:

1. Goal setting at all levels of government, if properly done, can make a genuine contribution to clarification of problems and better, faster, more meaningful solutions. When the process begins at the grassroots level, the goals are an expression of the aims of the people themselves. Growing upward, they thus enjoy built-in substantial support. The side effects of such a program—pulling people together instead of apart; better informed, more understanding electorate; greater citizen involvement; these and others match or exceed, in value the establishment of the goals themselves.

2. A return to the principle of the New England Town Meeting, varied to make it a neighborhood affair, with all top level city officials in face-to-face discussion on the home grounds of the people who have the problems, yields a two-way direct information circuit, greatly enhanced depth and scope of mutual understanding, and highly desirable total engagement of citizens and officials in joint problem-solving endeavors.

3. Most city governments desperately need the scientific management concepts of Towne, Gilbreth, and others applied to their operations. Particularly, our local governments need to be more strongly "people oriented," looking either inward or outward. Essential are the use of incentive-oriented, modern recruitment methods to make it easier to employ and keep better men; provision for the continuous updating of their education, on and off the job; the promotion of careers in local government as adventures in building the future, for that is what they can and should be. Add research, large doses of innovation, and feed the patient sufficient tax income to keep him alive and progressing, not just growing. Apply appropriate measurements of performance to people, processes, equipment, and facilities. Establish the kind of cost responsibilities commonly used in industry. Across the board, get in the posture to simplify, do it better, faster, for less. These, I feel, are a few of the methods Frank Gilbreth, who would have made a great Mayor for the Seventies, would have wanted to see applied to these monumental tasks.

It can't be done? Right, if we believe that, but if we apply the combined forces of our best trained professional minds, our great and powerful educational, social, business, and industrial institutions, together with the power of an aroused, unified society to our urban problems, there are *none* which won't yield.

May I remind you? For more than nineteen centuries, all but a few believed that man could never fly. For another half century, all but a few believed we were earthbound. Now who will put a limit on these ventures?

When man can split an atom, shall we say he cannot design or redesign a city; that he cannot devise the management patterns to control urban affairs effectively; or that he cannot find ways within a city's confines to live with other men in tolerant accord? There is but one answer. Neither Towne nor Gilbreth would have hesitated one moment to give it. We can, we must, we will. Surely together we can search out the "One Best Way." Since 1776 that has been the American Way. From time to time since that well-remembered year, this nation has taken serious risks to make great gains. That principle can serve us still—in the nation, the states, and the cities. Not to act upon the knowledge, the resources, the mind, and the strength to do, which we have, is to tempt certain failure. To act deliberately and positively is to commit ourselves to success. Let us, therefore, step strongly into the future,

prepared and unafraid. This is how I pray history will record we dealt with the avalanche.

#### GOP ELECTORAL STRATEGY FULL OF HOLES

Mr. HATFIELD. Mr. President, Republicans had an unprecedented opportunity this year to become the majority party in the Senate, however, the political strategy chosen by a few failed to take advantage of a most favorable situation.

Democratic Senate seats were extremely vulnerable with 25 Democratic seats exposed—22 of them being defended by incumbents. Only 10 Republican seats were up for reelection.

Although we can be encouraged by the addition of two Senate seats, we fell short of our paramount goal—control of the Senate. In addition, we suffered substantial losses in governorships and State legislatures throughout the country, as well as a net loss of nine seats in the House of Representatives.

Historically we cannot excuse our showing by claiming the disadvantage of an off-year election. A serious analysis of past elections reveals that the Republicans actually could have expected notable gains in 1970.

Not only did Republicans have fewer Senate seats to defend; there is also reason to believe that many of the Democratic seats up this year were exceptionally vulnerable.

Of the Democratic Senators up for election in 1970, 10 came into office with the Democratic landslide of 1958 and two in special elections in 1957. During the 1957-58 recession, the Republicans lost 13 Senate seats and with the addition of seats from Alaska and Hawaii, the Democrats picked up 17 seats.

In 1964 when these seats were up again, Democrats were able to hold their gains and add two more Senate seats.

In this unique off-year election, Democrats had to defend more Senate seats than either party has had vulnerable in 20 years:

Year	Number Republican incumbent seats	Number Democratic incumbent seats
1950	10	17
1954	12	19
1958	15	13
1962	15	19
1966	13	16

Republicans will not have a comparable opportunity in the near political future—not until 1976 at the earliest, when these same Senate seats are up. In 1972, for example, 19 Republican Senators will be up for re-election as opposed to only 14 Democrats.

Carried in by Johnson's overwhelming victory over Goldwater, seven of the Democratic Senate seats up this year were elected by less than 55 percent of the vote cast in 1964. The GOP needed seven seats to win a majority in the Senate this year. The combination of these factors gave Republicans the first realistic chance to win control of the Senate since 1952.

The favorable situation for the GOP was further enhanced by the fracturing of the Democratic coalition. The New Deal Alliance that built Democratic strength has been eroding; the labor vote is no longer solidly Democratic—50 percent of union members now live in suburbs and that same percentage are under 40. The weakness and shifting character of the Democratic bloc was demonstrated in the 1968 election. A poll in September 1968, showed 34 percent of union members for Humphrey, 32 percent for Nixon, and 25 percent for Wallace. Clearly, Democrats could not count on the strength of their organization or traditional loyalties to insure their political hold in 1970.

A massive fund raising campaign gave Republicans a decisive financial advantage in this campaign. According to figures reported to the Clerk of the House in October 1970, contributions to the GOP on a national level amounted to \$18.3 million as compared to \$5.5 million for the Democrats. These figures are only the "tip of the iceberg." Not included is the money raised at local affairs such as the functions where the Vice President spoke and most of the proceeds were spent on local campaigns. These sums are striking when compared with those of previous off-year campaigns. For example, in 1966, the Republicans spent \$7.8 million and the Democrats spent \$4.2 million—plus another \$4.2 million distributed to candidates by labor organizations.

Republicans also had a historical advantage which lead one to expect they would maintain their strength in the House. Assistant Professor, Barbara Hinckley, of Cornell University has developed a very perceptive hypothesis for examining off-year House races. Her work dispels the myth that the party of the incumbent President invariably loses seats in an off-year election. The average loss of 35 House seats is generally attributed to the loss of coat-tail candidates that were gained in the Presidential election year. Miss Hinckley has developed a much more accurate means of analysis of the off-year election. She asserts that a good indicator of the coat-tail victories within the House is the number of districts in which the President led the successful House candidate of his Party in the previous election. That is, because the President garnered more votes than the House candidate, he is thought to "lead" or pull-in the candidate by his coat-tails.

In 1952 President Eisenhower led the winning Republican House candidates in 135 districts; in 1956, he led in 174 districts. In 1960 President Kennedy led the winning Democratic House candidates in 12 districts. In 1964 President Johnson led in 176 districts. And, in 1968, President Nixon led the winning Republican House candidates in only 10 districts.

Miss Hinckley hypothesizes that off-year elections within those districts give an indication of the popularity of the President and may well give an indication as to what might be projected as the "normal" loss of House seats in off-year elections.

For example, of the districts in which Eisenhower led the successful Republican House candidates in 1952, 11 percent lost their seats in 1954. Of the districts in which he led in 1956, 26-percent lost their seats in 1958. Twenty-five percent of the House candidates that Kennedy led in 1960 lost their seats in 1962. And of the districts that Johnson led in 1964, 23 lost their seats in 1966.

A conclusion to be drawn from these statistics is that the incumbent President usually loses some of his popularity by the end of the second year of his term of office. Second, it can be concluded that in future elections the party of the incumbent President can expect to lose approximately 21 percent of the number of coat-tail districts of the previous election.

The implications of this hypothesis for the GOP in 1970 are enlightening. Judging from past history we would expect Republicans to lose two to three—21 percent—of Nixon's 10 coat-tail districts in 1968. Four of Nixon's coat-tail districts were lost in 1970, but more importantly, the total loss of nine seats, which is almost equal to the number of coat-tail districts, was a loss of 3 to 4 times the normally expected losses.

It cannot be said that the loss of nine House seats was a victory in holding down an average off-year loss of 35 seats. Using a more accurate measure, based upon the strength of the President in the previous election, the loss of nine seats this year was actually a setback for the GOP.

History also gives us reason to believe that the GOP could have expected substantial gains in the Senate.

Since 1856 there have been 10 Presidential elections—excluding the 1968 elections—in which the President won by a plurality and not a majority. In six of the ensuing off-year elections the party of the incumbent President gained Senate seats—the Senate being elected by direct popular vote since 1912.

*Senate gains and losses for the party of a plurality President 2 years after presidential election*

Gains:	
Lincoln	1860
	1862 +8
Garfield	1880
	1882 +3
Cleveland	1884
	1886 +3
Cleveland	1888
	1890 +2
Wilson	1912
	1914 +5
Kennedy	1960
	1962 +4
Losses:	
Buchanan	1856
Cleveland	1892
Wilson	1916
Truman	1948

The most recent example of this were the elections of 1960–62. In 1960, Kennedy was elected by a plurality but did not receive a majority of votes cast. The elections of 1962 resulted in a gain of four Democratic Senate seats.

History indicates that the party of an incumbent President winning by a plurality usually picks up seats in an off-year election.

Losses to the incumbent party in off-year elections are not necessarily the rule and happen only when the President has won by a large or landslide margin. Therefore following a year such as 1968, when victory was very narrow, off-year losses in Congress need not occur. In fact, gains should be expected.

It should be remembered that Nixon was the first President since Zachary Taylor whose party did not obtain control of either the House or the Senate with his election.

Republicans also could anticipate gains in Senate seats due to the advantage of the reverse coattail effect. In the House coattail candidates are swept out of office 2 years after their election, but in the Senate this mechanism operates on a 6-year cycle. The base year for discussing the coattail effect in the 1970 Senate races is 1964. Seven of the winning Democratic Senators in 1964 were elected with less than 55 percent of the votes cast. Carried in on Johnson's 61-percent margin of victory, these seats were particularly vulnerable in 1970.

Since 1912, when Senators first stood direct election, there have been 10 elections in which the President had enough strength to affect statewide races. Six years after these elections the nonpresidential party picked up seats, even if it subsequently controlled the White House. Prior to 1970, the average pickup on the 6-year cycle was eight to 10 Senate seats.

THE REVERSE COATTAIL EFFECT IN THE SENATE—6-YEAR CYCLE

President with coattails	Nonpresidential elections	Senate losses
Harding, 1920	1926	-7 Republicans.
Coolidge, 1924	1930	-8 Republicans.
Hoover, 1928	1934	-10 Republicans.
F.D.R., 1932	1938	-6 Democrats.
F.D.R., 1936	1942	-9 Democrats.
F.D.R., 1940	1946	-12 Democrats.
F.D.R., 1944	1950	-6 Democrats.
Ike, 1952	1958	-13 Republicans.
Ike, 1956	1962	-4 Republicans.
Average		-8 seats.
L.B.J., 1964	1970	-2 Democrats.

In light of these facts, a gain of two Republican Senate seats in 1970 could not be judged a smashing victory for the GOP.

It can be concluded that Republicans had no reason to expect any substantial losses in the Congress this year. In fact, we should have expected gains. We had an excellent opportunity to increase our congressional strength, with a chance to win control of the Senate. The 1970, GOP campaign strategy was aimed at taking advantage of this favorable situation and a real hope existed of winning a Senate majority.

GOP strategists selected 15 target States where there was a clear opportunity for Democratic seats to fall into Republican hands. In Connecticut, New Jersey, Maryland, Minnesota, Michigan, Missouri, Indiana, North Dakota, Utah, Wyoming, New Mexico, Nevada, Tennessee, Florida, and Texas. GOP challengers were carefully picked, many of them by

the White House. The massive program of fundraising and campaigning undertaken by the administration was principally on behalf of these GOP hopefuls.

The strategy followed a pattern of preparation for the 1972 presidential election. The GOP attempted to establish a new coalition of rural and small town voters, ethnic groups that are primarily in the laboring class and can be swung from the Democrats—those who tended to lean toward Wallace in 1968—and suburban voters—the middle class and upper-middle class, educated and well-informed who usually vote Republican. The issues of 1970 were selected as an attempt to appeal to these three groups of voters. Following this strategy, the GOP set out to find what people were most upset about and identify with what people are most against. What Vice President AGNEW called the politics of positive polarization—involved focusing on people's frustrations and putting the blame for these ills on one's political opponents. The student radicals and rioters were identified with political opponents who were labeled the "radical liberals" in the Senate.

Attempting to use the social issue an appeal was made to law and order against pornography, permissiveness, drug abuse, violence and crime with the implication that the opponents either were not against, or were actively encouraging these things.

Both Democrats and Republicans sought to manipulate to their own political advantage the fears, prejudices, and social anxiety of Americans. Democrats sought to play on the fears of jobholders and used the threat of depression, attempting once more to run against Herbert Hoover. The Republicans, in turn, equated student violence with crime in the streets and sought to portray Democrats as being the cause of both while the Republicans would bring law and order. The cost of this tactic was further polarization and alienation on the part of those chosen as targets, and increasing political bitterness and cynicism between candidates and the general electorate.

The strategy of this election was clearly a trial run for the workability of the strategy for use in the 1972 presidential election. Therefore, we must see how results reflect basic Republican strength and determine whether the chosen political strategy is effective. It is important that we judge whether or not the prescribed political coalition is being built and if the issues chosen have resulted in victories in those areas where Republicans must have support to win in 1972.

Beginning our evaluation in the East, New Jersey with 17 electoral votes re-elected Democratic Senator HARRISON A. WILLIAMS with 54 percent of the vote. Nixon won in New Jersey with 46.1 percent of the vote and a margin of only 61,000 votes over Humphrey. In New York, Conservative James L. Buckley was elected with only 39 percent of the total vote. This, however, is no indication of a change in the basic GOP versus Democratic strength for presidential elections. Pennsylvania with its 27 electoral votes

went to Humphrey in 1968 by 169,000 votes—however, moderate Republican RICHARD S. SCHWEIKER ran ahead of Nixon by a 280,000-vote margin that year. Republican Senator HUGH SCOTT was easily reelected this year because of his moderate position and support from urban areas.

Republicans, however, lost the Governorship and control of both houses of legislature in Pennsylvania. Loss of Governorships and statehouses is crucial, especially in swing States which have high electoral votes and are pivotal in any election, because of the new 1970 census count. The political makeup of the statehouses will determine congressional districting, and the party in power usually draws boundary lines distributing voters in ways favorable to that party.

California, which returned a Republican Governor, for instance, will now have both houses of the legislature controlled by the Democrats in a State which will get six new congressional seats. Prior to the elections Republicans controlled both houses of the legislature and the Governorships in 20 States. Following the election, this number was cut by eight and the chances of making the Republican Party a real majority party in future elections is becoming more remote.

In evaluating the elections in key Midwestern States we find that Republicans lost a crucial Senate seat in Illinois, with 26 electoral votes, and a swing State which can go either way in a presidential election. In fact, Illinois is one of the key States which must be won in 1972.

In 1968, Nixon won a very narrow victory over Hubert Humphrey in Illinois with 47.1 percent of the vote cast—a margin of 123,000 votes. In 1970, Republican losses were extremely heavy in all statewide office races, and Democrats will probably have working control of the State legislature. ADLAI STEVENSON won over Ralph Smith with a vote of 1,938,111 to 1,489,264, or 56 percent of the total.

Ohio, also a crucial swing State, has 26 electoral votes. Nixon won an even slimmer victory in 1968 by beating Hubert Humphrey with only 90,000 votes. Howard Metzenbaum, however, lost to ROBERT TAFT with 1,487,499 to 1,560,440 votes, or 50 percent. The governorship was lost to a Democrat.

Indiana has 12 electoral votes—Nixon carried the State by a wide margin in 1968, for it is a strong GOP State. Yet, the Republicans failed to carry Indiana with a strong law-and-order campaign and lost in their bid to unseat a Democratic incumbent.

In Florida, which was thought to be crucial to the new strategy and which was expected to fall to the Republicans, not only did Republicans lose the Senate race to an unknown but lost the governorship as well. Nixon won this State in 1968 with 40 percent of the vote; Hubert Humphrey had 31 percent and George Wallace had 38 percent. Lawton Chiles won the Senate seat with 54 percent of the vote.

In Tennessee, a victory was scored in that Representative WILLIAM E. BROCK III defeated Senator ALBERT GORE with 53 percent of the vote. Nixon carried

Tennessee in 1968 with 37 percent, Hubert Humphrey with 28 percent and George Wallace with 34 percent.

Texas is another swing State, and crucial with 26 electoral votes. Republicans lost the Senate as well as the Governor's race. In 1968, Hubert Humphrey won the electoral votes by 39,000 votes—which could have gone the other way: Hubert Humphrey—41 percent, Richard Nixon—39 percent, and George Wallace—19 percent. GEORGE BUSH was defeated with a vote of 1,076,537 for LLOYD M. BENTSEN, JR., and 940,850 for GEORGE BUSH.

California has 40 electoral votes and in 1972 will have 46. It is a swing State and vital to any presidential candidate. As I pointed out, Republicans lost a Senate seat as well as both legislative houses in the State assembly. Nixon won over Hubert Humphrey with 223,000 votes in 1968. In 1970, Representative JOHN TUNNEY defeated Republican Senator GEORGE MURPHY for the Senate seat with 54 percent of the votes cast. Murphy had won with 51.4 percent of the vote in 1964.

All States in the West with close Senate races—Utah, New Mexico, Nevada, North Dakota—except for California—are States having not more than four electoral votes each, and all carried by solid margins by Nixon in 1968. However, Democratic incumbent Senators all were elected by narrow margins in 1964, all with less than 60 percent of the votes. Yet, all the Democrats won their Senate seats in 1970 in these States.

An objective analysis of this election should convince even the most skeptical that the 1970 strategy of political polarization failed to win key races as well as aggravating social tensions in our Nation. To maintain the Republican Party's political position it was necessary to do well in seven key States: New York, California, Pennsylvania, Ohio, Illinois, Texas, and Michigan.

These seven States have 210 of the total 270 electoral votes needed for presidential victory. The Nixon strategy in 1968 was to win in at least four of these seven, which he did: California, Illinois, Ohio, and New Jersey. Within the next 2 years President Nixon will have to regain strength which was lost in these key States in 1970.

Inasmuch as holding and building political power in key States is greatly facilitated by having Republican Governors, maintaining control of statehouses was especially important in 1970.

The GOP was hurt by the loss of governorships in several States carried by Nixon in 1968: Wisconsin, Arizona, Idaho, Nebraska, South Dakota, Oklahoma, and Delaware all unseated Republican Governors. The GOP had a net loss of 11 governorships.

However, in Michigan, a key State, a Republican Governor was elected whose strategy was wholly realistic. Instead of polarizing and alienating the young toward Republicans, William G. Milliken communicated with and appealed to young people for, as he said:

It is with them that our future as a party and our future as a nation lies.

Milliken believes this appeal accounted for his election victory in the face of a

tide against Republicans in Michigan and against Republican Governors nationally.

From this brief overview we can conclude that the 1970 election seriously jeopardizes chances for GOP victory in 1972. The campaign strategy was not effective and actually weakened the overall strength of the party. Republican strength in the key States was eroded by the loss of Senate seats in Illinois, New Jersey, Texas, and California, and the loss of governorships in Ohio, Texas, and Pennsylvania. In addition, the loss in Florida of both the statehouse and a Senate seat was a major blow to the southern strategy.

There was no significant ideological changes that could compensate for these losses. Four or five seats could be counted as shifting from moderate-liberal hands to conservative: YARBOROUGH to BENTSEN; TYDINGS to BEALL; GORE to BROCK; GOODELL to BUCKLEY; and perhaps YOUNG to TAFT, although Mr. TAFT is an outstanding GOP moderate.

Balancing these shifts to the right was the passing of four seats from conservative to moderate Senators: SMITH to STEVENSON; MURPHY to TUNNEY; DODD to WEIKER; and HOLLAND to CHILES. Overall, there was not significant ideological change in the Senate.

Analysis shows that Republican strength was notably lacking in the moderate suburban vote. Growing suburbs are no longer the arch-conservative areas that they once were considered to be. Suburban voters today are well educated, deeply concerned about social issues, and want solutions. This portion of the electorate displayed a dislike for emotional appeals and vindictive attacks. In Illinois, for example, where Republicans must carry over 60 percent of the Chicago suburban vote to win, Senator RALPH SMITH received only about 50 percent of that suburban vote. Suburban voters were less responsive than anticipated to SMITH's very hard antistudent, law-and-order line and Stevenson was able to make up his winning margin in the suburbs. Furthermore, the suburban vote is growing and becoming increasingly crucial for victory. The 1970 census figures show that between 1960 and 1970 the number of people in the suburbs grew from 59 million to 74.2 million. During the same decade, the population of major cities increased from 59.4 million to 62.2 million making the suburban electorate relatively stronger than in previous years. It was in the suburbs where we most need strength that the Republican political strategy of 1970 cost us votes. In order to capture this crucial segment of the electorate in 1970, the GOP must adopt a moderate stance and a concern for solutions to our social problems, if we are to avert political disaster in 1972.

An evaluation of the election must also include a study of the potential effect of the 18-year-old vote. The country is getting younger. In 1960, the median age was 29.6 years and today it is estimated to be 27.7 years old. If those between the ages of 18 and 20 vote in approximate proportion to the overall turnout of their respective States, this new voting bloc could provide crucial swing votes.

For example, in the 1968 election these young voters could have defeated Nixon in several of the crucial States. If we assume a normal vote turnout of 60 percent of eligible 18-to-20-year-old voters, we discover that Nixon's 223,346 vote plurality in California could have been jeopardized by 645,080 18-to-20-year-old voters.

In Illinois Nixon won by a plurality of 134,960 votes, and potential new voters who would turnout number 355,914. Nixon's plurality of 90,261 could easily have been overwhelmed by 331,470 new voters in Ohio, and in New Jersey a 61,261 plurality for Nixon might have been altered by 214,184 newly enfranchised 18-to-20-year-old voters who would come to the polls.

These States were not only key to Nixon's victory in 1968, but were all States in which there were close votes for the Senate. Voting trends in these States reflected in this election have deep implications for the elections of 1972.

Our party must now realize that our political strategy has to be redirected if we are to build winning strength in 1972. We must mobilize a campaign to begin reading people into, not out of, the Republican Party.

The price of the 1970 Republican political strategy was great and we cannot afford to hold the same position in 1972. How a campaign is conducted can be just as important in the long run as whether it wins or not. Ghandi said:

The means are the end in the making.

We all criticize and condemn violent radicals because of the means they choose to pursue their goals. Likewise, we should not assume that the end justifies the means when it comes to politics and involves the attempt to win elections.

The means employed in 1970 were that of "positive polarization." This policy of guilt by association, identifying honorable men with extremists, must be rejected. We cannot continue to capitalize on the divisions within society. We must discard this policy which attempts to manipulate the fears and prejudices of people to political advantage.

Dissent and unrest will not be curtailed by politically motivated attacks on radicals. The results of our present strategy can only increase polarization and deepen the present distrust in the ability of our leadership to unify the country. The campaign of 1970 failed to direct us toward ways to solve our pressing social, economic, and international problems. In 1970, the GOP sought only a mandate to discredit and quiet the voices of dissent.

We must reject the "politics of revolution." We cannot build a political strategy based upon what people are most against. This type of reactionary politics offers no solutions, provides no leadership for the future, and does not solve the crisis of our Nation.

What is needed is a strategy that truly speaks to the roots of the issues—not one that depends upon emotional negativism.

What is needed are policies and personalities that can unify the Nation. The GOP has the same opportunity as our first GOP President—we can bring about

resolution rather than polarization in this time of national unrest. Republicans have a precedent for such "positive politics" and could win elections by re-adopting the strategy of Abraham Lincoln.

More importantly, a positive approach will allow us to govern the country. A truly effective political strategy, after all, must be designed to both win elections and successfully govern the country. In my judgment the course our party has taken this year fails to adequately meet either of those tests.

I trust we shall honestly realize our mistaken judgments and misguided tactics and begin now to build for 1972. In that year, it is my hope that the Republican Party will be the party that can reconcile, rather than divide, our country and provide the positive and visionary leadership that will make us a united and enriched people.

Mr. President, to be loyal to the Republican Party, and to sincerely seek its success in 1972, means that we have to honestly evaluate our performance during the last election and realistically assess the present position of the GOP. True party loyalty demands such candor. An article by Josiah Lee Auspitz, president of the Ripon Society, has come to my attention and I feel that it presents objective information helpful in making such an honest evaluation of the 1970 election. I ask unanimous consent that the article be printed in the RECORD.

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

[From the Washington Post, Nov. 8, 1970]

#### GOP ELECTORAL STRATEGY FULL OF HOLES

(By Josiah Lee Auspitz)

(NOTE.—The writer is president of the Ripon Society, a Republican research group. He was assisted in preparation of this article by Robert D. Behm, Richard Gross, Stefan Lopatkiewicz, Howard Reiter and Craig Stewart.)

The Ripon Society has been called the Republican Party's best friend and severest critic. It was in that spirit that we warned in Outlook seven months ago that the GOP was about to invest a lot of money in a mis-conceived strategy of "positive polarization."

It is in the same spirit that we must now characterize the party's performance in 1970 as the worst showing since 1964, and to warn that a continuation of the strategy on which it is based will make Mr. Nixon a one-term President.

Certainly 1970 was not so bad a Republican year as the Johnson landslide. Whereas in 1964 the party won only 26 per cent of the contested senatorial and gubernatorial races, the preliminary 1970 figure is 36 per cent. The nature of some of the victories—and some of the losses—provide considerable personal satisfaction to some conservative Republicans in their factional feuds with moderates and liberals. But while militants in the party may be gratified, the party as a whole has been weakened.

Some face-saving explanations have already been heard to prove that the election was really a victory.

Excuse Number One: The party in power, it is said, usually loses off-year senatorial seats. This year the GOP gained two seats (three if Richard Roudebush wins in Indiana), hence a victory. Spiro Agnew has in fact said that party hopes for a Republican senatorial majority last spring was just loose fund-raising talk; no one, he implies, really expected GOP

gains in an off-year. "If we go by past history," the Vice President said shortly before election day, "anything better than losing 30 House seats and breaking even in the Senate would mean success."

However, Agnew's historical perspective is slightly out of focus. In point of fact, the off-year rule at work in senatorial elections actually favored significant GOP gains.

The logic of the off-year cycle is familiar: A victorious President often sweeps legislators in on his coattails. Some of those get swept out the next time they run. In the House the reverse-coattail effect comes two years later, but in the Senate it comes six years later. Thus 1970 was an "off year" for the Senate, but the base year was 1964, not 1968.

Since 1912, when senators first stood for direct election, there have been 10 elections in which presidential margins were big enough to play a significant role in statewide races (the exceptions are Wilson's, Truman's, Kennedy's and Nixon's victories). Six years after each of these elections the non-presidential party picked up seats, even if it subsequently controlled the presidency. Prior to 1970, the average pickup on the six-year cycle was 8-9 seats.

Republicans thus had every reason to believe that in the 1970 Senate races they could pick up seven seats needed for a Senate majority, since the Democrats who won in 1964 had had the advantage of the greatest coattail effect in recent history. Seven Democrats had won 55 per cent of the vote or less at a time when LBJ had received 61 per cent of the national vote.

This year the Democrats were forced to defend 25 seats, the Republicans only 10. This is why Agnew was able to raise unprecedented sums to help Republican senatorial committees outspend the Democrats 5-to-1. This is why, as a hedge in case the party fell below seven, some Republicans moved to form an alliance with Harry Byrd Jr.

For Agnew now to excuse a gain of 2-3 seats as better than expected is simply to compound failure with mendacity. There was a serious effort to win a GOP majority in the Senate because historical off-year patterns supported this prospect, just as they supported Richard Nixon's calculation in 1966 that there would be a GOP rebound in the House of Representatives.

Excuse Number Two: The ideological balance of the Senate has been altered. Conservative ideology, we are now told, is really what was sought, not Republican seats, though this argument was made only after it became clear the GOP could not win a majority in the Senate. As Ron Ziegler put it at 11:30 a.m. on Tuesday, Oct. 27, the President would welcome changes "not on party lines but on ideological lines."

Spiro Agnew drew the line within the GOP as well. According to *Battle Lines*, the publication of the American Conservative Union, he told fund-raisers in New York that "the only good Republican is a conservative Republican." If that is the test, then three of the new Republicans in the Senate—Lowell Weicker of Connecticut, Robert Taft of Ohio and J. Glenn Beall of Maryland—fall short. They outnumber the two new conservatives—William Brock of Tennessee and James Buckley of New York.

Among the Democrats, Lloyd Bentsen of Texas satisfies the President's newly acquired ideological tastes, but Lawton Chiles of Florida does not. Of the dozen or so incumbent senators branded as "radicals," only three were defeated: Charles Goodell of New York, Albert Gore of Tennessee and Joseph Tydings of Maryland. But two new "extremists"—John Tunney of California and Adlai Stevenson of Illinois—came in.

Chalk up a net loss, then, of only one radical, a net gain of one moderate Republican over conservative Republicans, and a cancelling-out of a conservative with a lib-

eral Southern Democrat. Hardly a great shift, especially since at any moment a moderate Republican may be transformed by vice presidential edict into a radical.

For the President to take comfort in ideology is to compound failure with short-sighted dogmatism. To the degree he claims he now has a working ideological majority, he cannot use Congress as a scapegoat in 1972.

Excuse Number Three: 1970 tested a conservative national strategy that will bear full fruit in 1972. The Silent Majority, we are told, was clearing its throat this year and will speak out in 1972. There are three ways of propounding this conservative strategy, but unfortunately all of them are refuted by the 1970 election results.

First, one may look at it regionally, in terms of those "liberal" states that are written off as "safe Democratic" (New England, New York, Michigan, West Virginia), the "battlegrounds" (the belt from New Jersey to Missouri plus the Pacific Coast), the "GOP bastions" (the "conservative" peripheral South and small Western Plains and Mountain states), and the Deep South which it is thought, will be a Republican bastion in 1972 if George Wallace is not a presidential candidate.

In 1970 these regions behaved precisely the reverse of conservative predictions, despite the fact that the White House and the Senate Campaign Committee gave strongest emphasis to GOP bastions and battleground states. Of the statewide races in the "safe Democratic" states, the GOP won 53 per cent (60 per cent if we count Buckley). In the "battlegrounds" it won 36 per cent of the contests (40 if Roudebush wins.) In the "GOP bastions" it won only 28 per cent; in the contingent South it won zero.

Thus the election turned the conservative strategy on its head, producing results that went exactly contrary to its prediction. Since this strategy guided much national Republican planning for statewide races, it is small wonder that the GOP did worse than expected.

Another way of looking at the conservative strategy is in terms of swing groups in the population. Two target groups are thought to be good material for Mr. Nixon—and hence for all Republicans: Northern blue collar workers, especially Catholics (Protestant workers already tend to vote Republican), and small-town white Southerners.

Since Mr. Nixon and Mr. Agnew are neither Catholic nor Southerners, they must make up in rhetoric what they lack in blood ties. They thought that the way to win these groups was by playing on anxieties about blacks and students. They thought that backlash rhetoric would also go down well in the suburbs.

The Ripon Society warned that in fact backlash appeal would have a revolving door effect. It would, we argued, drive affluent suburbanites away from the GOP and in an economic downturn there would not be enough Southern Wallace voters or Northern union members coming back in. The defeat of George Murphy in California, Ralph Smith in Illinois and Nelson Gross in New Jersey by suburbanite defections fully confirms our warning.

Indeed, the only Protestant Republicans to make significant inroads among Catholic voters campaigned not on issues of backlash but on issues of sound, effective, moderate government. These two were Nelson Rockefeller in New York and Francis Sargent in Massachusetts.

The prospects for major inroads among target groups in 1972 will be even smaller if the Democrats put up another Catholic-Southern ticket on the Kennedy-Johnson pattern of 1960.

Finally, one may argue a conservative strategy in terms of national image. Conservatives insist, correctly I think, that the

country will move to the right on violence and that the Russians will push our foreign policy rightward as well. By staking out a conservative position it is thought that the President and Vice President will have the country come to them.

Many Republican senatorial candidates tried this, but instead of the electorate coming to them, their Democratic opponent did, and isolated them on the right, must as Johnson did with Goldwater. Republicans did not pick up a single Senate seat west of Mississippi River, though they had 10 shots. In every Western vulnerable Democratic seat a similar pattern emerged: The GOP staked out a firm law and order position; the Democrat moved closer to him, insinuating all the while that Republicans were trying to profit from violence.

Adlai Stevenson's masterful campaign against Ralph Smith in Illinois was a classic example of this pattern. Stevenson won 65 per cent of the blue collar vote, 64 per cent of Catholics, and made substantial inroads into the Republican suburbs. Thus did Democrats steal the center from the GOP.

This same pattern was repeated on a national scale on election eve, as President Nixon tried to turn a cheap profit on the San Jose incident. His staff, despite warnings from CBS, screened a film that made the President of the United States look like a candidate for district attorney. Sen. Edmund Muskie followed with a moderate presidential fireside chat that stole the center from Nixon. To hope that the country will move rightwards and will prefer D.A. Nixon to the Muskie who talked about a sense of community, trust, moderation, middle class virtue and law and order, is to compound incompetence with wishful thinking.

Excuse Number Four: It is argued that Mr. Nixon's willingness to put his presidency on the line for Republicans solidifies his position as a party leader, and that his brutal purging of Goodell will assure him the discipline he needs among Republicans in the Senate. The 1970 campaign was really an investment in legislative leadership, it is asserted.

Just the opposite is the case. Mr. Nixon purged Goodell on terms that apply also to seven other Republican senators (the "Traitorous Eight," as they were once called at the White House). Four of these are up for reelection in 1972 (Percy, Hatfield, Brooke and Case). They represent states and constituencies crucial to Mr. Nixon's own re-election. They know it and are not likely to be bludgeoned into submissiveness by an unsubtle White House staff.

Moreover, with the discrediting of Ronald Reagan, the Republican right has no serious alternative to Mr. Nixon. Reagan ran behind moderate Republicans on his ticket; he also lost both houses of the legislature, thus forfeiting the Republican Party's golden opportunity for a pickup of six to eight U.S. House seats in the decennial redistricting. He ran behind Tunney; Max Rafferty lost despite a Robert Finch endorsement. Reagan is a threat to Nixon only if Nixon's policies collapse, and they can collapse only if he is deserted by Republican moderates.

At the moment Republican moderates need to be reassured. Their memories of this campaign are not fond: The humiliation of Goodell and Gov. Linwood Holton of Virginia; the treading by Agnew on Nelson Rockefeller's turf, the characterization of Rogers Morton as a "party functionary," the enthusiastic participation of all major White House aides in planning a campaign strategy that alienated progressive suburbanites from the GOP, the counter-productive smear ads inspired by the White House, the free ride for Democrats like Henry Jackson of Washington (who then went on to raise money and votes for the defeat of Republicans), the bias against former Rockefeller supporters in the distribution of campaign funds

and in the selection of candidates. These add up a bumbling and exclusionary political strategy reminiscent of 1964.

If Mr. Nixon continues this approach into the next two years, he will not be able to correct the party's demonstrated weakness in key swing states like New Jersey, Ohio, Illinois, Florida, Wisconsin, Pennsylvania, California and Texas, not to mention the rout of the GOP in its bastions of strength in the Plains and Mountains.

Many Republican moderates, who guard the gate to a Nixon electoral majority, may have to dissociate themselves from him to assure their electoral survival. This is not a threat, it is simply a statement of fact. Now that the President has initiated a politics of exclusion within his party, he cannot assume unified Republican support for his reelection unless he earns it.

He has earned it with many of his policies. He has been the best foreign policy President of the 1960s and has an important, though as yet unfulfilled, program for domestic and administrative reform. Yet his politics have failed him. As Mark Hatfield put it, the day after the election, "A truly effective political strategy must be designed to win elections and successfully govern the country. The course taken by our party this year fails to adequately meet either of those tests." A few weeks before, the same criticism came from the Capitol Hill coordinator of the American Conservative Union, from some of the President's own loyalists and from both conservative and liberal Republican senators.

Richard Nixon prides himself on having a foreign policy strategy, an economic strategy, a domestic strategy and a political strategy. What he lacks is a governing strategy. To develop one he will have to bring fresh air into the dogmatic, defensive, ivory tower atmosphere which H. R. Haldeman cultivates for him. He will have to reach out for advice to a wider circle and he will have to overcome the doctrine of presidential infallibility to admit that this campaign has threatened the very life of his administration.

#### THE SST: THE ISSUES OF ENVIRONMENTAL COMPATIBILITY

Mr. GRAVEL. Mr. President, Dr. George N. Chatham, a specialist in science and technology for the Science Policy Research Division of the Library of Congress, recently prepared for me an exhaustive and unbiased report on the environmental issues surrounding the debate on the supersonic transport—SST—program.

I believe that the report provides information which every Senator should examine. I applaud this fair and objective analysis of the issues in this critical debate. I ask unanimous consent that the report be printed in the RECORD.

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

#### THE SST: THE ISSUES OF ENVIRONMENTAL COMPATIBILITY

(By George N. Chatham, Specialist, Science and Technology, Science Policy Research Division, September 21, 1970)

##### ABSTRACT

The environmental issues cover three categories a) Sonic boom, b) Noise, and c) Effect on world climate.

##### SONIC BOOM

The recently adopted national policy and the FAA Notice of Proposed Rule Making, issued April 16, 1970 (39 FR 6189) would prohibit operation of civil aircraft over the

United States at speeds which would cause a sonic boom on the ground.

The supersonic capability would be used over the oceans. A sonic boom having a nominal overpressure of 2½ lbs. per square foot would therefore impact the water. The weight of the overpressure is equal to that imposed by a 3 foot wave.

An overpressure of this magnitude is insignificant both to surface vessels and to marine life. The sound intensity to an ocean liner is such that only those on deck would detect it. The sound would be largely lost in the background noise of the ship, the ocean and wind.

##### NOISE

There are three phases of flight during which jet aircraft noise is noticed, a) approach to landing, b) take off, and c) departure. Noise complaints have centered on the time the aircraft flies low over the community, that is the approach and departure phases. On both of these phases the SST produces less noise than the jet transports in use today.

The SST, however, without acoustical correction, will produce excessive noise during its run-up and take-off phase. Afterburners are used for take-off. This is a "first" for civil jet aircraft and introduces a new problem to jet engine acoustical engineers. Previous research on jet engine noise reduction has centered around the engine itself, and shows a substantial and continuing success.

Jet engines have been in commercial service for over 10 years. During this period they have grown in power by a factor of six. Intensive research to reduce the noise output of jet engines began about five years ago. The results to date have reduced perceived noise output to about half of the earliest levels. The perceived noise level per pound of thrust is now less than 10% of its initial value.

The noise related to the afterburner, however, originates primarily outside the engine. The sound is generated in the turbulent gases of the exhaust, much like the sound of a blow torch. Research to date has clearly shown that smoothing this flow will reduce the sound quite satisfactorily.

The one device tested thus far separated the exhaust column into a number of smaller streams. Although it reduced the noise adequately, the device also reduced the engine thrust below acceptable levels. The challenge therefore is to develop a silencer which will not unduly impair engine performance.

Although this challenge has yet to be achieved, eight years still remain before the Boeing SST enters commercial service. In view of the success of jet engine acoustical research to date, an adequate solution to quieting an afterburner seems a reasonable expectation.

##### EFFECT ON WORLD CLIMATE

The engine of the SST will exhaust water, CO<sub>2</sub>, SO<sub>2</sub>, carbon and unburned hydrocarbons into the stratosphere. The President's Council on Environmental Quality and other groups concerned with environmental issues have questioned whether or not the exhaust of a fleet of supersonic transports could effect changes in the stratosphere, which might in turn alter some aspect of the earth's climate.

The SST as a factor in meteorology was examined by the NAS National Research Council Committee on Atmospheric Sciences. Their report (8) issued in 1966, predicted no adverse effects. More recently, the M.I.T. sponsored symposium, Study of Critical Environmental Problems (SCEP) (10) reexamined the issue. Concerns for damage to the ozone layer and for the release of CO<sub>2</sub> were dismissed. The particulates (carbon and the conversion of SO<sub>2</sub> into sulphates), as well as the release of water over the polar regions

during the winter season were identified as concerns. The SCEP felt that the particulates, especially on well used routes, could increase the air temperature along the path of flight. An increase in stratospheric air temperature of several degrees was noted in a region of the stratosphere suspected to contain volcanic dust from the Bali Volcano Mt. Agung. There were no detectable effects either to other strata of air or on the surface associated with these observations.

As to water insertion, the SCEP noted that during the winter, the polar stratosphere has a higher relative humidity primarily due to its lower temperature. Additional water, it was felt, could result in some additional cloud cover.

The SCEP did not extend these considerations to potential effects on the surface or on climate. They recommended a research program to gather additional data from which an assessment could be made.

Their recommendations are being met in a D.O.T. environmental research program, which has also been reviewed and approved by the President's Council on Environmental Quality.

An examination of the issues and concerns indicates that they are, as intended, maximally conservative. For example, stratospheric flights in the polar regions conducted regularly over the past few years do not indicate that either "false" cirrus clouds or contrails are likely. Moreover, the effects of additional clouds or of the normal cloud cover in the polar region has a minimal effect due to the high reflectance (low solar energy retention) of the surface and to the low initial solar flux in this region.

As to the particulates associated with the SST, their effects may prove extremely difficult to determine. This is because the quantities involved are not significant when compared to the stratospheric dust resulting from natural causes. The steady state operation of 1500 SST aircraft would produce about 1/27th the amount of particulates the earth attracts from space each day. Occasional volcanic action places dust in the stratosphere in volumes exceeding the potential of the SST fleet by hundreds of orders of magnitude.

#### THE SST: THE ISSUES OF ENVIRONMENTAL COMPATIBILITY

The Boeing SST will be the fastest, but not the largest of the civil transports. Its speed, the key to its productivity, is new only to civil aviation. The incorporation of supersonic capabilities in a civil transport followed 20 years of military experience and half a million hours of supersonic flight at higher as well as lower altitudes than that selected for the SST.

A successful Concorde would add 100,000 hours of supersonic flight experience to U.S. carriers alone prior to the first commercial flight of the Boeing SST.

It is likely the novelty of stratospheric flight at supersonic speed, even for commercial purposes will be gone long before the U.S. entry is prepared to share this airspace and market.

The following section reviews some of the main issues on the environmental compatibility of supersonic aircraft in general and the U.S. SST in particular.

##### I. THE SONIC BOOM

Sonic boom test programs (1) conducted by the Air Force have provided a practical and a theoretical understanding of the boom and its effects. These tests also gave several million civilians an intensive practical if not theoretical education in the phenomenon. Even when the booms were reduced far below any destructive potential by the altitude and/or distance of the source they proved hard to tolerate.

The FAA has exercised its authority over civil aircraft and has stated that the SST's

must operate at subsonic speed when flying over the United States or its territories (2). The ruling applies to all civil aircraft, domestic or foreign, but does not pertain to military aircraft. The FAA has no jurisdiction over military aircraft.

A sonic boom created by a jet fighter zooming within a few hundred feet of the ground can cause pressure changes exceeding 100 lbs. per sq. foot, easily enough to destroy certain types of buildings. Air Force tests, in which the pressure increase ("over pressure") of sonic booms was gradually increased, revealed that damage first appeared when the over pressure reached  $7\frac{1}{2}$  lbs. per square foot. At this pressure, several panels of glass in a greenhouse were cracked. (3) The greenhouse was the most fragile of the test structures and the over pressure of  $7\frac{1}{2}$  lbs. per square foot; Note that the dimension is lbs. per square foot not per square inch which is the more familiar measure of pressure. Thus sonic boom units are 1/144 of those encountered in air pressure reports, etc. was therefore regarded by the Air Force as the lower edge of the pressure range where damage to structures may occur.

The civil aircraft ruling by FAA which forbids the sonic boom over land has relaxed much of the public concern over this aspect of the SST. However, on transoceanic routes, the SST's fly supersonically and the power of the sonic boom is therefore pertinent.

The Boeing SST will reach its supersonic cruising altitude at slightly more than 60,000 feet. It will then create a boom having an overpressure on the ocean of 2 to  $2\frac{1}{2}$  pounds per square foot. Under certain atmospheric conditions, the boom pressure could be amplified, to almost double the normal 2 to  $2\frac{1}{2}$  psf over pressure. This is the pressure change experiences when one rises four floors in an elevator. Fish or surface vessels in the ocean experience this same over pressure from the passage of a three foot wave. This is an insignificant pressure change; however it should be noted that the actual change in pressure is not particularly high in the most intense of sonic booms. The phenomenon is noteworthy only because of the suddenness with which the change occurs. The low altitude pass that can destroy a building with an over pressure exceeding 100 lbs. per square foot (5% of the normal atmospheric pressure) does so because the change in pressure occurs so rapidly. A far greater change in pressure, if it occurs over a longer time period, would go unnoticed. A rise from sea level to 5000', the altitude of Denver, Colorado, for example, creates a pressure change of 260 lbs. per square foot.

If a change in air pressure occurs in 1/20th of a second or less, the change is detected as sound. The SST over pressure of  $2\frac{1}{2}$  pounds per square foot occurs in milliseconds and is like a sudden clap of thunder, not painful but certainly startling, especially when heard from a clear sky under conditions in which the boom is not masked by background noise. On an ocean voyage the startle effect would be present only if the passenger was becalmed in a quiet sea. On an ocean liner, only those on the open deck would hear it and there its effect would largely be lost in the background sounds of the ship and the ocean.

#### NOISE: MEASURING JET ENGINE SOUND

The jet aircraft engine is not only a powerful sound generator, but also a generator of sounds to which the ear is particularly sensitive. A shrill whine can stop conversation and irritate to the extreme even when its energy value is quite low. The persistence or duration of the sound also adds greatly to its irritation value.

The decibel scale, however it may be weighted to accommodate special sound measurements, is logarithmic. In essence the scale relates acoustic energy to sound perception or loudness. Each increase of ten deci-

bels signifies a ten fold rise in energy, but because the ear responds in a logarithmic manner, the ten fold rise in energy indicates a doubling of loudness. Conversely, if a sound is reduced by ten decibels, for example a reduction from 130 db. to 120 db., the lower level has only 10% of its former energy, but its loudness has been reduced by only 50% of the former value.

The decibel ratings for sound energy turned out to be useless in studies of jet engine noise. The irritation value of jet engines remained higher than that of the deep throated piston engines even when the decibel ratings of the jets were lower.

New measuring systems were devised to scale the intensity of the tones present in accordance with the sensitivity of the ear to each tone, and also to consider their duration. The basic decibel system is still used, but when properly weighted for jet aircraft engine studies it is called *Effective Perceived Noise Decibels* (EPNdb).

When the main concern is noise intensity but not duration, the "E" is not used and the unit becomes "PNdb." The Department of Transportation uses both the PNdb and the EPNdb in its sound research. New FAA regulations limiting the intensity of jet aircraft noise apply the PBdb.

#### THE SOUND OF THE SST

There are three phases of flight in which the sound of jet aircraft can become objectionable. These are: 1) the approach to landing, 2) the take-off and, 3) the climb-out. The following table compares the sound levels of the Boeing SST, the Concorde and two subsonic jets.

JET ENGINE NOISE COMPARISON (EPNdb)

	B-747	B-707	Concorde	Boeing SST
Approach to Landing <sup>1</sup>	110	118.0	.....	108
Takeoff (measured 2,100 feet to the side of runway).....	103	107.5	120	<sup>2</sup> 124
Climb-out <sup>1</sup> .....	111	118.0	110	108

<sup>1</sup> Measured 1 mile from end of runway.

<sup>2</sup> Figure of 124 EPNdb is based on today's noise suppression technology. Airframe and engine manufacturers as well as NASA and DOT are in their fifth year of jet engine noise research. These sources feel that when the SST engines enter service in 1978 or 1980, the figure of 124 EPNdb will be lowered to 118 EPNdb or less.

Everyone who is familiar with jet engine noise is also familiar with the sound of the Boeing 707. Its values are included to establish a standard for comparison.

The table shows that during two of the three critical phases of flight, approach to landing and climb out, the Boeing SST will emit about  $\frac{1}{2}$  the noise of the subsonic Boeing 707.

The claim that the SST will be four times as loud as the 707 is thus derived from the 17 EPNdb difference—each 10 EPNdb increment giving rise to a doubling factor of loudness. The fact that sound energy is increased 100 times (for a 20 EPNdb difference) in not a correct evaluation of the increase in perceived noise.

Progress in jet engine acoustic research over the past few years has been dramatic. An example may be seen in the contrast between two engines now in use. Those used in the Boeing 747 have twice the power of the engines in the Boeing 707, yet their noise level is less even during the full power take-off phase. The engines of the Boeing SST, with more than three times the thrust of the B-707 engines are quieter than any engine now in use except for the high side-line noise during take off.

Take off includes the period from brake release until the aircraft reaches a point one mile away from the end of the runway. During this interval of slightly less than two minutes, the SST is using its afterburners. Reducing the sound generated by after-

burners is a new challenge to jet engine designers. A significant portion of the afterburner noise originates from the turbulent heated gases after they have been exhausted from the engine, much like the sound produced when a gas welding torch is ignited. The research to reduce this noise has clearly shown that as the flow of hot gases is smoothed, the sound is reduced. However, the devices used thus far also reduce the engine thrust. The task is now to find a method of smoothing the flow without significantly reducing the thrust of the engines.

In the 12 years jet engines have seen commercial service, their power has been increased six fold. The results of sound reduction research, which began about five years ago, are now being applied to new jet engines. Consequently, the average noise level of these new large engines is about half that of the older ones. In other words, the noise created per pound of engine thrust has been reduced to 1/10th of its former value (in PNdb). In terms of acoustical energy, the sound emitted per pound of thrust is 1/100th of its former value.

Another eight years will pass before the Boeing SST will see its first commercial service. If history is a guide, it seems reasonable to expect that the research to suppress the excessive side-line take off noise of these new engines will also be successful.

#### II. SUPERSONIC FLIGHT: THE ISSUES OF POLLUTION AND METEOROLOGY

If there could be less transportation, then the machines used for transportation would consume less fuel thereby reducing the quantity of pollutants released into the air. If, on the other hand, the movement of goods and people has become an essential part of our ecological system, then the causes of cleaner air are best served by fostering technologies which raise the productivity of transportation systems and equipment so that less of it will be needed while simultaneously devising improvements to power sources to steadily reduce their release of noxious combustion products.

The ideal transportation system is one which accomplishes its work load satisfactorily with a minimum impact on the environment, and a minimum system cost.

The preceding sections on noise and sonic boom reviewed the Boeing SST in the context of its being a new entry in the air transportation fleet, the whole of which is undergoing a steady evolution toward quieter operation. The following sections examine a) general problem of atmospheric pollution; b) the SST as a source of pollution and c) the SST as a factor in the weather.

#### THE PROBLEM OF AIR POLLUTION

Exhaust fumes and aerosols are poured into the air of most cities at rates which more often than not exceed the dilution rate of natural air movement. A combination of terrain and weather or the presence of a calm air mass over a city can result in a period of increasing aerial contamination. At best the result may be an irritating threat to health and at worst it can be lethal.

This is a serious threat, one requiring strong carefully aimed measures to correct. Understandably, a challenge to one's breath can cause fright, as well as irrational, often self defeating reactions. A prophesy of a doomed atmosphere gathers a quick following. Exhaust fumes and smarting eyes do little to broaden one's perception of the problem. Yet, if the city is viewed from a distance, from orbit for example, the city and all its vapors appears to be a vanishingly small dot on a broad clear expanse. In contrast, the people within the city, looking outward through a concentrated cloud of poor air, see the visible world only for a short distance. The distant world is lost in a seemingly all pervasive gray, and the dark prophesies which lay down the Earth and its life as a sacrifice

to the machines, becomes believable calls to action to many.

#### THE SCENARIOS OF DOOM

In the most common of these prophecies, the final end of life on Earth is described in four uniquely different versions:

(a) man will exhaust his oxygen supply and suffocate;

(b) water placed in the stratosphere by the SST will cause clouds, shield the Earth from the Sun thus causing a period of final glaciation;

(c) water placed in the stratosphere by the SST will cause clouds which will insulate the Earth and cause a steady rise in temperature, ultimately a heat-death of life on Earth; and

(d) water placed in the stratosphere by the SST might destroy the ozone layer, which stops part of the ultraviolet light from the Sun. Without the ozone layer, all but marine life would be eliminated by ultraviolet radiation.

Two factors stand out in these scenarios. First, there is the scale. The forces unleashed by man, the flight of aircraft in these cases, are viewed as more potent than the combined effect of all similar forces unleashed by nature. Second, the real target in air pollution, the correction of the noxious cloud permeating a city, is relegated to a lesser role, one present only by inference in the first scenario and absent in the other three.

Cleansing the air of cities requires positive, concerted planning and action. London suffered under the dense yellow-gray smog of soft coal effluents for hundreds of years before the recent, economically daring solution which required the use of cleaner burning fuels. Improved personal transportation, adequate transit services, innovative transportation systems are as difficult to finance as they are to plan.

The two goals, that of saving the Earth from some form of atmospheric cataclysm and that of cleaning the city air supply offer a vivid contrast. City smog removal requires positive action, expenditure of funds and specific pressure on technical advancement. Translation of the goal into a concern for the entire Earth seemingly preserves a concern for the atmosphere. But on this lofty plane, the threat to the cities loses much of its urgent quality. The scenarios of global destruction see the world's salvation only in terms of negative, not positive action. Their formula is simple. Some cataclysmic end to life on earth is visualized e.g. the depletion of the earth's oxygen. A few hypothetical associations or "causes" are named e.g. the burning of fossil fuels. In the doom scenarios, all that is needed to save life on earth is for man to cease doing whatever is selected as the cause of destruction, e.g. man will expire for lack of oxygen unless he reduces his consumption of fossil fuel. (4)

The relationship between cause and effect of these and other similar concerns is examined in the following pages. As an overview, however, cataclysmic events have occurred many times in the earth history. They have resulted from the interplay of natural forces and were not precipitated by man's actions. There is no reasonable comparison between the magnitude of natural forces and those possessed by man. At this point in man's development, it seems unlikely that he can ever amass the power he might need to save the environment from one of these natural cataclysms. However, with continued development, he may accrue the knowledge and power he would need to save himself should another one occur. Meanwhile, his continued technical progress can allow the creation of vehicles and power sources which meet the requirements of his life without impairing the quality of it.

#### GLOBAL VS. LOCAL AIR POLLUTION: LOCATING THE TARGET

To generalize the condition in a smog bound city to the rest of the Earth disregards

the relative scale that exists between the city and its envelope of air, to the Earth and its atmosphere.

Where the interest becomes global, the problem must be placed in a global context. In a global context, the contaminants released by man are equated with the amount and natural fluctuations of the same or similar contaminants natural to the Earth's atmosphere. The rate at which the natural (or total) concentration of gasses and aerosols fluctuate yields information on the ability of the atmosphere to cycle or dispose of or retain them. Similarly, the rate at which man uses fuel (and oxygen) can be related to the total oxygen supply and also to the renewal sources of oxygen.

#### MAN'S USE OF OXYGEN VS. THE OXYGEN SUPPLY

Oxygen accounts for 20.95% of the total atmospheric mass, or  $1.3 \times 10^{15}$  tons. All remaining recoverable fossil fuel reserves total  $2.97 \times 10^{12}$  tons. If man were to burn all of this fuel, the total recoverable reserves, he would consume 3% of the available atmospheric oxygen. The percentage of oxygen in the atmosphere would be reduced from 20.95% to 20.32%. The concentration of oxygen available for breathing reduces by an amount six times greater than this when one travels from Washington, D.C. to Denver, Colorado due to the lower air pressure in Denver. Man is therefore incapable of exhausting, or even significantly reducing his oxygen supply.

As to the role of plant life in sustaining this reservoir, Wallace Broecker (5) offers the following comment:

"First of all, each square meter of earth surface is covered by 60,000 moles of oxygen gas. Plants living in both the ocean and on land produce annually about 8 moles of oxygen per square meter of earth surface. Animals and bacteria destroy virtually all of the products of this photosynthetic activity; hence they devour an amount of oxygen nearly identical to that generated by plants. If we use the rate at which organic carbon enters the sediments of the ocean as a measure of the amount of the photosynthetic product preserved each year we find that it is about  $3 \times 10^{-3}$  mole of carbon per square meter per year. Thus, animals and bacteria are destroying all but 4 parts in 10,000 of the oxygen generated each year. The net annual oxygen production corresponds to about 1 part in 15 million of the oxygen present in the atmosphere. In all likelihood even this small amount of oxygen is being destroyed through the oxidation of the reduced carbon, iron, and sulfur being exposed each year to weathering processes. Thus, in its natural state the oxygen content of our atmosphere is exceedingly well buffered and virtually immune to change in a short time scale (that is, 100 to 1000 years).

"Man has recovered altogether about  $10^{12}$  moles of fossil carbon from the Earth's sedimentary rocks. The fuels bearing this carbon have been combusted as a source of energy. The carbon dioxide produced as a by-product of this enterprise is equal in amount to 18 percent of the carbon dioxide contained in our atmosphere. Roughly 2 moles of atmospheric oxygen was required to liberate each mole of this carbon dioxide from its fossil fuel source. By so doing we have used up only 7 out of 10,000 oxygen molecules available to us. If we continue to burn chemical fuels at our currently accelerating rate (5 percent per year), then by the year 2000 we shall have consumed only about 0.2 percent of the available oxygen (20 molecules in every 10,000). If we were to burn all known fossil fuel reserves we would use less than 3 percent of the available oxygen. Clearly a general depletion of the atmospheric oxygen supply via the consumption of fossil fuels is not possible in the foreseeable future."

#### THE EFFECTS OF INCREASING ATMOSPHERIC CARBON DIOXIDE

When carbon dioxide ( $\text{CO}_2$ ) is released as a combustion product, it is distributed throughout the entire atmosphere. Where and how it is released does not affect this dispersion. It is absorbed by the ocean and partly by plants and other life, and part remains in the air. The division of  $\text{CO}_2$  between these three reservoirs holds a fairly constant ratio.

Its distribution and absorption rate therefore seems to a function of atmospheric concentration. That is, the more  $\text{CO}_2$  there is to absorb, the more is absorbed. The atmosphere, all living organisms and the ocean thus become reservoirs for  $\text{CO}_2$  and the available quantity released to the air is "partitioned" between them.

Accurate measurements of the partitioning were made for the first time during the period 1958 through 1963. (6)

"Beginning in 1958 and extending through 1963, two nearly continuous series of measurements of atmospheric  $\text{CO}_2$  content were made. One of these series was taken at the U.S. Weather Bureau station near the top of Mauna Loa Mountain in Hawaii (Pales and Keeling, 1965), the other at the United States scientific station at the South Pole (Brown and Keeling, 1965). The measurements were carried out on an infrared gas spectrometer, with a relative accuracy for a single measurement of about = 0.1 ppm. The observing stations are located near the centers of vast atmospheric mixing areas, far from uncontrollable sources of contaminants. Because of these nearly ideal locations, together with the high precision of the instruments, and the extreme care with which the samples were taken, these measurements make it possible to estimate the secular trend of atmospheric  $\text{CO}_2$  with an accuracy greater by two orders of magnitude than ever before. Some fifteen thousand measurements were carried out during the five-year period.

"The data show, clearly and conclusively, that from 1958 through 1963 the carbon dioxide content of the atmosphere increased by 1.36 percent. The increase from year to year was quite regular, close to the average annual value of 0.23 percent. By comparing the measured increase with the known quantity of carbon dioxide produced by fossil fuel combustion we see that almost exactly half of the fossil fuel  $\text{CO}_2$  apparently remained in the atmosphere."

The table below (6) shows the increase in  $\text{CO}_2$  as a result of the complete combustion of all recoverable fossil fuels. (1)

TABLE 5.—ESTIMATED REMAINING RECOVERABLE RESERVES OF FOSSIL FUELS

	10 <sup>10</sup> metric tons	Carbon dioxide equivalent, 10 <sup>10</sup> gms	As percent of atmospheric $\text{CO}_2$ in 1950
Coal and lignite <sup>1</sup> .....	2,320	5.88	252
Petroleum and natural gas liquids <sup>2</sup> .....	212	.67	29
Natural gas <sup>3</sup> .....	166	.43	18
Tar sands <sup>2</sup> .....	75	.24	10
Oil shales <sup>2</sup> .....	198	.63	27
Total.....	2,971	7.85	336

<sup>1</sup> Assumed to be 20 percent lignite containing 45 percent carbon, and 80 percent bituminous coal containing 75 percent carbon.

<sup>2</sup> Assumed carbon content of petroleum, natural gas liquids, and hydrocarbons recoverable from tar sands and oil shales = 86 percent.

<sup>3</sup> Assumed composition of natural gas by volume:  $\text{CH}_4 = 80$  percent,  $\text{C}_2\text{H}_6 = 15$  percent,  $\text{N}_2 = 5$  percent.

Source: Computed from data given by M. King Hubbert, "Energy Resources, a Report to the Committee on Natural Resources of the National Academy of Sciences—National Research Council," NAS Publication 1000-D, 1962, pp. 1-141.

From this data the following conclusion is reached (6):

"We may conclude that the total  $\text{CO}_2$  addi-

tion from fossil fuel combustion will be a little over 3 times the atmospheric content, and that, if present, partitions between reservoirs are maintained, the CO<sub>2</sub> in the atmosphere could increase by nearly 170 percent."

The atmosphere now contains CO<sub>2</sub> in the ratio of 3 parts in 10,000 by volume. Complete combustion of all fuel reserves would increase this by 170%. It would then become 8 parts in 10,000. Since no more CO<sub>2</sub> could be added (from further combustion) the amount would show a yearly decline as it is partitioned to the biosphere and to the ocean.

The actual quantity of CO<sub>2</sub> in the atmosphere at any given time in the future will therefore reach a maximum between 3 and 8 parts in 10,000. Estimates of atmospheric CO<sub>2</sub> (6) have been made for the year 2000 based on various rates of fuel consumption. These calculations are summarized as follows (1):

"Assuming further that the proportion remaining in the atmosphere continues to be half the total quantity injected, the increase in atmospheric CO<sub>2</sub> in the year 2000 could be somewhere between 14 percent and 30 percent (of amount now present)."

In other words an increase of 30% would change the ratio from 3 parts in 10,000 to almost 4 parts in 10,000.

#### CO<sub>2</sub> AND THE WEATHER

Both CO<sub>2</sub> and water vapor are absorbers of infra red radiation. That is, heat from the sun, or heat reflected from the Earth pass through the oxygen and nitrogen in the atmosphere without being absorbed, hence without warming them. In contrast, both CO<sub>2</sub> and water vapor will absorb this heat, hence become sources of heat in the atmosphere. Hence their presence in the air can result in a warming effect on the air.

Heat absorbed by molecules in the atmosphere is re-radiated, not stored. The radiation emitted is omnidirectional, hence is partly turned back into space.

Although CO<sub>2</sub> and water vapor are similar in their heat absorbing and re-radiating and in their air warming characteristics, they differ sharply in another effect. CO<sub>2</sub> concentrations in the atmosphere tend to remain fairly constant even though the air temperature changes. In contrast, the warmer the air becomes, the more water vapor it can hold. Therefore the ratio of CO<sub>2</sub> to water vapor varies widely with air temperature, hence with latitude and with altitude.

Water serves as a heat pump both to air masses and to differentially heated areas of the Earth. As water changes state to become water vapor, energy is absorbed. The water vapor, on reaching a cooler point in the atmosphere, condenses and in the process, releases its energy. The energy is then radiated equally in all directions, about half into space. The condensate, as a cloud, also reflects incoming energy back into space. The cloud may then descend as rain or re-evaporate and transfer freshly absorbed energy to still another point.

Seventy percent of the Earth's surface is water and most of the Earth's weather is produced by the air-water energy exchange.

The role of CO<sub>2</sub> in the atmosphere is undisputed in terms of its heat absorbing and re-radiating capability. The effect of this action is far more difficult to determine due to the fact that the warming action of CO<sub>2</sub> is always confounded with other and larger heating and cooling mechanisms. It should also be noted that the net energy absorbed by the Earth is related more to its reflectivity than to air temperature. Highly reflective desert regions for example, have extremely hot air while in the sunlight but cool rapidly once the sun has set. *Air temperature therefore has no direct relationship to energy or heat actually transferred to the Earth.*

Were it not for the stabilizing and counterbalancing effects of larger variables, i.e. water vapor, surface reflectivity, cloud formation,

etc. the warming role of CO<sub>2</sub> in the atmosphere could be computed. This is the so called "greenhouse" effect.

The overall warming of the atmosphere between 1885 and 1940 was generally felt to be related to rises in the concentration of atmospheric CO<sub>2</sub>. Yet since that time, CO<sub>2</sub> insertion has markedly increased but temperatures have declined slightly:

"One might suppose that the increase in atmospheric CO<sub>2</sub> over the past 100 years should have already brought about significant climatic changes, and indeed some scientists have suggested this is so. The English meteorologist, G. S. Callendar (1938, 1940, 1949), writing in the late 1930's and the 1940's on the basis of the crude data then available, believed that the increase in atmospheric CO<sub>2</sub> from 1850 to 1940 was at least 10%. He thought this increase could account quantitatively for the observed warming of northern Europe and northern North America that began in the 1880's. From Table 2 and our estimate of the CO<sub>2</sub> partition between the atmosphere, the ocean, and the biosphere, we see that the actual CO<sub>2</sub> increase in the atmosphere prior to 1940 was only 4%, at least from fossil fuel combustion. This was probably insufficient to produce the observed temperature changes. [But it should be noted that up to 2.5% of the atmospheric carbon dioxide (after partition with the ocean and the biosphere) could also have been added by the oxidation of soil humus in newly cultivated lands.]"

"As Mitchell (1961, 1963) has shown, atmospheric warming between 1885 and 1940 was world-wide phenomenon. Area-weighted averages for surface temperature over the entire earth show a rise in mean annual air temperature of about 0.5°C (0.9°F). World mean winter temperatures rose by 0.9°C (1.6°F). Warming occurred in both hemispheres and at all latitudes, but the largest annual rise (0.9°C or 1.6°F) was observed between 40° and 70°N latitudes. In these latitudes, the average winter temperatures rose by 1.6°C (2.8°F).

"The pronounced warming of the surface air did not continue much beyond 1940. Between 1940 and 1960 additional warming occurred in northern Europe and North America, but for the world as a whole and also for the northern hemisphere, there was a slight lowering of about 0.1°C (0.2°F) in mean annual air temperature (Mitchell, 1963). Yet during this period more than 40% of the total CO<sub>2</sub> increase from fossil fuel combustion occurred. We must conclude that climatic 'noise' from other processes has at least partially masked any effects on climate due to past increases in atmospheric CO<sub>2</sub> content." (6)

In view of the overall stability of the Earth's temperature (a rise of one to two degrees between 1885 and 1940 and a fall of a few tenths of a degree over the next 20 years) the role of CO<sub>2</sub>, or the potency of a "greenhouse" effect seems rather tenuous. However, the failure of the atmospheric models which predicted the warming effect did not cause them to be abandoned. Another approach is to ask how much colder the climate would be without the atmospheric CO<sub>2</sub>. One answer to this estimates a drop of 18°F. (1):

"Models of atmospheric thermal equilibrium in which vertical convection is allowed to maintain the observed vertical temperature gradient have recently been constructed by S. Manabe of the U.S. Weather Bureau (Manabe and Stricker, 1964; Manabe, 1965). These show that the effect of infra red absorption from the present atmospheric carbon dioxide at mid latitudes is to maintain a ground temperature about 10°C (18°F) higher than would prevail if no CO<sub>2</sub> were present. An increase in the CO<sub>2</sub> content without a change in absolute humidity would, according to these models, produce a somewhat smaller surface temperature rise than

that estimated by Moller. But a considerable change would occur in the stratosphere, where the CO<sub>2</sub> concentration by volume is perhaps 50 times that of water vapor. A 25% rise in carbon dioxide would cause stratospheric temperatures to fall by perhaps 2°C (3.6°F) at an altitude of 30 kilometers (about 100,000 feet) and by 4°C (7°F) at 40 kilometers (about 130,000 feet.)" (6)

Since the CO<sub>2</sub> now present in the air can not be removed artificially, the predicted drop in temperature of 18°F can not be tested. However, one difficulty with this approach is clear. The effect of CO<sub>2</sub> in all models is to predict higher temperatures in the lower part of the atmosphere. Also the concentration of CO<sub>2</sub> in the total atmosphere has risen at a steadily increasing rate since 1885. Yet during that time the mean temperature of the Earth elevated slightly during the time of least concentration, then fell slightly during the time of highest concentration.

It would therefore seem that the history of CO<sub>2</sub> in the atmosphere shows its effect to be unknown, not for lack of knowledge on the infra-red absorption and heating values of CO<sub>2</sub> but simply because CO<sub>2</sub> in the context of all other variables and stabilizing factors, produces an effect so small that it is lost.

It would appear that increasing concentrations of CO<sub>2</sub> can not be shown to be a significant variable to the climate. As a pollutant, CO<sub>2</sub> is colorless, odorless. Except for water vapor, which is not generally considered a pollutant, CO<sub>2</sub> is the least toxic effluent of combustion. It is soluble in water and is used to carbonate soft drinks and beer. An individual is exposed to much higher concentrations of CO<sub>2</sub> in carbonated beverages than in a dense smog condition. When the concentration of combustion products reaches a level where physiological damage can occur, the damage is done by combustion effluents other than CO<sub>2</sub>.

#### FUEL CONSUMED FOR WORK PERFORMED

Within the city, the work efficiency obtained from fuel becomes a matter of environmental safety as well as quality. The table below compares fuel consumed per horsepower/hour for various types of power sources. (7)

Power Plant:	lb. fuel/hp. hr.
1. Draft Horse.....	10
2. Coal fired locomotive.....	4
3. Automobile.....	0.9
4. Diesel-Electric Locomotive.....	0.6
5. Aircraft Piston Engine.....	0.5
6. Fan Jet (Subsonic Aircraft).....	0.4
7. Jet engine (supersonic aircraft).....	0.3

Aerial commuter systems such as VTOL and STOL offer the city high production vehicles equipped with higher temperature cleaner burning engines compared to surface vehicle standards. Of more importance to the city is that exhaust from these vehicles is released at an altitude which gives the normal air movement a much more effective dilution rate than it can have for slow moving densely packed surface vehicles.

It should also be noted that pollution from surface vehicles while related to efficiency, is even more related to speed of traffic movement. Traffic congestion multiplies the running time (hence effluents) of all vehicles involved.

The effluents of combustion emitted outside of a city do not present a serious pollution problem when compared to those allowed to concentrate within a city. However, they can not be ignored.

Aircraft, particularly jet engine aircraft emit the lowest quantity of pollutants for fuel used of any vehicle. Their effluents are also released in the air where they may be dispersed readily.

The following table shows the pollutant yield for various vehicle engine systems based on using the same quantity of fuel. (7)

POUNDS POLLUTANT EMITTED PER 1,000 POUNDS FUEL CONSUMED

Vehicle	Carbon monoxide	Oxides of nitrogen	Hydrocarbons	Particulates	Sulfur oxides	Total (rounded)
Subsonic jet.....	0.1	3.0	0.50	1	1	6.5
SST.....	.9	3.5	.50	1	1	6.9
Oceanliner.....	(1)	10.0	.01	1	20	31.0
Piston airliner.....	100.0	50.0	15	2	1	168.0
Auto.....	200.0	20.0	40	1	1	262.0

<sup>1</sup> Negligible.

We should now compare the work potential obtained, that can be done from the same fixed amount of fuel. The next table places the comparison on the amount of

effluents released per 1,000 seat miles for the same vehicles.

Finally, we may examine the same vehicles in terms of their productivity. The more productive a vehicle becomes, the low-

er the number of vehicles required to handle a given work load. A reduction in the number of vehicles required is of great importance to transportation economics as explained earlier, it is also a pollution variable.

EMISSIONS PER 1,000 SEAT MILES

Vehicle	Fuel pounds (thousands of miles)	Pounds of pollutants emitted per 1,000 seat miles					Total (rounded)
		Carbon monoxide	Oxides of nitrogen	Hydrocarbons	Particulates	Sulphur oxides	
Subsonic jet.....	170	0.17	0.51	0.1	0.17	0.17	1.1
SST.....	193	.17	.68	.10	.19	.19	1.3
Oceanliner.....	660	(1)	6.6	.1	.6	13.2	20.5
Piston aircraft.....	133	13.3	6.6	2	.2	.1	22.3
Auto.....	100	20	2.0	4	.1	.1	26.0

<sup>1</sup> Negligible.

When a vehicle must be overhauled, a great deal of power (hence fuel consumption) is required. For example, six subsonic jets (like the Boeing 707) must be maintained to do the work that can be handled by a single Boeing SST. The table below compares the same set of vehicles in terms of relative productivity. (4)

In all comparisons, the turbine engine powered aircraft is superior to other systems. The piston engine, particularly when used in automobiles, is clearly the worst.

The jet aircraft account for 3 times the intercity passenger miles of all other carriers combined. In local travel and commuting however, the automobile remains unchallenged.

Research to develop low cost automobile exhaust treatment systems is progressing, but must necessarily be regarded as a first step. These systems will improve air quality by removing a percentage of the more toxic effluents from the exhaust. However, they do not alter the total quantity of fuel consumed nor the extremely low vehicle productivity.

The comparative data shown suggests that the technology of the high temperature turbine used in modern aircraft if applied to automobiles, would significantly reduce exhaust concentration and toxicity. The aircraft turbine when compared to the automobile engine produces less than 3% as much toxic effluents for the same amount of fuel. The amount of fuel required per hp/hr is also reduced by more than 50%.

III. STRATOSPHERIC CONTAMINATION FROM THE SST

Water vapor

A normal fleet of 400 supersonic transports making 4 trips per day will inject 150,000 tons of water per day into the stratosphere. In addition to the water, the exhaust gases contain particulate matter, carbon dioxide, sulphur dioxide and other gaseous products.

Speculation over the consequences of this intrusion into a relatively unused layer of the atmosphere have included fears that climatic changes would occur. Both lethal rise in temperature and a new ice age have been predicted. A permanent cloud cover was associated with both forecasts. Another postulation includes a potential destruction of the ozone layer with a subsequent intensification of ultra violet irradiation.

The stability of the stratosphere has also been questioned. The idea here postulates that the steady state of the stratosphere may result from a critically sensitive balance of natural forces, and man's use of it could de-

stroy the critical balance and trigger vast changes.

Man's concern that he may alter the climate before he learns to control it is far from new. The Earth's climate is often identified as the price man will pay for some new (hence unfamiliar) technical or scientific development. In recent times, the indictment of climate change has been directed at nuclear detonations, rocket penetrations and rocket exhaust products.

The latest item to receive this indictment is the supersonic transport. Supersonic flight is unprecedented in the world of civil aircraft. A by-product of supersonic flight, the sonic boom (from military planes) served as its debut to the civilian world. The potential utility of the speed for civil applications was hardly suggested by the startling shock of this explosive greeting. Continued testing (by the Air Force in the early 1960's) to study sonic boom effects left many cities of people with more awe than understanding and more anger than curiosity. Supersonic flight to the military had become commonplace by then. It dates back 23 years, a period long enough for many thousand supersonic aircraft to have accrued an estimated—total furnished by D.O.D.—half a million supersonic flight hours at altitudes between 50,000 and 80,000 feet. Similar experience is common to most of the world's Air Forces.

But, the familiarity of the military with supersonic flight does not transfer to the public sector in any automatic fashion. The civil SST had a stark newness and an aura of great power. If it were allowed to fly, would it upset our atmosphere? The National Research Council of the National Academy of Science commented as follows:

"The aerospace age has added another dimension to the problem of inadvertent weather modification. The advent of supersonic transport aircraft, flying routinely in the stratosphere, has raised a question concerning possible consequences of the additional water vapor to be injected by these

RELATIVE PRODUCTIVITY

Vehicle	Speed m.p.h.	Fuel consumption (pounds per hour)	Seating capacity	Vehicles required for 2,000 seats	Vehicles required for equal work/year
SST.....	1,750	115,000	270	7.4	1.0
Oceanliner.....	40	53,000	2,000	1.0	5.9
Subsonic jet.....	550	13,000	140	14.3	6.1
Piston airplane.....	350	3,000	65	31.0	20.8
Auto.....	60	24	4	500.0	1,970.0

aircraft into the stratosphere. Our tentative conclusion, based on an assumed traffic volume of four flights per day for 400 supersonic transport planes, is that neither additional cloudiness (contrails) nor water-vapor absorption of a long-wave radiation will be sufficient to disturb appreciably either stratospheric properties or the large-scale circulations that are influenced by its thermodynamic state." (8)

An analysis of the problem by the Environmental Science Services Administration led to the following comment:

"It is the view of the Office of Meteorological Research that although an unequivocal answer cannot be offered, the general opinion of a large group of scientists almost unanimously rejects any significant threat to modification of the weather." (9)

Regardless of the authority behind these statements, they have had little effect on the disposition of this concern. Perhaps these analyses would have carried greater force if the meteorologists had explained the place this man-made perturbation holds in their realm of the atmosphere and its natural forces.

Let us examine some of the reasons why the meteorologists who were quoted were not disturbed by the prospect of water injection from a fleet of SST's.

During 1967, three common sources of combustion in the United States poured about 1.2 billion tons of water into the air, as follows:

	Hydrocarbon fuel burned, 10 <sup>6</sup> tons
Power plants.....	447
Automobiles.....	220
Aircraft.....	25
Total.....	692

Since each pound of fuel burned produces about 1½ lb of water, the burning of 692-million tons of hydrocarbon fuels will produce approximately a billion tons of water.

This water, ejected as vapor, becomes a factor in the equilibrium of water absorbed or released by the atmosphere.

How much of a factor is a billion tons of water?

One often hear reference to "our sea of air." In a literal sense, the average moisture level of the air would indeed make a sea. On an average day our "sea" in the air weighs approximately 150-trillion tons. Condensed in one place this water would form a 3000-sq.-mi. 1 mi. deep.

We can now place the water generated by burning fuels in its global context. If the billion tons of water generated in a year by the sources cited could be added to the air in a single second, it would add 1 part in 100,000 to the water normal to the atmosphere. Normal fluctuations in the atmospheric water content exceed this quantity many thousand fold.

Our projected fleet of SST's will occupy a previously unused part of the Earth's air envelope. Cruising height of 12 mi. will be five or six miles above that of conventional jet transports. Consequently, the atmospheric volume used for air travel will be almost doubled. The useful volume of air space is now about 1.2-billion cu. mi. With the SST the useful volume will rise to about 2½-billion cu. mi.

If we relate the water produced by fuel consumption of the fleet of SST's to the water normal to the air, it appears as only 1 part in 1 billion. However, the water normal to the air is concentrated in the warmer, more dense air near the Earth's surface.

In considering this aspect of the problem we can begin with the following observations. Up to 200,000 tons of water will be ejected over a flight path of some 2-million miles. The water would therefore be dispersed at the rate of about 200 lb. per mile.

If the relative humidity happened to be near saturation in a particular section of the normally dry (2 or 3% relative humidity) stratosphere, contrail could form. It would exist until it was dispersed into an area of air somewhat dryer and then it would become invisible, as water vapor.

The expansion of the water vapor behind the aircraft is rapid and continues until equilibrium with the surrounding air is achieved. Water vapor, like CO<sub>2</sub>, absorbs energy in the infrared region of the spectrum. If one attempts to measure the change in radiation intensity on a square foot of Earth surface within about two minutes of the fly-over, he will be seeking a change in sunlight resulting from the light penetrating an expanding band of water vapor which by that time would have merged with the wing tip vortices. These two rotating tubes of air would have a total cross section of about 200,000 square feet.

The SST requires two seconds to fly a mile. Therefore, two minutes after passage the expanding water vapor would occupy a volume of a billion cubic feet of air per mile. Measuring solar energy intensity on a square foot area directly beneath one of the tubes (about 350" diameter), existing at this instant would require detecting changes associated with the filtering efficiency of .0024 ounce of vapor (if weighed as water). Measurement would be most uncertain, if possible at all.

#### *Gradual accumulation of water in the stratosphere*

However small the daily effect may be, one aspect of the question remains. The SST, once in service, will remain in service. Will the year-by-year deposits of water cause a gradual accumulation which could eventually affect the normal environment? This question asks whether or not this normally dry, high layer of air contains mechanisms to preserve its equilibrium. It further asks: Will the water from the SST accumulate with time or be disposed of by the natural mech-

anisms which now preserve the equilibrium of the stratosphere?

The recently concluded symposium at Williams College to study critical environmental problems tentatively concluded that in cooler (polar) areas, the stratosphere could accumulate enough water for increased cloudiness. In expressing their concern, the symposium recommended that tests and research be conducted to determine first whether or not additional clouds would occur and second what effect these clouds might have.

To place these concerns in perspective, it should be noted that the stratosphere does, indeed, possess natural mechanisms which hold its conditions relatively constant. The higher strata of the atmosphere are not immune from the effects of low-altitude weather. A single, large cumulonimbus cloud, common to the tropics, can inject as much water vapor into the stratosphere as would a fleet of SST's making 1600 flights on a given day. (6)

The number of such injections per day is estimated to be between 2 thousand and 6 thousand. Seasonal variations and low altitude weather changes give a wide range to this daily insertion of water from natural causes. The relative humidity of the stratosphere, however, remains quite stable and very low. ESSA data shows that over the past five years the water content of the stratosphere has shown a slow increase and is now 50% greater than it was five years ago. In number, however, this 50% increase is the difference between 2 parts per million (ppm) and 3 ppm.

About 20% of the atmosphere lies above 38,000 feet. This quantity of air weighs  $11.4 \times 10^{14}$  tons. Stratospheric water would therefore be approximately:

at 2 ppm— $22.8 \times 10^8$  tons  
at 3 ppm— $34.2 \times 10^8$  tons

Some idea of the water cycling capability of the stratosphere can be obtained by comparing the relatively stable amount of water present in the stratosphere with the amount received from tropical weather each day.

If we use the ESSA estimate of approximately 150,000 tons of water inserted into the tropical stratosphere from a simple large cumulonimbus cloud, then for each 500 such daily events the stratosphere would receive  $75 \times 10^8$  tons of water.

This rate of water insertion (500 cumulonimbus clouds per day) would require 45 days to place in the stratosphere an amount of water equal to that now present. This consideration is less important than the fact that the water level in the stratosphere is extremely constant. To remain constant, or approximately so, the stratosphere must release all the water it receives each day above the normal to its stable state.

For each 500 large cumulonimbus clouds that occur each day in the tropics, the stratosphere receives but also releases seventy five million tons of water. The water injected by a fleet of 500 SST's would be 0.002 of this amount and being water, would be subject to the same cycling mechanisms. The stratosphere is dry, not because it lacks exposure to huge quantities of water, but because its natural mechanisms tend to stabilize its water content at a low level. Water beyond this level is rejected.

The cycle time for materials placed in the stratosphere is uncertain. The period of 18 months is often used. The figure was derived from fall-out detection following a nuclear test. The nuclear decay of the fall out indicated an 18 month period from the initial explosion. The cycle time of water placed in the stratosphere would have little bearing on stratospheric humidity. That is, the water released each day is approximately equal to the amount received, but it is neither likely nor necessary that the water either released or absorbed be the same water. When air is circulated into a cooler region, it be-

comes less able to carry water. A temperature change can cause condensation of water to occur, and the water will condense without regard to its time of residence in the air.

If we assumed that the water placed in the stratosphere actually did take 18 months to be cycled out, the supply of water placed in the stratosphere would rise steadily to reach a maximum in 18 months of  $8.1 \times 10^7$  tons. This amount would boost the now normal 3 ppm to a new constant level of about 3.4 ppm. This Study on Critical Environmental Problems (SCEP) (10), using a similar approach for this assumption (18 months cycle) estimated the increase in stratospheric water would stabilize at a 10% increase or rise from 3.0 ppm to a maximum 3.3 ppm.

It should be noted that the rise in stratospheric humidity based on a residence time assumption for water is at variance with the observation that the stratosphere does not retain the water to which it is exposed except for the amount which sustains its steady state humidity. The increase based on assumption of a residence time is therefore a "worst case" hypothesis.

Finally, should the "worst case" be true, the increase would represent a change only one fifth as great as the normal variation noted over the past five years.

During the winter season in the polar region, a local cloud effect was hypothesized by the SCEP. This cloud effect, if it occurs could be a contrail or a cirrus-like formation. Although stratospheric flights in the polar regions have not indicated that contrails or false cirrus clouds have occurred during the past two years of observation, these flight experiments will continue.

#### *Volcanic events: A test of stratospheric stability*

Aircraft flying in the stratosphere deposit water, gaseous products and particulates. Regular use of the stratosphere by civil SST's will increase the amount over that now being injected by military aircraft.

The issue may be placed in perspective by examining the effects on stratospheric stability, ozone, and world weather of volcanic events. A volcanic eruption is a good test of stratospheric stability. Millions of tons of gas, water, dust and chemicals can be injected in a single day. The stratosphere receives the full impact of the injection because the injection is complete before cycling-out can start.

The National Center for Atmospheric Research (NCAR) cites six volcanic events in recent times which injected enough material to cause a decline in world temperature through reflection or absorption of re-radiation of solar energy:

"Volcanic dust has been held responsible for several more recent dips in world temperature means, such as the notable temperature declines in 1787, 1816 [the "year without a summer"], 1837, 1884, 1893, and 1912."

Particulates from Volcanic action require about a year to settle. If the particles are exceptionally fine, their residence is longer. The finer particles are in a spherical shell known as the Junge layer at an altitude of about 60,000 feet.

The content of volcanic emission is not limited to water and inert ash. It is frequently highly reactive (11):

"Analyses of material from Kilauea, in both its noneruptive and eruptive phases, show that more than 95% of the fume particles are sulfuric acid droplets, often partially neutralized with ammonium and calcium ions. Other particles consist of ammonium bisulfate, ammonium sulfate, ammonium chloride, sulfur, and calcium and magnesium sulfates. The volcanic particles from Mayon contain all the same substances, but there is on the whole much less acid than at Kilauea. A considerable amount of ash, com-

posed of fine particles of lava, was present in Mayon samples. Also present were many tiny spherules, in concentrations indicating that they originated from the volcanic action."

Perhaps the greatest burden placed on the stratosphere in recent time occurred at Krakatoa.

The Krakatoa eruption replaced an island containing 14 cubic miles of rock with a flat plane a mile across on the ocean floor lying beneath 1000' of water. Dr. Melvin A. Cook, one of the world's foremost authorities on explosives, computes the energy released by Krakatoa as equivalent to 5,000 megatons of TNT (12). The column of efflux left the Earth's surface at velocities exceeding mach 3. The resulting sonic boom was audible 3000 miles away.

The shock wave, detectable on barographs, traveled around the earth, reflected from itself, and returned, repeating the cycle four times before dissipating below the sensitivity of available instruments.

Estimates by Ernst Behrendt indicate that the efflux included a cubic mile of sea water in the form of super heated vapor. Behrendt's account was published by the American Nature Association (Nature Magazine, March 1946).

Sightings at the time produced estimates of the altitude achieved by the blast as 150,000 feet. Several cubic miles of materials, rock, lava, steam and water were pulverized and blended by shock waves and heat and brought night-time darkness to areas within a hundred mile radius.

The residue circled the Earth, giving the moon a green tint and turning the setting sun blue, grey or green for the better part of a year.

Here again it would appear that several cubic miles of water, chemicals and solids, interacting with the sunlight for over a year, as they cycled out of the air, caused no noted or dramatic effects on long term temperature cycles, world weather, or life on earth due to ozone disturbance. (It may be noted that the Junge layer and the area of highest ozone density coincide in altitude).

The contaminants placed into the air by the SST are not comparable either in quantity or chemical reactivity to insertions the stratosphere routinely experience from natural causes.

#### *Particulates from the SST*

Carbon particles from the SST engine are estimated at five pounds per SST per hour. The carbon emission (20 lbs.) would be dispersed over a distance of about 1800 miles.

The highest concentration of carbon would exist about an hour after passage of the aircraft through a calm section of the sky. Most of the exhaust is drawn into the tip vortices formed by the wing. The lift generated by the wing imparts momentum to the air. The energetic air departs from each wing tip as an expanding, whirling mass of air. These two air masses rotate in opposite directions and horizontally to the ground. They depart in a downward direction and spread away from each other. They will eventually stagnate below and to either side of the flight path. The final diameter of the beclamed horizontal columns throughout which the carbon has been mixed will be several thousand feet across.

If we assume all the carbon emitted is contained within these two air columns, each will contain 10 lbs. in an hours flight. Based on a maximum diameter of 1000', each column will contain  $7 \times 10^{12}$  cu. ft. through which 10 lbs. of carbon are dispersed, or  $7 \times 10^{11}$  cu. ft. per lb. of carbon. This is not a detectable quantity.

A "normal" fleet of 500 SST's, operating ten hours per day would release a total of 50 tons of carbon per day. If an average stay time of 18 months is assumed for particulates placed in the stratosphere, then the

steady state density of the carbon following an 18-month build-up is of interest.

550 days x 50 tons/day = 27,500 tons

Band on an average residence time of 18 months, the carbon particulates reach a peak of 27,500 tons, or a concentration of 3 parts in 100 billion (by weight) with the air in the stratosphere or 3 billionths of a microgram per cubic meter. The average city during a smog free day contains 100 micrograms of dust per cubic meter.

In addition to the carbon, today's fuels would also release sulphur dioxide. This gas is heavier than air and tends to fall. It has an affinity for water and can combine with water-vapor to form a particle of sulphurous acid. Sunlight might add enough energy to some of the particles to pick up an additional oxygen atom to form a heavier particle of sulphuric acid or ammonium sulphate.

In examining the sulphur dioxide quantities, the MIT sponsored study group on critical environmental problems (SCEP) assumed that:

(a) The fuel consumed in 1978 would contain the same amount of sulphur as the fuels in use today. The average of the fuels today ranges between .004% and 0.09% sulfur content. The value of .05 was selected. As well as being a pollutant, sulfur decreases engine life. Jet engine fuels have steadily decreased in sulphur content and will continue to do so. By the time the SST enters commercial service the sulphur content will be between 0.005% and 0.01%.

(b) The fuel consumption was assumed to be a constant of 66 tons per aircraft per hour. However, the Boeing SST must reduce power as its fuel is consumed. Its fuel consumption average is 53 tons per hour for a complete flight. The operating time for the "normal fleet" (500 aircraft) was set at 7 hours per day by the SCEP. Original calculations made for this review are based on a 10 hour day.

(c) The sulphur dioxide gas in the exhaust is not particulate. However, for purposes of the study, the gas was regarded as totally converted to particulates. The sulphate particles, once formed, tend to grow and eventually fall. A hypothetical and unnatural situation was assumed for the purpose of looking at the effects from the most conservative (worst case) viewpoint. This case assumes total conversion of  $SO_2$  to particulates and no particle growth.

Using the SCEP assumptions, an SST will release 0.66 tons of sulphur dioxide per day. A fleet of 500 aircraft would release 330 tons per day. With a cycle time of 18 months the peak  $SO_2$  concentration would reach 181,500 tons. This quantity, if evenly dispersed would become 2 parts in 10 billion with the air in the total earth's stratosphere or 21 billionths of a microgram per cubic meter.

#### *Safety factor*

The ratio of  $SO_2$  which may become particulate through chemical interaction is unknown at this time. The safety factor for the assumption of complete conversion to particulates is therefore also unknown. It should be noted however that the safety factor without considering the degree to which  $SO_2$  becomes particulates, exceeds 300%. In other words, the analysis provided by the SCEP would apply to a world fleet of 1,500 aircraft more accurately than to the "standard world fleet" of 500 aircraft identified in the study.

#### *Dispersion pattern*

The chances of a uniform dispersion are small. Knowledge of particle dispersion in the stratosphere is somewhat limited. Only in recent years has serious study of such events been possible. Some relevant data is available from observations of the materials injected by the Mt. Agung volcano. Although the actual quantity of material placed in the stratosphere by this volcano is not known,

the SCEP felt that observations of the particle history and their effects would be relevant. The group speculated that the combined particle emissions (carbon and sulphur) from the SST might peak to be similar to a "small Agung," perhaps even equal to it.

The SCEP based this comment on measurements of particulates in the stratosphere made by Junge (15) prior to the Agung eruption. His measures indicated a particle concentration of 12 parts per billion with the air in the stratosphere. This figure is contrasted with measurements taken by Cadle et al. (16) in 1969. Cadle's data indicated that the stratosphere contained 360 parts per billion; a 30 fold increase. The higher density was associated with the eruption of Mt. Agung although the measurements were taken several years after the eruption.

The worldwide peak particle dispersion from the SST's was estimated by the SCEP to be 33 parts per billion. They cautioned that in the Northern hemisphere, this concentration could rise to 330 parts per billion on heavily used routes. The coincidence of the peak route particle estimate and the post Agung measurements led to the comparison of the SST to Mt. Agung.

The use of the comparison by the press turned out to be somewhat more dramatic than the SCEP intended. The following points will place some of these observations in perspective:

Volcanic eruptions are not the sole source of particles in the stratosphere. The earth's gravitational field draws in meteoric dust as though it were a vacuum cleaner. NASA (17) estimates that a total of  $10^{22}$  particles, ranging in size from  $1^{-14}$  gram up to 10 grams enter the atmosphere each day.

The data is inadequate to establish the size distribution of the trapped particles. The total weight, therefore can not be calculated. However, a conservative estimate can be made by selecting a particle size on the small end of the size range and assuming that all particles are this size.

If all were  $10^{-12}$  grams, the total weight of the dust would be 10,000 tons per day. Granting this dust the same 18 month cycle used for the Agung debris and the SST particulates, the steady state total is  $5.5 \times 10^6$  tons.

The ratio between this quantity of dust and the entire atmosphere of the earth is 1.2 parts in 1 billion. Evenly dispersed but retained at the constant level of  $5.5 \times 10^6$  tons the ratio of dust to the stratospheric atmospheric becomes 7 parts per billion.

Again, an even dispersion is an unnatural, actually a statistically impossible event. The dust would be concentrated by the earth's magnetic field into patterns. Also it is pushed by the solar wind and also influenced by the lunar pull. Its entry to the air could hardly be in a uniform pattern. Once in the air it would be subject to the movements of the upper air and would be accumulated in some areas, thinned in others.

Whatever the irregularity of the distribution, the dust from space is widely dispersed. Its pattern therefore resembles that of the particulates released from the SST far more than the single point insertion of a volcanic explosion.

#### *Ratio of meteoric dust to the SST particulates*

The SST particulates, listed on the SCEP assumptions, combine to a total per day of 380 tons. The 18 month total would be  $2 \times 10^6$  tons.

The meteoric dust 18 months total is  $5.5 \times 10^6$  tons.  
 $5.5 \times 10^6$  divided by  $2 \times 10^6$  equals 1 part in 27.5

In other words the particulates from the SST constitute a steady state total of 1 part in 27.5 of the meteoric dust. The ratio to total dust, including volcanic is unknown. During an eruption and for several years fol-

lowing it, the ratio of SST particulates to dust from natural sources would be conservatively 1 to 1000 and at times far greater.

It would seem that the research to determine the effects of the SST particulates on climate or on the stratosphere will be difficult. The challenge will be in isolating the effect of this variable from the somewhat overpowering "noise" levels of natural phenomenon.

#### The ozone layer

Normal (molecular) oxygen ( $O_2$ ) and nitrogen ( $N_2$ ) are broken apart by sunlight in the upper atmosphere, approximately at the mesopause (60 miles altitude). The resulting oxygen and nitrogen atoms drift down, occasionally joining with other molecules.

Ozone ( $O_3$ ) is formed when an atom of oxygen combines with a normal oxygen molecule, ( $O+O_2$ ). Ozone appears throughout the atmosphere with its highest concentration at about 60,000 feet. It is unstable and readily destroyed by sunlight. Since the sunlight is less intense in the polar regions, the ozone concentration reaches about twice that found in the tropics.

Ozone is a rare gas. The amount present in the atmosphere is variable but averages around 5 parts in 10 million. When it is drawn down into the lower atmosphere by the cyclonic action of a high pressure area, it is quickly combined with other compounds.

Ozone is relatively opaque to about 25% of the ultra violet spectrum, the region between 2200 and 3000 angstroms (A). The ultra violet (U.V.) radiation in this range is harmful to life. Mercury lamps will emit U.V. at 2537 A, close to the center of the ozone absorption band. The lamps are commonly used to kill airborne bacteria or to control organisms on or near the surface of perishable products in storage.

U.V. below 2200 A is absorbed by almost all atmospheric gases. Most of the U.V. spectrum above 3000 A is absorbed only to a minor extent by the atmosphere but is less harmful to organisms.

Over any given point on Earth, seasonal variations in  $O_3$  concentration average about 25%. Daily fluctuations over any single point on Earth are at least 10% on a given day.

Sunlight will break apart other molecules, even complex chemicals, reducing them first to ions or radicals, then finally to atoms. The rate of photo-dissociation is slow, however, as the reduction requires the absorption of considerable energy. Water is broken into atomic hydrogen (H) and an (OH) ion.

If water is dissociated in the presence of atomic oxygen (O) the free hydrogen atom may combine with the oxygen atom to form an additional (OH) ion. Atomic oxygen, which might have become ozone (if it had combined with  $O_2$ ), is thus diverted to becoming part of an (OH) ion instead.

As pointed out earlier, most of the water received by the stratosphere is from natural sources. The water injected by the SST is a minor part of the total water cycled each day by the stratosphere. Almost all of the water entering the stratosphere is returned to the troposphere. To be dissociated, the water would have to be elevated beyond the stratosphere to a height near the mesopause (about 300,000 feet). The sunlight at this height is energetic enough to cause some photo-dissociation.

Over the past five years, the water normal to the stratosphere has increased by 50% of its former value. Ozone measurements, made by ESSA weather stations since 1962—Data obtained from ESSA—show no correlation or change in ozone density, associated with the higher levels of water vapor in the stratosphere.

However, it should also be noted that the most potent ozone destroyer is the band of solar energy absorbed by it and which also causes it to form. As ozone is destroyed by this energy, more is formed. If ozone should be decomposed by some other circumstance,

the solar energy which would have been absorbed proceeds through the cleared space and simply causes more to form perhaps a few feet below.

The destruction of the ozone layer could occur if for some reason the solar output in the region between 2200 and 3000° A was increased by a few orders of magnitude. This would cause a destruction of the ozone at a rate faster than it could reform. Short of this event, however, the destruction of the ozone layer from other causes is not a likely event.

#### The SCEP analyses of the ozone question

The MIT sponsored study group re-examined depletion due to water vapor and concluded that the effects, if they could be detected at all, would be well within the day to day variability of ozone density. (10)

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17. Meteor orbits and dust, NASA SP 135 1967.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

#### OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Mr. KENNEDY. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2193) to authorize the Secretary of Labor to set standards to assure safe and healthful working conditions for working men and women; to assist and encourage States to participate in efforts to assure such working conditions; to provide for research, information, education, and training in the field of occupational safety and health; and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the unanimous-consent request?

There being no objection, the Senate proceeded to consider the bill.

Mr. KENNEDY. 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. 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.

Mr. SAXBE. Mr. President, I send to the desk an amendment on behalf of myself, the Senator from Colorado (Mr. DOMINICK), and the Senator from Pennsylvania (Mr. SCHWEIKER), and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 60, line 3, following the words "orderly manner," delete all of the next sentence beginning on line 3 with the words "An action" and ending on line 5 with the words "in effect.":

Delete all of subsection 11(b) on pages 60 and 61 and redesignate subsection 11(c) as subsection 11(b);

Amend subsection 11(c) (redesignated 11(b)), page 61, line 10, following the word "falls" by striking the words "issue an order or";

Amend subsection 11(c), page 61, line 11, following the word "under" by adding "subsection (a) of".

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

Mr. SAXBE. I yield.

Mr. MANSFIELD. Mr. President, pending the arrival of the distinguished Senator from Colorado, insofar as other amendments and time on the bill are concerned, I ask unanimous consent that there be a limitation of one-half hour

on the pending amendment, the time to be equally divided between the distinguished Senator from Ohio (Mr. SAXBE) and the distinguished manager of the bill, the Senator from New Jersey (Mr. WILLIAMS).

The ACTING PRESIDENT pro tempore. Is there objection?

The Chair hears none, and it is so ordered.

Who yields time?

Mr. SAXBE. I yield myself 5 minutes.

Mr. President, my amendment would help clear up one of the most controversial provisions of the proposed legislation; that is the provision which authorize Labor Department inspectors to close down an entire business. This authority would be exercised in those instances where in an inspector's judgment an imminent danger exists.

No one opposes the expeditious handling of "imminent danger" situations. In such instances the need to respond quickly in order to prevent serious injury or death is apparent.

However, the question involves the nature of that response. Should we authorize an inspector to close down a man's business and temporarily put perhaps hundreds of employees out of work? Or should we involve a third party, with perhaps the most disinterested and objective viewpoint obtainable, to make such an important decision?

The objective viewpoint it clearly always preferable when the rights, and, indeed, the very lives of individuals are involved.

I think it would be presumptuous and harmful of Congress to pass a law which would place such a heavy burden on a Department of Labor inspector. Under the provisions of S. 2193 the inspector would not only have to make a personal judgment as to whether an imminent danger existed, but he would have to determine that such a danger existed that would not allow time for obtaining the appropriate temporary court relief. S. 2193 would leave the decision in these matters up to the Federal district courts.

Seeking a temporary restraining order in the district courts is the way we have handled dangerous situations for decades. Does anyone believe this method is slow? Does anyone doubt that it is effective? I believe not. An inspector has no way of his own, when he goes into a plant, of enforcing any on-the-spot order he issues. In a tight situation, enforcement of the inspector's orders would have to come from the courts. Therefore, if the ultimate eventuality is enforcement in the courts, the prudent course would be to provide that the district courts handle the matter in the first place.

We should not permit the issue of how to handle an imminent-harm situation stand in the way of the proposed legislation. Since there have been strenuous and widespread objections to giving an inspector the sweeping power to close down a plant, we ought to seek a compromise on this point. The substitute bill provided a solution but it was not accepted. I offer this as a separate amendment. I offer reasonable men will accept the solution I offer in this amend-

ment, since they know that the courts will provide an effective and fair method of safeguarding employees who find themselves in imminent-danger situations.

Furthermore, to place such a heavy burden on an inspector would not allow a determination as objective as one by a court, and I believe it would be more unlikely that an inspector would close down a plant in an imminent danger situation than if he had the responsibility of going to court, because he would be reluctant to operate with this responsibility resting solely upon himself, or his immediate supervisor. The men and women who on occasion are exposed to such dangers will suffer if an inspector is reluctant to assume the awesome authority which would be granted in the bill without this amendment.

Let us be practical about the type of situation we are concerned with here. Only when a danger exists which can cause death or serious physical harm before it can be corrected will the imminent-danger provisions of either bill be utilized. Within this narrow range of situations, 99 percent of the employers will take immediate steps to eliminate the danger. In the 1 percent of cases where there is employer resistance and coercive measures must be utilized to protect exposed workers, one of two situations will probably exist:

First, an employer simply refuses to make needed corrections—in such cases, as I have already pointed out, court orders will be necessary; or

Second, an employer will have a serious doubt based on fact as to whether an imminent danger really exists—in these instances the objective disinterested view of a court is absolutely necessary.

In summary, I believe that the committee's closedown provision in the bill is unnecessary, harmful, and unfair as it relates to employees and employers. I suggest that my amendment will make a better bill and will not interfere with the orderly procedure of enforcement.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. SAXBE. I yield 2 minutes to the Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, the committee bill provides that under certain circumstances, the Department of Labor itself, without a court order, would have the power to close down all or part of an industrial plant for 72 hours due to an imminent danger.

The amendment which I am cosponsoring with the Senator from Ohio (Mr. SAXBE) would strike out this section, which is section 11(b). The effect of our amendment would be to require the Department of Labor to go to a Federal district judge and obtain a court order in all cases where it desires to order a plant closed down. Our amendment would not detract, in my opinion, from the safety features of this bill, but it would afford to employers—as well as employees who might be thrown out of work by some arbitrary shut-down—a greater right to be heard before the Federal Government took drastic action affecting them.

Mr. President, the closing down of an

industrial plant is indeed a drastic remedy. If Congress is going to grant this power in this legislation, then we must be sure that due process is observed through a judicial hearing. In the average case where the Department of Labor finds a real imminent danger in a plant, I would expect the employer to agree with the Department, and close the plant or the portion of the plant voluntarily himself. But if there is a difference of opinion between the Department and the employer, I feel the Department should have to sustain a burden of proof in persuading a Federal district judge that the closure of the plant is necessary. I believe that both the Department's side and the employer's side should be heard before such a drastic step is taken against the will of the employer and throwing employees out of work.

It must be remembered that we are speaking here of a situation of imminent danger. The bill defines "imminent danger" as "a condition or practice which could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated."

Mr. President, I can hardly conceive of many instances when this whole provision—section 11—would actually come into play. Before this provision could apply, there would first have to be an imminent danger in the plant which was undetected by either the employer or the employees, or if it had been detected, received no corrective action or safety precautions. So we would have an imminent danger situation that was just sitting there awaiting the visit from a Federal inspector representing the Department of Labor.

Section 11 would not come into play until the Department of Labor representative advised the employer of the imminent danger and the employer refused to take any steps to safeguard his plant and his employees. This would be quite a rare occurrence, I believe. Employers do not want their plants to blow up any more than the employees do. But I am thinking that in some cases, the Department of Labor may not be infallible, and that the employer, if he has a real difference of opinion with the Department of Labor about the closing of his plant, should have a right to be heard by a judge. That is all our amendment would do.

I thank the Senator from Ohio for yielding to me.

Mr. SAXBE. Mr. President, before proceeding further, I ask unanimous consent that the amendments be considered en bloc.

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

Mr. SAXBE. Mr. President, I yield the floor.

Mr. WILLIAMS of New Jersey. Mr. President, I will say at the outset that this provision, dealing with the closing of an operation where there is an imminent danger, reflected thorough consideration within the committee, where it was significantly revised.

I think it is clear that the concern that has been generated over the immi-

ment-danger provision in the committee bill has been greatly exaggerated and blown out of all proportion to the legitimate concerns of industry.

The fact is that the safety laws of at least 29 States authorize administrative officials to deal with imminent-danger situations. These "red tag" or "stop work" provisions typically empower the appropriate official of the State agency to post a notice or issue an order prohibiting the use of machinery, equipment, or work areas found to be dangerous.

The New York provision, in effect since 1909, is quite typical of these statutes. It provides:

If the Commissioner finds that any machinery, equipment, or device in any place to which this chapter applies is in a dangerous condition, or finds that any area to which this chapter applies is in a dangerous condition, he may attach a notice to such machinery, equipment, or device, or post a notice in such area warning all persons of the danger. Such notice shall prohibit the use of such machinery, equipment, or device or prohibit further work in or occupancy of such area until the dangerous condition is corrected.

The New York provision, in effect since 1909, is a classic in this area. Not only is it classic, but it has been in existence for just short of 60 years. I will say that, with this experience of the second most populous State in the Union, and perhaps the second most highly industrialized State, we heard no testimony whatever that this kind of provision on imminent danger had been abused or had been treated arbitrarily.

In addition, various Federal statutes have imminent-danger provisions that permit administrative action to protect workers—including the Coal Mine Health and Safety Act enacted last year. And, just a few months ago, we passed the new Federal Railroad Safety Act which provides that if the Secretary of Transportation determines that any facility or piece of railroad equipment is unsafe, and creates an emergency situation involving a hazard of death or injury, "the Secretary may immediately issue an order—prohibiting the further use of such facility or equipment until the unsafe condition is corrected."

I think it most significant that throughout our lengthy hearings on the present bill, during which witnesses from all segments of industry appeared, we never once heard of a single instance in which any of these imminent-danger provisions had been abused—despite the fact that many of the State provisions have been in effect for a number of years—as far back as 1909 in the case of New York.

I should also emphasize that, during our committee deliberations, we gave extensive consideration to this provision. Even though no complaints had been received about the actual operation of the broadly worded provisions found in most State laws, we did our utmost to accommodate the concerns of industry, with the result that the provision now contained in the committee bill is far more narrowly drawn than most State laws or, indeed, the Federal statutes that are now in existence. I think it would be entirely

inconsistent with the purposes of this bill to narrow this provision any further.

Mr. JAVITS. Mr. President, will the Senator from New Jersey yield?

Mr. WILLIAMS of New Jersey. I yield.

Mr. JAVITS. The Senator has said and knows that this is a very difficult provision because there is a grave danger of a drastic effect on the continuity of the industrial process by a closing. I wondered, as I read this last night in contemplation of the amendment, whether the Senator might not look favorably on perfecting the original bill by requiring the concurrence of the Secretary himself for a closing rather than a regional official.

I am inclined to decide the issue for myself on the side of the committee's view, although this was one of the most closely divided votes we took in the committee. I just ask the Senator that question specifically, in order to meet what I consider to be a real problem which I think the bill raises in its present form. Would it not be desirable simply to elevate that kind of decision to the secretarial level?

Mr. WILLIAMS of New Jersey. If the Senator will recall, first, we dealt in committee with the fear of abuse by an individual, that one person should not have this authority to close down a plant or part of a plant where he found an imminent danger. To protect against the one-man decision, we included by amendment in committee the provision that a regional representative of the Labor Department must concur in the original finding. That was our first amendment.

The next saving factor was the provision for continuous process operations, and to permit personnel to remain to make a safe and orderly shutdown of a dangerous operation.

I think we have fully protected those areas that caused concern. I do not know what would be the practical effect of saying that, where there is a finding that it should be closed, that this should be checked and concurred in by the Secretary of Labor. I do not know whether that would be practical or not.

Mr. JAVITS. I say to the Senator, if he would allow me, by yielding further, that I think it is practical. I think it would give a better feeling and a greater weight of authority. I should have thought of this in the committee. Even if the Secretary devolved that responsibility, there would still be the fact that a businessman—and that is what I think my colleagues from Pennsylvania and Ohio are concerned about—facing such a provision, at least he would have the satisfaction of knowing that a Cabinet officer would have to concur and, for all practical purposes, if the businessman had any appreciable plant, the Secretary probably would, anyhow. No regional official would take the responsibility of shutting down a plant which employs thousands of people unless he checked back first with the Secretary in Washington.

I think that is really the distinction, without any deep difference. It would give a better feeling to the business community. I would therefore hope that be-

fore or after this amendment is decided, the Senator from New Jersey would give serious consideration to that change.

Mr. WILLIAMS of New Jersey. As it is now, would the Senator agree that any action taken would be the Secretary's responsibility and would have the Secretary's name signed to the action, if not in personal fact?

Mr. JAVITS. As a practical matter, I think that if the Secretary wanted to shrug it off or avoid the responsibility, he could walk away from it as written now. However, I hardly envisage a Cabinet official being that irresponsible, but it could be done. I think the converse of the proposition is that if that is so, why not give it to the Secretary and make him take the responsibility?

Mr. SAXBE. Mr. President, I yield myself 5 minutes.

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

Mr. SAXBE. Mr. President, I cannot agree with either my friend, the Senator from New York, or my friend, the Senator from New Jersey, on this matter. I think it is a judicial function.

When this subject was discussed we went into great length on an individual machine, an oil slick on the floor, noxious fumes being emitted, or a leaky pipe—things that would create an imminent danger. When they red tag this, they close down this machine or this area of the plant, and not the plant.

No one would disagree with an inspector going in there and saying, "This machine is closed down." I do not think he would ever resort to the courts. This would protect those individuals who are working on that machine in that area.

On the other hand, when they want to close an entire plant because of noxious fumes or because of some imminent danger to the structure, then I think we are going to have more difficulty in getting an inspector to do this on his own motion or by calling his superior or the Secretary of Labor than if he could simply go to court and say, "This is what I find in the plant, and this plant refuses to cooperate. Therefore, we ask for legal action."

I think it is entirely reasonable that this should be the ultimate weapon. This is what will be the ultimate weapon anyway, because this man is not a policeman. The inspector cannot go down there and run in and holler "Stop." He would have to get a policeman to go in there if the man refuses to do anything. And the U.S. marshal is an agent to the court. The marshal would come in and correct this situation if imminent danger is shown to the court.

If we try to do this through the Secretary of Labor or by his agent or the superior of the inspector, we are going to have more difficulty in closing a plant, I believe, than if they can go downtown to the local court and say, "We have a situation out here and we think you should grant this order."

I agree with my friend, the Senator from New Jersey, that States do have this power. But I also find on further investigation that it is a power seldom used. It is seldom used because the in-

spector is reluctant to use it even when his superior agrees. Then, when he does want to use it, as I am informed in some situations in New York, he, not being a policeman, cannot do it. He has to go to the court and go out and get a policeman to enforce the order.

I suggest that, by this amendment, we are doing what is ultimately going to be done any way. The convenience of the court and the complete practicality of the matter seems to me to suggest that this is a wise move.

Mr. President, I yield to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SCHWEIKER. Mr. President, I would like to respond to a few of the arguments that have been presented on behalf of the bill as it now stands.

In the committee I offered this very amendment that the Senator from Ohio and I are cosponsoring. We were defeated in the committee.

The Senator from New Jersey said that 29 States now have this provision and that therefore there is no danger in giving this vast authority to the Federal Government.

I would like to point out that the reason we are writing this law is because the present laws in the States have not been adequate. They have not been enforcing the present laws in the States. The present laws have not met the needs. There has not been a follow-up on enforcement or a serious effort made to make the laws effective.

We cannot very very well turn the argument around and say that because this type of provision works fine in 29 States we are writing it into our new Federal law. It has not worked fine in 29 States. That begs the question. The point is that the States have rarely invoked the power. They have hardly ever used it. That is why we are writing a Federal law.

I would like to say that when we are dealing with a State government we are at least one step closer to the people. The State government is one layer of government closer to the people than is the Federal Government. I am sure that any aggrieved party seeking a government hearing feels that he has a closer relationship to his State capital or to his local government than he would if he were to come to Washington and go to the bureaucracy involved, the Department of Labor, to seek his remedy in that particular way.

I do not see anything unreasonable in requiring the Labor Department to contact a Federal district judge in this situation. One can reach a Federal district judge within a matter of minutes. It can be done as quickly as one can reach a departmental inspector in the Department of Labor or the Secretary himself.

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

Mr. SAXBE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Ohio has 3 minutes remaining.

Mr. SAXBE. Mr. President, I yield 1 additional minute to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 1 additional minute.

Mr. SCHWEIKER. Mr. President, a Federal judge can be reached at any time of the day or night. There would be no unreasonable delay. Therefore I do not see why we cannot assure that due process is available before a lot of people are thrown out of work or an enterprise is shut down. There should be due process so that the people involved, both the employers and employees, will be sure of a fair hearing in court. That is what our amendment seeks to do.

Mr. WILLIAMS of New Jersey. Mr. President, first of all the bill provides that the inspector must go to court to get an order to close down an operation where there is imminent danger. What does "imminent" mean? It refers to a peril or disaster that can happen immediately. The bill requires that he get a court order unless the danger is of such imminence that there is no time to do so. Only if they do not have time to find the judge or the peril or likelihood of disaster is too immediate, does this authority within the Labor Department come into being.

Mr. SAXBE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WILLIAMS of New Jersey. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from New Jersey has 3 minutes remaining. The Senator from Ohio has 2 minutes remaining.

Mr. WILLIAMS of New Jersey. Mr. President, I stress again that this authority arises when there is an immediate peril, danger, or misfortune. They have to get a court order unless doing so would take so long that the danger could develop and great injury or death occur.

As to the other operations of the plant, we are mindful of the need to not bank the furnaces and shut down the whole operation. This provision is zeroed in on the immediate imminent danger. It cannot be arbitrary because it is checked against higher authority in the Labor Department. The order can be in effect only for 72 hours and then, within that period of time, they have to go to court.

The PRESIDING OFFICER. Who yields time?

Mr. SAXBE. Mr. President, I yield myself the remainder of my time.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 2 minutes.

Mr. SAXBE. Mr. President, I do not find the argument persuasive on the basis that we are not dealing with abstractions. We are dealing with a practical situation in a plant, the practical situation where danger exists in a limited area concerning one machine, or it could exist on a broader scale.

What we are talking about is a danger that the management will not recognize because if it is recognized, management would immediately shut it down. I cannot fancy a situation where management would not close down a machine, an area, or a plant where an inspector, the Federal Government, or the Department of

Labor comes in and says, "There is a situation that creates great danger to that man; danger to life and limb." I think in such a situation management would act immediately; so we are talking about the unique situation where there is serious disagreement as to whether there is imminent danger. I am referring to the situation where there is serious disagreement. Management says, "There is no danger here; I can explain it all; the inspector just does not understand what we are talking about. This pipe is not going to explode; this machine is safe."

In that instance there is a disagreement based perhaps on lack of knowledge or lack of understanding of the situation. For years we have settled such disputes in court and so on the very rare occasions where management and an inspector disagree as to the extent of danger I believe the court should have the opportunity of making the decision as to who is right, because if both management and the inspector agree there is no problem, they are not going to court. They both say, "Yes; there is danger. Let us correct this situation." Then, it never leaves the plant. So when the matter gets to court there is a disagreement. We have traditionally settled disagreements in court in this country, and I suggest it is the way to settle disagreements in this matter.

Mr. JAVITS. Mr. President, will the Senator from New Jersey yield?

Mr. WILLIAMS of New Jersey. I yield 2 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, this is not a light issue; it is a real and important issue. If this amendment falls, and I did vote against it in committee for many reasons I have mentioned in debate, I shall ask the manager of the bill to accept an amendment which will vest this authority in the Secretary or other high officials of the Labor Department. I believe that is a fair compromise of the difficulty with which we are faced. I hope he will accept it should this amendment fall.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

#### PRIVILEGE OF THE FLOOR

Mr. JAVITS. Mr. President, I ask unanimous consent that Mr. Mittleman of the committee staff be permitted to be in the Chamber.

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

#### ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that pending the arrival of the Republican leader or the acting Republican leader I be permitted to suggest the absence of a quorum so that when they arrive I can make a unanimous-consent request which I think will be acceptable.

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

## UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, after clearing the matter with all Members concerned, I am about to propound a unanimous-consent request.

I ask unanimous consent that on the Javits enforcement amendment there be a time allocation of 1½ hours, the time to be equally divided between the Senator from New York (Mr. JAVITS) and the Senator from New Jersey (Mr. WILLIAMS), and that there be 30 minutes on any amendment thereto, equally divided on the same basis.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the Dominican criteria amendment there be a time allocation of 40 minutes, to be equally divided on the same basis, and 30 minutes on any amendment thereto, again equally divided on the same basis.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

## ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, for the information of the Senate I think I should state that immediately after the conclusion of the vote, the Senator-elect from Illinois, Mr. STEVENSON, will be sworn in.

The PRESIDING OFFICER. All time having expired the question is on agreeing to the amendment of the Senator from Ohio (Mr. SAXBE). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Rhode Island (Mr. PELL), the Senator from Georgia (Mr. RUSSELL), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. ELLENDER) is absent on official business.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG) is necessarily absent.

The Senator from Kentucky (Mr. COOPER), the Senator from Florida (Mr. GURNEY), the Senator from Illinois (Mr. PERCY), and the Senator from Maine (Mrs. SMITH) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from South Carolina (Mr. THURMOND) are detained on official business.

If present and voting, the Senator from Kentucky (Mr. COOPER), the Senator from Florida (Mr. GURNEY), the Senator from South Dakota (Mr.

MUNDT), and the Senator from Maine (Mrs. SMITH) would each vote "yea."

On this vote, the Senator from South Carolina (Mr. THURMOND) is paired with the Senator from Illinois (Mr. PERCY). If present and voting, the Senator from South Carolina would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 40, nays 42, as follows:

[No. 382 Leg.]

## YEAS—40

Alken	Ervin	Prouty
Allen	Fannin	Saxbe
Allott	Griffin	Schweiker
Baker	Hansen	Scott
Bellmon	Holland	Smith, III.
Bennett	Hruska	Spong
Boggs	Jordan, N.C.	Stennis
Byrd, Va.	Jordan, Idaho	Stevens
Cook	Mathias	Talmadge
Cotton	McClellan	Tower
Curtis	Miller	Williams, Del.
Dole	Murphy	Young, N. Dak.
Dominick	Packwood	
Eastland	Pearson	

## NAYS—42

Anderson	Hartke	Metcalfe
Brooke	Hatfield	Mondale
Burdick	Hughes	Montoya
Byrd, W. Va.	Inouye	Moss
Case	Jackson	Muskie
Church	Javits	Nelson
Cranston	Kennedy	Pastore
Eagleton	Long	Proxmire
Fulbright	Magnuson	Randolph
Goodell	Mansfield	Ribicoff
Gore	McCarthy	Symington
Gravel	McGee	Williams, N.J.
Harris	McGovern	Yarborough
Hart	McIntyre	Young, Ohio

## NOT VOTING—18

Bayh	Fong	Percy
Bible	Goldwater	Russell
Cannon	Gurney	Smith, Maine
Cooper	Hollings	Sparkman
Dodd	Mundt	Thurmond
Ellender	Pell	Tydings

So Mr. SAXBE's amendment was rejected.

Mr. WILLIAMS of New Jersey. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. YOUNG of Ohio. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## SENATOR FROM ILLINOIS—ADMINISTRATION OF OATH

Mr. MANSFIELD. Mr. President, I send to the desk a certificate of election certifying to the election of Adlai E. Stevenson III, as a Senator from Illinois, which I send to the desk and ask that it be read.

The PRESIDING OFFICER. The certificate will be read.

The legislative clerk read as follows:

## STATE OF ILLINOIS.

To the President of the Senate of the United States:

This is to certify that on the third day of November, 1970, Adlai E. Stevenson III was duly chosen by the qualified electors of the State of Illinois, a Senator for the unexpired term ending at noon on the 3rd day of January, 1975, to fill the vacancy in the representation from said State in the Senate of the United States caused by the death of Honorable Everett McKinley Dirksen.

Witness, his Excellency our Governor Richard B. Ogilvie, and our seal hereto affixed at

Springfield this sixteenth day of November, in the year of our Lord 1970.

RICHARD B. OGILVIE,  
Governor.  
JOHN W. LEWIS,  
Secretary of State.

The PRESIDING OFFICER (Mr. EAGLETON). If the Senator from Illinois will present himself at the desk, the oath of office will be administered to him.

Hon. Adlai E. Stevenson III, escorted by Mr. MANSFIELD, advanced to the desk of the Presiding Officer; the oath prescribed by law was administered to him by the Presiding Officer (Mr. EAGLETON); and he subscribed to the oath in the official oath book. [Applause, Senators rising.]

## RECESS

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes, so that Senators may have an opportunity to meet the new Senator from Illinois.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will stand in recess for 5 minutes.

Whereupon, at 11:48 a.m., the Senate took a recess for 5 minutes.

Senators greeted Mr. STEVENSON in the well of the Senate.

At the conclusion of the recess, the Senate reassembled, when called to order by the Presiding Officer (Mr. GRAVEL).

## MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Leonard, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. EAGLETON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

## OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

The Senate continued with the consideration of the bill (S. 2193) to authorize the Secretary of Labor to set standards to assure safe and healthful working conditions for working men and women; to assist and encourage States to participate in efforts to assure such working conditions; to provide for research, information, education, and training in the field of occupational safety and health; and for other purposes.

## AMENDMENT NO. 1061

Mr. JAVITS. Mr. President, I call up my amendment No. 1061.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

S. 2193

On page 52, beginning on line 10, strike all down through line 11 on page 59 and insert in lieu thereof the following:

"PROCEDURES FOR ENFORCEMENT

"SEC. 10. (a) If, after an inspection or investigation, the Secretary issues a citation under section 9(a), he shall, within a reasonable time after the termination of such inspection or investigation, notify the employer by certified mail of the penalty, if any, proposed to be assessed under section 14 and that the employer has fifteen working days within which to notify the Secretary that he wishes to contest the citation or proposed assessment of penalty. If, within fifteen working days from the receipt of the notice issued by the Secretary the employer fails to notify the Secretary that he intends to contest the citation or proposed assessment of penalty, and no notice is filed by any employee or representative of employees under subsection (c) within such time the citation and the assessment, as proposed, shall be deemed as final order of the Commission and not subject to review by any court or agency, except upon request of an employee or representative of employees pursuant to subsection (c).

"(b) If the Secretary has reason to believe that an employer has failed to correct a violation for which a citation has been issued within the period permitted for its correction (which period shall not begin to run until the entry of a final order by the Commission in the case of any review proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties), or has failed to comply with an order issued under section 11(b), the Secretary shall notify the employer by certified mail of such failure and of the penalty proposed to be assessed under section 14 by reason of such failure, and that the employer has fifteen working days within which to notify the Secretary that he wishes to contest the Secretary's notification or proposed assessment of penalty. If, within fifteen working days from the receipt of notification issued by the Secretary, the employer fails to notify the Secretary that he intends to contest the notification or proposed assessment of penalty, the notification and assessment, as proposed, shall be deemed a final order of the Commission and not subject to review by any court or agency.

"(c) If an employer notifies the Secretary that he intends to contest a citation issued under section 9(a) or notification issued under section 10 (a) or (b), or if, within fifteen working days of the issuance of a citation under section 9(a), any employee or representative of employees files a notice with the Secretary alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the Secretary shall immediately advise the Commission of such notification or determination, and the Commission shall afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a) (3) of such section). The Commission shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the Secretary's citation or proposed penalty, or directing other appropriate relief, and such order shall become final fifteen days after its issuance. The rules of procedure prescribed by the Commission shall provide affected employees or representatives of affected employees an opportunity to participate as parties to hearings under this subsection.

"(d) Any person adversely affected or aggrieved by an order of the Commission issued

under subsection (c) or (f) may obtain a review of such order in any United States court of appeals for the circuit in which the violation is alleged to have occurred or where the employer has its principal office, or in the Court of Appeals for the District of Columbia Circuit, by filing in such court within sixty days following the issuance of such order a written petition praying that the order be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission and to the other parties, and thereupon the Commission shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, or setting aside in whole or in part, the order of the Commission and enforcing the same to the extent that such order is affirmed or modified. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Commission. No objection that has not been urged before the Commission shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, the court may order such additional evidence to be taken before the Commission and to be made a part of the record. The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code. Petitions filed under this subsection shall be heard expeditiously.

"(e) The Secretary may also obtain review or enforcement of any final order of the Commission by filing a petition for such relief in the court of appeals for the circuit in which the violation occurred or in which the employer has its principal office, and the provisions of subsection (d) shall govern such proceedings to the extent applicable. If no petition for review, as provided in subsection (d), is filed within sixty days after service of the Commission's order, the Commission's findings of fact and order shall be conclusive in connection with any petition for enforcement, which is filed by the Secretary after the expiration of such sixty-day period. In any such case, as well as in the case of a non-contested citation or notification by the Secretary which has become a final order of the Commission under subsection (a) or (b), the clerk of the court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary and the employer named in the petition. In any contempt proceeding brought to enforce a decree of a court of appeals entered pursuant to this subsection or subsection (d), the court of appeals may assess

the penalties provided in section 14, in addition to invoking any other available remedies.

"(f) No person shall discharge or in any other way discriminate against an employee because of the exercise by such employee on behalf of himself or others of any right afforded by this Act, including action to determine the extent of employee exposure to hazardous substances, or for leaving a workplace upon the order of the Secretary or a district court issued pursuant to section 11. Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of this subsection may, within thirty days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that the provisions of this subsection have been violated, he shall so notify the Commission and the Commission shall afford an opportunity for a hearing as provided in subsection (c). If the Commission finds that such violation did occur, it shall order such affirmative action as may be appropriate, including, but not limited to, the rehiring or reinstatement of the employee to his former position with back pay.

"THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

"SEC. 11. (a) The Occupational Safety and Health Review Commission is hereby established. The Commission shall be composed of three members who shall be appointed by the President, by and with the advice and consent of the Senate, from among persons who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Act. The President shall designate one of the members of the Commission to serve as Chairman.

"(b) The terms of members of the Commission shall be five years except that (1) the members of the Commission first taking office shall serve, as designated by the President at the time of appointment, one for a term of three years, one for a term of four years, and one for a term of five years, and (2) a vacancy caused by the death, resignation, or removal of a member prior to the expiration of the term for which he was appointed shall be filled only for the remainder of such unexpired term. A member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(c) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(94) Members, Occupational Safety and Health Review Commission'

"(d) The principal office of the Commission shall be in the District of Columbia. Whenever the Commission deems that the convenience of the public or of the parties may be promoted, or delay or expense may be minimized, it may hold hearings or conduct other proceedings at any other place.

"(e) The Chairman shall be responsible on behalf of the Commission for the administrative operations of the Commission and shall appoint such hearing examiners and other employees as he deems necessary to assist in the performance of the Commission's functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates: *Provided*, That assignment, removal and compensation of hearing examiners shall be in accordance with sections 3105, 3344, 5362, and 7521 of title 5, United States Code.

"(f) For the purpose of carrying out its functions under this Act, two members of the Commission shall constitute a quorum and official action can be taken only on the affirmative vote of at least two members.

"(g) Every official act of the Commission shall be entered of record, and its hearings and records shall be open to the public. The Commission is authorized to make such rules as are necessary for the orderly transaction of its proceedings, which shall provide for adequate notice of hearings to all parties.

"(h) The Commission may order testimony to be taken by deposition in any proceedings pending before it at any state of such proceeding. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Commission. Witnesses whose depositions are taken under this subsection, and the persons taking such depositions, shall be entitled to the same fees as are paid for like service in the courts of the United States.

"(i) For the purpose of any proceeding before the Commission, the provisions of section 11 of the National Labor Relations Act (29 U.S.C. 161) are hereby made applicable to the jurisdiction and powers of the Panel.

"(j) A hearing examiner appointed by the Commission shall hear, and make a determination upon, any proceeding instituted before the Commission and any motion in connection therewith, assigned to such hearing examiner by the Chairman of the Commission, and shall make a report of any such determination which constitutes his final disposition of the proceedings. The report of the hearing examiner shall become the final order of the Commission within thirty days after such report by the hearing examiner, unless within such period any Commission member has directed that such report shall be reviewed by the Commission."

On page 63, strike line 1 and insert in lieu thereof: "the date of the final order of the Commission in the case of any review proceeding under section".

The PRESIDING OFFICER. This amendment is under controlled time, for an hour and a half.

Mr. JAVITS. I yield myself 10 minutes.

Mr. President, if I may have the attention of Senators, I can explain what this is about very briefly.

The big issue on this bill—and certainly the Senate has made that clear by its votes—is the question of how it is to be enforced and how standards are to be promulgated. The amendment I have just called up deals with the matter of enforcement. The question of the promulgation of the standards remains in the Secretary, although there probably will be an amendment later to deal with that specific point, in a way different from that in which it was dealt in Senator DOMINICK's substitute yesterday. But the key issue which has worried American business is, How is this very important piece of legislation to be enforced?

I am offering the administration's version of how it should be enforced. I introduced the administration's bill originally, and the provision I now offer as an amendment is consistent with the approval of that bill. It creates a review commission which will deal with all complaints referred to it by the Secretary and which will have the same type of authority that the Federal Trade Commission exercises: The power to issue a cease and desist order which, if challenged within a given period of time, can be reviewed by the Circuit Court of Appeals. Its operation is stayed if the Circuit Court of Appeals so orders. If the Secre-

tary desires to enforce the order through the contempt power, similarly, he can go into court in order to get the Circuit Court of Appeals to enter an order for the specific purpose, and then that order can be enforced through the contempt powers of the Circuit Court of Appeals. It is the traditional Federal Trade Commission type of procedure.

Mr. HOLLAND. Mr. President, will the Senator yield for a question?

Mr. JAVITS. I yield.

Mr. HOLLAND. Would the commission which would be set up by the Senator's amendment be within the Labor Department and controlled by the Labor Department or would it be an independent commission?

Mr. JAVITS. Autonomous and independent. Perhaps it would be housed in the Labor Department, or administratively it might have employees who are common, but it is expressly set forth to be an independent commission, established for the purpose of dealing with these complaints and passing on them.

Mr. HOLLAND. I thank the Senator.

Mr. JAVITS. It would not be a Labor Department instrument. Indeed, I might say to my distinguished colleague that yesterday, when we were arguing the Dominick substitute, I made the point that a Secretary could set up, if he wished, a committee or commission—other Secretaries have—to exercise his power; but that commission would, as the Senator's question implies, be under his authority. That is not so under my amendment. This is an autonomous, independent commission which, without regard to the Secretary, can find for or against him on the basis of individual complaints.

Mr. HOLLAND. I thank the Senator. I shall support his amendment, because I believe that that kind of independent enforcement is required under the circumstances.

Mr. JAVITS. I thank my colleague very much.

Mr. President, one of the interesting things which comes out of this amendment, which interests me greatly, is the fact that I offered this amendment in committee as the "compromise." I had hoped that it would be accepted and supported. But it had the opposition, for reasons which absolutely escape me, of organized labor. One would think that organized labor wanted the certainty and the celerity which would come from this kind of enforcement, because there is speedier action here. It may be speedier action by as much as 18 months, in this way: The present scheme of enforcement requires the Secretary to go into court in order to enforce an order of enforcement which he makes. This order, which is made by the Commission, is self-enforcing unless stayed by the Court of Appeals. Immediately, there is a diminution of the time involved.

Second, this amendment provides that if the hearing examiner's report is not contested and the Commission does not order it reviewed, it becomes final, within the same procedures of the Commission—a very quick way of dealing with relatively minor situations.

It seems to me that this gives everything one would ask in the way of as-

urance, both to management and to labor. Yet, though management wanted it very much, organized labor apparently was opposed to it.

One final thing which is very interesting to me: The Administrative Procedure Act applies anyway, whether the Secretary is the enforcing agent or the Commission is the enforcing agent. So there is no diminution of the rights of anybody, nor denial of due process, and at the same time greater celerity is given and greater confidence that violations will be considered by a quasi-judicial authority expressly delegated for that purpose.

The importance of this particular measure is not so much in the absolutes which are involved. In an absolute sense, in view of the checks and balances which the judicial system imposes on the Secretary, one might think that enforcement by the Secretary would be more hedged in, more subject to judicial argument, and so forth, than even the determinations by this commission; but, as we all know, the climate in which things are done becomes critically important. We see that in many pieces of legislation. The business community feels deeply on this matter, which can be vexatious—there is no question about that and we must recognize it—as there can be all kinds of complaints and difficulties, and expensive difficulties, created for American business, so that apparently the business community feels an infinitely greater assurance with this kind of commission than with enforcement by the Secretary of Labor.

In my judgment, it would be better all around. I have been unable to understand up to now—perhaps those who oppose the amendment will enlighten me better than they did in committee—why it ran into an absolute, hard and unyielding opposition. As many Members have told me, if this particular amendment had been accepted in the Committee on Labor and Public Welfare, we would hardly be arguing about any part of this bill now as, generally speaking, we did balance out most of the bill pretty well, as the votes in the Senate have demonstrated.

Thus, again, quoting one of our Members, this is the nut in the coconut. This is what it is all about. It seems to me, in view of the fact that it will give a sense of greater assurance to the business community than enforcement by the Secretary of Labor, it certainly is not any tougher than his enforcement, in terms of the benefits which accrue from a piece of legislation like this to the worker, nor is it less advantageous to the worker because, if anything, it accelerates the time within which decisions can be made.

It seems to me this is the fair way to balance out the bill.

One other point which is critically important: What is the difference between a board to establish the standards and a commission to enforce them, and why, in my judgment, is it more important to have an autonomous and independent commission even than to have some form of board to promulgate certain standards?

The reason is this: The enforcement of orders is an adjudicatory act, whereas

the establishment of standards is a deliberative act. There are serious penalties involved for the individual enterprise. It is a case by case proposition. It does not apply across the board to every member of industry. One particular rubber company, for example, can be materially disadvantaged by a finding against it in a given case, whereas established standards are an across-the-board proposition. It is entirely practical to be rather deliberate about that in hearings before the Secretary of Labor or officials of that Department. They can go into the thing deeply and if they want to contest it there is plenty of opportunity to go into court and contest the rule. But enforcement of an order or the making of an order is an adjudicatory action.

Therefore, I can understand that even people who would wish to go along with this bill in the main—and I am one of them—would draw back on the question of enforcement even if not on the question of promulgation of the standards.

My experience as a lawyer for many years tells me that I would feel entirely comfortable even if the Secretary promulgated the standards. I know that I would have plenty of time to contest them, but with respect to an order with regard to a violation, I would be worried if I were a lawyer for a particular concern. I would welcome the fact that we have more than one man and that we have an established practice of quasi-judicial character and a separation, a degree of autonomy in the commission which distinguishes it from the authorities who have done to investigating, the reporting, and so forth, in respect of the original complaint of the violation.

Mr. President, for all of those reasons, I would like very much for the Senate to vote for this particular amendment which would be a measure of real assurance so far as the business community is concerned which is deeply worried—I do not understand why—about this bill.

Mr. President, I ask unanimous consent to have the name of the Senator from Colorado (Mr. DOMINICK) added as a cosponsor of the amendment.

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

Mr. JAVITS. The Senator from Colorado has done an extraordinarily difficult and able job in respect of all this legislation. I invite Senators to examine the report on the bill which catalogs the specific contributions made by the minority to indicate that certainly we did not approach lightly the idea of seeking to amend the bill, or change it in any way, but that it had most profound consideration.

The record of the amendments offered by various Members of the minority, which were adopted in the main, is contained on pages 57, 58, and 59 of the committee report.

Mr. President, I reserve the remainder of my time.

Mr. WILLIAMS of New Jersey. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER (Mr. SPONG). The Senator from New Jersey is recognized for 5 minutes.

Mr. WILLIAMS of New Jersey. Mr. President, I should like to inquire of the Senator from New York whether, during the period I was distracted in the Chamber, he had developed the makeup of the panel on enforcement.

Mr. JAVITS. The panel would be three members appointed by the President for a specific term—2, 4, or 6 years. A term would normally be for 6 years. The analogies between the qualifications of members and the authority of the Commission, and so forth, would be with the Federal Trade Commission.

We used in the original text of the amendment the word "panel," but that seemed to water it down so that it did not represent it as it is. So we substituted the word "commission." That is the word used by the Senator from Colorado (Mr. DOMINICK) in his substitute, which we think is more accurately descriptive of an autonomous body which has tenure and quasi-judicial power.

Mr. WILLIAMS of New Jersey. From what areas would these members be selected?

Mr. JAVITS. That would depend on the President, but of course, the nominations would be subject to the advice and consent of the Senate so that the Senate could be a monitor, as it were, to see that they were people who had real qualifications to do the job.

Mr. WILLIAMS of New Jersey. In other words, there are no congressional guides for the selection of members of the Commission.

Mr. JAVITS. It will be done in accordance with the way it is done in other commissions of the same character. The protection there is confirmation by the Senate.

Mr. WILLIAMS of New Jersey. One of the last Commissions to be picked—I do not know that that is the descriptive title of the enforcement group—but that Commission was the metal and non-metallic mines enforcement body. Is the Senator familiar with that?

Mr. JAVITS. I am familiar with that. We do have an enforcement body in that bill, but I am not aware of any particular qualifications which may have been set.

Mr. WILLIAMS of New Jersey. As I recall it, the congressional guides that were given to the President for appointment described the areas of professional competence and areas of economic activity to be drawn from. As I recall it also, the congressional guides were that they should be drawn from labor, industry, and professionals in the areas.

Mr. JAVITS. I might say to my colleague from New Jersey that we normally seek nominees with those qualifications for advisory committees but not for commissions. I believe, for example, that the authority of a commission should be the same authority as we would give to a judge. My view is that a broad range of business can be covered and the factors of judgment taken into consideration, as well as the weight of evidence, and so forth, which would be required; so that I believe we would be best advised to follow the traditional practice which we follow with many commissions, many of which deal with problems of considerable expertise. In the Interstate Commerce Commission

and other agencies, the appointments are made by the President subject to the confirmation of the Senate, which gives us the safeguard we would require.

Mr. WILLIAMS of New Jersey. Mr. President, I oppose the amendment offered by the Senator from New York.

In stating why I oppose this amendment to establish a separate panel to adjudicate enforcement cases, I should first make clear that there is no real or basic difference in the enforcement procedures that would be followed under the committee bill and those provided for in the pending amendment.

Under the committee bill, if an employer decides to contest a citation, he would have an opportunity for a hearing before a Labor Department hearing examiner. The employer could request the Secretary of Labor to review the hearing examiner's ruling, and could obtain further review in the courts of appeals.

Under the pending amendment, the employer would have his hearing before a hearing examiner appointed by the review panel, with an appeal to the panel and further review in the courts of appeals.

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

Mr. WILLIAMS of New Jersey. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 5 additional minutes.

Mr. WILLIAMS of New Jersey. Mr. President, thus there is no difference in the due process that is provided by the two proposals. Under each, the employer is given a full Administrative Procedure Act hearing, with ultimate appeal to the courts.

The argument has been made against the committee bill, however, that due process suffers if adjudication functions are placed in the same agency as enforcement functions. It is contended that the head of the agency would have a reluctance to rule in favor of an employer because he would not want to repudiate his own department's inspectors.

This argument overlooks the fact that the administrative mechanism provided in the committee bill is the same as that which characterizes a vast array of other Federal regulatory programs.

For example, the Federal Trade Commission, the Securities and Exchange Commission, the Interstate Commerce Commission, and the Federal Power Commission, all combine in a single agency both investigative or prosecutorial functions, together with adjudicatory functions. Any of these agencies, in ruling in favor of a respondent, would in a sense be repudiating their own staff members who had investigated or presented a case, but there has been no evidence over the years that rulings are prejudiced by this consideration.

I would like to emphasize that. No evidence was brought to us in the hearing process on the bill. No instances were raised in executive meetings of the committee of any cases where rulings had been prejudiced because of these considerations.

This traditional assignment of combined functions to a single agency has,

of course, not been confined to the multi-member agencies I have mentioned, for a great many regulatory programs are administered by Cabinet officers with responsibility for all of the functions necessary to the program. And I have previously pointed out that a number of these programs are in the safety area.

Here we are concerned directly with the health and safety area, and so they are directly analogous. For example, the three statutes which impose safety and health obligations on Government contractors—the Walsh-Healy Act, the Service Contract Act, and the Construction Safety Act—all give the Secretary of Labor responsibility for investigating compliance with the standards he has set, and for adjudicating those cases where violations are alleged. The same combination of responsibilities is also given the Secretary of Labor under the Longshore Safety amendments.

Similarly, under the Coal Mine Health and Safety Act, the Secretary of the Interior adjudicates the violations which his inspectors have found. And in the Department of Transportation, the Federal Highway Administrator has authority to issue cease and desist orders under the Motor Carrier Act after ruling on violations prosecuted by his subordinate Bureau of Motor Carriers.

A great many other instances where this same combination of functions is lodged within a single executive department could also be cited in other areas of regulatory activity.

Mr. JAVITS. Mr. President, will the Senator yield so that we may get the yeas and nays.

Mr. WILLIAMS of New Jersey. Mr. President, I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WILLIAMS of New Jersey. Mr. President, for example, the Commodity Exchange Act, the Packers and Stockyards Act, the Perishable Agricultural Commodities Act, and the Federal Seed Act, all give the Secretary of Agriculture authority to investigate violations of those statutes or of applicable regulations, and to issue cease and desist orders or to suspend the right of a business to engage in a regulated activity because of such violations. Similarly, the Secretary of the Treasury, under the Federal Alcohol Administration Act and the Narcotics Manufacturing Act, investigates and adjudicates violations, and issues orders which may terminate the right of a respondent to engage in certain businesses. Under the Small Business Investment Act, the Small Business Administrator has authority to issue cease and desist orders for violations which he has uncovered. And the Postmaster General has responsibility for adjudicating a variety of matters investigated by his Department under the postal laws.

Indeed, most agencies of Government administer one or more statutes which provide the agency head with responsibility for exercising the same combination of functions as is found in the bill now before us.

We will note that two of the statutes I have mentioned—the Coal Mine Health

and Safety Act and the Construction Safety Act—were passed during this Congress, and we obviously concluded that this combination of functions in one agency was entirely appropriate. Indeed, when we were considering the Coal Mine Safety Act just a little over a year ago, we gave specific consideration to a proposal to establish an independent board of review for enforcement actions. Despite the fact that it was urged upon us that such an independent board was necessary to preserve due process, we rejected that proposal by a 53-to-24 vote.

That was a significant rejection of this proliferation of bureaucracy beyond what is done in all agencies and all departments.

I know of nothing that has happened since that time to warrant our taking a contrary position now. The simple fact is that the committee bill merely adopts a method of administration which has long since become a fixture in our regulatory process. It is time tested, in my judgment, and it is time honored.

In all these other instances, the Congress has recognized that due process is protected by the internal separation of function requirements mandated by the Administrative Procedure Act. That act applies in this area we are talking about now in enforcement and in adjudication.

These requirements prescribe that those employees of the agency who are engaged in investigation or prosecution shall be separated from those engaged in adjudication, and prohibits those engaged in the performance of investigative or prosecuting functions from participating or advising in the decisionmaking, except as a witness or counsel in public proceedings. I see no basis for concluding that these requirements will not be as effective in preserving fairness and due process under this act, as they have been under others which Congress has adopted.

Under these circumstances, there is no good reason to establish another new agency. I would say this is pioneering. That is a mild phrase. The amendment suggests a radical departure from time-honored and time-tested methods within departments, agencies, and commissions.

We already have too many agencies that hear cases: There is no need to create another when a perfectly acceptable forum is readily available.

I might point out, too, that separation of these functions between different agencies may be seriously detrimental to the regulatory process. Mr. William L. Carey, former Chairman of the Securities and Exchange Commission, pointed out in an American Bar Association Journal article:

Both rulemaking and adjudication are necessary tools for effective regulation. To divorce the adjudication from the rulemaking and administrative functions would fragment the regulatory responsibility and deprive both the administrators and the rulemakers of valuable feedback from the total regulatory process.

The argument has also been made that under the pending amendment, speed of enforcement would be increased because the amendment includes a provision for orders to be self-enforcing at the end of the administrative process,

rather than at the end of judicial review, as in the committee bill, and because it includes a further provision for discretionary review of hearing examiners' decisions.

I am doubtful that these provisions will result in as much time savings as has been projected.

For example, I believe the courts will not generally let an appeal right be substantially nullified by permitting a penalty to run while a case is under court review, and that stays would therefore usually be granted by the courts.

In any event, I do not think these speed-up features of the pending amendment are arguments in favor of accepting the concept of a separate enforcement panel, because they could just as well be offered as amendments in conjunction with the bill's present provision for enforcement by the Secretary.

In conclusion, therefore, I would urge my colleagues to support the committee bill's provision for handling enforcement matters—a provision which so closely parallels those provisions we have adopted for innumerable other regulatory programs, including last year's Coal Mine Safety Act.

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

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

Mr. JAVITS. Mr. President, the Senator from New Jersey, I think for lack of a better explanation, has erected a strawman and then proceeded to knock down that strawman, and that strawman is due process. There is no need to knock down that strawman. I have not established him as an argument for this approach.

Certainly, there is due process in the Secretary, and if there was not, the courts would overturn it.

The important thing is to inspire confidence in the community that we expect to obey this law, and that is the basis on which I approach the matter. There is no question about the fact that the community will be considerably reassured in the difficult, and one might say dangerous situation, by the adoption of this amendment.

The best argument against the argument made by the Senator from New Jersey is the committee report itself which indicates the unbelievable ramifications of this law and the reach of this law into countless numbers of workplaces throughout the country. I invite Senators to look at the background for this bill and the literally thousands of cases of occupation health and safety situations which would be reached by this bill.

Certainly there is due process in the Secretary and certainly in many cases it is administered in this way, but in many cases it is not, and I am referring to the Secretary.

The Senator from New Jersey himself was quick to raise the issue of the coal mine safety bill and the question of safety where there is a body similar to the one we are seeking to appoint here. There are just as many precedents for what we are recommending as leaving it in the Secretary, so the issue is not a matter of due process or general tradi-

tion or general procedure. It is a matter of designing a particular remedy for a particularly difficult situation.

This is a situation which can disturb very seriously and be very costly to the business community. I feel very strongly that a great element of confidence will be restored in how this very new and very wide-reaching piece of legislation will be administered if the power to adjudicate violations is in the hands of an autonomous body, more than one man, and more than in the Department of Labor itself. It seems a small price to pay for the confidence that will be inspired by the adoption of this amendment. That is the basis on which I make my argument. Yesterday I argued that there is due process in everything in this bill now. I would not have supported it in committee if I felt otherwise. That is not the point. We have a difficult piece of legislation reaching the whole of American business, involving millions of employees and tens of thousands of employers. This will give them a greater measure of confidence. It seems logical that we do it this way.

That argument is especially reinforced by the fact that it is a much more efficient procedure we are outlining here than the procedure solely in the hands of the Secretary. For example, here is a record of what needs to be done if the Secretary addressed violations himself.

Under the committee bill, no enforceable order to correct a violation would issue until the completion of all administrative and judicial review proceedings. This would involve, at a minimum in a contested case: First, hearings by a trial examiner; second, mandatory review of the decision by the Secretary or his designee; and, third, review by a court of appeals. It is doubtful that this process could be completed in less than 18 months—2 years would be a more realistic estimate—in a seriously contested case.

Contrast that with my amendment. Under my amendment, an enforceable order would issue at the end of the administrative review stage, rather than after judicial review—unless the court of appeals issued a stay. Furthermore, the administrative review stage itself would be shortened by 3 to 6 months in many cases by making review by the Panel of trial examiners' decisions discretionary. If review were denied, the trial examiners' decision would automatically become the final order of the Panel and enforceable as such.

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

Mr. JAVITS. I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 additional minutes.

Mr. JAVITS. Hearings in enforcement cases by an independent panel also more closely accords with our concept of fairness. That is what I am arguing. I am arguing the concept of fairness rather than due process.

Finally, but very important in this situation, I believe that this is a bill which in certain parts worries business, as in the case of the amendment just rejected by the Senate with respect to im-

minent danger, and criteria, the general standards which must be followed where there are no specific regulations with respect to health and safety, and so forth. Business feels this is rather tough on them.

Where can we give them a measure of reassurance, where can we give them by so simple a means as an autonomous enforcement board, and where it is completely consistent with the great body of legislation we have passed, I see no reason why we should not do it and I hope the Senate will.

Finally, one question was raised by the Senator from New Jersey about the qualifications of members of the commission. The amendment states as follows:

The Panel shall be composed of three members who shall be appointed by the President, by and with the advice and consent of the Senate, from among persons who by reason of training, education, or experience are qualified to carry out the functions of the Panel under this act.

I respectfully submit that that is a good criterion rather than to pin it down to one from labor, one from management, and one from the public, because that would be unduly restrictive to a quasi-judicial body, but the mandate is put on the President, which the Senate can pass on, that these should be the kinds of people to make the judgments in cases of this character.

I deeply believe that the inspiration of confidence in the way in which this law will be administered, in view of other provisions like imminent danger, is so necessary that this is a very small price to pay for inspiring that kind of confidence, if nothing else, in the employers who will be subject to this law.

I feel strongly that the amendment should be agreed to by the Senate as a fair compromise between the views of management and the views of labor on this important bill.

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

Mr. DOMINICK. I thank my distinguished colleague from New York. I believe he has set forth a very able argument for the record in behalf of his amendment, which I fully support.

It is interesting, in looking back on the history of the bill, to note that during the time we were considering the bill in executive session, the Senator from New York offered this same amendment, and it was defeated, once again, on a very close vote—almost by a straight party-line vote. I think that is too bad. I do not think we ought to be dealing with matters of health and safety on any partisan basis; and I hope we will not be so doing when the amendment comes to a vote a few minutes from now.

We are dealing with a very explosive issue here. We are dealing with the feeling of a great number of people throughout our country that the Federal Government has gone too far in the process of injecting itself into businesses and the regulation of human life; that we are all numbers, classified on a computer back here in Washington; that no one can really have initiative and an innovative approach any more, because all of us are regulated here in Washington. And here, in the name of occupational health and

safety, we are once again concentrating power in one department, or one man—whichever way one wants to put it, because the Secretary of Labor is going to run the Department. We are putting enormous power over every industry and every business in the country in one person.

It seems to me the very least we can do in trying to make this bill palatable to the American people is to provide what is proposed in the amendment. No bill is worth a hoot unless it is palatable, because it cannot be enforced. We could not possibly find enough inspectors to impose upon this vast area of geography and the vast number of people in our country a bill which people will not voluntarily comply with in a great majority of the cases. And if the American public as a whole feels that the bill we are considering here is going to inject a Federal agency into their business and into every industry in the country, we are really going to have bad problems with it. So a panel on enforcement seems to me to be the very least we can do—the very least—in order to try to avoid the star chamber procedure which we have had for far too long in too many agencies. We have had it in the Federal Trade Commission. We have had it in a number of other agencies.

Person after person after person who has looked into the problem of the reorganization of the agencies of our Government has said, "You should separate these functions." This is not a Republican or a Democratic idea. This is not a labor or a business idea. This is the idea of any number of experts who have looked at the independent agencies and have said, "Separate the enforcement procedure from the rules procedure and from the inspection procedure." An article I read a couple of days ago proposed something along this line; that perhaps this is a new method by which we ought to approach it.

I do not think we have to have suggestions from other people; all we have to do is look at it. Let us take a businessman who runs a department store, and not consider the refineries and steel mills and other businesses that have representatives in Congress urging protection for those businesses. Let us take a department store, because this law is equally applicable to department stores. Regulations are established after determination of what safety requirements are to be applied in Alaska. Are they going to be the same in Mississippi or in Virginia or Colorado? So regulations are established after a determination of what the problems will be in stores all over the country. Then the Department of Labor has to come along and make inspections and determine whether rules and regulations are going to be put into effect—the same department that makes the rules and regulations to begin with.

They say that in Alaska, or New Jersey, or Colorado, there is a violation of the rule. So they bring back a finding of a violation, as an inspector of the Labor Department, and submit it, and then the Labor Department decides whether there has been a violation or not; whether its own inspector is right. Perhaps there must be a hearing examiner. Many such

hearing examiners would have to be employed in that type of situation.

The hearing examiner will decide it, subject to the review of the Secretary, and then someone can go to court if he decides to go to that trouble and expense. But it is one department, one group of people, one agency, doing the whole thing—setting the rules, doing the inspection, doing the administration, establishing the alleged violations, and then deciding whether there has been one.

I submit to the Senate that such a procedure is totally antagonistic to our sense of justice and fair play in this country.

The Senator from New York has not made any kind of massive or innovative change. All he says is, "Let us have someone else decide whether the rules, which have been established by the Labor Department, the administration of which is in the Labor Department, the inspection of which is in the Labor Department, have in fact been violated, but let us have a separate board do it." I think he makes an excellent case for such an approach.

Mr. HOLLAND. Mr. President, will the Senator yield me 5 minutes?

Mr. DOMINICK. I yield 5 minutes to the Senator from Florida.

Mr. HOLLAND. Mr. President, I agree completely with the statements made by the distinguished Senator from New Jersey and the distinguished Senator from Colorado that the question of public confidence and acceptance is very deeply involved as we consider the passage of this act. I think an independent enforcement agency in my State, at least, where I have observed for a good long time what has been going on, will be much more acceptable to employers, and I believe in the long run to employees, than will the program presented by the committee bill, under which the same agency will control the whole process, subject only to the right of ultimate appeal to the Federal court, which means a long and expensive process, much longer than would be involved under this amendment.

I base my statement upon two observations which I made, first on the operation under the Wagner Labor Act. That was an agency which handled both the regulatory work and the inspection work, and, eventually, the question of whether performance was as it should be.

I know perfectly well, from my own experience as a lawyer over a good many years, that the impression prevailed that the labor unions and the labor union administrators and managers and leaders were much too close to the personnel of the board under the Wagner Act, and that fair and objective and impartial judgments were not to be expected from that agency.

I came here and participated in the repeal of that act and the setting up of what has proved to be a decidedly more acceptable setup than was true under the Wagner Labor Act.

Then, Mr. President, I recall that the former Secretary of Labor under the preceding administration, Mr. Wirtz, was given jurisdiction to make decisions in matters—and I do not question his conscientiousness—in which he had small experience and in which his judgment

was very impractical and in which his judgment was more or less final, unless one wanted to go to the expense of long litigation. The opinion still prevailed in our State among our largest employers, those who operate concentrate plants, canning plants, processing plants of one kind or another in the field of processing agricultural products, whether meat, fruits, vegetables, or whatnot. There was the feeling that the decisions of the then Secretary of Labor—and I again say that I do not question his soundness of conscience—were not practicable, were not objective, and were much more nearly in accord with the demands and expectations of those who were directly representing the labor organizations.

I think that it will be much more acceptable, in my State at least, to have an independent agency such as is suggested in the pending amendment to handle the enforcements, and for that reason I strongly favor the amendment proposed by the Senator from New York, and hope it will be adopted.

Mr. WILLIAMS of New Jersey. Mr. President, will the Senator yield for a question?

Mr. HOLLAND. I am happy to yield.

Mr. WILLIAMS of New Jersey. The Senator from Florida has been a most distinguished and wise counselor in matters of agriculture. Not to make that exclusive; he has been a wise counselor for Senators in many areas.

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

Mr. WILLIAMS of New Jersey. I yield such time as we may need for this colloquy.

I did refer to the operation of investigations and decisions in the quasi-judicial area of the Secretary of Agriculture, and I did refer to the Commodity Exchange Act, the Packers and Stockyards Act, the Perishable Agricultural Commodities Act, and also the Federal Seed Act.

The statutes governing all of these areas give the Secretary of Agriculture authority to investigate violations of the statutes and applicable regulations, and to issue cease and desist orders or suspend the right of a business to engage in a regulated activity because of violations.

My question to the Senator is this: I said that I know of no abuses under that analogous procedure that resides within the Department of Agriculture and in its Cabinet officer, the Secretary of Agriculture. I used that in analogy to what is provided in the bill now before the Senate. I wondered if the Senator from Florida would comment on any abuses that he has seen in that area.

Mr. HOLLAND. I am glad to comment. I have not seen great abuses in that area. I think that agricultural people generally have great confidence in the wise, objective, and practical actions of the Secretary of Agriculture.

In the field of labor the situation is quite different. There is always a certain combativeness between labor organizations and employing organizations. I have not seen that present in the field of agriculture; and as a matter of fact we tried to transfer, as the Senator will remember, the administrative functions

of the Secretary of Labor to the Secretary of Agriculture in labor matters, and the Senate was evenly divided, in a 50-50 vote, on that matter, and the question had to be decided by the vote of the then Vice President, showing that a great many Senators felt as I do, that we can have very great confidence in an objective handling by the Secretary of Agriculture, but we have not had that same experience in the field of labor. There is too much continuous combat and continuous difference of opinion between those who employ and those who work for there to be satisfaction in advance, for employers to feel that a verdict and a judgment of the Secretary of Labor will be completely objective and completely practicable.

The Senator recalls, does he not, that we tried to change the jurisdiction from the Secretary of Labor to the Secretary of Agriculture in the field of the control of agricultural labor, and that the Senate was evenly divided on that vote?

Mr. WILLIAMS of New Jersey. Yes.

Mr. HOLLAND. That, I think, is a clear showing of the fact that there is a difference in opinion, whether justified or not, as to the function of the man and his top assistants who head the Department of Labor.

Perhaps I am being unfair, but I am stating the result of my own objective observations under the two agencies that I have mentioned, one of them not directly the Department of Labor, but it was associated closely in the minds of the employers, by reason of the actions taken under the Wagner Act, with the wishes of the labor leaders; and, whether rightly or wrongly, it brought about an unsatisfactory condition, because the employers always anticipated that the judgment would be a slanted one, and very frequently it was.

The same thing was true in the other fields that I have mentioned, but we have not had that experience in connection with the Department of Agriculture. I am quite willing to state that I heard all of the able arguments of the Senator from New Jersey, and he was quite within his rights in citing many examples where this question does not exist. I think it does exist in this field of the clashes between labor and management, and it is for that reason that I strongly urge the setting up of an independent agency, quasi-judicial in nature, which shall not be regarded as too close to labor or too close to employers.

As far as I am concerned, though I shall not be in the Senate long, if I were here, and there were named by the President people who I thought would be slanted in their approach, I would not hesitate to vote against their confirmation. I think we need to have as nearly the judicial temperament and the assurance of judicial settlement of these particular arguments as we can guarantee in this legislation.

It is for that reason only, without criticism of the committee and certainly without criticism of the able Senator from New Jersey, that I feel that an independent enforcement agency will come nearer commanding the confidence of all concerned, and shortening the process of enforcement and meeting the prob-

lem, which is going to be a difficult one, of how to obtain enforcement that will satisfy the various elements, many times quite controversial in their approach to each other, that will be involved in this field.

Mr. WILLIAMS of New Jersey. Could I ask the Senator one further question? Would the Senator generalize to the point of advocating this approach offered in the amendment of the Senator from New York for all areas, or is he limiting it to this particular question before us?

Mr. HOLLAND. As far as my present attitude is concerned, it is limited to this particular question, and particularly because the continuing clash between employers and employees is so active, so controversial in nature, that I favor the setting up of an independent quasi-judicial body, which, in my opinion, ought to be just as dependable as the courts themselves, and so regarded by all concerned—just as objective, just as practical, just as impartial in their approach.

I do not think they would be so regarded if they were a segment of the Department of Labor. Without any criticism at all of my distinguished friend from New Jersey, for whom I have the highest regard, as I think he knows, I think the independent enforcement agency would much more nearly satisfy public opinion and the opinion of those who would have to be controlled by judgments to be entered by the enforcement agency here.

Mr. WILLIAMS of New Jersey. I just wondered whether the Senator would limit it to this area, because this is, to repeat one of the statements of the Senator from Colorado yesterday, an innovative approach. I used the word "radical." That suggests a sweeping change, and I wanted to find out whether the Senator from Florida would have this sweeping change sweep into all of the other areas where presently, within an agency or a department, we have the various steps of enforcement that we have contained in the present bill before us, which is sought to be amended by the Senator from New York.

Mr. HOLLAND. Certainly I am not suggesting a sweeping change applicable to every situation. I am simply saying that in this particular field, that is, in what this legislation deals with, I think the public will be better satisfied and that the enforcement will be more acceptable all the way around if it is by an independent, quasi-judicial body, well chosen. It has to be well chosen, to meet the approval of the Senate, in my judgment. I would certainly be insistent upon its being an impartial body, and I am sure the Senator from New Jersey would similarly insist. I think it will give a better result here. I do not think it is needed in many other cases, because there has been no showing of trouble. I take these things one at a time.

As the Senator knows, I had decided criticism to make of a former Secretary of Labor, and I think the distinguished Senator from New Jersey was not able to support his judgment in all matters because they were not practical and the Secretary showed an unfamiliarity with the problems which he was expected to

solve. I could cite the examples, but that is an old story, and I do not think we need go into it.

The judgment prevails not only on the part of employers but also, I think, in the mind of the average citizen, that the Labor Department always—perhaps that is the right thing—is most sympathetic in its attitude toward the labor organizations. I think we need an impartial body, a body of high standing, to do this job, because it is going to be a tough one. That is my feeling.

I thank the Senator for his question. Mr. WILLIAMS of New Jersey. I certainly appreciate this colloquy with the distinguished senior Senator from Florida. This may be the last opportunity I will have to engage in the discussion of a bill in the Senate with the Senator from Florida.

I can look back over a little more than a decade now with nothing but the greatest pleasure in joining with the Senator from Florida in debate and in discussions on the floor. Over that decade of opportunity, I recall that we have, in disagreement, worked toward the greatest harmony we could achieve and always, I felt, with mutual respect and friendship; and I have enjoyed it.

Mr. HOLLAND. I thank the Senator. I have enjoyed my association with the distinguished Senator from New Jersey. Many times we have agreed, sometimes we have disagreed; but I think we have come out of the arguments on those occasions just as good friends as we have always been, as we are now.

In my opinion, there is nothing but an objective approach to this matter, under which I think we have to recognize that here is a highly controversial field and here is a public feeling that the Department of Labor leans toward, is most sympathetic toward, the opinions of the labor organizations.

I think that when we are setting up a body to judge the controversies between the employers and the labor groups, we certainly should require the setting up of an agency that will be respected and is capable, impartial, and objective in its approach. It is for that reason only that I support strongly the amendment of the Senator from New York.

I thank the Senator from New Jersey for his uniform courtesy. We will always be friends. I hope that after I get home to Florida, which will be at the end of this year, he will honor me by coming down to see me from time to time. All I can tell him is that I will be glad to take him fishing or hunting or whatever he would like at that time.

Mr. WILLIAMS of New Jersey. I certainly appreciate that. Perhaps for spring training and out to a ball game.

Mr. HOLLAND. Yes.

Mr. WILLIAMS of New Jersey. We in the Senate know that one of the great former baseball players of the Nation is the Senator from Florida.

Mr. HOLLAND. The Senator is much too kind in that comment.

Mr. JAVITS. Mr. President, what is the situation with respect to time on the amendment?

The PRESIDING OFFICER. The Senator from New York has 14 minutes re-

maining, and the Senator from New Jersey has 26 minutes remaining.

Mr. JAVITS. Mr. President, I have no other speakers. I wish to yield myself 2 minutes, and then I shall be prepared to yield back the remainder of my time, if that is agreeable to the Senator from New Jersey.

I yield myself 2 minutes.

Mr. President, again, as Senator Holland has emphasized—and I am very grateful to him for his intervention in this matter—we are not arguing the issue of due process. We are arguing the issue of the acceptability of the proposed legislation and the feeling on the part of the people who will be subject to it that it is fair.

As to the points he has made, I should like to point out that in the National Labor Relations Board and in the Equal Employment Opportunities Commission, we have installed independent counsel, precisely for the reason that we are worried about it, notwithstanding that all the proceedings of those bodies are concerned with quasi-judicial functions, even those of investigation; whereas, in this case we are dealing with inspections which do not necessarily have to do with violations. The EEOC and the NLRB have to do with violation from the moment a complaint is made, so that everything is quasi-judicial, including investigation. That applies to the SEC as well. In this case, we are dealing with normal administrative functions of investigation in which a violation may or may not turn up.

Finally, in respect to administering the complex Coal Mine Safety Act, the Secretary, himself, was so impressed with the need for making a better public impression on enforcement that he established an in-house enforcement committee. He did not want to leave that authority in himself, although the law gave it to him.

For all those reasons, I hope very much that the Senate will accept what should have been accepted in committee as the compromise on the proposed legislation between the views of management and the views of labor and support this amendment.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. WILLIAMS of New Jersey. I will do so in one moment.

While I oppose the amendment, I will say that I have the greatest respect for the Senator from New York in his whole approach to the legislative process generally and on this bill in particular, in committee, and on the floor.

It is my feeling that this new agency is not needed for fairness and sound decision to prevail in this area of Government activity.

There is nothing to suggest to me that we need fear the authority that is granted to the Secretary of Labor under this bill. All the elements of due process certainly are written in; and if confidence is to be inspired, I think it is to be inspired by the soundness of the decisions, which, I believe, is insured to the extent it can be through legislation.

I yield back the remainder of my time.

Mr. JAVITS. I yield back the remainder of 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 New York. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from Connecticut (Mr. DODD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. McCARTHY), the Senator from Rhode Island (Mr. PELL), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. ELLENDER), is absent on official business.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG) is necessarily absent.

The Senator from Kentucky (Mr. COOPER), the Senator from Florida (Mr. GURNEY), the Senator from Illinois (Mr. PERCY), and the Senator from Maine (Mrs. SMITH) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Kentucky (Mr. COOK), the Senator from Kansas (Mr. DOLE), the Senator from Iowa (Mr. MILLER), and the Senator from Texas (Mr. TOWER) are detained on official business.

If present and voting, the Senators from Kentucky (Mr. COOK and Mr. COOPER), the Senator from Kansas (Mr. DOLE), the Senator from Florida (Mr. GURNEY), the Senator from Iowa (Mr. MILLER), the Senator from South Dakota (Mr. MUNDT), the Senator from Illinois (Mr. PERCY), the Senator from Maine (Mrs. SMITH), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 43, nays 38, as follows:

[No. 383 Leg.]

YEAS—43

Alken	Fannin	Pearson
Allen	Goldwater	Prouty
Allott	Goodell	Russell
Baker	Griffin	Saxbo
Bellmon	Hansen	Schweiker
Bennett	Hatfield	Scott
Boggs	Holland	Spong
Brooke	Hruska	Stennis
Byrd, Va.	Javits	Stevens
Case	Jordan, N.C.	Talmadge
Cotton	Jordan, Idaho	Thurmond
Curtis	Mathias	Williams, Del.
Dominick	McClellan	Young, N. Dak.
Eastland	Murphy	
Ervin	Packwood	

NAYS—38

Anderson	Hughes	Moss
Burdick	Inouye	Muskie
Byrd, W. Va.	Jackson	Nelson
Cannon	Kennedy	Pastore
Church	Long	Proxmire
Cranston	Magnuson	Randolph
Eagleton	Mansfield	Ribicoff
Fulbright	McGee	Stevenson
Gore	McGovern	Symington
Gravel	McIntyre	Williams, N.J.
Harris	Metcalf	Yarborough
Hart	Mondale	Young, Ohio
Hartke	Montoya	

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NOT VOTING—19

Bayh	Fong	Percy
Bible	Gurney	Smith
Cook	Hollings	Sparkman
Cooper	McCarthy	Tower
Dodd	Miller	Tydings
Dole	Mundt	
Ellender	Pell	

So Mr. JAVITS' amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMINICK. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, informed the Senate that, pursuant to the order of the House of October 13, 1970, and Public Law 91-405, the Speaker had appointed Mr. FUQUA and Mr. NELSEN, Members of the House of Representatives, and Mrs. Marjorie McKenzie Lawson, District of Columbia, and Mr. John B. Duncan, District of Columbia, members from private life, as members of the Commission on the Organization of the Government of the District of Columbia, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of section 2(a), Public Law 91-474, the Speaker had appointed Mr. DONAHUE, Mr. BURKE, Mr. KEITH, and Mr. CONTE as members of the Plymouth-Provincetown Celebration Commission, on the part of the House.

The message further informed the Senate that, pursuant to the provisions of section 601(a), Public Law 91-513, the Speaker had appointed Mr. ROGERS of Florida and Mr. CARTER as members of the Commission on Marihuana and Drug Abuse, on the part of the House.

The message announced that the House had passed, without amendment, the following bills of the Senate:

S. 737. An act for the relief of Konrad Ludwig Staudinger;

S. 882. An act for the relief of Captain William O. Hanle;

S. 1422. An act for the relief of Donal E. McGonegal;

S. 2455. An act to authorize appropriations for the Civil Rights Commission, and for other purposes;

S. 3620. An act for the relief of Mrs. Anastasia Pertsovitch;

S. 3853. An act for the relief of Mrs. Pang Tai Tai; and

S. 3858. An act for the relief of Bruce M. Smith.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 13978) to amend the Agricultural Adjustment Act of 1933, as amended, and reenacted and amended by the Agricultural Marketing Act of 1937, as amended, to authorize marketing research and promotion projects including paid advertising for almonds.

The message further announced that the House had passed the bill (S. 3785) to amend title 38, United States Code, to authorize educational assistance to wives

and children, and home loan benefits to wives, of members of the Armed Forces who are missing in action, captured by a hostile force, or interned by a foreign government or power, with amendments, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bill and joint resolutions, in which it requested the concurrence of the Senate:

H.R. 14684. An act for the relief of the State of Hawaii;

H.J. Res. 1077. Joint resolution to amend the joint resolution authorizing appropriations for the payment by the United States of its share of the expenses of the Pan American Railways Congress Association; and

H.J. Res. 1355. Joint resolution concerning the war powers of the Congress and the President.

HOUSE BILL AND JOINT RESOLUTIONS REFERRED

The following bills and joint resolutions were severally read twice by their titles and referred, as indicated:

H.R. 14684. An act for the relief of the State of Hawaii; to the Committee on the Judiciary.

H.J. Res. 1077. Joint resolution to amend the joint resolution authorizing appropriations for the payment by the United States of its share of the expenses of the Pan American Railways Congress Association; and

H.J. Res. 1355. Joint resolution concerning the war powers of the Congress and the President; to the Committee on Foreign Relations.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

The Senate resumed the consideration of the bill (S. 2193) to authorize the Secretary of Labor to set standards to assure safe and healthful working conditions for working men and women; to assist and encourage States to participate in efforts to assure such working conditions; to provide for research, information, education, and training in the field of occupational safety and health; and for other purposes.

AMENDMENTS NOS. 1054 AND 1058

Mr. DOMINICK. Mr. President, I call up amendments Nos. 1054 and 1058 and ask unanimous consent that they be considered en bloc.

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

The legislative clerk proceeded to state the amendments.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendments will be printed in the RECORD.

The amendments read as follows:

AMENDMENT NO. 1054

On page 39, beginning with the word "The" on line 3, strike out all through the word "life." on line 9;

On page 39, line 10, strike the word "such";

On page 39, lines 12 and 13, strike the words "the highest degree of";

On page 39, line 13, strike the words "the employee", and in lieu thereof, insert "employees".

On page 39, line 6, after "that" insert a comma and "to the extent possible,".

AMENDMENT NO. 1058

On page 71, line 19, beginning with "The Secretary" strike out through line 25.

Mr. DOMINICK. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 5 minutes; and the Sergeant at Arms is instructed to keep the aisles clear of those who are not Senators.

Mr. DOMINICK. Mr. President, if my colleagues will bear with me, I am hopeful that the manager of the bill might be willing to accept these two amendments en bloc. If not, I hope that we will be through with the discussion of them rather early and get to a vote on the amendments even before the allotted time limitation.

Mr. President, section 18(a)(2), as presently drafted, requires that the Secretary of Health, Education, and Welfare, in developing criteria for use in standard setting, adopt criteria "which if applied will assure that no employee will suffer impaired health or functional capacities, or diminished life expectancy as a result of his work experience." My amendment would delete this confusing and unrealistic requirement.

The provision taken literally would require the Secretary to accomplish an impossible task. No job can be rendered perfectly safe, and no employee can be made perfectly secure from injury. Hence, it is impossible to fashion criteria which would assure these unattainable goals.

Apart from the normal hazards found in any occupation, there are also particular vocations which are inherently dangerous; and while the risks of these occupations may be minimized, some exposure to injury will remain the handmaiden of such employment.

It is difficult to imagine how the Secretary will deal with this provision administratively. Should he interpret this congressional mandate literally, it would appear necessary for him to forbid all employment, and it would certainly be necessary to proscribe inherently dangerous employment. Otherwise he must simply ignore the provision and exercise his discretion in fixing the criteria.

If, as I suppose to be the case, this provision is no more than a congressional instruction to the Secretary, directing him to adopt the most reasonable and effective criteria, then I submit that it is totally unnecessary. It must be assumed that the Secretary will prudently exercise his functions under the act, and he should be free to do so without the confusion which would be generated by this provision.

The same problem exists in connection with section 6(b)(5). My amendment would delete the requirement that the Secretary establish occupational health and safety standards which most adequately and feasibly assure that no employee will suffer any impairment of health or functional capacity, or diminished life expectancy.

It is unrealistic to attempt, as this section apparently does, to establish a utopia free from any hazards. Absolute

safety is an impossibility and it will only create confusion in the administration of this act for the Congress to set clearly unattainable goals.

One of the great safety drives is to try to eliminate accidents in the home. Obviously, if we are going to set up standards which will assure that no accidents will happen in the home, we are going to run into an impossible situation.

Mr. MURPHY. Mr. President, will the Senator yield for a question?

Mr. DOMINICK. I am happy to yield to the Senator from California.

Mr. MURPHY. Is there a penalty suggested in the bill in the event the standards are not set up?

Mr. DOMINICK. There is no penalty suggested in the bill in the event standards are not set up, but if a standard is set up to meet the criteria here it would be impossible for anyone to live up to it. That is the problem.

Mr. MURPHY. It has been my experience that a very high percentage of industrial accidents are not caused by existing conditions but that they are caused by not obeying the existing rules and regulations, and suggestions. If I am incorrect, I hope the Senator will correct me. I understand that better than 50 percent of industrial accidents are caused by negligence on the part of the individuals concerned.

Mr. DOMINICK. Yes.

Mr. MURPHY. So the setting of a criteria has to be a two-edged sword and there must be punishment in the event conditions are not met and there must be a punishment in order to enforce compliance.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. DOMINICK. I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 additional minutes.

Mr. DOMINICK. The Senator is correct. The difficulty of the language I am dealing with here and that I am trying to delete is the requirement that the Secretary, in establishing standards, must assure that there will not be any risk at all.

I do not know of any housewife who does not run into some risk, and if nothing else, in reaching for a pan on a shelf and cutting her hand on the edge. That also happens in department stores and in other places.

There is no need to include a provision that this Secretary or any Secretary would be unable to administer.

Mr. MURPHY. I think the Senator has made an excellent point, and I thank him.

Mr. DOMINICK. Almost every occupation entails some risk of injury and there are many which are inherently hazardous, in which the danger is a permanent part of the job and an employee cannot escape regular exposure to the hazard for "the period of his working life."

Let us take the case of a bus driver. There is no possible way that a bus driver for the rest of his life could be assured that he is not going to get regular exposure to these hazards. By the very

nature of driving a bus over the road, no matter how many safety tires and signals are on the bus, it is a hazardous occupation. A man working on a barge is faced with the same situation. The same is true of a stevedore on a dock. Almost any kind of occupation one can think of has something which is inherently hazardous simply by the fact that one is living and breathing and there is no way a criteria can be established so that an employee would not be faced with some risk for the period of his working life.

Any administrator responsible for enforcing the statute will be faced with an impossible choice. Either he must forbid employment in all occupations where there is any risk of injury, even if the technical state of the art could not remove the hazard, or he must ignore the mandate of Congress and allow the work to continue even though some danger exists.

The confusion inherent in this provision will, in my opinion, render it no more than a hortatory admonition to the Secretary to fulfill his responsibilities under the act. This, of course, is implicit in the bill as a whole and is not an essential part of the statutory language.

My point is that in trying to make this bill more palatable there is no point in putting in criteria which cannot be met.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS of New Jersey. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. WILLIAMS of New Jersey. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WILLIAMS of New Jersey. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Who yields time?

Mr. WILLIAMS of New Jersey. Mr. President, I ask unanimous consent that there be a quorum call for the time not charged to either side.

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

Mr. WILLIAMS of New Jersey. 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. DOMINICK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER OF BUSINESS

Mr. DOMINICK. Mr. President, I ask unanimous consent that the pending amendments and the modifications that are being prepared may be temporarily laid aside while we take up another amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Colorado?

Mr. JAVITS. Mr. President, would the Senator make that request to read "other amendments"? I have some technical and pro forma amendments which will be agreed to, as do other Senators. I request the Senator make his request in the plural.

Mr. DOMINICK. I am happy to make the request in the plural.

The PRESIDING OFFICER. The request is amended accordingly.

Is there objection? The Chair hears no objection, and it is so ordered.

The PRESIDING OFFICER subsequently said: The Chair understands that it is understood that the amendment of the Senator from Colorado (Mr. DOMINICK) will remain aside until we return to it, and that that was part of the original request; and these other amendments may be acted on until such time as the Senator from Colorado reasserts his right. Without objection, that is the understanding.

#### APPOINTMENTS BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER (Mr. CASE). The Chair, on behalf of the Senator from Georgia (Mr. RUSSELL) announces the following appointments by the President pro tempore of the Senate, pursuant to Public Law 91-474, to establish the Plymouth-Provincetown Celebration Commission: the Senator from Vermont (Mr. AIKEN), the Senator from Rhode Island (Mr. PASTORE), and the Senators from Massachusetts (Mr. KENNEDY and Mr. BROOKE).

#### OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

The Senate continued with the consideration of the bill (S. 2193) to authorize the Secretary of Labor to set standards to assure safe and healthful working conditions for working men and women; to assist and encourage States to participate in efforts to assure such working conditions; to provide for research, information, education, and training in the field of occupational safety and health; and for other purposes.

Mr. DOMINICK. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, is as follows:

On page 92, line 20, insert the following new Section:

SEC. 29. Section 601 of the Federal Aviation Act of 1958 is amended by inserting at the end thereof a new subsection, as follows:

#### EMERGENCY LOCATOR BEACONS

(d) (1) Except with respect to aircraft described in paragraph (2) of this subsection, minimum standards pursuant to this section shall include a requirement that emergency locator beacons shall be installed—

(A) on any fixed-wing, powered aircraft for use in air commerce the manufacture of which is completed, or which is imported into the United States, after one year following the date of enactment of this subsection; and

(B) on any fixed-wing, powered aircraft used in air commerce after three years following such date.

(2) The provisions of this subsection shall not apply to jet-powered aircraft; aircraft used in air transportation (other than air taxis and charter aircraft); military aircraft; aircraft used solely for training purposes not involving flights more than twenty miles from its base; and aircraft used for the aerial application of chemicals.

Mr. DOMINICK. Mr. President, I shall be very brief. I am delighted the Senator from Nevada is in the Chamber. This is an amendment which would require the installation of emergency locator beacons on fixed-wing aircraft made within a year from the date of enactment of the bill, that is, new aircraft, and the installation of emergency locator beacons on fixed-wing aircraft 3 years after this date, which are still flying.

We consider this to be an important provision. It was taken to conference but it was not considered as a part of the bill. Since we are dealing here with health and safety measures and we have an enormous problem trying to locate downed aircraft, it seems to me this is an appropriate place for the amendment.

At the present time we have a record of spending over \$2 million in gas alone in the CAP looking for downed aircraft. We have spent over \$57 million in 4 years in connection with Air Force personnel looking for downed aircraft. We have an enormous loss of life involved, much human agony on the part of relatives, and the problems of estates concerned.

In the last year 28 aircraft went down in the New England area alone, aircraft which were lost for more than 24 hours. Fourteen of those aircraft in New England have not been found at all. Nobody knows where they are. As a result, estates have been tied up.

With the installation of relatively cheap emergency locator beacons, downed aircraft could be located in a matter of minutes. It seems to me this is the place to insert this amendment. I understand the manager of the bill has no objection.

Mr. President, before yielding the floor, I ask unanimous consent that an excerpt of colloquy relating to this situation, dated February 26, 1970, and a speech I made on the same subject in April of 1968, be printed in the RECORD.

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

#### AIRPORT AND AIRWAYS DEVELOPMENT ACT OF 1969

The Senate continued with the consideration of the bill (H.R. 14465) to provide for the expansion and improvement of the Nation's airport and airway system, for the imposition of airport and airway user charges, and for other purposes.

#### AMENDMENT NO. 521

Mr. DOMINICK. Mr. President, I call up amendment No. 521.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to state the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment ordered to be printed in the RECORD, reads as follows:

After line 3, page 143, add the following new section:

"That section 601 of the Federal Aviation Act of 1958 is amended by inserting at the end thereof a new subsection as follows:

"Downed Aircraft Rescue Transmitters

"(d) Minimum standards pursuant to this section shall include a requirement that downed aircraft rescue transmitters shall be installed—

"(1) on any aircraft for use in air commerce, the manufacture of which is completed, or which is imported into the United States, after six months following the date of enactment of this subsection;

"(2) on any aircraft used in air transportation after two years following such date; and

"(3) on any aircraft used in air commerce after five years following such date."

Mr. DOMINICK. Mr. President, the printed amendment is on every Senator's desk.

I yield myself 10 minutes to explain the amendment. It may take a little more time. I do not intend to take very long. I hope that the manager of the bill will accept the amendment. If he is not going to accept it and can so indicate now, we might as well get the yeas and nays.

Mr. CANNON. Mr. President, I do not know whether I will accept the amendment. I want to hear what the Senator has to say.

Mr. DOMINICK. Mr. President, the language has been put into amendment form. It was an original bill introduced by the Senator from Washington (Mr. MAGNUSON) and me several years ago and again in the beginning of this Congress. It has not had any hearings. However, despite the fact that it has not had any hearings, I think that the evidence of the need for this is perfectly clear.

For years now, we have had general aviation aircraft go down either for mechanical reasons or because of weather or pilot error or whatever other reason it might have been.

Immediately upon that happening, and when it is discovered that they have not arrived where they intended to go, search and rescue efforts are then started. Then someone has to find out where they are. And they have continued these efforts and have spent many flying hours in doing so. They have lost people in the process of air rescue efforts. It has happened all over the country.

The cost in terms of money to the taxpayers for the Air Force and the Civil Air Patrol and the cost in terms of how many lives of people who have not been found has been absolutely extraordinary.

I think in order to put the matter in perspective, I ought to give some figures.

Starting in 1961, when inadequate records were being kept, two airplanes were reported down. Both of them were in California, or one might have been in California or Oregon. Four persons were on board. They have never been found, neither the airplanes nor the people.

In 1962, when further effort was made along this line in the way of keeping records, 11 aircraft were reported down. They have never been found. There were 16 persons on board.

In 1963, five aircraft were reported down. There were 10 people missing.

In 1964, four airplanes and five people were involved.

In 1965, 13 airplanes and 22 people were involved.

In 1966, 13 airplanes and 20 people were involved.

In 1967, 12 airplanes and 23 people were involved.

The most information I have got for 1968 is that 18 aircraft and 38 people were involved.

We do not have the figures for 1969.

I think we can see the problem this creates not only in terms of rescue efforts involved in going in to try to find these airplanes, but also the cost in human misery. Every family of each person who has been reported down simply finds that it is in a position, legally speaking, where it has a missing relative of one form or another.

In many States, the estate is tied up for over 7 years because there is no presumption of death until the 7-year period has gone by. They cannot do anything about the estate or about the property situation.

In the meanwhile, they do not know where the missing persons are, whether they are injured or dead, or whether they have simply disappeared for reasons of their own.

From 1961 to 1968, there have been a total of 78 aircraft which have totally disappeared with 139 people on board, despite all the rescue efforts that have been made.

What expense is involved? What does this mean in terms of people? I do not have the figures here immediately. However, I have put them in the RECORD before. Reciting from memory only, from 1961 to 1965 the cost to the general taxpayer in terms of the cost of operating the Aerospace Rescue and Recovery Service was \$59 million.

These are just the search and rescue efforts that have been made that we know of. And in many cases the Civil Air Patrol has voluntarily carried the whole load and not even turned in the cost of their gasoline to the Federal Government.

I have some news items here which I think are pretty interesting.

Here is one of November 14, 1969. It is entitled, "It Was Terrible; Horror of 5 Crash-Stranded Days Told." The article was from Nevada City, Calif. It describes the people who were talking from hospital beds where this woman and her husband were 5 days in the aircraft waiting for someone to come and rescue them.

Here is another article entitled, "Colorado CAP Wing Halts Search for Light Plane." It tells of a missing light plane reported down between Denver and Grand Junction. It does not say how long this search went on.

I have another article entitled, "CAP's Search for Airplane is Continuing." This refers to the airplane being down between Denver and Grand Junction.

I have another article entitled, "Two Weeks in Plane Wreckage; Error in Search Saves Two." The people had been stranded for 2 weeks.

These are all 1969 clippings that I have kept. I have here an editorial from one of the papers entitled, "Protect Pilots From Themselves."

I have another clipping entitled, "Area Men Object of CAP Hunt."

Mr. President, I ask unanimous consent that the articles and editorial 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:)

[From the Washington Daily News,  
Nov. 14, 1969]

**HORROR OF 5 CRASH-STRANDED DAYS TOLD**  
NEVADA CITY, CALIF., November 14.—"Marvin was very strong, he handled the controls and pulled us out, but we went down again

... lower and lower. I prayed to God to save us."

Anita Miler, 23, spoke softly from a hospital bed. A few feet away her husband Marvin, 25, mumbled thru the wires binding his broken jaw. "It wasn't the plane's fault."

The Vancouver, Wash., couple, en route from Reno, Nev., to Disneyland near Anaheim, Calif., crashed last Friday on a mountainside and survived five days on melted snow and dried soup.

They were rescued after Mr. Miler struggled eight miles thru foot-deep snow with a broken ankle, jaw and wrist to a mountain resort.

"We crashed and I looked up and here I was and I was all right, and I turned to Marvin and I said, 'Honey, let's get out of here,' she said.

But her husband was unconscious.

"I looked around and there a few feet away was a cabin. It took me a long time to get out of the plane; I was all pinned in," Mrs. Miler said.

"I came back for Marvin. He was out, he couldn't hear what I said. I helped him into the cabin.

"He scared me so because the blood was just running out of his ear. It was terrible. He just kept saying, 'What happened?'"

#### BUILT FIRE

"I helped him into the cabin. When we got in, there was a stove. I pulled paper from the wall. I had some matches. I pulled out the cupboard and shelves and burned every piece of wood I could."

Mr. Miler was delirious for a day, while his wife melted snow in a soft drink can and prepared dried soup. On the second day, he recovered.

For three days the couple stayed close to the cabin. They burned an abandoned building at one point to attract rescuers but nobody noticed, despite the fact one plane came so close to the crash site "we could have hit it with a rock."

On Wednesday, Mr. Miler set out to seek help and was found wandering along the roadside about two miles from Sierra City, a mountain village.

A sheriff's rescue vehicle then went in to bring out Mrs. Miler.

#### COLORADO CAP WING HALTS SEARCH FOR LIGHT PLANE

The Colorado Wing of the Civil Air Patrol (CAP) Sunday night called off its search for a missing light plane piloted by a Grand Junction, Colo., man because of a lack of leads.

The plane, a Cessna 150 flown by Glenn Scott, 69, vanished Oct. 31 on a flight from Denver to Grand Junction. Capt. Harlan Cook, CAP information officer, said Scott had 100 hours of flying experience.

Cook said the search will be reopened if new leads are found.

During the first weekend of the hunt, planes were kept on the ground by bad weather. But fair weather made the search a full-scale effort every day last week, with as many as 15 planes and 25 ground parties participating each day.

The planes systematically covered a wide area along the entire probable flight path of the missing plane. Cook said the CAP's effort was hampered by new snow, which totaled 19 inches in much of the search area.

#### CAP'S SEARCH FOR AIRPLANE IS CONTINUING

The Colorado Civil Air Patrol continued Saturday its search for a small aircraft believed down between Denver and Grand Junction.

The green Cessna 150, piloted by Glenn Scott of Grand Junction and bearing the number 50938, left Denver for Grand Junction at 10:15 a.m. Friday. The aircraft car-

ried 3½ hours of fuel for the 2½-hour flight, the CAP said.

The air search, headed by mission coordinator Maj. Gene Wirth, will resume when weather permits. Meanwhile, ground parties are continuing their search in the Winter Park area.

#### TWO WEEKS IN PLANE WRECKAGE; ERROR IN SEARCH SAVES TWO

JACKSON, CALIF.—Two men who spent two weeks in the wreckage of a light plane with the body of the pilot are safe today because of an erroneous smoke report and the determination of friends.

Neither Eugene Ebell, 33, nor Robert Staar, 17, suffered major injury from the Jan. 11 crash or their 15 days without food. Pilot Donald Shaver was killed in the crash in the Sierra Nevada mountains.

Ebell had chartered the plane in Fresno, the hometown of all three men, to fly to Elko, Nev., to pick up the body of an uncle who was to be buried in Fresno. Staar, a friend of the pilot, went along for the ride.

Ebell said the pilot tried to turn back over the Sierra Nevada because the plane's wings were icing but, in turning, the plane lost too much altitude and crashed.

Ebell and Staar were rescued by helicopter yesterday from a rugged canyon 35 miles east of Jackson after Staar was spotted from the air.

They said they had heard and seen search planes regularly, but none came far enough up the mountains to see them. The crash site was near the 7,000-foot level of the Sierra about 180 miles east of San Francisco.

Staar set out Sunday to get help. At the same time, searchers shifted their aerial hunt to the east because of an apparently erroneous report of smoke. On their way to the area yesterday, Doyle Hawkins and helicopter pilot George Wurzburg spotted Staar beside a log where he had slept overnight after walking 3½ miles.

As many as 20 planes a day had searched the Sierra for the wreckage the first week, then gave up. Friends and relatives of the missing men collected \$1,400 and hired the helicopter last Friday to continue the aerial hunt.

Doctors at Amador Hospital said the survivors were treated for exposure and minor frostbite. Ebell also had some crushed ribs.

#### PROTECT PILOTS FROM THEMSELVES

The white vastness of Corona Pass stretched onward for miles beneath search planes Sunday that poured over its bleakness in search of a small private plane that ended its last flight Friday with a deadly plunge into a mountainside.

Finally, after hours of looking, a plane spotted a clump of darkness in the snow.

A few hours later ground crews pulled the bodies of a California couple from the wreckage.

The plane apparently crashed shortly after takeoff from Stapleton Field in Denver at 10:16 a.m. Friday.

Yet searchers were faced with the tremendous task of combing hundreds of square miles encompassing the flight pattern filed by the plane's pilot.

This time, there were no survivors. But there have been other times when there were. And there will be others.

Current legislation proposed by U.S. Sen. PETER DOMINICK and State Rep. Ted Bryant can eliminate the ever present danger of persons surviving a crash only to die of exposure or lack of medical aid.

Mandatory installations of crash locator beacons, small battery powered pieces of equipment that shoot out a life saving beam, would end the hours, days and months of waiting for help that have cost many their lives.

The pilot of the plane that crashed Friday had at least filed a flight pattern that led

searchers to the crash site in a relatively short time. Others have never been found.

But, had a functioning crash locator beacon been aboard, the crash could have been found in a matter of short hours. And any survivors could have been rescued.

Despite the apparent need for required rescue equipment, there looms a bigger, more complex issue that could be combined with material equipment not only to save lives after crashes, but to prevent crashes.

Colorado's mountains have for years claimed the lives of pilots who have had too little or no experience, in traversing them.

The intricacies of mountain flying, particularly in single engine planes, is too apparent to the state residents who read almost weekly of another pilot who "thought he could make it."

One does not receive a second chance when attempting to climb over 12,000 foot peaks while being pulled from below by unpredictable down drafts.

So the essence of air safety points in more than one direction. It is time meaningful legislation began to probe effectively all the possibilities.

And a pertinent direction should be that of specialized training for persons who attempt to navigate the Rocky Mountains from the air. Without this special training, death from the skies will continue.

#### AREA MEN OBJECT OF CAP HUNT

Members of the Colorado Wing of the Civil Air Patrol (CAP) Friday joined a three-state search for a missing plane carrying three Denver-area men on a flight from Denver to El Paso, Tex.

The men, all Martin Co. engineers, were identified as Ted R. Jones, 35, of 6591 S. Marlon St., Arapahoe County, the pilot; Eugene W. Harker, 38, of 5065 Juniper St., Bow Mar, and William DeVos, 43, of 3453 W. Bowles Ave., Littleton.

Capt. Harlan Cook, Colorado CAP information officer, said they took off from Stapleton International Airport at 11:15 p.m. Wednesday and were to arrive in El Paso at 2:15 a.m. Thursday.

He said no report of the plane, a two-engine Cessna 310, had been received since take-off. Cook said it was reported that they were going on a fishing trip in the vicinity of Navarro, N.M.

Cook said 12 CAP aircraft and three ground parties began the Colorado phase of the hunt early Friday on a full-scale basis. Colorado units did their first searching Thursday afternoon, along with CAP personnel in New Mexico and Texas.

Cook said the Colorado searchers Friday were concentrating on the probable flight course between Stapleton and Pueblo, Colo. The missing plane was to have passed over or near Pueblo, and Las Vegas and Corona, N.M.

Federal Aviation Administration officials in Denver said severe icing conditions existed on the missing plane's flight course at the time it was in the air.

Mr. DOMINICK. What am I trying to do by this amendment? I am trying to say that original general aviation aircraft when they are manufactured must have on them a locator beacon. When they go down, it automatically emits a signal. And anyone tuned in on this signal, which is either 121.5 or 243.0, can home in on the transmitter and find it within a matter of minutes. To give an example of whether or not it works, we had a test outside of Aspin, Colo., at a time when I happened to be flying my own airplane. I was notified a test was going to be made. I did not have a homing beacon of that frequency I could use. I had a general idea where I was going to be, somewhere near this Aspen, Colo., mountainous terrain. I tuned in and by simply using the volume

control on my receiver, using this signal, within 15 minutes I was within a quarter of a mile from where it was and I did not have a homing beacon. The method simply is that when the search plane goes away from it, it disappears and when the search plane comes toward it, it increases in volume and so you can locate where the particular instrument is.

The objections we have had to this particular proposal largely have been from those people who say this type requirement should not be mandatory, that it should be voluntary. The difficulty with that is that all pilots, including myself, are basically optimistic. One has to be optimistic if he is in politics, if he is a flyer, or if he is in the mining game; otherwise no one would go into them. One has to figure he is going to win. This is especially true in being a pilot. So they have not put in this equipment.

There have been proposals by the FAA that they be required over areas such as the desert or large bodies of water. If that method is going to be followed the difficulty is there would have to be an army of inspectors to enforce it. In addition, there would be great difficulty in trying to find out where they could be picked up and returned again; whether it is going to be possible to orient the rental instrument—in other words, whether they are in proper working conditions when they are rented.

The estimated cost at the present time of installing these instruments as new equipment in aircraft is between \$250 and \$300 per airplane. If someone is buying a new airplane, and they are sold every day, the cost of \$250 to \$350 could be relatively easily absorbed, in my judgment, by the manufacturer so it would not be very much of a cost increase; and if it is not absorbed, in terms of lifesaving devices it is not going to be the difference in whether a pilot buys the airplane or not. All one would have to do is go down once and have this signal work and he will know how important this signal is to anyone in the airplane or to the families they have left at home.

Mr. President, I have just a couple of other points that I wish to make and then I shall reserve the remainder of my time.

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

Mr. DOMINICK. Mr. President, I yield myself 4 additional minutes.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 4 additional minutes.

Mr. MAGNUSON. Mr. President, will the Senator yield at that point?

Mr. DOMINICK. I am happy to yield to the Senator from Washington.

Mr. MAGNUSON. Mr. President, as the Senator knows, I have been interested in this matter. The amount the Senator mentioned is the present going price. However, we had some testimony to the effect that if this was going to be more widely used then they would be able to bring the cost down and as they have more orders of this type, the manufacturers, whoever they may be, would be able to produce these much, much cheaper.

Mr. DOMINICK. That is correct.

Mr. MAGNUSON. They would be installed as standard equipment.

Mr. DOMINICK. Yes. As a matter of fact, I have had information from some people who have been in to see me on this matter because I have been very active on it, and they hope to get it down to \$50.

Mr. MAGNUSON. The testimony we had was to the same effect.

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

Mr. DOMINICK. I yield.

Mr. GOLDWATER. Mr. President, to sharpen up the focus on this point, I recall that when transponders first became available for private aircraft, the price was \$3,500. Now that they are becoming mandatory and can

be more or less mass produced, they are being offered for under \$1,000.

Knowing something about the electronics involved in a locator beacon such as this, I feel certain that when they are required to be placed on aircraft, they could be procured for between \$50 and \$100.

Mr. President, I commend the Senator for introducing this amendment. I know there is opposition to it, but living in the Rocky Mountain region and having participated in many searches for aircraft and having lost good friends in lost aircraft, I think it is an important measure.

I might ask the Senator if it is true that considering just the great many hours that the Civil Air Patrol has spent on searches and if we assume the ridiculously low price—I would say almost impossible price—of \$10 an hour, we are talking about something close to \$2 million in just the cost of gas that has been spent on these searches. Am I correct?

Mr. DOMINICK. The Senator is correct. That does not cover the cost of the Air Force when they go out and also participate in search efforts.

Mr. GOLDWATER. They do. We have a group at the Air Force base near Phoenix that goes out on all searches. The Civil Air Patrol is not the only group that goes out. We have sheriffs' air possees that participate. I do not think there is an aircraft owner in Arizona that does not have his aircraft available immediately for searches.

Probably in the Senator's State and in Wyoming, Alaska, Nevada, and the Rocky Mountain States, we lose more airplanes every week than are lost in the rest of the country in a year. This comes close to home to all of us.

Mr. DOMINICK. I appreciate the Senator's comments.

Mr. President, I might say it is very interesting. We have the number of hours for Aerospace Rescue and Recovery Service in 1968. The table is broken down among Eastern, Central, Western, and Alaskan areas. In the Eastern area there were 28 aircraft missing more than 24 hours before they were found. The Eastern area includes the States of Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Maryland, West Virginia, Ohio, Kentucky, Virginia, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama and Mississippi.

There were only 25 aircraft missing more than 24 hours in the Central Region. In the Western Region there were 33 aircraft missing more than 24 hours. The Western Region includes the States of New Mexico, Arizona, Utah, Nevada, California, Oregon, Idaho and Washington.

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

Mr. DOMINICK. I yield myself 5 additional minutes.

Colorado is included in the central area. In 1969 we had quite a number of planes that went down there. We plotted a map and put it up before the Radio Technical Commission for Aeronautics meeting about 2 years ago when I made a talk before them in Washington. The map showed airplanes down more than 3 days. There were more of them in the area of South Carolina, Florida, and Georgia than anywhere else in the country, which I could not believe. I thought there would be more in our area or in the area of Oregon and Washington. However, I assume that is because of the lakes and marshes in the Southeast.

There may have been some of those planes that decided to take off and not tell anybody. That is always a possibility. If they had these locator beacons, we could find them.

Mr. President, I ask unanimous consent to have printed at this point in my remarks the table showing the Aerospace Rescue and Recovery Service statistics to which I have referred.

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

**AEROSPACE RESCUE AND RECOVERY SERVICE, 1968**

*Eastern A.R.R.C.:* (includes states of Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Maryland, West Virginia, Ohio, Kentucky, Virginia, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama and Mississippi.)

Aircraft missing more than 24 hours...	28
Of which were missing more than 3 days	20
Of that total how many never have been found?	5
<hr/>	
Total search hours:	
U.S. Air Force	54
CAP	6,830
Total	6,884

*Central A.R.R.C.:* (includes states of Michigan, Indiana, Illinois, Wisconsin, Minnesota, North Dakota, South Dakota, Montana, Iowa, Nebraska, Wyoming, Colorado, Kansas, Missouri, Arkansas, Oklahoma, Louisiana and Texas.)

Aircraft missing more than 24 hours...	25
How many were missing more than 3 days?	15
How many never found?	4

Total search hours:	
U.S. Air Force	891
CAP	8,109
Total	9,000

*Western A.R.R.C.:* (includes states of New Mexico, Arizona, Utah, Nevada, California, Oregon, Idaho and Washington.)

Aircraft missing more than 24 hours...	33
How many missing more than 3 days?	18
How many never found?	6

Total search hours:	
U.S. Air Force	1,071
CAP	7,368
Total	8,439

*Alaska:*

Aircraft missing more than 24 hours...	40
How many were missing more than 3 days?	6
How many never found?	3

Total search hours:	
U.S. Air Force	806
CAP	2,316
Total	3,122

**RECAP**

Search hours flown by Air Force	2,822
Search hours flown by Civil Air Patrol	24,623
Total search hours	27,445
Crashed aircraft located	260
Downed aircraft never found	18

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

Mr. DOMINICK. I yield.

Mr. ALLOTT. Mr. President, I thank my distinguished colleague for yielding, because I have followed his interest in this amendment for a long time, and I wholeheartedly support it. I think the editorial to the effect that pilots must be protected from themselves brings up the main issue that is involved.

I would like to ask the Senator one question with respect to the cost of this proposal. The Senator from Arizona has mentioned the rescue efforts of the Air Force and the National Guard. We have spoken of the CAP. In addition to these efforts, I recall from my

experience with flying that almost every private airplane that was on any small airport anywhere near a downed aircraft would join in the search for the airplane.

Mr. DOMINICK. The Senator is totally correct.

Mr. ALLOTT. So there is really no way of adding up the total amount that is spent for the search and rescue efforts. We have special problems in the Rocky Mountain region with those who have not had any experience with the unique flying conditions which exist there. Some experienced flyers have gone down in these mountains, because they were unfamiliar with the updrafts and downdrafts peculiar to Rocky Mountain flying.

When there is such a locator facility available within the cost parameters talked about here, it seems outrageous to spend all this money in search-and-rescue operations, when the lost plane could have been found if a marker beacon had been used on the plane.

Mr. DOMINICK. I certainly want to thank my colleague for bringing these points up because they dramatize the problems we have. We have not even talked about the ground searches that go on in a great many areas. Someone says he heard a low-flying airplane in bad weather, and the airplane does not show up. As a result, there are ground searches made.

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

Mr. DOMINICK. I yield myself 5 additional minutes.

In order to be totally fair, one of the problems we have had to date with this particular system is the question of who will be listening. It is all right to put up a signal, but the question is, who is going to be listening? The interesting thing is that the FAA is in the process of completely equipping its own aircraft so they can home in.

The other procedure that can be followed is to include it as a part of the NASA satellite concept. This has not been done yet because of the budget problems we have, but with a satellite overhead which could pick these programs up, within an hour the signals of the aircraft that was down could be pinpointed. It is really a quite extraordinary development.

I hold in my hand an article written by Dan Partner, a very able reporter for the Denver Post, written on October 19, 1969, in which he mentioned the possibility of using the satellite system for air traffic control. It can also be used for the air rescue effort.

I ask unanimous consent to have the article printed in the RECORD.

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

**TRAFFIC CONTROL SATELLITES URGED**  
(By Dan Partner)

A satellite system for use in air traffic control is emerging as a practical application of space technology that has produced the communications and weather satellite programs.

Given a high priority, a system of satellites could be orbiting the earth by 1976 that could pinpoint the positions of thousands of aircraft expected to be clogging the domestic and international airways. The system would be similar, but considerably more advanced, than the four-satellite system now in use for surface ships.

TRW Inc. engineers are working on a plan that would permit Federal Aviation Administration air traffic control centers to determine positions of aircraft to an accuracy of 50 feet through data flashed from space at one-second intervals. Technology for the system is available, says David D. Otten, advanced systems manager for control and navigation satellites for TRW's Systems Group.

A small antenna and transmitter for use aboard aircraft would cost \$400 and weigh three pounds. In addition, the satellite system would provide precise radio navigation

to planes at a cost of about \$5,000 each, Otten estimates.

The system would require six satellites to cover the United States and from 12 to 15 to service worldwide air traffic routes. Otten estimates the cost at from \$54 million and \$66 million, including development, hardware, launch and operational expenditures. Each satellite would have a lifetime of about five years.

Meanwhile, the FAA and the Department of Transportation are beating the drums for passage of the aviation facilities expansion act, now before Congress. In an article, "Log-jams in the Sky," in the September issue of FAA Aviation News, Transportation Secretary John Volpe wrote:

Passengers carried in 1968 by U.S. airlines amounted to 75 per cent of the nation's population. At the rate passenger traffic is increasing, the number of passengers carried will surpass the population within a short time.

In the general aviation category, private fleets are doubling every decade. This segment of aviation will represent 10 per cent of the gross national product by 1980.

Air freight hauled by commercial airlines jumped an unprecedented 21 per cent last year over the previous 12 months.

The proposed legislation, Volpe contends, maintains that if present growth in aviation is to continue, then both commercial and general aviation interests must share in the development costs to improve and update U.S. airport and airways facilities.

Says FAA Administrator John Shaffer: "The expansion of our air traffic control system has fallen far short of matching the growth in air traffic. More than two-thirds of the nation's 3,200 airports are in need of landing area improvements, and 900 more airports are going to be needed before 1980."

The administration's airport-airways program has a user tax base which would set up a designated account to protect the funds for use on the airports and airways. The bill establishes a federal commitment to a 10-year \$2.5 billion grant-in-aid program. It authorizes \$1.25 billion over the next five years, starting with \$180 million in fiscal year 1970 and \$220 million in 1971.

Mr. DOMINICK. In addition, as I pointed out before, if it is known that a flier is going from one point to another, either by his family or through a flight plan, and we get a report that the plane is down, it is not only possible, but it will inevitably happen that any private aircraft going through that area will start monitoring those signals. By the volume control one can, generally speaking, pick it up and determine where it is.

Second, it is totally feasible, and I think it is highly possible, to get the commercial airliners which are crisscrossing the country to install a little receiver—this is not required in the bill; I am just pointing out what can be done—with a pinpoint light on the dashboard. When a signal is picked up it will flicker. All the pilot has to do is report it to the nearest FAA flight service station. They in turn can start the air rescue effort. I have talked with some of the officials with respect to this matter. They do not want to go ahead with it until other concepts can be explored, because of the cost involved. I do not blame them for it. But if we can go ahead, we will be that far ahead of the game.

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

Mr. DOMINICK. I yield.

Mr. CANNON. I wanted to raise a few points in colloquy with the Senator.

I am sure the Senator is aware of the fact that the FAA proposed that very thing, under its rulemaking authority, in 1968, and it heard such an uproar from the users and pilots that they did not do anything further with it. So, in effect, that has been abandoned.

It seems to me there are two or three weaknesses in that proposal, and I would like to have the Senator respond to those, if he would not mind.

Mr. DOMINICK. May I respond to the first one first?

Mr. CANNON. Yes.

Mr. DOMINICK. They proposed at that time to preposition some of these locator beacons at base operations throughout the country, where they could be picked up on a rental basis and put in the aircraft and could be used when going over a deserted area, or desert land, or a body of water. That system is not going to work. Many of the objections did not go to putting that device in; they went to the question that the system would not work and the money would be put up for nothing. I myself objected to it.

Mr. CANNON. Two points disturb me. One of them is that there are a number of small airplanes, two-seater airplanes, around the country that people plan on using no more than 50 miles away from their home. They like to fly for a little pleasure and sport. To that type of airplane you would add something that will add substantially to the cost of the airplane, without reducing any appreciable risk.

Mr. DOMINICK. May I answer that question first?

Mr. CANNON. Yes.

Mr. DOMINICK. I am not sure of the exact percentage, but I think it is right. Approximately 60 percent of the accidents that happen in general aviation occur within 20 miles of the airport. In my part of the country, and I am sure in the Senator's part of the country. I know we have cases in which a person has gone off the airport, has disappeared in a cloud, has crashed, and has not been found for a week. So it is just as important in training planes as in planes which can be used for cross-country flying, so they can be found if they go down.

Mr. CANNON. To go to the figure used by the Senator, I would go further and say that 60 percent of mishaps happen within 1 mile of the airport. A good many of them happen right at the airport. What the Senator is trying to do is to have some kind of device that would help in locating a lost airplane.

Mr. DOMINICK. That is correct.

Mr. CANNON. The Senator does not make any distinction with respect to the larger jets. Take the commercial jets. I would say that the system for tracking them and knowing where they are at any given time is much more accurate than any locator beacon system such as would be installed in the small airplanes as you suggest. It seems to me it would be a waste of corporate money of the commercial airline industry to have to put this kind of equipment in the commercial jet airplanes.

Mr. DOMINICK. Let me say that I am not anchored in on phase 3. It gives them 5 years to put it in. I am perfectly willing to take that provision out. The only reason it was put in there originally is that many aircraft used in air commerce were not jets. Particularly was this true 2 years ago, when we started developing this device.

If the Senator will feel happier about it, I am perfectly willing to modify the amendment to take out paragraph 3.

As to the propeller airplane problem, the commercial airliner going out over water, extensive water hazards, and things of that kind, I can see how perhaps we need something to deal with those matters, but since almost all of them are flying almost totally under instrument flight conditions, where they are monitored all the way, I think this may be asking a little more than we should, and I am perfectly willing to modify the amendment to that extent.

Mr. President, I ask unanimous consent to eliminate from my amendment subparagraph (3) on page 2.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

Mr. DOMINICK. I so modify my amendment, and I strike the semicolon and the word "and" in line 5, and insert a period after the word "date".

The PRESIDING OFFICER. The amendment will be modified as the Senator has specified.

Mr. DOMINICK. I think the suggestion of the Senator from Nevada is reasonable, and I am happy to accept it, and have so modified my amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD a table that I have showing aircraft which have been missing from 1961 through 1967, together with the number of people on board and the States from which they were declared missing.

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

MISSING AIRCRAFT		
Area	Date	Persons on board
California, Oregon	Dec. 1, 1961	2
California	Mar. 14, 1967	2
Total		4
Louisiana, Texas	Jan. 4, 1962	3
South Carolina	Mar. 1, 1962	1
Oregon	Mar. 17, 1962	1
Alaska	June 5, 1962	1
Michigan	June 28, 1962	1
North Carolina	July 22, 1962	4
Michigan	Aug. 18, 1962	1
Do	Sept. 1, 1962	1
Alaska	Oct. 16, 1962	1
Do	Oct. 18, 1962	1
Washington	Nov. 10, 1962	1
Total		16
Utah, Colorado	Jan. 9, 1963	4
Utah, Nevada, California	Mar. 28, 1963	2
Oregon	July 20, 1963	1
Washington	Aug. 28, 1963	1
Michigan, New York	Nov. 3, 1963	2
Total		10
Washington	Jan. 27, 1964	1
North Illinois	Feb. 15, 1964	1
South Carolina	May 3, 1964	1
Oregon, Washington	June 15, 1964	2
Total		5
Florida, Alabama	Jan. 3, 1965	4
Washington	Jan. 29, 1965	1
Do	May 17, 1965	4
Alaska	June 6, 1965	1
South Florida	July 7, 1965	1
Louisiana	July 12, 1965	1
South Carolina	Sept. 7, 1965	1
Kentucky, North Carolina	Sept. 13, 1965	1
Alaska	Sept. 14, 1965	1
West Massachusetts	Sept. 14, 1965	2
South Florida	Nov. 1, 1965	2
Do	Dec. 7, 1965	1
California	Dec. 10, 1965	2
Total		22
Maine, Vermont, New Hampshire	Mar. 20, 1966	1
Maine	Apr. 2, 1966	2
South Carolina	do	1
New York, Massachusetts	Apr. 27, 1966	2
South Carolina	May 10, 1966	1
Arizona	June 21, 1966	1
North Carolina	June 28, 1966	2
Do	July 14, 1966	1
Florida, Mississippi, Louisiana	Sept. 20, 1966	2
Alaska	Sept. 23, 1966	1
Do	Oct. 9, 1966	1
Alabama, Georgia	Nov. 8, 1966	1
Ohio	Dec. 20, 1966	4
Total		20
Florida	Jan. 15, 1967	4
Michigan	do	3
North Carolina	Apr. 24, 1967	2
South Texas, Mexico	Apr. 27, 1967	1
Utah, Nevada, California	June 3, 1967	3
Alaska	June 14, 1967	1
Florida	July 8, 1967	1
Missouri	Aug. 26, 1967	2
Florida	Oct. 8, 1967	1
South Florida	Oct. 11, 1967	2
Arkansas, Texas	Oct. 14, 1967	1
Ohio, Kentucky, Tennessee, Georgia	Dec. 23, 1967	2
Total		23

Mr. DOMINICK. Mr. President, I further modify my amendment, and send the modified amendment to the desk. I shall read it now, so that we can be sure Senators know what it is:

After line 3, page 143, add the following new section: That section 601 of the Federal Aviation Act of 1958 is amended by inserting at the end thereof a new subsection as follows:

"Downed Aircraft Rescue Transmitters

"(d) Minimum standards pursuant to this section shall include a requirement that downed aircraft rescue transmitters shall be installed—

"(1) on any aircraft for use in air commerce, except jet aircraft used in commercial transport, the manufacture of which is completed, or which is imported into the United States, after six months following the date of enactment of this subsection;"

I think if the Senator from Nevada does not mind, we will change that to "one year" instead of "six months".

Mr. CANNON. Very well.

The PRESIDING OFFICER. The amendment will be modified as specified.

Mr. DOMINICK. So it would read:

After one year following the date of enactment of this subsection;

and then continuing:

(2) on any aircraft used in air transportation after three years following such date Subsection (3) would be stricken.

As such, it is my understanding that the Senator from Nevada will accept the amendment.

Mr. CANNON. Mr. President, I am willing to accept the amendment as now modified by the distinguished Senator from Colorado.

I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Colorado yield back the remainder of his time?

Mr. DOMINICK. I yield back the remainder of my time.

The PRESIDING OFFICER. The remaining time having been yielded back, the question is on agreeing to the amendment (No. 521) of the Senator from Colorado (Mr. DOMINICK), as modified.

The amendment, as modified, was agreed to.

"SEEK-YOU—SEEK-YOU!"

(Address by PETER H. DOMINICK, U.S. Senator)

"May, 1967. Dear Editor: You can remove my husbands name from your sample copy mailing list. He was killed in 1965. The crash occurred only about 33 miles from our home airport on a heavily timbered mesa. Searchers estimated they flew over the spot at least 20 times but could not see a sign of the plane because of the way it had dived into the timber."

This was a letter to the Editor of "Aero West" Magazine from one of my constituents in Gunnison, Colorado.

"C.Q."—"Seek-You"—has been the familiar call of "Ham" radio operators the world over seeking contact with whomever might be listening. In the phonetic sense, it very well fits the theme of this conference. For we are seeking to make it easier to find an aircraft and its occupants who may have encountered an emergency situation and have been forced to attempt an emergency landing away from any airport, and very likely in "an unfriendly environment." If the emergency occurs in rough terrain, the likelihood of injury to the occupants is high, and the dangers are compounded if adverse weather conditions prevail in the area where the emergency occurred. Adverse weather not only endangers the survival of injured and uninjured passengers alike, but can and often does increase the hazards to the dedicated people who risk their own lives while trying to help those in distress.

Our success in finding downed aircraft has been fairly good, but in a number of instances we have failed tragically in locating the aircraft until weeks or months after the accident—too late to help those who survived the accident but later perished from long exposure in the hostile environment. Most recently, the nation was shocked to read in the newspapers of the diary kept by 16-year old Carla Oien, documenting the two-month long struggle of the three members of this family to survive after their light plane went down in the mountains of California on March 11th last year. A deer hunter finally happened upon the scene of the tragedy on October 2nd—six months too late!

In my own state of Colorado, evidence found at the scene indicated that Dr. W. Randolph Lovelace and his wife survived the crash of their rented plane in December, 1965, but died of exposure before they were found, even though countless hours were spent in searching for them. And, as I recall, it was during that search that we lost one of our Civil Air Patrol planes piloted by an Air Force Sergeant from Lowry Air Force Base.

But such tragedies are not limited to our Western states. In fact, you documented in your "System for Downed Aircraft Location" study, published in January, 1965, the four-day struggle for survival of Drs. Miller and Quinn, whose plane went down in the small state of Vermont on February 21, 1959, but was not found until May 5 of that year. Dr. Miller kept a diary, too. It closed with: "Goodbye all. This is saving a lot of experiments, I hope."

I could cite other examples, but this map tells the story more graphically.

Despite the tens of thousands of search hours spent by the Civil Air Patrol, the Air Force, the Coast Guard and the FAA, planes and their occupants are still missing in various parts of the country, not only in the Western Region. It strikes me that the FAA notice gives the false impression that the problem is centered in the Western Region. This stems from the fact that in illustrating the extent of the problem, the FAA on page 3 of the Notice of Proposed Rule Making stated that, "in the Western Region 31 aircraft have been listed as missing and have not been located during the 10-year period between 1957 and 1967." I did not have access to the statistics on missing and unlocated aircraft for this ten-year period, and therefore have used the period since the Aerospace Rescue and Recovery Service was inaugurated in October of 1961, extending through December 31, 1967. I might add, also, had I continued the period through the month of January, 1968, I would have added two more missing planes in my own state of Colorado. One of these has been missing since the first day of January, piloted by a Longmont, Colorado, doctor; and the second plane with four members of a Chicago family aboard.

The crosses on the map represent the general areas where searches have been conducted by the Aerospace Rescue and Recovery Service, Civil Air Patrol and Coast Guard, for these aircraft which have not been located during the past six years.

I would like to point out that the Eastern Region—NOT the Western Region—has the greater number of missing aircraft. Florida leads with 7 and possibly 8, since in one case it is not certain whether the plane is lost in Florida or Alabama. South Carolina has 5, followed by North Carolina which has 4 and possibly 5 because it is not certain in which of 4 states one plane went down. Alabama, Tennessee, Kentucky and New York each have been involved in two multi-state searches.

I think it is noteworthy that there are five aircraft that have never been found in the New York-New England area during the past

five years. One is missing in the relatively flat, and certainly well populated state of Ohio!

In the Central Area, which includes Colorado and virtually all of the Continental Divide, there are only ten of these completely lost aircraft. But, note that four of them are in the State of Michigan, one in Illinois and one in Missouri. There is only one in the Rocky Mountain area, and there is some question whether it actually is in Colorado or Utah. If it is in Utah, that would put it in the Western Region. Wyoming, which is both mountainous and sparsely populated, has not had a downed aircraft which was not ultimately located.

Washington and Oregon, together, lead the Western Region in the number of aircraft which have not been found during the last five years. There are eight and perhaps nine aircraft which have disappeared in these two states without a trace since October, 1961. Again, note that Idaho and New Mexico, both of which are mountainous and have large sparsely populated areas, have not had a plane down they have not been able to find.

Alaska, which is carried separately in the statistics, has had eight aircraft which have completely disappeared since October, 1961.

There certainly has been no lack of effort to locate missing aircraft. Aerospace Rescue and Recovery Service records show that from 1961 through December 31, 1967, a total of 215,404 hours of search have been conducted. Of this total number of hours of search, 79,569 hours of search were flown by the Air Force, the Coast Guard and others during this period. The cost has been high, not only in terms of operational costs, but also in terms of lives lost while searching for missing aircraft. In the last three years, ARRS records show that two C.A.P. aircraft and four lives have been lost during search missions. In Colorado last year, we conducted 13 search missions for missing aircraft at an average cost of \$2,916 each.

There are other costs that are extremely difficult to measure. In addition to the prolonged grief caused the families of the occupants of these completely missing aircraft, there are also severe financial hardships imposed, because in most states, under the common law rule, estates cannot be settled until seven years have elapsed and a presumption of death is established. This can cause all kinds of problems with insurance, real estate and family finances.

Our primary concern, however, is not the finding of wreckage, but the saving of human lives. Our system of discovering the emergency and locating people quickly *must* be up-graded to take advantage of our advances in technology. Our present system is plagued with delay, uncertainty, danger, tedious and often futile effort. In most instances, we don't learn that an emergency has occurred until the aircraft is reported as overdue at its destination. Quite a few hours may elapse before a report is made to the Aerospace Rescue and Recovery Center. Even then, there is further delay while a check is made of other airports to determine whether the plane may have landed at other than its announced destination. Only after this check is made is the Civil Air Patrol alerted. More delay occurs as the C.A.P. organizes its search teams. Then, following a grid pattern, visual search is begun along the probable route. This boils down to a practice of flying low and looking, and looking, and looking, and looking some more.

As time passes, the chances of successful rescue of survivors of the downed aircraft grow less and less. I call your attention to the study made by the FAA which is mentioned on page 9 of the Notice of Proposed Rule Making. The FAA found after studying survival cases that 50 percent of all persons who are rescued from downed aircraft are recovered within the first 12 hours, and

seventy-five percent of the persons saved are recovered within the first 24 hours. Thereafter, the probability of rescue diminishes sharply.

The blue dots on the map show the approximate area where aircraft were located after they had been missing for three days or longer. I should explain that the Central Region shows these locations for the past Three Years; and 12 of the blue dots in the Central Region are for aircraft located in 1965. Since the Eastern Region and the Western Region do not keep these records for longer than two years, comparable information is not shown for 1965 in these two regions.

In the Northeastern part of the United States there were five aircraft during the past two years which were missing for more than three days but were subsequently located. One of these, found on Haystack Mountain near North Bennington, Vermont, on July 4, 1967, had been missing since September 13, 1965. Another one, located October 12, 1967, 100 feet from the top of Mt. Williams near Williamstown, Massachusetts, had been missing since June 25, 1967, when a honeymooning couple from Baltimore, Maryland, were last heard from en route to Montreal. The Central Region had 17 such aircraft found in the two-year period, 1966-1967. The Western Region had nine, including one in the Baja, Lower California area.

Of more importance, the red circles on the map represent the area where an aircraft was missing for more than 24 hours, but was found before the end of the third day. Again, they seem to be fairly evenly distributed across the country. The Eastern Region had 13. Six of these were in the New York, Pennsylvania, New Jersey area; two in North Carolina; two in Alabama; and three in the Southern Georgia—Northern Florida area. The Central Region also had 13. Texas and Colorado accounted for 7 of the 13 that were found in this region.

The Western Region had 14, with California and Washington state accounting for 11 of the 14.

In summary, this map shows that in the last six years there are 60 aircraft in the continental United States and Alaska which are missing and have never been found. In the continental United States in the last two years, 36 aircraft were missing for more than three days, and 40 aircraft were missing for a period of from one to three days. The map also shows clearly that aircraft "emergencies" are not limited to mountainous areas, large bodies of water or sparsely settled areas. It indicates that the proposed FAA Rule should be broadened. In support of that position, I would like to read you part of a letter I received last fall from a doctor in Ogdensburg, New York. It reads as follows:

"I, too, have spent long hours on a search mission in the Civil Air Patrol. I shouldn't have been there really, as the weather was marginal and I am strictly VFR. However, the thought that people might be alive and lying out in the snow with broken legs kept me going.

"We never found the wreck. A farmer on a tractor did after we had searched for almost three days.

"A crash locator beacon would have shown us the way in 30 minutes."

I completely agree. And I think that the experiences of the Army, Navy and Air Force in locating and rescuing downed pilots in Vietnam clearly demonstrate the value of locator equipment. Then why have we not been able to obtain more widespread voluntary use of this equipment? There are a number of reasons which we should recognize and deal with.

First, I think we have created a bad image of the instrument by calling it a "crash" locator beacon. No aircraft manufacturer likes to admit that his planes may crash. No pilot plans to crash. On the other hand, every

student pilot is thoroughly schooled in the fact that he will probably encounter emergency situations. By the time he gets his private pilot's license, the student-pilot has demonstrated many times his knowledge of emergency procedures. The automobile industry did not call their flasher lights, "trouble lights" or "accident flashers"—they call them emergency flasher signals. We should refer to these aircraft locator beacons as emergency beacons. Furthermore, since we seek to find downed aircraft more quickly, we might give the entire system a catchy name whose initials suggest its function. We might call it "Emergency Aircraft Radio Location Instrumentation." Phonetically, the first initials spell EARLI.

Cost is the second problem. But this can be solved if we can get utilization of the beacon in large enough numbers.

Also related to more wider acceptance and use is the problem which confronts our Ham radio operator who seeks to make contact with other Hams. To make contact, someone must be listening. I am pleased to note that the FAA states it is planning to equip more of its own aircraft with equipment capable of homing in on small transmitters emitting signals on the emergency frequencies. At present, the Air Force regularly monitors the UHF emergency frequency—243.0 Mhz. The likelihood that a military aircraft will be within range at any given time is relatively small; however, there is one other suggestion that I think deserves very serious consideration. Why not enlist the help of our commercial air carriers? It could be done at minimal cost, and without undue burden on the crew. What I am suggesting is the installation of a simple receiver on our commercial passenger and cargo aircraft to monitor the VHF and UHF distress frequencies. Operational when the main power switch of the aircraft is activated, the receiver would be inoperative when the main switch was turned off. A blinker light would indicate to the crew that a distress signal was being received, and the only action required of the crew member would be to snap an audio switch to verify that a wavering distress signal was in fact being received. The pilot then would immediately fix his position, call the nearest Flight Service Station and report that he had received a distress signal. In a matter of seconds, hours or even days would be saved—for in those few seconds it has been established that an emergency exists, the approximate location is known, and a beacon is known to be operating on which rescue aircraft can home.

Within minutes, a ground or air rescue team, hopefully with an accompanying medic, is homing on the beacon. Extension of this system to substantial segments of general aviation would enlarge enormously rapid location and rescue of downed aircraft. Think of the countless hours of searching this system could save. Think of the lives that can be saved and the suffering that can be alleviated by getting medical attention to the injured quickly.

I commend the FAA for its investigation into the locator beacon in 1963 and commend them for their issuance of the Notice of Proposed Rule Making. But I confess that I do not believe their present proposal is either realistic or enforceable. General aviation is growing rapidly. The smallest aircraft are used extensively for pleasure and business in cross-country flights. At what point must portable equipment, as suggested by the proposed FAA Rule, be picked up? Who will enforce the Rule? If I fly from here to Denver, must I have the equipment? Probably not if I take regular airways via Kansas City. But suppose there are storms, and I have to detour North and find myself over Lake Michigan and into Minnesota and the Bad Lands. Do I have to stop and install the equipment? Will this involve detailed mandatory flight plans for all weather? If a pilot

flies from Chicago to New Orleans and crosses the Mississippi Delta, does he have to install a beacon before he goes, or on his way down; and who will inspect his plane on arrival?

Frankly, it is my feeling that sound common sense says that all pilots, like politicians, are optimists. Very few will install a locator beacon in their planes, although they may well agree that their neighboring pilot should have one. Hence, an enormous administrative problem will arise under the Rule, or it will simply be ignored.

Ladies and Gentlemen, we must have a mandatory required system—a system that will require emergency locators in all new general aviation aircraft, except perhaps jets, which operate almost constantly under radio surveillance. A system which will, within a stated time, require installation in all "used" aircraft in operation; a system which will not only transmit but receive; a system which above all will save lives, reduce suffering, and avoid dangerous and costly low-level search sweeps.

I am confident that there is represented in this room the wealth of technical expertise to create the finest system for downed aircraft location that could be devised. I urge that you lend your support and collective knowledge to that dramatic goal.

Mr. WILLIAMS of New Jersey. Mr. President, will the Senator yield?

Mr. DOMINICK. I am happy to yield to the Senator from New Jersey.

Mr. WILLIAMS of New Jersey. Would these locators go on all aircraft?

Mr. DOMINICK. No. They would go on fixed-wing aircraft. They would not go on jets, aircraft used in air transportation, military aircraft, aircraft used solely for training purposes not involving flights more than 20 miles from its base, and aircraft used for the aerial application of chemicals, or crop dusters. It would not be on helicopters.

Mr. WILLIAMS of New Jersey. This would be for private aircraft?

Mr. DOMINICK. Private fixed-wing aircraft.

Mr. WILLIAMS of New Jersey. Mr. President, this proposal impresses me as a very worthy and necessary amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado (Mr. DOMINICK).

The amendment was agreed to.

Mr. SAXBE and Mr. MILLER addressed the Chair.

The PRESIDING OFFICER. The Chair heard the Senator from Ohio first. The Senator from Ohio is recognized.

Mr. SAXBE. Mr. President, I yield to the Senator from Iowa.

Mr. MILLER. I thank the Senator.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. MILLER. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment, as follows:

On Page 61, line 4, insert the following after the word "the": "employer or his representative has been notified in writing, signed by the delegate of the Secretary, setting forth specifically the nature and imminence of the danger compelling immediate action and the".

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. MILLER. Mr. President, the provision of the bill to which my amendment relates provides for authority by the Secretary to delegate his authority to issue orders compelling immediate action where there is not sufficient time in light of the nature and imminence of the danger to seek a temporary restraining order or injunction. There is nothing in the authority which requires the Secretary's delegate to notify the employer or his representative of the danger or imminence of danger. There is a provision farther on in this section requiring the Secretary by regulation to provide procedures whereby an aggrieved employer could achieve a prompt reconsideration of action.

As a basis for obtaining that reconsideration and, further, as a basis for good procedure, it seems that the employer should be notified in writing, signed by the one to whom the Secretary delegated the authority, and that is the function of the amendment.

I think it would enable the regulations regarding reconsideration to be carried out much more expeditiously if this language were added. I have discussed the amendment informally with the manager of the bill and I hope this amendment will be accepted.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. If this amendment to this sentence is agreed to, will it still be possible to strike the entire sentence, including this amendment and then substitute some other provision?

The PRESIDING OFFICER. The Chair is advised that the section as amended would be subject to a motion to strike in entirety.

Mr. JAVITS. The reason I say that, in all fairness to the Senator, is this. With the administration we are trying to meet another element of this issue. High-level concurrence in the department should be required where they are going to close the whole plant or substantially the whole plant. We are working on that. I think we can agree to it, but it may result in affecting this sentence. We will do our utmost, and I am sure we can, to keep the Senator's idea intact with respect to serving a written finding, which is really what he is seeking, in connection with such a matter.

Mr. MILLER. I appreciate the thoughtfulness of my colleague from New York. I understood the Senator from New York was working on something in this section.

Mr. JAVITS. That is correct.

Mr. MILLER. But I understood this amendment would not interfere with it. From the ruling of the Chair it is clear it will not interfere with it.

Mr. JAVITS. That is correct.

Mr. MILLER. I hope we can go on and dispose of the amendment and then I will be pleased to work with the Senator on his amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. WILLIAMS of New Jersey. Mr. President, I have discussed this amendment with the Senator from Iowa and

it makes a great deal of sense. In my judgment it is not necessary but it would be a very helpful addition to the bill.

Mr. MILLER. I thank my colleague.

The PRESIDING OFFICER. If there be no further discussion of the amendment, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SAXBE. Mr. President, I have an amendment at the desk, which I call up.

The PRESIDING OFFICER. The amendment of the Senator from Ohio will be stated.

Mr. SAXBE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 66, line 2, insert the following: "and which standards, when applicable to products which are distributed or used in interstate commerce, are required by compelling local conditions and do not unduly burden interstate commerce,"

Mr. SAXBE. Mr. President, this is an amendment which applies to those who manufacture machinery products that go into interstate commerce, specifically applying to those who manufacture movable equipment such as dirt movers, tractors, and other heavy equipment. If, after the expiration of the initial stage of this bill, each of the States were permitted to set differing safety standards for dirt movers, it would place a tremendous burden on interstate commerce. This amendment provides that they may do so because there may be circumstances that would so require, but the words are put in, "compelling local conditions," and, second, that they "do not unduly burden interstate commerce."

This amendment is offered so that we do not have differing safety regulations on equipment moving from State to State in interstate commerce and to try to prevent States from making unreasonable limitations on certain type of equipment.

I have discussed the amendment with the manager of the bill, and I believe it is acceptable to him.

Mr. WILLIAMS of New Jersey. Mr. President, the amendment has been discussed, and it is acceptable to the committee.

The PRESIDING OFFICER. If there be no further discussion of the amendment, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. COOK. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. COOK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 69, line 3: Strike out all after the word "plan," through and including the word "decision," on line 7, and insert in lieu thereof the following: "is not supported by

substantial evidence the Court shall affirm the Secretary's decision."

Mr. COOK. Mr. President, on page 69 of the act as presently drafted appears the sentence:

Unless the court finds that the Secretary's decision in rejecting a proposed State plan or withdrawing his approval of such a plan to be arbitrary and capricious, the court shall affirm the Secretary's decision.

I have proposed a change in my amendment, so that the language would read:

Unless the court finds that the Secretary's decision in rejecting a proposed State plan or withdrawing his approval of such a plan is not supported by substantial evidence the court shall affirm the Secretary's decision.

The amendment merely states that an action will lie in regard to a State plan based on substantial evidence, and not based on the negative plea of arbitrary and capricious.

I think all Members of the Senate who have had an opportunity to practice law will state that they know of very few cases which anyone has won based on arbitrary and capricious action. In the first place, if the regulations provide that the Secretary can do it, and if he does it within the regulations, then obviously it is not arbitrary and capricious.

I have talked with the manager of the bill in this regard. This is the same language that was adopted by the Senate in the Coal Mine Safety Act. I believe the manager of the bill is perfectly willing to accept the amendment.

Mr. WILLIAMS of New Jersey. Mr. President, that is correct. We accept the amendment.

The PRESIDING OFFICER. If there be no further discussion, the question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The Senate will now return to controlled time on the amendment of the Senator from Colorado (Mr. DOMINICK).

Mr. DOMINICK. Mr. President, I yield myself 5 minutes.

I would like to send to the desk a substitute amendment for the amendments we had been considering. I want, if I may, to read the amendment so that every Senator will be sure of what we are doing. We have worked this out with the Senator from New Jersey and the Senator from New York. I believe it is agreeable to all—

The PRESIDING OFFICER. The Chair is advised that no amendment would be in order until all time had been yielded back, but the Senator has a right to modify his own amendment.

Mr. DOMINICK. Mr. President, do I understand that I am not able to amend my own amendment before all time is yielded back?

The PRESIDING OFFICER. The Chair is advised that the Senator may not amend his amendment until all time is yielded back, but he may modify his amendment.

Mr. DOMINICK. I will modify my amendment.

The PRESIDING OFFICER. The Senator has that right.

Mr. DOMINICK. I will now modify my amendment as follows:

On page 39 strike all in lines 3 through "his working life" in line 9, and substitute the following:

"(5) The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life."

On page 39, line 10, strike the word "such" and insert after the word "standards" the following: "under this subsection".

On page 71, line 22, strike the words "which if applied will assure that" and insert in lieu thereof the following: "dealing with toxic materials and harmful physical agents which will demonstrate the exposure levels at which".

Mr. DOMINICK. Mr. President, I now send the amendment to the desk so that the clerk will have it in its modified form.

Mr. President, before we tried to get together on the exact language, we were discussing the problem that the language on page 39 and page 71, in setting standards and in setting criteria, tried to assure that, no matter what anybody was doing, the standard would protect him for the rest of his life against any foreseeable hazard.

What we were trying to do in the bill—unfortunately, we did not have the proper wording or the proper drafting—was to say that when we are dealing with toxic agents or physical agents, we ought to take such steps as are feasible and practical to provide an atmosphere within which a person's health or safety would not be affected. Unfortunately, we had language providing that anyone would be assured that no one would have a hazard, or at least, we would require the Secretary to set standards so stating, and that in the HEW standard there would be a requirement to proceed on that basis, so that no one would have any problem for the rest of his working life.

It was an unrealistic standard. As modified, we would be approaching the problem by looking at the problem and setting a standard or criterion which would not result in harm.

Mr. WILLIAMS of New Jersey. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Chair is advised that the Senator from New Jersey has 2 minutes.

Mr. WILLIAMS of New Jersey. Two minutes.

As I understand this amendment, it will provide a continued direction to the Secretary that he shall be required to set the standard which most adequately and to the greatest extent feasible assures, on the basis of the best available evidence, that no employee will suffer any material impairment of health or functional capacity even if such employee has continual exposure to the hazard dealt with for the period of his working life.

Certainly that is the objective, and included within this concept of unimpaired health and functional capacity is protection against diminished life expectancy.

Mr. DOMINICK. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Colorado has 7 minutes.

Mr. DOMINICK. Mr. President, I yield myself 3 minutes, for the purpose of having a colloquy with my colleague from New Jersey.

It is my understanding, if I may say so, that what we are doing now is to say that the Secretary has got to use his best efforts to promulgate the best available standards, and in so doing, that he should take into account that anyone working in toxic agents or physical agents which might be harmful may be subjected to such conditions for the rest of his working life, so that we can get at something which might not be toxic now, if he works in it a short time, but if he works in it the rest of his life it might be very dangerous; and we want to make sure that such things are taken into consideration in establishing standards; is that correct?

Mr. WILLIAMS of New Jersey. That is exactly correct.

Mr. DOMINICK. I appreciate the cooperation of my friend from New Jersey. I think we have worked it out to where it makes a lot of sense, at this point much more so than before.

Mr. WILLIAMS of New Jersey. I think it is clear, the objectives have been stated, and it strengthens the objectives of standards that will protect against physical impairment and loss of function.

The PRESIDING OFFICER. Do Senators yield back their remaining time?

Mr. DOMINICK. I yield back the remainder of my time.

Mr. WILLIAMS of New Jersey. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. CASE). All remaining time having been yielded back, the question is on agreeing, en bloc, to the amendments—No. 1054 and No. 1058—of the Senator from Colorado (Mr. DOMINICK), as modified.

The amendments were agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. WILLIAMS of New Jersey. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I have a number of—

The PRESIDING OFFICER. Does the Senator from New York request that the order for the quorum call be rescinded?

Mr. JAVITS. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. JAVITS. Mr. President, are we under any time limitations?

The PRESIDING OFFICER. No, the time is uncontrolled.

Mr. JAVITS. Mr. President, I shall not detain the Senate but very briefly. There are a number of pro forma matters in the bill which need attending to, and if the manager of the bill will give me his attention, I think we can dispose of them quite quickly.

Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. The Senator from New York (Mr. JAVITS) proposes an amendment as follows:

On page 69, between lines 10 and 11, insert:

"(h) For the purpose of this section, the terms "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands."

Mr. JAVITS. Mr. President, the sole purpose of this amendment is to make eligible to file what is called a State plan those territories and possessions of the United States which are spelled out in the amendment. This matter is not otherwise defined in the bill. I hope the manager will find the amendment satisfactory.

Mr. WILLIAMS of New Jersey. I am prepared to vote for it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I send to the desk another amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. The Senator from New York (Mr. JAVITS) proposes an amendment to amend subsection (b), page 41, line 3, by adding a new paragraph "(7)" as follows:

(7) Whenever a rule promulgated by the Secretary differs substantially from an existing national consensus standard, the Secretary shall include in the rule a statement of the reasons why the rule as adopted will better effectuate the purposes of this Act than the national consensus standard.

Mr. JAVITS. Mr. President, in proposing that amendment, I ask the Senator from New Jersey to state whether he agrees with me in the following: We have, under this amendment, the concept of a statement which will help us better to enforce the law where a deviation from an existing national consensus standard is promulgated by the Secretary.

A national consensus standard, under this act, is a standard which has been developed by one of two organizations at the present time: The American National Standards Institute or the Fire Underwriters Association.

In the first place, this amendment ought to be adopted so that the people will have an explanation of why the Secretary is doing what he is doing.

The other aspect of the matter is that the bill provides for a National Institute of Occupational Health and Safety, and it is important to assure these outside organizations, which are very important in this field, that the Institute is not designed in any way to preempt or limit the activity or importance of national consensus organizations such as the American National Standards Institute. These organizations have made valuable contributions in this field in the past, and I hope they will continue to do so in the

future. This is so that they may be reassured that the Institute represents no threat to them.

The other point I should like to make with respect to reassuring these organizations is to confirm the fact that it is expected that the director of the new Institute will take full advantage of the extensive expertise represented by members of technical societies and private standards development organizations which serve an important purpose and which should continue to function in the private sector of occupational health and safety.

Mr. WILLIAMS of New Jersey. On the latter point, I would certainly agree that that would be wise. Our hope is that that would come to pass.

The amendment reads:

Whenever a rule promulgated by the Secretary differs substantially from an existing national consensus standard, the Secretary shall include in the rule a statement.

Is that what he does—include it in the rule?

Mr. JAVITS. Mr. President, I modify my amendment to provide in the third line that "the Secretary shall publish in the Federal Register," instead of "include in the rule."

I agree with the Senator.

Mr. WILLIAMS of New Jersey. I certainly agree to the amendment offered by the Senator from New York.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to, as follows:

"(7) Whenever a rule promulgated by the Secretary differs substantially from an existing national consensus standard, the Secretary shall publish in the Federal Register a statement of the reasons why the rule as adopted will better effectuate the purposes of this Act than the national consensus standard.

Mr. JAVITS. Mr. President, I send to the desk another amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

(g) In determining the priority for establishing standards under this section, the Secretary shall give due regard to the urgency of the need for mandatory safety and health standards for particular industries, trades, crafts, occupations, businesses, workplaces or work environments. The Secretary shall also give due regard to the recommendations of the Secretary of Health, Education, and Welfare regarding the need for mandatory standards in determining the priority for establishing such standards.

Mr. JAVITS. Mr. President, the purpose of this amendment is to relieve the Secretary of the necessity for waiting to promulgate whatever standards he wishes to promulgate across the board but, rather, allowing him to yield to more urgent demands before he tries to meet others. I gather that from the technical point of view that kind of authority is necessary in respect to this particular bill.

Mr. WILLIAMS of New Jersey. That is a fine and very worthy amendment and addition to the bill.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I send to the desk another amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 69, between lines 10 and 11, insert the following:

"(h) Pending approval of a plan submitted by a state under subsection (b) of this section; the Secretary may enter into an agreement with such state under which the State will be permitted to continue to enforce one or more occupational health and safety standards in effect in such state which are not in conflict with Federal occupational health and safety standards promulgated under this act until final action is taken by the Secretary with respect to the plan submitted by the state, or two years from the date of enactment of this act, whichever is earlier. Except as otherwise provided in this act any state occupational health and safety standard which provides for more stringent health and safety regulations than do the Federal standards promulgated under this act shall not thereby be considered to be in conflict with such Federal standards.

Mr. JAVITS. Mr. President, the purpose of this amendment is, in the interim period during which State plans are awaiting approval, to allow the Secretary to contract with States which already have standards—and there are many such States—so long as they are no less strict than those of the Federal Government, insofar as there are any, so that the State standards may continue. Of course, the Secretary, in such an agreement, can state any conditions he pleases, including the right to cancel the agreement on a given number of days' notice. But at least it will give him authority to continue worthy State operations until he is ready to step in with the authority given him by this bill.

Mr. WILLIAMS of New Jersey. As I understand it, this would fill the hiatus period.

Mr. JAVITS. That is correct.

Mr. WILLIAMS of New Jersey. I agree with it.

The PRESIDING OFFICER. The question is agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, in the same connection, with regard to State plans, a number of States apparently want to have this question answered, and that is that State plans—this is for the purpose of legislative history—may contain appropriate provisions for granting variances as is provided by this bill for the Secretary under section 6(d). In other words, it is to make clear that whatever State plan the Secretary approves may have the same opportunity for the State to make variances as he retains under this legislation.

Perhaps I have not made myself clear. Under this measure, the Secretary may authorize variances by section 6(d) in the Federal standards for particular firms. The State can submit a total plan under certain restrictions and criteria, and so forth. It is not clear from the bill that a State plan may also contain a similar variance provision.

Mr. WILLIAMS of New Jersey. Certainly, that should follow. Where there is a State plan, there should be an opportunity for a variance as under the Federal program.

Mr. JAVITS. That is correct.

Mr. WILLIAMS of New Jersey. I find nothing unacceptable about it. In other words, there should be a similarity of opportunity for a variance under a State plan.

Mr. JAVITS. That is correct. In other words, it is not mandatory. A Secretary might not agree in a given case at the State level. But a State plan may include a similar provision with respect to section 6(d), with respect to variances.

Mr. WILLIAMS of New Jersey. The amendment states "may include," and the Secretary does not have to agree to the plan they do have, but it could be altered to be accepted by the Secretary.

Mr. JAVITS. That is correct.

Mr. WILLIAMS of New Jersey. That is fine.

The PRESIDING OFFICER. Would the Senator like to have that colloquy inserted before the vote on this amendment?

Mr. JAVITS. There is no amendment, Mr. President. I should like the colloquy to succeed the vote on the amendment.

The PRESIDING OFFICER. The record will stand as it is.

Mr. JAVITS. Mr. President, I send to the desk another amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At an appropriate place in the bill insert: S53. — Section 5108(c) of title 5 United States Code is amended by adding a new paragraph (10) at the end of the subsection to read as follows:

"(10) (a) The Secretary of Labor, subject to the standards and procedures prescribed by this chapter, may place an additional twenty-five positions in the Department of Labor in GS 16, 17, and 18 for the purposes of carrying out his responsibilities under the Occupational Safety and Health Act of 1970"

"(b) The Occupational Safety and Health Review Commission, subject to the standards and procedures prescribed by this chapter, may place ten positions in GS 16, 17, and 18 in carrying out its functions under the Occupational Safety and Health Act of 1970."

Mr. JAVITS. Mr. President, this is simply to accept what the Senate has decided and to implement it. This is an administration amendment. The Secretary of Labor is now the man who is going to establish the standards. The Senate decided that. The Secretary is now seeking an additional 25 positions required for that purpose. The Occupational Safety and Health Review Commission just established by a vote of the Senate will need hearing examiners, so we are asking 10 places for that.

Mr. President, I ask the clerk to change the word "panel" in the second line of subsection (b) of the amendment to read "commission."

The PRESIDING OFFICER (Mr. CASE). The amendment is so modified.

Mr. WILLIAMS of New Jersey. Mr. President, I want to say that while I voted against this addition to the bureaucracy, having lost, additional em-

ployees will be needed in the expanded bureaucracy. I take the last record vote to be direction to me to accept the amendment, which I shall do.

The PRESIDING OFFICER (Mr. BELLMON). The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 88, line 7, strike "October 1, 1971" and insert in lieu thereof February 1, 1972".

Mr. JAVITS. Mr. President, this is merely changing the date, because of the time elapsed since the bill was first reported, of the report of the commission to review the workmen's compensation system of the United States. We made a very strong case for the inequities and the inequalities in workmen's compensation. In view of the time elapsed since the bill was first reported, we want to put ahead the date when the report by the commission is required.

The PRESIDING OFFICER (Mr. BELLMON). The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. JAVITS. Now, Mr. President, I have another amendment but this one may be controversial and I would like to submit it for discussion and invoke the consideration of the distinguished Senator from New Jersey (Mr. WILLIAMS).

Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment as follows:

On page 61 following the word "issue" through the words "first obtained" in line 6 and substituting the following:

"Such an order to close a business or plant, in whole or in substantial part, he shall provide that such an order may not be issued until the employer has been notified in writing, signed by the delegate of the Secretary, setting forth specifying the nature and imminence of the danger compelling immediate action and the concurrence of an official of the Labor Department appointed by the President with the advice and consent of the Senate is first obtained."

Mr. JAVITS. Mr. President, this deals with the imminent danger closing question for 72 hours which has so worried Members of the Senate and I think members of the business community as well. It would seek to elevate the level of consent required on the part of the Department of Labor where it is a matter not of just shutting down a machine, but of closing an entire plant or a substantial part of it, to an official of the Department of Labor, either the Secretary, the Under Secretary, or the Assistant Secretary, or other presidentially appointed officers. They are all subject to confirmation by the Senate which therefore is an additional item of protection, in view of the fact that the Senate in its wisdom turned down resort only to the courts, so that the Secretary will be exercising

this power. It is an effort, somewhat, further to protect against arbitrary close-downs. I pledged, when the Senate voted in respect of the injunction question, that I would submit an amendment of this nature, and I am submitting one that has been carefully prepared and works in a limited way because it deals only with the big question of the closing of a business or a plant in whole or in substantial part.

I feel it is only fair that a man who is confirmed by the Senate should be required to concur, rather than just a regional officer. If we left the bill as it is, it would be any regional director on the part of the Labor Department.

The pending amendment would elevate this to Cabinet or subcabinet rank. This is somewhat what the Saxbe and Schweiker amendments tried to do. It does buttress the situation to some extent because, as we all know, when we are dealing with someone the Senate has confirmed, we have a lot more "handle" on him, to use a colloquial expression, than a regional director or just some fellow in the Department of Labor.

I hope very much, because this was quite a signal victory for the Senator from New Jersey (Mr. WILLIAMS), that he will be generous in respect of his victory, and that he will allow us at least this modest additional safeguard.

I point out that we preserve unimpaired Senator MILLER's amendment with respect to the serving of notice in writing.

Mr. WILLIAMS of New Jersey. Mr. President, it does not require any generosity on the part of the manager of the bill. I think that, first, the reduction to writing of the reason for closing, as offered by the Senator from Iowa (Mr. MILLER), is a helpful addition to the bill in the imminent danger cases. As I understand the amendment of the Senator from New York, I think it is a more helpful addition to the bill to go to an officer of a higher level.

I accept the Senator's amendment and not out of any generosity but in appreciation for improving the bill.

Mr. JAVITS. I thank my colleague very much. That, too, is very generous of him.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. JAVITS. Mr. President, that is all I have on the bill. I think that wraps up everything the administration and others had in mind.

Mr. WILLIAMS of New Jersey. Except for the chairman of the Committee on Labor and Public Welfare who is now seeking the floor.

Mr. YARBOROUGH. Mr. President, I rise in support of the bill introduced by the chairman of the Labor Subcommittee, Mr. WILLIAMS of New Jersey, as principal sponsor and of which I am an active cosponsor, which was reported by the Committee on Labor and Public Welfare after extensive hearings and exhaustive debate in our executive sessions. During the course of the debate in the Senate today, this body will have the benefit of the careful work which the subcommittee and committee have done in consider-

ing the most important piece of legislation.

We hear throughout the debate the statement that practically everyone wants an occupational health and safety bill. And I am sure that practically everyone does. But some want a bill which will help the working people of the United States and some other people just want to be able to say that a bill has been passed. No one can disagree that there is a great need for a real safety bill.

Mr. President, I want to commend the distinguished chairman of the Labor Subcommittee for his able work on this bill.

For many years, a Federal occupational health and safety bill has been sought. While the number of industrial workers in this country has grown by tens of millions, we have been debating the question. Now we have come to the point of passing the bill to protect 80 million industrial workers.

The National Safety Council has found that there were more disabling injuries and deaths in the work situation than were due to motor vehicle accidents in the first 6 months of 1967. Specifically, there were 850,000 motor vehicle injuries and 23,600 deaths—and 2.2 million work injuries resulting in temporary or permanent disablement and 6,900 deaths.

In 1967, work accidents and illnesses cost the American economy over \$8 billion. Ten times more man-days were lost due to injury than were lost because of strikes in 1966.

We read the headlines concerning the strikes that are claimed to damage the economy. We should stop and consider the fact that we lose 10 times as many man-days of work in America every year due to industrial accidents on the job than we lose in strikes, lockouts, and walkouts all combined.

During the first 6 months of 1967 in Vietnam, there were 4,899 deaths and 31,913 military personnel wounded or a total of 36,812 injuries and deaths; that is, there were roughly 30 times as many people injured at work in the United States as were injured fighting in Vietnam during the same 6 months of 1967.

The legislation is long overdue. The devastating statistics and the bad record we have in industrial accidents in this country show that this country should have had such legislation years ago.

Yet in 1968, when Congressman O'HARA and I introduced in to the House and Senate the first comprehensive occupational health and safety bill, we drew the critical fire of several organizations who claim that legislation of this type is too expensive.

One may well ask too expensive for whom? Is it too expensive for the company who for lack of proper safety equipment loses the service of its skilled employees? Is it too expensive for the employee who loses his hand or leg or eyesight? Is it too expensive for the widow trying to raise her children on meager allowance under workmen's compensation and social security? And what about the man—a good hardworking man—

tied to a wheel chair or hospital bed for the rest of his life? That is what we are dealing with when we talk about industrial safety.

We should have uniform standards so that no one industry would gain an advantage over any other industry. It would be far cheaper for our economy. It would save money in workmen's compensation premiums.

We are talking about people's lives, not the indifference of some cost accountants. We are talking about assuring the men and women who work in our plants and factories that they will go home after a day's work with their bodies intact. We are talking about assuring our American workers who work with deadly chemicals that when they have accumulated a few years seniority they will not have accumulated lung congestion and poison in their bodies, or something that will strike them down before they reach retirement age.

We know that our worker's lives can be protected. It's good business to protect workers. And yet in 1966, there were 14,500 industrial deaths—2.2 million disabled—and a total of 7 million who sustained some injury in industrial accidents.

That is why I introduced my occupational safety bill last year and why I was happy to defer as the principal sponsor of S. 2193 to Senator WILLIAMS, the chairman of the Labor Subcommittee, but I am a full cosponsor with him.

Senator JAVITS, on behalf of the Nixon administration also introduced a safety bill in this year. And Senator DOMINICK proposed as a substitute yesterday the latest administration proposal.

Let us compare these bills. Who sets the standards? Under both bills any consensus standard of a national standards producing organization may be used. But what if the Secretary of Labor thinks a stricter standard is necessary? Under the Williams-Yarborough bill the Secretary of Labor may set interim standards for a period up to 6 months, thereafter the Secretary may promulgate his own standards after hearings.

Under the Nixon administration proposal a safety board established by Congress and appointed by the President must set the standards. This board of five members must have previous training in this area—but like all other boards of this type it is almost inevitable that it becomes a captive of the industries it regulates.

Who enforces the act? Under the Williams-Yarborough proposal the Secretary of Labor would enforce the law with appeals from his determination in the Federal courts. Under the Nixon proposal the Secretary would ask for a hearing before the Appeal Commission—another Presidential board—which would determine whether there was a violation. If the employer did not agree with the board's determination he would be allowed to appeal to the Federal courts. Again the administration is trying to use a board to delay the enforcement of the act.

What about criminal penalties? The Williams-Yarborough bill provides for a penalty of \$10,000 and up to 6 months in

jail for any willful violations of the standards. The Nixon administration bill makes no such provision.

Do you know what the difference is? We say penalize the man who willfully violates the law. The Nixon administration proposal would do no such thing.

As you can see—everybody is for safety—it is just that some people want to talk about it, and others want to do something about it.

I am sure that the Members of this body will not be fooled by slogans—a law without teeth is like a dull knife—it looks fine until you try to use it for its intended purpose.

There is much talk in the United States today about pollution of our environment, and the necessity of prevention of that pollution in order to prevent slow death. What we discuss today is far more urgent—today we discuss sudden death for tens of thousands of American Industrial workers, and millions disabled every year—now. The 80 million American industrial workers are entitled to that protection now. Too many years and too many lives have been lost. All the bill requires is reasonable safety devices in plants and industry to protect the 80 million American workers. The Williams-Yarborough is not against industry—it is against death and disability. With all the lost years and lives and injuries an agony behind us, it is time to act positively and constructively now.

We have before us today an opportunity to create a major change in the industrial life of the United States, and opportunity to say to all the people of this land that our scandalously high rates of on the job injury can and will be stopped. We also have the opportunity to say to the people of the United States that slogans are not more important than deeds. If you believe in slogans, support the weak slowdown substitute, but if you believe as I do that all the working people of the United States are entitled to protection from on the job injuries caused by failure of reasonable safety standards, vote for the bill as reported from your Committee on Labor and Public Welfare.

I yielded to the Senator from New Jersey as chairman but I am proud to be one of the cosponsors of the bill. I commend him for his fine work on it. We have about come to the time of passage. The bill is not as strong as the bill that came from the committee. It is not quite as good. But it is landmark legislation.

The leadership of the Congress is to be commended for having this session after the election. If we had done nothing else but pass the occupational health and safety bill to protect the 80 million industrial workers of America, this session would have been justified. This is major breakthrough legislation. It is a great advance for the American people who work in our economy.

I again thank the chairman of the committee. We had campaigns this year. He took time off at great risk to complete the bill. I did also. However, my risk did not turn out the same as was his.

The National Safety Council has been pleading for occupational health and safety laws for years despite the fact that

many industrial organizations of the country—not speaking of any one business or company, but speaking of trade organizations—have opposed this legislation.

It is something that is worthy of the Senate and the House of Representatives. It is a great piece of landmark legislation that will go down in history as one of the best things to protect the working men and the economy of America.

Mr. WILLIAMS of New Jersey. Mr. President, I appreciate the comments of the Senator from Texas.

I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I know that we are ready for third reading.

At this time 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. WILLIAMS of New Jersey. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended. (Putting the question.)

The amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

Mr. MUSKIE. Mr. President, I am pleased to support the Occupational Safety and Health Act of 1970 as reported by the Labor and Public Welfare Committee. This legislation must be a high priority item for this Congress.

At a time when we talk about enhancing the quality of life, it is inconceivable that 14,500 workers are killed each year in industrial accidents, while 2.2 million more are disabled through job-related accidents. The figures on new cases of job-related illness and disease are equally disturbing. The Public Health Service estimates 390,000 new occurrences of occupational disease annually—including the dread black lung disease, emphysema, and the newly discovered perils of mercury poisoning. In my own State of Maine, for example, there were 4,801 manufacturing and 2,093 nonmanufacturing injuries and/or diseases reported in a total work force of approximately 420,000 in 1969. These figures are shocking, and they should stand as a clear warning that we have not been doing enough to protect workers on the job.

Mr. President, a jumble of differing State laws currently regulate occupational health and safety. Only four States have adequate standards. Standards in 38 States do not even meet one-half of comparability with those set by the American Standards Association. In States with strong occupational safety and health standards, the accident rate is 19 per 100,000 workers. In States with

weak programs, it is 110 per 100,000—an increase of 500 percent. Nowhere are enforcement mechanisms and penalties adequate to force industry compliance with existing standards.

Even in fields where strong Federal laws do exist, such as coal mine health and safety, lack of enforcement has meant virtually no decline in the accident and death rates. While the Federal coal mine health and safety legislation passed last year should help to reduce black lung disease, other industries continue unregulated. Cotton dust in textile mills, for example, has caused byssinosis—brown lung—in over 10 percent of the 819,000 workers in that field.

Mr. President, voluntary standards—which frequently represent the lowest common denominator—have not worked effectively. S. 2193 would provide the Secretary of Labor with authority both to establish and enforce new national occupational safety and health standards within 2 years.

There has been considerable controversy surrounding the role of the Secretary of Labor under this legislation. I am pleased that a majority of the members of the Labor and Public Welfare Committee voted to empower the Secretary with both standards-setting and enforcement authority. I concur with the committee's statement that—

Rather than dividing responsibility by creating yet another agency . . . a sounder program will result if responsibility for the formulation of rules is assigned to the same administrator who is also responsible for their enforcement and for seeing that they are workable and effective in their day-to-day application . . .

Mr. President, I reject the argument of those who claim that the standards-setting and enforcement authority should reside with independent boards. Such boards traditionally have been cumbersome, inefficient, and overly responsive to business pressures. The Secretary of Labor has traditionally been given the responsibility to set and enforce labor standards—as he does with public contracts under the Walsh-Healy Act, prevailing wages under the Davis-Bacon Act, and the minimum wage under the Fair Labor Standards Act. Given this long history of standards-setting and enforcement authority within the office of the Secretary of Labor, the argument that independent boards would have more professional expertise and greater impartiality in the field of occupational safety and health loses its strength.

Mr. President, a distinguished group of citizens, including the former Secretary of Labor, the former Secretary of Interior and several noted scientists, recently signed a letter endorsing the provisions of S. 2193. I ask unanimous consent that the text of that letter appear in the RECORD at this point, and I call particular attention to their statement:

Although the burden of hazardous workplaces falls most heavily upon the blue collar workers, the problem of occupational safety and health affects all Americans. The in-plant environment is merely a concentrated microcosm of the outside environment. The environmental health hazards that workers

face affect the entire population to a lesser degree . . .

Mr. President, the Occupational Safety and Health Act of 1970 deserves our full support as an important step toward fulfilling our commitment to enhancing the quality of American life. I urge speedy approval of S. 2193.

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

ENVIRONMENTAL ACTION,

Washington, D.C., October 7, 1970.

MY DEAR SENATOR: As concerned citizens, environmentalists and members of the academic and professional communities, we feel that the Williams and Daniels Bills (S. 2193 and H.R. 16785) are the most important pieces of legislation presently before the Congress. The bills will have crucial significance not only for the bluecollar work force, but for all Americans.

America's eighty million working people spend an average of forty hours a week in some of the most polluted, physically hazardous and psychically devastating environments found anywhere. Eight per cent of these citizens work in places where no type of health service is provided, and the protection given the remaining twenty per cent varies from excellent to minimal.

According to the government's raw and probably vastly understated figures, nearly 400,000 workers have died, and 50,000,000 have been disabled from work-related diseases and injuries in the twenty-five years since the end of the Second World War. The annual figures amount to over 15,000 deaths and 7,000,000 injuries of which 2,500,000 are disabling. The figures, as appalling as they are, can never adequately convey the agony of the injured and the anguish of the family, much less the worry, the discomfort and the boredom that arise from the unhealthy, unsafe working conditions under which the health of millions of workers is being regularly eroded and under which many workers simply wait for the inevitable "accident" to happen.

As in other areas of environmental concern, our commitment to a technology of life and to the wise use of our most precious resources appears to have fallen behind our commitment to a technology of uncontrolled growth. A technological genie has unlocked thousands of more efficient and productive, but often more hazardous, processes. For example, while there are approximately 6,000 toxic chemicals now in industrial use, and more than 600 being added every year, recommended national safety standards exist for only about 450.

Although the burden of hazardous work places fall most heavily upon the blue-collar workers, the problem of occupational safety and health affects all Americans. The in-plant environment is merely a concentrated microcosm of the outside environment. The environmental health hazards that workers face affect the entire population to a lesser degree. For example, the toxic effects of carbon monoxide were first discovered when two workers in a chemical plant died of overexposure. Now carbon monoxide is recognized as a danger to the entire population and some few steps are being taken to regulate it. Dermatitis from enzyme detergents, lead and mercury poisoning, and many other health perils were first discovered in the plant by the workers who worked with those substances. If industrial chemicals and processes were properly researched and monitored before they were put into use, the entire population would be spared.

Most industrial diseases and accidents are preventable. Modern technological and medical sciences are capable of solving the problems of noise, dust, heat, fumes, and toxic substances in the plants. However, existing

legislation in this area does not begin to meet the problems. Except for the woefully inadequate and unenforced Walsh-Healy Act, Mine Safety Act, and Construction Safety Act, the entire field of occupation safety and health is left to the individual states. The states have been loathe to develop and enforce standards for the protection of their workers. In the states today there are a total of 1,600 health and safety inspectors, and 2,800 game wardens. Elk and deer are better protected than working men and women.

Clearly, in the field of occupational health and safety the patch-work approach by the states has failed. There is a positive role that the Federal Government now must play. In a bold departure from previous legislation in this area, the Daniels' Bill in the House and the Williams' Bill in the Senate would:

Impose on industry the "general duty" of furnishing workers "a place of employment which is safe and healthful."

Empower the Secretary of Labor to set nationwide health and safety standards for working environments.

Call for unannounced federal inspections of workplaces and prompt disclosure of the findings to workers.

Authorize the Secretary of Labor to impose fines and seek court action against employers who violate the "general duty" or specific standards.

Permit the Secretary of Labor to close down all or part of any plant where workers are in "imminent danger" of injury or disease.

Direct the Secretary of Health, Education and Welfare to publish a list of all known or potentially toxic substances including those whose analysis is specifically requested by workers.

Allow employees to refuse work, without loss of pay, in areas where toxic substances are found at dangerous concentrations.

Though long overdue, this legislation represents an important first step toward solving the problem of occupational health and safety. Of particular importance, are the strong enforcement provisions granted the Secretary of Labor coupled with the absence of the sort of administrative fragmentation which plagues alternative drafts of the Occupational Health and Safety Bill. Thus we strongly urge the immediate passage of the Williams and Daniels Bills in their present form.

Sincerely yours,

Mr. Stewart Udall, former Secretary of Interior; Mr. Willard Wirtz, former Secretary of Labor; Dr. Samuel S. Epstein, Chief, Laboratories of Environmental Toxicology and Carcinogenesis, Children's Cancer Research Foundation; Dr. Paul Cornely, President, American Public Health Association; Professor George Wald, Biology Department, Harvard University; Mr. Gary Soucie, Friends of the Earth.

Dr. Edward Martell, National Center for Atmospheric Research; Professor Garret Hardin, Biology Department, University of California (at Santa Barbara); Professor Rene Dubos, Department of Environmental Medicine, Rockefeller University; Dr. Mary Bunting, President, Radcliffe College; Professor Lentin Caldwell, Indiana University; Dr. Robert Ebert, Harvard Medical School; Professor J. D. Watson, Biology Department, Harvard University; Professor Paul Ehrlich, Chairman, Graduate Division, Department of Biology, Stanford University; Jerome B. Gordon, Author, "Life Stealers."

Mr. HART. Mr. President, today the Senate continues and I hope concludes consideration of the Occupational Health and Safety Act.

Statistics on industrial accidents and health hazards make an overwhelming case in favor of prompt passage of a stiff occupational health and safety bill.

With concern growing about the quality of life we are making for ourselves and our children, the day is long past when this Nation should leave the question of health and safety of its workers to chance.

Here are the statistics:

Industrial accidents kill 14,500 workers a year.

On-the-job accidents disable 2.5 million workers a year.

These deaths and accidents mean annual losses of \$1.5 billion in wages and \$8 billion in the gross national product.

The Surgeon General, in a 1967 study, estimated that 65 percent of the workers in 1,700 industrial plants were potentially exposed to harmful physical agents and that only 25 percent of these workers were protected adequately.

Based on that study, the Public Health Service has now estimated that 390,000 persons contract occupational diseases each year.

The Occupational Health and Safety Act, as reported by the Senate Committee on Labor and Public Welfare, represents, in my view, a sound and firm approach to the problem of improving working conditions in our plants and factories.

In brief, the bill:

First. Authorizes the Secretary of Labor to establish and enforce safety and health standards to protect workers against specific hazards or workers in specific industries.

Second. Gives employers and employees a voice in the standard-making process.

Third. Provides for Labor Department inspections and authority to issue citations for violation of standards.

Fourth. Gives employers and employees the right to appeal Department findings through administrative procedure and the courts.

Fifth. To protect workers against conditions not specifically covered by standards, contains a general obligation that an employer provide working conditions free of recognized hazards.

Sixth. Authorizes the Secretary of Labor to order an immediate halt in work if conditions would result in death or serious injury before the conditions could be corrected.

Mr. President, yesterday I voted to table an amendment which would have divided the responsibility for setting and enforcing the health and safety standards. I did so because to follow the recommendation of the administration would have been to dilute responsibility and therefore potentially diminish the effectiveness of the bill.

Mr. President, as I said at the outset of these remarks, the time is long past for this Nation to leave the safety of its workers to chance.

The time has come when we should pass a strong occupational safety act.

The version reported by the committee is stronger than the one proposed by the administration.

I urge prompt passage of this bill.

Mr. NELSON. Mr. President, I would like to express my wholehearted support for the measure presently being considered by the Senate, S. 2193. Enactment of this bill, the Occupational Health and Safety Act of 1970, would bring the promise of safe and healthy working conditions to millions of American workers who now in many cases have no choice but to endure the hazards in their places of employment.

The need for legislation regarding job safety is of such proportion that, in the face of it, one can only ask why action is so late in coming. The most obvious fact urging adoption of S. 2193 is that, according to the Secretary of Labor, 14,500 persons are killed each year as a result of industrial accidents. Equally tragic, however, is the fact that many of these deaths could have been prevented, had adequate safety precautions been taken. In addition to this terrible toll in lives, there are at least 7 million persons injured on the job annually in America, with 2.5 million of these injuries of a disabling nature, resulting in the loss of 250 million man-days of work. In human terms alone, the loss to the nation resulting from the lack of effective job safety programs is staggering, and should be a source of shame for us all.

In the area of occupational health, the situation is equally bleak. The human tragedy involved here is of a more subtle, less spectacular nature, yet the tragedy is just as grave, and perhaps more so. Workers spending large proportions of their lives in the job environment are forced to labor in conditions that gradually eat away at their vitality, leaving them often the victims of painful diseases such as emphysema, byssinosis, and asbestosis.

Also of particular importance in this area is the use of pesticides, herbicides, and fungicides in the agriculture industry, and the resultant danger to farmers and farmworkers. As is the case in most discussions regarding occupational health, there is a lamentable lack of knowledge about the effects which the use of these chemicals is having on those working on our Nation's farms. But one statistic that is available, according to an official of the Department of Health, Education, and Welfare in testimony before the Migratory Labor Subcommittee, is that an estimated 800 persons are killed each year as a result of improper use of such pesticides, and another 80,000 injured. The suffering reflected in these figures, coupled with the fact that the major cause of them lies in the lack of effective safeguards on the use of pesticides, is itself a moving testimonial to the need for the passage of legislation such as S. 2193.

In addition to the known instances of occupationally-related disease, estimated by the Public Health Service to be growing at a rate of 390,000 new occurrences each year there is the further danger posed by the use of new substances and processes in industry, of which we do not know the long-term effects on the human body. As the Labor and Public Welfare Committee report pointed out, it is estimated that a new and potentially toxic

chemical is introduced into industry every 20 minutes. With increasing scientific knowledge pointing to hitherto unexpected relationships between occupational exposures and many of the so-called chronic diseases, it is apparent that much research is needed to make sure that these new substances and processes are not potential killers in disguise, research which the passage of S. 2193 would provide for.

It is true that the ideal situation would be one in which Federal legislation on an issue such as this would not be necessary, one in which the employers of our Nation, or the State regulatory agencies, could insure that workers everywhere enjoy clean and safe places in which to labor. But this simply is not the case; as the statistics in the committee report and all literature on this subject clearly point out, the incidence of industrial accidents and occupationally-related disease is indeed on the rise, and not decreasing.

A major thrust of S. 2193 would be the establishment of programs of research, education, and training in the field of occupational safety and health. Programs such as these offer much promise toward bringing the shameful situations mentioned above to an end, especially since their emphasis in moving toward safety and health at the workplace would be on prevention, and in making this a concern of everyone involved, both employer and employee.

Extensive work, in the form of hearings and committee deliberations, has gone into the preparation of S. 2193. The comprehensiveness of the bill reflects this careful preparation, and I would again urge that we move rapidly toward its passage.

If we are serious about our concern for providing a healthy environment for all of our citizens we must include as a high priority protection for the working men and women of our Nation in their places of employment. S. 2193, the Occupational Health and Safety Act of 1970, would move in that direction by providing coverage for several million American workers, and by testifying to the fact that we as a nation will no longer tolerate a situation where the cost of employment for many individuals is the strong likelihood that, because of conditions in the workplace, they will be maimed or crippled by disease for life.

#### NATION'S RESPONSIBILITY FOR HEALTH AND SAFETY AT WORK

Mr. CRANSTON. Mr. President, the legislation now under consideration by the Senate, S. 2193, the proposed Occupational Safety and Health Act of 1970, has the potential to be a legislative landmark of the utmost importance to every family in the Nation. It is designed to insure a safe and healthful work environment for the 80 million men and women workers in our country, and hence to benefit their dependents as well. In addition, the vitality of the Nation's economy will be enhanced by the greater productivity realized through saved lives and useful years of labor.

When one man is injured or disabled by an industrial accident or disease, it is he and his family who suffer the most

immediate and personal loss. However, that tragic loss also affects each of us. As a result of occupational accidents and disease, over \$1.5 billion in wages is lost each year, and the annual loss to the gross national product is estimated to be over \$8 billion. Vast resources that could be available for productive use are siphoned off to pay workmen's compensation and medical expenses. The amount paid out in workmen's compensation alone is over \$2 billion annually.

The magnitude of the problem faced by this legislation cannot be overemphasized. It is conservatively estimated that some 14,500 persons are killed each year in industrial accidents. By the lowest count, another 2.2 million persons are disabled on the job in a single year. A recent study, authorized by the U.S. Department of Labor and conducted among a sample of California businesses revealed that this figure might be 10 times too low, and that the national figure might be closer to 25 million injuries. And we do not even have a realistic estimate of the number of workers who suffer or die from occupationally caused disease. Hopefully, we will learn this from the research on, and the collection of, such information, which is provided for in this bill. Our almost total ignorance of the nature and extent of the problem of work-related disease is itself a cause for alarm and action. It is a sad example of the intolerably low priority that worker health and safety has been afforded by our society to date and a highly persuasive argument for the necessity of Federal action to vindicate these basic employee rights.

An example of the general inadequacy of information about these vital issues of the health and safety of our workers is that comparable figures for my own State of California are not available. The statistics prepared by the California Human Relations Agency cannot be related to the national figures because of the different standards and definitions for reporting. California reports 759 work-related deaths in 1969. However, our proportionate share of the 14,500 deaths estimated by the U.S. Bureau of Labor is more on the order of 2,900.

At present, despite our uncertainty about the exact magnitude of the problem, we do know that industrial accidents alone inflict far greater casualties each year than has the Indochina war. The highest year's casualty rate in Vietnam occurred in 1968 when 12,588 of our servicemen were killed. In that same year, even conservative estimates show that 14,300 workers were killed on the job—1,812 more than died in Vietnam.

The latest summary of casualty figures, dated November 7, listed 43,959 killed in the Indochina war since the start of 1961. The number of persons estimated to have been killed on the job since 1961 is three times that figure—an estimated 138,900 workers.

Nearly 300,000 Americans have been wounded during the entire Indochina war, while over seven times that many are wounded and maimed on the job in 1 year alone—2,200,000 in 1969.

The great urgency of the problem is clear, as is the need for prompt and effective legislative action. Only through

a comprehensive approach can we hope to effect a significant reduction in these job death and casualty figures. Our efforts to date have been uncoordinated, inadequate in coverage, and insufficiently funded.

In my own State of California, with the largest population in the Nation, we have the second highest budget for safety, \$3.3 million, and the second highest number of inspectors in the Nation, 220. However, and these are the more telling figures, we spend only 58 cents per worker on safety and health, and have only 2.3 health and safety staff members for each 100,000 workers. Thus, in terms of money and staff per worker, we rank only ninth in the Nation.

While some States have acted to establish and enforce safety and health standards, only a relatively few have modern laws and have devoted adequate resources to their administration and enforcement. At least eight States have no identifiable programs in occupational health at all. The manpower devoted to health and safety is the best indication of our neglect—there are only 1,600 State safety inspectors, and less than 100 Federal inspectors. Four States have no inspection personnel whatsoever. Only three States have over 100 inspectors. Only three States have inspectors trained in the field of occupational health and hygiene. Ironically, there are twice as many fish and game wardens in the United States as there are safety and health inspectors.

The Nation and the Congress must recognize that this problem is one of national scope, and that it should be a national responsibility. The hazards which characterize modern industry are not the problem of a single employer, a single industry, or a single State jurisdiction. The spread and interrelationship of industry and the mobility of our workforce combine to require national action to protect the health and safety of the worker.

The initial version of this bill was introduced on May 16, 1969, by the Senator from New Jersey (Mr. WILLIAMS) and others. In a message to Congress on August 6, 1969, the President urged passage of a comprehensive occupational safety and health bill. The Labor Subcommittee, of which I am a member, under the leadership of the distinguished and dedicated Senator from New Jersey (Mr. WILLIAMS), conducted extensive hearings on this subject on 12 days in Washington and three other cities. Senator WILLIAMS and the ranking minority member of the subcommittee, the Senator from New York (Mr. JAVITS) have done yeoman work in structuring this landmark bill and bringing it to the Senate floor for consideration. I congratulate them on this momentous achievement in behalf of all Americans. And I wish to thank them for their support of two amendments I offered during committee consideration, which I will describe shortly.

The provisions of S. 2193 have been developed after careful study by the Labor Subcommittee and the full Committee on Labor and Public Welfare of the extensive information presented at the hearings and the recommendations

of all interested groups. The bill is a sound and workable blueprint for action.

The major provisions of the bill provide for the Secretary of Labor's developing and establishing standards of occupational safety and health to apply to all employment performed in a business affecting commerce among the States. It also provides for enforcement of these standards through a system of inspection, investigation, and reporting.

The bill provides, in section 8(f), that employees—or their representative—may notify the Secretary of Labor or an inspector of any violation or dangerous situation which they believe exists. The notice is to be in writing and the Secretary shall then conduct an inspection of the condition if he determines that there are reasonable grounds to believe the violation or imminent danger exists. I was concerned that an employee might be reluctant to advise inspectors of dangerous conditions if his or her identity were revealed to the employer. The committee adopted my amendment, cosponsored by Senator Nelson, to provide that, upon request, the name of an employee giving such notice may not be published or released. Senator NELSON and I had sponsored a similar amendment to the Coal Mine Health and Safety Act of 1969, Public Law 91-173, section 103(g).

In section 11 of the bill, emergency procedures are made available to the Secretary of Labor or his designee—probably an industrial inspector—to counteract imminent dangers. When a condition or practice exists which may cause death or serious physical harm before it can be corrected, the Secretary—or his designee—is authorized to bring action for a temporary restraining order in the appropriate U.S. district court. If the danger is so immediate that action must be taken before court proceedings can be instituted, the inspector may order the necessary action to be taken, and his order is effective for 72 hours.

Such "red tag" or "stop work" provisions are common in State safety laws, and similar authority is contained in both the Coal Mine Health and Safety Act of 1969 and the recently passed Railroad Safety Act. California has the substantial equivalent of these provisions in sections 6510 and 6511 of the California Labor Code.

While I agree that such an emergency procedure is necessary in this bill, I was concerned that the power to close down production operations on so broad a basis should not rest solely with a single inspector. In order to circumscribe the potential for unreasonable action, I joined with Senator SCHWEIKER in developing an amendment adopted by the committee which requires that any inspector delegated this authority must first obtain the concurrence of an appropriate regional Labor Department official before issuing such an order. I believe that this procedure should reduce the potential for abuses in the issuance of imminent-danger orders. At the same time, I wish to make clear that it was not our intent in offering this amendment to provide an administrative loophole

whereby an unwieldy or otherwise unworkable concurrence procedure would frustrate the statutory purpose of providing an expeditious emergency closing procedure. Thus, the Secretary of Labor should insure that the concurrence procedure includes ample alternate regional DOL officials with authority to give concurrence by telephone, night or day, workday or weekend.

In this regard, the committee report on the bill, No. 91-1282, explains this concurrence procedure quite thoroughly as follows on page 13:

Section 11(b) specifies that in delegating to an inspector his authority to issue imminent danger orders, the Secretary shall require the inspector to obtain the concurrence of an appropriate regional Labor Department official before such an order is issued. The committee adopted this qualification in order to meet the concern expressed by some that it should not be within the sole judgment of a single inspector to determine whether a hazard is so imminent as to warrant interference with a production operation. The bill now provides that an additional judgment shall be obtained; however, bearing in mind the act's purpose to protect fully employees whose lives and health may be under immediate risk, it is intended that the necessary concurrence may be obtained by telephone consultation rather than more protracted means. In order that difficulties of communication will not thwart the act's purpose by delaying the issuance of an order, it is expected that the Secretary will make suitable provision to insure that persons authorized to provide such concurrence can be reached by telephone at all times.

The bill provides a fair and reasonable enforcement procedure whereby the Secretary of Labor shall issue citations for violations and afford an opportunity for a formal hearing. An enforcement order issued by the Secretary of Labor after a hearing may be reviewed in the appropriate U.S. court of appeals.

Full and adequate information is a fundamental precondition for an effective occupational safety and health program. Under the provisions of the bill, the Secretaries of Labor and of Health, Education, and Welfare will cooperate in developing and instituting adequate statistical programs.

In addition, the bill establishes a National Institute of Occupational Health and Safety within the Department of Health, Education, and Welfare to conduct research, training, and related activities. The establishment of this special institute will provide occupational health and safety research with the visibility and status it merits.

I believe that the bill strikes an appropriate and important balance between Federal and State responsibilities for occupational health and safety enforcement. Under the bill, whenever a State wishes to assume responsibility for developing or enforcing standards, the State may do so if it submits a State plan which the Secretary of Labor determines to provide for at least as effective and rigorous enforcement as the Federal program. Planning grants with up to 90 percent Federal participation and program grants with up to 50 percent Federal participation are authorized to offer States incentives to assume such responsibilities. For example, California may

very well decide to continue and expand its efforts in this field, and will be able to obtain 90 percent of the cost of reorganizing to conform to Federal standards and procedures; and with the 50-percent program grant, it could double its present efforts in occupational health and safety.

During the hearings conducted on occupational health and safety, the committee's attention was drawn to the State workmen's compensation programs. Serious questions about the adequacy of such programs were raised. The bill establishes in section 23 a National Commission on State Workmen's Compensation Laws. The Commission will study and evaluate existing State laws and will report its findings and conclusions to Congress by October 1, 1971.

Mr. President, the problem of death, injury, and disease in industry is national in scope, and the appropriate congressional response is to adopt the comprehensive program contained in S. 2193 to protect the 80 million workers of this Nation and then to insure that this program is adequately funded and effectively administered.

It may be many months before this program makes an impact on those awful statistics of job-related death and injury, but the enactment of this legislation will mark an auspicious and long overdue beginning of our effort. With this program, a safe and healthful work environment can be made a reality for every working man and woman in our Nation. I urge my colleagues to join me in support of this essential legislation.

HEALTH AND SAFETY OF WORKERS IS VITAL TO  
OUR ECONOMY

Mr. RANDOLPH. Mr. President, within the past 3 years there have been three major disasters in my home State of West Virginia. Each of these horrible events, I believe, served a purpose. The Mannington coal mine disaster which claimed 76 lives awoke the Nation and this Congress to the dangers of mining, and led directly to the passage of the Coal Mine Health and Safety Act. Collapse of the Silver Bridge at Point Pleasant into the Ohio River forced us to take another look at bridge safety standards. And the shocking death of 75 Marshall University athletes, staff members, and supporters in an airplane crash near Huntington has pointed to the need for greater air safety controls.

This bill—S. 2193—is not in response to some sudden disaster, but to the continuing health and safety hazards of our Nation's accelerated industrialization. The 40 workers who die each day, the 6,000 who are injured each 24-hour shift, represent personal tragedies which have not aroused any great public outcry. And yet the 80 million men and women who form the production force of America have a very vital personal stake in passage of the Occupational Safety and Health Act of 1970.

Both industry and labor agree on the need to eliminate job hazards. But there is honest disagreement on how this can best be accomplished. I believe that we have now reached the point of compromise where each side on this vital issue can, with satisfaction, say that it has put forth its best effort.

I support today the concept of direct line responsibility for the administration of safety and health legislation, as was incorporated in the Coal Mine Health and Safety Act. This bill vests full authority with the Secretary of Labor to promulgate occupational safety and health standards. This gives him both the power to act effectively and the undiffused responsibility for the consequences of his actions in carrying out the provisions of the act.

I commend the distinguished Senator from New Jersey (Mr. WILLIAMS) and others on both sides of the aisle who have worked so long and so hard to produce this legislation. I believe that its passage will help stem the collective disaster of death and disablement which have marked our technological progress.

Despite the many disruptive forces in our land today, I feel that our increasing concern for the quality of life and compassion for the individual hold out a bright promise for tomorrow. I endorse the words of H. G. Wells, who wrote:

The past is but the beginning of a beginning, and all that is and has been is but the twilight of the dawn. A day will come when beings who are now latent in our thoughts and hidden in our loins . . . shall laugh and reach out their hands amid the stars.

Mr. HRUSKA. Mr. President, we are desperately in need of legislation to help insure the safety and health of industrial workers. For too long their needs have been inadequately provided for in this respect.

The grim statistics speak for themselves; we cannot afford 14,500 fatalities a year, 2.2 million disabilities. The economic impact is tremendous, but even more horrible is the human suffering of the men and women involved, and of their families and their communities. The situation cries out for solution. It is our strong duty to heed that cry and provide relief in this session of Congress.

But, it is also our duty to provide responsible legislation. The program we authorize must be one that can be administered; it must also be one which provides for due process and is in accord with orderly and accustomed practice.

Mr. President, S. 2193 does not meet these criteria. If it is approved in the form in which it was reported, we will not have acted responsibly in this critical matter.

It is my view, Mr. President, that the Senate should have accepted the amendment offered yesterday by Mr. DOMINICK. That amendment would have allowed us to achieve the objectives we all seek, without the critical faults of S. 2193. It is my hope that the Senate will, erase the most important deficiencies of the committee bill.

The major faults of S. 2193 are these:

First. The Secretary of Labor is made responsible for making, promulgating and enforcing health and safety standards. He is required to be at one and the same time, rulemaker, investigator, judge, and jury.

Mr. President, the Secretary of Labor himself recognizes the impropriety of such an arrangement. He does not believe that such a range of responsibility should

be vested in an executive department, and has asked for a more reasonable process. The President of the United States does not want this authority totally vested in one of his Cabinet officers, and has indicated his preference for S. 4404, the substance of which was included in the amendment which was before us yesterday.

Second. S. 2193, in my view, violates due process. The bill calls for heavy fines without providing the normal and accepted safeguards common to such penalties. The entire process is an administrative one, and is only appealable to a judicial or independent body as a last resort. It is important to note that the circuit court of appeals—which hears appeals from the Secretary's decisions—is required to accept the Secretary's findings of fact as conclusive, if they are supported by substantial evidence on the record considered as a whole.

Mr. President, we have available to us a good and proper alternative. It is contained in the Dominick substitute amendment. Instead of making the Secretary of Labor responsible for setting standards, these should be the province of an Occupational and Health Board, composed of specially chosen members competent to handle the complex medical and technical problems involved. The problem involves not only the conventional labor and manpower matters, but requires expertise on the health aspects as well.

Instead of combining legislative, enforcement and judicial functions, the legislation should recognize the essential differences involved and separate them. A National Occupational Safety and Health Board, an independent agency should determine and promulgate appropriate safety rules. This Board, which would consist of five members chosen on the basis of their training and experience, would be better able to determine the safety needs of the various industries. Such a Board would improve the quality of the rules and relieve the Secretary of this duty to both make rules and enforce them. It would greatly improve the bill.

Instead of violating due process of law, the legislation should explicitly recognize its requirements. Under the committee bill, as I have said, the Secretary makes the rules, investigates and prosecutes violations, and is the judge. I believe that these contradictory duties should be changed. An elementary concept demands that these functions be separated. In addition to relieving the Secretary of his rulemaking duties, we should likewise vest the quasi-judicial functions in a separate, an independent agency. The amendment of the Senator from New York, No. 1061, which the Senate adopted today, will accomplish this by creating a separate board of appeals to hear contested cases. This amendment, which I supported, is similar to the provision of the administration substitute, and its adoption substantially improves this legislation.

Mr. President, I said earlier that we desperately need legislation in this area and I hold to that conclusion. The bill, as amended, is now a more acceptable and workable piece of legislation. It is my hope that additional amendment, and

revision will occur to make it the really effective and useful instrument it can truly be.

Mr. JAVITS. Mr. President, I shall detain the Senate for only 1 minute. I wish to call to the attention of Senators the very important and significant part of the bill which deals with a study which is going to be made of the workmen's compensation systems in every State. There are tremendous inequities and shortcomings in many—not all—workmen's compensation laws. About one-fifth of American workers, by virtue of State laws, are not even covered by workmen's compensation.

I know how nearly everyone feels about a Federal workmen's compensation system, which is all the more reason why there should be a much greater degree of adequacy among the States.

I rise for two purposes. First, I hope Senators will be stimulated by this provision to look into their own State compensation systems, which are about to be surveyed if this bill goes through, which I hope it will; and second, I hope Senators will use their influence, and the influence of Senators is very considerable, to bring about reform in their State systems, especially as we will be seeing the total picture of the relative inequalities between the various States concerning injustices to injured workers, which I do not think any Senator would regard with sympathy. So I hope this provision, which could be one of the most significant parts of the bill, will have the interested concern of Senators which it well deserves.

I thank the Senator.

Mr. SAXBE. Mr. President, before voting on this bill I would like to call attention to the fact that this does not take away forever the powers of the States to regulate their health and safety. This was one of the original concerns and the reasons for a great deal of opposition, because this is a new field that the Federal Government is moving into, which heretofore has been a province of the States.

The bill does contemplate, however, that the States can regain their control over their domestic health and safety. I call this to the attention of Senators so that States will move to do this and reassert under the provision of this law their ability to police the industrial health and safety in their States.

Mr. DOMINICK. Mr. President, before we vote on this matter I want to point out once again the enormous scope of the bill.

For the first time, in modern history, at least, the Federal Government is taking over the role of monitor of the health and safety functions in almost every business we can think of throughout the country.

As the Senator from Ohio so aptly said, there is a provision in the bill which will permit the States to regain some administrative control but I do not think we should be under any illusion. The Federal Government is going to be setting standards for safety and the health criteria for all industries and businesses, whether it be nurses working in hospitals, bus conductors, railway firemen, stevedores, department store employees, or whatever it may be. So we are dealing

with something which is of tremendous significance in its impact on businesses and employees throughout the country. Hopefully, it will work, and, hopefully, it will bring about better health and safety conditions through the country.

I suppose we must say that we cannot know until we have tried it. There is a provision in the bill which recognizes the impact that this particular legislation may have on small businesses. It is found in section 24, on page 90 of the bill. It permits the Secretary to make loans to small businesses wherever the standards that are set by the National Government are so severe as to have caused a real and substantial economic injury. Under those circumstances the Secretary is entitled, through the Small Business Administration, to make loans to those businesses to get them over the hump, because of the need for new equipment, or because of new conditions within the shop, which would permit them to continue in operation.

I think that is a very significant and important provision for minimizing economic injury which could occur if the bill resulted in situations which would have very serious effects on businesses.

Let me give just an example of this. In the Minerals and Nonmetallic Mines Safety Act as it originally passed this body, we had a provision that every mine had to have sanitary conditions—showers, running water, and many other conditions—which are just fine in big mines. There is no reason why they should not have them. But to impose such conditions on a father and son mine would run it out of business, right off the bat. It does not make any difference whether we are talking about West Virginia, Colorado, or any other State. They would just plain be out of business.

This provision in the bill would at least ameliorate some of those circumstances and the economic injury that could theoretically be caused by putting men out of work. What we are trying to do is put people to work, rather than put them out of work.

Although I have considerable misgivings about the bill and certain provisions in it, although I think a board should be provided for, although I think we should have a few other changes in the bill, I think there is a possibility that it may become a workable bill after a conference with the House, when the House gets around to acting on it. So I shall support it, even though I have reservations.

Mr. JAVITS. Mr. President, this has been such a monumental labor that I think tributes to be received by those who have labored so hard should not be lost in the flurry which so often occurs after a bill is passed.

I think the Senator from New Jersey (Mr. WILLIAMS) has given a fine and constructive effort in trying to get this kind of bill enacted into law, and certainly is entitled to the plaudits of the Senate in respect of his conduct as manager of the bill.

I believe that the Senator from Colorado (Mr. DOMINICK) deserves thanks for his extraordinary diligence in this matter. Although he did not succeed in many of the suggestions he had to offer,

his efforts had a vital impact on the bill in terms of principle and fairness, both in committee and on the Senate floor, and I would like to pay tribute to him.

The Senator from Ohio (Mr. SAXBE) and the Senator from Pennsylvania (Mr. SCHWEIKER) also rendered yeoman service in their interest and in the contributions which they made in amending the bill.

Aside from Senators, whose duty it is to do it, there are unsung heroes in getting passed a bill as difficult and as complex as this one.

Frederick Blackwell, who is counsel to this particular subcommittee, which the Senator from New Jersey chaired, has rendered yeoman service.

So has Robert Nagle, who has accompanied the manager of the bill on the floor and helped him follow it through. Donald Elisburg of the subcommittee staff has also been most helpful.

So has Richard Wise, who assisted the Senator from Colorado (Mr. DOMINICK).

So has Eugene Mittleman, who is minority counsel on the committee, and who assisted me.

I hope very much that they will get some satisfaction from a job well done. They certainly played an important part in getting the bill through.

Mr. WILLIAMS of New Jersey. Mr. President, I appreciate the generosity and the thoughtfulness of the statement just made by the Senator from New York reflecting on the work of so many people that went into this major legislation.

The efforts here today on behalf of 80 million American workers is truly one of the most significant achievements of this Congress. I do want to reflect on the extremely valuable contributions of my colleagues on both sides of the aisle without whose cooperation and strong efforts there would be no bill.

Every member of the Subcommittee on Labor and the Committee on Labor and Public Welfare has made a contribution. Particularly, I must thank Senator JAVITS, the ranking minority member of the committee, for his tireless efforts on behalf of the bill in committee and on the floor. Many of the improvements in the committee bill were included at his request.

The guidance and wise counsel of the chairman of the committee, Senator YARBOROUGH, and the ranking member, Senator RANDOLPH, and Senators CRANSTON, SCHWEIKER, and SAXBE, was invaluable to the enactment of this bill. I must also commend the able Senator from Colorado, Mr. DOMINICK. While we disagreed on a number of fundamental features of the bill, I know he shares my concern with the need for adequate health and safety standards for the workplace, and I appreciate the manner in which he has so ably presented his views.

Finally, a word of appreciation for the work of the staff. Besides the Labor Subcommittee staff members, Fred Blackwell, Robert Nagle, and Donald Elisburg, special note should be made of the contributions of the minority staff members, Gene Mittleman, Peter Benedict, Richard Wise, and Michael Gertner.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from Connecticut (Mr. DODD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Georgia (Mr. RUSSELL), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. ELLENDER) is absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. BIBLE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG) is necessarily absent.

The Senator from Kentucky (Mr. COOPER), the Senator from Florida (Mr. GURNEY), the Senator from Illinois (Mr. PERCY), and the Senator from Maine (Mrs. SMITH) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from South Dakota (Mr. MUNDT), the Senator from Kentucky (Mr. COOPER), and the Senator from Maine (Mrs. SMITH) would each vote "yea."

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from Florida (Mr. GURNEY). If present and voting, the Senator from Illinois would vote "yea" and the Senator from Florida would vote "nay."

The result was announced—yeas 83, nays 3, as follows:

[No. 384 Leg.]

YEAS—83

Alken	Griffin	Moss
Allen	Hansen	Murphy
Allott	Harris	Muskie
Anderson	Hart	Nelson
Baker	Hartke	Packwood
Bellmon	Hatfield	Pastore
Bennett	Holland	Pearson
Boggs	Hruska	Pell
Brooke	Hughes	Prouty
Burdick	Inouye	Proxmire
Byrd, Va.	Jackson	Randolph
Byrd, W. Va.	Javits	Ribicoff
Cannon	Jordan, N.C.	Saxbe
Case	Jordan, Idaho	Schweiker
Church	Kennedy	Scott
Cook	Long	Spong
Cotton	Magnuson	Stennis
Cranston	Mansfield	Stevens
Curtis	Mathias	Stevenson
Dole	McCarthy	Symington
Dominick	McClellan	Talmadge
Eagleton	McGee	Tower
Fannin	McGovern	Williams, N.J.
Fulbright	McIntyre	Williams, Del.
Goldwater	Metcalf	Yarborough
Goodell	Miller	Young, N. Dak.
Gore	Mondale	Young, Ohio
Gravel	Montoya	

NAYS—3

Eastland	Ervin	Thurmond
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NOT VOTING—14

Bayh	Fong	Russell
Bible	Gurney	Smith
Cooper	Hollings	Sparkman
Dodd	Mundt	Tydings
Ellender	Percy	

So the bill (S. 2193) was passed, as follows:

S. 2193

An act to authorize the Secretary of Labor to set standards to assure safe and healthful working conditions for working men and women; to assist and encourage States to participate in efforts to assure such working conditions; to provide for research, information, education, and training in the field of occupational safety and health, and for other purposes

*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 "Occupational Safety and Health Act of 1970".*

CONGRESSIONAL FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that personal injuries and illnesses arising out of work situations which result in death or disability impose a substantial burden upon, and are a hindrance to, interstate commerce in terms of reduced production, wage losses, medical expenses, and disability compensation payments.

(b) The Congress declares that it is the policy of the United States in the exercise of its powers to regulate commerce and to provide for the general welfare, to assure so far as possible every working man and woman in the Nation safe and healthful working conditions—

(1) by providing for the development, promulgation, and effective enforcement of occupational safety and health standards applicable to businesses affecting commerce;

(2) by providing for research relating to occupational safety and health;

(3) by providing for training programs to increase and improve the skills of personnel engaged in the field of occupational safety and health;

(4) by more clearly delineating the responsibilities of the Federal Government and the States in their activities related to occupational safety and health;

(5) by providing grants to the States to assist them in identifying their needs and responsibilities in the area of occupational safety and health, to develop plans in accordance with the provisions of this Act, and to conduct experimental and demonstration projects in connection therewith; and

(6) by providing for appropriate accident and health reporting procedures which will more accurately describe the nature of the problems in the field of occupational safety and health and achieve the objectives of this Act.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(a) The term "Secretary" means the Secretary of Labor or his authorized representative.

(b) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

(c) The term "person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

(d) The term "employer" means a person engaged in a business affecting commerce who has employees, but does not include the United States or any State or political subdivision of a State.

(e) The term "employee" means an employee of an employer who is employed in a business of his employer which affects commerce.

(f) The term "occupational safety and health standard" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment.

(g) The term "national consensus standard" means any occupational safety and health standard or modification thereof which (1) has been adopted and promulgated by a nationally recognized standards-producing organization under procedures whereby it can be determined by the Secretary that persons interested and affected by the scope or provisions of the standard have reached substantial agreement on its adoption, (2) was formulated in a manner which afforded an opportunity for diverse views to be considered and (3) has been designated as such a standard by the Secretary, after consultation with other appropriate Federal agencies.

(h) The term "established Federal standard" means any operative occupational safety and health standard established by any agency of the United States and presently in effect, or contained in any Act of Congress in force on the date of enactment of this Act.

APPLICABILITY OF THIS ACT

SEC. 4. (a) This Act shall apply with respect to employment performed in a workplace in a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, Wake Island, Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act, Johnston Island, and the Canal Zone. The Secretary of the Interior shall, by regulation, provide for judicial enforcement of this Act by the courts established for areas in which there are no Federal district courts having jurisdiction.

(b) (1) Except as provided in paragraph (2) of this subsection, nothing in this Act shall be deemed to repeal or modify any other Federal law prescribing safety or health requirements or the standards, rules, or regulations promulgated pursuant to such law, nor shall this Act apply to working conditions of employees with respect to which any Federal agency other than the Secretary of Labor exercises statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

(2) The safety and health standards promulgated under the Act of June 30, 1936, commonly known as the Walsh-Healey Act (41 U.S.C. 35 et seq.), the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), Public Law 91-54, Act of August 9, 1969 (40 U.S.C. 333), Public Law 85-742, Act of August 23, 1958 (33 U.S.C. 941), and the National Foundation on Arts and Humanities Act (20 U.S.C. 951 et seq.) are superseded on the effective date of corresponding standards, promulgated under this Act, which are determined by the Secretary to be more effective. Standards issued under the laws listed in this paragraph and in effect on or after the effective date of this Act shall be deemed to be occupational safety and health standards issued under this Act.

(3) The Secretary shall, within three years after the effective date of this Act, report to the Congress his recommendations for legislation to avoid unnecessary duplication and to achieve coordination between this Act and other Federal laws relating to occupational safety and health.

(4) Nothing in this Act shall be construed to supersede or in any manner affect any workmen's compensation law or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties,

or liabilities of employers and employees under any law with respect to injuries, diseases, or death of employees arising out of, or in the course of, employment.

#### DUTIES OF EMPLOYERS AND EMPLOYEES

##### SEC. 5. (a) Each employer—

(1) shall furnish to each of his employees employment and a place of employment free from recognized hazards so as to provide safe and healthful working conditions, and

(2) shall, except as provided in section 17, comply with occupational safety and health standards, and all rules, regulations, and orders issued pursuant to this Act.

(b) Each employee shall, except as provided in section 17, comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Act which are applicable to his own actions and conduct.

#### OCCUPATIONAL SAFETY AND HEALTH STANDARDS

SEC. 6. (a) Without regard to chapter 5 of title 5, United States Code, or to the other subsections of this section, the Secretary shall, as soon as practicable during the period beginning with the effective date of this Act and ending two years after such date, by rule promulgate as an occupational safety or health standard any national consensus standard, and any established Federal standard, unless he determines that the promulgation of such a standard would not result in improved safety or health for specifically designated employees. In the event of conflict among any such standards, the Secretary shall promulgate the standard which assures the greatest protection of the safety or health of the affected employees. During such period he may also by rule, and in accordance with section 553 of title 5, United States Code, promulgate any standard adopted prior to the date of enactment of this Act by a nationally recognized standards-producing organization by other than a consensus method.

(b) The Secretary may by rule promulgate, modify, or revoke any occupational safety or health standard in the following manner:

(1) Whenever the Secretary, upon the basis of information submitted to him in writing by an interested person, a representative of any organization of employers or employees, a nationally recognized standards-producing organization, the Secretary of Health, Education, and Welfare, the National Institute for Occupational Health and Safety, a State or political subdivision, or on the basis of information developed by the Secretary or otherwise available to him, determines that a rule should be promulgated in order to serve the objectives of this Act, the Secretary may request the recommendations of an advisory committee appointed under section 7 of this Act. The Secretary shall provide such an advisory committee with any proposals of his own or the Secretary of Health, Education, and Welfare, together with all pertinent factual information developed by the Secretary or the Secretary of Health, Education, and Welfare, or otherwise available, including research, demonstrations and experiments. An advisory committee shall submit to the Secretary its recommendations regarding the rule to be promulgated within ninety days from the date of its appointment or within such longer or shorter period as may be prescribed by the Secretary, but in no event for a period which is longer than two hundred and seventy days.

(2) The Secretary shall publish a proposed rule promulgating, modifying, or revoking an occupational safety or health standard in the Federal Register and shall afford interested persons a period of thirty days after publication to submit written data or comments. Where an advisory committee is appointed and the Secretary determines that a rule should be issued, he shall pub-

lish the proposed rule within sixty days after the submission of the advisory committee's recommendations or the expiration of the period prescribed by the Secretary for such submission.

(3) On or before the last day of the period provided for the submission of written data or comments under paragraph (2), any interested person may file with the Secretary written objectives to the proposed rule, stating the grounds therefor and requesting a public hearing on such objections. Within thirty days after the last day for filing such objections, the Secretary shall publish in the Federal Register a notice specifying the occupational safety or health standard to which objections have been filed and a hearing requested, and specifying a time and place for such hearing.

(4) Within sixty days after the expiration of the period provided for the submission of written data or comments under paragraph (2), or within sixty days after the completion of any hearing held under paragraph (3), the Secretary shall issue a rule promulgating, modifying, or revoking an occupational safety or health standard or make a determination that a rule should not be issued. Such a rule may contain a provision delaying its effective date for such period as the Secretary determines may be necessary to insure that affected employers and employees will be informed of the existence of the standard and of its terms and that employers affected are given an opportunity to familiarize themselves and their employees with the existence of the requirements of the standard.

(5) The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. Whenever practicable, the standard promulgated shall be expressed in terms of objective criteria and of the performance desired.

(6) Any standard promulgated under this subsection shall prescribe the use of labels or other appropriate forms of warning as are necessary to insure that employees are apprised of all hazards to which they are exposed, relevant symptoms and appropriate emergency treatment, and proper conditions and precautions of safe use or exposure. Where appropriate, such standard shall also prescribe suitable protective equipment and control or technological procedures to be used in connection with such hazards and shall provide for monitoring or measuring employee exposure at such locations and intervals, and in such manner as may be necessary for the protection of employees. In addition, where appropriate, any such standard shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at his cost, to employees exposed to such hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure. In the event such medical examinations are in the nature of research, as determined by the Secretary of Health, Education, and Welfare, such examination may be furnished at the expense of the Secretary of Health, Educa-

tion, and Welfare. The results of such examinations or tests shall be furnished only to the Secretary or the Secretary of Health, Education, and Welfare, and, at the request of the employee, to his physician. The Secretary, in consultation with the Secretary of Health, Education, and Welfare may by rule promulgated pursuant to section 553 of title 5, United States Code, make appropriate modifications in the foregoing requirements relating to the use of labels or other forms of warning, monitoring or measuring, and medical examinations, as may be warranted by experience, information, or medical or technological developments acquired subsequent to the promulgation of the relevant standard.

(7) Whenever a rule promulgated by the Secretary differs substantially from an existing national consensus standard, the Secretary shall publish in the Federal Register a statement of the reasons why the rule as adopted will better effectuate the purposes of this Act than the national consensus standard.

(c) (1) The Secretary shall provide without regard to the requirements of chapter 5, title 5, United States Code, for an emergency temporary standard to take immediate effect upon publication in the Federal Register if he determines (A) that employees are exposed to grave danger from exposure to substances or agents determined to be toxic or physically harmful or from new hazards, and (B) that such emergency standard is necessary to protect employees from such danger.

(2) Such standard shall be effective until superseded by a standard promulgated in accordance with the procedures prescribed in paragraph (3) of this subsection.

(3) Upon publication of such standard in the Federal Register the Secretary shall commence a proceeding in accordance with section 6(b) of this Act, and the standard as published shall also serve as a proposed rule for the proceeding. The Secretary shall promulgate a standard under this paragraph no later than six months after publication of the emergency standard as provided in paragraph (2) of this subsection.

(d) Any affected employer may apply to the Secretary for a rule or order for a variance from a standard promulgated under this section. Affected employees shall be given notice of each such application and an opportunity to participate in a hearing. The Secretary shall issue such rule or order if he determines on the record, after opportunity for an inspection where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard. The rule or order so issued shall prescribe the conditions the employer must maintain, and the practices, means, methods, operations, and processes which he must adopt and utilize to the extent they differ from the standard in question. Such a rule or order may be modified or revoked upon application by an employer, employees, or by the Secretary on his own motion, in the manner prescribed for its issuance under this subsection at any time after six months from its issuance.

(e) Whenever the Secretary promulgates any standard, makes any rule, order or decision, grants any exemption or extension of time, or compromises, mitigates, or settles any penalty assessed under this Act, he shall include a statement of the reasons for such action which shall be published in the Federal Register.

(f) Any person who may be adversely affected by a standard issued under this section may at any time prior to the sixtieth

day after such standard is promulgated file a petition challenging the validity of such standard with the United States court of appeals for the circuit wherein such person resides or has his principal place of business, for a judicial review of such standard. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall not, unless otherwise ordered by the court, operate as a stay of the standard.

(g) In determining the priority for establishing standards under this section, the Secretary shall give due regard to the urgency of the need for mandatory safety and health standards for particular industries, trades, crafts, occupations, businesses, workplaces or work environments. The Secretary shall also give due regard to the recommendations of the Secretary of Health, Education, and Welfare regarding the need for mandatory standards in determining the priority for establishing such standards.

#### ADMINISTRATION; ADVISORY COMMITTEES

SEC. 7. (a) In carrying out his responsibilities under this Act, the Secretary is authorized to—

(1) use, with the consent of any Federal agency, the services, facilities, and personnel of such agency, with or without reimbursement, and with the consent of any State or political subdivision thereof, accept and use the services, facilities, and personnel of any agency of such State or subdivision with reimbursement; and

(2) employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, except that contracts for such employment may be renewed annually.

(b) The Secretary may appoint advisory committees to recommend occupational safety and health standards under section 6(b) of this Act. Each such advisory committee shall consist of not more than fifteen members and shall include as a member one or more designees of the Secretary of Health, Education, and Welfare and may include among its members an equal number of persons qualified by experience and affiliation to present the viewpoint of the employers involved, and of persons similarly qualified to present the viewpoint of the workers involved, as well as one or more representatives of health and safety agencies of the States, and such other persons who are qualified by knowledge and experience to make a useful contribution to the work of the committee, including one or more representatives of professional organizations of technicians or professionals specializing in occupational safety or health, and one or more representatives of nationally recognized standards producing organizations, but the number of persons so appointed to any advisory committee shall not exceed the number appointed to such committee as representatives of Federal and State agencies. Persons appointed to advisory committees from private life shall be compensated at a rate prescribed by the Secretary not in excess of the daily rate prescribed for GS-18 under section 5332 of title 5, United States Code. All members of advisory committees shall be reimbursed for travel, subsistence, and necessary expenses incurred in the performance of their duties. The Secretary shall pay to any State which is the employer of a member of the committee who is a representative of the health or safety agency of that State, a reimbursement sufficient to cover the actual cost to the State resulting from the service of such representative on the committee. No member of the committee (other than representatives of employers and employees) shall have an economic interest in any proposed rule.

(c) (1) The Secretary and the Secretary of Health, Education, and Welfare shall appoint a National Advisory Committee on Occupational Safety and Health (hereafter in

this subsection referred to as the "Committee"). The Committee shall consist of twenty members appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and composed equally of representatives of management, labor, occupational safety and occupational health professions, and of the public. The Secretary shall appoint all members of the Committee except for occupational health representatives who shall be appointed by the Secretary of Health, Education, and Welfare. The Secretary shall designate one of the public members as Chairman. The members shall be selected upon the basis of their experience and competence in the field of occupational safety and health.

(2) The Committee shall advise, consult with, and make recommendations to, the Secretaries of Labor and Health, Education, and Welfare on matters relating to the implementation of this Act. The Committee shall hold no fewer than two meetings during each calendar year. All meetings of the Committee shall be open to the public and a transcript shall be kept and made available for public inspection.

(3) The members of the Committee appointed from private life shall be compensated at a rate prescribed by the Secretary not in excess of the daily rate prescribed for GS-18 under section 5332 of title 5, United States Code. All members of the Committee shall be reimbursed for travel, subsistence, and necessary expenses in the performance of their duties.

(4) The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as are deemed necessary to the conduct of its business.

#### INSPECTIONS, INVESTIGATIONS, AND RECORD-KEEPING

SEC. 8. (a) In order to carry out the purposes of this Act, the Secretary, or any authorized representative, upon presenting appropriate credentials to the owner, operator, or agent in charge, is authorized—

(1) to enter upon at reasonable times any place of employment where work is performed to which this Act applies; and

(2) to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, owner, operator, agent or employee.

(b) For the purposes of any investigation or proceeding provided for in this Act, the provisions of section 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914 (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary or any officers designated by him.

(c) (1) Each employer shall make, keep and preserve, and make available to the Secretary or the Secretary of Health, Education, and Welfare, such records regarding his activities relating to this Act as the Secretary, in cooperation with the Secretary of Health, Education, and Welfare, may prescribe by regulation as necessary or appropriate for the enforcement of this Act or for developing information regarding the causes and prevention of occupational accidents and illnesses. Such regulations may include provisions requiring employers to conduct periodic inspections to determine their own state of compliance with this Act or with applicable standards, regulations, and orders, and to certify the results of such inspections to the Secretary. The Secretary shall also issue regulations requiring that employers, through posting of notices or

other appropriate means, keep their employees informed of their protections and obligations under this Act, including the provisions of applicable standards.

(2) The Secretary, in cooperation with the Secretary of Health, Education, and Welfare, shall prescribe regulations requiring employers to maintain accurate records of, and to make periodic reports on, all work-related deaths, injuries and illnesses. The Secretary shall compile accurate statistics on work injuries and illnesses which shall include all disabling, serious, or significant injuries and illnesses, whether or not involving loss of time from work.

(3) The Secretary, in cooperation with the Secretary of Health, Education, and Welfare shall issue regulations requiring employers to maintain accurate records of employee exposures to potentially toxic materials or harmful physical agents which are required to be monitored or measured under section 6 or 19. Such regulations shall provide employees or their representatives with an opportunity to observe such monitoring or measuring, and to have access to the records thereof. Such regulations shall also make appropriate provision for each employee or former employee to have access to such records as will indicate his own exposure to potentially toxic materials or harmful physical agents. Each employer shall promptly notify any employee who has been or is being exposed to toxic materials or harmful physical agents in concentrations or at levels which exceed those prescribed by an applicable occupational safety and health standard promulgated under section 6, and shall inform any employee who is being thus exposed of the corrective action being taken.

(d) Any information required by the Secretary or the Secretary of Health, Education, and Welfare, under this Act shall be obtained with a minimum burden upon employers, especially those operating small businesses. To the maximum extent possible, unnecessary duplication of efforts by employers in recording or reporting information shall be reduced.

(e) Subject to regulations issued by the Secretary, a representative of the employer and a representative authorized by his employees shall be given an opportunity to accompany the Secretary or his authorized representative during the physical inspection of any workplace under subsection (a) for the purpose of aiding such inspection. Where there is no authorized employee representative the Secretary or his authorized representative shall consult with a reasonable number of employees concerning matters of health and safety in the workplace.

(f) (1) Any employee or representative of employees who believe that a violation of a safety or health standard exists that threatens physical harm, or that an imminent danger exists, may request an inspection by giving notice to the Secretary or his authorized representative of such violation or danger. Any such notice shall be reduced to writing, shall set forth with reasonable particularity the grounds for the notice, and shall be signed by the employees or representative of employees, except that, upon the request of the person giving such notice, his name and the names of individual employees referred to therein shall not appear on any record published, released, or made available pursuant to subsection (g) of this section. If upon receipt of such notification the Secretary determines that there are reasonable grounds to believe that such violation or danger exists, he shall make a special inspection in accordance with the provisions of this section as soon as practicable, to determine if such violations or danger exist. If the Secretary determines there are no reasonable grounds to believe that a violation or danger exists he shall notify in writing the employees or representative of the employees of such determination.

(2) Prior to or during any inspection of a workplace, any employees or representative of employees employed in such workplace may notify the Secretary or any representative of the Secretary responsible for conducting the inspection, in writing, of any violation of this Act which they have reason to believe exists in such workplace. The Secretary shall, after the completion of the inspection, furnish any such employees or representative with a written explanation of any failure to issue a citation with respect to any such alleged violation. The Secretary shall also, by regulation, establish procedures for informal review of any refusal by a representative of the Secretary to issue a citation with respect to any such violation and shall furnish the employees or representative of employees requesting such review a written statement of the reasons for the Secretary's final disposition of the case.

(g) The Secretary or Secretary of Health, Education, and Welfare is authorized to compile, analyze, and publish, either in summary or detailed form, all reports or information obtained under this section.

#### CITATIONS FOR VIOLATIONS

SEC. 9. (a) If, upon inspection or investigation, the Secretary or his authorized representative determines that an employer has violated a requirement of sections 5, 6(d), 8(c), 19, or a rule, regulation, or order prescribed pursuant to one of those sections, he shall issue forthwith citation to the employer. Each citation shall be in writing, and shall describe with particularity the nature of the violation, including a reference to the provision of the Act, rule, regulation, or order alleged to have been violated. In addition, the citation shall fix a reasonable time for the abatement of the violation. The Secretary may prescribe procedures for the issuance of a notice in lieu of a citation with respect to de minimis violations which have no direct or immediate relationship to safety or health.

(b) Each citation issued under this section, or a copy or copies thereof, shall be prominently posted, as prescribed in regulations issued by the Secretary, at or near each place a violation referred to in the citation occurred.

#### PROCEDURES FOR ENFORCEMENT

SEC. 10. (a) If, after an inspection or investigation, the Secretary issues a citation under section 9(a), he shall, within a reasonable time after the termination of such inspection or investigation, notify the employer by certified mail of the penalty, if any, proposed to be assessed under section 14 and that the employer has fifteen working days within which to notify the Secretary that he wishes to contest the citation or proposed assessment of penalty. If, within fifteen working days from the receipt of the notice issued by the Secretary the employer fails to notify the Secretary that he intends to contest the citation or proposed assessment of penalty, and no notice is filed by any employee or representative of employees under subsection (c) within such time the citation and the assessment, as proposed, shall be deemed as final order of the Commission and not subject to review by any court or agency, except upon request of an employee or representative of employees pursuant to subsection (c).

(b) If the Secretary has reason to believe that an employer has failed to correct a violation for which a citation has been issued within the period permitted for its correction (which period shall not begin to run until the entry of a final order by the Commission in the case of any review proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties), or has failed to comply with an order issued under section 12(b), the Secretary shall notify the employer by certi-

fied mail of such failure and of the penalty proposed to be assessed under section 15 by reason of such failure, and that the employer has fifteen working days within which to notify the Secretary that he wishes to contest the Secretary's notification or the proposed assessment of penalty. If, within fifteen working days from the receipt of notification issued by the Secretary, the employer fails to notify the Secretary that he intends to contest the notification or proposed assessment of penalty, the notification and assessment, as proposed, shall be deemed a final order of the Commission and not subject to review by any court or agency.

(c) If an employer notifies the Secretary that he intends to contest a citation issued under section 9(a) or notification issued under section 10 (a) or (b), or of, within fifteen working days of the issuance of a citation under section 9(a), any employee or representative of employees files a notice with the Secretary alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the Secretary shall immediately advise the Commission of such notification or determination, and the Commission shall afford an opportunity for a hearing (in accordance with section 554 of title 5, United States Code, but without regard to subsection (a) (3) of such section). The Commission shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the Secretary's citation or proposed penalty, or directing other appropriate relief, and such order shall become final fifteen days after its issuance. The rules of procedure prescribed by the Commission shall provide affected employees or representatives of affected employees an opportunity to participate as parties to hearings under this subsection.

(d) Any person adversely affected or aggrieved by an order of the Commission issued under subsection (c) or (f) may obtain a review of such order in any United States court of appeals for the circuit in which the violation is alleged to have occurred or where the employer has its principal office, or in the Court of Appeals for the District of Columbia Circuit, by filing in such court within sixty days following the issuance of such order a written petition praying that the order be modified or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Commission and to the other parties, and thereupon the Commission shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, or setting aside in whole or in part, the order of the Commission and enforcing the same to the extent that such order is affirmed or modified. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Commission. No objection that has not been urged before the Commission shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Commission with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Commission, the court may order

such additional evidence to be taken before the Commission and to be made a part of the record. The Commission may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and its recommendations, if any, for the modification or setting aside of its original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code. Petitions filed under this subsection shall be heard expeditiously.

(e) The Secretary may also obtain review or enforcement of any final order of the Commission by filing a petition for such relief in the court of appeals for the circuit in which the violation occurred or in which the employer has its principal office, and the provisions of subsection (d) shall govern such proceedings to the extent applicable. If no petition for review, as provided in subsection (d), is filed within sixty days after service of the Commission's order, the Commission's findings of fact and order shall be conclusive in connection with any petition for enforcement, which is filed by the Secretary after the expiration of such sixty-day period. In any such case, as well as in the case of a non-contested citation or notification by the Secretary which has become a final order of the Commission under subsection (a) or (b), the clerk of the court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary and the employer named in the petition. In any contempt proceeding brought to enforce a decree of a court of appeals entered pursuant to this subsection or subsection (d), the court of appeals may assess the penalties provided in section 15, in addition to invoking any other available remedies.

(f) No person shall discharge or in any other way discriminate against an employee because of the exercise by such employee on behalf of himself or others of any right afforded by this Act, including action to determine the extent of employee exposure to hazardous substances, or for leaving a workplace upon the order of the Secretary or a district court issued pursuant to section 12. Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of this subsection may, within thirty days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that the provisions of this subsection have been violated, he shall so notify the Commission and the Commission shall afford an opportunity for a hearing as provided in subsection (c). If the Commission finds that such violation did occur, it shall order such affirmative action as may be appropriate, including, but not limited to, the rehiring or reinstatement of the employee to his former position with back pay.

#### THE OCCUPATIONAL SAFETY AND HEALTH REVIEW PANEL

SEC. 11. (a) The Occupational Safety and Health Review Commission is hereby established. The Commission shall be composed of three members who shall be appointed by the President, by and with the advice and consent of the Senate, from among persons who by reason of training, education, or experience are qualified to carry out the functions of the Commission under this Act. The Pres-

ident shall designate one of the members of the Commission to serve as Chairman.

(b) The terms of members of the Commission shall be five years except that (1) the members of the Commission first taking office shall serve, as designated by the President at the time of appointment, one for a term of three years, one for a term of four years, and one for a term of five years, and (2) a vacancy caused by the death, resignation, or removal of a member prior to the expiration of the term for which he was appointed shall be filled only for the remainder of such unexpired term. A member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(c) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(94) Members, Occupational Safety and Health Review Commission."

(d) The principal office of the Commission shall be in the District of Columbia. Whenever the Commission deems that the convenience of the public or of the parties may be promoted, or delay or expense may be minimized, it may hold hearings or conduct other proceedings at any other place.

(e) The Chairman shall be responsible on behalf of the Commission for the Commission for the administrative operations of the Commission and shall appoint such hearing examiners and other employees as he deems necessary to assist in the performance of the Commission's functions and to fix their compensation in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates: *Provided*, That assignment, removal and compensation of hearing examiners shall be in accordance with sections 3105, 3344, 5362, and 7521 of title 5, United States Code.

(f) For the purpose of carrying out its functions under this Act, two members of the Commission shall constitute a quorum and official action can be taken only on the affirmative vote of at least two members.

(g) Every official act of the Commission shall be entered of record, and its hearings and records shall be open to the public. The Commission is authorized to make such rules as are necessary for the orderly transaction of its proceedings, which shall provide for adequate notice of hearings to all parties.

(h) The Commission may order testimony to be taken by deposition in any proceedings pending before it at any state of such proceeding. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Commission. Witnesses whose depositions are taken under this subsection, and the persons taking such depositions, shall be entitled to the same fees as are paid for like services in the courts of the United States.

(i) For the purpose of any proceeding before the Commission, the provisions of section 11 of the National Labor Relations Act (29 U.S.C. 161) are hereby made applicable to the jurisdiction and powers of the Commission.

(j) A hearing examiner appointed by the Commission shall hear, and make a determination upon, any proceeding instituted before the Commission and any motion in connection therewith, assigned to such hearing examiner by the Chairman of the Commission, and shall make a report of any such determination which constitutes his final disposition of the proceedings. The report of the hearing examiner shall become the final order of the Commission within thirty days after such report by the hearing examiner, unless within such period any Commis-

sion member has directed that such report shall be reviewed by the Commission.

#### PROCEDURES TO COUNTERACT IMMINENT DANGERS

SEC. 12. (a) If, upon inspection or investigation of a place of employment, the Secretary determines that an imminent danger exists in such place of employment, the Secretary may bring a civil action in the United States district court for the district where the imminent danger exists or where the employer has its principal office for a temporary restraining order or injunction requiring such steps to be taken as may be necessary to avoid, correct or remove such imminent danger and prohibiting the employment or presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct, or remove such imminent danger or to maintain the capacity of a continuous process operation to restart without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner. An action may be brought under this subsection while an order of the Secretary under subsection (b) is in effect. As used in this section the term "imminent danger" means a condition or practice which could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated.

(b) If the Secretary determines that the imminence of a danger referred to in subsection (a) is such that immediate action is necessary, and the Secretary determines that there is not sufficient time, in light of the nature and imminence of the danger, to seek and obtain a temporary restraining order or injunction under subsection (a) of this section, the Secretary shall issue an order requiring such steps to be taken as may be necessary to avoid, correct, or remove such imminent danger and prohibiting the employment or presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct, or remove such imminent danger, or to maintain the capacity of a continuous process operation to restart without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner. Such order may remain in effect for not more than seventy-two hours from the time of its issuance. If the Secretary delegates his authority to issue such an order to close a business or plant, in whole or in substantial part, he shall provide that such an order may not be issued until the employer has been notified in writing, signed by the delegate of the Secretary, setting forth specifically the nature and imminence of the danger compelling immediate action and the concurrence of an official of the Labor Department appointed by the President with the advice and consent of the Senate is first obtained. The Secretary shall by regulation provide appropriate procedures whereby an employer may obtain expeditious informal reconsideration by officials of the Department of Labor of any order issued under this subsection.

(c) If the Secretary arbitrarily or capriciously fails to issue an order or seek relief under this section, any employee who may be injured by reason of such failure, or the representative of such employee, may bring an action against the Secretary in the United States district court for the district in which the imminent danger is alleged to exist or the employer has its principal office, or for the District of Columbia, for a writ of mandamus to compel the Secretary to issue such an order and for such further relief as may be appropriate.

#### REPRESENTATION IN CIVIL LITIGATION

SEC. 13. Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this Act but all such litigation shall be subject to the direction and control of the Attorney General.

#### CONFIDENTIALITY OF TRADE SECRETS

SEC. 14. All information reported to or otherwise obtained by the Secretary or his representative in connection with any inspection or proceeding under this Act which contains or which might reveal a trade secret referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act. In any such proceeding the Secretary or the court shall issue such orders as may be appropriate to protect the confidentiality of trade secrets.

#### PENALTIES

SEC. 15. (a) Any employer who violates any standard promulgated under section 6, or the requirements of sections 6(d), 8(c), 19, or any rule, regulation, or order issued pursuant to one of those sections, and who has received a citation therefor, shall be assessed a civil penalty of not more than \$1,000 for each such violation. Any employer who fails to correct a violation for which a citation has been issued under section 9(a) within the period permitted for its correction (which period shall not begin to run until the date of the final order of the commission in the case of any review proceeding under section 10 initiated by the employer in good faith and not solely for delay or avoidance of penalties), or who fails to comply with an order issued under section 12(b), shall be assessed a civil penalty of not more than \$1,000 for each day during which such failure or violation continues.

(b) The Secretary may compromise, mitigate, or settle any claim for civil penalties. In assessing the penalty consideration shall be given to the appropriateness of such penalty to the size of the business of the person charged, to the gravity of the violation, to the history of previous violations, and to the good faith of the employer.

(c) Any employer who willfully violates any standard promulgated under section 6, or the requirements of sections 6(d), 8(c), 19, or of any rule, regulation or order issued pursuant to one of those sections, shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than six months, or by both; except that if the conviction is for a violation committed after a first conviction of such person, punishment shall be by a fine or not more than \$20,000 or by imprisonment for not more than one year, or by both.

(d) Any person who gives advance notice of any inspection to be conducted under this Act, without authority from the Secretary or his designees, shall, upon conviction, be punished by a fine of not more than \$1,000 or by imprisonment for not more than six months, or by both.

(e) Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than six months, or by both.

(f) Section 114 of title 18, United States Code, is hereby amended by striking out "designated by the Secretary of Health, Edu-

cation, and Welfare to conduct investigations, or inspections under the Federal Food, Drug, and Cosmetic Act" and inserting in lieu thereof "or of the Department of Labor assigned to perform investigative, inspection, or law enforcement functions".

#### VARIATIONS, TOLERANCES, AND EXEMPTIONS

SEC. 16. The Secretary may establish such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of this Act as he may find necessary and proper to avoid serious impairment of the national defense. Action under this section shall not be in effect for more than six months without notification to affected employees and an opportunity being afforded for a hearing.

#### STATE JURISDICTION AND STATE PLANS

SEC. 17. (a) Nothing in this Act shall prevent any State agency or court from asserting jurisdiction under State law over any occupational safety or health issue with respect to which no standard is in effect under section 6.

(b) Any State which, at any time, desires to assume responsibility for the development and enforcement in such State of occupational safety and health standards relating to any occupational safety or health issue with respect to which a Federal standard has been promulgated under section 6 shall submit a State plan for the development of such standards and their enforcement.

(c) The Secretary shall approve the plan submitted by a State under subsection (b), or any modification thereof, if such plan in his judgment—

(1) designates a State agency or agencies to be responsible for administering the plan throughout the State,

(2) provides for the development and enforcement of safety and health standards relating to one or more safety or health issues, which standards (and the enforcement of which standards) are at least as effective in providing safe and healthful employment and places of employment as the standards promulgated under section 6 which relate to the same issues, and which standards, when applicable to products which are distributed or used in interstate commerce, are required by compelling local conditions and do not unduly burden interstate commerce,

(3) provides for a right of entry and inspection of all places of employment subject to the plan which is at least as effective as that provided in section 8 (a), (c), (d) and (e), and includes a prohibition on advance notice of inspections,

(4) contains satisfactory assurances that such agency or agencies will have the legal authority and qualified personnel necessary for the enforcement of such standards,

(5) gives satisfactory assurances that such State will devote adequate funds to the administration and enforcement of such standards,

(6) contains satisfactory assurances that such State will, to the extent permitted by its law, establish and maintain an effective and comprehensive occupational safety and health program applicable to all employees of public agencies of the State and its political subdivisions over which it has jurisdiction, which program shall be as effective as the standards contained in the approved plan,

(7) requires employers in the State to make reports to the Secretary in the same manner and to the same extent as if the plan were not in effect, and

(8) provides that the State agency will make such reports to the Secretary in such form and containing such information, as the Secretary shall from time to time require.

(d) If the Secretary disapproves a plan submitted under this section, he shall afford the State submitting the plan, due notice and opportunity for a hearing.

(e) After the Secretary approves a State

plan submitted under subsection (b), he may, but shall not be required to, exercise his authority under sections 8, 9, 10, and 15 with respect to comparable standards promulgated under section 6, for the period specified in this subsection. The Secretary may exercise the authority referred to above until he determines, on the basis of actual operations under the State plan, that the criteria set forth in subsection (c) are being applied, but he shall not make such a determination for at least three years after approval of the plan under subsection (c). Upon making the determination referred to in the preceding sentence, the provisions of section 5 (a) (2) and (b), 8 (except for purpose of carrying out subsection (f) of this section), 9, 10, and 15, and standards promulgated under section 6 of this Act, shall not apply with respect to any occupational safety or health issues covered under the plan, but the Secretary may retain jurisdiction under the above provisions in any proceeding commenced under section 9 or 10 before the date of a determination under this subsection.

(f) The Secretary shall, on the basis of reports submitted by the State agency and his own inspections make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan, he shall notify the State agency of his withdrawal or approval of such plan and upon receipt of such notice such plan shall cease to be in effect, but the State may retain jurisdiction in any case commenced before the withdrawal of the plan in order to enforce standards under the plan whenever the issues involved do not relate to the reasons for the withdrawal of the plan.

(g) The State may obtain a review of a decision of the Secretary withdrawing approval of or rejecting its plan by the United States court of appeals for the circuit in which the State is located by filing in such court within thirty days following receipt of notice of such decision a petition to modify or set aside in whole or in part the action of the Secretary. A copy of such petition shall forthwith be served upon the Secretary, and thereupon the Secretary shall certify and file in the court the record upon which the decision complained of was issued as provided in section 2112 of title 28, United States Code. Unless the court finds that the Secretary's decision in rejecting a proposed State plan or withdrawing his approval of such a plan is not supported by substantial evidence the court shall affirm the Secretary's decision. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(h) Pending approval of a plan submitted by a State under subsection (b) of this section, the Secretary may enter into an agreement with such State under which the State will be permitted to continue to enforce one or more occupational health and safety standards in effect in such State which are not in conflict with Federal occupational health and safety standards promulgated under this Act until final action is taken by the Secretary with respect to the plan submitted by the State, or two years from the date of enactment of this Act, whichever is earlier. Except as otherwise provided in this section, any State occupational health and safety standard which provides for more stringent health and safety regulations than do the Federal standards promulgated under this Act shall not thereby be considered to be in conflict with such Federal standards.

(i) For the purpose of this section, the term "State" includes a State of the United

State, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

#### FEDERAL AGENCY SAFETY PROGRAMS AND RESPONSIBILITIES

SEC. 18. (a) It shall be the responsibility of the head of each Federal agency to establish and maintain an effective and comprehensive occupational safety and health program which is consistent with the standards promulgated under section 6. The head of each agency shall, after consultation with representatives of the employees thereof—

(1) provide safe and healthful places and conditions of employment, consistent with the standards set under section 6;

(2) acquire, maintain, and require the use of safety equipment, personal protective equipment, and devices reasonably necessary to protect employees;

(3) keep adequate records of all occupational accidents and illnesses for proper evaluation and necessary corrective action;

(4) consult with the Secretary with regard to the adequacy as to form and content of records kept pursuant to paragraph (3); and

(5) make an annual report to the Secretary with respect to occupational accidents and injuries and the agency's program under this section. Such report shall include any reports submitted under section 7902(e) (2) of title 5, United States Code.

(b) The Secretary shall prepare and submit to the President for transmittal to the Congress a summary or digest of reports submitted to him under subsection (a) (4) of this section, together with his evaluation of and recommendations derived from such reports.

(c) Section 7902(c) (1) of title 5, United States Code, is amended by inserting after "agencies" the following: "and of labor organizations representing employees".

(d) The Secretary shall have access to records and reports kept and filed by Federal agencies pursuant to subsections (a) (3) and (5) of this section unless those records and reports are specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy, in which case the Secretary shall have access to such information as will not jeopardize national defense or foreign policy.

#### RESEARCH, TRAINING, AND RELATED ACTIVITIES

SEC. 19. (a) (1) The Secretary of Health, Education, and Welfare, after consultation with the Secretary and with the heads of other appropriate Federal departments or agencies, shall conduct, either directly or by way of grant or contract, research, experiments and demonstrations relating to occupational safety and health, including studies of psychological factors involved and the development of innovative methods, techniques, and approaches for dealing with existing or anticipated occupational safety and health problems.

(2) The Secretary of Health, Education, and Welfare shall be responsible for producing criteria upon which the Secretary may formulate occupational safety and health standards under this Act, and shall from time to time consult with the Secretary in order to develop specific plans for such research, demonstrations, and experiments as are necessary to produce such criteria. The Secretary of Health, Education, and Welfare, on the basis of such research, demonstrations, and experiments and any other information available to him, shall develop such criteria dealing with toxic materials and harmful physical agents which will demonstrate the exposure levels at which no employee will suffer impaired health or functional capacities, or diminished life expectancy as a result of his work experience.

(3) The Secretary of Health, Education, and Welfare, in order to comply with his re-

sponsibilities under paragraph (2), and in order to develop needed information regarding potentially toxic substances or harmful physical agents, may prescribe regulations requiring employers to measure, record, and make reports on the exposure of employees to substances or physical agents which the Secretary of Health, Education, and Welfare reasonably believes may endanger the health or safety of employees. The Secretary of Health, Education, and Welfare also is authorized to establish such programs of medical examinations and tests as may be necessary for determining the incidence of occupational illnesses and the susceptibility of employees to such illnesses. Nothing in this or any other provision of this Act shall be deemed to authorize or require medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others. Upon the request of any employer who is required to measure and record exposure of employees to substances or physical agents as provided under this subsection, the Secretary of Health, Education, and Welfare shall furnish full financial or other assistance to such employer for the purpose of defraying any additional expense incurred by him in carrying out the measuring and recording as provided in this subsection.

(4) The Secretary of Health, Education, and Welfare shall publish within six months of enactment of this Act, and thereafter maintain at least annually, a list of all substances used or found in the workplace and known to be potentially toxic and the concentrations at which such toxicity is known to occur. He shall determine following a written request by any employer or authorized representative of employees, specifying with reasonable particularity the grounds on which the request is made, whether any substance normally found in the place of employment has potentially toxic effects in such concentrations as used or found; and shall submit such determination both to employers and affected employees as soon as possible. If the Secretary of Health, Education, and Welfare determines that any substance is potentially toxic at the concentrations in which it is used or found in a place of employment, and such substances is not covered by an occupational safety or health standard promulgated under section 6, the Secretary of Health, Education, and Welfare shall immediately submit such determination to the Secretary, together with all pertinent criteria.

(5) Within two years of enactment of this Act, and annually thereafter, the Secretary of Health, Education, and Welfare shall conduct and publish industrywide studies of the effect of chronic or low-level exposure to industrial materials, processes, and stresses on the potential for illness, disease, or loss of functional capacity in aging adults.

(6) The Secretary of Health, Education, and Welfare is authorized to make inspections and question employers and employees as provided in section 8 of this Act in order to carry out his functions and responsibilities under this section.

(b) The Secretary is authorized to enter into contracts, agreements, or other arrangements with appropriate public agencies or private organizations for the purpose of conducting studies related to the establishing and applying of occupational safety and health standards under section 6 of this Act. In carrying out his functions under this subsection, the Secretary and the Secretary of Health, Education, and Welfare shall cooperate in order to avoid any duplication of efforts under this section.

(c) Information obtained by the Secretary and the Secretary of Health, Education, and Welfare under this section shall be disseminated

by the Secretary to employers and employees and organizations thereof.

(d) The Secretary of Health, Education, and Welfare, after consultation with the Secretary of Labor and with the heads of other appropriate Federal agencies, shall conduct, either directly or by way of grant or contract (1) education programs to provide an adequate supply of qualified personnel to carry out the purposes of this Act, and (2) informational programs on the importance of and proper use of adequate safety and health equipment.

(e) The Secretary is also authorized to conduct, either directly or by way of grant or contract, short-term training of personnel engaged in work related to his functions under this Act.

(f) The Secretary, in consultation with the Secretary of Health, Education, and Welfare, shall provide for the establishment and supervision of programs for the education and training of employers and employees in the recognition, avoidance, and prevention of unsafe or unhealthful working conditions in places of employment covered by this Act, and to consult with and advise employers and employees, and organizations representing employers and employees, with respect to effective means of preventing occupational injuries and illnesses.

(g) The functions of the Secretary of Health, Education, and Welfare under this Act shall, to the extent feasible, be delegated to the Director of the National Institute for Occupational Safety and Health established by section 20 of this Act.

#### NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH

SEC. 20. (a) It is the purpose of this section to establish a National Institute for Occupational Safety and Health in the Department of Health, Education, and Welfare in order to carry out the policy set forth in section 2 of this Act and to perform the functions of the Secretary of Health, Education, and Welfare under section 19 of this Act.

(b) As used in this section—

(1) the term "Director" means the Director of the National Institute for Occupational Safety and Health; and

(2) the term "Institute" means the National Institute for Occupational Safety and Health.

(c) There is hereby established in the Department of Health, Education, and Welfare a National Institute for Occupational Safety and Health. The Institute shall be headed by a Director who shall be appointed by the Secretary of Health, Education, and Welfare, and who shall serve for a term of six years unless previously removed by the Secretary.

(d) The Institute is authorized to—

(1) develop and establish recommended occupational safety and health standards; and

(2) perform all functions of the Secretary of Health, Education, and Welfare under section 19 of this Act.

(e) Upon his own initiative, or upon the request of the Secretary of Labor or the Secretary of Health, Education, and Welfare, the Director is authorized (1) to conduct such research and experimental programs as he determines is necessary for the development of criteria for new and improved occupational safety and health standards, and (2) after consideration of the results of such research and experimental programs make recommendations concerning new or improved occupational safety and health standards. Any occupational safety and health standard recommended pursuant to his section shall immediately be forwarded to the Secretary of Labor, and to the Secretary of Health, Education, and Welfare.

(f) In addition to any authority vested in it by other provisions of this section, the

Director, in carrying out its functions, is authorized to—

(1) prescribe such regulations as he deems necessary governing the manner in which its functions shall be carried out;

(2) receive money and other property donated, bequeathed, or devised, without condition or restriction other than that it be used for the purposes of the Institute and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(3) in the discretion of the Director, receive (and use, sell, or otherwise dispose of, in accordance with paragraph (2)), money and other property donated, bequeathed, or devised to the Institute with a condition or restriction, including a condition that the Institute use other funds of the Institute for the purposes of the gift;

(4) in accordance with the civil service laws, appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this section;

(5) obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

(6) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(7) enter into contracts, grants or other arrangements, or modifications thereof to carry out the provisions of this section, and such contracts or modifications thereof may be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), or any other provision of law relating to competitive bidding;

(8) make advance, progress, and other payments which the Director deems necessary under this title without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529); and

(9) make other necessary expenditures.

(g) The Institute shall submit to the Secretary of Health, Education, and Welfare, to the President, and to the Congress an annual report of its operations under this Act, which shall include a detailed statement of all private and public funds received and expended by it, and such recommendations as the Institute deems appropriate.

#### GRANTS TO THE STATES; STATISTICS

SEC. 21. (a) (1) The Secretary is authorized, during the fiscal year ending June 30, 1971, and the two succeeding fiscal years, to make grants to the States which have designated a State agency under section 17(c) to assist them—

(A) in identifying their needs and responsibilities in the area of occupational safety and health,

(B) in developing State plans under section 17, or

(C) in developing plans for—

(i) establishing systems for the collection of information concerning the nature and frequency of occupational injuries and diseases;

(ii) increasing the expertise and enforcement capabilities of their personnel engaged in occupational safety and health programs; or

(iii) otherwise improving the administration and enforcement of State occupational safety and health laws, including standards thereunder, consistent with the objectives of this Act.

(2) The Secretary is authorized, during the fiscal year ending June 30, 1971, and the two succeeding fiscal years, to make grants to the States for experimental and demonstration projects consistent with the objectives set forth in paragraph (1) of this subsection.

(3) The Governor of the State shall designate the appropriate State agency for receipt

of any grant made by the Secretary under this section.

(4) Any State agency designated by the Governor of the State desiring a grant under this section shall submit an application therefor to the Secretary.

(5) The Secretary shall review the application, and shall, after consultation with the Secretary of Health, Education, and Welfare, approve or reject such application.

(6) The Federal share for each State grant under paragraphs (1) or (2) of this subsection may not exceed 90 per centum of the total cost of the application. In the event the Federal share for all States under either such subsection is not the same, the differences among the States shall be established on the basis of objective criteria.

(7) The Secretary is authorized to make grants to the States to assist them in administering and enforcing programs for occupational safety and health contained in State plans approved by the Secretary pursuant to section 17 of this Act. The Federal share for each State grant under this subsection may not exceed 50 per centum of the total cost to the State of such a program. The last sentence of paragraph (6) shall be applicable in determining the Federal share under this subsection.

(8) Prior to June 30, 1973, the Secretary shall, after consultation with the Secretary of Health, Education, and Welfare, transmit a report to the President and to the Congress, describing the experience under the grant programs authorized by this section and making any recommendations he may deem appropriate.

(b) (1) In order to further the purposes of this Act, the Secretary shall develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics.

(2) To carry out his duties under paragraph (1) of this subsection, the Secretary is authorized to—

(A) promote, encourage, or directly engage in programs of studies, information and communication concerning occupational safety and health statistics;

(B) make grants to States or political subdivisions thereof in order to assist them in developing and administering programs dealing with occupational safety and health statistics; and

(C) arrange, through grants or contracts, for the conduct of such research and investigations as give promise of furthering the objectives of this section.

(3) The Federal share of each State grant under paragraph (2) of this section may be up to 50 per centum of the State's total cost.

(4) The Secretary may, with the consent of any State or political subdivision thereof, accept and use the services, facilities, and employees of the agencies of such State or political subdivisions, with or without reimbursement, in order to assist him in carrying out his functions under this section.

(5) On the basis of the records made and kept pursuant to section 8(c) of this Act, employers shall file such reports with the Secretary as he shall prescribe by regulation, as necessary to carry out his functions under this Act.

#### AUDITS

SEC. 22. (a) Each recipient of a grant under this Act shall keep such records as the Secretary or the Secretary of Health, Education, and Welfare shall prescribe, including records which fully disclose the amount and disposition of the project or undertaking in connection with which such grant is made or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary or the Secretary of Health, Education, and Welfare, and the Comptroller General of the United States, or any of their duly authorized representa-

tives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of any grant under this Act that are pertinent to any such grant.

#### ANNUAL REPORT

SEC. 23. Within one hundred and twenty days following the convening of each regular session of each Congress, the Secretary and the Secretary of Health, Education, and Welfare shall prepare and submit to the President for transmittal to the Congress a report upon the subject matter of this Act, the progress toward achievement of the purpose of this Act, the needs and requirements in the field of occupational safety and health, and any other relevant information. Such reports shall include information regarding occupational safety and health standards, and criteria for such standards, developed during the preceding year; evaluation of standards and criteria previously developed under this Act, defining areas of emphasis for new criteria and standards; an evaluation of the degree of observance of applicable occupational safety and health standards and summary of inspection and enforcement activity undertaken; analysis and evaluation of research activities for which results have been obtained under governmental and nongovernmental sponsorship; an analysis of major occupational diseases; evaluation of available control and measurement technology for hazards for which standards or criteria have been developed during the preceding year; description of cooperative efforts undertaken between Government agencies and other interested parties in the implementation of this Act during the preceding year; a progress report on the development of an adequate supply of trained manpower in the field of occupational safety and health, including estimates of future needs and the efforts being made by Government and others to meet those needs; listing of all toxic substances in industrial usage for which labeling requirements, criteria or standards have not yet been established; and such recommendations for additional legislation as are deemed necessary to protect the safety and health of the worker and improve the administration of this Act.

#### NATIONAL COMMISSION ON STATE WORKMEN'S COMPENSATION LAWS

SEC. 24. (a) (1) The Congress hereby finds and declares that—

(A) the vast majority of American workers, and their families, are dependent on workmen's compensation for their basic economic security in the event such workers suffer disabling injury or death in the course of their employment; and that the full protection of American workers from job-related injury or death requires an adequate, prompt, and equitable system of workmen's compensation as well as an effective program of occupational health and safety regulation; and

(B) in recent years serious questions have been raised concerning the fairness and adequacy of present workmen's compensation laws in the light of the growth of the economy, the changing nature of the labor force, increases in medical knowledge, changes in the hazards associated with various types of employment, new technology creating new risks to health and safety, and increases in the general level of wages and the cost of living.

(2) The purpose of this section is to authorize an effective study and objective evaluation of State workmen's compensation laws in order to determine if such laws provide an adequate, prompt, and equitable system of compensation for injury or death arising out of or in the course of employment.

(b) There is hereby established a National Commission on State Workmen's Compensation Laws (hereinafter referred to as the "Commission").

(c) (1) The Commission shall be composed of fifteen members to be appointed by the President from among members of State workmen's compensation boards, representatives of insurance carriers, business, labor, members of the medical profession having experience in industrial medicine or in workmen's compensation cases, educators having special expertise in the field of workmen's compensation, and representatives of the general public. The Secretary of Labor, the Secretary of Commerce, and the Secretary of Health, Education, and Welfare shall be ex officio members of the Commission.

(2) Any vacancy in the Commission shall not affect its powers.

(3) The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Commission.

(4) Eight members of the Commission shall constitute a quorum.

(d) (1) The Commission shall undertake a comprehensive study and evaluation of State workmen's compensation laws in order to determine if such laws provide an adequate, prompt, and equitable system of compensation. Such study and evaluation shall include, without being limited to, the following subjects: (A) the amount and duration of permanent and temporary disability benefits and the criteria for determining the maximum limitations thereon, (B) the amount and duration of medical benefits and provisions insuring adequate medical care and free choice of physician, (C) the extent of coverage of workers, including exemptions based on numbers or type of employment, (D) standards for determining which injuries or diseases should be deemed compensable, (E) rehabilitation, (F) coverage under second or subsequent injury funds, (G) time limits on filing claims, (H) waiting periods, (I) compulsory or elective coverage, (J) administration, (K) legal expenses, (L) the feasibility and desirability of a uniform system of reporting information concerning job-related injuries and diseases and the operation of workmen's compensation laws, (M) the resolution of conflict of laws, extraterritoriality and similar problems arising from claims with multistate aspects, (N) the extent to which private insurance carriers are excluded from supplying workmen's compensation coverage and the desirability of such exclusionary practices, to the extent they are found to exist, (O) the relationship between workmen's compensation on the one hand, and old-age, disability, and survivors insurance and other types of insurance, public or private, on the other hand, (P) methods of implementing the recommendations of the Commission.

(2) The Commission shall transmit to the President and to the Congress not later than February 1, 1972, a final report containing a detailed statement of the findings and conclusions of the Commission, together with such recommendations as it deems advisable.

(e) (1) The Commission or, on the authorization of the Commission, any subcommittee or members thereof, may, for the purpose of carrying out the provisions of this title, hold such hearings, take such testimony, and sit and act at such times and places as the Commission deems advisable. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before the Commission or any subcommittee or members thereof.

(2) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its functions under this section.

(f) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of an executive director, and such additional

staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title, and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

(g) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(h) Members of the Commission shall receive compensation for each day they are engaged in the performance of their duties as members of the Commission at the daily rate prescribed for GS-18 under section 5332 of title 5, United States Code, and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties as members of the Commission.

(i) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(j) On the ninetieth day after the date of submission of its final report to the President, the Commission shall cease to exist.

#### ECONOMIC ASSISTANCE TO SMALL BUSINESS

Sec. 25 (a) Section 7(b) of the Small Business Act, as amended, is amended—

(1) by striking out the period at the end of "paragraph (5)" and inserting in lieu thereof "; and"; and

(2) by adding after paragraph (5) a new paragraph as follows:

"(6) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in affecting additions to or alterations in the equipment, facilities, or methods of operation of such business in order to comply with the applicable standards promulgated pursuant to section 6 of the Occupational Safety and Health Act or standards adopted by a State pursuant to a plan approved under section 17 of the Occupational Safety and Health Act of 1970, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph."

(b) The third sentence of section 7(b) of the Small Business Act, as amended, is amended by striking out "or (5)" after "paragraph (3)" and inserting a comma followed by "(5) or (6)".

(c) Section 4(c)(1) of the Small Business Act, as amended, is amended by inserting "7(b)(6)," after "7(b)(5)."

(d) Loans may also be made or guaranteed for the purposes set forth in section 7(b)(6) of the Small Business Act, as amended, pursuant to the provisions of section 202 of the Public Works and Economic Development Act of 1965, as amended.

#### ADDITIONAL ASSISTANT SECRETARY OF LABOR

Sec. 26. (a) Section 2 of the Act of April 17, 1946 (60 Stat. 91) as amended (29 U.S.C. 553) is amended by—

(1) striking out "four" in the first sentence of such section and inserting in lieu thereof "five"; and

(2) adding at the end thereof the following new sentence: "One of such Assistant Secretaries shall be an Assistant Secretary of Labor for Occupational Safety and Health."

(b) Paragraph (20) of section 5315 of title 5, United States Code, is amended by

striking out "(4)" and inserting in lieu thereof "(5)".

#### ADDITIONAL POSITIONS

Sec. 27. Section 5108(c) of title 5, United States Code is amended by adding a new paragraph (10) at the end of the subsection to read as follows:

"(10) (A) the Secretary of Labor, subject to the standards and procedures prescribed by this chapter, may place an additional twenty-five positions in the Department of Labor in GS-16, 17, and 18 for the purposes of carrying out his responsibilities under the Occupational Safety and Health Act of 1970;

"(B) the Occupational Safety and Health Review Commission, subject to the standards and procedures prescribed by this chapter, may place ten positions in GS-16, 17, and 18 in carrying out its functions under the Occupational Safety and Health Act of 1970."

#### EMERGENCY LOCATOR BEACON

Sec. 28. Section 601 of the Federal Aviation Act of 1958 is amended by inserting at the end thereof a new subsection as follows:

#### "EMERGENCY LOCATOR BEACONS"

"(d) (1) Except with respect to aircraft described in paragraph (2) of this subsection, minimum standards pursuant to this section shall include a requirement that emergency locator beacons shall be installed—

"(A) on any fixed-wing, powered aircraft for use in air commerce the manufacture of which is completed, or which is imported into the United States, after one year following the date of enactment of this subsection; and

"(B) on any fixed-wing, powered aircraft used in air commerce after three years following such date.

"(2) The provisions of this subsection shall not apply to jet-powered aircraft; aircraft used in air transportation (other than air taxis and charter aircraft); military aircraft; aircraft used solely for training purposes not involving flights more than twenty miles from its base; and aircraft used for the aerial application of chemicals."

#### SEPARABILITY

Sec. 29. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

#### APPROPRIATIONS

Sec. 30. There are authorized to be appropriated to carry out this Act for each fiscal year such sums as the Congress shall deem necessary.

#### EFFECTIVE DATE

Sec. 31. This Act shall take effect on the first day of the first month which begins more than thirty days after the date of its enactment.

Mr. WILLIAMS of New Jersey. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SCOTT and Mr. JAVITS moved to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS of New Jersey. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 2193 and that the bill be printed as it passed the Senate.

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

Mr. MANSFIELD. Mr. President, the Senate's overwhelming passage of this measure marks another major triumph for the distinguished Senator from New Jersey (Mr. WILLIAMS). His strong advocacy and his deep and abiding interest in worker safety joined to produce a measure that will gratify all involved in this vital area. Senator WILLIAMS deserves our deepest thanks for successfully steering this proposal both through the Committee on Labor and Public Welfare and through the Senate Chamber. We are most grateful.

We are grateful as well to the distinguished Senator from Colorado (Mr. DOMINICK) for his participation. He cooperated greatly to assure final passage today. The same may be said of the efforts of the distinguished Senator from New York (Mr. JAVITS). To other Senators also goes the gratitude of the Senate for their cooperation and support. Noteworthy was the strong backing of the able chairman of the Committee on Labor and Public Welfare, the distinguished Senator from Texas (Mr. YARBOROUGH). There are many others as well—to numerous to cite—who deserve praise.

Finally, I wish to thank the Senate as a whole for cooperating to dispose of this measure this afternoon and to do so with full regard for the views of all Members.

#### COMMITTEE ASSIGNMENT

Mr. MANSFIELD. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 482

*Resolved*, That Mr. Stevenson of Illinois be, and he is hereby, assigned to service on the Committee on Aeronautical and Space Sciences and the Committee on Labor and Public Welfare in lieu of Mr. Smith of Illinois, retired.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 482) was considered and agreed to.

#### ORDER OF BUSINESS

Mr. SCOTT. Mr. President, I rise to ask the distinguished majority leader what the next order of business is and whether he knows if we are likely to have any votes on it this afternoon.

Mr. MANSFIELD. Mr. President, the distinguished minority leader knows that I am not a mindreader, but I will answer to the best of my ability.

#### DRUG ABUSE EDUCATION ACT OF 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1263, H.R. 14252. I do this so that the bill will become the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 14252) to authorize the Secretary of Health, Education, and Welfare to make grants to conduct special educational programs and activities concerning the use of drugs and for other related educational purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

#### SHORT TITLE

SECTION 1. This Act may be cited as the "Drug Abuse Education Act of 1970".

#### STATEMENT OF PURPOSES

SEC. 2. (a) The Congress hereby finds and declares that drug abuse diminishes the strength and vitality of the people of our Nation; that such abuse of dangerous drugs is increasing in urban and suburban areas; that there is a lack of authoritative information and creative projects designed to educate students and others about drugs and their abuse; and that prevention and control of such drug abuse require intensive and coordinated efforts on the part of both governmental and private groups.

(b) It is the purpose of this Act to encourage the development of new and improved curricula on the problems of drug abuse; to demonstrate the use of such curricula in model educational programs and to evaluate the effectiveness thereof; to disseminate curricular materials and significant information for use in educational programs throughout the Nation; to provide training programs for teachers, counselors, law enforcement officials, and other public service and community leaders; and to offer community education programs for parents and others, on drug abuse problems.

#### DRUG ABUSE EDUCATION PROJECTS

SEC. 3. (a) The Secretary shall carry out a program of making grants to, and contracts with, institutions of higher education, State and local educational agencies, and other public and private education or research agencies, institutions, and organizations to support research, demonstration, and pilot projects designed to educate the public on problems related to drug abuse.

(b) Funds appropriated for grants and contracts under this section shall be available for such activities as—

(1) projects for the development of curricula on the use and abuse of drugs, including the evaluation and selection of exemplary existing materials and the preparation of new and improved curricular materials for use in elementary, secondary, adult, and community education programs;

(2) projects designed to demonstrate, and test the effectiveness of curricula described in clause (1) (whether developed with assistance under this Act or otherwise);

(3) in the case of applicants who have conducted projects under clause (2), projects for the dissemination of curricular materials and other significant information regarding the use and abuse of drugs to public and private elementary, secondary, adult and community education programs;

(4) evaluations of the effectiveness of curricula tested in use in elementary, secondary, and adult and community education programs involved in projects described in clause (2);

(5) preservice and inservice training programs on drug abuse (including courses of

study, institutes, seminars, workshops, and conferences) for teachers, counselors, and other educational personnel, law enforcement officials, and other public service and community leaders and personnel;

(6) community education programs on drug abuse (including seminars, workshops, and conferences) especially for parents and others in the community;

(7) evaluations of the training and community education programs described in clauses (5) and (6), including the examination of the intended and actual impact of such programs, the identification of strengths and weaknesses in such programs, and the evaluation of materials used in such programs;

(8) programs or projects to recruit, train, organize and employ professional and other persons, including former drug abusers or drug dependent persons, to organize and participate in programs of public education in drug abuse.

In the case of activities described in clauses (4) and (7), the Secretary may undertake such activities directly or through grants or contracts.

(c) In addition to the purposes described in subsection (b) of this section, funds in an amount not to exceed 5 per centum of the sums appropriated to carry out this section may be made available for the payment of reasonable and necessary expenses of State educational agencies in assisting local educational agencies in the planning, development, and implementation of drug abuse education programs.

(d) (1) Financial assistance for a project under this section may be made only upon application at such time or times, in such manner, and containing or accompanied by such information as the secretary deems necessary, and only if such application—

(A) provides that the activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

(B) provides for carrying out one or more projects or programs eligible for assistance under subsection (b) of this section and provides for such methods of administration as are necessary for the proper and efficient operation of such projects or programs;

(C) sets forth policies and procedures which assure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in subsection (b) of this section, and in no case supplant such funds; and

(D) provides for making such reports, in such form and containing such information, as the Secretary may reasonably require, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

(2) Applications from local educational agencies for financial assistance under this section may be approved by the Secretary only if the State educational agency has been notified of the application and been given the opportunity to offer recommendations.

(3) Amendments of applications shall, except as the Secretary may otherwise provide by or pursuant to regulation, be subject to approval in the same manner.

(e) There are hereby authorized to be appropriated \$5,000,000 for the fiscal year beginning July 1, 1970, \$10,000,000 for the fiscal year beginning July 1, 1971, and \$14,000,000 for the fiscal year beginning July 1, 1972, for the purpose of carrying out this section. Sums appropriated pursuant to this section shall remain available until expended.

#### COMMUNITY EDUCATION PROJECTS

SEC. 4. There is authorized to be appropriated \$5,000,000 for the fiscal year beginning

July 1, 1970, \$10,000,000 for the fiscal year beginning July 1, 1971, and \$14,000,000 for the fiscal year beginning July 1, 1972, for grants or contracts to carry out the provisions of this section. From the sums available therefore for any fiscal year, the Secretary of Health, Education, and Welfare is authorized to make grants to, or enter into contracts with, public or private nonprofit agencies, organizations, and institutions for planning and carrying out community-oriented education programs on drug abuse and drug dependency for the benefit of interested and concerned parents, young persons, community leaders, and other individuals and groups within a community. Such programs may include, among others, seminars, workshops, conferences, telephone counseling and information services to provide advice, information, or assistance to individuals with respect to drug abuse or drug dependency problems, the operation of centers designed to serve as a locale which is available, with or without appointment or prior arrangement, to individuals seeking to discuss or obtain information, advice, or assistance with respect to drug abuse or drug dependency problems, arrangements involving the availability of so-called "peer group" leadership programs, and programs establishing and making available procedures and means of coordinating and exchanging ideas, information, and other data involving drug abuse and drug dependency problems. Such programs shall, to the extent feasible, (A) provide for the use of adequate personnel from similar social, cultural, age, ethnic, and racial backgrounds as those of the individuals served under any such program, (B) include a comprehensive and coordinated range of services, and (C) be integrated with, and involve the active participation of a wide range of public and nongovernmental agencies.

#### INTERAGENCY COORDINATING COUNCIL ON DRUG ABUSE EDUCATION

SEC. 5. (a) The Secretary shall establish an Interagency Coordinating Council on Drug Abuse Education which shall consist of the Secretary (or his designee) as Chairman, the Attorney General (or his designee), the Commissioner of Education, the Director of the National Institute of Mental Health, the Director of the Office of Economic Opportunity and, with the consent of such other departments or agencies, representatives of those departments and agencies as the Secretary may from time to time designate as having a substantial interest in the field of drug abuse education.

(b) The Council shall advise in the coordination of the respective activities of the Federal departments and agencies concerned in drug abuse education.

(c) The Secretary shall promulgate regulations establishing the procedures for consultation with other agencies and with other appropriate public and private agencies.

(d) The Secretary may not approve an application for assistance under section 3 of this Act unless he has given the Interagency Coordinating Council an opportunity to review the application and make recommendations thereon within a period not to exceed sixty days.

#### ADVISORY COMMITTEE ON DRUG ABUSE EDUCATION

SEC. 6. (a) The Secretary shall appoint an Advisory Committee on Drug Abuse Education, which shall—

(1) advise the Secretary concerning the administration of, preparation of general regulations for, and operation of, programs supported with assistance under this Act;

(2) make recommendations regarding the allocation of the funds under this Act among the various purposes set forth in sections 3 and 4 and the criteria for establishing priorities in deciding which applications to ap-

prove, including criteria designed to achieve an appropriate geographical distribution of approved projects throughout all regions of the Nation;

(3) review applications under section 3 of this Act and make recommendations thereon;

(4) review the administration and operation of projects and programs under this Act, including the effectiveness of such projects and programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for improvements in that section) to the Secretary for transmittal to Congress; and

(5) evaluate programs and projects carried out under this Act and disseminate the results of such evaluations.

(b) The Advisory Committee on Drug Abuse Education shall be appointed by the Secretary without regard to the civil service laws or classification laws and shall consist of twenty-one members. The Secretary shall appoint one member as Chairman. The Committee shall consist of persons familiar with education, mental health, and legal problems associated with drug abuse, young persons, ex-users, parents, and others familiar with drug use and abuse. The Committee shall meet at the call of the Chairman or of the Secretary.

#### TECHNICAL ASSISTANCE

SEC. 7. The Secretary and the Attorney General shall, when requested, render technical assistance to local educational agencies, public and private nonprofit organizations, and institutions of higher education in the development and implementation of drug abuse education. Such technical assistance may, among other activities, include making available to such agencies or institutions information regarding effective methods of coping with problems of drug abuse, and making available to such agencies or institutions personnel of the Department of Health, Education, and Welfare and the Department of Justice, or other persons qualified to advise and assist in coping with such problems or carrying out a drug abuse education program.

#### PAYMENTS

SEC. 8. Payments under this act may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

#### ADMINISTRATION

SEC. 9. In administering the provisions of this Act, the Secretary is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or private agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

#### DEFINITIONS

SEC. 10. As used in this Act—

(a) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(b) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

#### PROGRAM

Mr. SCOTT. Mr. President, I should like to inquire of the distinguished majority leader if this is not one of two bills. I understand that, following the action upon this bill, another bill pertaining to the use of drugs will be laid be-

fore the Senate and made the pending business today. To the best of my knowledge, some record votes may occur on one or the other of these bills. I do not know. Perhaps the majority leader can enlighten me.

Mr. MANSFIELD. I wish I knew. We have to see how we progress with these bills. The distinguished minority leader has stated the case perfectly.

Then it is anticipated that other matters which can be taken up, if there is time after the disposal of these two measures, will be debated. It is anticipated that late in the afternoon tomorrow the Departments of Labor and Health, Education, and Welfare and related agencies appropriation bill will be laid before the Senate and that at the very least initial statements will be made.

For the information of the Senate, it is anticipated that the conference report on the farm bill will be considered on Thursday.

For the further information of the Senate, it can be stated that on Monday next, an attempt will be made to override the veto of the President on S. 3637, and the Senate should be on notice to that effect.

Mr. SCOTT. That bill, of course, requires a record vote.

Mr. JAVITS. At what time?

Mr. MANSFIELD. I imagine there will be some discussion on that question.

That is about it, as of now.

Mr. SCOTT. I thank the distinguished Senator.

Mr. MANSFIELD. May I express the hope that the appropriation bills which are now in committee will be reported soon, so that we can consider them as expeditiously as possible.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### ORDER FOR ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10 a.m. tomorrow.

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

#### ORDER FOR RECOGNITION OF SENATOR JAVITS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at the conclusion of morning business on tomorrow, the distinguished Senator from New York (Mr. JAVITS) be recognized for not to exceed 30 minutes.

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

Mr. KENNEDY subsequently said: Mr. President, I ask unanimous consent that

the order previously entered and agreed to, that the Senator from New York (Mr. JAVITS) be recognized for 30 minutes at the conclusion of morning business tomorrow, be vacated.

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

#### REPLY TO FBI DIRECTOR HOOVER'S STATEMENT ON ATTORNEYS GENERAL CLARK AND KENNEDY

Mr. McGOVERN. Mr. President, as one who believes deeply that respect for good law enforcement is essential to our democracy, I deplore the unfounded attacks made by FBI Director J. Edgar Hoover on the record of Attorneys General Ramsey Clark and the late Robert Kennedy. Mr. Hoover's remarks, as reported in today's press, are disgraceful and beneath the dignity of a man who has served for 45 years as Director of the Federal Bureau of Investigation.

Robert Kennedy and Ramsey Clark are two of the greatest, if not the greatest, Attorneys General in American history. They are responsible for the most far-reaching improvement of the administration of justice in the modern life of our Nation.

Mr. Hoover refers to Mr. Clark as a "softie." The facts are that both Mr. Kennedy and Mr. Clark were tough-minded, compassionate men, totally devoted to the improvement of justice in the Nation. What is soft is Mr. Hoover's analysis of these two distinguished Americans and their remarkable records.

Among many other achievements as Attorney General, the late Robert Kennedy was responsible for the creation of the task force concept as a most effective modern device for attacking interstate crime. Under the organization which he established, all of the Nation's law enforcement agencies were able to pool their resources to achieve prosecution and indictment.

Attorneys General Kennedy and Clark attacked organized crime in America on a skilled and comprehensive basis, which clearly exceeds any record achieved to date by Director Hoover.

As Attorney General, Mr. Clark initiated the strike forces—teams of attorneys and investigators from key Federal agencies who were able to move in a closely coordinated manner with State and local agents to investigate, carry out raids, provide evidence for grand juries, and conduct the prosecution of organized crime operations.

The substance of the Kennedy-Clark leadership was investigation, indictment and prosecution under justice, not cheap press hoopla and personal glorification. Likewise, Mr. Kennedy and Mr. Clark set a new standard in strengthening the legal framework to assure civil rights for all Americans. It was under their administrations that school desegregation was undertaken and the law was enforced when court orders were placed in jeopardy. It was Ramsey Clark who refused to stand silent before demagogic attacks on the Supreme Court which threatened the heart of justice in America.

Mr. Hoover says these were the first Attorneys General with whom he had trouble. One reason he may have had trouble is that Mr. Clark turned down Mr. Hoover when he initiated bugging and wiretapping with explanations that were too flimsy or when the safeguards against involving innocent people were too loose. Mr. Hoover parades himself as the tough guy and refers to Ramsey Clark as a "softie." Yet, as Mr. Clark has said: "The question is not whether to be tough or tolerant. The question is what is effective."

And in terms of effectiveness, the American people should know that our best law enforcement officials have shown a deep respect for the leadership provided by Robert Kennedy and Ramsey Clark. Mr. Quinn Tamm, the highly respected head of the International Association of Chiefs of Police, has said that Clark has "done more to help local law enforcement than any other Attorney General." Bernard L. Garmire, the chief of police of Tucson, has said that Clark has contributed more to "improving the caliber of police officers than any other Attorney General in history."

The record is clear. Under legislation passed through the work of Clark's administration, the Law Enforcement Assistance Administration was created and funded. This is now the key means by which the Federal Government is able to aid local law enforcement.

I want to make it clear, Mr. President, that I do not want to detract from Mr. Hoover's accomplishments over the past 45 years, but neither should he be permitted, in spite of his advanced years, to detract from the reputation of two brilliant, totally committed Americans who have served this Nation with remarkable distinction and unquestioned patriotism. At a time when we desperately need to elevate both the professional standards of our law enforcement officials and public confidence in those officials, it is deplorable that a major law enforcement chief has demeaned his office by self-serving attacks on two of his former superiors.

#### THE TRENDS TOWARD SOCIALISM IN THE UNITED STATES

Mr. ALLEN. Mr. President, Dr. Ralph W. Adams, president of Troy State University, has made an invaluable contribution to the students and faculty of Troy State University; to the people of Alabama; and to the people of our Nation by the inauguration at Troy State University of a series of speeches and lectures by eminent national and international authorities addressed to some aspect of one of the great issues confronting our Nation.

As one example, on October 14, 1970, Dr. C. Northcote Parkinson, the distinguished British scholar, historian, lecturer, and author of many books including "Parkinson's Law" delivered a lecture at Troy State University, Troy, Ala. Dr. Parkinson prefaced his remarks with this observation:

The United States is perhaps more socialist than is generally believed, more socialist

than its citizens realize. Americans move backwards towards socialism, talking the while about free enterprise and competition.

His lecture ended with this conclusion:

All I can add is that the socialist experiment in Britain has been accompanied by the most catastrophic collapse of a major power that has taken place in this century. There may be a lesson to be learned from this, there may be a lesson that Americans may absorb. It's my hope that the lesson may be learned in time.

Dr. Parkinson speaks from observation and experience of the rise of socialism in Great Britain and knows tragic consequences. His lecture is appropriately entitled "The Rise and Fossilization of Socialism." It is my personal opinion that no current issue has more profound consequences for the future of our Nation than the unmistakable trend toward socialism in the United States. I earnestly commend this lecture to the thoughtful consideration of Members of the Senate and to the people of the United States. I ask unanimous consent that the lecture be printed in the RECORD.

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

#### THE RISE AND FOSSILIZATION OF SOCIALISM

Well sir, Mr. President, ladies and gentlemen, thank you for your kind reception here today. I'm interested and impressed that those responsible for visiting lecturers should have chosen a speech for me concerned with socialism. As a lecturer, I offer alternatives. Of course it's probably the same lecture in any case. But people can choose the title of my lecture, and in this case the choice was made to do with socialism. I'm interested in that because many would deny that socialism is an issue in the United States at all.

The American political system is one that offers the voter a choice between a Republican and a Democrat as president. It provides a Republican or a Democrat majority in Congress. But it has not, so far, given very much scope for a Socialist candidate, although we have had some Socialist candidates, or for a Socialist party, although such a thing exists. As against that, however, the United States is perhaps more socialist than is generally believed, more socialist than its citizens realize. Americans move backwards towards socialism, talking all the while about free enterprise and competition.

On the other hand, their story, in this respect, is a sharp contrast to the story of Britain in the present century, and it may be interesting, it may even be important to discuss how this came about. The first thing to realize, surely, is that socialism is the usual, I might almost say the inevitable, sequel to democracy. The ancient Greeks had a word for it, *stasis* which means approximately *class war*, internal conflict between the more and the less prosperous. And they were very familiar with the process. When their various monarchies turned into aristocracies, there followed, in most of their cities, a movement towards social and political equality. The result in some of them was a form of democracy, a form of government in which a large number of people, never a majority by the way, a fair number of people had a voice and a vote. As compared with all previous civilizations they were able to offer a striking example of political participation. They excluded in effect what we should call the working class. They ranked as slaves and had no political rights. But of the lower middle class, a high proportion had votes to cast and even public offices to fill on a system of rotation.

It took some little time for these voters to realize that they could, if they wished, out-vote those they had previously regarded as their betters, superior to them. But when they did, it took a generation or two for them to realize what they could do. Their reaction was more or less invariable. Given a vote, they voted, in effect, to take the wealth from the wealthy and divide it among themselves. This is the natural reaction in the circumstances. What else would there be to vote for? So we needn't be surprised by that. What else could they do? And on the basis of our historical knowledge, going back to ancient times, we can fairly generalize that any democracy will always tend towards socialism, which means removal of wealth and, therefore, of political influence from the aristocracy as previously established. This has, for example, just happened in India where the allowances of pensions paid to the Indian aristocracy was ended this year in opposition to the agreement, of course, under which India obtained its independence. The same, or similar doctrines, have prevailed in many other countries but not, so far, in the United States to any great extent.

Now if I talk about British socialism, I hope that you will eventually see that the story is relevant to U.S.A. The future of U.S.A. is also involved. Now to make this clear, I'll start with four general comments, as follows. First of all, the basic socialist idea, which is often described as that of the classless society, is no more than the concept of human equality, a religious assumption, by the way, more often assumed than explained. Second, the original builders and present leaders of socialism, both in Britain and elsewhere, have no political program of any kind. Doctrines of socialism don't extend to the structure, the political structure, of society. They are concerned, basically, with the redistribution of wealth. Third, the doctrines of socialism as believed in in Britain and some other countries, like the Scandinavian countries, are not, like Marxism, a religion. Marxism is a religion, and this one needs to have clearly in mind. Socialism is not. And finally, fourth point, socialists have no aim external to the society they're trying to reform. Their concern is *within* the country that they want to socialize. They don't consider its external relations, except to wish that other countries would become socialist too.

Now to take these points in order, first that of the classless society. I'll begin with a picture commonly reproduced several years back in British newspapers and books, a picture of the infant Harold Wilson, aged eight and one-half, posed outside Number 10 Downing Street, which is the official residence of the Prime Minister. And he, aged eight and one-half, took his stand on the doorstep and this was in the year 1924, and someone kindly photographed him there as expressing, no doubt, his infant ambition to make himself Prime Minister in time. In fact very early in life, and I think on this occasion, when interviewed, he admitted that his idea was to become Prime Minister. This story has been repeated since with the approval of all his admirers. The classless society, and the picture illustrates it, is one in which the boy from an industrial and unfashionable area in the North of England can win the right scholarships, pass the right examinations into the right university. And once he has left college, he can move to the left of the left-wing party and cling to all that is left of his original provincial accent. Now this is the right way of becoming Prime Minister. Totally wrong, by contrast, is the process by which the late Joseph Kennedy decided to make his son, or one of his sons or grandsons, President of the United States. This was a more long-term policy. Still more wrong would be my decision, if I made one now, that one of my sons should be in the British cabinet. That would be entirely wrong. And still more indefensible was the plan hatched by the first

Earl of Hume when he decided, as he must have done, that the fourteenth Earl should occupy No. 10 Downing Street. This is a very long-term plan indeed.

Now essence of the classless society is the rule that the poor boy should reach the top office and furthermore, that the wealthy boy should be excluded on principle. The socialists are not very intent on insuring that the White House can be reached from the log cabin. They want to insure that it can't be reached in any other way. You've got to go back to the log cabin before you start. The serious alert is modified, in fact, in Britain by the hereditary principle, because, of course, the leader of democracy tend to be hereditary too, and you get the second and third generation of labor party organizers. But the exception possible proves the rule. Now I've never myself been convinced that the concept of the classless society has any intellectual basis of any kind. Its background is, of course, religious. It might be said to be rooted in the Catholic church or expounded later in the Methodist chapel. All men, and belatedly, all women as well, but that's an afterthought, are equal in the sight of God. It's questionable, however, whether we would accept the Bible today as our only guide in this matter. What would seem to be theologically certain might be shown to be biological nonsense, and the scientific trend of the age is towards the opposite conclusion that men are so far from being equal that their inequality can now be measured. Technologically, moreover, the exploration of space is possible only by using the three stage rocket, a process comparable to the three generation assault on the corridors of power. Nor was the problem of climbing Everest some years back so very different. A team effort of a large team was made which finally left two men in a position to make the final assault.

If it's true that the problems of today are more complex than those of the last century, there's the more reason for training our leaders from birth, which means choosing them then, or indeed, before. To educate everyone for leadership is plainly impossible and wouldn't even be wise, and if there is one factor that matters more than another, it's obviously the factor of heredity. Economists seldom realize this, perhaps because half of them are childless and because nearly all of them live in a suburb and to understand heredity you mustn't live in a suburb. You need to live with horses, dogs, cats, cows or, possibly, camels. You need in fact to know what a pedigree is. To study breeding was the main factor in excellence. It would seem, at first sight, more scientific than to tell each other about human equality, and the choice in this matter is between biology and the Bible. That's a choice over which scientists at least don't hesitate. In a university where much effort of the faculty goes in assessment of students, giving them a class of degree—a first class degree for Harold Wilson, a second class degree, as it happens, for his successor, Mr. Edward Heath, in the same examination—it's surprising to me that a left-wing opinion should tolerate these differences. In a true socialist university, all would get the same degree all the same level or of equal distinction. And by the way, there are some American schools where this is virtually the rule. All arguments I've heard for the classless society, as for the classless degree examination, are, to my mind, plainly drivel. On which subject, by the way, I remember the story of the school boy, who had done no work whatever and was trying to pass an examination from a junior school to a more senior school, found himself faced with questions, no one of which reminded him of anything; so he wrote across his answer book, "God knows, I don't", and as the examination was in December, he finished off "Merry Christmas". His answer book

eventually returned from the examiners marked "God passed, you didn't. Happy New Year". That was possibly irrelevant anyway.

I come to my second point. The Labor Party has no political program. Now this lack of political theory was due to Karl Marx via Sidney and Beatrice Webb. Neither Karl Marx nor the Webbs had any interests in politics. Marx muttered vaguely that the state would wither away at some future Utopian time and the Webbs believed that the British parliamentary system was perfect, or at any rate would serve their purpose. But this political conservatism, of course, is inconsistent with the classless society. Why? Because the creation of the classless society means the fighting of a class war. The object in the war must be to destroy the classes of society which are opposed to society being classless. This war was declared in Britain in about 1905 and the Labor Party success has been almost complete. The socialists in Britain have destroyed, successively, the Liberal Party, the first victim, what use to be the Empire, what then became the Commonwealth, and is now sometimes known as the Sterling Area and, of course, the army, the navy, and the air force. They have sought to destroy the House of Lords and with it the monarchy, the inns, of course, where barristers are trained, the City, the two older universities and the public schools, public in the British not in the American sense. And plans for completing this campaign of destruction are well advanced and another twenty years should see the last citadels fall. I think the last citadels will be the Brigade of Guards and finally the demolition of the Calvary Club in London. When that has gone, all has gone.

So taken together, these several reforms add up to one pleasing result, the abolition of the Conservative Party, their opposing party in politics. This means of course the end of Parliament as we know it, because, and this is true of USA as well, our politics in Britain have always been compared with a game of cricket—a game of which you have possibly heard, you may not have actually seen. It is, I may say, a very tedious game indeed. Anyway, they've been compared with the game of cricket in which either side has its turn to bat and field. But what if one side not merely plays to win, but to abolish the opposing team? Cricket could then be played on totalitarian basis with one team only. You could do the same in football—the same principle would apply, having abolished the opposite team, you play with only one team on the field, which by the way is what they've been doing in Sweden for the last thirty years, a democracy with only one political party eternally in office. An interesting game might result, but it wouldn't be cricket, or it wouldn't be football, it might be something else. And of course we might be well justified in asking what the rules are to be, a question that has never been answered. Britain has no written constitution, but the subject of any future constitution is not one in which the British left-winger, the Labor Party, has shown any interest.

Now what I think they don't see, and is worth our remembering from the start, is that if you destroy your opponents, you also destroy yourselves. You cease to exist, in a way, if your opposite team has gone, because in practice in life we can't do without an opponent of some sort. Trade unions can't exist without employers. They'd have nothing to fight and when you've nothing to fight, you cease to exist, in trade union terms. Protestants can't exist without Catholics. Their original idea was to protest. Well if you've nothing to protest against, you've lost the point of having an organization at all. Cambridge can't exist without Oxford. Harvard can't exist without Yale. The detectives can't exist without criminals. Abolish the opposing team and our own side can't even hold together. The rat-catchers—no I mustn't say

rat-catchers in the modern world, these are known as rodent-control officers—rodent-control officers can't exist without rats and it is said that after clearing out a warehouse the rat-catcher always releases two rats before he goes away. He doesn't want to do himself out of a job, so he can then come back for another exciting campaign on some other occasion, but what I'm trying to say is that abolish the opposing team and your own side can't even hold together. Its whole character must alter and its identity be lost. So without capitalists, the socialists can't even be themselves. I'm not at the moment objecting to the massacre, I'm merely humbly asking what sort of state is to replace the one we used to know. And in this question, neither Karl Marx nor the Webbs ever showed the slightest interest. It remains, nevertheless, the heart of the matter. Where do we go from there? A possible explanation might be that Karl Marx spent most of his life working in the British Museum in London and feeding himself on the sandwiches he ate in the lunch hour. I've sometimes thought his works would be less constipated if he had had proper meals.

Anyway, assume, if we will, that this question somehow answers itself. A new constitution gets itself written, it allows for one party only and is accepted by everybody as the pass to Utopia. All we know, for certain and in advance, is that our society will be classless. We shall be able to strive for promotion within the organization, the department, the nationalized industry. We shall of course be eligible for election for the one-party legislature. But what if we are promoted or elected? Our material reward will then be a better apartment, a bigger car, and possibly a suit made of better cloth. We shan't, of course, be permitted to acquire land or other property. That is capitalist, that is wicked. We shan't be encouraged to save and invest. That is also wicked. We shan't be able to secure any advantage for our children, for that also is wicked again. What shall we gain if we work harder than any other people? Power. Power to praise or reprove, promote, or dismiss. Power to exact the flattery we used to practice. A power we have intrigued to possess, but which we must not abuse. But what if our talents are of a different order, the sort which might gain us fortune in a capitalist country? Suppose that we are bad at flattering our superiors in the hierarchy and worse at flattering the voters. These are the two ways to promotion in a society of that kind. We shall be left, then, on the factory floor, neither worse nor better than our neighbors. Our duty will then be to adjust our lives to those of the folk next door. All this would demand from us a saint standard of humility, tolerance, restraint, and humor, something we might derive only from a firm, and indeed fervent, religious belief. There are examples in history of men who used power justly, asking no reward in terms of wealth. There are also men of exceptional talent who served humbly among their fellows and obeyed the rules of their organization, but, and this I emphasize, the men in history who did this were monks. They were members of a religious order. They were celibate. They were dedicated and aesthetic, devoted to Buddha or, later another group on similar lines, devoted to Christ. They were supported by religion. They were curbed by fear of eternal punishment. For abuse of power, as for indiscipline, the monasteries used to provide the proper remedy. But the Labor Party, the socialists of the world, have never seen that any remedy is needed or that the problem even exists and that is the big difference between socialism and communism. The one is merely bleating about welfare, a plea for security and comfort. The other is far more dangerous because this a religious call to sacrifice and danger. The communist, the recruit to the communist party, is offered nothing except the opportunity for danger and sacrifice. Where

Marxism is a faith for which people will die, socialism is no more than an argument about how they are to live. Between Marxist and Socialist, the contrast is one as between steel and butter.

I come now to the last point of the thought I wish to emphasize. The British socialists and socialists in some similar countries have no aim external to the society they seek to transform. Now in Britain's greater days, which continued until my boyhood, the national purpose was to share in the expansion of Europe. After centuries of conflict, the effort was concentrated upon the development of the British Empire, the great task from which British Conservatives drew their moral strength. There were casualties by the roadside, but the final effect was that of an army on the march. Conquering their own empire at the same time, the Russians drew their own strength from a parallel adventure and when you consider the modern world you should always remember that Russia is a colonial power similar to England, similar to France. Its possessions stretch across central Asia, took place at the same time and ended, in fact, at the same moment, which was approximately in the year 1904, not so very long ago. And then the British collapse began where Marx said that it would—in Ireland.

Now from about 1906 to the present day, Britain has been effectively ruled by Beatrice and Sidney Webb, latterly from the grave. The policy of the Labor Party in Britain was defined in 1894, accepted 1917 and never since replaced or seriously opposed and it, by the way, was based on doctrines defined by Karl Marx in 1847 and already reached by him by, I take it, about 1841. So, one of the most conservative of all doctrines is that of Marxism, because it hasn't altered since the 1840's. The Labor Party is a little later than that, but it certainly hasn't altered since 1917. Now that same period of 60 years has seen the decline of Britain as a world power, perhaps the most rapid collapse in modern history of any people not defeated in war. The two processes are closely connected. Beginning right back in the 1900's there was the first controversy as to whether money should be spent on old age pensions or battleships, and the old-age pensions won as gaining more votes than the battleships could. The point to emphasize, though, is that the situation has completely changed. The socialists' ideas of 1894 are being applied to the fallen, disorganized and bankrupt Britain of 1970. That a remedy for the evils of Victorian Britain should be relevant to the Britain of today is hardly to be expected. In point of fact, the whole socialist creed is wide of the mark. It does nothing above all to replace the lost sense of purpose and this again is the problem today in the United States—the question of a sense of purpose or of mission. All the talk among socialists is about the care for the wounded, for the care for those who dropped out from the march, but none of about the direction in which the army is to go.

What our socialists can't see is that we need some aim beyond that of material comfort. What they equally fail to see is that a completely different situation in 1970 requires, first of all, a reorganization, a regrouping, a major change of plan. They're full of concern over our economic position, but they fail to appreciate that our real problems are political and external. What is Britain's role in the world today is the first question. How are we to achieve it, is the second. What reorganization has become essential is the third, and how are we to pay for it is merely the fourth, arising only long after we have decided what we are trying to do. Ask Mr. Harold Wilson about his basic policy and his answer, in Marx's language will center upon the need for a sound economy without which he can't provide for people known as the underprivileged, that is for the

Labor Party voters. But all this underdoggerly, if I may use such an expression, leaves us where we were—an army intent only on feeding itself and taking care of its casualties. Of this, however, we can be sure—that the army which is inactive in camp will have a long sick list and plenty of complaints about the food. Given a purpose and a direction, the morale rises and the grievances are forgotten. It's that sense of purpose that we lack. Now you may think that the U.S.A. is happier in this respect. But is it? Has it a sense or purpose anymore?

Now, the British Labor Party was formed from an alliance rather uneasily maintained of the following distinct forces: First, the Puritan and Methodist tradition in Britain, the non-conformist tradition of religion; second, the trade unions; third, the co-operative movement—the trade unions and the co-operative movement are, so to speak, opposite sides of the same thing, the trade unions being an association of producers and the co-operative movement an association of consumers, but the same people looked at in a different way—the academic intellectuals, especially I'm glad to say of Oxford, I haven't been at Cambridge, and last of all the civil service, national and local.

Now that alliance produced socialism in Britain and Britain has been ruled on socialist lines for the last 50 years. And it was created by the efforts of two people, Sidney and Beatrice Webb, who were married to each other. Sidney Webb was a civil servant who was academically brilliant and who made himself the acknowledged expert on trade unionism. He is the only British intellectual to have been elected to Parliament from a mining constituency. He was accepted as an honorary trade union leader, in effect, and this was because he had written a standard book on trade unionism. His wife Beatrice came of Methodist stock in the north of England, was a resolute do-gooder and made herself the acknowledged expert on the co-operative movement. She, again, wrote the standard book on the cooperative societies of Britain. Between them, they created, first, the labor party by this alliance of trade unions, co-operatives, intellectuals, and civil servants. They went on to create the London School of Economics, of which you possibly may have heard and a magazine call the *New Statesman*. I won't say too much about the London School of Economics, but I quote to you from memory from a novel by Eric Linkletter called *The Faithful Ally*. And the faithful ally of the novel is a rajah, or Muslim ruler, of some part of Borneo, rather undefined. And somewhere in the early part of the novel, the rajah says as follows, "I have had many girls in my harem from the best schools in England and I say nothing against them, but never, never, never again will I admit to my harem a graduate of the London School of Economics." He says no more on the subject, but it opens a vista of speculations.

Anyway, the point is that this alliance was created in Britain and the question which you must answer for yourselves is whether a similar alliance might not be created in USA by any persons that were equivalent to Beatrice and Sidney Webb. All I can add is that the socialist experiment in Britain has been accompanied by the most catastrophic collapse of a major power that has taken place in this century. There may be a lesson to be learned from this, there may be a lesson that Americans may absorb. It's my hope that the lesson may be learned in time.

#### DRUG ABUSE EDUCATION ACT OF 1970

The Senate resumed the consideration of the bill (H.R. 14252) to authorize the Secretary of Health, Education, and

Welfare to make grants to conduct special educational programs and activities concerning the use of drugs and for other related educational purposes.

Mr. HUGHES. Mr. President, H.R. 14252, as reported, would encourage the development of new and improved curriculum in drug abuse education; demonstrate their use; evaluate their effectiveness in model programs; demonstrate developed educational materials; provide training programs for teachers, counselors, law enforcement officials, and other public service and community leaders; authorize the Secretary of the Department of Health, Education, and Welfare to make grants to local educational agencies and other private and nonprofit organizations for community information programs on drug abuse—including seminars, workshops, and conferences—and for community-oriented education projects; including personal and telephone counseling and information services, neighborhood aid and information centers, and peer group leadership programs.

General hearings on the extent and character of the drug abuse and drug dependence problems were held by the Alcoholism and Narcotics Subcommittee of the Labor and Public Welfare Committee on August 6, 7, and 8, 1969, in Washington, D.C.; on September 26 and 27, 1969, in Los Angeles, Calif.; on September 29, 1969, in Denver, Colo.; on October 2, 3, and 4, 1969, in New York, N.Y.; and on February 14, 1970, in Des Moines, Iowa. Hearings on H.R. 14252 and its Senate companion bill, S. 3015, were held by the subcommittee on August 27, 1970, in Washington, D.C.

The Subcommittee on Alcoholism and Narcotics has expended extensive time in the last year and a half in a very thorough investigation of the narcotics and drug problem in the United States. One of the great problems facing us is the problem of prevention. In the prevention of this problem in the United States if we are to cut drugs off at an early age, we must begin as far down as the third, fourth, and fifth grades in our schools.

The bill has already been unanimously passed by the House and establishes a beginning program that I think will offer extensive benefits relating to educational needs in this country.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HUGHES. 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. HUGHES. Mr. President, I send to the desk amendments in dual form on behalf of myself, Senators DOMINICK and JAVITS and ask that they be stated.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

On page 17, beginning at line 6, strike all through line 15 on page 19, inclusive, and

remember the succeeding sections accordingly.

On page 19, line 17, after the words "Attorney General" insert the following: ", (on matters of law enforcement)"

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. HUGHES. Mr. President, there are no objections to this amendment in dual form that I am aware of. The amendment would strike from this particular piece of legislation the objectionable matters that were contained in the proposed legislation. The amendment would strike the sections entitled "Interagency Coordinating Council on Drug Abuse Education" and "Advisory Committee on Drug Abuse Education." This has been agreed to by the minority and the majority and as far as I know there are no objections to it.

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

Mr. HUGHES. I yield.

Mr. HRUSKA. The Senate will recall that in January of this year the Senate debated and voted approval of the provisions of the so-called Comprehensive Drug Control and Dangerous Substances Act. That act has subsequently been signed into law.

At that time a series of amendments had been proposed, some of them by the junior Senator from Iowa, bearing upon the various respective powers of the Secretary of Health, Education, and Welfare, the Department of Justice. Those amendments dealt principally, as I recall, with the scheduling of various drugs and dangerous substances and also with certain enforcement provisions.

The broad question I would like to propose to the Senator from Iowa is: Does the bill now under consideration contain provisions which conflict with the provisions of the bill to which I have referred.

Mr. HUGHES. It is the opinion of the Senator from Iowa that there is nothing in this bill that conflicts with the statement the Senator from Nebraska has just made. It does not deal with the thrust and classification of drugs and narcotics, it does not deal with law enforcement provisions of the legislation previously passed by this Congress, and it is entirely in agreement with what the Senator has just said.

Mr. HRUSKA. Is the deletion which the Senator from Iowa seeks to accomplish with the amendment now proposed offered because there are provisions in the Drug Control Act which provide for the coordination of these efforts in similar fashion to the fashion described in the pending bill?

Mr. HUGHES. Partly attributable to that, yes, and partly to the fact that the administration in its testimony before the Committee on Labor and Public Welfare, indicated they had the coordinating machinery already available in the Department, and to be compatible with the administration position in administering the acts we thought it would be in the best interest to strike this provision from the bill.

Mr. HRUSKA. Mr. President, I would like the RECORD to show that during the

consideration of the Drug Control Act the Senator from Connecticut and this Senator agreed to support the efforts of the Senator from Iowa in connection with provisions such as those contained in the pending bill.

Because there is not any conflict nor infringement upon the Drug Control Act provisions, this Senator would like to express his support of the bill and also his support of the amendment which the Senator from Iowa has proposed.

Those of us who have taken the time to inform ourselves know what great, deep, and abiding interest the Senator from Iowa has on this subject. He has made it a point of special study. We are glad to recognize that expertise and his desire to legislate in this field.

For that reason it gives me great pleasure to express my support for the bill and also for the amendment.

Mr. HUGHES. I certainly wish to thank the distinguished Senator from Nebraska because, as he has correctly recalled from the debate early last spring, in the legislation already passed by Congress, both he and the Senator from Connecticut did, indeed, pledge their support of this type legislation and they expressed their concern of the great need for it in America. They have been true to that commitment. I do appreciate the support of the Senator from Nebraska.

Mr. HRUSKA. I thank the Senator from Iowa for yielding.

Mr. YARBOROUGH. Mr. President, the bill we are considering today represents an important step forward in the battle against the ever-growing problem of drug abuse in this Nation. Under this bill, the Secretary of Health, Education, and Welfare would be authorized to make grants to and contracts with institutions of higher education for the purpose of developing a program of drug abuse education. These drug abuse education programs would develop materials and other information regarding drug abuse and disseminate these materials to private and public elementary, secondary, and adult education agencies. In addition to developing a drug abuse education curriculum, this bill would authorize grants to local education agencies and other public and private nonprofit organizations for the establishment of seminars, workshops, and conferences in various communities on drug abuse and the problems associated therewith.

This education program will provide an effective means of educating parents, schoolteachers, law-enforcement officers, lawyers, doctors, and students in the dangers of drug abuse and methods of preventing the spread of drugs. Many innocent people have stumbled into the dangerous pit of drug abuse simply because they were not informed of the hazards drugs present to their health. This bill that we are considering today will provide the means for an effective education program that may save the lives of many Americans in the future. Merely punishing drug users for their crimes will not eliminate the use of drugs in this country. Our experience in recent years has proven this fact. We must educate our children and their parents to the dangers of drugs before they are con-

fronted directly with the problem and the use of drugs. Only in this way will we stamp out this disgraceful situation. I urge all my colleagues to give this measure their full consideration.

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

Mr. HUGHES. I yield.

Mr. JAVITS. Mr. President, I am the ranking Republican member of the Alcoholism and Narcotics Subcommittee headed by the Senator from Iowa (Mr. HUGHES). I am very deeply interested not only in the particular section of the bill which relates to general education and higher education agencies, to wit, sections 2 and 3 and succeeding sections, but I am also very interested in section 4 relating to community education.

We will soon be considering S. 3562 a bill which deals with the enormous expenditure required for rehabilitation through a comprehensive Federal program for the treatment of drug abuse and drug dependence. We all know the terribly difficult character of such an endeavor, to deal with narcotic addicts and the tremendous crime for which they are responsible, the rate of recidivism and the rate of cures once they become addicts. Thus, the approach to the narcotic addiction and drug abuse problem is the educational approach, not only on the level of those who go to school but on all levels of the community in which these shocking conditions obtain, which are generally the slums and ghettos of our great cities, especially, unhappily for my State, the city of New York.

So I am especially deeply concerned about the need for this bill, which I think is most constructive, and I deeply appreciate the concept of community oriented educational programs on drug abuse and dependency, not only for the addict, but for the benefit of interested and concerned parents, leaders in the community, and others who are affected and touched by the addiction. This bill covers all of that including support for the development of "peer group" leadership programs. I think it is a most admirable job. I hope it will soon become law. I would like to join the Senator from Nebraska (Mr. HRUSKA) in expressing appreciation for the leadership of Senator HUGHES which has brought about this bill so that it is now before us.

I might say I had a long collaboration with Senator Robert Kennedy about this very matter, and I realized at that time, as did he, how critical it was to get Senators who are in key positions to carry their share of the responsibility for bringing our ideas into legislation.

The Senator from Iowa (Mr. HUGHES) comes from a relatively rural State, and yet he has shown a most exemplary sensitivity and understanding of this problem. I believe were my former colleague, Senator Robert Kennedy, on the floor with me, he would want to join me in the expression of that appreciation. I think it is most symbolic that his brother, Senator EDWARD KENNEDY, has taken a similar and burning interest in this particular problem. I would like to say to both Senators how critically helpful it is to have men of such distinc-

tion espousing this cause with regard to a problem which is such a scourge to a community like the city of New York.

Mr. HUGHES. I thank the Senator from New York.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on passage of the bill.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill is open to further amendment.

Mr. KENNEDY. Mr. President, the distinguished Senator from Iowa has made a brief, but I think thorough, explanation of this legislation. The record is complete in terms of days of hearings and the matters included in the legislation before us.

Mr. President, I am proud to have sponsored a principal amendment which was adopted in committee as section 4. My amendment provides authorization for some \$29 million over the next 3 years for community-based drug programs.

I would like to comment briefly on why I felt so strongly about the need for this amendment—which I developed really out of the direct experience of communities in my own State of Massachusetts. For there I have seen the value of so many of these peer group assistance programs.

Within the Greater Boston area there are approximately 50 community-based programs, which have sprung up completely with community support. There is little or no State aid or assistance. They are sponsored locally by different concerned citizens and groups which have contributed extensively in the direction of those programs. I think each is making a special contribution in terms of meeting the ever-expanding need to combat drug addiction and abuse.

An example of the types of programs which could receive assistance is project ACID, operating in Malden, Mass. ACID is a structured, therapeutic program and rehabilitative center—including a residential house, sensitivity sessions, and other problems.

ACID deals primarily with young people, often in their late teens. Not only medical experts, but ex-addicts or contemporaries familiar with drug and related problems help the participants.

I had an opportunity to meet the leaders, and in particular to speak with three young ex-addicts in project ACID, during field hearings which I chaired at the high school in Winchester, Mass.

The school auditorium contained around 3,000 students, and we had a panel program which included narcotics addicts, teachers, students, and parents.

In the final part of the symposium these three young ex-addicts spoke about their experiences and difficulties, and their effect on the students was extraordinary. Not only was there an immediate impact in terms of interest, but I received scores of letters from parents and others as a result of that particular meeting. This ACID program made a very profound impact.

Mr. President, as I have mentioned here in the Senate on other occasions,

in my own State of Massachusetts we have numerous other community-based drug education, rehabilitation, and treatment centers. They have developed out of local concern. They are offering the comprehensive, community-oriented assistance which is necessary to reach the factors underlying the turn to drugs.

In Boston, project PLACE is a drop-in center, a counseling service, and a 24-hour-a-day switchboard or "hot line." But because of inadequate resources it is overcrowded and often must turn run-aways and youths back out into the streets after a few days.

The Martha Eliot Clinic, staffed by two ex-addicts, provides group therapy sessions and other outpatient rehabilitation. It cannot afford inpatient services.

Boston State Hospital has 20 beds for inpatient therapy and an extensive aftercare program and outpatient treatment for about 200 a week. They too lack resources for adequate expansion.

Project FIRST's halfway house is limited to a few beds, and its outpatient program is far short of meeting demand.

In the suburbs also, shortage of funds is curtailing a number of community-based programs. Project CONCERN in Winchester sends educational material to every resident, offers speakers to neighborhood groups, and has organized student-run education programs in the schools. But they still must refer youngsters who come to them for help to other rehabilitation programs.

Marathon House in Attleboro offers a long-term, residential, self-help program for addicts similar to Daytop Village and Synanon House. In each case, the directors must devote disproportionate time to seeking money—too often without success.

Young citizens in Newton are establishing a "Freeport" house for youths. Melrose a few months ago had a successful demonstration of a mobile van with material and young people discussing drug education. New Bedford is raising over \$100,000 all on its own for a new program.

These are small operations, struggling to make ends meet. And they can never really do the job without vastly increased resources—at the local, State, and Federal levels.

Just a few weeks ago Lt. Salvi A. Pascucci, the head of the local police juvenile bureau in Framingham, Mass., expressed this need. In discussing the town's consideration of a drug education and rehabilitation center for the area, Lieutenant Pascucci said:

We need this center badly and now. People don't know just how bad the problem is here, and in surrounding towns.

My department gets calls every day from parents whose children are on drugs. They want help, but we have no means to help them.

And the lieutenant emphasized:

Such a program must be away from the police and courts or the kids won't participate.

We cannot afford to view drug abuse as simply a law enforcement problem. Ask the parents of a child who has run away from home, of a youth who has fallen behind at school as he rubs shoulders with

the drug culture, of a son or a daughter who has grown increasingly distant and uncommunicative and wrapped up in drugs, of a teenager who is inevitably exposed to drugs at school—ask that parent if law enforcement is enough.

What every community needs is a place where parents and young people can turn—either alone or together—to discuss the dissatisfaction and alienation which underlie the turn to drugs; a place where parents can get advice and education about drugs; a place where youths can explore their common problems and frustrations, where they can learn both the true dangers of drugs and the emptiness of drugs as a way to resolve more basic problems.

Young people need a place to go for personal or medical advice without fear of arrest. Parents need a place to ask questions, identify substances, and learn facts without fear that this will get their son or daughter in trouble with the law. Doctors need the freedom to give medical help without being required to turn over names and numbers to the police.

Mr. President, my amendment provides for Federal aid primarily to so-called peer group assistance programs. It would provide aid for telephone hotline services; for store-front drop-in centers; for therapeutic, self-help programs run by ex-addicts such as Synanon of California, Daytop Village in New York City, and Marathon House in Rhode Island and Massachusetts; and for other programs primarily organized and operated by persons with the same social, culture, and age backgrounds as those of the persons served.

Communities throughout the United States are finding that peer group oriented activity is the most constructive in meeting the problems of youth. Young people trust other young people—those who have shared the common frustrations and the experience of growing up in the drug culture—much more than they trust established institutions. The company and encouragement of peers gives youngsters the strength to resist harmful drugs. The availability of a place to go and friends to talk with gives them an alternative to running away.

It seems to me that the peer group programs are one of the most important and significant in meeting the problems of drugs, and they deserve every kind of assistance we can give.

I view the kind of commitment we have made in section 4 to authorize \$29 million over 3 years—\$5 million the first year, \$10 million the second year, and \$14 million the third year—as being a very conservative outlay in terms of our resources. If we want to achieve a really comprehensive and effective education program through this and other provisions in the bill, \$29 million is a very limited investment at best.

Given the kind of initial efforts being made with local support in communities around the country, the resources which we can make available to those communities can really have an important impact in the whole educational field.

I am delighted that my amendment was accepted and included in the bill as reported from committee. I have been

in contact with the sponsor of the House legislation, Congressman MEEDS, who has been extremely interested in and favorable to my additional proposal as well.

Once again I want to join my other colleagues who have commended our distinguished chairman of the subcommittee. He has been tireless in his efforts and energies. Not only has he a unique background and experience but he has made a commitment to this whole effort.

I think he has been enormously expansive in his willingness to test and examine new ideas.

I think that is what we are really going to have to have if we are to come to grips with the problem.

I think the piece of legislation before us is imaginative and sensitive and may very well provide an important key to the solution of some of the difficult problems in terms of the difficulties and tragedies of some of our young people in their involvement with drugs.

I yield the floor.

Mr. HUGHES. Mr. President, I thank the distinguished Senator from Massachusetts for the great contributions he has made. I think the amendment he offered to this particular piece of legislation is a very valuable contribution. It was accepted by both sides of the committee and I think will make a great contribution to America and fill an important need in this area.

I am pleased that the Senator from Massachusetts is giving us continued service in the hearings he himself has held and in the contributions he has made in probing the problem. I am delighted we have this amendment as part of the overall bill, and I am sure it can only help us in our approach to the drug problems involved.

Mr. President, I ask unanimous consent that certain excerpts from the report on the bill be printed in the RECORD at this point.

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

#### SUMMARY

H.R. 14252, as reported, would encourage the development of new and improved curriculums in drug abuse education; demonstrate their use; evaluate their effectiveness in model programs; demonstrate developed educational materials; provide training programs for teachers, counselors, law enforcement officials, and other public service and community leaders; authorize the Secretary of the Department of Health, Education, and Welfare to make grants to local educational agencies and other private and nonprofit organizations for community information programs on drug abuse (including seminars, workshops, and conferences) and for community-oriented education projects (including personal and telephone counseling and information services, neighborhood aid and information centers, and peer group leadership programs); provide for coordinating the activities of the Federal Government in drug abuse education by establishing an Interagency Coordinating Council which would include the Secretary of the Department of Health, Education, and Welfare, the Attorney General of the Department of Justice, the Commissioner of Education of the Department of Health, Education, and Welfare, and Director of the National Institute of Mental Health of the Department of Health, Education, and Welfare and representatives from such other agencies and departments as the

Secretary of Health, Education, and Welfare might designate; establish an Advisory Committee on Drug Abuse Education consisting of persons familiar with education, mental health, and legal problems associated with drug abuse and use to review applications and make recommendations on grant applications; provide for technical assistance by the Department of Health, Education, and Welfare, and the Department of Justice to assist local educational agencies, public and private nonprofit organizations, and institutions of higher education in the development and implementation of programs on drug abuse education.

#### HEARINGS

General hearings on the extent and character of the drug abuse and drug dependence problems were held by the Alcoholism and Narcotics Subcommittee of the Labor and Public Welfare Committee on August 6, 7, and 8, 1969, in Washington, D.C.; on September 26 and 27, 1969, in Los Angeles, Calif.; on September 29, 1969, in Denver, Colo.; on October 2, 3, and 4, 1969, in New York, N.Y.; and on February 14, 1970, in Des Moines, Iowa. Hearings on H.R. 14252 and its Senate companion bill, S. 3015, were held by the subcommittee on August 27, 1970, in Washington, D.C.

During the above hearings the subcommittee heard from a broad cross section of interested individuals, including educators, doctors, lawyers, students, and parents. Broad support was indicated for the concepts embodied in the legislation.

#### SCOPE OF DRUG ABUSE AND DRUG DEPENDENCE PROBLEM

It is estimated by Government health authorities that there are approximately 100,000 to 125,000 active narcotic abusers in the United States. The estimated range of persons directly affected by abuse of nonnarcotic drugs such as sedatives, stimulants, tranquilizers, and related drugs lies somewhere between a quarter and a half million people. Dr. Stanley F. Yolles, former Director of the National Institute of Mental Health, has stated:

"The number of nonnarcotic drug abusers, including those addicted or habituated to agents such as sedatives, stimulants, marijuana, LSD, and related drugs, and certain 'tranquilizers,' can only be grossly estimated. Inferences as to the size of the problem can be drawn however, from data on production and illicit diversion of barbiturates and amphetamines.

"About 8 billion amphetamine tablets (40 tons) are produced in a year—enough to provide each man, woman, and child in the United States with 35 doses. About half of these tablets, it is estimated, go into illicit channels of distribution at bars, gas stations, and restaurants.

"Five hundred tons of barbiturates were produced 10 years ago. This is enough to provide 28 doses for each persons in the population."

A conservative estimate of persons in the United States, both juvenile and adult, who have used marijuana at least once is about 8 million and may be as high as 12 million people.

President Nixon has pointed out that—  
"Between the years of 1960 and 1967, juvenile arrests involving the use of drugs rose by almost 800 percent; half of those now being arrested for the illicit use of narcotics are under 21 years of age. New York City alone has records of some 40,000 heroin addicts, and the number rises between 7,000 and 9,000 a year. These official statistics are only the tip of an iceberg whose dimensions we can only surmise."

The Subcommittee on Alcoholism and Narcotics, in its hearings throughout the country, found that the drug problem is a ranking public concern. The number of drug abusers and experimenters is increasing at a rate

that seems to be a geometric progression. Drug use is spreading to ever younger children—especially in the elementary grades in our large cities. Hard narcotics have invaded the suburbs and the small towns. A dramatically increasing number of substances is being used to induce kicks, and drugs are being employed in weird and dangerous combinations.

The price we have been paying as a society for essentially ignoring the drug priorities in the country is enormous. One does not have to go far to recognize that illegal drug trafficking is one of the principal causes of crime in this country. Certainly the use of illegal narcotics is a principal cause of crime in the Nation's Capital and in the surrounding metropolitan area. Between one-half and three-fourths of the serious crime in that area is drug related. Drug-related crime costs the citizens of the Washington metropolitan area upward of \$30 million a year.

The cost in terms of crime is only the beginning. The quantifiable factors associated with narcotic abuse includes costs for law enforcement, crime associated with abuse, lost productivity, the cost of research and treatment programs, and welfare costs associated with broken families and unemployed abusers. Government health authorities have estimated that the total of involuntary social costs of narcotic drug abuse alone amounts to \$541 million per year.

But the greatest price of all is the price paid in human lives—the lives of the hundreds of thousands of narcotics addicts and drug abusers who are only living in the shadows of society—half alive, half free.

#### NEED FOR LEGISLATIVE ACTION

Throughout the hearings of the Subcommittee on Alcoholism and Narcotics there has been a clear current of support for increased efforts in and focus on the educational area. Support comes from all sectors of our communities. Doctors, lawyers, law enforcement officials, parents, students, and, of course, educators, have all expressed strong interest in the development of the most effective prevention program possible.

Dr. Henry Brill, chairman of the American Medical Association's Committee on Alcoholism and Drug Dependence, has stated:

"In the course of the American Medical Association's work in this field, we have been profoundly impressed by the fundamental importance of public education about drugs.

\*\*\* within recent years we have seen the spread of drug-taking among identifiable large groups of young persons in this country. The importance of preventive education as a control measure in this situation has been widely recognized and many agencies within and outside of Government have taken an active role in developing educational programs. But up to the present time these programs have consisted of scattered undertakings, mostly on a pilot level, divided among areas and related to each other only in a general way. \*\*\*

\*\*\* In all of this work, one finds lacking any firm knowledge as to what constitute the best methods in such educational programs and how each program should be designed to meet the needs of a specific target population, whether it be at a given grade level in school or a socioeconomic group that is particularly at risk. Efforts to create more effective systems of training and education are hampered because they have been forced to depend on the simplistic and impressionistic evaluations of results and, up to now, no agency has been in a position to apply systematically formal techniques of design and evaluation to the field."

Spokesmen for the National Education Association told the subcommittee:

"We believe that H.R. 14252 is an essential first step toward attacking the growing problem of drug abuse. We do not believe it is the whole answer. There are no quick and

easy solutions. But we must begin. It is of utmost importance that the schools face the problem squarely. Punitive measures have not proved adequate to the task. It is apparent that different approaches to the problem must be developed, tried, tested, evaluated—and promoted. Parent education as provided for in H.R. 14252, is essential. The feeling of shock and revulsion which parents experience is understandable—but not curative in itself. Indeed, the best type of parent education, along with the best programs for children and youth, will be preventive."

Because of the recurrent theme in the hearings of support for a strong and clear emphasis on preventive activities to combat drug abuse and drug dependence, the committee feels that it is necessary for the Congress to place a special legislative focus upon establishing and strengthening preventive activities at all levels in the communities of the country. In recommending this legislation, the committee does not intend to limit the scope of those authorities which presently exist and which authorize executive branch action in the area of drug abuse prevention. Further, while the act sets forth various types of activities for which funds may be made available, the enumeration in the act is not intended to be exhaustive, and other programs meeting the broad purposes of the act may receive assistance.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### Short title

Section 1. This section provides that the act may be cited as the Drug Abuse Education Act of 1970.

##### Statement of purpose

Section 2. Subsection (a) of this section states the congressional finding that drug abuse "diminishes the strength and vitality of the people of our Nation," that such abuse is increasing, that there is "a lack of authoritative information and creative projects designed to educate students and others" in this area, and that Government and private efforts are required to remedy the situation.

Subsection (b) of this section states the purposes of the bill to be: To encourage the development of new and improved curriculums, to demonstrate their use and evaluate their effectiveness in model programs, to disseminate educational materials, to provide training programs for teachers, counselors, law enforcement officials, and other public service and community leaders, and to offer community education programs for parents and others.

##### Drug abuse education projects

Section 3. This section authorizes the Secretary of Health, Education, and Welfare to:

1. Make grants to, or contracts with, institutions of higher education, other public or private agencies, institutions, and organizations for such activities as:

(a) Curriculum development and preparation on the use and abuse of drugs;

(b) Projects to test the effectiveness of such curriculum; and,

(c) Dissemination of curricular materials and other formation to public and private elementary, secondary, and adult education programs for applicants who have conducted projects.

2. Provide for the evaluation of curriculums developed in such projects, either directly or through arrangements with institutions of higher education or other public or private institutions and agencies.

3. Make grants to institutions of higher education and to local educational agencies for preservice and inservice training programs on drug abuse for teachers, counselors, law enforcement officials, and other public service and community leaders.

4. Make grants to local education agencies and other public and private nonprofit orga-

nizations for community education programs on drug abuse (including seminars, workshops, and conferences) involving parents and others in the community.

5. Make evaluations of the training and community education programs authorized by this section.

6. Make grants to develop programs or projects to recruit, train, organize, and employ professionals, former drug users, and others to organize and participate in drug abuse education programs.

The section also provides that the Secretary may utilize up to 5 percent of the funds appropriated to carry out the act to pay reasonable and necessary expenses of State educational agencies for planning, development, and implementation of drug abuse education programs.

In addition, the section provides that any amendment to an application under the act shall be considered in the same manner as original applications except as the Secretary may otherwise provide by regulation.

The section authorizes appropriations for a 3-year period to carry out the provisions of the section. The authorized appropriations are:

\$5 million for the fiscal year beginning July 1, 1970;

\$10 million for the fiscal year beginning July 1, 1971;

\$14 million for the fiscal year beginning July 1, 1972.

##### Community education projects

Section 4. This section authorizes the Secretary of Health, Education, and Welfare to make grants or contracts with public or private nonprofit agencies, organizations, and institutions for community-oriented education projects on drug abuse and drug dependency. The projects include, but are not limited to, personal and telephone counseling and information services, neighborhood aid and information centers, and peer group discussion programs.

The section authorizes appropriations for a 3-year period to carry out the provisions of the section. The authorized appropriations are:

\$5 million for the fiscal year beginning July 1, 1970;

\$10 million for the fiscal year beginning July 1, 1971;

\$14 million for the fiscal year beginning July 1, 1972.

##### Interagency Coordinating Council on Drug Abuse Education

Section 5. This section provides for the establishment of an Interagency Coordinating Council on Drug Abuse Education which shall be appointed by the Secretary of Health, Education, and Welfare and which shall consist of the Secretary or his designee as Chairman, the Attorney General or his designee, the Commissioner of Education, and the Director of the National Institute of Mental Health. This subsection further authorizes the Secretary to designate representatives of other departments and agencies having a substantial interest in the field of drug abuse education when such departments or agencies agree to provide a representative to the Council.

The section provides that the Council advise in the coordination of drug abuse activities of all Federal departments and agencies involved in this field.

It requires the Secretary of Health, Education, and Welfare to promulgate regulations establishing procedures for consultation with other appropriate agencies, both public and private.

The section requires as a condition to the Secretary's approval of an application for assistance under section 3 of this act that the Council be given an opportunity to review the application and make recommendations thereon within a period not to exceed 60 days.

##### Advisory Committee on Drug Abuse Education

Section 6. This section provides for the appointment by the Secretary of an Advisory Committee on Drug Abuse Education which shall—

(1) Advise the Secretary on administration, operation, and regulations for programs assisted under the act;

(2) Make recommendations regarding the allocation of funds under the act among the various purposes set forth in sections 3 and 4, and regarding criteria for establishing priorities, including those designed to achieve appropriate geographical distribution of approved projects;

(3) Review applications under section 3 of this act and make recommendations on project applications;

(4) Review the administration of programs under the act, and make recommendations to the Secretary, including recommendations for amendments to the act; and

(5) Evaluate programs and projects under the act and disseminate the results of such evaluations.

The section provides that committee members shall be appointed without regard to the civil service laws and that the committee shall consist of 21 members with the Secretary designating the chairman. Members of the committee shall be persons familiar with education, mental health, and legal problems associated with drug abuse, young persons, ex-users, parents, and others.

The section also provides that members of the Committee shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding \$100 per day, including traveltime. While serving away from their homes or regular places of business, this section further authorizes members travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

##### Technical assistance

Section 7. This section provides that the Secretary of Health, Education, and Welfare and the Attorney General may upon request render technical assistance to local educational agencies, public and private nonprofit organizations, and institutions of higher education in the development and implementation of drug abuse education programs. This assistance may include information regarding effective methods of coping with problems of drug abuse or personnel qualified in the field.

##### Payments

Section 8. This section provides that payments under the act may be made in installments and in advance, or by way of reimbursement.

##### Administration

Section 9. This section authorizes the Secretary to utilize the services of other Federal or other public or private agencies in carrying out the act and to pay for such services either in advance or by way of reimbursement.

##### Definitions

Section 10. This section defines "Secretary of Health, Education, and Welfare"; and "State" to include, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

Mr. HUGHES. Mr. President, I yield the floor.

The PRESIDING OFFICER. If there be no further amendment to be offered, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? 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. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from West Virginia (Mr. BYRD), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. MCCARTHY), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Georgia (Mr. RUSSELL), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. ELLENDER) is absent on official business.

I further announce that, if present and voting, both the senior and junior Senators from West Virginia (Mr. RANDOLPH and Mr. BYRD) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Hawaii (Mr. FONG) is necessarily absent.

The Senator from Kentucky (Mr. COOPER), the Senator from Florida (Mr. GURNEY), the Senator from Illinois (Mr. PERCY), and the Senator from Maine (Mrs. SMITH) are absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from Oregon (Mr. HATFIELD) are detained on official business.

If present and voting, the Senator from Kentucky (Mr. COOPER), the Senator from Florida (Mr. GURNEY), the Senator from South Dakota (Mr. MUNDT), the Senator from Illinois (Mr. PERCY), and the Senator from Maine (Mrs. SMITH) would each vote "yea."

The result was announced—yeas 79, nays 0, as follows:

[No. 385 Leg.]

YEAS—79

Alken	Hansen	Muskie
Allen	Harris	Nelson
Allott	Hart	Packwood
Baker	Hartke	Pastore
Bellmon	Holland	Pearson
Bennett	Hruska	Pell
Boggs	Hughes	Prouty
Brooke	Inouye	Proxmire
Burdick	Jackson	Ribicoff
Byrd, Va.	Javits	Saxbe
Cannon	Jordan, N.C.	Schweiker
Case	Jordan, Idaho	Scott
Church	Kennedy	Spong
Cook	Long	Stennis
Cotton	Magnuson	Stevens
Cranston	Mansfield	Stevenson
Curtis	Mathias	Symington
Dole	McClellan	Talmadge
Dominick	McGee	Thurmond
Eagleton	McGovern	Tower
Ervin	McIntyre	Williams, N.J.
Fannin	Metcalfe	Williams, Del.
Fulbright	Miller	Yarborough
Goodell	Mondale	Young, N. Dak.
Gore	Montoya	Young, Ohio
Gravel	Moss	
Griffin	Murphy	

NAYS—0

NOT VOTING—21

Anderson	Ellender	Mundt
Bayh	Fong	Percy
Bible	Goldwater	Randolph
Byrd, W. Va.	Gurney	Russell
Cooper	Hatfield	Smith
Dodd	Hollings	Sparkman
Eastland	McCarthy	Tydings

So the bill (H.R. 14252) was passed.

Mr. HUGHES. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. KENNEDY. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, the Senate is again grateful to the distinguished Senator from Iowa (Mr. HUGHES). His leadership in efforts to meet the drug problem are well known and with the success of this proposal he has obtained another important achievement in this vital area. The Senate is deeply grateful.

The Senate is grateful also for the support of the distinguished Senator from Nebraska (Mr. HRUSKA), the distinguished Senator from Massachusetts (Mr. KENNEDY), and others. The cooperation of all Senators was vital for this great success.

FEDERAL DRUG ABUSE AND DRUG DEPENDENCE PREVENTION, TREATMENT, AND REHABILITATION ACT OF 1970

Mr. HUGHES. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1355, S. 3562.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3562) to provide a comprehensive program for the prevention and treatment of drug abuse and dependents.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. KENNEDY. Mr. President, the understanding of the leadership is that there will be no vote on this bill tonight but that it will be the unfinished business for tomorrow. We are hopeful of getting action on it very soon after termination of the morning business.

For the information of the membership, there will be no further votes this evening.

Mr. President, as I understand from the earlier order, we had temporarily laid aside the proposed constitutional equal rights amendment, House Joint Resolution 264, and the request that was made when we initially took up the occupational health and safety bill, was that it would be laid before the Senate at the termination of the health and safety bill. I believe I am correct in that assumption.

Now, Mr. President, I ask unanimous consent that the Senate continue to lay aside the proposed equal rights amend-

ment, House Joint Resolution 264, until the pending legislation, S. 3562, is disposed of.

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

DEATH OF THE HONORABLE WILLIAM L. DAWSON

Mr. STEVENSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Resolution 1261.

The PRESIDING OFFICER (Mr. BELLMON). The Chair lays before the Senate House Resolution 1261, which will be stated.

The assistant legislative clerk read as follows:

*Resolved*, That the House has heard with profound sorrow of the death of the Honorable William L. Dawson, a Representative from the State of Illinois.

*Resolved*, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

*Resolved*, That as a further mark of respect the House do now adjourn.

Mr. STEVENSON. Mr. President, on behalf of myself and the senior Senator from Illinois (Mr. PERCY), I submit a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the resolution.

The assistant legislative clerk read as follows:

S. RES. 483

*Resolved*, That the Senate has heard with profound sorrow the announcement of the death of Honorable William L. Dawson, late a Representative from the State of Illinois.

*Resolved*, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

*Resolved*, That, as a further mark of respect to the memory of the deceased, the Senate do now adjourn.

The PRESIDING OFFICER. Without objection, the resolution is considered and unanimously agreed to.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. KENNEDY. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, and, pursuant to Senate Resolution 483, as a further mark of respect to the memory of the Honorable William L. Dawson, late a Representative from the State of Illinois, that the Senate now adjourn.

The motion was agreed to; and (at 5 o'clock and 3 minutes p.m.) the Senate adjourned until tomorrow, November 18, 1970, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate November 17, 1970:

U.S. ARMY

The following named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. William Charles Gribble, Jr., U.S. Army.

The following-named officers under the provisions of title 10, United States Code, section 3066, to be assigned to positions of importance and responsibility designated by the President under subsection (a) of section 3066, in grades as follow:

To be general

\*Lt. Gen. Henry Augustine Miley, Jr., Army of the United States (major general, U.S. Army).

To be lieutenant general

\*Maj. Gen. Woodrow Wilson Vaughan, U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

\*Maj. Gen. Robert Ray Williams, U.S. Army.

IN THE ARMY

The following-named persons for appointment in the Regular Army, by transfer in the grade specified, under the provisions of title 10, United States Code, sections 3283 through 3294:

To be first lieutenant

- Fedok, Edward A., U.S. Army.
Lent Morris J., Jr., U.S. Army.
Smith, John C. B., U.S. Army.

The following-named persons for appointment in the Regular Army of the United States, in the grades specified, under the provisions of title 10, United States Code, section 3283 through 3294 and 3311:

To be major

- Ballard, Lowell L., Jr., U.S. Army.
Condry, Willie J., U.S. Army.
Dandridge, James T. L., U.S. Army.
Deitch, Raymond, U.S. Army.
Johnson, Harvey C., Jr., U.S. Army.
Redd, John H., Jr., U.S. Army.
Weight, J. O., U.S. Army.

To be captain

- Arensman, John B., U.S. Army.
Augsburger, Wilson L., U.S. Army.
Barcomb, Paul J., U.S. Army.
Beck, Wilbur L., Jr., U.S. Army.
Beilharz, Kurt O., U.S. Army.
Bland, Andrew R., Jr., U.S. Army.
Branstuder, Phillip V., U.S. Army.
Brickhouse, Eugene A., U.S. Army.
Brown, Emma J., U.S. Army.
Bryant, Robert H., U.S. Army.
Burg, Hans A., U.S. Army.
Carey, Dan A., U.S. Army.
Clezie, Leonard, U.S. Army.
Coulson, James E., U.S. Army.
Crabtree, Kenneth G., U.S. Army.
Donovan, Charles F., U.S. Army.
Dragozetich, William J., U.S. Army.
Florio, Paul J., U.S. Army.
Gardner, Paul B., U.S. Army.
Garnett, James A., U.S. Army.
Heizer, Alfred S., Jr., U.S. Army.
Jackson, Claude K., U.S. Army.
Jorge, Marlene M., U.S. Army.
Kenisberg, Herbert S., U.S. Army.
Lawson, Herbert L., U.S. Army.
Lopez, De La Cruz, Juan R., U.S. Army.
Mason, Charles F., U.S. Army.
Moss, Willard J., U.S. Army.
Nagelhout, Maynard A., U.S. Army.
Norwood, Frank R., Jr., U.S. Army.
Powell, Robert L., Jr., U.S. Army.
Prosser, James R., U.S. Army.
Reed, Charlie W., U.S. Army.
Rinaldi, Charles F., U.S. Army.

\*Indicates ad interim appointment.

- Roby, Roger R., U.S. Army.
Rubin, Kenneth E., U.S. Army.
Simmons, James L., U.S. Army.
Smith, John W., U.S. Army.
Smith, Paul D., Jr., U.S. Army.
Spencer, Sherman L., U.S. Army.
Striepfer, Gerard L., U.S. Army.
Stuart, Larry E., U.S. Army.
Stubbs, William F., U.S. Army.
Tate, Charles G., Jr., U.S. Army.
White, Willington E., U.S. Army.
Whitmire, Richard E., Jr., U.S. Army.
Willdermood, Lance L., U.S. Army.
Wilson, Roy W., U.S. Army.
Young, Edward M., U.S. Army.
Young, James V., U.S. Army.

To be first lieutenant

- Ahrens, Robert E., U.S. Army.
Asselin, Leo J., Jr., U.S. Army.
Baetcke, Dorothy A., U.S. Army.
Barnhorst, William H., U.S. Army.
Beaton, Edward A., U.S. Army.
Behler, Gene R., U.S. Army.
Bird, John C., U.S. Army.
Blackwood, Lynn G., U.S. Army.
Boegler, Kenneth G., U.S. Army.
Bond, James J., III, U.S. Army.
Brennan, Richard T., U.S. Army.
Buchanan, Samuel J., U.S. Army.
Campbell, John C., U.S. Army.
Carney, John W., Jr., U.S. Army.
Carter, Ronald W., U.S. Army.
Coombe, David A., U.S. Army.
Cramer, Edward J., Jr., U.S. Army.
Cunningham, Bobby J., U.S. Army.
Davis, Walker B., Jr., U.S. Army.
Dela Cruz, Jessie M., U.S. Army.
Donahue, Michael D., U.S. Army.
Dubay, Donald A., U.S. Army.
Eaton, Douglas C., U.S. Army.
Evans, Fred W., U.S. Army.
Ewing, David R., U.S. Army.
Faulk, Charles W., Jr., U.S. Army.
Ferinde, John, U.S. Army.
Gass, James M., U.S. Army.
Gildersleeve, James L., U.S. Army.
Gillikin, Bruce D., U.S. Army.
Griesse, Ronald M., U.S. Army.
Hayes, David W., U.S. Army.
Hruza, John D., U.S. Army.
Huffman, James A., U.S. Army.
Hutton, Irvin L., U.S. Army.
Imhof, Richard H., U.S. Army.
Ivan, Dennis, U.S. Army.
Jesson, Bruce E., U.S. Army.
Keogh, John R., U.S. Army.
Kirchner, John E., U.S. Army.
Koshetar, Paul, Jr., U.S. Army.
Lenhardt, Alfonso E., U.S. Army.
Lewis, L. Kirk, U.S. Army.
Lichtenberger, Peter W., U.S. Army.
Lombardo, Wayne W., U.S. Army.
Longan, Patrick B., U.S. Army.
Lord, Robert L., U.S. Army.
Lyons, John W., U.S. Army.
Madden, Franklin M., U.S. Army.
Martin, Mary E., U.S. Army.
Mathewson, Robert W., U.S. Army.
Matthews, Merald L., U.S. Army.
McAnally, James L., U.S. Army.
McCambley, John J., U.S. Army.
Merritt, Donald E. S., U.S. Army.
Miller, Thomas E., U.S. Army.
Myers, Richard E., U.S. Army.
Organeke, John F., Jr., U.S. Army.
Paduano, Ralph J., U.S. Army.
Parker, Harry L., U.S. Army.
Pearson, Billy H., U.S. Army.
Paul, Joseph J., U.S. Army.
Peterson, Clarence D., U.S. Army.
Philbrick, Jon D., U.S. Army.
Pitts, James H., U.S. Army.
Pitts, Walter G., U.S. Army.
Plymate, Stephen R., U.S. Army.
Raab, Larry L., U.S. Army.
Ratcliffe, William S., U.S. Army.
Raymont, Richard J., U.S. Army.
Razel, John M., U.S. Army.
Richardson, Troy E., U.S. Army.
Ritchey, Charles N., U.S. Army.
Ross, Thomas P., U.S. Army.

- Runy, John, U.S. Army.
Salaz, Richard C., U.S. Army.
Sauls, Hayward C., U.S. Army.
Saylor, Dennis L., U.S. Army.
Schroeder, Owen R., Jr., U.S. Army.
Schwebach, James J., U.S. Army.
Scott, David G., U.S. Army.
Selbert, Richard R., U.S. Army.
Sewell, James W., U.S. Army.
Shea, William E., U.S. Army.
Shipman, Ted L., U.S. Army.
Shiver, Eustice M., U.S. Army.
Singleton, Peter T., Jr., U.S. Army.
Smith, Houston W., U.S. Army.
Smoot, Charles V., U.S. Army.
Sontag, Adolph J., Jr., U.S. Army.
Spradling, David K., II, U.S. Army.
Stacey, Clifford W., U.S. Army.
Tannehill, George L., II, U.S. Army.
Tanner, Warren M., U.S. Army.
Tauscher, Elwood R., U.S. Army.
Teel, Arthur E., Jr., U.S. Army.
Thomas, Robert H., Jr., U.S. Army.
Thomason, Joel F., Jr., U.S. Army.
Thorne, James R., U.S. Army.
Tift, Richard P., U.S. Army.
Torgenrud, Terry W., U.S. Army.
Trimble, Joseph F., U.S. Army.
Turnbull, James W., U.S. Army.
Voda, John J., Jr., U.S. Army.
Vogel, Lyle P., U.S. Army.
Wade, Thomas G., U.S. Army.
Waity, Raymond T., U.S. Army.
Walker, John C., U.S. Army.
Walton, Benny B., U.S. Army.
Watts, Charles D., Sr., U.S. Army.
White, Aubrey, U.S. Army.
White, Ronnie R., U.S. Army.
Whitwill, David K., U.S. Army.
Wilkins, John C., U.S. Army.
Williams, Jimmy G., U.S. Army.
Wilson, Charles R., U.S. Army.
Wimberley, Ronald J., U.S. Army.
Wood, Gail W., U.S. Army.
Young, Hansford L., U.S. Army.
Young, Thomas F., U.S. Army.

To be second lieutenant

- Allen, Clay W., III, U.S. Army.
Alley, Richard F., Jr., U.S. Army.
Ball, Larry E., U.S. Army.
Blaney, Daniel J., U.S. Army.
Bost, William G., U.S. Army.
Boyd, David G., U.S. Army.
Carpenter, William J., U.S. Army.
Clark, Jerry S., U.S. Army.
Coffman, James H., U.S. Army.
Cumbie, Donovan R., U.S. Army.
Doremus, Darrell D., U.S. Army.
Erickson, Marlin D., U.S. Army.
Evans, Randall L., U.S. Army.
Ferris, Patrick E., U.S. Army.
Gibbs, Charles J., U.S. Army.
Harper, Melvin G., U.S. Army.
Jones, William W., U.S. Army.
Keating, William J., Jr., U.S. Army.
Lawyer, Robert A., U.S. Army.
Lilly, Lawrence E., U.S. Army.
McLain, Ford R., U.S. Army.
McNeill, Dan K., U.S. Army.
Pitt, John M., U.S. Army.
Pratt, James T., III, U.S. Army.
Proud, James F., U.S. Army.
Rock, Richard W., Jr., U.S. Army.
Ruth, Dennis R., U.S. Army.
Schreifer, Stephen P., U.S. Army.
Scruggs, Rhett W., U.S. Army.
Selman, Joseph R., Jr., U.S. Army.
Shafer, Keith O., U.S. Army.
Solook, John T., U.S. Army.
Spencer, Weldon O., Jr., U.S. Army.
Starita, Dennis M., U.S. Army.
Starnes, Robert W., U.S. Army.
Steinberg, Arthur F., U.S. Army.
Stoddard, William J., U.S. Army.
Stoll, Ned C., U.S. Army.
Stubbs, Peggy A., U.S. Army.
Sutherland, James W., III, U.S. Army.
Taylor, Roy G., U.S. Army.
Thorlakson, Robert E., U.S. Army.
Weaver, Dwight D., U.S. Army.

White, Langfred W., XXXX-XX-XXXX  
Winkler, Darrell V., XXXX-XX-XXXX  
U.S. MARINE CORPS

Having been designated, in accordance with the provisions of title 10, United States Code, section 5232, Maj. Gen. Hugh M. Elwood and Maj. Gen. Donn J. Robertson, U.S. Marine Corps, for commands and other duties determined by the President to be within the contemplation of said section, for appointment to the grade of lieutenant generals while so serving.

Lt. Gen. Keith B. McCutcheon, U.S. Marine Corps, for appointment to the grade of general while serving as Assistant Commandant of the Marine Corps.

Gen. Lewis W. Walt, U.S. Marine Corps, when retired, to be placed on the retired list in the grade of general.

Lt. Gen. William J. Van Ryzin, U.S. Marine Corps, when retired, to be placed on the retired list in the grade of lieutenant general in accordance with the provisions of title 10, United States Code, section 5233.

#### U.S. COAST GUARD

The following-named officers of the Coast Guard for promotion to the grade of captain:

William C. Behan	Wilfred H. Shaw
Herbert M. Hartlove	Paul W. Meyer
Harry H. Keller, Jr.	Forrest E. Stewart

George N. Wood	Richard D. Hodges
Richard G. Donaldson	John C. Dowling
Arthur G. Morrison	Walter B. Alvey
John T. Rouse	William L. Webster
David E. Metz	John M. O'Connell, Jr.
James R. Meeker	Alvin T. Durgin, Jr.
Frederick J. Lessing	Walter F. Bartlett
William E. West, Jr.	Milo A. Jordan
Joseph A. Macri	Frederick O. Wooley
Richard J. MacGarva	Norman C. Venzke
Donald J. Riley	Raymond H. Wood
Thomas F. McKenna, Jr.	Clifford F. Dewolf

The following-named Reserve officer to be a permanent commissioned officer of the Coast Guard in the grade of lieutenant: Larry K. Carr.

## HOUSE OF REPRESENTATIVES—Tuesday, November 17, 1970

The House met at 12 o'clock noon. The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*Be strong, not in yourselves but in the Lord, in the power of His boundless resource.* Ephesians 6: 10.

O God and Father of us all, out of the differences and divisions of this world we come humbly to worship Thee. From things that man is doing to man we enter Thy presence to think of what Thou art doing for man. As we pray reveal to us Thy glory, bestow upon us Thy wisdom, make us equal to the tasks of these troubled times and ready always to walk the path of goodness, truth, and love. As we pray do Thou purify our affections, refine our ambitions, cleanse our minds, and strengthen our spirits that we may think clearly, plan wisely, and work diligently for the good of our beloved country.

We pray for our President, our Speaker, and every Member of Congress. We pray for those who serve our country at home and abroad, particularly our prisoners of war. May Thy spirit steady them and strengthen them for every experience.

Grant that Thy mighty energy may surge through the peoples and governments of the world that we may learn the art of living together on this planet. In Thy holy name we pray. Amen.

### THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

### IN THE MATTER OF THE UNITED STATES AGAINST WILLIAM L. CALLEY, JR.—COMMUNICATION FROM THE CLERK OF THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,  
October 23, 1970.

The Honorable the SPEAKER,  
U.S. House of Representatives.

DEAR SIR: On this date, I have received a subpoena by registered mail sent by Captain John P. Partin, JAGC, U.S. Army that was issued in the Fifth Judicial Circuit, Fort Benning, Georgia, 31905. The subpoena appears to be in connection with the case of the United States of America v. 1Lt. William L. Calley, Jr.

This subpoena commands me to appear on the 20th day of November 1970 before general court-martial of the United States at Building 5, Fort Benning, Georgia and requests certain House records that are outlined in the subpoena itself. Captain Partin, the Assistant Trial Counsel in the case, outlines in his letter alternate procedures wherein, under certain conditions, a certified copy of the House vote or resolution, or certified copies of the House records under consideration be forwarded to the Court by the return date in lieu of the Clerk's appearance in Fort Benning, Georgia. The letter also contains a list of witnesses and an attested copy of Court Order Number 19, issued by the Military Judge in the Fifth Judicial Circuit, Fort Benning, Georgia.

The rules and practices of the House of Representatives, House Resolution 288 of June 16, 1953, and House Resolution 15 of January 3, 1969, indicate that no official of the House may, either voluntarily or in obedience to a subpoena duces tecum, produce such records without the consent of the House being first obtained. It is further indicated that copies of the requested papers may not be supplied without such consent.

The subpoena in question and Captain Partin's letter, together with its list of witnesses and Court Order Number 19, are herewith attached, and the matter is presented for such action as the House in its wisdom may see fit to take.

Sincerely,

W. PAT JENNINGS, Clerk,  
U.S. House of Representatives.  
By W. RAYMOND COLLEY.

The SPEAKER. The Clerk will read the subpoena.

The Clerk read as follows:

#### SUBPOENA FOR CIVILIAN WITNESS

General Court-Martial of the United States, U.S. Army Infantry Center and Fort Benning, Fort Benning, Georgia.

The President of the United States, to Mr. William Pat Jennings, Clerk of the House of Representatives.

You are hereby summoned and required to appear on the 20th day of November, 1970, at 9 o'clock a.m. before a General court-martial of the United States, at Building Number 5, Fort Benning, Georgia, appointed by Court-Martial Convening Order Number 70, Headquarters, U.S. Army Infantry Center and Fort Benning, Fort Benning, Georgia, dated 24 November 1969, to testify as a witness for the Court in the Case of United States v. 1 Lt. William L. Calley, Jr. (and bring with you the transcripts of the testimony or any statements made to the My Lai Investigating Subcommittee by any of those persons whose names appear on the attached list).

Failure to appear and testify is punishable by a fine of not more than \$500 or imprisonment

for a period not exceeding six months, or both.

Bring this subpoena with you and do not depart from the court without proper permission.

Subscribed Fort Benning, Georgia, this 20th day of October, 1970.

Capt. AUBREY M. DANIEL III, JAGC,  
Trial Counsel.

### IN THE MATTER OF THE UNITED STATES AGAINST WILLIAM L. CALLEY, JR.—COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,  
October 16, 1970.

The Honorable the SPEAKER,  
U.S. House of Representatives.

DEAR SIR: On this date, I have received a letter from the Trial Counsel, dated October 14, 1970, in the case of United States v. William L. Calley, Jr. containing an unattested copy of Court Order Number 19 of the same case issued by the Military Judge in the Fifth Judicial Circuit, Fort Benning, Georgia that requests production of certain evidence of witnesses in possession and under the control of the House of Representatives.

Since House Resolution 15, of January 3, 1969, specifically precludes the release of such matter, I have this date so advised the Trial Counsel. The letter of request with its appended List of Witnesses and the copy of Court Order Number 19 are herewith attached for such action as the House in its wisdom may see fit to take.

Sincerely,

W. PAT JENNINGS,  
Clerk, U.S. House of Representatives.  
By W. RAYMOND COLLEY.

The SPEAKER. The Clerk will read the court order.

The Clerk read as follows:

[In the Fifth Judicial Circuit, Fort Benning, Ga., Court Order No. 19]

UNITED STATES v. WILLIAM L. CALLEY, JR.,  
FIRST LIEUTENANT, U.S. ARMY

#### I

This Court, having reviewed the record and exhibits, and having heard oral argument on the issue of the release of testimony taken before the House Armed Services Subcommittee investigating the alleged incident at My Lai, now makes the following findings of law and fact:

#### II

Counsel for the accused, pursuant to applicable military law, formally requested counsel for the Government to obtain for use